



November 29, 1965

Dear Ms. **Name***

This is in reference to your letter of October 5, 1965, concerning the petition filed on behalf of the above company under section 13(b)(11) of the Fair Labor Standards Act. All of the facts and evidence submitted to us in this connection have been carefully considered. In order to reappraise the plan and petition, in terms of the requirements of section 13(b)(11) and Regulations, Part 551, the following additional information is required.

With respect to all regular transfers of products by the company's drivers:

The identity, location and nature of business of the consignor and consignee of the shipments.

Is the hauling done for the consignor or the consignee?

The relationship between the consignor, consignee and the company. This should include information as to:

- a. Any corporate or other business affiliation between the parties.
- b. Any elements of common or unified ownership, control or operation, including any joint or common employment or use of the same employees or facilities, and any franchise or other continuing arrangements between consignor and consignee.

What proportion of the hauling by the company's drivers is for major oil companies and to what classes of consignees.

For what other classes or categories of customers is hauling done? What proportion of the company's business is for each such category?

In your letter of March 23, 1965, you advised that the tabulation attached thereto, of weekly hours worked by the drivers for the 12-month period September 1963 through August 1964, was based (a) on the number of trips and number of drivers taken from actual records of the company, and (b) on "average trip time" computed from hourly records for the single month of September 1964. As verification of the accuracy of that tabulation please submit a tabulation of weekly hours worked by the drivers and a computation of average weekly hours, based on records of actual hours worked, kept in accordance with the Recordkeeping Regulations, Part 516, for as long a period as possible. Bear in mind that under Regulations, Part 551, the computation of average weekly hours must be based on, and limited to, the hours worked by each employee in each workweek during which he was employed "full-time" making local deliveries, as defined in section 551.8(d), under the plan.

In accordance with section 551.6 of the regulations, notice should be given to the employees affected, to afford them an opportunity to submit any facts or reasons supporting or opposing the finding. For that purpose we are enclosing a form of "Notice to Employees" together with copies of Regulations, Part 551. A copy of this Notice should be posted for 15 day in each place where notices to employees are customarily posted, and where all of the employees affected will have an opportunity to see it. The Notice should be posted with a copy of the Regulations, Part 551, and a copy or an explanation of the pay plan. The date of posting the Notice should be entered in the space provided thereon.

When you have advised us that the Notice has been posted for the specified period and have submitted the additional information required, as indicated above, we will advise you further.

Sincerely yours,

/s/ Clarence T. Lundquist
Administrator

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

NOTICE TO ALL EMPLOYEES

Your employer has submitted a petition to the Administrator of the Wage and Hour and Public Contracts Divisions, pursuant to section 13(b)(11) of the Fair Labor Standards Act and Regulations, Part 551, for a finding that the wage payment plan for delivery drivers is a trip rate or other delivery payment plan which has the general purpose and effect of reducing hours worked by drivers employed making local deliveries under the plan to or below the maximum workweek (40 hours) applicable to them under the act. Such a finding is a requirement for the overtime pay exemption provided in the act for such employees, who must be paid at premium overtime rates for all hours worked over 40 in a workweek unless an exemption applies.

This Notice is given pursuant to section 551.6 of Regulations, Part 551. A copy of these regulations and a copy or an explanation of the pay plan are a part of this Notice and are posted with it.

The views of interested persons approving or opposing the proposed finding may be submitted in writing to Clarence T. Lundquist, Administrator, Wage and Hour and Public Contracts Division, U.S. Department of Labor, Washington, D.C. 20210, together with any supporting facts or evidence they may care to submit, within 15 days of the posting of this Notice.

Clarence T. Lundquist
Administrator

Date of posting of this Notice:
