



Occupational Safety and Health Administration

Common Sense At Work

The New OSHA

The Strategy for a New OSHA

- ✧ Choose Your OSHA – Partner or Adversary
- ✧ Common Sense Compliance:
Regulations and Enforcement
 - Common Sense In
 - Nonsense Out
- ✧ Change OSHA's Culture to Serve Customers and Save Lives

Choose Your OSHA

Partner

Create Employer Incentives
to Develop Effective Safety
and Health Programs

- ★ Nationalize "Maine 200"
Program
- ★ Focused Inspections in
Construction

Adversary

Serious Consequences
for Serious Violators

Incentives for Employers with Effective Safety and Health Programs

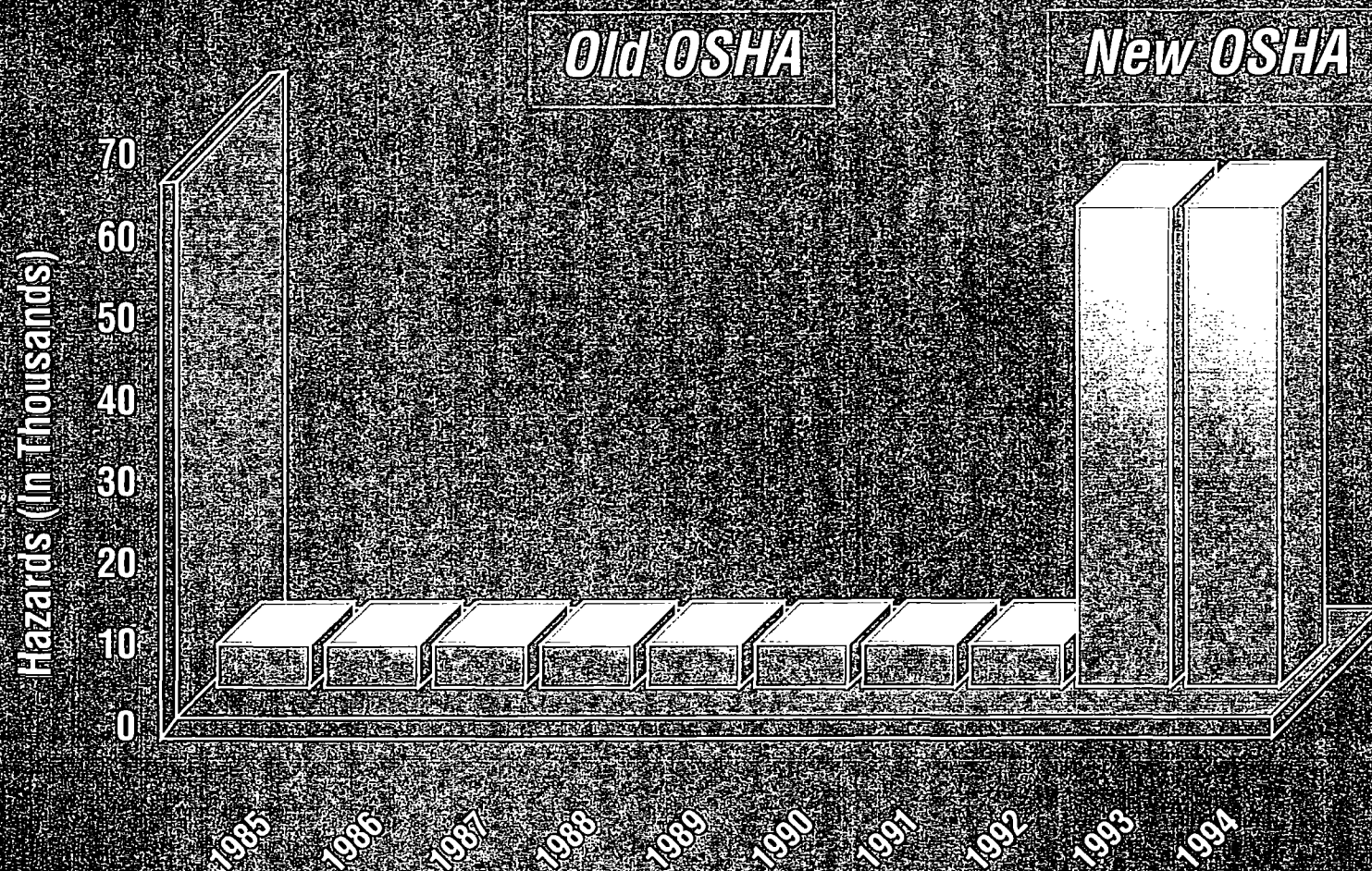
If...

- ✓ Management Commitment
- ✓ Employee Involvement
- ✓ Hazards Found and Fixed
- ✓ Injury/Illness Reduction

Then...

- ✧ Lowest Priority for Inspections
- ✧ Highest Priority for Assistance
- ✧ Penalties Reduced Up to 100%

Employers With Effective Safety And Health Programs Eliminate Hazards In Maine



1985-1992 Average number of violations discovered by OSHA inspections for period covered

1993-1994 Annual estimated average number of hazards identified based on 18 months of employer self inspection

Success at Boise Cascade

- ✦ Fined \$750,000 in 1989
- ✦ Company Established Safety and Health Program
- ✦ Serious Injuries and Illnesses Dropped 98%
- ✦ Annual Workers' Compensation Costs Dropped From \$1,393,498 to \$210,767 – 85% Decrease

Focused Inspections in Construction

Worksite Safety and Health Program?

No

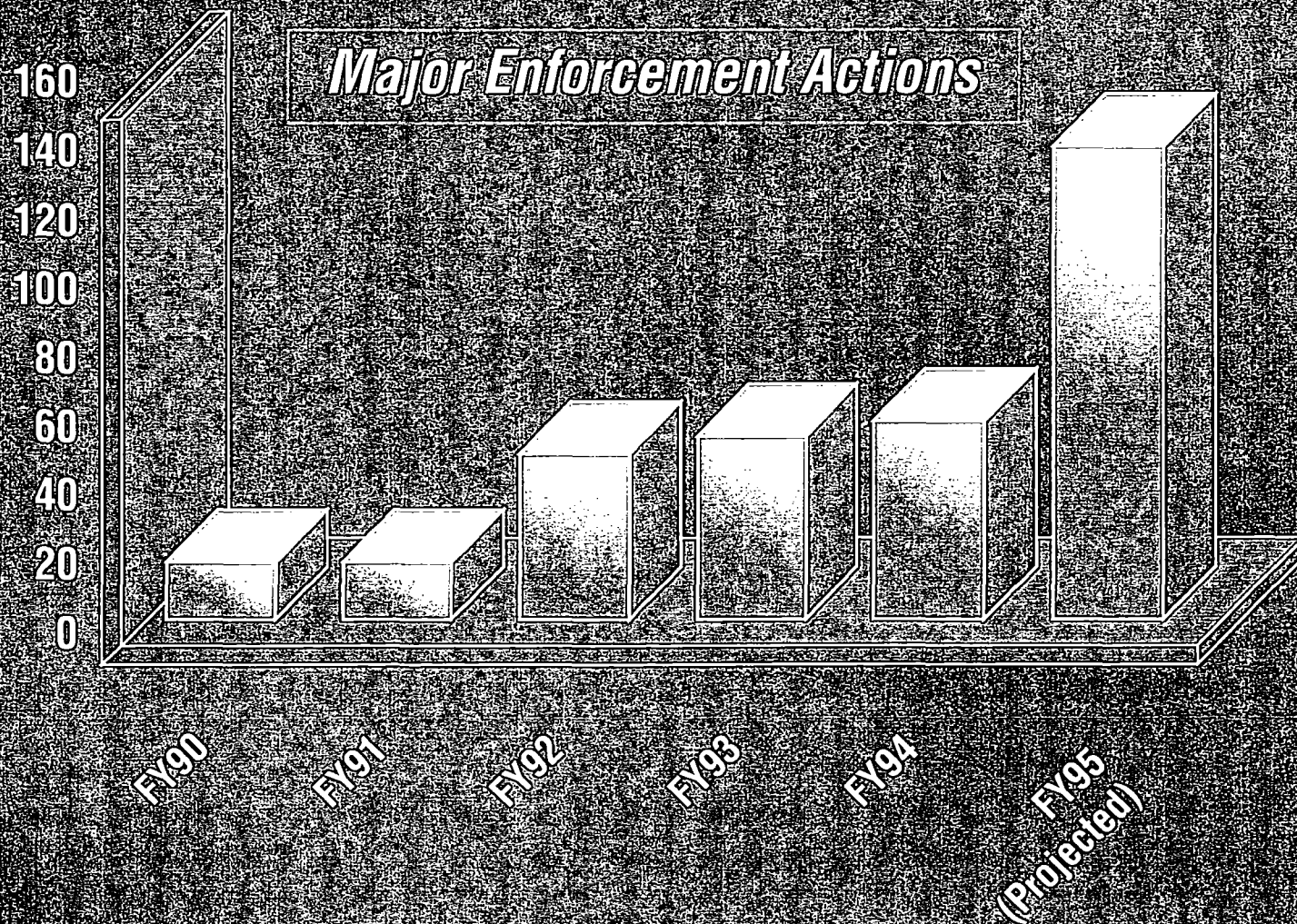
Full Inspection

Yes

Abbreviated Inspection
Focusing on Leading Killers

- Falls
- Struck by
- Caught in
- Electrocution

Serious Consequences For Serious Violators



Common Sense Compliance: Regulations and Enforcement

- ✧ Safety and Health Program Rule as the Foundation
- ✧ Weed Out the Nonsense
- ✧ Use Partnerships to Set Priorities and Develop Standards
- ✧ Citations, Penalties, Abatement

Safety and Health Programs: Foundation for Common Sense Regulations

A Rule That...

- ✧ Sets Minimum Requirements
- ✧ Requires Effective Prevention
- ✧ Is Flexible and Performance Based
- ✧ Is Developed in Partnership with Business and Labor

Weed Out the Nonsense

Old OSHA

- ✧ Duplicative Explosive Rules
- ✧ Unnecessary Reports for 14 Carcinogens
- ✧ Requirement for Obsolete Test for Coke Oven Workers
- ✧ 10 Pages of General Industry Ladder Standards

New OSHA

- ✧ Eliminate Rule
- ✧ Reports No Longer Required
- ✧ Suspend Requirement
- ✧ 1 Page

AND MORE

Weeding Out the Nonsense

By Changing the Language or
Enforcement of Just Three Rules
(Gas Cans, 911 Number, First-Aid Kits)

