

Tuesday, February 27, 1940.

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

RECORD KEEPING REGULATIONS REVISED

Revision of the Wage and Hour Division's Regulations covering the place and period for keeping records required by the Fair Labor Standards Act of 1938, was announced by the Administrator today. The revision will eliminate the need for special authorization to keep records outside the State where the place of employment is situated. It is expected that the new Regulations will coincide with existing business practices.

The Fair Labor Standards Act requires every employer subject to any provisions of the Act or any order issued under the Act to "make and preserve records" showing the full name of the person employed, home address, date of birth if under 19, hours worked each workday and each workweek; regular rate of pay and basis upon which wages are paid; wages at the regular rate of pay for each workweek excluding extra compensation attributable to the excess of the overtime rate over the regular rate; extra wages for each workweek attributable to the excess of the overtime rate over the regular rate; additions to cash wages at cost, or deductions from stipulated wages in the amount deducted or at the cost of the item for which deduction is made, whichever is less; total wages paid for each workweek, and date of payment.

Prior to this amendment, the Regulations on the place and period for keeping records stated that the employer was to keep the required records within each State either at the place or places of employment or, where that was impracticable, within at least one of the employer's places of business within such State. It further provided that if the employer found it to be more desirable to keep the records at some central accounting or record keeping office located in a State other than the State where the place of employment was situated, a special authorization for such practice had to be secured from the Administrator.

Under the new Regulations on the place and period for keeping records, the special authorization procedure is eliminated. Two alternative means of compliance are opened to employers. Section 516.3 as amended and revised, now permits the employer to keep the required records either at the place or places of employment, or at one or more established central record keeping offices where such records are customarily maintained. Should the employer customarily keep the records at a central office, then, under the amended Section 516.3, he must maintain an additional brief record at the place of employment for each of his employees. Such abbreviated records are to contain but two items of information for each workweek for each employee, that is (1) total hours worked and (2) total wages paid. However, in order that such records can be identified with the appropriate employees, the Administrator points out that it will be necessary to indicate the name, address and occupation of the employee for whom each record is kept. In the cases of employees who are engaged in a bona fide executive, administrative,

professional or local retailing capacity, or in the capacity of an outside salesman, as defined in Regulations, Part 541, and who are therefore exempt from the Wage and Hour provisions of the Act, it will remain necessary to maintain a record of the name, address and occupation of each such exempt employee as required by Section 516.1 of the Record Keeping Regulations at the place of employment.

Complete records kept at the place or places of employment are to be kept safe and readily accessible for a period of four years. Should these records be kept at a central office other than at the place or places of employment and the abbreviated records kept at the place of employment, then the complete records shall be kept safe and readily accessible for a period of four years at the central office and the abbreviated records shall be kept safe and readily accessible for a period of two years at the place or places of employment. Under this latter alternative, the employer's representative at the place of employment is required to make available to the Division representative without delay the complete records maintained at a central office for any employee. The time within which the complete records shall be produced will, of course, be determined by the distance and time required to transport the records from the central office to the place of employment and other factors surrounding each particular instance.

The "additional" records, the Administrator pointed out, required at the "place of employment" where the complete records are kept at a central office will not require the maintenance of extensive files, shelves and drawers. These abbreviated records, the Administrator said, could easily be kept in a small book and kept current with little difficulty. Such records for 100 employees for two years can be maintained in a single note book of from 50 to 100 pages, he said.

The amended section, as announced by Administrator Jacobs and which goes into effect on February 27, 1940, reads as follows:

SECTION 516.3 -- Place and Period for Keeping Records

(a) Each employer shall keep the records required by Section 516.1 at the place or places of employment, or at one or more established central record keeping offices where such records are customarily maintained. Where such records are maintained at a central record keeping office, other than at the place or places of employment, the employer, in addition to the records required by Section 516.1, shall maintain a record for each employee of the total wages paid and total hours worked each work-week at the place or places of employment.

(b) All records required by Section 516.1 shall be kept safe and readily accessible for a period of at least four years after the entry of the record, and such additional records as are required by

subsection (a) hereof shall be kept safe and readily accessible for a period of at least two years after the entry of the record. All such records shall be open to inspection and transcription by the Administrator or his duly authorized and designated representative at any time. Where the records required by Section 516.1 are maintained at a central record keeping office, other than at the place or places of employment, such records shall be made available at the place or places of employment without delay upon reasonable advance notice from the Administrator or his duly authorized and designated representative.

The Administrator, in explaining the operation of the amendment, cited a hypothetical case:

"A large oil company with general offices in New York, maintains refineries, pumping stations, pipe lines and sundry plants in New Jersey and other states.

"An employee attached to the New Jersey refinery is temporarily transferred to a pumping station just over the State line into Pennsylvania.

"The oil company may choose to keep complete records at the New Jersey refinery, in which case it will not be required to maintain any additional records.

"However, since the oil company customarily keeps the complete records at an established central record keeping office in New York, it may continue to do so under the new Regulations without a special authorization from the Administrator. In such cases the Division, for administrative and enforcement purposes, will require that the additional, abbreviated records be kept at the New Jersey refinery. Thus the records need not follow the employee as he goes from one place of employment to another, from station to station, plant to plant, refinery to refinery, or pipeline to pipeline in one or more states."

Likewise in the instance of traveling employees who perform work over an extensive area such as bus and truck drivers, canvassers, route men, pipeline workers, telephone and power linemen, and others whose employment activities remove them from the confines of a particular office, plant, building or establishment, the Administrator pointed out that their complete records, or the additional abbreviated records, where the complete records are kept elsewhere at an established central record keeping office, will be required to be kept in the particular office, plant, building or establishment from which they are dispatched or temporarily assigned to other places of employment.

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