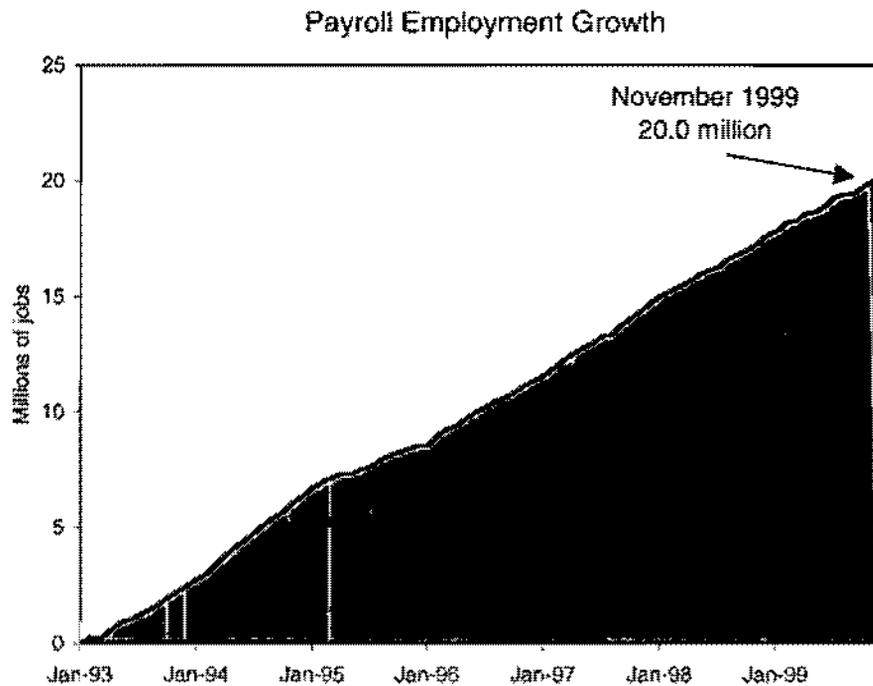


## A. "20 Million Jobs: January 1993 – November 1999"

In December 1999, the Council of Economic Advisers and the Department's Office of the Chief Economist issued a report entitled "20 Million Jobs: January 1993 – November 1999."

The report noted that during these years, employment grew rapidly and 20 million net new jobs were created. At the end of 1999, employment was at an all-time high—a larger percentage of the population was employed than at any previous time. The annual average unemployment rate for 1999, at 4.2 percent, was the lowest it has been in 30 years.



Source: Bureau of Labor Statistics, Establishment Survey.

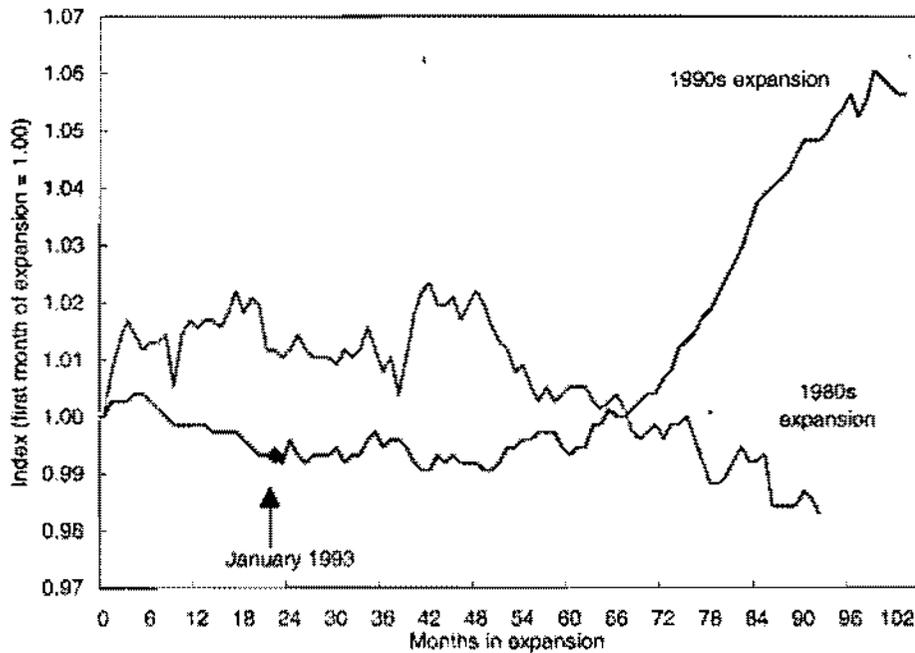
Employment gains were strong for all major subgroups of the population. For African Americans and Hispanics, the proportions of the population with jobs rose to record highs and

the unemployment rates fell to record lows. The unemployment rate for women was lower than at any time since 1953.

According to the report, the 20 million jobs created between January 1993 and November 1999 were overwhelmingly good jobs. Eighty-one percent of the job growth was in industry/occupation categories paying above-median wages. Sixty-five percent was in the highest-paying third of industry/occupation categories.

Data released since the report was issued show that the increases in real (inflation-adjusted) earnings were widely shared in the late 1990s. This is in sharp contrast to the 1980s, when growth in real earnings was concentrated among high-wage workers and real earnings fell for those at the lower end of the wage distribution. Strong earnings growth in the past few years produced gains in household income, and the 1999 poverty rate fell to its lowest level since 1979.

### Real Average Hourly Earnings



Source: Bureau of Labor Statistics, Establishment Survey.

Services accounted for a substantial share of job growth between January 1993 and November 1999, but construction, transportation, and public utilities also accounted for significant portions. Employment was growing in manufacturing until the Asian financial crisis. It started declining in the second quarter of 1998, reducing net job creation in that sector.

The majority of all jobs are full-time jobs -- there has been no increase in the proportion of jobs that are part-time or in the proportion of workers holding multiple jobs.

In this dynamic economy with rapid job growth, many more jobs are being created than are being lost. And while some workers have been displaced from their jobs, job displacement rates have been on the decline and workers' reported fear of job loss is abating.

## **B. Mission of the Department of Labor Agencies**

**Bureau of International Labor Affairs (ILAB):** ILAB carries out the Secretary's international responsibilities, develops Departmental policy and programs relating to international labor activities, and coordinates Departmental international activities involving other U.S. Government agencies, intergovernmental organizations, and nongovernmental organizations.

**Bureau of Labor Statistics (BLS):** BLS is the principal fact-finding agency for the Federal Government in the broad field of labor economics and statistics. The BLS is an independent national statistical agency that collects, processes, analyzes, and disseminates essential statistical data to the American public, the U.S. Congress, other Federal agencies, State and local governments, business, and labor.

**Employment Standards Administration (ESA):** ESA seeks to protect the economic welfare, employment rights, and equal employment opportunity for American workers by promoting compliance with the various laws that it administers and by mitigating the financial burden on workers and their dependents or survivors from work-related injury, disease, or death, through the provision of wage replacement and cash benefits, medical treatment, vocational rehabilitation, and other benefits to civilian employees of the Federal Government, maritime workers, and the nation's coal miners.

**Employment and Training Administration (ETA):** ETA's mission is to contribute to the more efficient and effective functioning of the U.S. labor market by providing high-quality job training and employment services (especially to the low-income, first-time and dislocated workers), labor market information, and income maintenance services primarily through State and local workforce investment systems.

**Mine Safety and Health Administration (MSHA):** MSHA seeks to protect the safety and health of the nation's miners by ensuring compliance with federal safety and health standards through inspections and investigations and by working cooperatively with the mining industry, labor, and the States to improve training programs aimed at preventing accidents and occupationally caused diseases.

**Occupational Safety and Health Administration (OSHA):** OSHA seeks to assure every working man and woman in the nation safe and healthful working conditions through standards development, enforcement, and compliance assistance designed to help employers maintain safe and healthful workplaces.

**Office of the Assistant Secretary for Administration and Management (OASAM):** OASAM provides services, policy guidance and assistance to the Secretary on matters relating to the budget, human resources, information technology, electronic communications, management, and administration of the Department; works to provide centralized administrative and support

services to Department's agencies and their staff; and seeks to ensure compliance with nondiscrimination statutes.

**Office of the Chief Financial Officer (OCFO):** The OCFO serves as the primary Departmental financial advisor and sets policy for effective financial management. Its mission is to ensure the integrity of the Department's reporting to Congress, the President, and the public by relating the accomplishments of the Department to effective stewardship of its financial resources. It is responsible for developing and deploying high-quality financial services to the Department's financial managers and front-line employees.

**Office of the Inspector General (OIG):** The Inspector General's Office seeks to serve the American worker and taxpayer by conducting audits, investigations, and evaluations that result in improvements in the effectiveness, efficiency, and economy of Departmental programs and operations. The OIG works to prevent fraud and abuse in the Department's programs and labor racketeering in the American workplace and it provides advice to the Secretary and the Congress on how to attain the highest possible program performance.

**Office of the Solicitor (SOL):** SOL seeks to ensure that the nation's labor laws are forcefully and fairly applied and works to implement priority enforcement initiatives. It also defends the actions taken by the Department and advises agency officials on legal matters, including the development of regulations, standards, and legislation.

**Pension Benefit Guaranty Corporation (PBGC):** PBGC works to protect defined benefit retirement plan participants' pension benefits and supports a healthy retirement plan system by encouraging the continuation and maintenance of private pension plans. It provides timely payments of benefits in the case of terminated defined benefit pension plans and maintains premiums and operating costs at the lowest levels consistent with statutory responsibilities.

**Pension and Welfare Benefits Administration (PWBA):** PWBA works to protect the pension, health, and other welfare benefits of the over 150 million participants and beneficiaries in private-sector employee benefit plans.

**Veterans Employment and Training Service (VETS):** VETS seeks to help veterans, especially those who are homeless or disabled, to secure and maintain employment and works to protect the employment rights and benefits of veterans, reservists and National Guard members.

**Women's Bureau (WB):** The Women's Bureau works to promote the welfare of wage-earning women, improve their working conditions, and advance their opportunities for profitable employment. The WB also represents working women in the public policy process and serves as an advocate to ensure that employment-related policies address the needs and concerns of women in the labor force.

**Staff Agencies:** The Department includes separate offices to provide support and assistance to the agencies in specific areas. These offices include the Office of the Assistant

Secretary for Policy, the Office of the Chief Economist, the Office of Congressional and Intergovernmental Affairs, the Office of Public Affairs, Public Liaison, and the Office of Small Business Programs.

The Office of the Assistant Secretary for Policy (OASP) advises and assists the Secretary of Labor in, and coordinates and provides leadership to, the Department's activities in economic policy issues, both short term and long term, economic research, and regulatory policies and procedures bearing on the welfare of all American workers. OASP also provides leadership and has responsibility for the coordinating and managing the Department's public website to ensure that website based information and services are cohesive, accessible, timely, accurate and authoritative.

The Office of the Chief Economist (CHECO) serves as the primary economic adviser to the Secretary, providing economic analysis of topical and general economic issues. CHECO represents the Secretary in high-level and sensitive matters bearing on current economic problems, initiatives, and proposals under consideration by Congress and the Administration.

The Office of Congressional and Intergovernmental Affairs (OCIA) provides direction for legislative and intergovernmental programs of the Department of Labor and implements decisions by and for the Secretary of Labor for all policy and operations matters which affect legislative programs, proposals, and priorities. OCIA acts as the liaison between the Department of Labor and the stakeholders that have an interest in the Department's overall goals and

objectives, relating primarily to State and Local government, labor unions, the business community, and community-based organizations.

Public Liaison builds partnerships that support the Department's and the Secretary of Labor's key priority initiatives and programs, educates the public about the Department's programs and key Presidential initiatives, provides advice on policy and legislation that affect Departmental programs and priorities, and apprises the Secretary of constituency issues and concerns.

The Office of Small Business Programs administers the Department of Labor's responsibilities to ensure procurement opportunities for small, small disadvantaged and women-owned small businesses, serves as the Department's central referral point for small business regulatory compliance information and questions, manages the Department's minority colleges and universities program, and provides management oversight and guidance for the Department's advisory committees and other similar committees and agreements to assure compliance with applicable statutes and related requirements.

## **C. Changing Organizations**

A number of the Department of Labor's (DOL) component agencies underwent significant organizational changes to meet evolving legislative direction, new administration goals, and changing workforce needs. These organizational changes are summarized below.

**Bureau of International Labor Affairs (ILAB).** Labor standards have been at the center of the Clinton Administration's economic and diplomatic agenda. This renewed prioritization resulted in considerable growth to ILAB's operations since 1993.

The International Child Labor Program (ICLP), which publishes annual reports on various aspects of international child labor issues, was created in 1994. The ICLP supports technical assistance programs, administered by the International Program for the Elimination of Child Labor (IPEC) of the International Labor Organization (ILO), to remove children from hazardous work and provide them with educational alternatives and to collect data on the nature and extent of child labor around the world. Congressional funding for the ICLP's technical assistance programs grew from \$1.5 million in fiscal year 1994 to \$30 million in fiscal years 1999 and 2000. In fiscal year 2001, \$75 million was requested.

The Office of Foreign Relations also expanded significantly, adding 10 new full-time staff positions and, in 1999, received a direct budget appropriation from Congress for its technical assistance programs. Much of this funding has been directed to a new arm of the ILO,

which is dedicated to the implementation of the Declaration on Fundamental Principles and Rights at Work and its follow-up, which President Clinton had called upon the ILO to create.

Among the most prominent organizational changes to ILAB during this period has been the creation of the National Administrative Office (NAO), which was established as part of the North American Free Trade Agreement (NAFTA) side agreement on labor standards. The NAO has handled some of the leading edge issues in the debate over increased international trade and social standards, and has served as a forum to raise concerns about labor standards among the three NAFTA partners and resolve disputes.

**Bureau of Labor Statistics (BLS).** In mid-February 1999, the Bureau of Labor Statistics proposed a regional management realignment designed to ensure that all of its programs operate at efficient scale in all regions and to ensure that its regional management positions are used most effectively to improve program execution. The proposal had a goal of strengthening regional impact on national office decision-making and providing focus and leadership for the regional economic analysis and information program, which is key to the Bureau's customer base and survey response rates. The principal proposed change was the management of BLS's regional activities out of six rather than eight regional offices.<sup>1</sup>

**Employment and Standards Administration (ESA)/Office of Labor Management Standards (OLMS).** On July 21, 1993, Secretary Reich established the Office of the American Workplace (OAW) to provide a national focal point for encouraging the creation of high-

performance work practices and policies. This office also included two statutory functions under the Urban Mass Transit Act and the Labor-Management Reporting and Disclosure Act. OAW consisted of three organization units:

(1) the Office of Labor-Management Programs, which was established to carry out labor-management relations programs to build effective workplace partnerships among managers, unions, and other employee organizations, and to administer certain employee protections programs, including those under the Federal Transit Act; (2) the Office of Work and Technology Policy, which was established to promote the increased use of innovative workplace practices, the integration of technology and human resource policies, and the development of new measurements of workplace performance; and (3) the Office of Labor-Management Standards (OLMS), which was transferred from the Employment Standards Administration to OAW. OLMS administers provisions of the Labor-Management Reporting and Disclosure Act of 1959 that regulates certain aspects of the internal affairs of labor unions including the elections of union officers, the reporting of union finances, and the safeguarding of union funds.

Following the elimination of OAW by Congressional action in January 1995, the employee protections program of OAW was incorporated into OLMS, and this newly constituted OLMS was transferred to the Employment Standards Administration.

In 1996, OLMS implemented a major field and national office restructuring developed by joint labor-management teams. The restructuring reduced the number of OLMS regional offices

from ten to five, consolidated field offices, eliminated one-third of the agency's management positions, and focused a greater percentage of staff resources at the investigator level. The restructuring also streamlined agency operations, eliminating two, and in some instances three, layers of program review. Program authority was delegated to the district office level and additional program delegations were made to the investigator level where appropriate. Agency procedures and programs were streamlined for improved efficiency to support the leaner OLMS in performing its statutory responsibilities to protect union democracy and financial integrity.

**Employment Standards Administration/Wage and Hour Division.** Consistent with the President's directive coming from National Performance Review recommendations, the Employment Standards Administration's Wage and Hour Division made significant progress in its initiative to consolidate its office structure and streamline management overhead. The Wage and Hour Streamlining and Restructuring Plan included goals to reduce the number of regions from ten to five, and the number of district offices from 58 to 45, as opportunities permitted.<sup>2</sup>

As part of this initiative, Wage and Hour adopted a staffing pattern for each District Office to reduce supervisory overhead and increase the proportion of front-line staff: The current supervisory-to-employee ratio of 1 to 8 increased from the fiscal year 1993 base of 1 to 6. Also as part of the initiative, Wage and Hour consolidated regional functions to increase timeliness, efficiency, and cost-effectiveness.<sup>3</sup>

**Employment and Training Administration (ETA).** On August 8, 1999, as required by Workforce Investment Act (WIA), ETA reorganized to align its functions and organization with the requirements of the new Act. ETA engaged front-line workers in designing the new organizational layout and included its labor partners in the national office and field in every step of decision-making about the new organization structure. ETA now has major offices responsible for adult services, youth services, and workforce security. The new organizational structure also reflected the evolution of the Federal role in workforce development programs, with an emphasis on serving ETA customers, coaching ETA partners for success, and eliminating program silos.

ETA committed to excellence in building the workforce investment system and put in place the means to implement the Baldrige continuous improvement model. A 35-member Workforce Excellence Board took the lead in this effort, convening for its first meeting in February 2000. The Board is a partnership, and the first Chair, John Lawrence, Vice President of Corporate Quality for the Eastman Kodak Company, represented business. A third of the members were from the private sector – from for-profit and non-profit organizations, including schools, community-based organizations, and labor organizations. Other members represented the local, State, and Federal levels of the workforce investment system. The Departments of Labor, Education, and Health and Human Services were represented to support the Board's work to help implement the seamless integration of services that is to be provided through the One-Stop system. The vision is for the Workforce Excellence Board to help the workforce-

investment system better respond to the needs of employers and job seekers in the rapidly changing world economy.

**Mine Safety and Health Administration (MSHA).** In July 1998, MSHA created the Educational Field Services (EFS) program to optimize the Agency's resources for improving health and safety training to the mining industry. The EFS program emphasizes the importance of education and training in reducing mining accidents and workplace illnesses. EFS training specialists work closely with mine management, miners and mine instructors to develop training methods to improve safety and health. These specialists then coordinate agency resources to best meet each mine's individual needs. In addition to averaging 120 mine visits per week, EFS training specialists work with mining associations, safety organizations, labor unions and educational institutions to establish partnerships and network resources.

The reorganization places MSHA's approximately 50 education and training specialists under the agency's Educational Policy and Development activity. Previously, these specialists were under the direction of district managers in enforcement districts. So they can keep in close touch with the mines they serve, MSHA's education and training specialists will remain stationed at their current locations in approximately 30 MSHA offices throughout the country's mining regions. However, they will now be able to work across enforcement district boundaries, wherever the need is greatest.

**Occupational Safety and Health Administration (OSHA).** In May 1995, OSHA undertook the most sweeping regulatory reform initiative in its history. The agency transformed itself into a performance-oriented, data-driven organization that placed the highest premium on real results rather than activities or processes. The "Old OSHA" was too often driven by rules and numbers, not by sensible enforcement and results. The "New OSHA" changed the agency's operating paradigm from one of command and control to that which provides employers with a real choice between partnership and traditional enforcement. OSHA altered the way it works on a daily basis by focusing on the most serious hazards and the most dangerous workplaces. The agency now measures its progress by results rather than by numbers or by red tape.

One example of the "New OSHA" is the large reduction in penalties for technical paperwork violations. In the years just prior to the "New OSHA," the agency was issuing 4,000-5,000 citations annually for failing to put up an OSHA poster, assessing an average fine of \$400 for each violation. Since 1995, citations for lack of posters have been virtually eliminated. Instead of penalizing employers, OSHA now hands them a poster.

To accomplish this change in organizational culture, OSHA redesigned every one of its 66 field offices between 1995 and 2000. OSHA's local offices now emphasize problem-solving and critical-thinking skills. More use is made of teamwork. OSHA reaches out to employers and workers in the community and creates grassroots partnerships with stakeholders. As of October 2000, 112 partnerships had been formed with employers and employees in the private sector.

The partnerships will protect workers and enable OSHA to use its limited resources in workplaces that are not providing adequate safeguards to their workers.

**Office of the Assistant Secretary for Administration and Management (OASAM).**

During the past eight years, OASAM has continued to improve efficiency and productivity in the workplace. OASAM began to rearrange its field structure by consolidating its regional structure from 10 to 6 regional centers for administrative services. It also decentralized a number of headquarter functions for better strategic planning and improved integration of administrative services. OASAM has been successful in moving the overall policy functions into one single office to foster cohesive policy guidance and strategies for meeting legislative and external mandates.

On June 22, 2000, the Department published Secretary's Order I-2000, which described the delegation of authority and assigning responsibilities for implementation of the Paperwork Reduction Act of 1995 (PRA) and the Clinger-Cohen Act of 1996, also known as the Information Technology (IT) Management Reform Act of 1996 (ITMRA). The Order also formally establishes within the Department the position of Chief Information Officer (CIO), the Management Review Council (MRC), and a supporting Technical Review Board (TRB), comprised of DOL Administrative Officers and Information Resource Managers (IRM). This order further establishes policies and assigns responsibilities for compliance with ITMRA and governs all IT, IRM and related activities. Within the Department, the Assistant Secretary for

Administration and Management, also serves as the Chief Information Officer reporting directly to the Secretary. (See Appendix G for a listing of the Secretary's Orders.)

**Office of the Chief Financial Officer.** In 1992, to implement key provisions of the Chief Financial Officers Act of 1990, the Secretary established the Office of the Chief Financial Officer to oversee all departmental financial management activities. In 1997, the Secretary refined the Chief Financial Officer's role and added fiscal responsibilities accruing from the Government Performance Results Act of 1993, Government Management Reform Act of 1994, Information Technology Management Act of 1996, and the Federal Financial Management Act of 1996.

**Office of the Executive Secretary.** During Secretary Herman's tenure, the Office of the Executive Secretary was re-engineered as a policy-neutral management tool designed to facilitate the goals of the Secretary and help Departmental agencies advance their ongoing work by providing continuity throughout the development and clearance process. The Office's service-based team is dedicated to identifying potential problems and providing creative solutions. Its unique Department-wide focus provided the Secretary with the ability to leverage diverse resources and achieve key policy concerns.

The Office of the Executive Secretary worked to coordinate the diverse programs and policies of the Department. It monitored the progress of Departmental priorities and established an innovative, web-based Decisions and Assignments Tracking System (DATS). The Office's

ability to reach out to all areas of the Department allowed it to take a leadership role in advancing new policies of the Secretary. The Office also used its Department-wide resources to gather and coordinate critical information necessary for informed and consistent decision-making. The information collected was specifically tailored to meet both the pragmatic and policy needs of the Secretary. The Office coordinated the processing and inter-agency clearance of thousands of Secretarial documents, enabling the Secretary to advance key programs and policies with one consistent voice. The Office also worked closely with agencies throughout the Department to efficiently manage their high volume of documents. The Office, in conjunction with the Department's IT staff, developed the Secretary's Information Management System (SIMS), a sophisticated web-based document management system, to facilitate the proper handling of these documents. This shared, state-of-the art system facilitates communication, improves search and retrieval of information and assists the Department in the efficient management of these documents.

