Research prevents costly mistakes. This shows injury to putting green turf from misapplied heavy rates of sulphur.

functions, doesn't take care not to overlap, drives too fast or too slow, isn't careful to shut off the equipment when making his turns—even the safest research recommendation could result in a risk beyond repair. There have been recommendations that country clubs re-examine their hiring policy; hire fewer people at higher wages to assure a staff of reliable and competent workers.

Intensive management of turfgrasses, where perfection is the goal, means that you must keep diseases under control, insects from foraging the beautiful carpet of green, and weeds suppressed. Great strides have been taken in these areas. Dollar spot, brown patch, cutworm, sod webworm, chinch bugs, dandelion, plantain, knotweed, clover, Japanese beetles and other grubs are no longer major problems.

More recently we've made gains on problems that appeared insurmountable just a few years ago. *Poa annua,* silver crabgrass, *Pythium Fusarium,* and the *Hyperodes* weevil now can be controlled.

We are making headway on problems of thatch, Fairy Ring, spring dead spot, winter hardiness and problems related to winterkill, in improved grasses, and especially with an eye towards grasses that enhance golf. Research is working to produce grasses that do not die of winterkill, dwarf types that can be mowed closely, disease- and insect-resistant grasses, drought-tolerant species, shade-tolerant grasses, in fact, grasses that will be made to your specification. There is more golf-oriented research going on today than ever before, and this can only result in handsome dividends for golfers. Research, indeed, is stretching the budget dollar in the direction of better turf for better golf.

Department of Labor Workplace Standards

by **FRANK B. MERCURIO** Regional Administrator for Workplace Standards

We have always found in the United States Department of Labor that the basic instrument in the enforcement of laws is the goodwill of the employers affected by those laws. The Fair Labor Standards Act, better known as the Federal Wage and Hour Law, is among the laws administered by the Labor Department, and recent amendments to this law affect the Member Clubs of the United States Golf Association.

The Fair Labor Standards Act was passed in 1938, and it has undergone many revisions.

In applying the Act to any situation, the first consideration is coverage. Before 1961 the Act's coverage extended only to employees who, on an individual basis, were engaged in interstate or foreign commerce, or in the production of goods for such commerce, including any closely related process or occupation directly essential to such production.

Thus, private clubs engaged in the operation or maintenance of golf courses might have had employees, such as telephone operators handling interstate calls, office employees producing, sending or receiving interstate mail, and employees transmitting, ordering or receiving materials, supplies or equipment from outside the state, who were individually covered. They continue to be covered under the Act as amended. Maintenance and custodial employees performing work closely related to the interstate operations of their employer are also covered on this basis.

The Act applies on an enterprise basis to the golfing and other facilities of private mem-

bership clubs not open to the general public, or privately operated clubs which are open to public patronage, which have two or more employees engaged in interstate commerce, or the production of goods for interstate commerce. This includes employees handling, selling or otherwise working on goods that have been moved in or produced for commerce by any person, and where the enterprise has an annual gross volume of business of $250,000 or more, exclusive of excise taxes at the retail level which are separately stated.

In connection with this dollar volume test, the Act has defined enterprise to mean "the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities, whether performed in one or more establishments by one or more corporate or organizational units."

If the enterprise coverage conditions are met, all employees in the enterprise are covered, whether or not they are individually covered by their relationship to interstate commerce.

Questions have arisen as to whether golf professionals, operating facilities at a golf club, are independent contractors of the kind excluded from enterprise coverage by Section 3(r) of the Act, or whether their activities must be included as part of the enterprise. In this regard, it has been concluded that not only are the activities of the golf professional not excluded from the enterprise, but his employees would be covered under enterprise coverage to the same extent as other employees of the golf club.

In computing gross annual volume of business you must count such receipts or items as initiation fees, charges for use of club facilities, food and beverage sales or charges, athletic or sporting rental fees, fees paid by members to club professionals, lodging and valet charges, and pro-shop sales and income.

