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U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
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The Wage and Hour Division of the U. S. Department of Labor has issued the following summary of its work to date and of the requirements of the Fair Labor Standards Act which goes into effect at 12:01 a.m. Monday, October 24:

The Fair Labor Standards Act, generally regarded as one of the most important pieces of industrial legislation in American history, goes into effect at midnight tonight.

It will directly affect 11,000,000 workers--those engaged in interstate commerce--and, according to the best available estimates, will raise wages for 750,000 men and women, and shorten hours for twice that number.

These figures may be revised radically as the law becomes operative and its provisions become more sharply defined and its coverage more accurately measured.

Provisions of the law which become effective in later years, or as a result of the functioning of representative industry committees of employers, employees and the public, will substantially increase the number of workers directly benefiting by improved labor conditions.

Purchasing power and employment will thus be elevated in many sections of the country, with a consequent stimulation of business generally.

Elmer F. Andrews, Administrator of the Wage and Hour Division of the Department of Labor, who is charged with enforcing the Act, has expressed confidence that the various States quickly will enact parallel legislation so as to bring intrastate commerce in line with the provisions of the Fair Labor Standards Act. Meantime, he warns that where States have minimum wage and maximum hour laws with standards higher than those of the Federal statute, the State laws will prevail.

Briefly, the Fair Labor Standards Act--passed in the closing days of the last session of Congress, four months ago--thus provides a "floor for wages and a ceiling for hours":

"Section 7(a) No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce--

"(1) for a workweek longer than 44 hours during the first year from the effective date of this section,

"(2) for a workweek longer than 42 hours during the second year from such date, or

"(3) for a workweek longer than 40 hours after the expiration of the second year from such date

"unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

"Section 6(a) Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates--

"(1) during the first year from the effective date of this section, not less than 25 cents an hour,

"(2) during the next six years from such date, not less than 30 cents an hour,

"(3) after the expiration of seven years from such date, not less than 40 cents an hour, or the rate (not less than 30 cents an hour) prescribed in the applicable order of the Administrator issued under Section 8 (wage orders), whichever is lower, and

"(4) at any time after the effective date of this section, not less than the rate (not in excess of 40 cents an hour) prescribed in the applicable order of the Administrator issued under Section 8."

Specific exemptions are provided for employees engaged in administrative, executive, professional, local retailing or outside salesman capacities; employees of retail or service establishments "the greater part of whose selling or servicing is in intrastate commerce"; seamen, fishermen, agricultural workers; employees of air, streetcar or bus lines; employees of weekly or semiweekly newspapers with a circulation of less than 3,000, "the major part of which circulation is within the county where printed"; any "individual employed within the area of production (as defined by the Administrator)", engaged in handling agricultural, horticultural or dairy products.

It is also provided that the hours section shall not apply to "any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service."

Exemptions are to be made "to the extent necessary to prevent curtailment of opportunities for employment"--by orders or regulations of the Administrator--to provide for employment of learners, apprentices, messengers and handicapped persons, under special certificates.

That the entire country is tremendously interested in the new law is evidenced by the huge volume of requests for information received at the Division's headquarters in Washington. To date, it is estimated that at least 25,000 such requests have come by mail, 15,000 by telephone and an additional 5,000 in person. On some days the telephone queries alone have averaged nearly 1,000.

Many of these seekers for information represent organizations with memberships of several thousand.

The Information Branch of the Division now has a growing mailing list--all by request--totaling 3,000. There have been tens of thousands of printed copies of the law distributed, and 5,000,000 copies of a printed pamphlet interpreting the law in layman's language have practically been exhausted.

Industry throughout the country generally has shown a heartening desire for compliance with the Act. In response to isolated reports of employers preparing for deliberate evasion, Administrator Andrews issued a statement warning that fair employers would be promptly and effectively protected from such "chiseling", and called attention to Section 16, which provides:

"(a) Any person who willfully violates any of the provisions of Section 15 (prohibited acts) shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both . . .

"(b) Any employer who violates the provisions of Section 6 (minimum wages) or Section 7 (maximum hours) shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, and in an additional equal amount as liquidated damages."

Administrator Andrews, whose interest in the plight of underprivileged workers arose out of his experience as an engineer specializing in compensation insurance, was appointed by President Roosevelt on July 15, 1938, and assumed office one month later. At the time of his appointment, he was Industrial Commissioner of New York State, chief executive of the New York State Department of Labor.

He set out immediately to build up an organization which would administer fairly and effectively the most ambitious single piece of industrial legislation ever enacted by the Federal Government. In this, his engineering training is noticeable. Congress had given him a law to administer. He essayed to do that as quietly and expeditiously as possible.

Mr. Andrews was born in New York City on November 22, 1890, the son of Frank H. and Lillian Andrews. He was graduated from Rensselaer Polytechnic Institute in 1915, with a degree in civil engineering. During the World War he was a lieutenant and pilot in the Army Air Corps. He was married in 1913 to Ruth M. Reed. They have three children--William, Jean and Daphne.