**Office of Small Business Programs (OSBP).** OSBP administers the Department of Labor's responsibilities to ensure procurement opportunities for small businesses pursuant to sections 8 and 15 of the Small Business Act. During the current administration, OSBP's responsibilities with respect to procurement have been expanded beyond the small businesses and the small-disadvantaged businesses to include the small women-owned small businesses, HUBZone businesses, businesses owned by service disabled veterans, and businesses owned by persons with disabilities. Small business utilization increased at the Department from 22.8 percent in fiscal year 1992 to 27.7 percent in fiscal year 2000.

With the enactment of the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, OSBP serves as the Department's central referral point and clearinghouse for small business regulatory compliance assistance information and inquiries. The Director of OSBP is the Department's liaison with the U.S. Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman.

Since 1993, OSBP's minority colleges and universities and special populations responsibilities have expanded to include Hispanic Serving Institutions (Executive Order 12900), Tribal Colleges and Universities (Executive Order 13021), and Asian Americans and Pacific Islanders (Executive Order 13125). OSBP also provides oversight and guidance for the Department's advisory committees and negotiated rulemaking committees.

**Pension and Welfare Benefits Administration (PWBA).** In 1996, the Health Care Task Force was created to address the agency's expanded role in the health care field, which includes having jurisdiction over four major federal health care reform laws enacted since 1996: the Health Insurance Portability and Accountability Act of 1996 (HIPAA); the Mental Health Parity Act of 1996 (MHPA); the Newborns' and Mothers' Health Protection Act of 1996 (Newborns' Act); and the Women's Health and Cancer Rights Act of 1998 (WHCRA). In December of 1999, PWBA's new Office of Health Plan Standards and Compliance Assistance was formally created. This office is responsible for overseeing the development of regulations, interpretive bulletins, opinions, forms, and rulings related to health care portability, nondiscrim-

ination requirements, and other health care provisions. In addition, the office provides training, technical assistance, and other guidance on health benefit issues to PWBA staff and the employee benefits community.

This Administration has advanced the protection of participants' pension and health benefits through the expansion of PWBA's participant assistance and educational outreach program. Evidence of this commitment is seen by the agency's steady move to increase in participant assistance staff from 12 dedicated benefit advisor positions in fiscal year 1994 to 108 authorized positions by fiscal year 2000. For several years, PWBA benefit advisors have successfully responded to more than 99 percent of the telephone inquiries from participants and beneficiaries of employee benefits plans within 24 hours of receiving their call. Over 98 percent of the letters to PWBA have been responded to within 30 days. PWBA has answered over 835,000 inquiries that have effected more than \$220 million in benefits paid or protected since the participant assistance program was expanded nationwide in fiscal year 1995 to the regional offices.

**Veterans Employment and Training Service (VETS).** The primary factor necessitating the reorganization of VETS was the move toward making Federal agencies should be more streamlined, less costly, and more accountable for performance of their mission. As a consequence, in 1994, VETS drafted a streamlining plan and began the implementation of rightsizing actions to achieve those goals. Congressional appropriations for the VETS for fiscal years 1995 and 1996 necessitated acceleration of the downsizing effort. The agency's

downsizing effort was primarily a strategy of buy-outs, attrition, and a hiring freeze. The result is that in 2000, the national office has about 25 percent fewer employees than it had eight years ago.

Since the mission of the agency had not diminished, the position reductions necessitated organizational changes in order to achieve the agency's customer service goals and to fulfil its internal control and fiduciary responsibilities. In 1995, the agency began the planning and implementation of a strategy to move processing functions from the national office to "lead centers" located in VETS' regional offices. This move toward greater empowerment of the agency's field staff was in keeping with the government-wide rationale for streamlining headquarters operations. The loss of so many national office positions also resulted in the remaining employees being reorganized to accomplish the work that must be done in headquarters.

The reorganization began in 1995 and the process was officially completed on March 2, 1997. This national office reorganization was coupled with the establishment of lead centers in the regional offices. The lead centers were based on two prominent programs: (1) the Uniformed Services Employment and Reemployment Rights Act (USERRA) enforcement program, and (2) the Disabled Veterans Outreach Program (DVOP)/Local Veterans' Employment Representatives (LVER) State-grant program. A third lead center for communications also was created. The national office reorganization and the establishment of three lead centers enables VETS to efficiently and effectively carry out its missions, fulfill its fiduciary and internal control

responsibilities, improve accountability, and provide its employees with opportunities for professional growth and advancement.

**Women's Bureau (WB).** In support of Secretary Reich's goal for agencies to streamline and operate in teams to help make DOL a high performance workplace, the Women's Bureau formally reorganized into a team-based organization in 1996. These teams are organized as follows: Training and Employment; Work and Family; Women and the Global Economy; Public Affairs and Information; Support Services; and the Office of the Director Support Services. Additionally, in the national office, the current supervisory-to-employee ratio of 1 to 18 was increased from a former ratio of 1 to 5. Under the reorganization, the agency was able to achieve a reduction in its Full-Time-Equivalents (FTE) level and the number of supervisors, thus flattening the organization's hierarchical structure to provide greater empowerment to frontline employees.

## **D. Officials of the Department of Labor**

**Deputy Secretary.** Edward B. Montgomery was nominated by President Clinton to be Deputy Secretary on January 27, 2000 and was confirmed by the Senate on May 24, 2000. He had been the Acting Deputy Secretary since May 1999. Mr. Montgomery had served in several capacities at Labor, including Chief Economist from 1997 to January 1999, and as Assistant Secretary for Policy. Mr. Montgomery was an economics professor at the University of Maryland prior to assuming the Chief Economist's position.

On June 27, 1997, the Senate unanimously confirmed former White House aide Kathryn O'Leary Higgins as Deputy Secretary of Labor. Ms. Higgins had previously served two years as chief of staff for Secretary Reich and also as Administrative Assistant to Congressman Sander Levin.

The U.S. Senate confirmed Cynthia Metzler as Assistant Secretary for Administration and Management (OASAM) on July 1, 1994. Before that she served in several government positions at the General Services Administration, as a White House director of personnel practices, and at the Federal Labor Relations Authority. In 1995, Secretary of Labor Reich gave her the additional responsibility of Assistant Secretary for Policy and Budget. She became Deputy Secretary upon the departure of Thomas Glynn in 1996 and was acting Secretary of Labor between the time Secretary Robert Reich left and Secretary Alexis Herman was confirmed (January 10 to May 1, 1997).

The first Deputy Secretary of the Department under President Clinton was Thomas Glynn. His particular focus was on the Administration's Reinventing Government initiative. Prior to government service, he was General Manager of the Boston transit system.

**Bureau of International Labor Affairs (ILAB).** Andrew James Samet has served as Deputy Under Secretary since February 1, 1998. Mr. Samet previously served as the Acting Deputy Under Secretary and the Associate Deputy Under Secretary in ILAB, a position he was appointed to on September 1, 1993. Prior to joining the Clinton Administration, Mr. Samet served as the legislative director to Senator Daniel P. Moynihan.

Prior to Mr. Samet, Joaquin (Jack) Otero served as ILAB Deputy Under Secretary, beginning in April 1993.

**Bureau of Labor Statistics (BLS).** Katharine G. Abraham was first appointed as Commissioner of the Bureau of Labor Statistics (BLS) in October 1993. Four years later, in October 1997, she was appointed to a second term. Immediately prior to her appointments as Commissioner, she was professor of economics at the University of Maryland.

Prior to Ms. Abraham's appointment as Commissioner, William G. Barron, Jr. was Acting Commissioner from December 1991 to October 1993.

**Employment Standards Administration (ESA).** Bernard E. Anderson has served as Assistant Secretary of ESA since February 1994. Prior to his appointment, Mr. Anderson was president of the Anderson Group, a Philadelphia, Pennsylvania, economic and management advisory firm, which provided strategic planning information for private and non-profit organizations, and was professor of labor and industrial relations at the Wharton School of Economics.

**Employment and Training Administration (ETA).** Raymond Bramucci is now serving his third year as ETA Assistant Secretary. Prior to coming to ETA, Mr. Bramucci was the Executive Director of the Seton Hall University Institute on Work, a not-for-profit organization advocating work place equity.

Prior to Mr. Bramucci, Timothy Barnicle served as Assistant Secretary for ETA, beginning in late 1995. Mr. Barnicle also served as Assistant Secretary for Policy prior to becoming ETA Assistant Secretary. Mr. Douglas Ross was the first ETA Assistant Secretary in the Clinton Administration, serving from 1994 to 1995. Prior to coming to the Department of Labor, Mr. Ross was Assistant Secretary of Commerce for the State of Michigan.

**Mine Safety and Health Administration (MSHA).** Davitt McAteer is serving his sixth year as the head of the Mine Safety and Health Administration (MSHA). Appointed in 1994, he did double duty in 1996 and 1997 when he also served as Acting Solicitor for the Department of Labor.

**Occupational Safety and Health Administration (OSHA).** Charles N. Jeffress has served as OSHA Assistant Secretary since November 1997. Prior to his nomination to head OSHA, Mr. Jeffress was Deputy Commissioner and Director of OSHA at the North Carolina Department of Labor.

Prior to Mr. Jeffress, Joseph A. Dear served as OSHA Assistant Secretary. He was confirmed as Assistant Secretary in November 1993. Prior to coming to DOL, Mr. Dear served as Director of the Department of Labor and Industries in Washington State.

Gregory R. Watchman, the Deputy Assistant Secretary, served as Acting Assistant Secretary of Labor for Occupational Safety and Health in the period between the tenures of Mr. Dear and Mr. Jeffress.

**Office of Administration and Management (OASAM).** Leah D. Daughtry was named Acting Assistant Secretary for Administration and Management on November 3, 2000. Ms. Daughtry had been senior advisor to Secretary Herman since 1997. Patricia W. Lattimore was confirmed by the Senate as the Assistant Secretary on November 6, 1997 and retired from government service on November 3, 2000. She served also as the Chief Information Officer. Prior to Senate confirmation, Ms. Lattimore served as the Deputy Assistant Secretary for Administration and Management. Just prior to returning to the Department in 1995, Ms. Lattimore was the Associate Director for Investigations at the Office of Personnel Management.

Cynthia A. Metzler served as OASAM Assistant Secretary beginning in July 1994. Prior to her nomination as Assistant Secretary, Ms. Metzler served as Associate Administrator for Administration at the General Services Administration.

Mr. Thomas Komarek served as the Assistant Secretary for Administration and Management before Ms. Metzler.

**Office of the Assistant Secretary for Policy (OASP).** Lynn Jennings was named acting Assistant Secretary for Policy in July 2000. Prior to that she held the position of Associate Assistant Secretary for Policy.

Edward Montgomery received Senate approval to head the policy office in November 1998, having previously served as the Chief Economist in 1997. He later served as Deputy Secretary. He was an economics professor at the University of Maryland before coming to the Department of Labor.

The Senate confirmed Richard McGahey as the Assistant Secretary for Policy on April 2, 1998. He later served as the Assistant Secretary for the Pension and Welfare Benefits Administration (PWBA). He had been chief economist for the Senate Labor and Human Resources Committee and was on the Clinton transition team for the Labor Department.

The Senate confirmed Anne Lewis as Assistant Secretary for Policy on December 22, 1995. She had served as Assistant Secretary for Public Affairs since 1993. A former legislative director for Senator Harris Wofford of Pennsylvania and chief of staff for Senator Carl Levin of Michigan, Ms. Lewis was a member of the Clinton health reform team during the transition. She became Secretary Reich's chief of staff in February 1996.

On September 29, 1994, the Senate confirmed the nomination of Timothy Barnicle as Assistant Secretary. Mr. Barnicle was a lobbyist in a Washington law firm and worked previously as legislative director for Senator John Kerry of Massachusetts and as a legislative director for Minnesota Senator and former Vice President Hubert Humphrey.

President Clinton nominated John (Jack) Donahue to be Assistant Secretary for Policy on May 19, 1993, and confirmed by the Senate on June 23, 1993. Mr. Donahue, a colleague of Secretary Reich at Harvard University, previously worked as an economic consultant.

Several individuals served as the Assistant Secretary for Policy in an acting capacity. Leslie Loble held the position in 1994 and Cynthia A. Metzler the following year. Susan Green and Ed Montgomery assumed this role in 1999, and Seth Harris held this position in 2000.

**Office of the Chief Financial Officer (OCFO).** Kenneth M. Bresnahan has served as the Department's Chief Financial Officer (CFO) since November 1999. Mr. Bresnahan previously served as the Department's Acting CFO from April 1997 and Deputy CFO from

October 1996. Prior to coming to the Labor Department, Mr. Bresnahan served in a variety of financial management positions at the Department of Agriculture.

Mr. Bresnahan's predecessor was Edmundo A. Gonzales, who served as the Department's first Chief Financial Officer from July 1995 to April 1997. Prior to that time, he served as Deputy Assistant Secretary for Labor-Management Standards in the Office of the American Workplace. Mr. Gonzales came to the Department of Labor from his position as a telecommunications services executive in Denver, Colorado.

**Office of Congressional and Intergovernmental Affairs (OCIA).** Stephen M. Heyman is the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs of the U.S. Department of Labor. He assumed the role of Acting Assistant Secretary after the resignation of Geri Palast in September 2000.

Geri D. Palast served as Assistant Secretary for OCIA from the outset of the administration. Prior to her appointment, Ms. Palast served 12 years as the political and legislative director for Service Employees International Union (SEIU) where in 1984, she launched the successful campaign to enact the Family and Medical Leave Act.

**Office of the Inspector General (OIG).** Patricia A. Dalton is the Deputy Inspector General of the U.S. Department of Labor. She assumed the role of Acting Inspector General on January 3, 2000, following the retirement of former Inspector General, Charles C. Masten. Ms. Dalton has served in the Federal Government for over 21 years. Most of her career has been with

the Office of Inspector General, serving as Regional Inspector General for Audit in the Philadelphia Region and Director of Financial Management Audits.

Charles C. Masten was sworn in as the fifth Department of Labor Inspector General on December 16, 1993, and served until January 3, 2000. Mr. Masten originally joined the U. S. Department of Labor, Office of Inspector General on September 23, 1991, as the Deputy Inspector General. Mr. Masten began his law enforcement career in 1973 when he received his appointment as Special Agent by the Federal Bureau of Investigation.

**Office of Public Affairs (OPA).** Susan Robinson King was the most recent Assistant Secretary for Public Affairs. Ms. King served under Secretary Herman as Assistant Secretary from November 1997 to July 1999. Ms. King also served as Assistant Secretary for Public Affairs under Secretary Reich from December 1995 to April 1997. Howard Waddell served as Acting Assistant Secretary on three occasions in 1995, 1997 and in 1999.

The first Assistant Secretary under Secretary Reich, and the only other person to hold this position during this Administration, was Anne H. Lewis. Ms. Lewis was confirmed as Assistant Secretary for Public Affairs in October 1993 and served in the position until September 1995.

**Office of Public Liaison (OPL).** Lisa Osborne Ross has served as the head of the OPL since its formation in 1997. Previously, Ms. Ross was co-director of Secretary Herman's Transition Team. Prior to coming to the Clinton Administration, she was senior consultant at

Fleishman-Hillard Public Relations, where she founded the Fleishman-Hillard Howard University Scholarship Fund.

**Office of Small Business Programs (OSBP).** June M. Robinson has held the position of Special Assistant to the Deputy Secretary and the Director, Office of Small Business Programs (OSBP), since 1991.

**Office of the Solicitor of Labor (SOL).** Henry L. Solano has served as the Solicitor of Labor since October 1998. Mr. Solano, who became the first Hispanic Solicitor of Labor, was the United States Attorney for the District of Colorado immediately before becoming Solicitor.

Mr. Solano's predecessor was Thomas S. Williamson, who served as Solicitor of Labor from May 1993 to February 1996. Mr. Williamson, the agency's first African American Solicitor of Labor, came to his Government post from private practice in Washington, D.C. Davitt McAteer, Assistant Secretary for the Mine Safety and Health Administration throughout the Clinton years, did double-duty during much of the interim period between Mr. Williamson's and Mr. Solano's tenures by also serving as the Acting Solicitor of Labor.

**Pension and Benefit Guaranty Corporation (PBGC).** David M. Strauss has been Executive Director of the Pension Benefit Guaranty Corporation (PBGC) since July 1997. Mr. Strauss served for nearly four years as Deputy Chief of Staff to Vice President Al Gore, and for 13 years in senior management positions in the U.S. Senate.

Mr. Martin Slate was the Executive Director of the Pension Benefit Guaranty Corporation (PBGC) from 1993 until his death in February 1997. Mr. Slate came to the PBGC following a federal career of 23 years. From 1986 until his appointment as PBGC's Executive Director by Secretary of Labor Reich in March 1993, he was Director of the Employee Plans Division of the Internal Revenue Service.

**Pension and Welfare Benefits Administration (PWBA).** On July 10, 2000, President Clinton nominated Leslie B. Kramerich to serve as the Assistant Secretary. She has been the Acting Assistant Secretary since December 6, 1999. She was PWBA's Deputy Assistant Secretary for Policy, a position she still holds, since December 1998. Ms. Kramerich came to the Department after five years with the Pension Benefit Guaranty Corporation as an attorney-adviser to the chief negotiator.

Prior to Ms. Kramerich, Richard McGahey served as Assistant Secretary from February 1999 through December 1999. He was previously the Assistant Secretary for Policy. Dr. McGahey served as Chief Economist to the Senate Committee on Labor and Human Resources and Economic Policy Advisor to Senator Edward Kennedy.

Meredith Miller was delegated the duties of Assistant Secretary from July 2, 1998 through December 16, 1998. She served as PWBA's Deputy Assistant Secretary for Policy since

1993. Ms. Miller came to the Department from the AFL-CIO where she was the assistant director of the employee benefits department.

Olena Berg served as Assistant Secretary from May 1993 through June 1998. Prior to joining the Clinton Administration, she was chief deputy treasurer of the state of California since 1991.

**Veterans' Employment and Training Service (VETS).** Espiridion (Al) Borrego has served as the Assistant Secretary (ASVET) since November 1997. Prior to his confirmation, Mr. Borrego served as the Deputy Secretary of VETS.

Jeffrey Crandall, VETS' Director of Operations, served as the acting Assistant Secretary of VETS until the confirmation of Preston M. Taylor, Jr. (Brig. Gen., Rtd., USAF) on November 19, 1993. General Taylor served as Assistant Secretary until 1997.

**Women's Bureau.** In November 1999, Irasema T. Garza was confirmed by the Senate as the fourteenth Director of the U.S. Department of Labor Women's Bureau. Prior to her nomination to head the Women's Bureau, Ms. Garza served as Executive Director of the Congressional Commission on Family and Medical Leave, then housed at the Women's Bureau. In August of 1994, the Secretary appointed Ms. Garza head of the U.S. National Administrative Office (NAO), a position which she held until taking leadership of the Women's Bureau.

Karen Nussbaum served as Director prior to Ms. Garza from June 1993 to March 1996. Ms. Nussbaum, founder of 9 to 5, the National Association of Working Women, was also President of District 925 of the Service Employees International Union prior to coming to the Department of Labor.

Delores L. Crockett, served as the Acting Director during the transition of the Bush and Clinton Administrations. She remained with the Women's Bureau to served as Deputy Director until May 1996, when she returned to Atlanta to assume the position of Field Operations Manager and to resume the position of Regional Administrator for Region IV, both of which she holds today. Between October 1998 and December 1999, Ms. Crockett returned to Washington to serve as Acting Director.

Ida L. Castro was named Acting Director of the Women's Bureau in March 1996. She joined the Department in March 1994, to serve as the Deputy Assistant Secretary for Workers' Compensation Programs in the Employment Standards Administration. She also served as Acting Deputy Solicitor for National Operations before coming to the Women's Bureau. Castro left the Bureau in October 1998 to chair the Equal Employment Opportunity Commission.

**U.S. DOL**  **The Honorable Alexis M. Herman**  
**United States Secretary of Labor**

June 2, 2000

## Biography



Alexis M. Herman is America's 23rd Secretary of Labor and the first African American ever to lead the Labor Department. She was sworn in by Vice President Gore on May 1, 1997.

President Clinton considered his nomination of Alexis Herman for Labor Secretary an essential part of fulfilling his promises both to help parents succeed at home and at work and to give working people the skills they need to succeed in the new economy: Alexis Herman is a leader who "understands the needs of workers, and understands the challenges they face as we approach the 21st Century."

Secretary Herman took the President's charge to heart. Less than three months after being confirmed by the United States Senate, she surmounted her first major challenge as Secretary of Labor by successfully facilitating negotiations between UPS management and Teamsters union leaders. Those talks ended a ten-day strike that threatened to disrupt the American economy.

Since then, under Secretary Herman's stewardship, the Labor Department has significantly contributed to our nation's unprecedented prosperity. Unemployment reached a thirty-year record low of 3.9% in May 2000 and the economy continues to grow. Further, groups that have too often been left behind are sharing in our prosperity. In particular, unemployment among African Americans and Hispanics have both fallen to record lows.

To help sustain and broaden our prosperity, Secretary Herman laid out three strategic goals that guide her tenure at the Labor Department: a prepared workforce, a secure workforce, and quality workplaces. With that mandate in mind, the Department has successfully consolidated its array of skills development programs into a simpler, more efficient system and Secretary Herman has been widely credited as an important leader in the effort to move people from welfare to work.

Through the Youth Opportunity (YO!) Movement, Secretary Herman has strengthened the Department's commitment to equipping young people with the skills they will need to enter and remain in the workforce. As she has often said, how far you go is determined by how much you know. The YO! Movement is the most intensive outreach effort on youth employment and training issues in the history of the Labor Department.

Alexis Herman's achievements as Secretary of Labor are only the latest steps in a lifetime of service to America's working families. Born in Mobile, Alabama and a graduate of Xavier University, she

began her career working for Catholic Charities helping young out-of-school men and women find work in the Pascagoula, Mississippi shipyard. At the age of twenty-nine, she joined the Carter Administration as the youngest Director of the Women's Bureau in the history of the Labor Department. In the 1980s, she became a successful entrepreneur and labor relations expert. In 1993, President Clinton appointed her Assistant to the President and Director of the White House Public Liaison Office. Four years later, President Clinton again selected Alexis Herman, this time to serve as Secretary of Labor.

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## ROBERT B. REICH

Robert B. Reich is the nation's 22nd Secretary of Labor. Appointed by President Clinton to "bring forth a revolution in lifetime training and education of our workforce," Secretary Reich has dedicated himself to improving the job prospects of Americans.

Under his leadership, the Labor Department has moved forward on several pathbreaking initiatives to build the skills of American workers. The School-to-Work Opportunities Act, which the President signed into law in 1994, eases the transition from secondary education to the world of work for the 75 percent of America's youth who do not graduate from college. Goals 2000, also enacted in the first two years of the Clinton Administration, establishes a national system of skill standards, certifying that workers have the skills that employers need. And states now have funds for one-stop career centers, linking unemployment insurance, job counseling, and access to job training.

As chairman of the Pension Benefits Guaranty Corporation, Secretary Reich oversaw the enactment of the Retirement Protection Act, which will help eight million Americans in underfunded pension plans get the retirement benefits they deserve. He has also renewed the Labor Department's commitment to protecting American workers. The Department has cracked down on sweatshops, on unsafe worksites, and on fraudulent purveyors of health insurance. It has collected tens of millions of dollars in back pay for victims of job discrimination. Under Secretary Reich, the Family and Medical Leave Act has been passed and implemented, giving workers up to 12 weeks of unpaid leave to care for a new child or ill family member. In addition, Secretary Reich has created the Office of the American Workplace to encourage greater collaboration between workers and managers, and to promote worker involvement in decisionmaking and on-the-job training. And he has achieved these results while streamlining the Department's operations and reducing its staff by more than 1,000 employees.

Before coming to the Labor Department, Secretary Reich was on the faculty of Harvard University's John F. Kennedy School of Government. He served as an assistant to the Solicitor General in the Ford Administration, and headed the policy planning staff of the Federal Trade Commission in the Carter Administration. He has written seven books and more than 200 articles on the global economy and the U.S. workforce.

He lives in Washington, D.C. with his wife, Clare Dalton, and their two sons, Adam and Sam.

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KATHARINE G. ABRAHAM  
Biographical Sketch

Katharine G. Abraham became the Commissioner of the Bureau of Labor Statistics (BLS) in October 1993. She was confirmed for a second four-year term in October 1997. The BLS is one of the principal fact-finding agencies of the federal government, responsible for producing a wide range of sensitive economic statistics, including information on employment and unemployment, consumer prices, producer prices, and productivity.

Abraham received a B.S. from Iowa State University in 1976 and a Ph.D. from Harvard University in 1982. She was on the faculty of the Sloan School of Management at MIT between 1980 and 1987, and was a research associate at the Brookings Institution from 1985 to 1988. Immediately prior to her appointment as Commissioner, she had been Professor of Economics at the University of Maryland. Abraham has written extensively on labor market issues. Her work has included articles about job vacancy data, studies of firms' internal labor markets, and comparative analyses of European and Japanese labor markets. She has been affiliated with the National Bureau of Economic Research and is a member of the American Economic Association, the Industrial Relations Research Association, and the Committee on the Status of Women in the Economics Profession.

U.S. DOL  **Employment Standards Administration**  
**Information About the Assistant Secretary**

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Assistant Secretary Bernard E. Anderson

### **Biography**

Bernard E. Anderson was appointed in June 1993 to be Assistant Secretary for the Employment Standards Administration.

Prior to his appointment, Dr. Anderson was president of The Anderson Group, a Philadelphia, Pennsylvania economic and management advisory firm which provides strategic planning for private and non-profit organizations. He was formerly a tenured full professor at the University of Pennsylvania's Wharton School of Finance and Commerce; a lecturer in economics at Swarthmore College in Swarthmore, Pennsylvania; the Director, Social Sciences of the Rockefeller Foundation, and a Visiting Fellow in Public and International Affairs, Woodrow Wilson School, at Princeton University. Dr. Anderson has authored five books and numerous articles on economic and employment policy. He began his career as an economist for the U.S. Department of Labor's, Bureau of Labor Statistics.

He has served on many public service boards addressing employment and economic development issues, and between 1991 and 1994, he served as chairman of the Pennsylvania Intergovernmental Cooperation Authority, the fiscal oversight board for the city of Philadelphia. Prior to his appointment to the Federal service, his memberships on professional and corporate boards included Manpower Demonstration and Research Corporation for which he was Vice Chairman, the Provident Mutual Life Insurance Company, and Lincoln University, for which he was Chairman of the Board of Trustees. He is a member of the American Economic Association, former executive board member of the Industrial Relations Research Association, and former president of the National Economic Association.

Dr. Anderson received a Bachelor of Arts degree in Economics, graduating with highest honors from Livingstone College, Salisbury, North Carolina; a Masters of Arts in Economics from Michigan State University, East Lansing, Michigan; and a Ph.D. in Business and Applied Economics from the University of Pennsylvania. He also received honorary L.H.D. degrees from Shaw University, and Livingstone College.

D 0005

Timothy M. Barnicle

— On September 29, 1994, the United States Senate approved Timothy M. Barnicle's nomination as the U.S. Department of Labor's Assistant Secretary for Policy.

Mr. Barnicle was a former lobbyist in the Washington, D.C. firm of Neece, Cator, Barnicle and Associates. In addition, he has more than 25 years of public service experience at the federal and state levels. Mr. Barnicle worked for five years as Legislative Director for Sen. John Kerry (D-Mass). He served as the Labor Department's Regional Administrator for New England, and worked as Legislative Director for former Minnesota Senator Hubert Humphrey.

Biographical Sketch

**OLENA BERG**

**Assistant Secretary for  
Pension and Welfare Benefits**

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**U.S. Department of Labor**

Olena Berg is now serving in her fifth year as assistant secretary for the U.S. Department of Labor's Pension and Welfare Benefits Administration.

As assistant secretary of PWBA, Berg heads an agency which oversees approximately 700,000 private pension plans with approximately \$3.8 trillion in assets and another 6 million welfare benefit plans. She is responsible for administration, policy making and enforcement of the Employee Retirement Income Security Act (ERISA).

Berg was chief deputy treasurer of the state of California prior to being appointed to the Washington position. She held that post since 1991 and, among her other duties, represented the state treasurer on the boards of her state's two huge pension plans -- one for California's teachers and the second for all of the state's other public employees.

She was executive vice president of Lowe Associates in Los Angeles, a real estate management, leasing and property management company, since 1988. Berg also was president and chief operating officer of Gerson Baker & Associates, a real estate development and management firm in San Francisco, for four years starting in 1984.

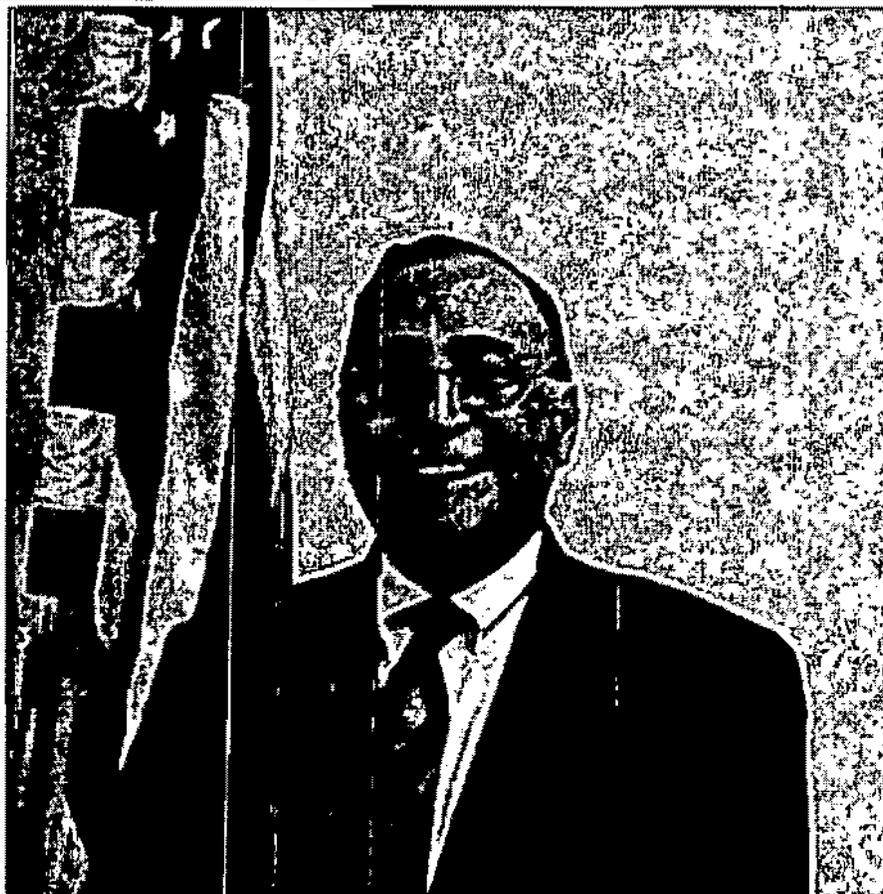
**Her initial experience in California state government, from 1975 through 1982 included serving in the departments of finance and benefits payments. Berg also worked for the business and transportation agency and as chief deputy director for the department of housing and community development.**

**Berg graduated with honors from California State University at Chico in 1974 and earned her master's degree with honors in business administration from Harvard in 1984. She has one daughter, Stacey, who lives with her husband and child in Sacramento, California.**

U.S. DOL  **About the Assistant Secretary for Veterans'**

**Employment and Training**

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**Espiridion A. (Al) Borrego is the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor. He holds a Ph.D. and MPA in Public Administration from the University of Southern California with a Bachelor of Arts degree in sociology from U.C.L.A. He was the Dean of the School of Business and Public Administration, University of Alaska. He established the Alaska Economic Development Center and served on the Board of Editors for the Alaska Public Affairs Journal. Dr. Al Borrego worked at NASA Headquarters, Office of the Comptroller in Washington, D. C. He was a Presidential Management Intern and a Ford Foundation Fellow. He designed, facilitated and conducted training programs in several organizational development and applied behavioral science areas for all levels of management for state and federal governments. He is a Vietnam Veteran and served in the U.S. Marine Corps including two tours in Viet Nam.**

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**D 0009**



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**D 0010**



**RAYMOND L. BRAMUCCI**

Assistant Secretary

Employment and Training Administration

U.S. Department of Labor

Raymond Bramucci was appointed Assistant Secretary of Labor for the Employment and Training Administration of the Department of Labor by President Clinton.

Mr. Raymond L. Bramucci, of Bergenfield, New Jersey, was the Executive Director of the Seton Hall University Institute on Work, a not-for-profit organization advocating work place equity. In addition, he served as an arbitrator on the New Jersey Board of Mediation, was a former Special Advisor to the President of Montclair State University, and most recently served as an adjunct professor of Political Science at Rutgers University.

From 1990-1994, Mr. Bramucci was Commissioner of the New Jersey Department of Labor, where he was a principal advisor to the Governor and chief executive officer of an agency with 4000 employees and a \$375 million operating budget. From 1979-1990, he was Director of New Jersey operations for Senator Bill Bradley, where he directed the Senator's state offices and managed the state-wide staff. From 1957-1979, Mr. Bramucci rose to become a senior executive at the International Ladies' Garment Workers' Union.

Born in Ludlow, Massachusetts, Mr. Bramucci began his career in a variety of factory jobs in western Massachusetts.

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D 0011

U.S. DOL  **Biography: The Chief Financial Officer**

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On October 8, 1998, President William Jefferson Clinton announced his intent to nominate Mr. Kenneth M. Bresnahan as Chief Financial Officer for the Department of Labor.

Kenneth M. Bresnahan became the Chief Financial Officer for the Department of Labor on November 15, 1999.

Mr. Bresnahan, of Woodbridge, Virginia, has served as Acting Chief Financial Officer at the Department of Labor since 1996. He previously served in a variety of financial management positions at the Food and Nutrition Service, U. S. Department of Agriculture. Mr. Bresnahan is active in the government-wide CFO Council, serving as Chair of the Human Resources Committee. He is also an active member of the Association of Government Accountants. Mr. Bresnahan was named a Financial Executive of the Year for 1998 by the Institute of Management Accountants.

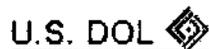
Mr. Bresnahan received a B.A. degree from Rutgers University.

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D 0012



## Biography of the Acting Inspector General

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# PATRICIA A. DALTON

Acting Inspector General

U. S. Department of Labor

Patricia A. Dalton is the Deputy Inspector General of the U.S. Department of Labor. She assumed the role of Acting Inspector General on January 3, 2000, following the retirement of former Inspector General, Charles C. Masten.

Ms. Dalton is responsible for overseeing all of OIG's audit, investigation, and evaluation operations.

Ms. Dalton has been with the Office of Inspector General for most of her career, serving as Regional Inspector General for Audit in the Philadelphia Region and Director of Financial Management Audits.

Ms. Dalton also has worked for the U.S. Army, serving as Director of Audit Policy, Plans and Resources for the Army Audit Agency.

Ms. Dalton is a Certified Public Accountant and Certified Government Financial Manager. She is a member of the American Institute of Certified Public Accountants and the Association of Government Accountants. She has served on a number of Committees for both the AICPA and AGA. She also has served on the Comptroller General's Advisory Council on Government Auditing Standards.

Ms. Dalton did her undergraduate work at the College of Holy Cross in Worcester, Massachusetts, and holds a Master of Business Administration degree from the University of Massachusetts.

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10/12/00

## JOHN D. DONAHUE

John D. Donahue was named to the newly-created position of Counselor to the Secretary of Labor early in 1994. Mr. Donahue had been serving as the Department of Labor's Assistant Secretary for Policy. Before joining the Administration, he was an Associate Professor of Public Policy at Harvard University's John F. Kennedy School of Government.

As noted by Secretary Reich, Mr. Donahue "has devoted his career to understanding the relationship between business and government and the changes each must make to adapt to a fiercely competitive global economy." In his position as Counselor to the Secretary, Mr. Donahue provides the Secretary with policy advice, orchestrates the Secretary's engagement with major policy issues, and directs the Secretary's speeches and policy-related communication with the President and other Administration officials.

Mr. Donahue began teaching at Harvard in 1987. He has been an economic consultant since 1983 and worked in the Office of the U.S. Trade Representative in 1981.

He has written "The Privatization Decision: Public Ends, Private Means," (Basic Books, 1989, paper 1991; Spanish translation 1991; Arabic, Portuguese, and Swedish translations 1992); "New Deals: the Chrysler Revival and the American System" (Times Books, 1985), (Penguin Books 1986) with Secretary Reich. "The Competitive Commonwealth: America's Divided States in a Global Economy" is in progress.

A 1979 graduate of Indiana University with a B.A. (high distinction) in economic and political science, Mr. Donahue received the departmental thesis award and was inducted into Phi Beta Kappa. He earned his Master of Public Policy degree from Harvard University in 1982 and his Ph.D. in Public Policy from Harvard in 1987. He received Dively Foundation, National Science Foundation and Harvard Business and Government fellowships.

Mr. Donahue has contributed writings to numerous publications. He has been a consultant to the cities of Dallas, New Haven, and Shreveport, to the States of Alaska and Massachusetts, to the World Bank and the U.S. Agency for International Development, and to Boston Edison Corporation. He was a policy development volunteer for the Bill Clinton Presidential Campaign and the John Rauh Senatorial Campaign. A native of Alexandria, Indiana, Mr. Donahue is married to Maggie Pax and they have two children.

**IRASEMA T. GARZA***Director of the U.S. Department of Labor Women's Bureau*

In November 1999, Irasema T. Garza was confirmed by the Senate as the 14<sup>th</sup> Director of the U.S. Department of Labor Women's Bureau. The Women's Bureau was created by Congress in 1920 with a mandate to "promote the welfare of wage-earning women," and is the only federal agency charged with advocating on behalf of women in the workforce.

This is not Ms. Garza's first position with this Administration or the Department of Labor. She has been heading up Departmental initiatives -- both domestic and international -- since 1994.

From January through July 1994, Ms. Garza served as Executive Director of the Congressional Commission on Family and Medical Leave, then housed at the Women's Bureau. She laid the foundation for the Commission's comprehensive report on the impact of the Family and Medical Leave Act on workers and employers across the country.

In August of 1994, the Secretary appointed Ms. Garza head of the U.S. National Administrative Office (NAO), a position which she held until taking leadership of the Women's Bureau. The U.S. NAO administers the North American Agreement on Labor Cooperation, the labor side agreement to the North American Free Trade Agreement (NAFTA). As its first Secretary, Ms. Garza worked closely with her Mexican and Canadian counterparts to establish critical procedures for handling labor issues related to free trade.



Before joining the Department of Labor, Ms. Garza practiced law in Ann Arbor, Michigan, for nine years.

Throughout her career, Ms. Garza has championed the concerns of Hispanic Americans. In 1998, Hispanic Magazine recognized her efforts, naming her one of the 100 most influential Hispanics in the country. She has also been active in the labor movement, serving on the Executive Board of the American Federation of State, County and Municipal Employees (AFSCME) Local 2733 for seven years.

Ms. Garza received her undergraduate and law degrees from the University of Michigan. A native of the Rio Grande Valley of South Texas, she lives currently in Silver Spring, Maryland, with her husband, Hector, and their two children.

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D 0015

U.S. DEPARTMENT OF LABOR

DEPUTY SECRETARY OF LABOR

WASHINGTON, D.C.

20210

Thomas P. Glynn

Thomas P. Glynn, Deputy Secretary of the Department of Labor, oversees the Department's day-to-day operations, including 18,000 employees, and \$35 billion budget, with a particular focus on the Administration's Reinventing Government initiative.

Tom has had a 20-year career in public service and management. From 1989 to 1991 he served as General Manager of the Boston subway and bus system -- known as the "T" -- where his top priorities were improving customer service and improving employee morale. Tom also spent five years as Deputy Welfare Commissioner in Massachusetts.

In the Carter Administration, Tom was Executive Assistant to the Under Secretary at the Education Department, as well as Executive Director of the Vice President's Task Force on Youth Employment.

Tom has promoted the study of public management as well -- first, at Brandeis University's Heller School, as director of a project which created a new Master's Degree Program in Human Services Management; later as Assistant Dean, and instructor; and most recently as Senior Vice President for Finance and Administration at Brown University, where he oversaw the university's budget, investments, personnel, labor relations, and other university-wide administration.

Tom has a BA in Economics from Tufts University and a PhD from Brandeis' Heller School -- where his dissertation focused on a program to retrain 5,000 workers laid off after the 1973 closing of the Boston Naval Shipyard.

**KATHRYN (KITTY) O'LEARY HIGGINS  
DEPUTY SECRETARY OF LABOR**

Kathryn O'Leary Higgins was sworn in as Deputy Secretary of Labor on July 2, 1997. Currently the second in command under Labor Secretary Alexis M. Herman, Ms. Higgins oversees policy development and the day-to-day operations of the 16,000 employee Department.

Ms. Higgins brings nearly three decades of experience and leadership to the job of Deputy Secretary. In her current role, she manages the Department's 16 agencies helping to assure that working Americans are paid a just wage, can depend on a secure retirement, have a safe, healthy and fair workplace, and are prepared for the highly-competitive global economy.

Joining the Clinton Administration immediately after the 1992 election, Ms. Higgins served as the Chief of Staff to President Clinton's first Labor Secretary, Robert Reich. In February 1995, she moved to the White House to serve as an Assistant to the President and the Secretary to the Cabinet. Ms. Higgins held this position until her July 1997 confirmation as Deputy Secretary of Labor.

Kitty Higgins began her career in public service in the summer of 1968 as an intern at the Labor Department. After graduation from the University of Nebraska in 1969, she returned to the Department and worked as a Manpower Specialist until 1978. She then served on President Carter's Domestic Policy Council as an Assistant Director for Employment Policy from 1978 to 1981.

In January 1981, Ms. Higgins joined Senator Edward Kennedy's staff as a Senior Legislative Associate for the Senate Committee on Labor and Human Resources, and rose to become the Democratic Staff Director, serving the Senator in that capacity from September 1982 to January 1986. Ms. Higgins then moved to the House of Representatives, becoming Chief of Staff / Administrative Assistant to Representative Sander Levin of Michigan, until joining the Clinton Administration.

In addition to her appointment as Deputy Secretary of Labor, Ms. Higgins served as the Acting Chair of the National Endowment for the Arts from November 1997 through May 1998.

Ms. Higgins, is from Yankton, SD, and attended Mount Marty College in South Dakota from 1965-1967 before earning her B.S. in social science and education from the University of Nebraska in 1969. She was married for 16 years to William J. Higgins until his death in 1987, and has two sons: Liam, 23, and Kevan, 19.



>> [ABOUT OSHA](#)

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**Charles N. Jeffress**  
**Assistant Secretary of Labor for**  
**Occupational Safety and Health**

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, has spent the past 20 years working on labor and workplace issues. Prior to his nomination by President Clinton to head the Occupational Safety and Health Administration (OSHA), Mr. Jeffress was Deputy Commissioner and Director of OSHA at the North Carolina Department of Labor.

Sworn in as Assistant Secretary on Nov. 12, 1997, Mr. Jeffress now directs a staff of more than 2,200. His goal is to reduce injuries, illnesses, and fatalities among the more than 100 million workers at six million work sites that come under OSHA's jurisdiction. Mr. Jeffress is committed to continuing the Clinton Administration's reinvention of OSHA through a five-year strategic plan to increase the agency's effectiveness in improving workplace safety and health. Establishing a standard on ergonomics is his top priority.

He holds a Bachelor of Arts degree from the University of North Carolina at Chapel Hill. He is a 1990 graduate of the Program for Senior Executives in Government at the John F. Kennedy School of Government at Harvard University.

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D 0018

THOMAS C. KOMAREK  
U.S. Department of Labor  
Assistant Secretary for  
Administration and Management

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Mr. Thomas C. Komarek is a native of Omaha, Nebraska. He graduated from Dartmouth College with a B.A. degree in Economics. He also attended Northeastern University where he received a Master's degree in Business Administration.

Mr. Komarek served four (4) years in the U.S. Air Force as an officer, followed by a year with Ingersoll Rand, Inc., as a Personnel Manager. He began his distinguished public service career in 1966 with the U.S. Postal Service in Boston. He worked both in postal operations and financial management.

Mr. Komarek came to work for the Department of Labor in 1971 as the Regional Financial Manager for the Employment and Training Administration (ETA) in the Boston Region. While in Boston, he served in a variety of positions and departed as the Deputy Regional Administrator. Subsequently, he has served as ETA Regional Administrator in Chicago, and New York, and as ETA Comptroller in Washington, D.C. He was appointed ETA Administrator, Financial Control and Management Systems in October 1981.

On October 7, 1983, Mr. Komarek was appointed as Assistant Secretary of Labor for Administration and Management by the Secretary of Labor Raymond J. Donovan with the President's approval. In this new position he is responsible for directing the Department's activities in the areas of budget, civil rights, personnel, administrative services, and information technology. He also directs the Department's regional management activities through ten (10) regional offices.

Mr. Komarek has been an active member of the President's Council on Management Improvement since 1983 and is now the Chairperson of the National Cooperative Administrative Support Program (CASU) Board of Directors.

Mr. Komarek lives in Washington, D.C. with his wife, Judy, and has two sons.

February 1992

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**BIOGRAPHICAL STATEMENT**  
**LESLIE B. KRAMERICH**  
**ACTING ASSISTANT SECRETARY**

On July 10, 2000, President Clinton nominated Leslie B. Kramerich to serve as the Assistant Secretary for Pension and Welfare Benefits at the Department of Labor. Ms. Kramerich has been the Acting Assistant Secretary of the Labor Department's Pension and Welfare Benefits Administration (PWBA) since December 6, 1999. Previously, she was PWBA's Deputy Assistant Secretary for Policy, a position she continues to hold.

Ms. Kramerich directs a staff of more than 700 in carrying out administrative, policy and enforcement functions under the Employee Retirement Income Security Act (ERISA). The agency oversees more than 6.7 million private pension and welfare plans, with pension assets alone totaling nearly \$4 trillion.

Before joining the department, Ms. Kramerich had experience in pension, securities and bankruptcy laws. She came to the department after five years of working with the Pension Benefit Guaranty Corporation as an attorney-advisor to the chief negotiator. While at PBGC, she participated in several landmark agreements between the government and private companies as well as provided financial, legislative, and regulatory analyses in support of various initiatives of the agency.

From May 1989 to November 1993, she was an attorney with Verner, Lipfert, Bernhard, McPherson & Hand, a Washington, D.C. law firm, where she advised clients on issues dealing with employee benefits, disability, tax and bankruptcy.

She also has legislative experience spanning the period 1982 to 1989, including serving as advisor to minority members of the committee with oversight of federal government programs, and as a staff member to the Chairman of the Senate Finance Subcommittee on Health (Senator David Durenberger) and to the Chairman of the Senate Aging Committee (Senator John Heinz). She briefly served as an intern to the House Committee on Aging, working on issues related to corporate raiding of pension plans through asset reversions.

