

U. S. DEPARTMENT OF LABOR
Wage and Hour Division
Washington

STATUS OF EMPLOYEES OF FARMERS' COOPERATIVES CLARIFIED

Employees of farmers' cooperative associations are not exempt from the wage and hour provisions of the Fair Labor Standards Act because of the cooperative nature of their employer or because of the fact that the employer is in an association composed of farmers, an interpretative bulletin issued by the Office of General Counsel Calvert Magruder of the Wage and Hour Division, U. S. Department of Labor, held today.

Employees of farmers' cooperatives, however, the bulletin pointed out, are only subject to the Act if engaged in interstate commerce or in the production of goods for interstate commerce, and if they are not entitled to exemption because the nature of their work is agricultural.

The bulletin explains the construction of the law which will guide Administrator Elmer F. Andrews in the performance of his duties of enforcement under the Act.

The Act exempts from both the wage and hour provisions thereof "any employee engaged in agriculture." Under this definition are included the employees engaged in practices performed by a farmer. Employees of a farmers' cooperative, however, are not engaged in "any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in connection with" farming operations.

"The phrase 'by a farmer' was intended to cover practices performed either by the farmer himself or by the farmer through his employees", the bulletin stated. "Employees of a farmers' cooperative, however, are not employed by the individual farmers who compose its membership or who are its stockholders, but by the cooperative association itself. Cooperative associations, whether in the corporate form

or not, are distinct, separate entities from the farmers who own or compose them. The work performed by a farmers' cooperative association is not work performed by a farmer, but for farmers. The legislative history of the Act supports this interpretation.

"Statutes usually exempt farmers' cooperative associations in express terms if an exemption is intended. The omission of an express exemption from the Fair Labor Standards Act is significant since many unsuccessful attempts were made on the floor of the Congress to secure special treatment for such cooperatives."