There is an exemption provided in Section 13(a)(2) of the Act from minimum wages and overtime pay for employees of a "retail or service establishment." A retail or service establishment is one wherein at least 75 per cent of annual sales or services are not for resale and are recognized as retail in the industry, whose sales made within the state amount to more than 50 per cent of such dollar volume, and which is not a part of a covered enterprise or, if in such an enterprise, has less than $250,000 annual dollar volume of sales exclusive of specified taxes. This exemption may apply to employees of a golf club establishment which is open to the general public, but does not apply to any select membership private club.

The Section 13(a)(3) exemption from the Act's minimum wage and overtime pay requirements may also be applicable to a golf course establishment which meets the specific tests of seasonality of that Section, and which is used by the public for its amusement or recreation.

To qualify for this exemption, a golf course must be open to the general public, must operate for no more than seven months of any calendar year, or during the preceding calendar year its average receipts for any six months of such year were not more than one-third of its average receipts for the other six months of such year.

Another exemption of interest to you is provided for bona fide executive, administrative, and professional employees under Section 13(a)(1). This exempts from both minimum wage and overtime those employees who meet the tests set forth in Regulations, Part 541.

Briefly, the primary duty, amount of discretion and independent judgment exercised, degree of responsibility, amount of time spent in non-exempt work, and salary, determine whether or not an employee qualifies for exemption as an executive or administrative employee. Compensation on a salary basis at a rate of $115 to February 1, 1971, then $125 or more a week exclusive of board, lodging, or other facilities is required for exemption.

The tolerance for non-exempt work is limited to 20 per cent generally; in a retail or service establishment it must be less than 40 per cent. If such an employee spends less than the permitted percentage of his work week in non-exempt work, such work does not disqualify him for exemption under the special provisions of the Act and the Regulations which apply to bona fide executive and administrative employees.

A professional's primary duty must be the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction and study, and whose work requires the consistent exercise of discretion and judgment in its performance. There is a 20 per cent tolerance for work not an essential part of and necessarily incident to his primary responsibilities, and payment on a salary or fee basis of not less than $130 to February 1, 1971, and then $140 per week is required.

There are shortened duties tests for executive, administrative and professional employees paid on a guaranteed salary basis of at least $175 until February 1, 1971, and then

$200 per week. These standards are all spelled out in Regulations, Part 541.

The Act contains five major requirements: minimum wage, overtime, record-keeping, child labor, and equal pay.

The minimum wage, since February 1, 1968, has been $1.60 per hour for non-exempt employees individually covered because of their relationship to interstate commerce, and for all employees who are enterprise covered because the enterprise in which they are employed meets the $1,000,000 annual dollar volume tests.

Employees in employment not covered before the effective date of the 1966 amendments who are employed in an enterprise meeting the $250,000 test or in connection with the golfing facilities of a privately or publicly operated hospital, school, or residential care institution described in Section 3(s)(4) of the Act are entitled to a minimum of $1.45 per hour, unless specifically exempt, and $1.60 on February 1, 1971.

It should be pointed out that tips or gratuities paid to employees by a third person such as a member of the golf club, may be counted as wages to the extent permitted under Section 3(m) of the Act, as explained in Section 531.50 of our Regulations, Part 531.

Certificates authorizing payment of less than the minimum wage, usually 75 per cent of the applicable minimum wage, can be secured from regional offices of the Wage and Hour Division for handicapped workers or student learners employed as part of a bona fide vocational training program.

Insofar as caddies are concerned, a golf course operator would be required to pay the caddies in accordance with the monetary requirements of the Act only if they are his employees within the meaning of the Act's definitions, as interpreted by the courts. Although the courts have established general guidelines for determining the existence of an employment relationship under the definitions of the Act, they have not, to our knowledge, dealt with the application of these guidelines to a factual situation involving the relationship between caddies and golf course operators or any comparable situation.

Caddies are engaged to serve particular players exclusively for substantial periods of time, and their services are generally directed by and for the benefit of the player himself, who is ordinarily expected to pay in one way or another for the service they provide. The compensation arrangements undoubtedly differ in accordance with the policies adopted at particular playing courses, as does the nature and extent of control by the course operator over the activities of the caddies. Control, in any event, is not the sole test of the employment relationship under the Act, which must be determined by the total situation, viewed in terms of economic realities rather than technical concepts. In recognition of these considerations we are constrained to refrain from the assertion of a responsibility as an employer under the Act in the case of a golf course operator with respect to payment of statutory wages to caddies who work on the course.

Employees covered under the Act must be paid in accordance with applicable overtime pay requirements, unless specifically exempt. Employees subject to the minimum wage must be paid time and one-half their regular rate of pay for all hours over 40 worked in a workweek unless specifically exempt.

It should also be pointed out that Sections 13(b)(8) and 13(b)(18) provide an exemption from the overtime pay requirements of the Act for employees of restaurants and certain food service employees of retail or service establishments. Information concerning these Sections of the Act as well as any other information may be obtained from the nearest Wage-Hour office.

In computing overtime pay, a cardinal rule is that each workweek stands alone. To illustrate:—If the maximum workweek applicable to a given employee is 40 hours, that worker is due overtime pay for each hour of work exceeding the 40-hour standard in any workweek. His hours are not to be averaged over two or more workweeks. In other words, 35 hours one week and 45 the next aren't equivalent to two 40-hour weeks. Premium pay would be due for the five overtime hours worked during the 45-hour workweek.

As to the workweek, it need not coincide with the calendar week, but it must be a regularly recurring period of 168 hours consisting of seven consecutive 24-hour periods.

We are frequently asked how to figure overtime pay for non-exempt salaried employees. The first thing to do is to determine the employee's regular rate of pay, which must at least equal the applicable minimum wage. If the employee is paid his salary for a 40-hour week, divide the weekly salary by 40. When he works overtime, he must be paid for each overtime hour not less than one and one-half times the regular rate so obtained. This sum, of course, is added to his salary.

What if the employee is paid a fixed salary which is paid as straight time compensation for all hours worked by the employee in a workweek, and the number of hours worked fluctuates from week to week? Such salary arrangement is valid for straight time pay under the Act so long as the salary is in sufficient amount to ensure that the employee will be

paid not less than the minimum wage for each hour worked in the longest workweek that he works. If the salary meets this test, the regular rate of pay when the employee works overtime is computed by dividing his salary by the number of hours worked each workweek. Naturally, the regular rate will vary from week to week. For each overtime hour, the employee must be paid an additional half of his regular rate for that week, which is added to his salary. Of course, the amount of overtime pay will vary from week to week as the number of overtime hours vary.

The examples I just gave are based on the assumption that the employee receives no compensation other than his salary.

The keeping of certain records is required by Department of Labor Regulations, Part 516, "Records to be Kept by Employers." There are no particular forms for maintaining the records; the required items are the kind firms usually keep as a matter of good business practice. For non-exempt employees, such items as the following must be recorded: name, sex, address, occupation, regular rate of pay, hours worked each day and week, and weekly earnings.

From time to time, in various industries or enterprises, it has been found that the term "hours worked" is often misunderstood or misapplied. By law, the term "employ" includes "to suffer or permit to work." The Act does not contain a definition of "work." If an employee is "suffered" or permitted to work at the end of his shift at his own volition, or because he wishes to complete a particular assignment before he leaves for the day, the time so spent is working time. The reason for his working beyond his regular hours is immaterial. It is the duty of management to exercise its control and to see that no work is performed unless it is properly compensated.

The record-keeping regulations also require covered firms to display the official poster where employees can readily observe it. The poster briefly outlines the Act's major provisions, and copies can be obtained free of charge from any of our offices.

As to child labor, another major requirement, the minimum age for general occupations under the Act is 16. Occupations declared hazardous by the Secretary require an 18-year minimum. Under restricted conditions, 14 and 15-year olds may work outside school hours for a limited number of daily and weekly hours. You can protect yourself from unintentional violation of the law by keeping on file an employment or age certificate for each young person on the club staff.

With respect to the fifth and final requirements of the Fair Labor Standards Act, an employer may not discriminate on the basis of sex in the payment of wages. The equal pay provisions apply to every establishment where an employer has covered employees, and require the payment of equal rates of pay within the establishment to men and women doing equal work on jobs requiring equal skill, effort, and responsibility, and which are performed under similar working conditions.

The payment of wages at lower rates to one sex than to the other is not prohibited where the employer can establish that the differential is based on a seniority system, a merit system, a system measuring earnings by quantity of production, or any other factor other than sex. However, any such system must be applied equally to men and women engaged in work subject to the equal pay provisions.