Ms. Kramerich also was a consultant to the American Association of Retired Persons (AARP), designing educational materials and a public outreach program to explain a newly-enacted Medicare program on physician payment.

Professional affiliations include membership in the Ohio State Bar, District of Columbia Bar, and the American Bar Association. She has a Bachelor of Science degree from Case Western Reserve University and earned a Juris Doctor from Ohio State University College of Law in 1984.



U.S. DOL  **The Assistant Secretary for Administration and Management**

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**PATRICIA W. LATTIMORE**  
**Assistant Secretary for Administration and Management**

**Patricia Watkins Lattimore** was confirmed by the U.S. Senate as the Assistant Secretary for Administration and Management on November 6, 1997. As the Assistant Secretary she is a primary advisor to the Secretary of Labor on administrative policies and programs in human resources, safety and health, budget and finance, procurement, information resources, administrative services, and overall compliance with nondiscrimination statutes that provide for equal opportunity for recipients and beneficiaries of Department of Labor financial assistance programs, employees, and applicants for employment and the Department's annual budget in excess of \$35 billion. Ms. Lattimore is a former member of the Administrative Conference of the United States, a member of the Chief Information Officers (CIO) Council, and the CIO Council's liaison to the President's Council on Integrity and Efficiency.

Just prior to returning to the Department in 1995, Ms. Lattimore was the Associate Director for Investigations at the Office of Personnel Management (OPM), where she was responsible for the Federal government's personnel security operation which includes background investigations of prospective and current Federal employees to determine suitability for national security and public trust positions, this function was administered with approximately 1000 plus employees nationwide and a revolving fund budget of \$80 million annually. Ms. Lattimore spearheaded OPM's privatization initiative, establishing the first Federal employee stock ownership plan (ESOP). Ms. Lattimore was OPM's 1995 recipient of the highest career service honor, the Presidential Rank Award of Distinguished Executive.

Ms. Lattimore, a native of the District of Columbia, began her Federal career as a clerical employee with the Post Office Department immediately upon graduating from McKinley High School in 1964. During the next 33 years she progressed through a series of increasingly responsible positions in the legislative and executive branches of government.

From 1968 through 1971 Ms. Lattimore served as legislative and press aide in the House of Representatives working for the late Congressman Samuel N. Friedel of Maryland and Former Congresswoman Shirley Chisholm of New York. From 1972-1977 she served as a personnel management evaluator for OPM in both Philadelphia and Washington. In 1978, Ms. Lattimore joined the Department of Labor, and served in a number of challenging positions ultimately joining the

Senior Executive Service (SES) as Director of Labor's National Capital Service Center in 1986.

In May 1990, Ms. Lattimore rejoined OPM as Deputy Associate Director of the Career Entry and Employee Development Group, and was promoted to Associate Director for Administration in December 1991. In 1993, while awaiting Senate confirmation of President Clinton's appointee, Ms. Lattimore served as the Director of the Office of Personnel Management for four months. Once confirmed, the Director had her continue as OPM's Acting Deputy Director until that appointee was confirmed several months later.

Ms. Lattimore is a graduate of Southeastern University and has engaged in graduate studies at Federal City College, Harvard University, and American University. Her career has been enhanced by her positive, professional attitude and boundless energy. She is the extremely proud mother of twenty-two year old daughter, Courtney.

Ms. Lattimore gives back to the local community through her affiliations with the Washington Alumnae Chapter of Delta Sigma Theta Sorority, Incorporated; the National Council of Negro Women, (NCNW); the National Forum of Black Public Administrators (NFBPA); and Macedonia Baptist Church, Arlington, Virginia. She also is an active organizer of the annual auction fundraiser for Banneker Academic High School, and gives significant service hours at the Stuart-Hobson Middle School.

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Anne H. Lewis

In 1993, Anne H. Lewis was confirmed as the U.S. Labor Department's Assistant Secretary for Public Affairs.

As a former Senate aide and campaign veteran, Ms. Lewis came to the Labor Department from her position as Deputy Assistant Secretary for Public Affairs at the U.S. Department of Health and Human Services (HHS). At HHS, Ms. Lewis worked with the health care reform task force chaired by First Lady Hillary Clinton. She also served on the health care policy transition team prior to President Clinton's inauguration.

As Legislative Director for Senator Harris Wofford (D-PA), Ms. Lewis coauthored the health care reform plan widely credited for Wofford's upset victory in November 1991 over Attorney General Richard Thornburgh. After the Wofford victory, Lewis joined the Clinton for President campaign as Director of Great American Media, a subsidiary of the Greer, Margolis, Mitchell, Grunwald & Associates political consulting firm. Ms. Lewis managed the Clinton campaign's paid advertising throughout the primaries and general election.

Prior to joining Senator Wofford's staff, Ms. Lewis served as Chief of Staff to Senator Carl Levin (D-Mich.) in 1990.

A cum laude graduate in 1982 of Smith College (with honors in political science), Ms. Lewis received her Master's degree in Public Policy from the John F. Kennedy School of Government at Harvard University in 1985.

**Biographical Sketch  
Charles C. Masten  
Inspector General  
U.S. Department of Labor**

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Charles C. Masten was sworn in as the fifth Department of Labor Inspector General on December 16, 1993, and served until January 3, 2000. Mr. Masten originally joined the U.S. Department of Labor, Office of Inspector General on September 23, 1991, as the Deputy Inspector General (DIG).

Mr. Masten began his law enforcement career in 1973 when he was appointed Special Agent by the Federal Bureau of Investigation (FBI). He was assigned to the Memphis FBI Office where he worked White Collar Crimes, Governmental Frauds, Bank Robberies, and extortion matters.

In 1977, he was transferred to the Little Rock FBI Office where he served as Supervisory Special Agent for the White Collar Crime Program, Labor Racketeering, General Property Crime Program, Terrorism Program, Foreign Counter-Intelligence Program, Governmental Fraud Program, Fugitive Program, Civil Rights Program, and Anti-Trust Matters.

In 1985 he was assigned by the FBI to Washington, D.C., where he handled Special Inquiries matters relating to Presidential Appointees. In October 1987, he was promoted to Program Manager of three of the six FBI Security Programs. In conjunction with this assignment, he also served as an Inspector's Aide-in-Place where he conducted inspections of FBI field offices throughout the United States. These inspections included program audits and financial audits.

Prior to his tenure in the FBI, he served as a U.S. Naval Officer in Vietnam; he was an Assistant National Bank Examiner in the Sixth National Bank Region where he audited banks in Florida, Georgia, and South Carolina, and he served as Chief Operations Officer of the Citizens Trust Bank in Atlanta, Georgia.

He graduated from Albany State College in 1965 with a B.S. degree in Business Administration and earned an MBA from the University of Arkansas in 1976. He has also completed studies in Finance, Accounting, Management, and Bank Operations at the Georgia State University, Memphis State University, and the University of Arkansas.



## Information About The Assistant Secretary

Davitt McAteer is now serving his sixth year as the U.S. Department of Labor's Assistant Secretary for Mine Safety and Health. Appointed in 1994 as head of MSHA, he is responsible for administration of the Federal Mine Safety and Health Act of 1977, a law intended to prevent mining accidents and protect miners from health hazards. He did double duty in 1996 and 1997 when he also served as Acting Solicitor for the Department of Labor.

During Mr. McAteer's tenure as MSHA's assistant secretary, the agency has issued several new safety and health standards to protect miners, promoted better mine safety training and technology, undertaken a long-term strategy to end black lung disease and entered into international exchanges of mine safety and health information.

Prior to his appointment as assistant secretary, Mr. McAteer worked at the Center for Responsive Law, practiced as solicitor of safety for the United Mine Workers of America, served with the Center for Law and Social Policy and was executive director of the Occupational Safety and Health Law Center. He is the producer of an award-winning video on the history of mine safety and health, the author of several books and has served on many advisory and research bodies.

A West Virginia native, Mr. McAteer is a graduate of West Virginia College of Law and Wheeling Jesuit College. He lives on a small farm with his wife and five children.

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## BIOGRAPHY FOR RICHARD MCGAHEY

Richard McGahey is Assistant Secretary for Pension and Welfare Benefits at the U.S. Department of Labor. He was previously nominated by President Bill Clinton to be Assistant Secretary for Policy, and was confirmed by the U.S. Senate in April of 1998.

Dr. McGahey is an economist with a wide range of policy experience at the local, state, and Federal levels. In the United States Congress, he served as Chief Economist to the Senate Committee on Labor and Human Resources and Economic Policy Advisor to Senator Edward Kennedy. He also was Executive Director of the Joint Economic Committee of the Congress, responsible for economic and policy analysis for Congressional representatives from both Houses.

Prior to coming to Washington, Dr. McGahey served as Deputy Commissioner for Policy and Research for New York State's economic development agencies, where he wrote the state's first strategic plan for economic development, and directed Governor Cuomo's Commission on the Future of Financial Services. He also was Deputy Comptroller for Policy and Management in New York City.

Dr. McGahey has a Ph.D in economics from the New School for Social Research. He has served on the faculty of New York University's Urban Research Center. He was appointed to the Advisory Council on Employee and Welfare Benefits, which advises the Administration and Congress on policy related to ERISA, where he chaired the working group on the implications of tax reform for the pension system. He has written and spoken widely on a variety of public policy issues, including job training, economic development, retirement and pensions, and urban policy.

## Cynthia A. Metzler

Cynthia A. Metzler has been named Acting Secretary of Labor until the confirmation of the Secretary Designate. She has also been Acting Deputy Secretary of Labor since April 1996. As Acting Deputy Secretary, she is the Department's chief operating officer and manages the programs, policies, \$35 billion budget and people of the Department. She serves on the President's Management Council and the National Partnership Council.

Metzler has served as the Assistant Secretary of Labor for Administration and Management since 1994. In this capacity she was responsible for organizing and directing the budget, reinvention and reorganization initiatives as well as serving as the primary advisor to the Secretary regarding human resources, labor relations and overall departmental management. Under Metzler's leadership the Department implemented results-based management systems, revised human resource policies, enhanced labor management relations and reorganized the budget process to emphasize performance based systems and measurements.

Before joining the Department of Labor, Metzler worked in the Clinton/Gore transition personnel effort and became the Associate Director of Presidential Personnel responsible for the initial staffing of the Departments of Justice and Labor and related independent agencies. She also served as the Associate Administrator for Administration at the General Services Administration (GSA). At GSA, she led reinvention efforts which involved changing missions, streamlining work and downsizing. To facilitate these activities, she revamped the human resource systems as well as charted new directions in labor management partnerships.

Metzler has twenty years of experience in labor relations, law, consulting, and management, in both the non-profit and government sectors. Her specialty is successfully managing complex organizations and programs in political environments; her management philosophy: focus on mission and align activities and people to achieve results.

As a Chief Counsel at the Federal Labor Relations Authority in the late 1980s, Metzler led an effort to eliminate a serious, decade-old backlog of cases. She also conducted a broad scale review of labor/management practices in the federal government and developed improvement strategies. In the early 1990's, Metzler served as President and Chief Executive Officer of OEF International, an organization to empower and advance woman in developing countries. In the early 1980's Metzler was Executive Director of Florida Rural Legal Services, a state-wide legal services organization.

Metzler received a juris doctor from the University of Indiana in 1974 and a bachelors degree from Purdue University in 1970. Additionally, she holds a master of science degree in human resource development from American University.

U.S. DOL  **The Honorable Edward B. Montgomery**  
**Deputy Secretary of Labor**

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June 9, 2000

**Biography**

Edward B. Montgomery was nominated by President Clinton to be Deputy Secretary of the U.S. Department of Labor on January 27, 2000 and confirmed by the Senate as the Deputy Secretary on May 24, 2000. He had been the Acting Deputy Secretary since May 1999.

The U.S. Department of Labor is charged with preparing the American workforce for new and better jobs, and ensuring the adequacy of America's workplaces. It is responsible for the administration and enforcement of more than 180 federal statutes. These legislative mandates, and the regulations produced to implement them, cover a wide variety of workplace activities for nearly 10 million employers and well more than 100 million workers, including protecting workers' wages, health and safety, employment and pension rights; promoting equal employment opportunity; administering job training, unemployment insurance and workers' compensation programs; strengthening free collective bargaining; and collecting, analyzing and publishing labor and economic statistics.

As Deputy Secretary, Dr. Montgomery serves as the principal adviser to the Secretary of Labor on program policy and budget, and as the chief operating officer for the Department. He directs the day-to-day management of a diverse organization of 13 agencies or bureaus with more than 17,000 employees and an annual budget of \$32 billion.

Prior to serving in his current position, Dr. Montgomery served as the Assistant Secretary for Policy, Senior Advisor to the Secretary of Labor, and Chief Economist of the Department of Labor. He is on leave from the Department of Economics at the University of Maryland where he is a tenured Full Professor. His research, on topics including wage determination, local economic development, minority youth employment, Social Security and private pensions, and discrimination, has been published in numerous professional journals and edited volumes.

Dr. Montgomery was the Vice Chair of the Advisory Council on Employee Welfare and Pension Benefit Plans at the U.S. Department of Labor and was on the Advisory Panel in Economics for the National Science Foundation. He has served as a Research Associate or consultant to numerous government and civic organizations including the National Bureau for Economic Research, the Joint Center for Political and Economic Studies, the New Jersey Governor's Study Commission on Discrimination in Public Works, the State Court Child Support Administrative Office for Michigan, the Board of Governors of the Federal Reserve and Federal Reserve Bank of Cleveland, and the Urban League of Pennsylvania.

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He received his undergraduate degree with honors from Pennsylvania State University (1976), and his A.M. (1980) and Ph.D. (1982) in economics from Harvard University.

Dr. Montgomery, who is married to Kari Lynn Montgomery, has twin daughters (Lindsay and Elizabeth) and a son (Edward).

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**Karen Nussbaum  
Director, Women's Bureau**

Given their historic goals, the Women's Bureau and its 13th Director, Karen Nussbaum are an inspired match.

The Women's Bureau of the Department of Labor was created in 1920 "to formulate standards and policies which shall promote the welfare of wage-earning women."

**And for her entire working life, Karen Nussbaum -- founder of 9to5, the National Association of Working Women -- has done just that.**

In nominating Nussbaum to direct the Women's Bureau, President Clinton declared her "uniquely qualified" to serve as chief advocate for the nation's 58 million working women, based on her 20-year record as a leader, policy expert and tireless spokesperson for women in the workforce.

Nussbaum first pioneered 9to5 in Boston in 1973, building on her own experience as a clerical worker at Harvard. With Nussbaum at the helm, 9to5 expanded to 250 cities, becoming a powerful and respected national voice for clerical and office workers. The organization even inspired a hit movie: "9to5" starring Jane Fonda, Lily Tomlin and Dolly Parton.

In 1981, Nussbaum also became president of District 925 of the Service Employees International Union (SEIU). District 925 is a national union of office and professional employees. As a union leader, she served on the SEIU International Executive Board and headed up the union's 170,000-member Office Workers Division.

From the 9to5 headquarters in Cleveland, Nussbaum traversed the country, speaking with women's groups about their concerns. She has skillfully presented those issues to the public on shows like Donahue and the MacNeil-Lehrer News Hour and has testified before Congress and other governmental bodies on a host of subjects affecting American working women. She is co-author of *Solutions for the New Work Force: Policies for a New Social Contract* and *9to5: The Working Woman's Guide to Office Survival*.

"Now that we have an Administration committed to fairness in the workplace, we have an unprecedented mandate to achieve concrete gains," says Nussbaum, "not just on the issues generally associated with women -- such as pregnancy leave and sexual harassment -- but also on issues like pay, pension and the quality of worklife, so critical to all working Americans."

Nussbaum, a native of Chicago, now lives in Washington with her husband and three children.

## Information About the Deputy Under Secretary

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### ANDREW JAMES SAMET

On February 1, 1998, Andrew Samet was appointed by Secretary of Labor Alexis M. Herman to serve as the Deputy Under Secretary for International Affairs, the senior Department of Labor official responsible for international matters. Mr. Samet previously served as the Acting Deputy Under Secretary and the Associate Deputy Under Secretary in the Bureau of International Labor Affairs (ILAB), a position he was appointed to on September 1, 1993.

Mr. Samet coordinates policy development on issues related to worker rights and international labor standards, and is responsible for Department of Labor studies and programs on international child labor issues. His Bureau also implements the North American Agreement on Labor Cooperation (NAALC) - the labor side agreement to the North American Free Trade Agreement (NAFTA).

In his current role, Mr. Samet represents the United States Government on the Governing Body of the International Labor Organization (ILO), and leads the U.S. government delegation to the ILO's annual June policy-setting conference. Mr. Samet led the U.S. government negotiations for the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, and ILO Convention 182 on the Worst Forms of Child Labor approved by the Senate and ratified by President Clinton in December 1999.

Mr. Samet represents the Department of Labor at such international bodies as the World Trade Organization (WTO) and the Organization for Economic Cooperation and Development (OECD), and coordinates U.S. government participation in the human resources working group of the Asia-Pacific Economic Cooperation Forum (APEC). Mr. Samet represents the Department of Labor on the U.S. government Trade Promotion Coordination Committee and the President's Export Council. His Bureau jointly administers the labor diplomacy program with the Department of State, and Mr. Samet serves on the Board of Foreign Service. His Bureau also operates a large number of foreign technical assistance programs.

Mr. Samet was a member of the U.S. delegation to the G-7 Jobs Conference in Detroit, the Marrakech Ministerial to conclude the WTO Uruguay Round, the Miami Summit of the Americas, the G-7 Jobs Conference in Lille, the Singapore WTO Ministerial, the G-8 Jobs Conference in London, the Seattle WTO Ministerial, and headed the U.S. delegation to the Amsterdam Child Labor Conference.

Prior to joining the Clinton Administration in 1993, Mr. Samet served as the legislative director to Senator Daniel P. Moynihan (D - New York). Mr. Samet joined Senator Moynihan's staff in 1987, and his responsibilities included international trade, transportation, environment, labor and welfare policy. Prior to joining the government, Mr. Samet was in private law practice. He is a graduate of Yale University (B.A.), Carleton University (Canada) (M.A.), and Georgetown University (J.D.). He has written numerous articles and edited two books on international trade and human rights issues.

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## Biography of Mr. Martin Slate

Mr. Martin Slate was the Executive Director of the Pension Benefit Guaranty Corporation (PBGC) from 1993 until his death in February, 1997. Mr. Slate came to the PBGC following a federal career of 23 years. From 1986 until his appointment as PBGC's Executive Director by Secretary of Labor Reich in March, 1993, he was Director of the Employee Plans Division of the Internal Revenue Service. In that position he directed all tax aspects of Employee Retirement Income Security Act (ERISA) regulation affecting one million retirement plans with \$2.5 trillion in assets.

Previously Mr. Slate was Director of Field Services for the Equal Employment Opportunity Commission (EEOC), which was the top compliance position in that agency. He directed enforcement activities of 2,000 staff members in 20 field offices and tripled relief to those judged to have been discriminated against. He was also Director of the EEOC's Chicago Model District Office and, for a six year period, was a trial attorney who won major litigation against the steel and electronics industries that resulted in nationwide settlements.

Mr. Slate was a Phi Beta Kappa graduate of Harvard College and received his Juris Doctor from Yale Law School. He held a Master of Laws in Taxation from Georgetown Law Center where he was also an adjunct professor.

## Information About the Solicitor of Labor

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### BIOGRAPHY OF HENRY L. SOLANO

Solicitor

U. S. Department of Labor

Henry L. Solano was nominated by President Clinton, on April 23, 1998, to serve as the Solicitor at the U.S. Department of Labor. He assumed the responsibilities of the Solicitor, which is the third highest ranking position in the Labor Department, on November 30, 1998. The Solicitor supervises the second largest office of litigating attorneys in the nation and serves as a legal and policy advisor to the Secretary of Labor. The Department and Solicitor are responsible for administering and enforcing the federal laws protecting workers and affecting the workplace.

Mr. Solano has had a distinguished career in law and public administration, serving as the United States Attorney for the District of Colorado, as an assistant attorney general in Colorado and in several positions in Governor Roy Romer's cabinet in the areas of regulatory enforcement, corrections, and human services. He served as United States Attorney for the District of Colorado January 1994 to November 1998. From 1994 to 1995, he also served as a member of the U.S. Attorney General's Advisory Committee, advising Attorney General Janet Reno on policy matters affecting the Department of Justice. From 1991 to 1994, Mr. Solano was a lecturer of public policy at the JFK School of Government at Harvard University. From 1987 to 1991, Mr. Solano served as the Executive Director of the Colorado Department of Institutions, a state agency which provides programs and services in the areas of mental health, developmental disabilities and youth services.

Concurrently, Mr. Solano served as the Acting Executive Director of the Colorado Department of Corrections from 1989 to 1990. From 1990 to 1991, he was the first Chairperson of the Cabinet Council on Families and Children. He also served as the Executive Director of the Colorado Department of Regulatory Agencies, the agency responsible for licensure and regulation of professions, occupations, businesses and financial institutions. He held this position in 1987, simultaneously with his position as Executive of the Department of Institutions. From 1982 to 1987, he was an Assistant United States Attorney for the District of Colorado. From 1977 to 1982, he served Colorado as an Assistant Attorney General in the Human Resources Division of the Colorado Department of Law, overseeing legal representation, litigation, and appeals for four state agencies.

Mr. Solano, who has a Juris Doctorate degree from the University of Colorado School of Law, was awarded its Outstanding Alumni Award, Public Sector in 1995. He holds a Bachelor of Science in Mechanical Engineering from the University of Denver. In 1994 the University of Denver awarded him an Honorary Doctor of Law Degree in recognition of his contributions to the community and profession. He is currently on the Board of Directors for the National Latino Children's Institute, holding the position of First ViceChair/ Chair Elect. He has previously served on the Board of Directors of the MexicanAmerican Legal Defense and Education Fund, Denver Housing Authority, Denver Women's Commission, Colorado Department of Social Services, Colorado Transit Construction Authority and the Regional Transit District.

Mr. Solano is married to Janine Solano, a Physician Assistant practicing pediatric and adolescent medicine in the public sector. They have three children; Mateo, age 22 is a student at the American Academy of Dramatic Arts, N.Y., N.Y., Amalia, age 20 is a student in sports medicine at Colorado State University and Guadalupe, age 17 is a Senior in the Denver Public Schools.

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## Biography of David M. Strauss

David M. Strauss has been Executive Director of the Pension Benefit Guaranty Corporation (PBGC) since July, 1997.

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Mr. Strauss served for nearly four years as Deputy Chief of Staff to Vice President Al Gore, and for 13 years in senior management positions in the U.S. Senate. He was Staff Director to the Senate Committee on Environmental and Public Works and Chief of Staff to Senator John Breaux, D-LA, and the late Senator Quentin N. Burdick, D-ND. In these positions, he advised on a broad range of economic and domestic policy issues including wage and workplace protection, retirement security, health care, welfare and trade.

Previously Mr. Strauss administered federal farm programs for four years in North Dakota as State Executive Director for the U.S. Department of Agriculture's Stabilization and Conservation Service. In this capacity, he directed an agency with 53 county offices and 1,200 employees, which administered \$1.3 billion in loans and direct payments to the state's farmers. He also worked at the U.S. Civil Rights Commission monitoring federal financial regulatory agencies' compliance with the housing provisions of the Civil Rights Act.

Thomas S. Williamson, Jr.