More Than 1,000 Unnecessary
Citations Will be Eliminated Yearly

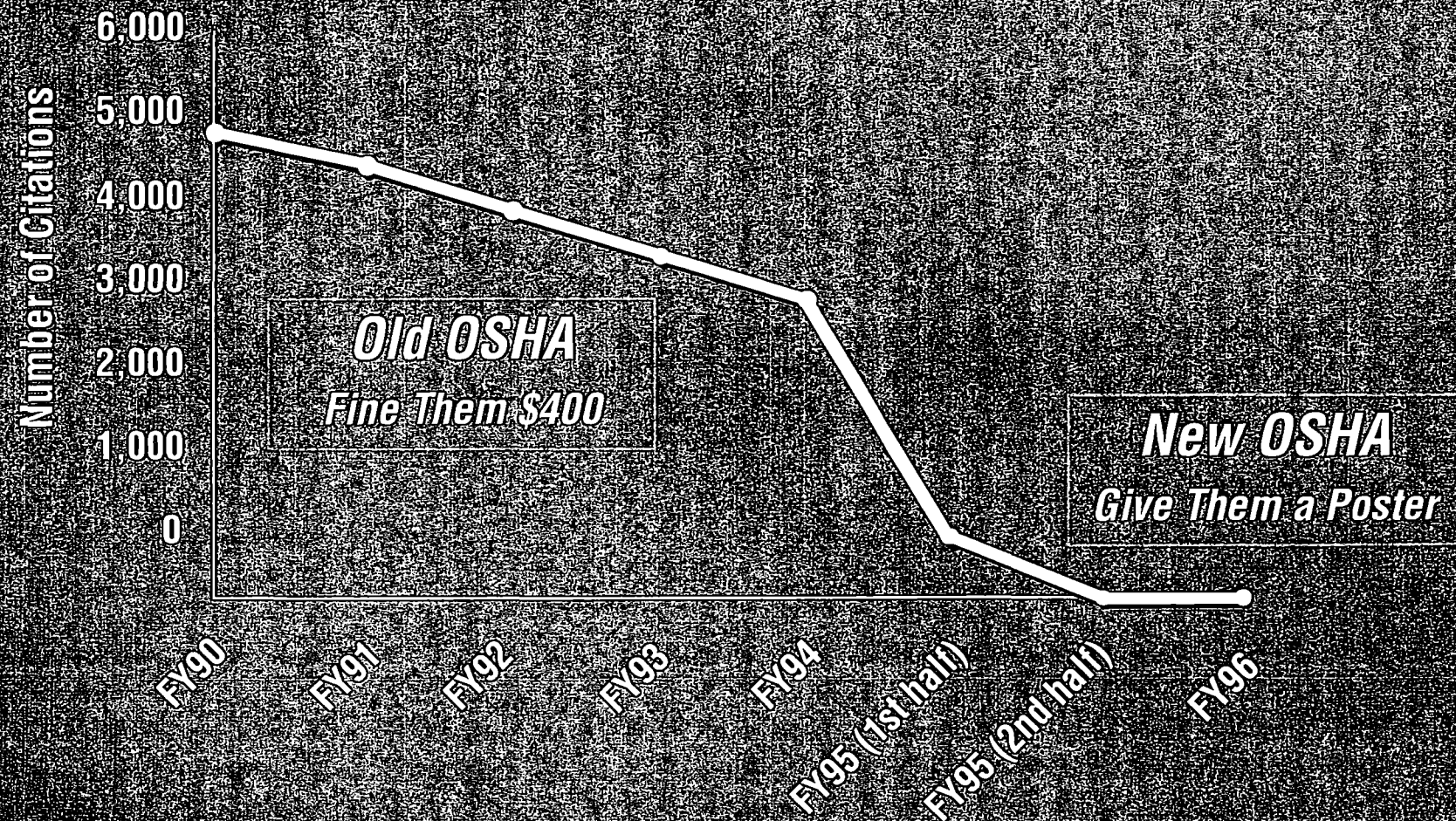
Common Sense Enforcement

End Paperwork Penalties

- ✧ Eliminate Penalties for Posters
- ✧ Eliminate Penalties for Minor Injury and Illness Recordkeeping Violations
- ✧ Eliminate Citations for Household Products

Common Sense Enforcement

OSHA Poster Citations



Common Sense Enforcement

Quick Fix

Old OSHA

Employer Had No Incentive
to Fix Hazards Quickly

Hazard Could Remain
Unabated for Months

New OSHA

If the Employer Fixes the
Hazards Quickly, Penalty
can be Reduced

Parsippany, New Jersey
Pilot Quadrupled
Immediate Abatement

Change OSHA's Culture to Serve Customers and Save Lives

- ✧ Partnership with State Plans
- ✧ Focus on Real Problems
- ✧ Balance Enforcement and Assistance
- ✧ Measure Results, Not Red Tape

Compliance Assistance Through Information Technology

- ✧ OSHA Standards and Interpretations Available on:
 - ✧ Internet
 - ✧ CD ROM
- ✧ Connect to SBA ERIN System
- ✧ Expert Systems
 - ✧ Asbestos
 - ✧ Cadmium

Making the Change at the Front Line

- ✦ Re-engineer Every Field Office
- ✦ OSHA/AFGE Partnership
- ✦ Empowering Front-Line Workers

Problem – Lead Poisoning in Construction Workers

Old OSHA

- Traditional Inspection Program
- Abatement Achieved Through Fines
- Limited Impact
- Hit or Miss Targeting

New OSHA

- Formed Partnerships
 - ▣ NJ Health Department
 - ▣ NJ Transportation Department
- Compliance Assistance Program
- Workers with Blood Lead Poisoning Drops from 1 in 4 to 1 in 50 in DOT Related Jobs

Measuring Results: Counting Lives, Not Numbers

Old OSHA

- Inspection Quotas
- Penalty Goals
- Paperwork Violations

New OSHA

- Reduction of Deaths, Injuries and Illnesses
- Correction of Dangerous Conditions
- Effective Worksite Safety and Health Programs Implemented

COMMON SENSE AT WORK--THE NEW OSHA

OSHA's mission is the same as it has been since its inception nearly twenty-five years ago--to save lives, prevent injuries and to protect the health and safety of America's working men and women. We've made progress. OSHA has helped to reduce the workplace fatality rate by more than 50% since 1970. Our protective standards have made the difference--literally between life and death--for millions of workers. And OSHA's enforcement has resulted in a decline in illness and injury rates in industries like construction and manufacturing where attention has been concentrated.

But OSHA is not remembered for its successes. It's known as the agency that banned the tooth fairy; that fines employees for rescuing their co-workers; and that prohibits workers from chewing gum while on a roof. Business complains about overzealous enforcement, while worker advocates complain about lax enforcement. From Philip Howard's *The Death of Common Sense*, OSHA is remembered as the agency that is so tied up in its own red tape that it has lost sight of its own mission.

Every day, 17 workers are killed in accidents and more than 100 die from diseases contracted at work. Accidents alone cost employers \$110 billion a year. So while OSHA's mission must remain the same, its means of achieving the goal of safe and healthy workplaces must change. OSHA is transforming itself from an organization focused on activities to one focused on results. The strategy to accomplish this change has three parts.

CHOOSE YOUR OSHA--PARTNER OR ADVERSARY

Creating incentives for employers to adopt safety and health programs will shift the emphasis from OSHA to the workplace, from regulations to results. Employers who demonstrate good faith by developing and implementing safety and health programs in partnership with their workers, who find and fix hazards, and who obtain lower injury and illness rates as a result will be treated differently than those who do not. Good faith employers will be the lowest priority for enforcement inspections, the highest priority for assistance and will receive up to 100% penalty reduction.

OSHA's Maine 200 and Focused Inspection in Construction programs are good examples of how incentives can generate impact. Nearly 60% of the employers participating in the Maine 200 program have reduced their injury and illness rates. The Boise Cascade Company's mill in Rumsford, Maine--once considered an egregious violator of health and safety standards--was able to reduce its illness and injury rate by 98%. OSHA is planning to implement this type of program nationally.

But for those employers who resist effective safety and health programs, or who consider their workers as expendable, OSHA will impose serious consequences.

COMMON SENSE COMPLIANCE: ENFORCEMENT AND REGULATION

OSHA is developing a safety and health program standard to serve as the foundation for its new strategy. The standard will spell out what the elements of an effective safety and health program are, so that employers know what constitutes a good faith effort. The standard will be developed with facilitators from the Keystone Center.

OSHA will use partnerships with labor and business organizations to set regulatory priorities, develop standards and evaluate results.

Much of the criticism of OSHA is based less on the regulations it enforces than on how it enforces them. OSHA will immediately suspend enforcement of standards involving paperwork violations and obsolete medical reports. The results of a comprehensive, page-by-page review of standards will be completed by June 1.

CHANGE OSHA'S CULTURE TO SERVE CUSTOMERS AND SAVE LIVES

To achieve success, OSHA must implement change where it counts--in the community. With the assistance of consultants from McKinsey and Company, OSHA is fine-tuning the reengineering of all its field offices. Developed by a team of front line workers--mid- and senior-level managers with an AFGE affiliate--the field office redesign is being pilot-tested in two offices. The design integrates new strategies for targeting, information technology, balancing enforcement and compliance assistance, and measuring performance.

A new performance measurement system will emphasize impact, such as lives saved, and injuries and illnesses prevented. Together with new personnel evaluation and recognition systems, these are the key elements for the transformation of OSHA.