As an engineer, Mr. Andrews' activities ranged from construction of railroads and warehouses to the planning of highway systems, parks and playgrounds. After several years as a construction and estimating engineer for various American railroads, he became manager of the Highways and Bridges Bureau of the Queensborough Chamber of Commerce.

His interest in legislative means for improving the lot of industrial employees developed some years ago when he became associated with the Compensation Insurance Rating Board and with the Compensation Insurance Department of the Maryland Casualty Company.

He is a member of the Society of Professional Engineers and of the Association of Municipal Engineers. He also belongs to the Blue Lodge of the Ancient Free and Accepted Masons and the Delta Tau Delta fraternity.

The Administrator selected a small group of assistants to help him organize for the strenuous and responsible task of launching the Fair Labor Standards Act.

As Deputy Administrator, he chose Paul Sifton, who was Administrator of the New York Unemployment Insurance law, and a former Deputy Industrial Commissioner of New York State. As administrator of that law, Mr. Sifton directed expansion of the New York State employment service from 10 to 224 local offices, an increase of the division staff from 2,400 to 5,000.

A former newspaperman and magazine writer, who attended the University of Missouri and the London School of Economics and Political Science, Sifton was on the staff of the New York World eight years in various editorial capacities. He also served several years with the United Press Association and newspapers in Des Moines, Chicago and other cities. During the war, he served in the Sixth Field Artillery, First Division.

For the difficult and trying post of General Counsel of an organization administering a new law, Mr. Andrews selected Calvert Magruder, former General Counsel of the National Labor Relations Board, and professor of law at Harvard

Law School since 1920. Mr. Magruder was secretary to Supreme Court Justice Brandeis in 1916-17, and later served as a lieutenant of infantry in the World War. Immediately after the war, he was an attorney for the United States Shipping Board.

As Assistant Administrator in charge of Cooperation and Enforcement, Mr. Andrews chose Major Arthur L. Fletcher.

Major Fletcher was elected Commissioner of Labor of North Carolina in 1932. He has been active in State labor work and has cooperated nationally in improving industrial standards. He is a major and judge advocate general of the staff of the North Carolina National Guard.

For Assistant Administrator in charge of the Information Branch, Harold D. Jacobs, managing editor of the Santa Barbara (Calif.) News-Press, was chosen. Mr. Jacobs has been in the newspaper business 30 years, 17 of which were served in the Scripps-Howard organization. He was New York manager of the United Press, managing editor of the Washington News, co-founder and editor of the Baltimore Post and editor of the Pittsburgh Press.

The post of Assistant Administrator in charge of Wage and Hour Standards, responsible for the industry committees which will recommend wage schedules by industries in an effort to raise minima as close to 40 cents an hour as possible in the next few years, is not yet filled.

Two of the important men already serving in this branch are Burton E. Oppenheim, Acting Director of the Industry Committee Section, who formerly was a Deputy Administrator of N.R.A., and Carroll R. Daugherty, Chief Economist of the Division, a former professor of economics at the University of Pittsburgh. He was a member of the Minimum Wage Board for the laundry industry of Pennsylvania, serving as a public representative.

As secretary to the Administrator, Mr. Andrews chose Miss Eugenia Pope, formerly secretary of the International Institute of Statistics at Athens, Greece.

Immediately prior to her appointment, Miss Pope, a native of Evanston, Illinois, was technical aide to Administrator John D. Biggers of the Unemployment Census. During her sojourn in Greece, she founded the first hospital for crippled children in that country.

The entire force, including clerical employees, now totals less than 100 men and women. This inadequate personnel is necessitated by the small appropriation provided to put the Act into effect--only \$400,000, of which \$50,000 was allotted to the Children's Bureau, entirely independent of the Wage and Hour Division. Not only must salaries be paid out of this sum, but office rent, office equipment, traveling expenses, supplies (including printing), expenses of industry committees, etc. All employees of the Division are employed under civil-service regulations.

One of the greatest items of expense will be the establishment and maintenance of 12 regional offices, following the plan of the Social Security Board. These regional offices will supervise enforcement activities, with the assistance of field offices located in the various States. Each regional headquarters is to be staffed with a director, an attorney and such other persons as are necessary to handle complaints of non-compliance, requests for information or interpretation, and for application of the law to local problems.

Although operation of these offices is vital to proper administration of the Act, Mr. Andrews, operating carefully within the curtailed budget, contemplate initial installation of not more than four area offices, covering broadly the far West, with headquarters in San Francisco, the Middle West, with headquarters in Chicago; the Southeast, with temporary headquarters in Washington, and the Northeast, with headquarters in Boston. All field work will be directed temporarily from these four points, pending receipt of additional funds.

The public, particularly that portion represented in industry, has besought specific information as to what businesses are directly affected, what are wholly

exempt and what are "border-line" cases. Unfortunately, the Administrator has not been in a position to supply such information promptly. Within the last few days, however--as fast as the General Counsel's office can interpret the law--Mr. Andrews has issued a series of regulations and definitions.

First, the Administrator published an interpretative bulletin on the coverage of the Fair Labor Standards Act which emphasized that the final determination of the application of the law to any particular employer or employee would depend on the Federal Courts.

