

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington, D. C.

Definitions of employees engaged in "a bona fide executive, administrative, professional or local retailing capacity, or in the capacity of outside salesman" were issued today by Administrator Elmer F. Andrews of the Wage and Hour Division of the Department of Labor.

The definitions were prepared in consultation with the legal branch of the division, of which Assistant Administrator Calvert Magruder is the head.

Section 13 (a) (1) of the Fair Labor Standards Act exempts from its provisions the four types of employees described in the definitions issued by Mr. Andrews today.

The Administrator described a professional as "any employee who is customarily and regularly engaged in work predominantly intellectual and varied in character. . . requiring the consistent exercise of discretion and judgment both as to the manner and time of performance, as opposed to work subject to active direction and supervision, and of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, and based upon educational training in a specially organized body of knowledge as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, mechanical or physical processes in accordance with a previously indicated or standardized formula, plan or procedure, and who does no substantial amount of work of the same nature as that performed by non-exempt employees."

Both executive and administrative employees were defined jointly as anyone "whose primary duty is the management of the establishment, or a customarily recognized department thereof . . . and who customarily directs the work of other employees therein, and who has the authority to hire and fire other employees or whose suggestions and recommendations as to the hiring and firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight, and who customarily exercises discretionary powers, and who does no substantial amount of work of the same nature as that performed by non-exempt employees, and who is compensated at not less than \$30 (exclusive of board, lodging or other facilities) for a workweek."

An outside salesman was ruled to be "any employee who customarily performs his work away from his employer's place of business, who is regularly engaged in making sales (as defined in Section 3 (k) of the Act) . . . Recurrent regular deliveries shall not be considered sales, whether or not prior orders are placed by the purchasers."

The machinery set up for protesting any of these definitions is described thus:

"Any person wishing a revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them.

"If the Administrator believes that reasonable cause for amendment of the regulations is set forth, he will either schedule a hearing with due notice to the interested parties, or will make other provision for affording them an opportunity to present their views.

"In determining such future regulations, separate treatment for different industries and for different classes of employees may be given consideration."
