

**STATEMENT OF R. ALEXANDER ACOSTA
SECRETARY OF LABOR
BEFORE THE
COMMITTEE ON EDUCATION AND THE WORKFORCE
UNITED STATES HOUSE OF REPRESENTATIVES**

November 15, 2017

Chairwoman Foxx, Ranking Member Scott, and Members of the Committee, thank you for the invitation to testify today. It is an honor to appear before this Committee and to represent President Trump and the hard working men and women of the Department of Labor in reporting to you on our critical work.

This has been a remarkable year of growth for the American economy, American workers and job seekers, and American job creators:

- Since January 2017, the American economy has created nearly 1.5 million jobs.
- The unemployment rate has decreased from just under five percent to 4.1 percent, the lowest in 17 years.
- The number of open full-time positions in the American economy is at an all-time high of nearly 6.1 million—American job creators want to hire.
- The U.S. stock market has seen significant increases. The Dow Jones Industrial Average closed above 23,000 for the first time in history and has continued to increase—at the time this statement was prepared, the Dow Jones stands just over 23,500.
- Gross Domestic Product (GDP) grew at three percent for two consecutive quarters for the first time in more than two years.

Since becoming Labor Secretary, I have traveled across our nation regularly to meet Americans working and developing in-demand skills through apprenticeships across a number of different industries, to engage directly with the men and women in our field offices to hear about their work and learn what we can do better in Washington, D.C., and to meet and speak with stakeholders in labor, business, education, and the regulated public.

My travels have taken me to meet apprentices at the Ford Rouge facility where a new F-150 rolls off the assembly line every 49 seconds; the national training facility for the United Brotherhood of Carpenters; and the graduation program for dozens of steamfitters and pipefitters who worked hard learning to educate new apprentices to give them the tools to go back to their homes across the United States and educate others.

Throughout my travels, one thing is clear: our nation's greatest resource is the American workforce—the greatest workforce in the world. The Department is hard at work to increase employment opportunities for Americans of all abilities; enforce safe, healthy, and fair workplaces; promote strong benefits programs; and ensure that the Department's regulations make sense.

It is my pleasure to review some of our initiatives and accomplishments achieved during the first few months of this Administration in further detail.

Expanding Apprenticeships in America

It is fitting that I am before the Committee during National Apprenticeship Week. This week, companies, trade and industry groups, nonprofit organizations, unions, labor-management organizations, and educational institutions highlight how apprenticeships prepare American workers for the jobs of today and the future. In a few hours, I will travel to Maryland to visit a union training facility to see their Sheet Metal Workers Training Class first hand.

Today, there are 6.5 million unemployed Americans and 6.1 million job openings in our nation. American job creators want to hire and American job seekers want to work. Yet, we face a ‘skills gap’ – the difference between the skills job creators need and the skills job seekers offer, leaving too many jobs open. The Department of Labor is actively engaged to narrow, and ultimately close, the skills gap. Apprenticeships provide an opportunity to tackle this important issue and provide American job seekers with the opportunities to succeed in good, family sustaining jobs.

President Trump has made closing the skills gap a priority for this Administration and the Department. In June, President Trump signed the Executive Order on Expanding Apprenticeships in America. Since then, we have seen significant interest in apprenticeship programs across a range of industries. The Department is expeditiously implementing the President’s Executive Order.

This Monday, I hosted the inaugural meeting of the President’s Task Force on Apprenticeship Expansion. Members of the Task Force, including leaders from business, unions, educational associations, trade associations, and two governors, met to discuss how best to expand high-quality apprenticeship programs across all industries, especially those where apprenticeships are currently underrepresented.

The Department is now in the process of assisting trade and industry groups, companies, non-profit organizations, unions, and joint labor-management organizations to collaborate and formulate sector-by-sector standards to expand high-quality apprenticeship programs. These high-quality apprenticeship programs will be developed and certified by subject-matter experts who will be able to respond quickly to market changes to ensure their programs remain state-of-the-art. These industry apprenticeships will be nimble, responsive to technological changes, and able to adapt because the programs will not have to wait for the government to act.

The Department will continue to engage with stakeholders to identify strategies and proposals to promote apprenticeships, especially in sectors where apprenticeship programs are lacking or insufficient.