Mr. Williamson is a graduate of Harvard College and a Rhodes Scholar who studied at Balliol College, Oxford. He has lived and worked in Yaounde, Cameroon and Addis Ababa, Ethiopia. He graduated from Boalt Hall in 1974 where he served as a member of the editorial board of the California Law Review.

Mr. Williamson began his legal career at Covington & Burling in Washington, D.C. in 1974. His practice included representation of communications clients and securities litigation matters. In 1978 he was appointed the Deputy Inspector General of the newly formed Department of Energy. He went back to Covington & Burling in 1981 and became a partner in 1982. His practice mainly focused on representing state governments against the federal government in disputes relating to health and welfare programs. Mr. Williamson served as Solicitor of Labor from 1993 to 1996 and then returned to Covington & Burling. His practice areas currently include employment law and litigation. He also serves as the chair of the Texaco Task Force on Equality and Fairness.

## **E. The Department of Labor Operations: Other Accomplishments**

### **1. DOL cross-cutting initiatives**

As discussed in Chapter III, the Department of Labor (DOL) has worked hard to become more effective in fulfilling its mission. The key to the successful fulfillment of the Department's mission depended upon the coordination and integration of DOL's programs and activities. During the Clinton Administration, the Secretaries of Labor made a concerted effort to identify and link the Department's programs when program missions and goals overlapped. These efforts eliminated duplication and allowed for the efficient development of the Department's policies and initiatives.

Examples of significant cross-cutting programs initiatives that involved coordinating the efforts of several, if not all of DOL's program offices, are (1) developing information technology, (2) improving the regulatory process, (3) implementing special initiatives, and (4) preparing budget submissions.

**Developing information technology.** One of the Department's strategies for fulfilling its mission is to improve its ability to communicate and conduct business with the public using the Internet and the upcoming DOL-wide Information Call Center. Both initiatives require coordinating the efforts of all DOL agencies to ensure that the information and the services provided are cohesive and accurate.

The Internet has emerged as one of the Department's primary vehicles for communicating with the public. A recent cross-cutting effort relating to the public Internet web site has been the development of the Departmental Public Web Site Content Clearance Process for documents and other substantive materials being placed on the DOL public web site.

The upcoming DOL-wide Information Call Center will give the public one-stop service, providing a single, centralized point of access to DOL. The Call Center will link the information available on the Internet with call center technologies that will result in efficiency and productivity gains for the DOL, as well as improved services for the public. This initiative also crosses agency lines, requiring agencies to coordinate their efforts to develop desktop applications and to develop links between the DOL Internet and the Call Center database.

**Regulatory process.** The Department's regulatory process underwent significant change during the Clinton Administration. Traditionally, staff of DOL regulatory agencies, (e.g., Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), Pension and Welfare Benefits Administration (PWBA)), drafted new or revised regulations working along with staff of their respective associate solicitors. When approved by their agency heads, other DOL agencies, such as the Office of Policy, Office of Congressional and Intergovernmental Affairs, and program agencies whose work the rule might affect, then cleared the drafts. Thus, issues – in some cases very complex issues – arose at the end of the development process, long after substantial investment of time and resources occurred. In contrast, under Secretaries Reich and Herman, the Department moved towards a cross-agency

staff approach to regulatory development. Efforts were made to resolve issues at the front end of the process, rather than at the end. This approach ensured more fully developed policy considerations at the earliest stages of a regulatory effort, providing a more consistent approach to cross-agency regulatory issues. On April 24, 1995, President Clinton issued a directive on regulatory reinvention that reinforced DOL's ongoing efforts. The results of the Department's review were reported to the President in June of that year. A copy of this report, "Reinventing Labor Regulations," immediately follows this appendix.

**Implementing special initiatives.** Many special initiatives initiated by the Secretaries of Labor require cooperative efforts by those agencies that have a common mission and common goals. These initiatives, which highlight current labor issues, required the formation of teams, with agencies sharing resources and coordinating work efforts. For example, Secretary Herman's Equal Pay Initiative, which strove to increase education and awareness of the pay gap for women, was a joint effort of the Office of Federal Contract Compliance Programs (OFCCP), the Women's Bureau, PWBA, the Solicitor's Office and several staff agencies.

The National Skills Summit, held April 11, 2000, is another example of where several DOL agencies worked together to organize a national summit on the need for skilled workers. This one-day event brought together corporate CEOs, small business entrepreneurs, and leaders of organized labor to develop and to exchange innovative and cost-effective strategies that would help satisfy employers' needs for skilled workers.

**Increasing budget coordination.** Several of these long-term cross-cutting initiatives required coordination by various Departmental agencies when preparing the annual budget submission. This was particularly important in the area of Information Technology (IT) and IT capital investments.

## **2. Other management improvements**

In addition to working on Departmental cross-initiatives, agencies looked for ways to improve the efficiencies of their own operations or to upgrade the skills of their own workers. The Office of the Assistant Secretary for Administration and Management (OASAM), as part of its mission to provide centralized administrative and support services to DOL agencies and their staff, undertook a number of steps to improve day-to-day management functions and to make the Department's own workforce better prepared to serve the public. Examples of these steps follow.

**OASAM regional offices.** The Boston-New York regional office served as the only DOL office to test the Office of Personnel Management's (OPM) program to implement the President's initiative on Individual Learning Accounts, which was a program that provided cash allowances to employees to spend on training and development. Results are still being analyzed, but anecdotal feedback indicates that the initiative will be an effective approach to meeting training needs of employees.

The Atlanta regional office worked with OFCCP, part of the Employment Standards Administration, to develop the OFCCP Succession Planning Program, which is a plan on how to replace essential staff given future retirements and projected turnover. Atlanta will pilot the program, which will serve as a model for OFCCP. In addition, the Chicago-Kansas City regional office and OFCCP combined efforts to design a series of five training classes to raise the skill level of OASAM staff.

**OASAM national office.** A significant management improvement was the review and elimination of internal regulations that hampered an agency's independence and initiative. As a result of the review, 280, or 28 percent of the Department's personnel regulations, supplements, and other personnel guidance, were deemed unnecessary or inefficient and were rescinded. The Department received the Vice President's 1994 Hammer Award for this successful initiative. In another effort to ensure that the Department efficiently fulfilled its mission, OASAM reviewed its own internal reports and those OASAM requires of other DOL agencies to determine which could be eliminated. Consequently, OASAM eliminated eight (57 percent) of OASAM reports required from all DOL agencies and three (30 percent) of OASAM's internal reports.

Another significant management achievement was the development of a comprehensive alternative dispute resolution (ADR) implementation plan. The ADR plan enabled the Department to resolve approximately 50 percent of the backlog in labor-management arbitration cases without litigation.

OASAM also led the effort to introduce a number of systems hardware and software enhancements that increased employee productivity. These enhancements included the development of the Department's Information Technology architecture and the System Development Lifecycle Manual, which was posted on the Department's Intranet site, allowing all DOL employees easy access.

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*Reinventing Labor Regulations*

**Summary Report**

**Eliminating and Improving Regulations:  
Recommendations for Removal, Reinvention, and Retention**

**Response of the  
U.S. Department of Labor to  
April 24, 1995 Presidential Directive**

**June 15, 1995**

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## INTRODUCTION

The Department of Labor (DOL) fosters, promotes and develops the welfare of the wage earners of the United States to improve their working conditions, and to advance their opportunities for profitable employment. In carrying out this mission, the Department administers a variety of Federal labor laws guaranteeing workers' rights to safe and healthful working conditions; a minimum hourly wage and overtime pay; workers' compensation; freedom from employment discrimination; and unemployment insurance. The Department also protects workers' pension and other benefit rights; provides job-training programs; helps workers find jobs; helps employers find workers; works to strengthen free collective bargaining; and keeps track of changes in employment, prices, and other national economic measurements.

In carrying out these responsibilities, the Department is working hard to reform its regulatory system so that the laws it administers achieve their intended aims; that its regulations are effectively carried out, but are sensitive to the concerns of individuals and businesses charged with carrying them out. This report summarizes the progress DOL agencies have made thus far in response to the President's Executive Order No. 12866 of September 30, 1993, "Regulatory Planning and Review." It also describes actions we have undertaken in response to the President's most recent directive of April 24, 1995, "Regulatory Reinvention Initiative." Agencies like the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA), for example, continue to have on their books consensus standards adopted many years ago; these rules are sometimes excessively detailed, written in specification language, and difficult to interpret. Accordingly, OSHA and MSHA intend to build a set of modern workplace safety and health standards that protect workers and are, also, more user-friendly for employers.

Accomplishing changes such as these will involve the participation of our stakeholders at every step in the process, from priority-setting to implementation. Enlisting the support of the regulated community is absolutely vital to the strong business/labor consensus necessary to support effective workplace safety and health programs and other DOL workplace programs. Because some reinvention activities identified in this report are major efforts, we will join with stakeholders early to establish several pilot projects that will, hopefully, become models for future reinvention efforts.

### Department of Labor Goals

The Department of Labor has embraced four major goals aimed at developing an effective workforce investment strategy to ensure that there are trained workers to take advantage of the opportunities and job growth in emerging industries and businesses. The overarching goals established by the Secretary are designed to focus Departmental efforts on aiding America's working people. These goals were formalized in a performance agreement between the President and the Secretary and between the Secretary and executive staff. They are: (1) first jobs — to ensure that new entrants in the workforce have access to training and jobs with a

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future: (2) new jobs — to provide programs that ease the transition for workers from one job to the next; and (3) better jobs — to ensure both through enforcement presence and through technical assistance that employers understand the economic benefits of safe and high performance workplaces. Finally, the successful creation of first, new, and better jobs depends on the department's willingness and ability to reinvent itself into a high performance work organization. Our fourth strategy, therefore, is to reaffirm our commitment to reinvent the Department through a labor-management partnership with our employee unions.

### **Accomplishing the Department's Mission**

The following agencies work to accomplish the Department of Labor's mission:

- The Employment and Training Administration (ETA) funds training programs enabling workers to gain the skills needed for employment; it oversees state employment service offices that help people find jobs and employers find workers; and it offers income maintenance programs for workers who lose their jobs through no fault of their own. Special efforts are made to meet the unique job market problems of older workers, youth, minority group members, women, the disabled, and others.
- The Employment Standards Administration (ESA) enforces a variety of statutes that prescribe standards and conditions of employment, i.e., minimum wages, child labor restrictions, overtime pay, migrant and agricultural worker protection, immigration and other employment standards. It enforces nondiscrimination and affirmative action regulations for federal contractors and manages workers' compensation programs for federal employees, longshore and harbor workers, coal miners and other groups.
- The Office of the American Workplace (OAW) serves as a national focal point in promoting the creation of high performance work practices and policies; helps employees, managers, and union leaders to create flexible, innovative and cooperative workplaces designed to improve the performance of their organizations; administers a variety of Federal acts required by statute, including employee protection provisions of the Federal Transit Act, the Rail Passenger Service Act, the Redwood National Park Expansion Act, the Airline Deregulation Act, and provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended, and other statutes.
- The Occupational Safety and Health Administration (OSHA) ensures safe and healthful working conditions for American workers by promulgating workplace safety and health standards and enforcing compliance by inspecting places of employment. It also provides consultation, training, education and information for

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employers and employees to promote voluntary compliance to achieve safe and healthful workplaces. Matching grants are provided to help states in administering and enforcing occupational safety and health programs.

- The Mine Safety and Health Administration (MSHA) strives to protect the nation's miners and the productivity of the mining industry by establishing health and safety standards, enforcing compliance with the standards, providing technical assistance to resolve compliance problems, and promoting health and safety education and training in the mining community.
- The Pension and Welfare Benefits Administration (PWBA) administers Title I of the Employee Retirement Income Security Act of 1974 (ERISA) and certain portions of the Federal Employees' Retirement System Act of 1986. PWBA is responsible for regulation, enforcement and research to protect private sector pension plans, and private sector welfare benefit plans.
- The Bureau of International Labor Affairs (ILAB) carries out the Department's international responsibilities and assists in formulating international economic, trade and immigration policies affecting American workers.
- The Women's Bureau promotes the welfare of wage earning women and seeks to improve their working conditions, increase their efficiency and advance their opportunities for profitable employment.
- The Bureau of Labor Statistics (BLS) is the principal fact-finding agency in the Federal government in the broad field of labor economics. BLS regularly collects, processes, analyzes and publishes timely and accurate data on employment, unemployment, wages, occupational outlook, prices, productivity and job safety and health. It also develops important information on labor market demographics and projections of economic growth.
- The Veterans' Employment and Training Service (VETS) ensures that veterans receive employment priority of services and training to which they are entitled by law, assists separating service members with employability training, and enforces veterans' reemployment rights laws.
- The President's Committee on Employment of People With Disabilities (PCEPD) helps communication, coordination and promotion of public and private efforts to enhance the employment of people with disabilities; provides information, training, and technical assistance in support of the Americans with Disabilities Act (ADA), and the Rehabilitation Act of 1973, as amended, to America's business leaders,

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organized labor, rehabilitation and service providers, advocacy organizations, families and individuals with disabilities. This was achieved by working with Governor's Committees in the states, Puerto Rico and Guam; Mayor's Committees; volunteers; and disability community leaders.

- The Office of Inspector General (OIG) administers provisions of the Inspector General's Act for the Department of Labor. Through an independent, comprehensive program of audits and investigations, the Office focuses on the efficiency and effectiveness of the Department's programs and preventing or detecting fraud, waste and abuse.

### **Reforming DOL Regulations**

Regulatory reform has been a major component of the Department of Labor's reinvention efforts. Individual agencies have worked with their stakeholders to solicit ideas on how we can operate more effectively. DOL's complete regulatory reform strategy is designed to:

- Set clear and sensible priorities for hazards and issues that need to be addressed;
- Establish a framework of basic "building block" standards that provide a solid foundation for future regulatory efforts;
- Review, revise, and revoke obsolete, confusing, or unnecessary rules;
- Reduce excessive compliance burden and costs;
- Emphasize plain language to make rules more user-friendly; and
- Initiate cooperative partnerships with business, labor, state government, interest groups, professional societies, and other important groups.

Taking action on out-of-date or confusing standards is an important and positive aspect of this regulatory strategy. Until these rules are weeded out, DOL's standards will not achieve their goal.

### **Outline of Report**

The remainder of this summary report is structured as follows. First, the results of DOL's page-by-page review of existing regulations are summarized. A detailed list of the department's existing regulations that are candidates for revocation, reinvention, or consolidation is presented in a companion report, *Reinventing Labor Regulations*. Second, we discuss our efforts to change the existing incentive structure agency regulators face in their efforts to reward results. Third, we discuss our agency's efforts to create grassroots partnerships with important

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and other consensual stakeholders. Next, regulations we identified as possible candidates for negotiated rulemaking efforts are presented. Finally, our plans for modifying the penalties for small businesses and reducing by one-half the frequency of regularly scheduled reports required by the public are discussed.

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## MODIFYING AND ELIMINATING REGULATIONS

The President's April 24 directive on regulatory reinvention reinforced DOL's ongoing reinvention efforts. The Department has been and continues to work hard to improve the services it provides to workers, businesses and the public. For example, OSHA and the Wage and Hour Division recently presented some of these improvements to the Vice-President as part of the Administration's National Performance Review efforts. The results of the Department of Labor's page-by-page review of its regulations to identify candidates for elimination or modification are discussed below.

### Methods Used for Preparing Page-by-Page Review

DOL agencies, in preparing this report, incorporated a page-by-page review of existing regulations into their ongoing regulatory reform initiatives. Agencies used several methods to identify candidates for reform, including:

- Soliciting comments from the public through published notices in the *Federal Register*;
- Consulting with stakeholders to gain their perspective on necessary reforms; and
- Organizing teams of front-line workers and managers to conduct across-the-board reviews.

OSHA and PWBA, for example, published notices in the *Federal Register* asking the public for ideas on how to improve their regulations. PWBA also solicited public comment on the need for regulatory or statutory changes to the provisions of the Employee Retirement Income Security Act (ERISA) which govern the disclosure of plan information to participants and beneficiaries.

Beyond the broad public participation solicited from published requests, DOL agencies also met face-to-face with their stakeholders. PWBA, for example, was helped in its reform efforts by the Department's ERISA Advisory Council. OSHA held a series of meetings with stakeholders to solicit ideas for revising its regulations; representatives of business and labor, members of professional societies, representatives from state-plan states, and OSHA field personnel were asked for their ideas. MSHA invited mine operators, miners, manufacturers, and other interested parties to identify regulations that needed reform; they also asked trade associations, labor unions, and state government representatives for their views. Finally, OFCCP consulted with representatives of civil rights, women's rights, and employer groups to solicit recommendations for regulatory reform. Front-line staff in the regional and district offices were also asked to provide suggestions.

While each agency developed its own review criteria for the page-by-page review of regulations, they all closely matched the principles espoused in the President's directive in

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asking the following questions:

- Is this regulation needed?
- Is this regulation out of date?
- Is this regulation duplicative?
- Is this regulation inconsistent/contradictory/unenforceable?
- Is this regulation readily comprehensible?
- Has this regulation been the subject of stakeholder comments?

OSHA engaged nearly 100 individuals from the standards' development, enforcement, compliance assistance, economic analysis, technical support, legal, field, and state operations staff to conduct its review. These individuals were divided into teams that met daily for three weeks, painstakingly reviewing every one of the agency's regulations against the above criteria. A separate management group met daily to analyze and rank the work of the teams. Criteria used for prioritization included: availability of agency staff to carry out the statutory, regulatory, or administrative actions identified by the review; potential impacts of the recommended action (getting the "biggest bang for the buck"), number of workers potentially helped by the action; level of stakeholder concern about the regulation; need for updating or reinvention of the regulation; and, professional judgement. OSHA then met with stakeholders to solicit their opinion of the preliminary results of the page-by-page review and discuss additional regulatory reform ideas.

Other agencies conducted similar reviews of their regulations. PWBA reviewed regulations promulgated under Title I of ERISA with a team of front-line regulators from both PWBA and the Plan Benefits Security Division of the Solicitor's Office. A team of MSHA staffers, including front-line regulators, worked to revise its regulations to better fit the needs of the mining community. Wage and Hour conducted their review in two phases. The first phase identified which of 75 regulations were candidates for reform, while the second phase reviewed some longer, more complex regulations.

A team of OFCCP staff completed the page-by-page review by using recommendations for regulatory reform received from stakeholders and front-line regulators during its consultation meetings.

### Overview of Findings

The President's directive asked each agency to conduct a page-by-page review of its existing regulations to identify provisions that were outdated, redundant, or otherwise in need of

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changing. MSHA, for example, evaluated the requirements of 125 separate rules comprising over 2,590 sections of the Code of Federal Regulations — some 700 pages of regulatory text. So far, nine regulations have been identified that could be removed entirely without any adverse effect on miner safety and health. MSHA has also identified provisions in over 80 other regulations that need overhauling or clean up of nonsubstantive language. Together, these changes could result in the elimination of more than 200 pages of text or nearly 30 percent of MSHA's existing pages of rules published in the CFR.

OSHA's page-by-page review involved a close analysis of 35 parts of the *Code of Federal Regulations*, totaling 3,252 pages. OSHA is reinventing 1,274 of these pages and plans to eliminate 1,049 pages of duplication when customized regulatory packages can be developed (see below). In all, 39 percent of OSHA's pages will be reinvented, and 32 percent of its pages will be eliminated.

Wage and Hour reviewed 75 parts of the CFR, totaling 1,165 pages, and identified 38 parts that could be either eliminated, reinvented, streamlined or consolidated. As a result, over 200 pages, or nearly 20 percent, will be eliminated.

Other findings based on our analysis are:

- Almost half (47.9 percent) of the Department's existing regulations are proposed for possible revocation, reinvention, or consolidation.
- About one-third (28.0 percent or approximately 1,818 pages) of the *Code of Federal Regulations* dedicated to DOL regulations can be eliminated. Most of these can be eliminated outright because they are duplicated elsewhere; the rest can be eliminated because of reinvention.
- Almost one-fifth (19.9 percent) of the CFR parts can be eliminated because they are obsolete; over one-quarter (28.0 percent) of the CFR parts are candidates for reinvention.

The results for the various DOL agencies are summarized in Exhibit 1; the detailed agency-specific results are presented in "*Reinventing Labor Regulations*," the companion report accompanying this summary report.

### Customizing Agency Regulatory Packages

In response to stakeholders' request for "one book" containing all OSHA regulations applicable to general industry, construction, and maritime, OSHA deliberately codified regulations from general industry in the construction and shipbuilding standards. The total number of pages deliberately duplicated in the CFR exceeds 1,000. OSHA intends to eliminate this duplication as soon as the agency can deliver customized, industry-specific compilations of those OSHA regulations pertaining to a given industry. Under such a system, for example, OSHA could

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**Exhibit 3**  
**U. S. Department of Labor**  
**Summary Report on Eliminating and Improving Regulations:**  
**Recommendations for Removal, Reinvention, and Retention**

| Action Taken  | OSHA           | MSHA         | OFCCP         | Wage & Hour    | OWCP       | PWBA        |
|---|----------------|--------------|---------------|----------------|------------|-------------|
| Intended Number of CFR Pages Removed                | 1,049<br>(32%) | 207<br>(30%) | 14<br>(12.3%) | 225<br>(19.3%) | 0<br>(0%)  | 57<br>(27%) |
| Intended Number and Percent of CFR Parts Eliminated | 2<br>(5.7%)    | 10<br>(24%)  | 3<br>(25%)    | 28<br>(37.3%)  | 0<br>(0%)  | 0<br>(0%)   |
| Intended Number and Percent of CFR Parts Reinvented | 9<br>(25.7%)   | 16<br>(38%)  | 5<br>(42%)    | 10<br>(13.3%)  | 3<br>(30%) | 3<br>(30%)  |
| Intended Number and Percent of CFR Parts Unchanged  | 24<br>(68.6%)  | 16<br>(38%)  | 4<br>(33%)    | 37<br>(49.3%)  | 7<br>(70%) | 7<br>(70%)  |

**Exhibit 3**  
**U. S. Department of Labor**  
**Summary Report on Eliminating and Improving Regulations:**  
**Recommendations for Removal, Reinvention, and Retention**

| <b>Action Taken</b>  | <b>OSECY</b> | <b>OAW</b>  | <b>OASAM</b> | <b>VETS</b> | <b>ETA</b>    | <b>TOTAL</b>   |
|--|--------------|-------------|--------------|-------------|---------------|----------------|
| <b>Intended Number of CFR Pages Removed</b>                | 77<br>(55%)  | 0<br>(0%)   | 100<br>(53%) | 4<br>(33%)  | 87<br>(13.5%) | 1,818<br>(28%) |
| <b>Intended Number and Percent of CFR Parts Eliminated</b> | 0<br>(0%)    | 0<br>(0%)   | N/A          | 1<br>(33%)  | 7<br>(19%)    | 51<br>(21.0%)  |
| <b>Intended Number and Percent of CFR Parts Reinvented</b> | 7<br>(78%)   | 4<br>(26%)  | N/A          | 0<br>(0%)   | 9<br>(24%)    | 66<br>(26.6%)  |
| <b>Intended Number and Percent of CFR Parts Unchanged</b>  | 2<br>(22%)   | 11<br>(74%) | None         | 2<br>(66%)  | 21<br>(57%)   | 131<br>(52.8%) |

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serve its customers by producing, on request, a "book of OSHA regulations for foundries." Other DOL agencies will also be able to do likewise. MSHA, for example, will be able to use this approach for its regulations covering metal/non-metal mines.