Moving to an outcome-oriented performance measurement system will also establish the basis for changing how OSHA works with its 23 state plan partners. Instead of monitoring the states by comparing federal and state activities using 48 variables, OSHA will assess results and be able to reward innovations by states that increase the effectiveness of the state enforcement and compliance assistance programs.

Wage and Hour: Summary of Proposals

Wage and Hour is responding to the public's request that regulations make sense in today's workplace and that the amount of confusion and frustration which can accompany traditional enforcement practices be reduced by shifting from a "one size fits all" enforcement strategy to one that concentrates on industries with the most vulnerable populations of workers. Specifically, we propose the following:

Making the High Road Pay

1. **Certification of Employee Handbooks:** Establishing systems of employer-based responsibility is the key to Wage Hour's achieving its mission. Under this proposal, Wage and Hour will test the use of employer handbooks that lay out what employers and employees need to know to comply with the employment standards for their industry. Initially, the program will be conducted in the hotel/motel industry. As certain benchmarks are achieved the program will be expanded nationwide. Wage and Hour staff, working in partnership with one or two major employer associations, will certify a prototype handbook that the participating associations will be encouraged to distribute to their members. As an incentive to employer participation, participating employers will be exempted from targeted investigations and, if a complaint is filed, will have the opportunity to informally resolve the complaint without Wage and Hour intervention.

Weeding Out Regulations

1. **Eliminate Unnecessary Regulations:** In its first phase of eliminating out-of-date, unnecessary, and irrelevant regulations, Wage and Hour has identified for elimination over one-third (24 parts) of its existing regulations. In the short-term, enforcement staff will be directed to stop enforcing these provisions. These regulations will be formally removed following required regulatory procedures. This is a down payment. Longer-term, Wage and Hour will work with employer groups and its employees to review some of its longer and more complex regulations and recommend simplifications when possible.

Focusing on Results, Not Process

1. **Alternative Dispute Resolution:** In 1994 and 1995, Wage and Hour has experimented with the use of alternative procedures to resolve worksite disputes. A New Jersey pilot resolved 21 cases filed against agricultural employers in an average of about 3 months, a 90% percent decrease over the norm of 3 years. Wage and Hour proposes to expand the project to five states, and expand it to the rest of the country as soon as possible.

2. **Nationalize Self-Audits:** Wage and Hour has traditionally relied upon full investigations to determine whether employers are complying with its requirements. To leverage scarce inspection resources, qualified employers under this proposal will conduct a "self-audit" to ensure their compliance with various employment standards. This approach was successfully tested during the past year in several regions and will be expanded to the rest of the country this spring. Employers will be provided with information on the standards they are required to meet, perhaps as part of an employer-certified handbook. Upon conducting the audit, the employer agrees to pay any back wages owed to employees. Wage and Hour investigators will be available to guide the employer through the review process and will review the computations sent to Wage and Hour offices.
3. **Employee Performance Appraisal System:** Already, Wage and Hour has eliminated from its Investigator performance standards any quotas with respect to compliance activities. Instead, customer satisfaction and improved service to the public are being emphasized. During the coming year, investigators will be pushed to focus even more on satisfying the public's needs and not activity measures dictated by bureaucratic process.

OSHA

NATIONALIZE THE MAINE 200 CONCEPT

- Summary:* Use injury/illness data to identify employers with high rates of injuries and illnesses, interact with employers using an integrated program of outreach, technical assistance and enforcement, and measure the impact on the basis of reduced injuries and illnesses. Promote permanent comprehensive safety and health programs that lead to continuous improvement in workplace safety and health.
- Context:* OSHA has dealt with employers using a "one size fits all" approach. By using data intelligently, OSHA can deal with employers as individuals and improve workplace safety and health with a variety of interventions. When appropriate, employers will be given an opportunity to abate hazards before enforcement is used.
- Proposal:* OSHA will obtain site specific injury and illness data for a large number of employers. This data will be used with other information in problem solving conducted at the local level to identify and eliminate serious workplace hazards. Employers will be provided incentives to abate hazards and to develop a comprehensive safety and health program tailored to their workplaces and their problems. The safety and health program will include management commitment, worker participation, self inspection and correction of workplace hazards, including but not limited to hazards covered by OSHA's regulatory standards. OSHA will work actively with these companies to help them develop a good program. Employers who respond positively will receive services in the form of consultation, outreach and technical assistance. These employers will be monitored using random on-site inspections and regular progress reports, including injuries and illnesses. Employers who refuse to participate will receive enforcement inspections.
- Pros/Cons:* The program gives OSHA the capacity to conduct its operations in a more strategic and flexible manner. It encourages companies to improve working conditions, extend safety and health activities beyond the letter of OSHA regulations and make long-lasting changes. The program requires OSHA to obtain workplace specific injury and illness data, to work actively with each company to develop safety and health programs, and to monitor the firms over time.

*Constituent
Reaction:*

This approach represents a bold change of direction for OSHA, integrating the use of worksite specific injury and illness information, problem solving, non-enforcement interventions, and enforcement into a single, cohesive program and then using injury/illness data to measure the real impact of its efforts. Stakeholders in business, labor and academia have expressed support for the concept on numerous occasions.

*Statutory
Constraints:*

None.

*Resources
Required:*

The program will require resources to collect and analyze injury/illness data, to train OSHA field staff on the program, and to provide services to employers

OSHA

EXPANSION OF FOCUSED INSPECTIONS

<i>Summary:</i>	OSHA will continue to emphasize and expand programs that focus on identifying and eliminating serious workplace hazards, and prove effective in reducing worker deaths, injuries and preventing illnesses. This will include the expansion of programs like the "Focused Inspection in Construction" program, and locally developed programs which target area specific safety and health problems.
<i>Context:</i>	In 1994, OSHA implemented a program for inspecting construction sites that gave recognition to contractors who implemented comprehensive safety and health programs. Where an effective program was operating onsite, OSHA limited the inspection to a review of the top 4 hazards accounting for worker fatalities in the construction industry. Conversely, where a safety and health program was not established or was ineffective, a complete site inspection was conducted.
<i>Proposal:</i>	OSHA will expand the focused inspection concept to other employment sectors to target the hazards directly related to the injury and illness experience of that industry. This will include the development of programs which focus on reducing excessive injuries and illnesses within identified industries.
<i>Pros/Cons:</i>	These programs will promote the positive effect of occupational safety and health programs by demonstrating the link between effective programs and accident reduction.
<i>Constituent Reaction:</i>	The Focused Inspection in Construction Program has already received positive reaction from the construction industry.
<i>Statutory Constraints:</i>	None
<i>Resources Required:</i>	This approach has the benefit of allowing OSHA to apply its resources in a limited way where effective employer efforts are evident, and to redirect inspection activity where it is most warranted.
<i>Timetable:</i>	Expansion of focused programs is ongoing. The program could be expanded very quickly to a select number of general industries.