Fostering American Job Creation

Our nation's greatest resource is the American workforce and this Administration is focused on creating opportunities for all Americans. Consistent with President Trump's priority of creating jobs, more jobs, and even more jobs, this Administration is taking steps to create favorable conditions to foster job creation, review regulations, and identify and rescind unnecessary regulations.

American Job Creation Through Tax Reform

This Administration understands that the tax reform plans developed by the House and Senate are a job creation plans consistent with the unified tax reform framework. Both plans benefit Americans directly by lowering tax rates and simplifying our overly complex tax code. Moreover, they nearly double the standard deduction.

The tax plans benefits American workers and American job seekers by lowering taxes for American job creators of all sizes and structures and leveling the playing field with the rest of the industrialized world. Competitive tax rates allow businesses to compete, reinvest more of their profits in their workforce and equipment, and put more Americans to work in good, family-sustaining jobs as demand for their products and services grows.

The tax plans also includes provisions that foster investment in the United States by allowing American job creators to expense the cost of investments in depreciable assets like equipment. As businesses take advantage to make new investments, buy new equipment, open new production lines, American job seekers will be ready to work.

American Job Creation Through Regulatory Reform

The Department administers and enforces more than 180 federal laws. These laws and the regulations that implement these laws cover more than 150 million workers and 10 million employers. President Trump and I are committed to rolling back regulations that unnecessarily eliminate jobs, inhibit job creation, are unnecessary, or impose costs that exceed benefits. The Department is actively engaged in carrying out the directives in President Trump's regulatory reform Executive Orders.

The Department's Regulatory Reform Task Force is currently reviewing regulations to identify those that place an undue burden on employers with minimal impact on worker protections. The Department is committed to a regulatory reform process that protects our workers while reducing unnecessary, outdated, and ineffective regulatory burdens on the employers that eliminate jobs and inhibit growth.

As the Department approaches regulatory reform, we will adhere to two core principles: respect for the individual and respect for the rule of law. By necessity, rulemaking must be carried out in a deliberative manner guided by fidelity to the law. Public participation in the rulemaking process through notice and comment is vital. It ensures all Americans have an opportunity to express their views before a rule is promulgated or changed.

Below is an overview of the broad range of rulemaking the Department is currently engaged in:

Overtime Rule

The previous Administration's May 2016 overtime rule demonstrates how executive overreach negatively impacts American workers. The overtime rule had last been revised in 2004. Since then life has become much more expensive, and an update to the 2004 rule is certainly worthy of consideration. The way the rule was changed, however, created a shock to the system.

This summer, the Department published a Request for Information regarding the overtime rule. The comment period has since ended and the Department is reviewing more than 200,000 submissions it received. As we consider an update to the rule, we will listen carefully to the input of all Americans. As the Department determines how to proceed, changes will be grounded in law and informed by public comments.

Notably, also this summer, the U.S. District Court of the Eastern District of Texas declared the Overtime Rule invalid and held the salary level exceeded the Department's authority.

Persuader Rule

The regulation commonly referred to as the "persuader rule" was published in March 2016. This rule expanded the required disclosure under the Labor-Management Reporting and Disclosure Act (LMRDA) to individuals who provide labor relations and other services to employers involved in a union organizing election, but who do not engage directly with employees.

Among others, the American Bar Association opposed this rule based on its concerns that the rule improperly infringed on attorney-client privilege. This rule also led to litigation: in November of last year, the U.S. District Court for the Northern District of Texas issued a nationwide permanent injunction against the rule, while a U.S. District Court for the District of Minnesota upheld the rule against a facial challenge.

To allow the Department an opportunity for further consideration of the impact of the rule on regulated parties, the Department published a Notice of Proposed Rulemaking to rescind the rule. The comment period on the proposed rescission of the Persuader Rule closed in August. The Department is finalizing its review of the comments.

Fiduciary Rule

In February, President Trump directed the Department to examine the Fiduciary Rule to determine whether this rule adversely affects Americans' access to retirement information and financial advice, and to prepare an updated economic and legal analysis concerning the likely impact of the rule. As part of that ongoing analysis, the Department issued a 60-day delay of the April 10, 2017, applicability date, and further delayed certain requirements to

January 1, 2018. The Department also published a Request for Information which sought public input on the existing rule and on possible new and streamlined exemptions.

