What’s New at DOL?

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Topics for Discussion

• Enforcement

• IBP v. Alvarez

• WHD Opinion Letters
Enforcement 2005 Results

<table>
<thead>
<tr>
<th>WHD Enforcement Statistics - All Acts</th>
<th>FY2001</th>
<th>FY2005</th>
<th>Change (01-05)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Back Wages Collected</td>
<td>$131,954,657</td>
<td>$166,005,014</td>
<td>25.80%</td>
</tr>
<tr>
<td>Employees Receiving Back Wages</td>
<td>216,647</td>
<td>241,379</td>
<td>11.40%</td>
</tr>
<tr>
<td>Complaints Registered</td>
<td>29,085</td>
<td>30,375</td>
<td>4.40%</td>
</tr>
<tr>
<td>Enforcement Hours</td>
<td>998,937</td>
<td>969,776</td>
<td>-2.90%</td>
</tr>
<tr>
<td>Average Days to Resolve Complaint</td>
<td>139</td>
<td>85</td>
<td>-38.80%</td>
</tr>
<tr>
<td>Concluded Cases</td>
<td>38,051</td>
<td>34,858</td>
<td>-6.40%</td>
</tr>
</tbody>
</table>

2006 Enforcement Initiatives

- Overtime Security Task Force
- Off-the-Clock Initiative
- Youth Employment Survey
- Agricultural Initiative
IBP V. Alvarez

• Donning and doffing gear is a “principal activity.”
  – Walking and waiting time that occurs after the employee engages in his first principal activity is compensable.
  – Waiting time before the first principal activity is not compensable, unless the employees are required to report to work at a specific time.

Portal-to-Portal Act

(a) Activities not compensable Except as provided in subsection (b) of this section, no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], the Walsh-Healey Act [41 U.S.C. 35 et seq.], or the Bacon-Davis Act [11] on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any of the following activities of such employee engaged in on or after May 14, 1947—

(1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and
(2) activities which are preliminary to or postliminary to said principal activity or activities,

which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities.
Principal Activity

“[W]e hold that any activity that is ‘integral and indispensable to a principal activity’ is itself a ‘principal activity’ under section 4(a) of the Portal–to-Portal Act.”

WHD Opinion Letters
**WHD Opinion Letters**

- Salary Basis and “Paid Time Off” Banks
  - FLSA2005-7; January 7, 2005

- Sales Engineers
  - FLSA 2005-28; August 26, 2005

**WHD Opinion Letters**

- Leave taken during inclement weather and section 13(a)(1)
  - FLSA2005-41; October 24, 2005

- Tips charged on a credit card and section 3(m)
  - FLSA2006-1; January 13, 2006
WHD Opinion Letters

- Civic and charitable volunteer activities and compensable work time under the FLSA
  - FLSA 2006-4; January 27, 2006
  - Volunteer Factors:
    - The nature of the entity receiving the services;
    - The receipt by the worker (or expectation thereof) of any benefits from those for whom the services are performed;
    - Whether the activity is less than a full-time occupation;
    - Whether regular employees are displaced;
    - Whether the services are offered freely without pressure or coercion; and
    - Whether the services are of the kind typically associated with volunteer work.

Questions/Comments?