

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

STATUS OF FARM IMPLEMENT DEALERS UNDER WAGE-HOUR LAW

The employees of the typical dealer in farm implements are exempt from the 40-hour a week and minimum wage provisions of the Wage and Hour Law under an interpretation issued today by Thomas W. Holland, Administrator of the Wage and Hour Division. However, Mr. Holland warned that the Division may not consider sales of large heavy trucks of the type not purchased by the ordinary farmer or sales of road building equipment as retail sales.

In revising its Interpretative Bulletin No. 6 on the scope of the exemption of retail establishments in June, 1941, the Division announced that there would be further study of the business of farm implement dealers before a position was taken with respect to this trade. The Administrator's statement follows:

The typical farm implement dealer's establishment maintains on hand a stock of goods for sale to the farmer customer. Sales are made by sales clerks in the establishment and also by outside salesmen. In addition to selling (and servicing) farm implements and parts for farm implements, some farm implement establishments may also sell electrical appliances, hardware, feed, grain, seed, coal, gasoline, oil, and other miscellaneous articles.

The principal customer of the typical farm implement dealer, is of course, the farmer, although some sales are made to private consumers, to retailers for purposes of resale, and to business users other than farmers. The sale of a farm implement to a farmer and the sale of general merchandise to private consumers are considered by the Wage and Hour Division to be retail sales. On the other hand, sales for purposes of resale are not retail sales and in many instances sales to business users would also not be retail. The semi-annual dollar volume represented by the last two named types of sales, however, would ordinarily be only from 5 to 10 percent of the semi-annual dollar volume of the establishment's total sales.

Sales of farm implements are based on list prices, although a cash discount is customarily allowed. The ordinary farm implement dealer does not usually allow discounts for "quantity" purchases, but quantity purchases are themselves unusual.

Based upon these facts, the Division has expressed the opinion that in the ordinary case the farm implement dealer's establishment will qualify as a retail establishment under the exemption provided by Section 13(a)(2) of the Fair Labor Standards Act. Any establishment to be exempt under this section must derive more than 50 percent of its total dollar volume from sales in intrastate commerce.

In the case of some farm implement establishments, however, it appears that they derive a substantial percentage of their total gross receipts from the sale of items other than farm implements and general merchandise such as electrical appliances. For example, some such establishments do a large business consisting of the sale of large heavy trucks of a type not purchased by the ordinary farmer, or they may do a large business in the sale of road building equipment, etc. These establishments may not qualify for the exemption.

It is suggested that each farm implement dealer who may be in doubt as to his status under the Wage-Hour Law, study carefully the contents of our Interpretative Bulletin No. 6, dealing generally with the Section 13(a)(2) exemption. If thereafter he is still in doubt as to whether the exemption applies in his case, he may deem it desirable to communicate with the Wage and Hour Division, present all the facts covering his operations, and request an opinion.