We seek compliance through an extensive information and education program, and by investigations. If you are investigated, don't assume that a complaint has been received.

Investigations are made for a variety of reasons, all having to do with equal enforcement. The same basic investigative principle, to do only what needs to be done and no more, is applied in all our investigations, whatever the reason for the investigation.

While there is no requirement that advance notice of an investigation be given, normally an appointment will be made if time permits. If the investigator appears at, or an appointment is made for, an inconvenient time, an agreeable date and time will be substituted.

In the usual case, the following steps are taken during an investigation:

1. An opening conference is held with the employer or his designated representative.
2. A tour of the establishment is made and pertinent records are inspected to determine coverage, exemption, and the status of compliance.
3. A representative number of employees are interviewed.
4. If necessary for completion of the investigation, the employer may be requested to make extensions, recomputations, or transcriptions of records.
5. A closing conference is held with the employer or his designated representative to review the results of the investigation.

There are various methods for the recovery of unpaid wages owed under the Fair Labor Standards Act. They may be paid under supervision of the Administrator. In certain circumstances, the Secretary of Labor may bring suit for back pay upon the written request of the employee. The employee himself may sue for back pay and an additional sum, up to the amount of back pay, as liquidated damages,

plus attorney's fees and court costs. However, an employee may not bring suit if he has been paid back wages under the Administrator's supervision, or if the Secretary has filed a suit to collect the wages.

Also, the Secretary of Labor may obtain a court injunction to restrain an employer from violating the law, including the unlawful withholding of the proper compensation.

Normally a two-year statute of limitations applies to the recovery of back wages. The period is three years if violations were wilful.

I want to mention another law administered by the Divisions—the Age Discrimination in Employment Act. Since June, 1968, private employers of 25 or more persons in industries affecting interstate commerce may not refuse to hire, may not discharge, or otherwise discriminate with respect to compensation, terms, conditions, or privileges of employment due to age with respect to individuals who are at least 40 but less than 65 years of age.

An additional law administered by these Divisions is Title III of the Consumer Credit Protection Act, known as the Federal Wage Garnishment Law, effective July 1, 1970. This law limits the amount of an employee's disposable earnings which may be subject to garnishment, and it protects him from discharge because of garnishment for any one indebtedness. This law has general application.

It has been our experience in the Divisions that the great majority of employers strive for voluntary compliance. We want to help them.

We realize that these Acts impose a number of important responsibilities upon employers, and though responsibility for compliance necessarily rests with management, we are ready to help you achieve or maintain such compliance. Through such mutual efforts, not only workers, but also employers themselves benefit. This law is intended not only to provide beneficial employment conditions, but also to promote the interests of fair employers by helping to eliminate unfair competition based on the cost advantage of substandard labor conditions.

The Divisions have offices in most major cities and the staff is ready to assist employers and workers in understanding how the law affects them.

— LABOR —

The Lion's Share of the Budget

by **TED WOEHRLE**, Superintendent, Oakland Hills Country Club, Birmingham, Mich.

Golf course labor has changed drastically during the past 25 years. Shortly after World War II when labor was plentiful, we had very little trouble finding men ready and willing to work. Most golf courses were staffed with skeleton crews made up of loyal, hard-working men. Wages were low but adequate for the economy and the situation was helped by many wives who still had jobs from the war days. Young men were planning for the future and there was an attitude of good relationship between labor and management. These men produced a good day's work for their pay.

Small farms were being absorbed by larger farms, and many of the farmers and their families were looking for work in similar occupations. Golf course maintenance was quite similar and attractive.

In time, a premium was placed on "education." Technology was beginning to show in industry. Farmers were still moving off the farm, but now they were attaining more education and the new jobs began to appeal to them. Golf courses began looking elsewhere for employees.

As an example of new job classification; the U.S. Department of Labor now lists some 35,000 job classifications in their "Dictionary of Occupational Titles." Consequently there are many more jobs with more glamorous titles today than 25 years ago. Titles are important, as indicated by the fact that the greenkeeper changed his name to "golf course superintendent" during this period.