With the advent of Internet, and other available electronic technologies, it is possible to eliminate the duplicate pages in the *Code of Federal Regulations* and still be responsive to stakeholders who like the convenience of having all the regulations that apply to them in one location. Therefore, the Department of Labor is launching a project to make all of its regulations available electronically. Initially, we will select four or five industries (auto body shops, foundries, dry cleaners, and home building contractors have been suggested as candidates), identify the applicable regulations, and develop a distribution system to deliver customized sets of regulations in electronic or hard-copy form. This approach would allow the duplicative pages in the CFR to be revoked while simultaneously increasing customer satisfaction.

DOL is aware of the concerns expressed by employers and employees in the construction, maritime, and other industries, who urged agencies like OSHA for many years to issue industry-specific volumes of regulations. We recognize the convenience of the "one-book" approach to stakeholders in these industries and will work closely with these partners to ensure that their needs for such a resource are met.

### **Improving DOL Regulations**

By virtue of the sheer number and variety of the regulatory and administrative actions now under consideration because of this review, the next phase will demand careful planning and resource allocation. Examples of the more significant changes under consideration are discussed below. This additional effort will be considered along with the other regulatory efforts that have already been initiated and those that might be required should regulatory reform legislation be enacted soon. It will also be necessary to consult with each agency's stakeholders on ranking these various efforts, before proposing timetables for these actions. A proposed timetable for the Department's agencies will be published with our next regulatory agenda.

### **Directorate of Civil Rights**

*Single Regulation for Civil Rights.* The Directorate of Civil Rights has identified a significant way of reducing regulatory burden, while simultaneously making the enforcement of civil rights laws more consistent across the various executive agencies. This can be done by having the Department of Justice (DOJ) issue a single, comprehensive regulation for each civil rights law for which it has coordinating authority under Executive Order (EO) 12250, "Leadership and Coordination of Nondiscrimination Laws." Executive Order 12250, signed by President Carter on November 2, 1980, assigns to DOJ responsibility for the coordination of Title VI of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

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To carry out EO 12250, DOJ has issued coordinating regulations that includes the requirement that each executive agency issue implementing regulations. This requirement has resulted in the issuance of many regulations. For example, the *Code of Federal Regulations* contains 24 separate regulations, all implementing Title VI. This does not include DOJ's coordinating regulation, which also includes recipient obligations. This situation leads to duplication of effort by Federal agencies and confusion among recipients, especially those that receive grants from two or more Federal agencies.

A single regulation, issued by an agency with complete program authority but carried out by various agencies is not unprecedented. Before 1978, regulations carrying out Executive Order 11246, which requires Federal contractors and subcontractors to take affirmative action and ensure nondiscrimination, were issued by the Department of Labor. However, these regulations were enforced by various contracting agencies, e.g., Department of Defense and the General Services Administration. Additionally, regulations governing complaints alleging discrimination are issued by the Equal Employment Opportunity Commission but carried out by the various Executive agencies. Currently, Executive Order 11250 does not give DOJ authority to issue government-wide regulations and would have to be amended.

#### Mine Safety and Health Administration

*Eliminating Regulations that Do Not Fit Anthracite Coal Mines.* MSHA regulations cover two very different kinds of underground coal mines — bituminous coal and anthracite coal — generally without distinguishing between them. The result: some MSHA regulations address safety hazards found just in bituminous coal mines, but still apply to anthracite mines — where they do not fit. Individual anthracite mine operators can modify these regulations only by asking MSHA for specific variances. This variance process costs time and money and, because anthracite mines generally are small, their burden can be heavy. MSHA has received 250 variance requests from small anthracite mines over the last two years alone. Eliminating or revising regulations that do not fit anthracite mines would mean savings for mine operators and for MSHA.

*Allowing Belt Entry Ventilation as a Rule, Not an Exception.* Improvements in technology mean that "belt air" — air that has passed through mine entries with a conveyor belt — can be used safely to ventilate the areas where miners work in an underground coal mine. MSHA's regulations, however, allow the use of "belt air" only if an individual mine operator files for a variance from MSHA standards, and the agency grants the variance. MSHA and the mining industry have gone through this variance process more than a hundred times. MSHA is ready to propose a rule allowing "belt air" ventilation, if certain safeguards are used. This new rule would eliminate the costs of the variance process, potentially saving industry and government millions of dollars and thousands of hours of paperwork burden. It would also promote better mine ventilation systems, which contribute to miners' safety and health.

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***Allowing the Use of High-Voltage Longwall Equipment to Safely Increase Production.***

Advanced longwall mining systems that employ high voltage electrical circuits have meant big production gains in underground coal mines, with no loss in electrical safety. MSHA's electrical standards currently prohibit high-voltage circuits where coal is produced. As a result, mine operators have had to get variances from MSHA to use high voltage longwall equipment. Over the past 10 years approximately 100 variances have been processed. A recent comment from the public stated the variance process costs mine operators as much as \$10,000 a mine. By issuing a general rule allowing the safe use of this high-voltage equipment, MSHA could make it less burdensome for mines to adopt a highly productive, method of mining coal. The new rule would save both government and industry hundreds of thousands of dollars a year and thousands of hours of paperwork.

***Shrinking the Code of Federal Regulations by Consolidating Regulations for Metal/Non-Metal Mines and Publishing Excerpts.*** The fewer the number of regulations, the easier they are to deal with. MSHA's regulations — found in Title 30 of the *Code of Federal Regulations* — cover all metal/non-metal mines, both those on the surface (in Part 56) and those underground (in Part 57). But there is duplication in these rules: Part 57 covers the surface areas of underground mines and repeats much of Part 56 on surface mines. Combining the two parts would save 58 pages in the *Code of Federal Regulations*. Simultaneously, MSHA expects to publish separate rule "booklets" for general categories of metal/non-metal mining, making it easy to find all applicable regulations in one place. For example, one booklet would cover all pertinent regulations for sand and gravel operations.

***Streamlining the Process for Introducing Safe Technology Underground.*** Since 1913, the Federal government has been involved in ensuring that only safe, explosion-proof products are used in underground mines. Currently, MSHA sets approval specifications for mining equipment (as required by statute) and tests those products. Under a proposed rule (consistent with a recommendation of the National Performance Review), MSHA would allow independent laboratories to do the testing. The rule would also let MSHA approve products that satisfied requirements similar to MSHA's. New products would reach the marketplace more quickly. International standards could be recognized, increasing marketing opportunities for American manufacturers. And MSHA could spend more time checking to see that the products in the mines are safe. Although initial costs of testing and approval for a particular product might increase under the new process, substantial cost savings will accrue to manufacturers eventually, which will outweigh any cost increases. In particular, manufacturers would realize savings from the ability to design and manufacture a single product to serve multiple markets, including foreign market areas. In addition, independent laboratory testing should decrease the amount of time for developing and introducing a product into the market, cutting total costs for manufacturers.

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## Occupational Safety and Health Administration

***Consolidation of Thirteen Carcinogen Standards.*** In one of OSHA's earliest rulemakings, the agency developed work practice standards to address the hazards associated with workplace exposure to 13 potential human carcinogens. These rules are codified at 29 CFR 1910.1003 through 1910.1016. Consolidation will save approximately 54 CFR pages and will avoid the need for employers to page through these rules to search for specific requirements. It will also reduce the paperwork burden associated with the maintenance of separate records for each standard.

***Consolidation of Separate Training and Records Maintenance Provisions.*** At present, OSHA's standards for general industry, construction, and maritime contain hundreds of employee training and records maintenance requirements. These provisions are located in the specific standard to which they apply, e.g., ionizing radiation (1910.96), wiring design and protection (1910.304), general rules applicable to vehicles (1917.44). Because these requirements were written at different times or were adopted from industry consensus standards, they are inconsistent in important respects. For example, some standards fail to specify how long an employer must keep the record, while others require that certain records be kept for five years and still others merely imply that certain records be maintained. The hundreds of training provisions located throughout OSHA's standards also differ substantially from one standard to another.

To permit the consolidation and simplification of these individual provisions, OSHA is developing "building block" regulatory modules covering employee safety and health training and records maintenance. Stakeholder involvement will be an important aspect of these rulemaking initiatives, which will be developed as part of the rulemaking process already initiated by OSHA to develop the safety and health programs standard. Once completed, the training and records maintenance modules will become part of that standard.

***Revocation of Design Criteria.*** Sections 1926.1002 and 1926.1003 of OSHA's construction standards combine test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction and for the overhead protection provided on such tractors. Because these standards address the design criteria and test procedures that manufacturers must meet, rather than requirements that employers must observe, OSHA proposes to revoke these provisions and replace them with a simple cross-reference to the appropriate consensus standards. The benefits of this approach are: the elimination of eight pages of the CFR, enhanced ease of use for the regulated community, and greater worker protection, since the cross-referenced consensus standards will be up to date (the existing standards reference consensus standards that are 25 or more years old).

***Eliminating or Reinventing Problem Provisions.*** A number of OSHA's specific regulatory provisions have been criticized by stakeholders for causing compliance problems or for being unnecessary, obsolete, or confusing. The agency has undertaken or planned a number of administrative and regulatory actions to correct these problems.

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For example, OSHA has requirements in its general industry standards that allow employers to use plastic gas cans in some circumstances. OSHA's construction standards, however, require all gas cans to be metal. As part of its regulatory reform initiative, OSHA is suspending enforcement of the "metal only" requirement on construction worksites pending revision of the construction regulation. In another example, OSHA has directed its compliance officers not to cite employers for failure to comply with a requirement to have their first aid kits examined and approved by a physician and will initiate appropriate rulemaking action.

OSHA will also start the process of revising, revoking or clarifying:

- A requirement requiring temporary labor camp employers to lock their privies after the season is over (29 CFR 1910.142 (a)(4))
- Several requirements pertaining to explosives and blasting agents that conflict with DOT requirements (29 CFR 1910.109, various provisions)
- A requirement that employers use a certain kind of battery that is no longer readily available (29 CFR 1926.906 (q))
- A requirement that employers burn high explosive containers (a practice forbidden by EPA) (29 CFR 1910.109 (e)(2)(i))
- A requirement that employers provide certain outdated medical tests to their employees (29 CFR 1910.1018 (n)(3)(i); 29 CFR 1910.1029 (j)(3))
- A requirement that ionizing radiation warning symbols meet certain color requirements that conflict with DOT regulations (29 CFR 1910.96 (e)(1)(i))
- A requirement that employers provide X-rays to certain employees every 6 months (29 CFR 1910.18 (n)(3); 1910.1029 (j)(3)(ii))
- An outdated provision requiring that certain employees be trained every 3 months (29 CFR 1910.1018 (o)(1)(ii))
- A requirement that employers update labels required by the hazard communication standard within three months of receiving new information (29 CFR 1910.1200 (j)(11))
- A requirement that would permit employers to be cited if their employees chew gum while working on a roof (29 CFR 1926.1101)
- A requirement that would permit employers to be cited for not posting an emergency aid phone number, even in areas where the "911" number is used

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(29 CFR 1926.50 (f))

- A requirement that would prohibit emergency responses except in life-threatening circumstances (29 CFR 1910.1017 (g)(5)), which conflicts with requirements in another OSHA standard (29 CFR 1910.120 (q))
- A requirement for marking liquified petroleum gas containers (29 CFR 1910.110 (c)(2)(ii) - (iv)) that conflicts with OSHA's Hazard Communication standard (29 CFR 1910.1200)
- A requirement that tank trucks and semi-trailers meet certain design criteria that conflict with the criteria established by DOT (29 CFR 1910.111 (f)(7) - (8))
- A requirement (29 CFR 1910.183 (k)) that helicopters meet certain load weight limitations, although the FAA also has criteria covering such limitations.

OSHA has taken or will soon take short-term action on these provisions (e.g., will initiate discussions with agencies that have conflicting requirements or move to suspend enforcement). The agency will then initiate regulatory action to revise or revoke the problem provisions.

*Writing Regulations in Plain Language.* OSHA will revise and simplify hundreds of pages of industry consensus standards adopted wholesale by the agency in 1971. Most of these rules are specification-based standards applying to equipment and machinery, e.g., dip tanks, ladders, ventilation systems. Twenty-five years later, more than 20 percent of the CFR pages devoted to OSHA regulations continue to be taken up by these outdated and confusing regulations. Over the years, these specification standards have given rise to large numbers of complaints from stakeholders and been the source of considerable controversy.

OSHA will identify three outdated industry consensus standards on the agency's books as candidates for revision, and will develop plain language versions of these standards, in partnership with stakeholders. These simplified standards will then be used as models for the revision of more than 600 pages of OSHA's adopted consensus standards. The entire revision process, which will take some time, will be carefully integrated with OSHA's ongoing efforts to address emerging occupational safety and health hazards using both regulatory and non-regulatory approaches.

Exhibit 2 provides several before-and-after examples of these industry standards and their hypothetical plain language rewrites. In contrast to the industry consensus standards, the plain language versions eliminate unnecessary specification, highlight important provisions, and are easy to follow and comply with.

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**Exhibit 2**  
**Hypothetical Plain Language Examples of OSHA Standards**

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**Industry Consensus Standard Language**

**Plain Language (Draft Revision)**

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29 CFR 1910.94 (b)(5)(b), Ventilation. Due to a variety of work and types of grinding machines employed, it is necessary to develop hoods adaptable to the particular machine in question, and such hoods shall be located as close as possible to the operation.

Hoods shall be adapted to the machine and shall be as close as possible to the operation.

29 CFR 1910.94 (c)(1)(i), Ventilation. Spray finishing operations are employment of methods wherein organic or inorganic materials are utilized in dispersed form for deposit on surfaces to be coated, treated, or cleaned.

Spray finishing operations are those that use dispersed materials to coat, treat or clean surfaces.

29 CFR 1910.103 (c)(2)(d), Hydrogen. Means shall be provided to minimize exposure of personnel to piping operating at low temperatures and to prevent air condensate from contacting piping, structural members, and surfaces not suitable for cryogenic temperatures.

The employer shall minimize worker exposure to cold pipes. The employer will prevent air condensate from contacting anything not suitable for cold temperatures.

29 CFR 1910.35 (a), Means of Egress. A means of egress is a continuous and unobstructed way of exit travel from any point in a building or structure to a public way and consists of three separate and distinct parts: the way of exit access, the exit, and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and shall include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

(a) Egress. An unobstructed place or means of exiting from a building or structure.

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*Improving Hazard Communication.* OSHA's Hazard Communication Standard (the Right-to-Know Standard), published in 1983 and revised in 1994, was developed to ensure that workers who are potentially exposed to toxic substances are provided useful information about the dangers of these substances and about protective measures needed to work with them safely. The standard, as intended, has resulted in a large increase in awareness between employers and employees about workplace hazard recognition and control. It has stimulated training programs, labeling efforts, engineering controls of chemical exposures and appropriate use of personal protective equipment. However, the standard has also received substantial criticism about the length and complexity of material safety data sheets, the volume of paperwork, OSHA's enforcement practices for minor problems, and the lack of compliance assistance and support for small businesses.

To address these problems, OSHA will request the National Advisory Committee on Occupational Safety and Health to convene a working group to identify ways to improve chemical hazard communication and the right to know in the workplace. The committee will be asked to provide OSHA with recommendations in six months to simplify material safety data sheets, reduce the amount of required paperwork, improve the effectiveness of worker training, and revise enforcement policies so that they focus on the most serious hazards.

*Serving Small Business.* The page-by-page review identified a special need to examine the impact of OSHA rules on small businesses and to develop methods and tools to work with small business more effectively.

OSHA's strategy for addressing the needs and concerns of small businesses combines several initiatives that will streamline and simplify access to workplace safety and health regulations and compliance assistance. A short-term strategy includes participation in the June 1995 White House Conference for Small Business and also the initiation of partnerships with the Small Business Administration and local Chambers of Commerce. The small business initiative will include a compliance assistance effort using statewide consultation projects in every state.

The strategy includes the development of an electronic bulletin board dedicated to small business that would include answers to the questions about OSHA requirements most frequently asked by small businesses, sample forms that could be used to meet OSHA's recordkeeping requirements, compliance assistance information for problems of special concern to small business, and lists of the most common citations and penalties by industry and firm size.

OSHA's long-term strategy requires the implementation of a small business policy that promotes compliance and enforcement flexibility without sacrificing worker safety and health. Elements of the small business policy could include alternative control methods, lengthened lead times for achieving compliance with new standards, elimination of specific recordkeeping requirements, or added flexibility in meeting training requirements.

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## Office of Federal Contract Compliance Programs

*Modernization of Executive Order 11246.* The general goal of the agency's regulatory reform initiative is to revise the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program. Because of the agency's regulatory review, which, in part, consisted of meetings with the public and the agency's front-line regulators, OFCCP has begun the process for proposing regulatory changes in the areas identified during the consultations.

The result of a series of meetings held in 1994 was a draft Executive Order 11246 Notice of Proposed Rulemaking (NPRM) that has been cleared by the Office of Management and Budget. The proposal contains a provision that would eliminate the requirement that contractors certify, in writing, that they do not maintain segregated facilities. OFCCP and its stakeholders feel that this provision is obsolete and, therefore, unnecessary. Eliminating the need for this written certification is estimated to reduce compliance burdens on the contractor community by roughly 875,000 hours.

Although a proposal for the Affirmative Action Plan (AAP) summary format and revised written AAP requirements has not been drafted (pending completion of an assessment of the feedback from grassroots partnership meetings), the proposal will contain provisions that will reduce by thirty percent the paperwork burden on contractors and allow the agency to make more efficient use of its compliance officer resources.

Consultations on the construction regulations have resulted in a recommendation by OFCCP that the present routine submission by construction contractors of the Monthly Employment Utilization Report (CC-257) is no longer necessary. Thus, OFCCP will rescind the requirement that construction contractors in certain geographic areas submit the forms. Elimination of this monthly reporting requirement will relieve contractors of an estimated 419,000 paperwork burden hours.

*Other Activities.* A draft final rule for the Section 503 of the Rehabilitation Act regulations is going through the final stages of the interagency clearance process. This final rule would make comprehensive changes to the regulations in order to conform them with the EEOC's regulations carrying out Title I of the Americans With Disabilities Act and the 1992 Rehabilitation Amendments.

Finally, working with staff from the Office of the Assistant Secretary for Veterans' Employment and Training, OFCCP has prepared a draft NPRM for regulations that carry out Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act. The NPRM would conform the Section 4212 provisions with those in the Section 503 draft final rule, where appropriate.

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## Pension and Welfare Benefits Administration

*Reporting and Disclosure Initiative.* ERISA's reporting and disclosure provisions are intended to inform participants and beneficiaries of their rights and obligations under their plan, the financial condition of the plan, and whether the plan is being administered according to the law. The reporting provisions are also intended to provide the Department with information necessary to monitor compliance with the law. Since ERISA's enactment and the adoption of many Departments' regulations governing the reporting and disclosure provisions, many changes have been made to the statute and in the way plan information is prepared, maintained and communicated. Therefore, PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information, while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with such requirements. PWBA has solicited comments and recommendations from the public and the Department's ERISA Advisory Council on the need for regulatory and legislative changes in this area. PWBA has concluded that only marginal changes can be accomplished through the regulatory process and, therefore, reform efforts should currently be focused on legislative changes. Specific legislative changes are currently under review; accordingly, it is premature to project reductions in burdens and costs at this time.

*Form 5500 Annual Return/Report Review.* Each year over 750,000 pension and welfare benefit plans are required to file an annual return/report (Form 5500 Series) regarding their financial condition, investments and operations during the plan year. The Form 5500 Series was developed by PWBA, the Pension Benefit Guaranty Corporation (PBGC) and the Internal Revenue Service (IRS) to enable employers and plan administrators to satisfy their statutory annual reporting obligations under ERISA and the Internal Revenue Code by filing a single form. The Form 5500 Series is received and processed by the Internal Revenue Service. PWBA, with the PBGC and IRS, is currently reviewing the Form 5500 Series to simplify and reduce the reporting burdens and costs on plans and plan sponsors. PWBA is exploring ways to reduce the burden hours imposed under Title I of ERISA by 50 percent (over 500,000 hours).

The agencies are also examining ways by which to simplify and speed up the receipt and processing of the Form 5500 Series by an electronic filing system. Changes in the processing system could reduce burdens on both filers and the Agencies. A fully implemented electronic filing system could result in cost saving to the Department of an estimated \$7 million.

## Wage and Hour Division

*Davis-Bacon and Copeland Act.* A particularly controversial regulation administered by Wage and Hour under the Davis-Bacon Act and the Copeland "Anti-kickback" Act requires contractors and subcontractors on federally funded or assisted construction projects to furnish weekly copies of certified payroll records to the government contracting agency. These

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reporting requirements are estimated to impose 9.2 million hours of burden on the public each year (the cost of which would exceed \$55 million per year if payroll clerks were paid \$6.00 an hour).

Legislative action is the only means to lessen these burdens. Efforts to eliminate the payroll reporting requirements by regulation were overturned by the courts, which held that the existing statutory provisions required submission of the actual payrolls themselves, including individualized wage information for each employee each week. Because few federal contracting agencies review the submitted payroll records for compliance, the requirement to submit payrolls is viewed by the procurement community as an unnecessary government reporting burden. It is possible to fashion a "surgical" statutory remedy that greatly reduces the burdens while preserving the government's ability to see contractor payroll records concerning compliance reviews.

*Other Activities.* Wage and Hour is developing a pilot program under which employers or their associations may voluntarily submit employee handbooks for review, evaluation, and certification of compliance with basic Wage and Hour provisions such as the Fair Labor Standards Act and the Family and Medical Leave Act. This will provide employers a vehicle, at relatively low cost, to have payroll practices reviewed in a non-adversarial environment. Participants will not be targeted for investigations and, if complaints are received, Wage and Hour will work informally with them to resolve compliance issues. In addition, Wage and Hour has developed user-friendly informational "fact sheets" in plain language versions to better educate the regulated community on compliance responsibilities.

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## REWARDING RESULTS, NOT RED TAPE

The National Performance Review issued eight guidelines for agencies to follow to show progress in meeting the President's directive to "Reward Results, Not Red Tape." These guidelines provide the focus for the specific changes DOL is making in the way its front-line regulators are to be rewarded.

The regulatory agencies of the Department have been working closely with their union partners to make changes in their reward and recognition processes. The goal is to reward workers who produce results that help these agencies achieve their mission. In the past, some agencies rewarded front-line employees on the number of inspections or citations issued, creating an incentive to increase the amount of bureaucracy or red tape produced. These new standards, once in place, will put the focus squarely where it belongs: on results that better the lives of working Americans.

### Current Agency-Level Performance Measures

During the spring performance review, each DOL regulatory agency is working with OMB to establish performance measures to be used in the budget process, consistent with the aims of the Government Performance Results Act (GPRA). In addition, all DOL regulatory agencies developed and published customer service standards in 1994. They have built on this work in 1995 through continued customer service surveys and focus groups. In addition, the agencies, MSHA and OSHA in particular, have met and continue to meet frequently with their stakeholders — employers, local and national union representatives, counterparts in the states and leaders in academic communities — to share program goals, directions and other developments in the agency and the industry. The information and reactions obtained through these meetings are then factored into the development of the agencies' ongoing and future performance measurement system.

To date, all of the department's re-engineering proposals addressing the core work processes of its regulatory agencies have been discussed with stakeholders. Generally, stakeholders are briefed both before and after a pilot project has been field tested. This way, actual as opposed to projected performance data is available. Feedback and other suggestions from these sessions has been incorporated into the final development of the reinvented process.

The Department's management attempts to ensure internal consistency by looking at:

- Alignment between each agency's outcome, output and input measures with its desired goals.
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- Consistency between performance agreements and budget proposals and agency goals and outcomes.
  - Agreement between performance standards at all levels in the organization, especially with regard to the front-line regulators, and the ultimate mission of the agency.

