



WHD-OL-1962-NNNN

May 21, 1962

NAME*

This is in reply to your letter dated March 26, 1962 but received in this office April 30. One of your customers has requested that all invoices bear a notation certifying that the goods were produced in compliance with specified sections of the Fair Labor Standards Act. This is in connection with the provisions of sections 12 and 15 of the Act, a copy of which is enclosed.

Sections 12(a) and 15(a) (1) of the Act, commonly called the "hot goods" provisions, prohibit the putting into interstate or foreign commerce of any goods in the production of which any person was employed in violation of the minimum wage, overtime or child labor provisions in sections 6, 7, and 12 respectively, or of any regulation or order issued by the Department of Labor under section 14 of the Act. Sections 12(a) and 15(a) (1), however, contain provisions which afford protection against unintentional violation of the hot goods provisions to any purchaser who acquires goods in good faith in reliance on a written assurance that the goods were produced in compliance with the requirements of the Act. The conditions under which such protection is provided are explained in the enclosed Interpretative Bulletin, Part 789, General Statement relating to Written Assurances.

The purpose of your customer's request was, of course, to obtain such protection. The form of certification quoted in your letter is virtually identical to the language recommended in section 789.4 of the enclosed bulletin, and would afford the protection sought subject to the conditions explained in section 789.5 of the bulletin.

It is perfectly proper for any of your customers to request such an assurance in order to obtain the protection specifically provided in the Act. There is nothing in the Act, however, which requires that such an assurance must be given; consequently you have no legal obligation to comply with the customer's request unless you choose to do so.

If you desire further information or guidance in this matter, you may find it more convenient to communicate with the Regional Office at 216 Engineers' Building, 1365 Ontario Street, Cleveland 14, Ohio or the Field office at 320 Murray Building, 48 N. Division Street, Grand Rapids 2, Michigan. Either office will give you every possible assistance.

Sincerely yours,

Clarence T. Lundquist
Administrator

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