

**FLSA-817**

February 22, 1980

This is in reply to your letter of January 23, 1980, requesting an opinion on the application of section 13(a)(8) of the Fair Labor Standards Act.

Section 13(a)(8) of the Act provides an exemption from its monetary provisions for "any employee employed in connection with the publication of any weekly, semi-weekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto;" You ask what constitutes "the major part," and give the following example. If a publisher distributes 3000 newspapers, and 1400 are circulated outside the contiguous area, is the newspaper still entitled to the 13(a)(8) exemption? It is our opinion that for the purposes of the exemption "the major part" means the majority, or over 50 percent, of the newspaper's circulation. Therefore, in the situation you describe, since over 50 percent of the newspapers are circulated in the county where published or counties contiguous thereto, the minimum wage and overtime pay exemption provided in section 13(a)(8) of the Act would be applicable to the employees employed by the newspaper.

If you should have any further question on this matter, please do not hesitate to let us know.

Sincerely,

Deputy Administrator  
Enclosure