### **Sample Agency-level Performance Measures**

Each of DOL's regulatory agencies is well on its way to developing new performance measures. These efforts are intended to link the agency's existing array of activity measures with outcomes. For the first time, outcome data on the effectiveness of programs will be provided. The old performance indicators used by the agencies were a combination of activity or workload measures that did not show whether the actions taken have had, or will have, the desired effect. Below, examples of the new measures being developed are presented:

- **Occupational Safety and Health Administration:**
  - ▶ Rates and number of fatalities in selected high hazard industries
  - ▶ Lost work day injury rates in selected high hazard industries and establishments
  - ▶ Acute illness rates for selected high hazard industries and establishments
  - ▶ Median time (in work days) for hazard abatement
  - ▶ Programmed inspections that result in the identification of significant hazards
  - ▶ Initial consultation visits that result in the identification of significant hazards
  - ▶ Evaluation scores on OSHA Training Institute and education centers courses.
- **Mine Safety and Health Administration:**
  - ▶ Fatality rate for mining industry
  - ▶ Non-fatal lost time injury rate in mining
  - ▶ Assessments employing holistic, preventive oriented remedies for violations
  - ▶ Number of repeat accidents and injuries
  - ▶ Mines in compliance with coal mine respirable dust standards

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- Products audited and found to meet regulatory requirements
  - Silica and noise exposure levels in mines.
  
  - Wage and Hour Division:
    - Financial recovery for customers
    - Manufacturers that agree to educate and monitor their production contractors
    - Compliance effects of program activities.
  
  - Office of Federal Contract Compliance Programs:
    - Employment profiles of federal contractors compared to non contractors
    - Employment profiles of reviewed contractors compared to those not reviewed
    - Number of contractor establishments that were reviewed
    - Number of complaints that were resolved.

#### **Developing New Agency-Level Measures**

In developing new performance measures, the following processes are typical for the regulatory agencies within DOL:

- Customer surveys conducted and the information used to establish or improve upon customer standards.
  
- Multiple work teams organized consisting of representatives from all levels of the organization, especially front-line workers from the respective bargaining units. The purpose of the teams is to identify/define specific new agency-wide performance measures and standards and then "cascade them down" the organization through the budget process and performance agreements to individual performance measures. The objective is dictated by the President's directive — eliminate internal measurements that reward process and punishment over results; replace them with measurements that focus on outcomes and results; and ensure there is internal consistency throughout the organization.
  
- Early drafts of work products shared with stakeholders and revised for agency and department-wide review.

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## **Moving from Punitive Measures to Overall Results**

Each agency is working on intermediate outcome indicators to provide information necessary for the organization to achieve its ultimate results-oriented outcomes. Examples of OSHA's intermediate outcome categories for measures include:

- Improve safety and health awareness
- Improve targeting of planned investigations
- Increase hazard identification
- Improve hazard abatement and prevention
- Increase leveraging of resources
- Shorten the time between customer complaint and agency response
- Improve the overall quality of customer service.

Rather than focusing exclusively on how to conduct more investigations, all the agencies are developing new and improved methods of targeting to maximize efficiencies. They are also finding ways to leverage their resources through education, cooperation and up front compliance assistance. All the agencies are focused on the worst offenders.

OSHA is using worker compensation and other data where available from the states to identify the worst offenders and offering them a chance to work with OSHA's compliance officers to improve worker safety and health. The Voluntary Protection Program recognizes employers doing an outstanding job protecting workers. These companies in turn mentor other employers and employees to improve their worker protection programs.

The Office of Federal Contract Compliance Programs, Wage and Hour and the Mine Safety and Health Administration are re-engineering their standard investigations to focus on either the worst hazards or offenders rather than simply the number of investigations, or hours spent conducting investigations. PWBA has strengthened its speed and ability to respond to customer inquires through reorganizing area offices. It has improved its targeting of worst offenders by developing an integrated national database.

Cooperative or partnership efforts are also being developed. They are discussed in more detail below.

## **Eliminating Personnel Performance Measures That Do Not Reward Results**

DOL's agencies are currently conducting agency-wide reviews of their employee performance

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standards to ensure they are complying with the intent of the President's initiative. OSHA's review, for example, consists of three steps:

- Identify and eliminate internal performance standards that focus on process and punishment rather than results
- Develop replacement standards supportive of the agency goals and objectives, performance indicators and other initiatives
- Establish new performance standards within prescribed time frames and employee evaluation against desired outcomes.

At PWBA, a careful review of the performance plans for all managers and groups of front-line employees was conducted. Through that review it was decided that only one group of managers (field managers) and some front-line regulator's performance measures will need to be revised.

The Mine Safety and Health Administration did an internal review of its performance standards for front-line regulators and no "punishment indicators" were found. By law, MSHA is required to complete a specific number of inspections. Therefore, "number of inspections completed" continues to be a performance measure used by MSHA.

#### **Number of Personnel Affected**

- WH - 817 front-line investigators
- OSHA - 1,081 front-line investigators
- PWBA - 200 investigators
- MSHA - 1,177 mine inspectors
- OFCCP - 405 compliance officers

#### **Examples of Old and New Performance Measures for Front-line Regulators**

- Old performance measures for OSHA compliance officers:
  - In no more than 15 percent of inspections per rating period does the compliance officer fail to gather historical and research data, operationally ready inspection equipment supplies, report forms, handout material and personal protective equipment before initiating the inspection.
  - Case file is documented according to Field Operations Manual (FOM) and other agency directives. No more than 15 percent of reports are returned to the compliance officer for major revisions; report deficiencies do not recur on a repetitive basis.

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- New performance measures for OSHA compliance officers:
    - ▶ The compliance officer (COSHO) participates in planning and executing safety and health program activity that serves the customer and improves OSHA's mission of assuring worker protection. Specifically the COSHO should: (1) Promote and participate in voluntary compliance efforts such as consultations and Voluntary Protection Program (VPP); and (2) Participate in identifying and designing intervention tools (such as focused hazard preventions, making speeches, etc.) that will effect the greatest reduction in illness, injuries and deaths.
    - ▶ The COSHO does inspections according to agency policy and organizational goals. Specifically, the COSHO should: (1) Focus inspection time where employees are at the greatest risk for injuries and illness; (2) Evaluate safety and health programs adequately and make recommendations for improvement; and (3) Encourage prompt abatement; provide useful technical assistance for hazard abatement and promote voluntary compliance.
    - ▶ The COSHO plans, prepares, organizes and documents enforcement and non-enforcement cases by agency policy and organizational goals. Specifically, the COSHO should: (1) Promote rapid hazard abatement (case file completions, response to complaints, use of abatement incentive programs and assurance of abatements); and (2) Use knowledge and experience to collect and analyze data to help the office in targeting the most hazardous workplaces.
  - Old Performance Measures for Wage and Hour Investigators:
    - ▶ Performance is satisfactory when 80 to 85 percent of available compliance officer (CO) time (2080 hours less annual leave, sick leave, holidays and special non investigator detail hours ) is spent in enforcement activities.
    - ▶ Performance is satisfactory when the supervisor accepts 92 to 97 percent of the CO investigations on initial submission. To be accepted, the cases must be completed according to established policies and procedures.
    - ▶ Performance is satisfactory when all compliance actions are completed and submitted within 180 calendar days from WH management information system opening. Exceptions must have Area Director approval and Assistant Regional Administrator concurrence must be noted on the case diary sheet.
    - ▶ Performance is satisfactory when, in administrative cases and prior to Joint
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Review Committee procedures in potential litigation cases, the CO independently negotiates recovery of back wages in a range of 50-85 percent of amounts found.

- **New Performance Measures for Wage and Hour Investigators:**
  - Performance is satisfactory when investigator effectively plans and organizes work assignments based on known priorities of the office or as assigned; completes investigations and conciliations in a manner reflecting efficient use of time and timely resolution and contributes to achieving continuous improvement in the performance and quality of these work activities.
  - Performance is satisfactory when investigator maintains an effective working relationship and effectively communicates orally and in writing with supervisor, co-workers, complainants, employers, agencies and other customers and demonstrates customer service focus, participates as a team member.
  - Performance is satisfactory when investigator contributes to the development of local enforcement plans and works effectively to implement and achieve organizational strategies and priorities through compliance activities and team or individual activities.

#### **Timetable for Putting New Measures in Place for Employees**

The completion date for accomplishment of these standards is October 1, 1995, contingent upon agreement with the unions that represent the front-line employees.

#### **Impact on Enforcement of Moving to Partnerships**

*Wage & Hour Division.* In fiscal year 1993 14 percent of a Wage and Hour investigator's time was devoted to compliance assistance, consisting of public education, consultative work, and public speaking. In fiscal year 1994 that was increased to 16.5 percent. Through the first two quarters of 1995 the percentage rose to 18.6 percent. More time will be devoted to partnerships and compliance assistance as the teams develop, test and approve new strategies.

A good example of compliance assistance is the compliance agreements Wage and Hour is signing with manufacturers. Under these agreements the manufacturer agrees to educate and monitor the compliance behavior of its production contractors.

*Pension Welfare Benefit Administration.* PWBA is devising, implementing and assessing new strategies "consistent with the President's directive. Specific examples include: (1) Twelve new FTE in field offices assigned exclusively to assist customers who request

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information over the phone or the mail and, (2) the creation of a partnership with the International Foundation of Employee Benefit Plans to conduct outreach seminars across the country.

*Mine Safety and Health Administration.* MSHA is allocating 13 percent of its resources to compliance assistance. It plans to increase that amount to 15 percent for fiscal year 1996. As strategies for partnership are developed, the allocation of resources for compliance will increase.

Examples of MSHA's compliance assistance include better accident analysis and dissemination of targeted informational and educational materials as evident by the current emphasis on surface haulage accidents. MSHA's data show that accidents involving mobile haulage equipment comprised 20 percent of the fatalities at surface mines during the past five years. Analysis of the accidents showed that many could have been prevented if there had been compliance with the existing regulations. MSHA has made a special effort to make stakeholders understand the danger and relatively easy solutions revealed by the agency's study. MSHA is also conducting seminars in mining communities on surface haulage equipment maintenance and compliance. More than 2,300 miners and operators across the country have attended these seminars since January 1, 1995.

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## CREATING GRASSROOTS PARTNERSHIPS

Since March, DOL's Assistant Secretaries have held over 100 meetings with front-line regulators, stakeholders and industry officials to forge grassroots partnerships. The Department's commitment to this approach to formulating regulatory policy has produced many success stories. Among the highlights:

- The Occupational Safety and Health Administration completed a two-day dialogue with about 40 stakeholders on its recordkeeping rules. This exchange provided valuable information for OSHA and incorporation of the stakeholders' concerns into the proposal that will avoid contentious problems during later stages of the rulemaking process. OSHA expects to use a similar exchange process to further develop the Safety and Health Programs regulations.
- The Mine Safety and Health Administration announced a "mine safety partnership" with United Coal Company in Grundy, Virginia. United Coal's production contractors operate 24 small coal mines in Virginia and eastern Kentucky. Under the Federal Mine Safety and Health Act of 1977, MSHA initially sought to hold the company responsible for the safety and health violations committed by its contractors. Instead, after a series of meetings, the Agency and the company decided to work together to improve conditions at the mines. United has agreed to take many positive steps. These include having the Company consider the safety-and-health record of prospective contractors, providing additional training to contractors' employees, and auditing the contractors' compliance with mine safety standards.

What follows is a more detailed agency-by-agency account of what the Department of Labor agencies have done to develop grassroots partnerships.

### **Mine Safety and Health Administration**

MSHA has a longstanding commitment to grassroots partnerships with the mining community. Miners, mine operators, equipment manufacturers, mining schools, and state agencies — all have joined with MSHA to improve safety and health in the nation's mines. At MSHA, grassroots partnerships involve everyone from inspectors in the field to the agency's top staff, who have reached out to the mining community by:

- Holding widely-publicized conferences on important safety and health issues — like the Small Mine Summit (April 1994) and the Mine Emergency Preparedness Conference (January 1995) — at the National Mine Health and Safety Academy in Beckley, West Virginia;
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- Sponsoring the Holmes Safety Association, which brings together mine safety and health specialists in chapters across the country, and co-sponsoring (with the National Mining Association) the Sentinels of Safety Award for mining companies with the best safety records; and
  - Conducting compliance-assistance seminars in mining regions, including a recent series devoted to haulage accidents attended by more than 2,300 people in locations from Birmingham, Alabama, to Gillette, Wyoming.

Historically, small coal mines have been much more dangerous than larger mines. And in recent years, large operators have tended to turn production over to smaller contractors, potentially fragmenting responsibility for safety and health. Like MSHA's small mines summit, its "mine safety partnership" with United Coal Company represents a creative attempt to address this problem at the grassroots level. It may serve as a model for the rest of the mining industry.

Complying with President Clinton's directive to "get out of Washington," MSHA's Assistant Secretary has gone to dozens of places where the agency does its job. Since April, he has visited a coal mine in Kentucky, a limestone quarry in Oklahoma, a sand-and-gravel operation in Ohio, a irona mine in Wyoming, a gold mine in South Dakota, and a clay (Kaolin) mine in Georgia.

Each of these workplace visits, and others like them, involved face-to-face meetings and exchange with miners and mine managers at work. Each involved serious efforts to seek information on mine safety issues and regulatory changes from those affected by MSHA's regulations.

### **Occupational Safety and Health Administration**

OSHA has created a number of "grassroots partnerships" with its constituents through a strategic plan that includes regularly scheduled roundtable discussion opportunities with "decision-making level" executives and meetings between front-line regulators and the business community and other interested stakeholders. These efforts have been bolstered by the attendance of the Assistant Secretary and the Deputy Assistant Secretary at many of these functions.

Positive results from these efforts are evident in the following success stories:

- The Maine 200 program which provides assistance to employers in the most hazardous industries.
- Memoranda of Understanding between OSHA and various state regulators to

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address issues of mutual interest.

- Interaction with the Chicagoland Construction Safety Council that represents over 5,000 construction firms and 15 unions. Chicagoland is a construction training center developed by industry, labor and OSHA in North Chicago to provide training to the building trades on safe methods of trenching, lead in construction and fall prevention. The Chicagoland Safety Council is "dedicated to the singular mission of reducing the tragic and costly consequences of construction accidents." It is funded through a cooperative effort between contractor associations and local unions. There has been a steady decline in these type of incidents since the beginning of this partnership.
- A partnering effort between the Boise Area Office and the Idaho Power Company. As partners, they co-sponsored a series of training seminars on safe practices in the electrical power generation industry which were conducted at various locations around Idaho. The Idaho Power Company supplied the training facilities marketing to bring in attendees who could benefit from such training. OSHA supplied the instructors and technical expertise. The result — several hundred employers who are affected by hazards in the power generation industry received training to help them to provide a safer workplace.
- Frequently, area offices conduct local outreach to employers when new standards are written or updated. For example, throughout New England, OSHA is conducting outreach efforts to a variety of interested parties, including employers affected by the new roofing standards. In Maine, a number of training sessions have been given on the new logging standard. As new issues arise, regional and area offices develop and present information to target groups. This has proven successful in the past on such issues as trenching, process safety management, lockout/tagout, and lead in construction.
- In San Francisco, federal OSHA and Cal OSHA conduct joint outreach seminars on federal and state requirements for fall protection in the construction industry. They have open discussions with representatives of the residential construction companies, which help OSHA staff determine how to best assist construction companies to comply with OSHA standards. Seminars jointly sponsored by the Pacific Maritime Administration and the International Longshoremen and Warehousemen's Union will produce new ideas of how OSHA can more effectively deliver services and better understand the concerns each party has with regard to compliance with standards.
- OSHA staff frequently meet with representatives from industries affected by current rulemaking activities. An example is a meeting arranged recently by the Western

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Logging Council to talk about the requirements of the logging operations standard OSHA issued in February and is in the process of correcting. Three federal OSHA staff, including the acting director of safety standards, met with representatives of the Western Logging Council to share concerns and work toward solutions of existing problem areas.

- Voluntary Protection Programs seek to bring in employers that agree to create credible safety and health programs. The benefits of working with safety and health leaders in the regulated community have been readily apparent in injury and cost reductions, endorsement of Congressional support for Agency initiatives and cooperative relationships.

OSHA has not limited its grassroots contacts to business and industry. Major efforts have been made to support the Federal Safety & Health Councils and to provide presentations on safety and health issues to other federal agencies such as the National Park Service, Forest Service, and the Postal Service. OSHA also contacts colleges and universities to encourage and support local community safety and health training opportunities.

OSHA utilizes recognition ceremonies and letters of appreciation to encourage and expand these outreach efforts. Regional safety and health awards will be presented to recognize the commitment to ensuring a safe and healthful work environment.

OSHA staff is encouraged to mention grassroots efforts at public presentations, in written announcements sent through the Regional Information Offices, during labor/management meetings, and in verbal and written invitations.

*Recent Partnership Meetings.* OSHA conducted a number of partnership meetings during April and May. Attendees at these meetings included the Assistant Secretary or Deputy Assistant Secretary, representatives from business and labor, and OSHA area office and regional office staff.

- The Western PA Safety Council in Pittsburgh held a meeting with the Assistant Secretary and 27 of the largest employers in the greater Pittsburgh area that represented the steel manufacturing, construction, hospitals, chemical and utilities industries. Examples of the employers attending include PPG Industries, Allegheny Ludlum Steel, Dick Corp., Western Electric Corporation, USX and Wheeling-Pittsburgh Steel. Largely, the representatives were CEOs, executive VPs or managers of governmental affairs or safety. In March 1996, the local area office will again invite the participants to its OSHA update session at the annual Western PA Safety Council.

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- The Indiana Commissioner of Labor arranged a stakeholder meeting for the Assistant Secretary in Indianapolis. Participants included executives from major employers such as Eli Lilly, Methodist Hospital, Ameritech, Superior Construction Company; labor leaders from the UAW, Indiana Laborer's Training Trust Fund, the Building Trades, Carpenters, and the Indiana State AFL-CIO; and associations such as the Indiana Subcontractors Association and the Chamber of Commerce.
  - The Business Roundtable planned a partnership meeting in Louisville with the Assistant Secretary. Attendees included representatives from UAW, IBEW, USWA, OCAW, Pipefitters, General Electric, Ashland Oil, Toyota Manufacturing, University of Kentucky, Ford Motor Company, Louisville Gas and Electric, Associated Industries of Kentucky and representatives from the Frankfort Area Office and the Kentucky Labor Cabinet. A twenty minute press conference followed the partnership meeting which included the labor writer for the Louisville Courier Journal along with a Kentucky Network (radio) reporter. The Assistant Secretary also toured a General Electric dishwasher manufacturing plant.
  - The Business Roundtable organized a stakeholder meeting in New Orleans for the Deputy Assistant Secretary. Participants included executives from Chevron Oil, Martin Marietta, Bob Brothers Construction, Bell South Telecommunications, and the New Orleans Chamber of Commerce.
  - The Deputy Assistant Secretary met with representatives of the Business Roundtable in Atlantic City including representatives from the Port Authority of New York and New Jersey, Aetna Life and Casualty, the American Society of Safety Engineers, The New York Times, and the New Jersey Safety Council.
  - A grassroots stakeholder meeting was held in Wilmington, DE with the Deputy Assistant Secretary. The participants represented the Board of the Chemical Division of the National Safety Council and included five large and small chemical manufacturers, a munitions plant and a University Safety Department.
  - The Deputy Assistant Secretary and Regional Administrator met in New York City with OSHA partners who included the NY State Business Roundtable, Building Trades Employers Association, American Society of Safety Engineers, the Greater New York Safety Council, and Columbia Presbyterian Hospital.

#### **Employment Standards Administration**

- The Wage and Hour Division Administrator participated in an exchange on the Family and Medical Leave Act at two meetings sponsored by The Employers Group in the Los Angeles area.
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- OFCCP has recently completed a series of four grassroots partnership meetings outside Washington, with representatives from the contractor and constituent communities. The meetings were designed to elicit discussion from stakeholders about the regulatory requirements for written affirmative action plans; data requirements for a proposed affirmative action plan summary format; and proposals for a tiered compliance review process. Partnership meetings have been held in Dallas, Pittsburgh, San Diego, and Chicago. The meetings were structured to include a plenary session and small group discussion sessions that included representatives from the employer and advocacy communities.

The meetings resulted in healthy discussion about the proposed regulatory revisions and AAP summary format. In general, there was consensus at all of the meetings that OFCCP's proposed three-prong strategy on fair and effective enforcement would be an improvement over the status quo and that the agency should take aggressive steps to eliminate burdensome paperwork requirements which can be done without diminishing the purpose or intent of the Executive Order program.

#### **Employment and Training Administration**

- The Assistant Secretary for Employment and Training has just completed a round of meeting with key stakeholders in the employment and training system, including the Interstate Conference of Employment Security Agencies, the U.S. Conference of Mayors, and the American Vocational Association, to discuss the President's GI Bill for American's Workers. A key theme of the President's proposal is increasing flexibility for state and local partners to create one-stop career centers.

#### **Pension and Welfare Benefits Administration**

- The PWBA has participated in several outreach meetings on ERISA issues. These programs are designed to share PWBA's technical and policy views on a variety of ERISA-related issues and elicit input, views, and discussion from the regulated community. Examples include: in April, the National Conference on Employee Benefit Plans in New Orleans, Louisiana, sponsored by the American Institute of Certified Public Accountants; and in May, joint DOL/International Foundation Educational Outreach programs were held in San Francisco, which are designed to help employee benefit plan professionals comply with reporting and disclosure requirements for employee benefit plans. Other outreach efforts are scheduled for the future.

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## NEGOTIATED RULEMAKING

The Department of Labor has a tradition of commitment to the practice of Negotiated Rulemaking (or "Neg/Reg"). The President's April 24 memorandum has served to reinforce previous efforts among Department officials to implement a paradigm shift away from traditional rulemaking. Because of the President's directive, the Department has further committed itself to expanding Neg/Reg to an even wider range of regulatory programs and to exploring other informal, consensual processes for drafting rules.

The Department of Labor has taken a number of specific steps to ensure the expanded use of negotiated rulemaking and other consensual regulatory processes: First, we are working with the Administrative Conference of the United States to pilot test an arrangement under which the Conference will assist in accelerating the procurement of neutrals to serve as conveners and facilitators for negotiated rulemakings. Second, the Department is working to establish a system for using the Internet in the notice and comment process for developing new regulations. Third, DOL's Neg/Reg policy and handbook have been widely distributed to staff involved in regulatory initiatives. Our commitment to Negotiated Rulemaking even caught the attention of other policy officials when the Department's use of Neg/Reg became the topic of a training film on the subject that was widely circulated among federal agencies.

Nowhere has negotiated rulemaking had a greater impact than in steel erection. Every effort over many years to establish a new safety standard for this industry using traditional rulemaking processes failed. OSHA currently has underway a negotiated rulemaking process for the drafting of a proposed safety standard and the agency now believes that reaching consensus is highly promising. A committee report is expected this summer, and OSHA, to the maximum extent possible consistent with the law, will use the consensus of the committee as the basis for the proposed rule.

DOL was one of the earliest proponents of the negotiated rulemaking process. Negotiations during 1983 and 1984 were conducted on a proposed OSHA standard for worker exposure to benzene. While these negotiations were not successful in producing a draft, they did serve to narrow the issues in a useful manner. More recently, negotiated rulemaking did result in the development of a consensus standard on occupational exposure to another substance (4,4' Methylene-dianiline or "MDA"), published as a final rule on August 10, 1992.