OSHA

QUICK FIX

<i>Summary:</i>	Provide a reduction in the penalty for safety and health hazards which are abated immediately during an inspection.
<i>Context:</i>	The OSHA inspection process does not mandate immediate abatement of hazards once they are recognized by an OSHA compliance officer. Because of the legal process, employers may continue to expose their employees to hazardous conditions for some time even after citations have been issued.
<i>Proposal:</i>	As an incentive to immediately abate hazards, an additional penalty reduction may be given for each violation an employer immediately abates in the presence of the compliance officer prior to the closing conference of the investigation.
<i>Pros/Cons:</i>	Pros - More efficient use of time available for conducting inspections. It is an incentive to the employer to immediately abate hazards and improve safety and health in the workplace. Cons - This could lead to abuses by compliance officers
<i>Constituent Reaction:</i>	Since implementation of the Quick Fix on October 1, 1993, the immediate abatement of hazards has increased by 17% in Parsippany, N.J. This has reduced worker exposure to serious safety and health hazards, but also has saved the area office considerable time and money in not having to verify employer actions in the abatement of hazards after a citation is issued.
<i>Statutory Constraints:</i>	None
<i>Resources Required:</i>	The additional time needed on site is offset by the time saving in tracking
<i>Timetable:</i>	This program is currently used by at least once office in every region. There are plans to introduce it to other area offices, after a review period, assuming it is successful.

OSHA

SAFETY AND HEALTH PROGRAMS RULE

Summary: OSHA is developing a rule for employer safety and health programs which will set minimum requirements for finding and fixing workplace hazards in order to reduce injuries and illnesses on the job. This rule for the first time will provide employers who want to understand and comply with OSHA regulations a clear starting place and a roadmap through the rest of the rules. It will be a flexible, performance based rule which is developed through partnership with business and labor. The rule, however, will be sufficiently specific so that employers will understand OSHA's basic expectations for finding and fixing hazards and will know how to meet these expectations.

With a comprehensive safety and health programs rule in place OSHA will be able to offer employers a clear choice: partners or adversaries. For employers who effectively use their health and safety program to find and fix serious, recognized hazards, OSHA will acknowledge successful performance by offering a variety of incentives including the lowest priority for inspections, the highest priority for assistance and the possibility of penalty reductions up to 100%. For those who choose to ignore this guidance and to not develop an effective program, OSHA will inspect more frequently and will view violations of specific rules much more seriously.

Context: The Occupational Safety and Health Act of 1970 requires that employers comply with specific regulations and also that they keep the workplace generally free of recognized hazards. While OSHA has developed a considerable number of specific regulations, it has never clearly articulated the minimum requirements for employers to meet their general obligation to keep the workplace free of recognized hazards. OSHA intends to work closely with business and labor groups to develop a rule to accomplish this.

Currently more than 10 states require employers to have comprehensive or partial safety and health programs. These have proven successful; the available literature suggests that employers can reduce injuries and illnesses substantially while at the same time enjoying a considerable financial return on their investment in safety and health. The experience in Oregon, for example, has been very positive. In 1991, Oregon extended its requirement safety and health programs and committees to all employers with 11 or more employees. Injury incidence rates in Oregon subsequently dropped while nationwide rates increased. Workers compensation premiums in Oregon also dropped following these changes and Oregon employers have saved more than \$5.1 billion. While there were several factors associated with these positive changes, including changes in Oregon's workers compensation programs and the state safety and health enforcement activity, it is widely believed that the requirement for employer safety and health programs has been a major determinant of change.

Proposal: Develop a proposed rule for safety and health programs which will assist employers in the implementation of effective safety and health programs. Such programs work by requiring employers to: 1) Look for and find all safety and health hazards in their workplaces; 2) Have workers participate in safety and health programs and management be committed to the program; 3) Fix and control hazards identified and prevent other hazards from developing; 4) Train employees, supervisors, and management in safety and health issues; and 5) Conduct regular evaluations of the safety and health program's effectiveness.

OSHA is writing the proposed standard in plain, easy-to-follow language, which will give users flexibility to respond to their own worksite-specific conditions. OSHA will involve business, labor and other representatives to work on key issues, such as employee involvement, scope, management commitment, and hazard control.

Pros/Cons: This effort will involve all interested and affected parties in setting the benchmark for occupational safety and health programs. As mentioned earlier, safety and health programs create the foundation for safer and healthier workplaces, and they have been shown to produce positive, cost-effective results that save lives and protect workers. A successful development, promulgation, and implementation of this standard is expected to result in the most important of all of OSHA's policy objectives - decreased injury and illnesses and accidents at the workplace.

It is critical, however, to understand clearly the delicate nature of the process at this moment. OSHA has worked carefully and cooperatively to bring many different stakeholders together to appreciate the specifics of this program. If OSHA is even perceived to be going forward with the specifics of this program without successfully having achieved a significant level of buy-in from its stakeholders, then the end result could be to set us back even further, i.e., to make the development of such a rule even more difficult to pass.

Constituent Reaction: This effort has already attracted strong stakeholder support. OSHA's business/labor advisory committee gives top priority to this work. State governments strongly endorse this approach. Many business groups, individual companies and labor organizations have offered to help OSHA shape this rule. Some organization opposition is expected from groups such as the National Association of Manufacturers, which are generally opposed to all rulemaking.

Statutory Constraints: Rulemaking statutory provisions apply. If the moratorium is in effect, it would likely delay the publication of the proposal.

Resources Required: This effort will involve significant OSHA staff time.

Timetable: This is projected in the FY 1995 Regulatory Agenda, however, required procedural steps will extend the effort beyond the current fiscal year.

ELEMENTS OF OSHA'S 1995 REGULATORY STRATEGY

In order to build a new set of modern workplace safety and health standards which make "real sense to real people," OSHA is taking action aimed at:

1. Clear and sensible priorities

OSHA's new planning process will identify the top priority hazards/issues for OSHA action, based on input from more than 200 stakeholders.

2. A logical framework of basic building blocks

Business and labor strongly support OSHA action on a basic new Safety and Health Programs rule, which will establish a foundation for all future workplace safety and health efforts.

3. Action on confusing and out-of-date standards

OSHA will intensify ongoing efforts to review existing standards in order to revise or weed out obsolete and confusing rules.

4. Emphasis on plain language

OSHA teams will use modern techniques borrowed from the private sector -- such as business and labor "focus groups" and panels of OSHA field staff -- to help make new standards understandable to real people.

5. Greater use of cooperative partnerships

OSHA will increasingly seek opportunities for addressing priority hazards/issues through cooperative partnerships with business, labor, State governments, and other groups; these partnerships will use information and education programs, incentives, voluntary compliance, and other non-regulatory approaches to workplace safety and health.