While continuing to review the comments, the Department proposed to delay the January 1, 2018, compliance dates to July 1, 2019, while its analysis continues. The Department expects the final rule will be published soon.

The Department continues to conduct the examination ordered by the President and review the comments received in response to the RFI. All of the Department's decisions will be informed by the public's comments and will be made in consultation with the Securities and Exchange Commission and other relevant regulators.

Tip Credit Rule

Although the Tip Credit Rule was placed on the Department's regulatory agenda, the rule is the subject of ongoing legal proceedings. For that reason, I am limited in what I can say on this subject. I did, however, want to address the Tip Credit Rule and provide a snapshot of where the litigation stands.

The 9th and 10th Circuits are currently split with regard to the Tip Credit Rule. The Supreme Court has two pending certiorari petitions to consider whether a Department regulation issued in the last Administration prohibiting an employer from establishing a mechanism to share front-of-the-house tips with back-of-the-house staff is valid where an employer does not take a tip credit against its minimum wage obligations under the Fair Labor Standards Act (FLSA).

Joint Employer and Independent Contractor Informal Guidance

This year, the Department rescinded informal guidance documents, including guidance on joint employment and independent contractors. The use of guidance instead of formal rulemaking to change rights and responsibilities deprives individuals of the opportunity to raise concerns through the notice and comment process. The joint employer guidance, for example, had a substantial effect on the franchise model and small business owners across this nation, yet this informal guidance was issued without any public process.

American Job Creation Through Occupational Licensing Reform

In 1950 only about one in 20 occupations required a license; today, more than one in four Americans require a license to work. Of course, there can be valid reasons for many licenses, particularly when they function to ensure consumer health and safety. Excessive licensing, however, hinders the American workforce.

Although the Department lacks the authority to mandate changes to occupational licensing statutes and regulation at the state and local levels, the Department is engaged with states to reduce artificial barriers created by occupational licensing when it makes sense to do so.

One group that faces particular challenges in this area is America's veterans and their spouses. Members of our armed forces develop varied skillsets during their service to our nation—some, for example, drive heavy equipment as their job: trucks, tanks, and MRAPs. When many veterans return home, however, they often find their skills and experience are not recognized by state-specific licensing requirements.

Military service often requires service members to relocate every few years. Military spouses serve with them. Yet, in some instances, state-specific licensing requirements force Americans to choose between their careers or their families.

We must reduce, streamline, and eliminate licenses that unnecessarily bar the entry of Americans into the workforce and which impair mobility. If licenses are unnecessary, states should eliminate them; if licenses are needed, states should streamline them; and states should consider honoring each other's licenses when it makes sense to do so.

American Job Creation Through Fair Trade

American businesses and workers abide by our nation's labor standards including: minimum wages, reasonable working hours and overtime standards, and occupational safety and health standards. When trading partners allow companies to fall short of agreed-upon labor standards, they produce goods more cheaply, hurting their workers and the American businesses that compete on the global market.

Consistent with President Trump's America First foreign policy, the Department's Bureau of International Labor Affairs (ILAB) is engaged in implementing the labor provisions of United States trade agreements and combatting child labor and modern slavery, this is an important policy goal and is also important so that American businesses and American workers compete on a level playing field.

ILAB's work also includes consulting with USTR in its negotiation of the labor provisions of trade agreements. At present, ILAB is working with USTR to renegotiate and improve the labor provisions of the North American Free Trade Agreement (NAFTA).

Health Reform

On October 12, 2017, President Trump signed an Executive Order asking the Department of Labor to consider new avenues to deliver quality, affordable health care to the American workforce. Americans deserve to have access to flexible, affordable options to provide for their families. Association Health Plans could offer small businesses the ability to pool together and decrease health care costs for their employees. Employers want to expand health care options and consideration of a path forward is one of our areas of focus at the Department.

Educating the American Workforce and Providing Greater Local Flexibility

As the Trump Administration works to create jobs, more jobs, and even more jobs, it is important to address the skills gap so that American job seekers have the in-demand skills to obtain and succeed in good, family-sustaining jobs.