"Under the Act, employments are included or excluded by the terms of the statute itself as interpreted in the Courts and not by the force of any administrative action", the bulletin said.

It pointed out that, where interpretations are announced by the Administrator, they serve to indicate merely the construction of the law which will guide him in performing his duties.

The Administrator declared that "apart from certain specific exemptions enumerated later in the statute, Congress intended the widest possible application of its regulatory power over interstate commerce; and the Administrator, in interpreting the statute for the purpose of performing his administrative duties, should properly lean toward a broad interpretation of the key words 'engaged in commerce or in the production of goods for commerce.'"

The law thus applies typically--but not exclusively--to employees in the telephone, telegraph, radio and transportation industries, and employees engaged in the interstate distribution of goods, such as some warehouses. The majority of workers covered by the law will be employed in manufacturing, mining, processing or distributing plants where the goods produced move in commerce out of the State in which the plant is located.

This same bulletin announced the Administrator's interpretation that the statute applies "to such employees as maintenance workers, watchmen, clerks,

stenographers and messengers, all of whom must be considered as engaged in processes or occupations 'necessary to the production' of the goods."

The Act does not cover plants where the employees process raw material derived from within the States and where none of the products move in interstate commerce. "This is true, even though the product. . . comes in competition with similar products which have been manufactured elsewhere and have been moved in interstate commerce."

Homework, one of the worst forms of industrial exploitation, was not allowed to escape the minimum wage application, and the policy was stated that employees otherwise coming within the terms of the Act are entitled to its benefits whether they perform their work at home, in the factory or elsewhere.

In another interpretative bulletin, the Administrator declared the Act applies within the District of Columbia and the territories, on the same basis as within the States.

A third interpretative bulletin dealt with requirements of the Act in the payment of overtime for work after 44 hours a week; a fourth with "the reasonable cost of board, lodging and other facilities" in figuring wage rates, and another on overtime compensation.

The Act requires the Administrator to issue a large number of regulations. The first of these to be issued set up a procedure for operation of the industry committees which are to be appointed by the Administrator to recommend the highest minimum wages which will not substantially curtail employment.

Other regulations set up methods by which, under Section 14, learners, apprentices, messengers and handicapped persons could be employed at rates less than those otherwise required by the law. Temporary provision was made for employment of apprentices and handicapped workers in advance of administrative action, on individual applications.

Among the exemptions which Administrator Andrews was called upon to define were those for persons employed in bona fide executive, administrative, professional or local retailing capacities, or as outside salesmen.

Other regulations covered:

Defining the term "area of production", which must be determined for proper application of certain exemptions; a procedure for determining what industries are of a "seasonal nature", and therefore permitted to work up to 12 hours a day and 56 hours a week before the overtime pay rate becomes effective; determining the "reasonable cost" of furnishing employees with board, lodging or other facilities necessary in many cases in the computation of wages paid; and records which employers must keep to show compliance with the law.

All these regulations, of necessity, cover broad general lines.

The Administrator will appoint various industry committees, the function of which is to raise the national floor of wages as rapidly as is economically feasible without substantially curtailing employment, with the objective of a universal minimum wage of 40 cents an hour in each industry engaged in interstate commerce, or in the production of goods for interstate commerce.

These committees, composed equally of representatives of employers, employees and the public, will be convened from time to time to consider and investigate conditions in their industries. After such consideration, they are required to recommend to the Administrator the highest minimum wage rates (up to 40 cents an hour) which they determine, having due regard for economic and competitive conditions, but without making any classification on the basis of age or sex, or purely geographical location, will not substantially curtail employment in the industry.

The committees will file recommendations with the Administrator, who will then hold a hearing at which interested persons may be heard. He can approve or

disapprove the recommendation on the basis of evidence received by him. If he approves, the recommendation becomes a wage order which applies a minimum wage to the industry.

Section 10 of the Act provides:

"Any person aggrieved by an order of the Administrator. . . may obtain a review in the circuit court of appeals of the United States. . . by filing in such court within 60 days after the entry of such order a written petition praying that the order be modified or set aside, in whole or in part. . ."

If the Administrator disapproves, he may refer the matter back to the same committee, or leave it to a new committee, but he may not make a wage order which departs from the recommendation of an industry committee.

The first of such committees to be formed is that for the textile industry, which is headed by Donald M. Nelson, vice-president of Sears, Roebuck and Company. It consists of seven representatives each of employers, employees and the public.

This committee is now engaged in investigating the status of the cotton, silk and rayon branches of that industry, for which it plans to make a minimum wage recommendation within the next three or four months. It has arranged for representatives of trade associations and labor organizations, and for interested individuals, to present information and evidence.

A similar committee for the apparel industry is now in process of formation and committees for the tobacco and the boots and shoes industries are expected to be organized when sufficient funds are available.

Administrator Andrews has made it plain that he does not regard the law as a lash over industry, or himself as a governmental Simon Legree. On various occasions he has said that enforcement of the Fair Labor Standards Act is in the hands of businessmen and their employers; that the Division will depend upon citizens to make this law work, rather than on an army of inspectors from Washington.