

FLSA-57

February 4, 1980

Thank you for your letter requesting information concerning the application of the overtime provisions of the Fair Labor Standards Act to employees of a manufacturer who ships products intrastate. We regret the delay in responding to your letter.

The Fair Labor Standards Act, as explained in the enclosed "Handy Reference Guide" and WH Publication 1360, is the Federal minimum wage and overtime pay law. It applies to employees individually engaged in or producing goods for interstate commerce and to employees in certain enterprises. Employees are covered on an individual basis if any of their work in a workweek involves engaging in interstate commerce or the production of goods for interstate commerce. An employee is engaged in "production" if employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods or in a closely related process or occupation directly essential to its production for interstate commerce. Coverage applies not only if the employer ships the products outside the State, but also if the employer sells the products to a customer who ships them across State lines, or uses them as ingredients of goods which move in interstate commerce. Clerical and other employees whose work is closely related and directly essential to such interstate operations are also covered, as are employees regularly engaged in interstate communication by telephone, telegraph, or the mails. Employees whose duties are connected with the receipt or distribution of goods in interstate commerce would be individually covered.

Enterprise coverage under section 3(s)(1) of the Act would apply to enterprises that have employees engaged in commerce or in the production of goods for commerce, or employees handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and the enterprise has an annual dollar volume of sales made or business done of not less than \$250,000 exclusive of excise taxes at the retail level which are separately stated. Please note that even though enterprise provisions under section 3(s)(1) of the Act may not apply, employees may be covered on an individual basis and subject to the Act's monetary provisions if they are individually engaged in or producing goods for interstate commerce, as discussed in the paragraph above.

We hope the above has been responsive to your inquiry. If you have any further questions, please feel free to contact this office at any time.

Sincerely,

J. Dean Speer, Acting Director
Division of Minimum Wage
and Hour Standards

Enclosure