The Employment and Training Administration (ETA) plays an important role in workforce education. ETA partners with states, municipalities, and community organizations, to administer employment and workforce education programs across our nation. Much of ETA's work is carried out through its grant-making and contracting authority, and related support and technical assistance to its contractors and direct program providers.

ETA's portfolio of programs and services is designed to develop a competitive advantage for American job creators, American job seekers, and American workers through, among other services: talent development; workforce education; apprenticeships; employment support services; and connecting American job creators with American job seekers to meet their workforce needs.

Since the passage of the Workforce Innovation and Opportunity Act (WIOA), the Department is working closer than ever with the Department of Education to align workforce education programs, plans, and performance requirements. I know this work is important to the Education and the Workforce Committee. Under WIOA, states now work off a single strategic plan and one set of performance measurements for employment and training activities to help better serve their citizens while also reducing administrative costs and burdens.

WIOA is just getting underway, and the Department is committed to helping state and local leaders implement the law as intended as well as provide the innovation and opportunity it promises. The law included provisions such as pay-for-performance contracting and career pathways planning which will allow leaders to try new approaches to the delivery of workforce development services, especially for those that have historically been the hardest to serve. It has also been encouraging to see most of our nation's Governors opt to keep the Temporary Assistance for Needy Families program as a required partner in the American Job Centers, seamlessly providing all families with the same employment and education services.

The Department recognizes its role in helping Americans develop the skills demanded by the jobs of today and tomorrow. Supporting our workforce includes maximizing our flexibility towards innovation and the dynamics of our workforce. We must also provide our partners the flexibility to administer resources efficiently and effectively, consistent with state and local needs. Doing so, with appropriate oversight and without unnecessary strings attached from Washington D.C., will deliver better services and results.

Finally, I would like to note that the Department is working on Chairwoman Foxx's request with regard to Job Corps and I expect to have a response shortly.

Supporting America's Veterans and Military Spouses

The Department continues to help America's veterans get back to work. The Veterans Employment and Training Service (VETS) administers five major programs to help meet the employment and education needs of veterans, transitioning service members, and eligible spouses.

VETS leads the Department's effort to recognize employers that recruit, retain, and employ veterans, and that offer charitable services in support of the veteran community through implementation of the Honoring Investments in Recruiting and Employing American Military Veterans (HIRE Vets) Act medallion program, signed into law by President Trump in May 2017.

Promoting the Interests of Working Women

Women's Bureau provides leadership on policies and initiatives that impact the more than 74 million women in the United States labor force. The Women's Bureau supports research and policy analysis to influence the development of policies and initiatives that promote the interest of working women. Women's Bureau will continue to work in collaboration with Department program agencies and other federal partners to provide policy guidance, including on initiatives such as apprenticeships and military spouses and occupational licensing, to support the needs of women and their families.

Fostering a More Inclusive Workforce to Drive Innovation

October was National Disability Employment Awareness Month. The Department is working to integrate individuals with disabilities fully into the labor force and to empower these Americans with the resources to succeed. The Office of Disability Employment Policy (ODEP) is helping employers connect to the skilled workers they need through its technical assistance centers and outreach efforts. For example, ODEP funds the Partnership on Employment and Accessible Technology (PEAT) which provides a free tool for employers to optimize online job applications. ODEP also connects employers and disabled skilled workers through its technical assistance centers, such as the Job Accommodation Network and the Employer Assistance and Resource Network on Disability Inclusion, and outreach efforts. This year's focus is on apprenticeships, return to work, veterans, and workers with autism.

As proposed in the Budget, ODEP intends to begin implementing new grants to test early intervention strategies designed to help workers who experience illness or injury remain at work or return to work as quickly as possible. The grant project is based on a Washington state program that found that participating workers are nearly 20 percent more likely to be working a year after their initial work absence and are 26 percent less likely to receive Social Security Disability Insurance after eight years.

Safeguarding Americans Through Compliance Assistance and Vigorous Enforcement

There is significant value in compliance assistance programs that help Americans understand their rights, responsibilities, and requirements under the law. Cooperation between the private sector and government yields strong results at a quicker pace and lower cost than adversarial enforcement actions. Parties acting in good faith should have the help of the government to do so and should not be penalized for reaching out for assistance.

