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U. S. DEPARTMENT OF LABOR  
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Washington 25, D. C.

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ADMINISTRATOR RE-DEFINES COST OF BOARD, LODGING, OTHER FACILITIES UNDER FLSA

Issuance of a revised interpretative bulletin on compensation under the Fair Labor Standards Act as affected by payment of wages in "facilities" rather than in cash is announced by Wm. R. McComb, Administrator of the Wage and Hour and Public Contracts Divisions, U. S. Department of Labor.

The new bulletin, text of which appears in the Federal Register today, may under certain circumstances be controlling, as provided by the Portal Act of 1947, in determining the rights and liabilities of employers and employees in the courts. It takes the place of previous interpretative bulletins, releases, opinions, and other statements on this subject. It also makes available in one bulletin the general interpretations of the Administrator so as to provide a practical guide to employers and employees.

The revised bulletin, known as Part 777, contains the construction of the law which the Administrator believes to be correct and which will guide him in his duties until he is otherwise directed by authoritative court decisions or concludes, upon re-examination of an interpretation, that it is incorrect.

The new bulletin deals primarily with a section of the Fair Labor Standards Act—also known as the Wage and Hour Law—which permits and governs the payment of wages in other than cash. The term "wages" includes the "reasonable cost," as determined by the Administrator, to the employer of furnishing an employee with "board, lodging, or other facilities" when such items are customarily furnished.

"It appears to have been the clear intention of Congress to protect the basic minimum wage and overtime compensation required to be paid to the employee \* \* \* from profiteering or manipulation by the employer," McComb said,

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regarding the safeguards which control the payment of wages in other than cash. He emphasized, however, that nothing prohibits the payment of wages in "facilities" furnished either as additions to a stipulated wage or as items for which deductions from a stipulated wage may be made.

According to the bulletin, no limits are set on the amount which may be deducted for "board, lodging, or other facilities," either in nonovertime weeks or in overtime weeks, in which the employee works at time and one-half his regular rate for each hour beyond 40--provided these deductions represent no more than the reasonable cost of these facilities. "Reasonable cost," states the Administrator, "does not include a profit to the employer or to any person affiliated with him."

In addition, the bulletin sets forth the principles limiting the amounts which may be deducted in both overtime and nonovertime weeks if "facilities" are furnished at a profit, and the rules governing deductions for articles which do not qualify as "facilities," as, for example, tools, miners' lamps and dynamite caps.

The bulletin also points out that no deductions may be made for any tax or share of a tax which must, under law, be borne by the employer. Where, however, taxes are assessed against the employee, collected by the employer, and forwarded to the appropriate governmental agency, as is the case with social security taxes, for example, the deductions required by law may be made.

This bulletin may be obtained without cost from the Wage and Hour and Public Contracts Divisions, U. S. Department of Labor, Washington 25, D. C., or from any regional or branch office.

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