SENSIBLE SAFETY AND HEALTH STANDARDS ELEMENT 3: OUT-OF-DATE STANDARDS

AN OSHA ACTION PLAN

INTRODUCTION

In 1994, the Occupational Safety and Health Administration (OSHA) put together a new strategy aimed at building a set of modern workplace safety and health standards, developed through partnerships with stakeholders, which make "real sense to real people." This strategy encompasses five essential elements, (1) setting clear and sensible priorities, (2) establishing a logical framework of basic building blocks, (3) taking action on confusing and out-of-date standards, (4) emphasizing easier-to-read standards, and (5) using cooperative partnerships more often. OSHA has challenged itself to address each of these vital issues in order to establish a more effective regulatory approach and has already taken significant steps to address these essential elements:

- OSHA established and implemented a new planning process to identify sensible priorities for regulatory and non-regulatory action. This process invited OSHA stakeholder participation both in submitting written suggestions and in attending scoping meetings to discuss issues/hazards for OSHA to consider in the process.
- OSHA streamlined the standard promulgation process within the Agency to improve the effectiveness of standards, including encouraging more effective team participation in the development of standards
- OSHA has emphasized writing standards in more easier-to-read language and format. OSHA began this process with focus groups of managers, professionals, and front line workers to solicit their views on the readability of OSHA's standards and to test possible variations on readability level and format.
- OSHA has actively pursued stakeholder involvement in the rulemaking process by bringing interested parties together with OSHA to discuss the Agency's draft proposed approach to such issues as recordkeeping and ergonomics.

This particular action plan focuses on Element 3 which commits OSHA to taking action on confusing and out-of-date standards. While OSHA identified this goal and developed an action plan earlier this year, OSHA has expanded its original strategy to include the assignment by President Clinton to review all existing regulations page-by-page.

As a matter of sound public policy, OSHA has developed a regular system for identifying and revising/revoking rules or compliance instructions which are obsolete, confusing, inconsistent, or

trivial. Even good standards may fall into this category by changes in technology, regulatory actions of other Federal agencies, or court case law.

Twice before, OSHA has undertaken regulatory action to clean up its standards.

- o In 1978, OSHA revoked 607 standards – mostly outdated industry consensus rules adopted en masse when OSHA was first established in 1971.
- o In 1984, OSHA revoked 153 provisions containing advisory language judged to be non-enforceable.

Still, a number of OSHA standards are obsolete, confusing, inconsistent, or trivial because of the way the standards are written or the way they are enforced. As a result, these standards may do little or nothing to reduce workplace hazards and may represent a burden on responsible businesses.

OSHA has already begun to address this issue:

- o In April 1994, OSHA established a process for reviewing existing standards which includes a Request for Information published in the Federal Register every two years to ask for public comment of existing standards to determine how burdens could be reduced and how standards could be improved without sacrificing worker safety and health. The system aims to identify appropriate items every two years for revision, deletion, or other compliance action. Once these issues are identified, OSHA fully intends to continue to involve stakeholders in determining appropriate regulatory or compliance action.
- o An October 18, 1994, Federal Register notice announcing a public scoping meeting on standards priorities and inviting public comment on existing standards (implementation of April plan). Commenters included, over 110 companies, trade associations, labor unions, and professional associations. They suggested a variety of existing OSHA standards which should be revised or revoked.
- o Many regulatory projects already slated for OSHA's 1995 regulatory calendar would modify existing standards which are considered outdated or confusing, such as revision of the walking and working surfaces rule, consolidation of maritime requirements, and standards clarification for the construction industry.

The following action plan will take this initiative a major step forward by identifying specific problem rules for immediate attention. OSHA will also continue this effort through its current system to review existing regulations every two years. This will reduce the regulatory burden on business while at the same time promoting safety and health rules which make sense through creative new partnerships with stakeholders. The result will be better protection for America's working men and women, and a better deal for America's businesses.

Throughout the action plan, OSHA will emphasize stakeholder involvement. It is essential that business and labor groups, OSHA state government partners, and other key stakeholder groups are fully involved in modernizing OSHA's standards, both to target the right rules for action and to achieve maximum consensus. It is not enough, however, that OSHA just listen to these stakeholder concerns. OSHA must also take action which is responsive to the public's comments.

IMMEDIATE ACTION PLAN:

In the short-term, OSHA will continue to identify potentially obsolete, confusing, inconsistent, and trivial rules, determine which of these rules it can immediately clarify, modify, or suspend from its enforcement plan, and seek input from stakeholders, including small business, on which ones should be formally revoked, revised, or enforced differently. Key steps include:

- o April 5, 1994: Establish a system for reviewing existing every two years. (Completed)
- o October 18, 1994: Issue a Federal Register notice inviting public comment on existing OSHA standards which are obsolete, inconsistent, confusing, or trivial. (Completed)
- o April 1, 1995: Prepare list of 25 potentially obsolete, confusing, inconsistent, or trivial OSHA rules (or parts of OSHA rules) based on responses to the October public notice and a poll of OSHA front-line staff. OSHA will take into account those standards or provisions which have raised considerable stakeholder attention. [See attachment A - The attached are rare examples of poorly written or enforced standards and are not considered representative of the quality of all OSHA standards.] (Completed)
- o June 1: Determine for which of these 25 rules it can immediately suspend or change enforcement without a reduction in safety and health protections. For those which are determined to be appropriate for enforcement modification, OSHA will develop an OSHA Field Directive instructing OSHA compliance officers to suspend citation of the identified standards or provisions. This directive will be based on the Secretary's prosecutorial discretion, and will remain in effect until superseded by further directives.
- o June 1: Issue OSHA field directive to suspend or modify enforcement of the 25 rules determined to be appropriate for this action. (March 21, 1995, OSHA issued a compliance memorandum on Hazard Communication which clarifies when it is appropriate to cite consumer products or articles under the rule.)
- o June 1, 1995: Review all existing regulations page-by-page and submit list to President Clinton identifying further obsolete regulations.
- o September 1: Determine for which of these other rules it can immediately suspend or change enforcement without a reduction in safety and health protections. For those which are determined to be appropriate for enforcement modification, OSHA will develop an

OSHA Field Directive instructing OSHA compliance officers to suspend citation of the identified standards or provisions. This directive will be based on the Secretary's prosecutorial discretion, and will remain in effect until superseded by further directives.

