U. S. DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

PR-104

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ENFORCEMENT STAYS CANCELLED

L. B. Schwellenbach, Secretary of Labor, and Wm. R. McComb, Administrator of the Wage and Hour and Public Contracts Divisions, today withdrew all orders and enforcement policies under which enforcement of the Wage-Hour Law and the Public Contracts Act was stayed for any of a variety of reasons.

The general withdrawal of these orders and policies published today (Tuesday in the Federal Register was announced as an over-all policy, pending further review of the full implications of the Portal-to-Portal Act of 1947, the two officials declared.

"In order to achieve the degree of certainty envisioned by the Portal-to-Portal Act we have taken this means to assure employees and employers that their future rights and liabilities under the two Acts will not be limited by enforcement policies adopted prior to the enactment of the Portal-to-Portal Act," they said.

They pointed out that while no accurate estimate can be made of the number of persons affected by this action, it will be comparatively small.

The Wage-Hour Administrator explained that during the eleven years under the Walsh-Healey Act and nine years under the Fair Labor Standards Act the Divisions had formulated a number of policies with regard to inspections, restitution of back wages, or enforcement procedures with respect to certain industries. These policies were adopted pending clarification by the courts, cooperative action by industrial associations, or pending further consideration of individual problems presented.

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In one type of situation, for example, tolerance periods were provided so that associations, working with individual members and in cooperation with the Divisions, could assist their membership in making necessary adjustments to bring them into full compliance with the Acts.

In some instances the Divisions had adopted policies of not making certain types of inspections, largely because comparatively petty matters were involved.

In each instance employees and employers were left free to test their own views in private litigation.

"During the period in which these policies were adopted," McComb said, "employees were free to bring their own suits, but the Portal-to-Portal Act, by making administrative practices and enforcement policies binding, has changed the official status of actions of this type. Therefore, these enforcement policies have been rescinded and the basic policy of universally strict enforcement is freed of qualification."

The text of the formal statement of the Secretary and the Administrator is as follows:

"In order to clarify at this time the practices and policies which will guide the administration and enforcement of the Fair Labor Standards Act of 1938, as amended, (52 Stat. 1060, 29 U.S.C. 201-219), and the Walsh-Healey Act, as amended, (49 Stat. 2036, 41 U.S.C. 35-45), as affected by the Portal-to-Portal Act of 1947, (Pub. Law 49, 80th Cong. 1st Sess.), the following policy is announced effective June 30th, 1947.

The investigation, inspection and enforcement activities of all officers and agencies of the Department of Labor as they relate to the Fair Labor Standards Act and the Walsh-Healey Act will be carried out on the basis that all employers in all industries whose activities are subject to the provisions of the Fair Labor Standards Act or the Walsh-Healey Act are responsible for strict compliance with the provisions thereof and the regulations issued pursuant thereto.

Any statements, orders, or ihstructions inconsistent herewith are rescinded."