Equally important, DOL is exploring ways to use other, less formal processes for obtaining consensus on new regulations. The Department is committed to inviting all interested parties to participate in developing better regulations that are easier to follow, including those cases that do not fit the criteria for a formal negotiated rulemaking. Using the strategy of grassroots partnerships, DOL hopes to involve as many parties as possible in making its regulations more responsive to the needs of the public. The introduction of DOL's home page on the Internet will provide an additional "user friendly" vehicle for the public to participate in the Department's regulatory reinvention.

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OSHA's recordkeeping initiative is a prime example of a non-formal Neg/Reg process. The agency intends to work closely with business and labor, using the various techniques of negotiation, mediation and consensus building to develop these proposals. The Agency already has had very active public participation in their development. For recordkeeping, OSHA just completed a two-day dialogue, facilitated by the Keystone Center, with 30-40 stakeholders. This exchange provided valuable information for OSHA. Incorporation of the stakeholders' concerns into the proposal will avoid contentious problems during the later stages of the rulemaking process. OSHA expects to use a similar dialogue process to further develop the Safety and Health Programs regulation.

### **Department-Wide Initiatives**

Many proactive steps have been taken to help DOL regulatory agencies use Neg/Reg. The Department's Policy Office recently conducted a seminar in negotiated rulemaking for agency regulatory staff and attorneys that was very well received and generated considerable interest in the process. Follow-up seminars are being planned on specific topics of interest. Also, efforts are underway to centralize and streamline the process for obtaining neutrals to serve as conveners and facilitators, by that making it easier for DOL agencies to try negotiated rulemaking. Finally, the Office of Policy and Budget and the DOL is developing a list of conveners that can be used by each agency at the Department in their formal negotiated rulemaking process.

### **Occupational Safety and Health Administration**

*Maritime (Fire Protection).* OSHA has a formal committee in place that could serve as a foundation for a Neg/Reg committee. The schedule for this project is sufficient to accommodate a negotiated rulemaking approach. The number of potential interested parties is manageable for negotiation.

*Construction (Confined Spaces).* Labor and management favor a negotiated rulemaking approach to this initiative. Converting this regulation to a Neg/Reg is consistent with the settlement provisions of previous litigation over OSHA's general industry standard.

*Permissible Exposure Limits (PEL's).* OSHA believes a partnership can be formed to go with a longstanding priority, and the Neg/Reg process may produce a system for regular updating of technically obsolete PEL's for which there is little controversy. OSHA is considering limiting the negotiated rulemaking to a modest number of the 425 chemicals on the list that have similar properties and usage patterns and/or a subset of chemicals for which there is already substantial consensus.

### **Employment Standards Administration**

*Child Labor Hours Standards.* The Wage and Hour Division is considering the use of

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Neg/Reg for the regulations establishing permissible hours of work for 14- and 15-year-olds. An advance notice of proposed rulemaking was published in May of 1994 to obtain public comment on various aspects of child labor regulations, including these hours standards. Appropriate permissible hours standards traditionally have been controversial among interested parties, and a Neg/Reg approach to rulemaking on this issue may be an opportunity to produce a rule that all parties can live with.

### **Employment and Training Administration**

*Job Training Consolidation.* As a part of his "Middle Class Bill of Rights," President Clinton proposed a "G.I. Bill for America's Workers" that would consolidate 70 Federal education and job training programs into four simple systems, freeing State and local governments from existing conflicting rules and regulations. Included in the President's proposal are 23 separate programs or funding streams administered by the Employment and Training Administration (ETA) under the Job Training Partnership (JTPA); the School-to-Work Opportunities Act; the State Employment Service; and others. Legislation incorporating many of the key concepts of the President's proposal is being considered by the House and Senate, and the final legislation could consolidate additional ETA programs beyond those contained in the President's proposal.

We anticipate that the final consolidation legislation will greatly reduce the reporting burden, compared with the various discrete programs. This could be manifested in either fewer reports or in less frequent reporting (or, most likely, both). However, the exact scope of the reduction cannot be determined at this time.

For the shorter term, ETA proposes to streamline reporting under the Standardized Program Information Reporting system (SPIR) that is the major source of information for JTPA programs. Currently, states are required to transmit a preliminary dataset in August and a final dataset in November. We propose to require a single data transmission, thus cutting the number of SPIR transmissions in half.

### **Mine Safety and Health Administration**

MSHA maintains extensive contacts with its regulated industry and stakeholders through the Assistant Secretary's office at the national, regional, and local levels, as well as through contacts made by the agency's field staff. These contacts will be beneficial as MSHA launches a negotiated rulemaking and embarks on a separate advisory committee effort.

*Safety Standards for Roof-Bolting Machines.* MSHA has identified what it considers to be the best candidate for negotiated rulemaking: safety standards for roof-bolting machines used in underground coal mines. This regulation development project can be accomplished with existing resources and will improve worker safety. It would establish basic safe design criteria and work practices for the more than 1,500 roof bolting machines used in underground coal mines. Roof bolting machines are mobile drills that are used to install supports (bolts) in the

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mine roof to prevent cave-ins. Since 1984, 16 fatalities have occurred with this type of machinery during the drilling and bolt installation process. Fifteen of these fatalities involved inadvertent or incorrect actuation of a control lever while the machine operator was positioned within the drill head pinch point area. In addition to noting these fatalities, studies of roof-bolting machine accidents conducted by West Virginia University and the U.S. Bureau of Mines identified hundreds of injuries to the hands, fingers, or backs of miners.

This regulatory effort would have a clear focus: members of the negotiating team could begin with a 1994 report on roof-bolting machine accidents prepared jointly by MSHA with the West Virginia Office of Miners' Health, Safety and Training, the Bureau of Mines and mining equipment manufacturers. The report analyzes the causes of past accidents and identifies possible solutions, such as standardizing controls and slowing certain machine functions. When sent out to the mining industry and equipment manufacturers last fall for information and comment, it was favorably received.

Negotiated rulemaking to address the safety problems of roof-bolting machines would involve readily identifiable interests — mine operators, miners, mining equipment manufacturers and states with underground coal mines. Because of the response MSHA has received from its earlier activities, it expects that all parties would participate in good faith in the negotiation process.

***Consensual Process to Improve MSHA's Coal Mine Dust Regulations.*** The Secretary of Labor is about to appoint a national advisory committee on the elimination of pneumoconiosis, including silicosis, among coal miners. The "Dust Advisory Committee" will take a broad look at ways to improve MSHA's coal mine respirable dust program in order to better protect miners from disabling black lung disease and silicosis.

While not a negotiated rulemaking in the formal sense, use of the Dust Advisory Committee reflects a commitment to consensual regulation. The Dust Advisory Committee will consist of representatives of industry and labor, together with a core of neutral expert members convened to make recommendations to the Secretary of Labor. MSHA intends to use the advisory committee's recommendations as the basis for subsequent rulemakings.

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## PENALTY WAIVERS AND REDUCTION OF REPORTING FREQUENCY

The President's April 24, 1995 memorandum directed agencies to review their authority to waive or modify penalties for small businesses to the extent allowed by law. Also, agencies were to reduce by one-half the frequency of regularly-scheduled reports that the public is required, by rule or by policy, to provide to the Government, unless such action is not legally permissible (or would impede the effective administration of the agency's program. This section discusses the actions DOL agencies have implemented to carry out these requirements.

### **Pension and Welfare Benefits Administration**

*Civil Penalties for Small Businesses.* The PWBA administers several civil penalty and reporting provisions that impact small businesses under the Employee Retirement Income Security Act (ERISA). These include non-compliance with annual reporting requirements, certain prohibited transactions, fiduciary violations, and failure to furnish benefit reports or maintain records.

*Non-Compliance with Annual Reporting Requirements.* Section 502(c)(2) of ERISA permits the Secretary to assess a civil penalty of up to \$1000 per day against any plan administrator for a failure or refusal to file an annual report (Form 5500 Series). Prior to assessing civil penalties, administrators generally are given an opportunity to correct identified deficiencies before the formal rejection of a deficient filing by the Department. Upon a formal rejection of an annual report by the Department, the plan administrator has 45 days to correct any deficiencies. If the deficiencies are not corrected or a report is delinquent, the administrator is given written notice of the Department's intention to assess a civil penalty and afforded 30 days within which to file a statement of reasonable cause for failing to file a complete, accurate or timely report. The Department may waive all or part of a penalty upon a showing of reasonable cause.

To encourage good faith, voluntary compliance with the annual reporting requirements, PWBA recently implemented a delinquent filer program which allows administrators subject to the assessment of civil penalties to pay a reduced penalty for voluntarily complying with the annual reporting requirements. Consistent with the President's directive, a substantially reduced penalty amount was established for administrators of small plans (i.e., plans with fewer than 100 participants). In determining whether to abate all or some of a section 502(c)(2) civil penalty assessed outside the delinquent filer program, PWBA will consider any evidence of a good faith effort to comply with the annual reporting requirements submitted as part of an administrator's statement of reasonable cause.

*Certain Prohibited Transactions.* Section 502(i) of ERISA permits the Secretary to assess a civil penalty against a party-in-interest to a welfare plan or non-tax qualified pension plan who engages in a transaction prohibited under ERISA Section 406. Generally, the amount of the civil penalty may not exceed 5 percent of the amount involved in each transaction, unless the

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transaction is not corrected within 90 days after notice from the Secretary. The maximum penalty can not exceed 100 percent of the amount involved.

Civil penalties under section 502(i) generally are assessed where there has been a failure or refusal to correct an identified prohibited transaction. To the extent that section 502(i) penalties are otherwise determined appropriate, PWBA will reduce or waive the other applicable penalty amount where there has been a good faith effort to come into compliance, as evident by correction of the prohibited transaction in a timely fashion.

*Fiduciary Violations.* Section 502(l) requires the assessment of a civil penalty, equal to 20 percent of the applicable recovery amount, for any breach of the fiduciary responsibility provisions by a fiduciary or other person who knowingly participates in such breach. The applicable recovery amount is an amount recovered pursuant to a settlement agreement with the Secretary or order by a court in a judicial proceeding begun by the Secretary. The Secretary may waive or reduce a penalty only if it is determined in writing that fiduciary or other person acted reasonably and in good faith or the fiduciary or other person will not be able to restore losses to the plan without severe financial hardship unless a waiver or reduction is granted.

PWBA will waive or reduce civil penalties under section 502(l) where, according to the statute, a determination can be made that the party against whom the penalty is assessed acted reasonably and in good faith.

*Failure to Furnish Benefit Reports or Maintain Records.* Section 209(b) permits the Secretary to assess a civil penalty against an administrator who fails to furnish a benefit report according to the statutory requirements or against an administrator or employer who fails to maintain records on which benefit are based for any plan year. The prescribed penalty is \$10.00 for each employee with respect to whom such failure occurs, unless it is shown that the failure is due to reasonable cause.

PWBA pursues voluntary compliance to achieve correction of deficiencies, rather than assessing penalties in this area.

*Frequency of Reports.* Under ERISA, there are two types of filings currently required by the Department of Labor: the annual report (Form 5500 Series) and Summary Plan Description-related filings.

*Form 5500 Series Annual Report.* Title I of ERISA requires administrators of employee pension and welfare benefit plans to file an annual financial report with the Department. Similar annual reporting requirements are contained in Title IV of ERISA, which is administered by the Pension Benefit Guaranty Corporation (PBGC), and the Internal Revenue Code, administered by the Internal Revenue Service (IRS). The Form 5500 Series was developed by the Department, PBGC, and IRS to enable administrators and sponsors of employee benefit plans to satisfy their

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statutory annual reporting obligations by filing a single report. Reports are currently filed with and processed by the IRS.

PWBA does not have the legal authority to reduce the frequency with which reports are required to be filed by pension plans. PWBA has, by regulation, exempted certain welfare plans from the annual reporting requirements. Less frequent filings of the Form 5500 Series annual reports would impede the effective administration of Title I of ERISA. However, PWBA is undertaking a comprehensive review of the Form 5500 Series to reduce significantly the information currently required to be reported on that Form. The IRS and the PBGC are conducting similar reviews. Following development of a streamlined annual report form, the agencies will examine ways by which to simplify and speed up the receipt and processing of Form 5500 Series information and data using an electronic filing system and government provided personal computer software, which should also reduce filer compliance burdens.

Summary Plan Description Filings. ERISA requires administrators of employee pension and welfare benefit plans to file with the Department copies of summary plan descriptions (SPD), summaries of changes to the SPD information, and, at specified intervals, updated SPDs. SPDs and SPD-related filings generally are required to be made by the date the documents are required to be furnished to participants and beneficiaries. SPDs are required to be filed within 120 days after a plan becomes subject to Title I of ERISA. Summaries of changes to the SPD information are required to be filed within 210 days after the end of the plan year in which the change is adopted.

The SPD filings are not regularly scheduled reports and, therefore, appear to fall outside the President's directive. However, PWBA believes changes should be made to this reporting requirement and supports the National Performance Review's recommendation that ERISA be amended to eliminate the requirement to file all SPDs with the Department and that the Department is authorized to obtain SPDs on an as needed basis from plan administrators.

#### **Mine Safety and Health Administration**

Penalty Reductions for Non-Serious Violations. MSHA intends to reduce penalties associated with non-serious violations. Many small mine operators, in particular, find them burdensome. They can also distract the attention and resources of mine operators and MSHA from more important safety and health matters. This plan comports with the President's initiative to provide a more flexible penalty scheme for small businesses.

Currently, mine operators without an excessive history of violations are fined \$50 fine for each non-serious violation found during an inspection. Under this new approach, all non-serious violations found in a single inspection could be grouped for penalty purposes, if they had been abated in a timely fashion and if the mine does not have an excessive history of violations. Thus, violations that before would have each received a \$50 penalty would receive a single \$50 penalty as a group. Implementing this change will require a rulemaking. For small operators, in particular, this change would

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refocus the operators' attention from the administrative aspects of penalties to taking actions so that violations are corrected and do not recur. As a result, the emphasis of the Agency's enforcement actions involving non-serious violations would shift from punitive to remedial.

Under this idea, all violations would still be considered in an operator's total history of violations, as required by statute. Mines that have an excessive history of violations would not be eligible for this program. Similarly, serious safety and health violations would not be eligible for this program, consistent with the President's directives.

*Cutting the Frequency of Reports.* In reviewing existing recordkeeping and reporting requirements, MSHA excluded reports made only once, such as reporting a fatality or injury, or reports whose submission is contingent on the occurrence of a non-periodic future event. For instance, underground coal mine ventilation or roof control plans that, after an initial submission, must be updated when conditions change were omitted. Also, records required to be kept but not submitted to the agency were not considered "regularly scheduled reports required to be provided to the Government."

MSHA has identified 13 reports which are required to be provided to the Agency on a regularly scheduled basis (see Exhibit 3). Five of these could be changed through rulemaking to at least half the currently required reporting frequency, while continuing to adequately protect safety or health. Changing the frequency of the remaining reports, however, could endanger the safety and health of the miners affected. For example, requiring mine operators to annually certify that electricians have been properly retrained permits MSHA to intervene in a timely manner to assure that electricians are fully trained to perform required duties. Also, annual reporting of impoundment examinations allows MSHA to assure that corrective action is taken when a structure is unsound.

### **Occupational Safety and Health Administration**

*Penalty Waivers for Non-Significant Violations.* OSHA will waive penalties for any employer with up to 250 employees who is found to have no significant (willful, repeated or serious) violations of safety and health regulations or standards. (Employers who already have safety and health programs in place will qualify for another program which would allow a reduction in penalties for significant violations.)

Current policy provides for a penalty reduction of up to 60 percent for the smallest employer (1-25 employees). Employers with 26-100 employees get an adjustment of 40 percent while those with 101-250 employees receive a 20 percent penalty decrease.

**Exhibit 3**  
**Reducing or Eliminating Reporting Requirements at MSHA**

| CFR Section                | Description  | Reporting Frequency     | Intended Action   |
|----------------------------|--|-------------------------|---|
| 50.30                      | Employment and Coal Production Report              | Quarterly               | <b>Reduce Reporting Frequency.</b> Reduce reporting frequency to semiannually.  |
| 57.5040                    | Reporting of miners' exposures to radon daughters  | Annually                | <b>No Change.</b> Risk of adverse health effects from radiation exposure is determined from working lifetime cumulative exposure and is controlled by an annual limit. Because of known carcinogenic effects of radiation, annual & cumulative assessments are needed to protect miners from overexposure. Biennial reporting could allow excessive exposure to accumulate.     |
| 70.208<br>71.208<br>90.208 | Bi-monthly sampling of respirable dust             | Bi-monthly              | <b>No Change.</b> Decreasing reporting frequency would hinder prompt action to protect miners from overexposure to respirable dust which can cause lung disease.  |
| 70.508<br>71.803           | Report the results of periodic noise level surveys | At least every 6 months | <b>No Change.</b> Decreasing the reporting frequency for noise levels exceeding 90 dBA would hinder timely action to protect miners from over exposure to noise. Excessive exposure to noise levels exceeding 90 dBA leads to hearing loss.<br><br><b>Reduce Reporting Frequency.</b> Reduce reporting/certifying frequency to annually when noise levels do not exceed 90 dBA. |
| 75.153<br>77.103           | Certify electrical retraining                      | Annually                | <b>No Change.</b> Improper work practices while performing electrical work is a frequent cause of mine accidents & fatalities. Retraining in proper procedures serves to reinforce the knowledge & use of safe work practices & is a critical element in accident prevention. An annual report provides reasonable assurance that this training has occurred.                   |

**Exhibit 3**  
**Reducing or Eliminating Reporting Requirements at MSHA**

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|----------|---|---|---|
| 75.372   | Submit mine maps  | Annually  | No Change. Underground mines are constantly changing with development, therefore, accurate maps are necessary to anticipate & evaluate hazards, as well as to guide rescue & recovery in a mine emergency. Annual reporting is the minimum frequency necessary to serve these safety and health objectives.   |
| 77.215-2 | Report information on hazardous refuse piles  | Every 12 months until hazard eliminated   | Eliminate Periodic Reporting. Eliminate reporting requirement in paragraph (c) because MSHA inspectors examine these hazards regularly and can obtain the required information at that time.  |
| 77.215-3 | Registered engineer certify that refuse pile is being constructed or that hazardous refuse pile is being modified                                     | Every 12 months until hazard eliminated   | Eliminate Periodic Reporting. Eliminate reporting requirement in paragraph (b) because MSHA inspectors examine these hazards regularly and can obtain the required information at that time.  |
| 77.216-4 | Report impoundment information or registered engineer certify that construction, operation, and maintenance of impoundment is in accordance with plan | Every 12 months or every 5 years with annual certification by registered engineer | No Change. Structures that impound water can cause catastrophic harm if they fail. To protect miners and the public, prudent engineering practices must be followed & periodic examinations must be made. An annual report of these examinations when a registered engineer is not involved provides reasonable assurance that the impoundment is sound. A 5-year reporting period is sufficient with the certification of a registered engineer. Expanding these reporting periods would risk diminishing the safety of miners and the public. |

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If, during a workplace inspection, an employer has no willful, repeated or serious violations, OSHA will waive all penalties but still issue the citations to ensure that the employer corrects the hazardous conditions found. The employer will be informed of the penalty that would have been otherwise proposed, the reasons why the penalty is being waived and the consequences of failure to correct the violation; the employer will be encouraged to use the waived penalty toward the cost of any corrective action necessary to remove the hazard.

OSHA will develop a draft program directive carrying out the new employer penalty policy by mid-June for internal review. The draft will then be distributed, and full participation will be sought from our partners and stakeholders. A final compliance instruction will be published by the end of August. All field staff will be trained in this new policy by the end of September.

*Cutting the Frequency of Reports.* OSHA does not require any regularly scheduled reports of the public except in the case of an enforcement action. Employers must maintain certain records which are reviewed during OSHA inspections but these are not submitted to the agency. However when an employee is killed or when three or more employees are injured, employers must report it to OSHA. These reports enable OSHA to investigate serious accidents promptly, to determine whether employers were in compliance with applicable standards, and to gather information about the accident which may indicate whether existing standards are adequate. OSHA does not recommend eliminating any of these reports.

## **Wage and Hour Division**

*Civil Money Penalties.* The Wage and Hour Division (WHD) administers several statutes that authorize civil money penalties. These include: (1) the Fair Labor Standards Act (FLSA) — repeated and willful minimum wage/overtime violations and child labor violations; (2) Family and Medical Leave Act (FMLA) — posting violations; (3) Migrant and Seasonal Agricultural Worker Protection Act (MSPA) — all violations; (4) Employee Polygraph Protection Act (EPPA) — all violations; (5) certain provisions of the Immigration and Nationality Act (INA) and subsequent amendments. While WHD subscribes to the principles espoused in the President's April 24 memorandum, and feels that more can be done, the requirements for many of these statutes can not be reduced further as the violations pose significant threats to health or safety or are willful in nature. However, in keeping with the spirit of the President's memorandum, the WHD intends to modify its civil money penalty assessment policies regarding FLSA child labor and EPPA violations.

*Fair Labor Standards Act Child Labor Provisions.* FLSA authorizes the assessment of child labor CMPs of up to \$10,000 per violation. When determining the amount of the CMP, the

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WHD considers the size of the business, the good faith efforts by the employer to come into compliance, and the gravity of the violations. Currently, the WHD provides relief for small businesses by reducing the CMPs for non-recurring child labor violations which do not involve death or serious injury, violation of a Hazardous Occupation Order, or employment under the legal minimum age if future compliance has been assured and the employer lacked knowledge of applicable requirements. (The CMPs are waived if all the above criteria are met and the violations involve only a single minor.) In accordance with the President's memorandum, when the above conditions are met, the WHD will either reduce or not assess CMPs against small businesses.

Employee Polygraph Protection Act. EPPA prohibits most private employers from administering polygraph examinations to employees and potential employees and subjects them to civil money penalties of up to \$10,000 per violation. The statute requires that the Secretary consider only the gravity of the violations and the previous compliance history of the violator when determining the penalty. In accordance with the President's directive, the WHD will either reduce or not assess EPPA civil money penalties against small businesses for first time, nonwillful offenses where affected employees have been made whole and credible assurances of future compliance are provided.

The WHD will notify frontline workers of these new policies through normal communication channels and an insert to the *Field Operations Handbook* by July 14, 1995. Small businesses and individuals affected by these policies will be notified by WHD Investigators during the investigation process. In addition, the WHD is forming a team of national Office and field staff to examine once again the program's CMP assessment philosophy, process and effectiveness in promoting compliance and deterring violations.

Reduction of Reports. A regulation administered by the Wage and Hour Division under the Davis-Bacon Act and the Copeland "Anti-kickback" Act requires contractors and subcontractors on federally-funded or -assisted construction projects to furnish weekly copies of certified payroll records to the Government contracting agency, showing the wages paid each employee during the preceding week.

The frequency of the Davis-Bacon payroll reporting requirements in the Copeland "Anti-kickback" Act are statutory, and legislative action is required to reduce the frequency of these reports. Departmental efforts to eliminate actual payroll reporting by regulation were overturned in the courts, which held that copies of actual weekly payrolls are required (Building and Construction Trades Department, AFL-CIO, et al., v. Donovan, et al., 712 F.2d 611). The Secretary must accordingly make the necessary determination that reducing this reporting requirement is not legally permissible.

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The Copeland Act reporting requirements are the only public reporting burden imposed by the laws WHD administers other than in specific enforcement proceedings or in applying for a special benefit, such as authority to pay a sub-minimum wage.

