



\*\*\* FLSA-802 \*\*\*

November 27, 1963

This is with reference to your recent communication referring to the general rules set out in subsections 541.118(a) and 541.118(a)(5) of Explanatory Bulletin, Part 541. In effect, your inquiry is seeking to determine whether, under the provisions of the Fair Labor Standards Act of 1938, as amended, industrial security regulations prescribed by the Department of Defense are within the purport of "safety rules of major significance" of subsection 541.118(a)(5) and if so, what type of disciplinary action can be taken by the employer without forfeiting the "exempt" status of a salaried employee by reason of Sections 13(a)(1) and Regulations, Part 541.

Deductions which may be made from an employee's compensation without affecting his exempt "salaried" status are found in subsections 541.118(a)(2), (3), and (5) of the Explanatory Bulletin, Part 541. The only disciplinary type of deduction permissible is one imposed as a penalty "in good faith for infractions of safety rules of major significance". As explained in subsection 541.118(a)(5), safety rules of major significance embrace those intended to prevent serious danger to the plant or other employees, including prohibitions against smoking in explosive plants, oil refineries, and coal mines. The Department, however, has also construed this language to cover industrial security regulations promulgated by a government agency. Thus, your client may proceed as permitted by subsection 541.118(a)(5), since the security standards in question have been established and enforced by the Defense Department.

We sincerely trust that the information contained herein will answer your needs. If we can be of any further service, please call upon us.

Yours sincerely,

Clarence T. Lundquist  
Administrator

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