As a former prosecutor, I know well the policy reasons for enforcement. Along with compliance assistance it is equally important to enforce the laws fully—and do so vigorously—to deter bad actors from willfully and repeatedly ignoring their responsibilities and requirements under the law.

The Department of Labor’s enforcement authority and responsibilities is most active in six agencies: Employee Benefits Security Administration (EBSA), Occupational Safety and Health Administration (OSHA), Office of Federal Contract Compliance Programs (OFCCP), Office of Labor-Management Standards (OLMS), Mine Safety and Health Administration (MSHA), and the Wage and Hour Division (WHD).

The Office of the Inspector General (OIG) has separate authority to initiate criminal actions—an authority that I have instructed agencies to consider in cases that merit criminal investigation.

Employee Benefits Security Administration

The Department’s Employee Benefits Security Administration enforces the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act (ERISA) and protects the security of retirement and health plan benefits and assets for almost all workers who have private-sector employer-sponsored plans. The Department protects more than 149 million workers, retirees, and their families who are covered by nearly 685,000 private retirement plans, 2.2 million health plans, and similar numbers of other welfare benefit plans sponsored by private-sector employers.

EBSA’s mission is carried out in a complex and evolving economic and regulatory environment. The retirement and health benefits security of workers, retirees, and their families continue to be significant factors in the overall financial security of the American public. EBSA’s enforcement activities include civil investigations, and criminal investigations for more egregious and repeat actions such as fraud, theft, or embezzlement, among others. With regard to civil investigations, EBSA field offices have significant latitude to achieve voluntary resolutions of ERISA violations when appropriate.

Earlier this month, the Department obtained a notable victory in the first case in which the Department exercised its authority under Section 521 of ERISA to issue cease and desist orders to prevent further marketing of a plan. In a case against AEU Holdings LLC and AEU Benefits LLC (collectively “AEU”), and Black Wolf Consulting Inc. for failure to pay more than \$26 million for participants’ health benefit claims in the AEU Holdings LLC Employee

Benefit Plan, the Department obtained a temporary restraining order protecting plan participants and beneficiaries. The Court appointed an independent fiduciary to oversee the Multiple Employer Welfare Arrangement (MEWA) and froze 14 bank accounts alleged to hold plan assets.

Since January of this year, EBSA recovered more than \$607 million dollars in enforcement actions and EBSA's criminal program resulted in 74 indictments. During the same time period, EBSA's Benefits Advisors recovered \$370 million dollars on behalf of participants and beneficiaries through informal dispute resolution, assisting 371,763 Americans. This represents just a portion of EBSA's work on behalf of plan participants and retirees.

Occupational Safety and Health Administration

The Department's Occupational Safety and Health Administration is tasked with reducing workplace injury and illness and improving working conditions for America's workforce. OSHA promotes safe and healthy work conditions for American men and women by setting and enforcing standards and conducting training, education, and outreach.

Enforcement plays a vital role in OSHA's efforts to reduce workplace injuries, illnesses, and fatalities. Yet, compliance assistance is a large part of OSHA's work to ensure employee safety.

OSHA's Voluntary Protection Program (VPP) is a robust cooperative compliance assistance program that prevents workplace fatalities, injuries, and illnesses by focusing on: hazard prevention and control; worksite analysis; training; and management commitment and worker involvement.

VPP is designed for employers and workers in the private industry and federal agencies that have implemented effective safety and health management systems, and maintain injury and illness rates below national Bureau of Labor Statistics averages for their industries. To participate in VPP, employers must apply, with union support for applicants represented by a bargaining unit, undergo rigorous onsite evaluation by safety and health professionals, and undergo re-evaluation every three to five years to remain in the programs. VPP participants are exempt from OSHA programmed inspections while they maintain their VPP status.

OSHA is currently examining VPP and reviewing public input as it considers changes to the program.

When employers fail to uphold their safety and health responsibilities, OSHA takes strong, decisive actions. OSHA's enforcement is driven, primarily by its workplace inspections and investigations.

