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WH-491

This is in reply to your letter of January 16, 1979 (Your file ref: A9:lgi), addressed to Secretary of Labor Marshall, requesting information concerning the status of the Department's interpretation of the Supreme Court's decision in the case of National League of Cities v. Usery, as it relates to public transit employees. You enclose copies of correspondence from the [redacted], written on behalf of employees of the [redacted] with regard to this matter.

As you know, Federal, State and local government employees were brought under the coverage of the law by virtue of the Fair Labor Standards Amendments of 1966 and 1974. However, in June of 1976, the Supreme Court in National League of Cities v. Usery ruled that the minimum wage and overtime provisions of the Fair Labor Standards Act do not apply to State and local government employees engaged in activities which are an integral part of traditional government services. The Court expressly found that school, hospital, fire prevention, police protection, sanitation, public health, and parks and recreational activities are among those to which the minimum wage and overtime pay provisions do not apply. However, no specific reference to public transit employees was made. Therefore, consideration is still being given by the Office of the Solicitor of Labor as to whether such service could be considered to be an "integral part of traditional government services", within the meaning of the Supreme Court's decision.

We regret we are unable to give you a more definite answer and can assure you that as soon as a decision is reached, you will be notified.

Sincerely,

Herbert J. Cohen
Assistant Administrator
Wage and Hour Division

Xavier M. Vela
Administrator

WH-491

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