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

Administrator Elmer F. Andrews, of the Wage and Hour Division of the U. S. Department of Labor, today (Wednesday) made the following statement:

With a congressional appropriation insufficient for minimum administrative needs, with a staff far from complete, and with many pressing problems of organization yet to be worked out, the Wage and Hour Division finds it physically impossible at this time to answer individually the hundreds of letters requesting interpretations of the law.

More immediately pressing is the duty of the Administrator to promulgate rules and regulations of various sorts, to devise procedures for numerous fact determinations, definitions, and classifications—all of which matters will be worked out and published at the earliest moment consistent with care and deliberation in draftsmanship. These regulations and procedures can not be drafted in a vacuum; it is necessary to consider their effect as applied to the diverse problems of very many industries.

Rules and regulations for the procedure of industry committees have already been published.

Rules and regulations are also required under Section 11 (c) prescribing the records which employers must keep; also under Section 14 with reference to learners, apprentices, messengers, and handicapped persons. Under Section 7 (b) (3) special treatment is accorded industries "found by the Administrator to be of a seasonal nature".

Under Section 3 (m) the Administrator must set up a procedure for the determination of the reasonable cost of board, lodging and other facilities customarily furnished the employee as part of his wages.

Under Section 13 (a) (1) the Administrator must define and delimit the terms, "bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman", to which classes of employees the benefits of the wage and hour sections do not apply.

The Administrator must define the phrase "area of production" for the purpose of applying Sections 7 (c) and 13 (a) (10). These are duties specifically put upon the Administrator, and the performances of which has legal consequences.

Beyond such matters, various questions of interpretations arise which will ultimately be for the courts to decide and as to which the Administrator has no power to make any binding ruling. Yet in the discharge of his administrative duties, the Administrator must often have to call upon the General Counsel for interpretations of the law. Though the Administrator has no power, by issuing such interpretations, to confer upon an employer an immunity from private suits for unpaid minimum wages or overtime compensation and double damages which employees may bring under the provisions of Section 16, nevertheless, since these interpretations have administrative importance, orderly procedure calls for their publication. Therefore, with caution as to the limited reliance that may be put upon them, the Administrator will occasionally issue interpretative bulletins setting forth opinions by the General Counsel rendered to the Administrator on matters of interpretation, provided the conclusions are felt to be sufficiently free from doubt.

As to individual inquiries presenting problems more or less peculiar to the inquirer, and not covered by any general interpretative bulletin, many of these inquiries are susceptible of answer without much difficulty and the Administrator will eventually undertake to answer them, subject to the physical limitations of the size of the staff. The extent to which the Administrator may go in this direction will no doubt be determined largely as a result of accumulating experience in administering the law. It must be made clear, however, that such answers as are given to these individual inquiries are subject to discount, (1) because they are based upon an ex parte and often meager statement of facts, and (2) are rendered without the benefit of argument by persons who may represent an interest conflicting with that of the inquirer; and the caution cannot be made too emphatic that such answers by the Administrator cannot confer upon an employer immunity from private suit by an employee under Section 16.

It is hoped that the larger part of individual inquiries will be decentralized and directed to our regional offices when established.