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U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

WAGE-HOUR LAW **NOT** TO AFFECT FARMERS,  
COLONEL FLEMING ASSURES IN NATIONWIDE BROADCAST

All farm labor is exempt from the wages and hours provisions of the Fair Labor Standards Act, Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, re-emphasized today in an address broadcast to the farmers of the country from Washington. Colonel Fleming spoke on the National Farm and Home Hour over a nationwide hookup of N. B. C. stations.

Colonel Fleming also explained the Division's interpretation of the "area of production" phrase in the Act, and described the efforts of the Division to arrive at a workable definition. He said the Division is reopening the matter and pointed out that he had instructed regional directors in agricultural States to make a careful study of the effects of the definition upon the farmer's livelihood.

"After six months in the Wage and Hour Division I have discovered that there also is a difference between what the Wage and Hour Law really is and what some people, including certain farmers, have been led to believe it is," Colonel Fleming said in part.

"Now, here are some things which the Wage and Hour Law does NOT do, despite anything you may have heard to the contrary:

"It does NOT regulate the working hours of the farmer's hired man.

"It does NOT specify the wages that must be paid to the farmer's hired man.

"It does NOT apply in any way to work done by a farmer on a farm, or to those working for the farmer on a farm.

"It does NOT apply to the farm wife's hired girl, or to the work that farm children do on the farm for their own parents, or to the berry pickers who come in at harvest time to work in the farmer's berry patch, or to the people he hires to help get in his hay, or to thresh his wheat on the farm.

"The status of these people hasn't been changed a bit. It is exactly what it was before the Wage and Hour Law was passed and signed by the President.

"Still, there are some people who say, 'Well, of course all that is true. We admit that the farmer's operations on his farm are in no way touched by the Act. But how about having to pay 30 cents an hour, and time and a half for over-time beyond 42 hours a week, to the people who work on the farmer's produce after it leaves his farm? Aren't those requirements somehow going to react to the detriment of the farmer?'

"Well, let's see what happens to the farmer's produce after it leaves the farm. His fruit and vegetables go to the canning factory, and what is it the law says about that? It says that for fourteen weeks in any one year, the man who runs the canning factory can work his employees any number of hours he chooses-- 200 hours a week if he can find that many--without paying them anything for over-time.

"Not only that, but all employees who are engaged in the first processing of milk, whey, skimmed milk, or cream, or in ginning and compressing cotton, or in the processing of cottonseed, or sugar beets, or sugar beet molasses, or sugar cane, or maple sap into raw sugar or syrup are exempt from the overtime hours provisions. Moreover, people employed in canning, packing, storing, ginning, handling, compressing, pasteurizing, drying, preparing in their raw or natural state of any agricultural or horticultural commodity within the area of production are exempt from both the minimum wage and overtime provisions.

"Can you think of anything the farmer raises that isn't seasonal and perishable, or that doesn't somehow or another come within some or all of these exemptions which Congress wrote into the law? I can't.

"True, these people doing canning or packing outside the area of production, must be paid not less than 30 cents an hour. But can any one seriously contend in these times that 30 cents an hour--less than the price of a pound of butter in

the cities--is too much?

"Congress did not define 'area of production;' it imposed upon the Administrator the duty of defining it. If you think it is easy I would like to see your own definition. Of course, there are some people who say that the whole United States is the area of production for anything grown or produced in the United States. If Congress had agreed with that proposition it would have said so, or rather it wouldn't have used the term at all. It would simply have exempted any operation, anywhere, performed on a horticultural or agricultural commodity and let it go at that. Since it did use the term, we can only conclude that it expected it to have some meaning, and that it intended that the Administrator should write a practical and workable definition to give it meaning.

"We seriously wrestled with that process, and we got the best advice we could from practical farmers, canners, lawyers, and economists, and we finally arrived at a definition which says that the area of production of an agricultural or horticultural commodity is within a radius of ten miles of the farm where the commodities are produced, excluding any city of more than 2500 inhabitants, and that any plant employing not more than 7 people and obtaining its supplies in the immediate vicinity is in the area of production. We couldn't believe that Congress intended us to say that a big grain elevator in Chicago, employing a hundred or more industrial workers, is within the area of production where North Dakota wheat is grown or that a canning factory in Baltimore is within the area of production of Michigan peaches.

"Of course, we were guided by what we understood the intention of Congress to be, so far as we could arrive at it from reading the debates in the House and Senate before the area of production phrase was inserted in the law, where such phrases as 'near a farm,' or 'in the immediate vicinity' or 'in a little town' were used over and over again.

"Naturally, we discovered that we could not write a definition of area of production that would satisfy everybody. No matter where the line is drawn, some people will be left on one side of it who think they should be on the other side of it. But not to have drawn the line at all would have been flagrant and open defiance of the expressed will of Congress.

"Now, so far as I am concerned, there isn't anything sacrosanct about our definition of the 'area of production.' Since a number of farmers and others have seen fit to disagree with it, we are perfectly willing to reopen the matter for further discussion. I have instructed regional directors of the Wage and Hour Division in the agricultural States to make a careful study of the effects of our definition upon the farmer's livelihood. They are already conferring with interested groups. In addition, our lawyers and economists in Washington are applying themselves to the problem.

"In my opinion, Congress intended to protect the farmer from any direct adverse effect on his market by the Fair Labor Standards Act. But it also intended to extend the benefits of that legislation to as large a number of industrial workers as possible. For my part, I am open to conviction, and it may well be that if we can make our definition more elastic we can eliminate many of the criticisms of the Act, especially those which originate in the agricultural areas, without reducing to any appreciable extent the number of persons receiving its benefits. I certainly hope so."

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