- o **December 1:** Issue OSHA field directive to suspend or modify enforcement of the rules determined to be appropriate for this action. Formally transmit copies of directive to key Congressional committees.
- o **December 1:** Draft a Federal Register notice inviting public comment on whether OSHA should revoke or revise the identified rules or modify compliance instructions; also seek comments on whether OSHA should use cooperative partnerships with stakeholders to address these rules.
- o **December 1:** Consult with stakeholder groups, including standing advisory committees (focusing on small business concerns); AFL-CIO, major business groups, and state governments.
- o **January 1:** Issue Federal Register notice..
- o **March 1, 1996:** Initiate formal rulemaking with cooperative partnerships, to eliminate or revise obsolete, inconsistent, confusing, or trivial OSHA rules. This rulemaking will be expedited and completed as soon as possible. OSHA will issue revised field directives modifying/expanding the non-enforcement instructions for those rules which can be addressed in this manner.

OSHA

MEASURING OSHA'S PERFORMANCE

- Summary:* OSHA is in the process of developing a performance measurement system that will shift much of the focus from tracking activities to monitoring results. A key component of this system is the customer service standards.
- Context:* Improvement of the performance measurement system is an Agency goal. There are also legislative mandates that require Agencies to measure their performance.
- Proposal:* In FY 1994, OSHA established an interim performance measurement system that tracked milestones for the Agency's goals and objectives. In FY 1995, improvements are being made to develop a more comprehensive system. An initial set of intermediate indicators of Agency performance will be implemented. These indicators differ from the activity measures used in prior years. The intermediate indicators for FY 95 are intended to address questions about the effectiveness and efficiency of OSHA operations, including customer satisfaction. Other potential Agency performance indicators are being designed and tested as part of pilot tests (for example, the Maine 200 project and the Area Office Redesign) to measure the impact of OSHA operations on the occurrence of workplace injuries, illnesses, and fatalities.
- The intermediate indicators for FY 95 are intended to address questions about the effectiveness and efficiency of OSHA operations, including customer satisfaction.
- Pros/Cons:* The data to measure the outcomes of Agency interventions are not currently available. An initiative is planned to collect establishment-specific injury and illness data that would facilitate outcome measurement.
- Constituent Reaction:* For the first time in the Agency's history, OSHA is not using the total number of inspections as a primary measure of the Agency's performance. New indicators are being developed that will provide a much broader perspective of OSHA's activities. Constituents have reacted favorably to OSHA's shift from measuring activities (number of inspections) to measuring outcomes.
- Statutory Constraints:* The Chief Financial Officer's Act (CFO) requires the Agency to highlight major accomplishments against established performance indicators as part of the consolidated financial statement prepared by the

WAGE AND HOUR

ALTERNATIVE DISPUTE RESOLUTION

<i>Summary:</i>	Expand a pilot Alternative Dispute Resolution project to five states. This is especially urgent considering the Dunlop Commission Report, which observed that between 1971 and 1991, litigation in Federal Courts increased fourfold.
<i>Context:</i>	The formal administrative appeals process in cases involving fines assessed by Wage and Hour against farmers in farm labor cases takes an average of two to three years to resolve. Typically, cases involving small assessments end up getting dropped.
<i>Proposal:</i>	Expand a New Jersey pilot project that resolved cases filed against agricultural employers in about three months, instead of three years. Wage and Hour will not expand this project to cases involving back wages, because (1) over 95% of these cases are resolved at the administrative level already, and (2) employees' back wages are nonnegotiable.
<i>Pros/Cons:</i>	Pros: If successfully expanded, this initiative should have a very positive impact on the administrative settlement of cases that otherwise might be dropped or substantially delayed at the Solicitor's office. Cons: The success of this approach requires third-party participation. Successful expansion of this pilot will be contingent upon the cooperation of employer groups.
<i>Constituent Reaction:</i>	This model is very bold because it gives employers an impartial forum at the administrative level. Employers who have participated in the pilot have been very positive about this type of forum. Employee groups may not be as positive and may seek involvement.
<i>Statutory Constraints:</i>	This proposal is a methodology to process cases at the administrative level. As such, it does not supplant or replace the formal administrative appeals process.
<i>Resources Required:</i>	Expansion of the pilot would require the investment of staff time in each state which begins this project. Additionally, because the pilot operates in local farming communities, Wage and Hour participants would require funding for travel and other miscellaneous expenses.
<i>Timetable:</i>	Wage and Hour could begin its search immediately for states in which to replicate this project.

WAGE AND HOUR

SELF-AUDIT ENFORCEMENT TECHNIQUE

<i>Summary:</i>	Implement the "self-audit" enforcement technique nationwide.
<i>Context:</i>	Wage and Hour has traditionally relied upon the "full investigation" enforcement technique. For each employer audited, this technique required a site visit, on-site records check, on-site employee interviews, and face-to-face negotiations with the employer.
<i>Proposal:</i>	Expand the use of the "self-audit" enforcement technique, which to date has been used sporadically and locally in Wage and Hour. Employers are asked to audit their records for violations and to compute and pay any back wages discovered because of violations of the law. Wage and Hour investigators guide the employers through this process, usually via phone conversations and spot-checks of computations sent to Wage and Hour offices.
<i>Pros/Cons:</i>	Pros: When used correctly, the average self-audit results in more money to employees and in less time spent by Wage and Hour than the average full investigation. Employers benefit by not having Wage and Hour investigators making site inspections. Cons: This technique is applicable only in certain narrow situations. Employers who have a track record of violations, for example, will not be asked to conduct self-audits.
<i>Constituent Reaction:</i>	Employer groups should be supportive of this initiative. If Wage and Hour can continue to provide evidence that the self-audit technique generates greater collections of back wages and can show that it does have some oversight of the process, then employee groups may become supporters.
<i>Statutory Constraints:</i>	We would not conduct this type of audit for Davis-Bacon investigations or other audits involving complex statutory requirements, such as "whistleblower" provisions.
<i>Resources Required:</i>	As noted above, this methodology, when applied correctly, usually saves resources.
<i>Timetable:</i>	Guidance to the field regarding the nationalization of the self-audit technique could be done immediately.

WAGE AND HOUR

IMPROVE PERFORMANCE APPRAISAL SYSTEM

- Summary:** Continue to improve the performance appraisal system for Wage and Hour Investigators.
- Context:** In the past, Wage and Hour has emphasized enforcement activity in its standards, for example, numbers of investigations completed, amount of back wages collected, number of employers audited, etc. While these statistics continue to be important data, Wage and Hour is beginning to shift its focus from ticket-writing to voluntary compliance.
- Proposal:** Wage and Hour has already changed its Investigator performance standards by eliminating enforcement quotas in the standards. Instead, customer satisfaction and improved service to the public are the focus. For example, Investigators are now evaluated on how well they provide "effective and timely service to customers," and on how effectively they communicate "orally and in writing with . . . complainants, employers, and other customers."
- Wage and Hour is interested in continuous improvement in its performance standards to further encourage Investigators and other workers to identify customer needs and provide the best possible service to them.
- Pros/Cons:** Pros: If performance standards continue to be altered to reflect an emphasis upon results, Wage and Hour Investigators will be held increasingly accountable for satisfying the public's needs, not internal accounting requirements. Cons: Any alterations to the performance standards will require formal approval by the employee unions.
- Constituent Reaction:** Any initiative that will greatly improve customer service is bold. Presumably, all constituents will be supportive of any reform that results in improvements in services.
- Resources Required:** The only resources required for this initiative would be an investment by Wage and Hour staff in studying the current system, drawing up new standards, and negotiating over their terms.
- Timetable:** Work on new standards could begin immediately.

