

# U.S. Department of Labor

## Poultry Processing Compliance Survey Fact Sheet

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January 2001

### Overview

The Department of Labor's Wage and Hour Division (WHD) conducted an investigation-based survey of the poultry processing industry in 2000. The purpose of the survey was to again ascertain levels of compliance with labor standards administered and enforced by the WHD. Determinations included examination of compliance with the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), and the Family and Medical Leave Act (FMLA).

An earlier survey of poultry, processing plants conducted in 1997 found substantial violations of FLSA overtime requirements, as well as other problems such as record keeping and MSPA-related issues. Substantial violations of the FLSA were again found in the 2000 survey, along with continuing violations of the MSPA and newly identified problems with compliance under the FMLA. The poultry industry's compliance with the FLSA declined significantly from the results of the 1997 survey in part due to the better understanding of the industry's practices that Wage and Hour gained from the experience of the 1997 survey.

Extensive education and outreach has been conducted with poultry processing stakeholders, including employees, employers, unions, employer organizations, worker advocacy groups, and other interested parties. This outreach was carried out prior to the 1997 survey, following the 1997 survey, and again leading up to the 2000 survey.

### **The Year 2000 Survey**

The 2000 survey was conducted through investigations of 51 randomly selected poultry processing plants located throughout the U.S. and led to agency findings across-the-industry of non-compliance under the FLSA regarding:

- employees not paid for all hours worked, including overtime hours due to undercounting hours worked:
- employees underpaid due to impermissible deductions made from wages:  
higher overtime pay due plant employees because non-discretionary bonus payments were not included in overtime calculations;
- overtime due plant employees as a result of improperly claimed exempt status:
- overtime not paid to some live haul crew members (catchers, loaders and drivers); and
- record keeping violations as recorded time was not accurate for in-plant or live haul workers.

At the same time there were 2000 Survey findings of:

- improved of overtime compliance, compared to 1997, for live haul crews; and
- significant child labor compliance.

Type Of Violations	Percentage of Plants in Violation
Unpaid Hours of Work	100%
Mis-classified Exemptions	65%
Impermissible Deductions from Pay	35%
Bonus Payments Not Included in OT	8%
Child Labor Violations	4%
FMLA Violations	4%

### **Detailed Findings**

#### **FLSA:**

Extensive violations of the overtime requirements were found in all of the processors surveyed. The most common and significant findings involved plant employees not being compensated for time spent at the beginning of shifts putting on and sanitizing required gear and equipment. and at end of shifts for removing and cleaning these same items. Similarly, this same gear had to be removed and cleaned at the start of meal periods. and then. prior to returning to work on the line after meal periods. the workers had to again put on, sanitize, and often wait. and then walk to their individual line positions. Time spent in these work activities during meal periods resulted in employees not receiving bona fide - and therefore non-compensable - meal periods.

Overtime wage violations were also found due to employees having, to purchase items required to be provided to employees such as-ear plugs under OSHA requirements or situations where employers charged amounts in excess of the employers actual cost for required supplies or equipment.

Other overtime violations involved employees paid on a salary basis who were improperly claimed to be exempt. and processor's failure to include non-discretionary bonuses in overtime payment calculations.

Few systemic minimum wage violations were found. In two plants, workers were not paid for time spent in employee orientation training just after they were hired. However, the potential for minimum wage violations affecting workers employed via temporary help firms in processing plants is significant since these workers generally were paid only slightly more than the Federal minimum wage. The lower rates paid to these temp agency workers leave little room before practices of not paying for all hours actually worked or making deductions front wages as described above would trigger minimum wage violations. All such workers were found to be at least jointly employed by their processor hosts.

Child Labor violations were found in two plants in the survey; 4 minors were employed in violation of the Hazardous Orders restricting employment of youth under 18, and 8 minors were employed in violation of

the Hours Standards, applicable to young workers under 16 years of age.

Record Keeping violations were found in every plant investigated, as well as in most live haul operations, in connection with employers not accurately recording all hours of work.

Overall compliance concerning chicken catch (live haul) crews improved. In the 1997 survey, overtime had been paid to fewer than 40% of these crews and records of hours worked were seldom kept. Findings from the 2000 survey indicate overtime was being properly paid to more than fifty percent of the crews, though some of this improvement resulted from the crew members being managed to work no overtime hours.

#### **MSPA:**

Of live haul crews subject to MSPA:

- more than 80% of employer-provided housing met safety and health standards;
- more than 70% of the crews used safe vehicles to transport workers;
- more than 70% of worker transport vehicles were properly insured and more than 65% of the drivers were properly licensed;
- fewer than 20% of the contractors were properly registered;
- nearly 60% of the processor employers used contractors not properly registered;
- just over 5% of employers properly disclosure conditions of employment;
- complete and accurate records were kept by fewer than 15% of the crews; this also resulted in incomplete information being provided workers at time of payment of wages; and
- more than 60% of live haul workers were paid all wages owed when due.

#### **FMLA:**

Violations of the FMLA were found in two plants which failed to pay an attendance bonus to employees whose only absences had been FMLA-qualifying absences.

#### **NEXT STEPS:.**

- Wage and Hour will continue to reach out to all stakeholders to identify means of achieving full compliance in the industry.
- Wage and Hour will continue discussions with several major poultry processors to achieve changes in employment practices so as to achieve full compliance with applicable labor laws.
- Wage and Hour will pursue litigation where necessary to change the industry practices to achieve compliance.