In August 2017, I provided OSHA with blanket approval to hire OSHA Compliance Safety and Health Officers, streamlining the hiring process to bring new OSHA staff on board in an expedited manner to ensure that OSHA has the necessary personnel to carry out its important work.

In addition, OSHA's Whistleblower Protection Program enforces statutory whistleblower provisions to protect workers from discrimination or retaliation for reporting injuries, safety concerns, or other protected activity and, thus, preserves a framework that promotes disclosure of unsafe and dangerous work conditions.

As of November 2, 2017, 27,650 inspections have taken place in calendar year 2017 that found 44,482 violations.

Office of Federal Contract Compliance Programs

The Department's Office of Federal Contract Compliance Programs is tasked with holding federal contractors and subcontractors responsible for nondiscrimination requirements in employment based on race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran, affirmative action requirements to ensure equal employment opportunity, and prohibitions on discrimination for discussing, disclosing, or inquiring about pay.

In carrying out this mission, OFCCP utilizes a number of enforcement mechanisms along with voluntary compliance through compliance assistance tools, resources, outreach, and incentives. This year, OFCCP held compliance assistance listening sessions. Three major themes came from these listening sessions and OFCCP will work to address the concerns, including: enhancing and improving consistent communication; providing consistent training for contractors and OFCCP staff; and building trust and transparency into the process. OFCCP will continue this outreach and engagement by creating a comprehensive digital outreach strategy for improving engagement with contractors and other stakeholders, including new and small contractors, construction contractors, and supply and service contractors.

OFCCP is also changing its contractor and compliance officer training and education program to include program accreditation and closer collaboration with contractors when developing training. These and other planned changes should lay the foundation for addressing several of the concerns raised during the listening sessions.

Since January of this year, the Office of Federal Contract Compliance Programs (OFCCP) conducted 947 compliance evaluations. Of those compliance evaluations, there were 50 discrimination settlements thus far.

Office of Labor Management Standards

The Department's Office of Labor Management Standards is tasked with administering and enforcing most of the provisions of the Labor-Management Reporting and Disclosure Act (LMRDA). The LMRDA promotes union democracy and financial integrity in private sector labor unions through standards for union officer elections and trusteeships, and safeguards for union assets. The LMRDA also promotes transparency through reporting and disclosure requirements for labor unions and their officials, employers, labor relations consultants, and surety companies. OLMS enforces similar laws applicable to federal sector unions.

OLMS operates in both the civil and criminal areas. Civil investigations seek, primarily, to resolve violations that may have affected the outcome of union officer elections through agreements for corrective action. If, however, parties are not able to reach an agreement, the Department will file suit in federal district court to invalidate the challenged election and order a new election under OLMS supervision.

With respect to criminal enforcement, OLMS works alone or closely with other law enforcement agencies such as the Department's Office of the Inspector General, the Federal Bureau of Investigations, and the Internal Revenue Service, to vigorously pursue wrongdoers for criminal activities such as, among other things, defrauding unions.

OLMS makes available resources to labor unions, employers, and consultants to assist with their compliance requirements under the LMRDA.

From January 2017 through November 13, 2017, OLMS conducted 29 more election cases, 27 more criminal cases, and recorded 10 more indictments than the same period a year ago.

Mine Safety and Health Administration

The Department's Mine Safety and Health Administration is tasked with preventing death, illness, and injury from mining and promoting safe and healthful workplaces for United States miners. MSHA promotes safety and health through inspections and enforcement, stakeholder outreach, education and training, and improved regulations.

MSHA's enforcement strategy is grounded in the mandatory inspections it conducts at active mines in the United States and its territories. MSHA's enforcement mandate is essential to protect miners and advance a culture of safety and health in the mining industry.

Information is key to efficient and effective enforcement. In early 2018, MSHA will roll out an Inspection Application System to provide MSHA inspectors across the nation with lightweight, semi-rugged tablets and digital tools that will improve data accuracy and capture enhanced data as they document their findings.

Along with enforcement, the Department recognizes the benefits of compliance assistance. MSHA District enforcement offices work closely with the Educational Field and Small Mine Services department to identify industry needs and help mine operators develop and revise training, safety, and health programs to address the conditions and hazards specific to their mines. In June of this year, due to the presence of new and inexperienced miners in the field, MSHA refocused its compliance assistance program to provide safety training to individuals who entered mining or their current mining jobs in the prior 12 months.