OFCCP

Reengineer the Affirmative Action Program

<i>Summary:</i>	Reduce from 16 to 4 the factors used to determine the availability of minorities and women for employment.
<i>Context:</i>	Program Summary, (S 60-2.14) requires contractors and subcontractors to summarize their Affirmative Action Plans (AAPs) and to submit these summaries to the Director annually. After several years of compliance reviews, OFCCP has identified 4 (of the current 16) critical factors in the AAPs.
<i>Proposal:</i>	Reduce from 16 to 4 the factors required to be submitted. Contractors will only have to create an action-oriented plan if their participation does not approximate availability. Further, it is proposed the requirement contractors reconfigure their workforce by artificially composed job groups be eliminated. Unless selected at random, contractors with satisfactory submissions will be exempted from further audit.
<i>Pros/Cons:</i>	Pros: Contractors will save 4.5 million hours per year. The integrity of the program will not be sacrificed. OFCCP will continue to schedule reviews based on special initiatives and random selection.
<i>Constituent Reactions:</i>	Contractors should be pleased with reduction of a items in a required filing. Community based organizations could view any change in regulations as a weakening of affirmative action.
<i>Resources Required:</i>	Start up costs are estimated at \$3 million. These include developing and testing the statistical model used for analysis, designing the contractor identification and notification system and equipment purchases.

OFCCP

Certification of Nonsegregated Facilities

<i>Summary:</i>	End requirement for certification of nonsegregated facilities.
<i>Context:</i>	Prior to being awarded a contract, or Federal financial assistance involving a construction contract, all prospective contractors must submit certification that they do not maintain facilities segregated on the basis of race, color, religion onational origin.
<i>Proposal:</i>	Withdraw requirement for written certification.
<i>Pros/Cons:</i>	Pros: The proposal will save contractors 875,000 hours annually. And workers will still receive the same protection. OFCCP will still hold compliance reviews and investigate complaints. Cons: Contractors will not have a continuous reminder of the law.
<i>Constituent Reactions:</i>	Contractors should be pleased with elimination of a required filing. Community based organizations could view any change in regulations as a weakening of affirmative action.
<i>Statutory Requirements:</i>	Must publish a proposal for notice and comment and then a final regulation.
<i>Resources Required:</i>	Minimal

OFCCP

Monthly Utilization Report for Construction Contractors

Summary: Eliminate the required submission of the Monthly Utilization Report by construction contractors.

Context: The monthly Utilization Report, CC-257 is required of approximately one third (or 35,000) of the covered construction contractors every month. The CC-257 reports the employment hours of minorities and women in the construction trades for that contractor for the month. Only contractors in jurisdictions which have been covered by a hometown or imposed plans, or a special bid condition are required to report. These reports are used to schedule contractors for compliance reviews.

Proposal: Eliminate the required submission of the Monthly Utilization Report by construction contractors.

Pros/Cons: Pros: Approximately 400,000 hours per year would be saved by contractors. \$190,000 in processing costs would be saved by the Federal government. Cons: OFFCP would not have affirmative action results data to use in its targeting. However, it will still have contract information, complaints and community concerns.

Constituent Reactions: Contractors should be pleased with elimination of a required filing. Community based organizations could view any change in regulations as a weakening of affirmative action.

PWBA Automate Filing of Form 5500 Annual Report

- Summary:** Redesign the 5500 processing system to significantly expand the number of reports filed electronically.
- Context:** PWBA regulates the management of approximately 700,000 private sector pension plans and 4.5 million welfare benefit plans whose assets total more than \$3.2 trillion. These enforcement and regulatory responsibilities comprise 80% of PWBA's budget (over \$65 million). Currently, it costs the federal government (DOL, IRS, PBGC) over \$20 million per year to process the Form 5500 Annual Report.
- Proposal:** Redesigning and re-managing the Form 5500 by implementing electronic filing.
- Pros/Cons:** Pros: It is estimated that over 507,000 hours per year will be saved by employers. \$7 million can be saved by the year 2000. Cons: Because the Form 5500 is a multi-agency form, the success of this initiative will depend on the IRS cooperating with DOL agencies (PWBA & PBGC) in the planning and implementation.
- Constituent Reactions:** It is estimated be generally accepted by the regulated community because it will not impose substantial new burden
- Resources Required:** Approximately \$10 million investment but a net savings of \$7 million over 5 years. See chart below.
- Timetable:** 3-4 years.

Financial Savings

1996	1997	1998	1999	2000	Cumulative Savings
0.000	(3.000)	(4.000)	5.000	9.000	7.000

ETA Millions Saved in Alien Certification Program through Streamlining and User Fees

- Summary:** Streamlining the Alien Certification process and charging user fees will save millions.
- Context:** The Employment and Training Administration (ETA), in partnership with the States and Territories administer labor certification and attestation programs. Under ETA's three labor certification programs, employers requesting permanent labor certification are first required to recruit U.S. workers. State Employment Security Agencies (SESA) process applications, determine prevailing wage rates, and assist employers to comply with regulatory requirements. ETA's Regional Offices currently review applications in the four attestation programs to determine if required documentation is submitted and that there are no obvious inaccuracies.
- The Alien certification program is a labor intensive process costing \$60 million/yr. Yet, only a small number of employers benefit from this government service.
- Proposal:** Streamlining the current process and charge employers who benefit from this service subsidize it through user fees -- as they do with service provided by the Immigration and Naturalization Service. Streamlining includes: decentralization of authority to SESAs, automation of form processing, consolidation of regional processing into four large centers, and making determinations based on labor market information rather than actual referrals.
- Pros/Cons:** Pros: It is estimated \$223. million will be saved over five years. (see chart below). Cons: employers would be responsible for finding their own sources of prevailing wage rates in accordance to standards set by regulations.
- Statutory Constraints:** One change necessary; to allow ETA to make determinations on cases based on labor market information rather than the actual referral of qualified workers to employers.
- Timetable:** A minimum of two years for the streamlining to be complete.
- Constraints:**

Financial Savings

1996	1997	1998	1999	2000	Cumulative Savings
0.000	38.700	61.500	61.800	61.800	223.800

NOTE: On the subject of the level of federal review; ETA is actively considering an approach similar to the IRS' level of review which would result in additional FTE and dollar savings. No final decision has been made.

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