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U. S. DEPARTMENT OF LABOR
Wage and Hour and Public Contracts Divisions
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ENFORCEMENT POLICIES ANNOUNCED BY MCCOMB FOR SEVEN WAGE-HOUR LAW EXEMPTIONS

Adoption of enforcement policies applying to seven types of exemptions under the Fair Labor Standards Act was announced today by Wm. R. McComb, Administrator of the Wage and Hour and Public Contracts Divisions, U. S. Department of Labor.

Exemptions affected by the announcement are those which relate to: retail or service establishments; seamen; certain seafood and fisheries employees; certain carriers by air; street, suburban, or interurban electric railways and local trolley or motor bus carriers; switchboard operators on exchanges with less than 500 stations; and certain railroads and pipe lines.

The "retail or service establishment" exemption policy indicates the amount of nonretail selling or nonexempt servicing which the Administrator will deem to be "substantial" to disqualify an establishment for exemption as a "retail or service establishment." The policy provides a percentage test on an establishment basis, the Administrator viewing the exemption as lost when more than 25 percent of semiannual gross receipts are derived from nonretail selling or nonexempt servicing.

The enforcement policies for the six other exemptions also include a percentage test--on an individual as distinguished from an establishment basis--with respect to the amount of nonexempt work in which an employee may engage before the effect of the exemption is lost to his employer. For each of these, the enforcement policies provide that when "work of a nature other than that which characterizes the exemption" occupies more than 20 percent of the time worked by the employee during a workweek it will be considered "substantial"

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enough to defeat the exemption.

Both the establishment test and the individual employee tests follow approximately the same percentage figures which for many years have guided the Administrator in his enforcement policies for these exemptions.

All exemptions except that for certain railroad and pipe-line employees relieve employers from paying affected employees in accordance with the Wage and Hour Law's minimum wage and overtime provisions. The railroad and pipe-line exemption relieves qualifying employers from paying certain employees in accordance with the overtime provision, but provides no exemption from payment of the minimum wage.

Text of the enforcement policies is published in the Federal Register today, and copies of the policy statements by type of exemptions are available from the Divisions on request. The Administrator advises employers to consult with the Divisions when in doubt, to avoid penalties for unintentional violations.

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