

## FLSA-29

March 19, 1981

This is in reply to your letter of February 9, 1981. enclosing correspondence from \*\*\* concerning the application of the Federal minimum wage law to employees of a private club who work at the club's swimming pool during the summer months.

The Fair Labor Standards Act is the Federal law of most general application concerning wages and hours of work. The Act applies to employees individually engaged in interstate commerce and to employees in certain enterprises. An employee who is covered under this law must be paid in accordance with its minimum wage and overtime pay provisions, unless specifically exempt. Enclosed is a Handy Reference Guide to the Act which you may wish to forward to your constituent.

Employees of a private club may be individually covered under the Act if they are engaged in interstate commerce or in the production of goods for interstate commerce. Employees who regularly handle interstate mail and telephone calls, or receive merchandise from out-of-State shippers would be individually covered in the weeks they engaged in these activities. Generally, the kind of employees \*\*\* has in mind would not be individually covered under the Act.

For an enterprise to be covered by the Act, it must 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. If an enterprise has some employees who are so engaged, and has an annual dollar volume of sales made or of business done of not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), coverage extends to all employees in the enterprise without regard to whether they are individually engaged in commerce or in the production of goods for commerce.

In your constituent's situation, regardless of any agreement he may have with the swimming pool employees, if such employees are covered by the Act's provisions, as described above, they must be paid a minimum wage of at least \$3.35 an hour for each hour worked and overtime pay of not less than one and one-half times their regular rate of pay for all hours, worked in excess of 40 in a workweek.

If after reading the enclosed material \*\*\* has any further questions on this matter or any other provision of the Fair Labor Standards Act, you may wish to suggest that he get in touch with our Area Office at the Federal Building .

That office is responsible for the administration of the Act in your constituent's area, and will be pleased to offer every possible assistance.

Sincerely,

Henry T. White, Jr.  
Deputy Administrator

Enclosure