I would like to take this opportunity to outline corrective actions taken with regard to MSHA's medical standards for its inspectors. Earlier this year, I learned that approximately 15 to 20 percent of MSHA's inspectors and technical personnel did not meet MSHA's

medical standards, and that the percentage had been increasing over the past several years. I directed MSHA to develop an effective, consistent, and equitable plan to address this issue. MSHA has completed the bargaining process with the employees' union regarding notification procedures and updated medical examinations are currently underway. As this process continues, MSHA will continue to be transparent, while mindful of privacy concerns, and will continue to work with stakeholders, including the employees' union, to keep all informed.

MSHA fulfilled its statutory mandate to inspect all underground mines four times per year and all surface mines twice per year which, combined with non-mandatory inspections, resulted in 80,734 citations and orders for conditions observed during 32,649 inspections through the third quarter of 2017.

Wage and Hour Division

The Department's Wage and Hour Division is responsible for ensuring compliance with, and enforcement of, some of the nation's most comprehensive federal labor laws, including minimum wage, overtime, and child labor laws. Collectively, these laws cover most private, state, and local government workers and protect more than 135 million workers in more than 7.3 million establishments throughout the United States and its territories.

Compliance assistance to American job creators is a significant part of WHD's proactive efforts to protect workers, prevent violations, and ensure compliance with federal labor laws. The goal is to help employers and employees clearly understand their responsibilities under the law, which allows employers to concentrate on doing what they do best: growing their businesses and creating jobs.

As part of its compliance assistance program, WHD publishes resources and training materials, engages and educates private and public stakeholders, and developed a series of online resources for employers. WHD conducts educational outreach seminars, conferences, speeches, symposiums, panel discussions, and presentations designed to educate and promote compliance.

When compliance assistance is insufficient to adequately protect workers, however, WHD employs the tools at its disposal to safeguard workers' rights and obtain due compensation for violations of the law. WHD enforcement actions may employ: investigations in high-violation industries or pursuant to complaints; litigation; collection of back wages and the use of civil monetary penalties; and, when appropriate, its "hot goods" authority to restrain the shipment of goods produced in violation of the minimum wage, overtime pay, child labor, or special minimum wage provisions of the FLSA.

Since January 2017, WHD has recovered more than \$225 million dollars in back wages for more than 197,000 workers—an average of \$1,145 per worker. From January through the end of September of this year, WHD closed 22,940 cases.

Providing Clarity to the Regulated Public

Throughout my discussions with American job creators, they have conveyed a consistent message: they value clarity. The regulated public deserves to know how an agency interprets its regulations. Earlier this year, I resumed WHD's longstanding practice of issuing opinion letters to inform requesters how the Department would apply the law to a particular set of facts.

The Department's guidance provides American job creators the ability to understand their responsibilities under the law under discrete sets of facts so they can concentrate on what they do best: growing their businesses and creating jobs.

Protecting American Workers and Temporary Workers by Confronting Visa Fraud

American workers and law-abiding employers that follow the rules set under nonimmigrant visa programs are at a competitive disadvantage when bad actors do not play by the rules and, at times, lives are at stake.

In June 2017, I directed the Department to protect American workers and guest workers by aggressively confronting nonimmigrant visa program fraud and abuse. WHD will use all available tools to civilly enforce the labor protections provided by the visa programs.

As part of this directive, I also instructed the Department's agencies to coordinate their administration and enforcement activities. Further, I directed the agencies to make referrals of criminal fraud matters in these programs to the Office of the Inspector General (OIG).

The Department's proactive coordination efforts extend to other government agencies. The Department is in the process of entering into information-sharing agreements with the Departments of Homeland Security, State, and Justice to support administrative, civil, and criminal actions against violators.

The Department is prioritizing and publicizing the investigation and prosecution of entities in violation of visa programs. In the first successful legal action of its kind, the Department obtained a preliminary injunction in the U.S. District Court for Arizona against G Farms for illegal and life-threatening housing provided to agricultural workers in the H-2A nonimmigrant visa program.

