

## **FLSA-408**

April 21, 1982

This is in reply to your letter of March 30, 1982, concerning the application of the Fair Labor Standards Act (FLSA) to a plumbing contractor whom you represent.

The Fair Labor Standards Act applies to employees individually engaged in or producing goods for interstate commerce and to employees in certain enterprises. An employee, whether covered on an individual basis or on an enterprise basis, must be paid a minimum wage of at least \$3.35 an hour and overtime pay of not less than one and one-half times his or her regular rate of pay for all hours worked in excess of 40 in a workweek, unless specifically exempt.

The 1966 amendments to the Act extended its coverage to all employees of construction or reconstruction enterprises, provided the enterprise has at least two employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods for materials that have been moved in or produced for commerce by any person. Interpretative Bulletin, Part 776, to which you refer, interprets the Act with respect to employees who are individually covered by its provisions and is not applicable in determining enterprise coverage under the Act as amended (copy enclosed).

A plumbing contractor engaged in such activities as installing or replacing piping, fixtures, furnaces, air conditioning, heat pumps, sump pumps, hot water heaters; remodeling or renovating bathrooms and kitchens; installing sprinkling systems, sewer and septic tank hook-ups, whether in new or existing buildings, homes, apartments, stores and the like is considered to be engaged in construction or reconstruction activities under the Act. An enterprise engaged in construction or reconstruction would be required to pay all its employees in accordance with the Act's basic wage standards as explained in the enclosed Handy Reference Guide.

Thus, your client would be considered a covered construction enterprise if, for example, the enterprise employed two plumbers who handled or otherwise worked on goods (fixtures, tools, furnaces, air conditioners, piping, solder, joint compound, valves, pumps, etc.), although purchased locally that have been moved in or produced for commerce (manufactured or shipped from outside the State) by any person.

We hope that this satisfactorily responds to your inquiry. Please let us know if you have further questions, or you may wish to contact our Kansas City Area Office, Federal Building, Room 2900, 911 Walnut street, Kansas City, Missouri 64106 (telephone: 816-374-5721). The staff in that office, which enforces the Act in your area, would be pleased to be of all possible assistance.

Sincerely,

William M. Otter

Administrator

Enclosures