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U. S. DEPARTMENT OF LABOR
Wage and Hour and Public Contracts Divisions
165 West 46th Street
New York, N. Y.

Chicago, May 10 - How the growing trend toward adoption of annual wage or annual employment plans in American industry is encouraged through provisions of the Fair Labor Standards Act was pointed out here today by L. Metcalfe Walling, Administrator of the Wage and Hour and Public Contracts Divisions of the U. S. Department of Labor, before the biennial convention of the Upholsterers' Union of North America.

Before adopting annual wage or employment plans, employers seeking steady production and employees seeking security of income and employment should study Section 7 (b)(2) of the Act which Congress intended as encouragement to such plans, Mr. Walling declared.

"It is comparatively simple for employers to comply with this section which exempts employees from the overtime provisions of the Act, but at the same time certain simple requirements must be met before an annual wage or employment plan can qualify for the exemption provided under the annual wage provision of the Act," Mr. Walling said.

Tests which must be applied to such plans under Section 7 (b)(2) of the Act were outlined by Mr. Walling as follows:

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1. Each employee for whom the overtime exemption is to be taken must be employed on "an annual basis" with a guarantee of either a fixed annual wage at a specified amount or annual employment at his regular rate of pay.

2. In keeping with one of the basic purposes of the Fair Labor Standards Act, to spread employment by requiring premium pay for time worked over 40 hours a week, the worker employed on an annual basis may not be required nor even permitted to work more than 2080 hours in any 52-week period unless his employer is willing to lose the overtime exemption. For example, if by November 1 a worker employed on an annual basis, has worked 2080 hours since January 1 of that year, he may not be employed by the same employer during the last two months of the year unless his employer compensates him at time and one half the regular rate of pay for all hours over 40 worked in any of the preceding weeks of the year, as well as for overtime hours during the last two months.

3. Even though the annual limit of 2080 hours is not exceeded, any employee who works on an annual wage basis must be compensated at time and a half his regular rate for all hours over 12 in any day or 56 in any workweek.

4. The guarantee and terms of employment on an annual basis must be provided for in a collective bargaining agreement with the employee representatives certified as bona fide by the National Labor Relations Board.

5. Since the exemption, the guarantee, and the hours limitation are all on an individual employee basis, it must be clear from the agreement which employees are subject to the annual wage provisions.

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