Unlike enforcement under the H-2B and H-2A temporary worker programs, the Department's investigative authority under the H-1B program is subject to considerable statutory constraints, limiting the Department's ability to investigate employer compliance with the H-1B program requirements and to hold employers accountable. To that end, the Department proposed changes to the H-1B Labor Condition Application and investigatory forms to better identify systemic violations and potential fraud and provide greater transparency. The initial comment period for these changes is now closed and the Department is working to finalize improvements.

The Department will continue to vigorously enforce the foreign worker labor certification laws under its jurisdiction.

Combatting the Opioid Crisis

The President rightfully declared the opioid crisis a public health emergency. The Department is committed to doing our part to combat the opioids crisis. Opioids are affecting how job creators hire, how job holders work, and how job seekers find family-sustaining jobs. This crisis is far-reaching and touches far too many Americans.

EBSA and the Office of Workers' Compensation Programs (OWCP) are the two agencies leading this important effort at the Department.

OWCP is implementing proactive measures to prevent the over-prescribing of opioids for injured federal workers and taking an aggressive approach to control medical provider fraud. OWCP now requires prior authorization and a letter of medical necessity for all new opioid prescriptions that extend beyond an initial grace period, and has imposed fill and re-fill prescription limits.

Opioid prescription guidelines were also issued for medical providers, and OWCP will monitor the over prescribing of opioids, billing patterns, and multi-party networks of interest using predictive analytics and risk metrics. OWCP is updating its computer resources and initiating steps to acquire a Pharmacy Benefit Manager to assist in these efforts.

Through its guidance on, and enforcement of, the Mental Health Parity and Addiction Equity Act (parity law, or MHPAEA), the Department ensures that employer-sponsored health coverage for mental health conditions and substance use disorders are in parity with medical/surgical benefits. EBSA enforces MHPAEA to ensure Americans receive the benefits they are entitled to receive in order to treat substance use.

Helping Americans Recover from Natural Disasters

This year, our nation has endured an active hurricane season with multiple landfalls and other large-scale natural disasters like wildfires in California.

The Department committed more than \$70 million dollars in grants to Florida, Georgia, Puerto Rico, Texas, and the U.S. Virgin Islands in the aftermath of this devastating hurricane season and provided much-needed regulatory flexibility and relief to hurricane survivors, including, among other efforts:

- assisting in administering Disaster Unemployment Assistance to those unemployed as a result of the hurricanes;
- temporarily waiving certain requirements and deadlines related to retirement plans and group health plans;

- coordinating with other federal agencies to allow workers to take loans and distributions from 401(k) and other retirement plans;
- temporarily suspending select federal contractor requirements; and
- temporarily easing reporting and other regulatory burdens on individuals, state and local leaders, and employers.

The Department continues to support and assist FEMA with hurricane recovery efforts through record levels of web traffic at DisasterAssistance.gov—the value of this cross-agency initiative is demonstrated by the fact that DisasterAssistance.gov received more than 29.6 million sessions, during which three million survivors (including small businesses), completed on-line applications for assistance from August 25 through the end of September of this year.

The Department continues to actively support efforts in affected areas. Notably, WHD has provided critical information and compliance assistance to nearly 50,000 individuals and employers in affected areas, and is conducting investigations to ensure workers receive the wages to which they are legally entitled and to ensure there is a level playing field for law-abiding businesses.

The Department also provided funds to California to help assess its workforce needs after the recent wildfires.

On a personal note, I want to recognize the character and spirit of the employees of the Department of Labor. The hardworking men and women of the Department of Labor donated more than 8,444 leave hours, or more than 1,050 days, and \$32,000 in gift cards to affected employees. FEMA originally requested 10 volunteers from the Department to support its recovery efforts; in response, more than 500 employees from across the Department applied. I am proud and humbled to lead a group of such extraordinary individuals.

Conclusion

In closing, I hope my statement today makes clear the depth and breadth of the Department of Labor's work and the initiatives underway at the Department. I hope my statement reflects the outstanding work and dedication of the men and women of the Department of Labor.

I appreciate the opportunity to discuss with you the important work the Department of Labor is undertaking in the short time since I became Secretary. I look forward to answering any questions that Members of this Committee may have.