

FLSA-1042

October 14, 1982

This is in reply to your letter of September 22, 1982, concerning compensation for automobile dealer clean-up employees engaged in cleaning used cars for resale. You indicate such employees wash, wax, and otherwise clean used cars, and are paid from \$1.70 per car to \$3.00 per car depending on the amount of work to be done. You ask whether earnings from such pay plan could qualify as commission earnings within the meaning of section 7(i) of the Fair Labor Standards Act (FLSA).

Flat fee payments for cleaning or reconditioning used cars which are paid without regard to the value of the service performed do not represent "commissions on goods or services" for the purposes of section 7(i). Employees paid a flat fee to clean used cars are considered to be compensated on a piece rate basis and not on the basis of commissions. Thus, such employees would be subject to the overtime pay requirements of section 7(a), and overtime pay for such employees would be computed in accordance with the principles in section 778.111 of 29 CFR Part 778.

We trust that the above has satisfactorily responded to your inquiry. Please let us know if you have further questions.

Sincerely,

James L. Valin
Assistant Administrator
Wage and Hour Division

William M. Otter
Administrator