



April 18, 1951

\*NAME\* , Assistant  
Office of Chief of Ordnance  
Department of the Army  
Washington 25, D.C.

Dear \*NAME:

This will reply to your letter of April 4, 1951, in regard to the \*NAME Ordnance Works at Lawrence, Kansas, which has been reactivated by the Army Ordnance pursuant to a cost-plus-fixed-fee contract with the \*NAME to produce smokeless and rocket power.

You present the following factual situation concerning certain employees in this plant:

“A considerable number of contractor employees are not required to change clothes by law, employer rules, or the nature of the job. The employees engaged in acid operations are not required to wear any particular clothing although the wearing of woolen clothing is recommended. Some of the employees in the acid area wear the woolen clothing to and from their homes while others change at the plant. The employees always go through a ‘badge alley’ where they obtain their badge and time card. After walking approximately 150 to 500 feet they pass through a ‘vital fence’ where search is made for matches, spark producing devices such as cigarette lighters, and other items which have a direct bearing on the safety of the employees and the Ordnance Works. After passing through the ‘vital fence’ they walk to their respective bus which is parked 25 to 750 feet from the ‘vital fence’ gate. The buses are contractor operated and carry groups of workers to their particular work sites. The work sites are located 3/4 to 1-1/2 miles from the location where the workers board the bus. The workers must ride in the buses since they are not allowed to go through the ‘vital fence’ sufficiently early to walk the distance if they were so inclined.

“The ‘badge alley’ operation is essentially a security matter since the record of hours worked at the work site is kept by the employee’s immediate supervisor. The match inspection is essentially for safety reasons because the operation involves the production of explosives.

“The buses are operated to get workers to their work sites in operating groups at the proper time. One shift replaces another and both the incoming and outgoing shifts use the same bus. The procedure for the workers leaving the work site is basically the same as when entering the

Ordinance Works and the outgoing inspection at the 'vital fence' is also made for the purpose of preventing theft."

I understand that this statement of facts represents the present factual situation at the \*NAME Ordinance Works and that there is presently no union which has been designated to represent the employees and to negotiate concerning their present situation regarding the compensability of any time spent in the described activities.

Assuming that the foregoing statement of facts accurately and completely covers all relevant facts which exist in connection with the contract operations, the question presented is whether employees thus situated are entitled to have counted as hours worked the time spent in going through the badge alley, standing security inspection and traveling by foot and by bus between the badge alley and their respective work sites at the beginning and end of the workday.

It is my opinion that under the circumstances described the time spent in the badge alley and security checks, and the travel to and from work places in this situation need not be counted by the employer as time worked under the Fair Labor Standards Act and section 4 of the Portal-to-Portal Act, in the absence of a written or nonwritten contract or of a custom or practice, not consistent with such a contract, making such activities compensable as provided in section 4 of the Portal-to-Portal Act.

I trust that the foregoing answers your questions and if you have further problems in which I can be of assistance to you please contact me.

Very truly yours,

Wm. R. McComb  
Administrator

\*Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b)(7).