

FLSA-585

September 2, 1975

This is in reference to the special exception for certain flight personnel whom the Wage and Hour Division has deemed to be within the spirit of the provision in the Fair Labor Standards Act exemption "employees employed in a bona fide executive, administrative, or professional capacity". One of the conditions for this exemption is payment of a salary of not less than \$225 per week.

Changes in the salary tests under Regulations, Part 541, which became effective April 1, 1975, indicate that a revision of the enforcement position is necessary in that a salary test higher than that currently in effect is needed to distinguish those who properly come within such enforcement position and those who do not. Accordingly, the Wage and Hour Division will take no enforcement action with respect to pilots or copilots of airplanes and rotorcraft who hold an FAA Airline Transport Certificate or Commercial Certificate who are paid not less than \$300 per week and who are engaged in the following activities:

- (1) Flying of aircraft as business or company pilots;
- (2) Aerial mineral exploration;
- (3) Aerial mapping and photography;
- (4) Aerial forest fire protection;
- (5) Aerial meteorological research;
- (6) Test flights of aircraft in connection with engineering, production, or sale;
- (7) Aerial logging, fire suppression, forest fertilizing, forest seeding, forest spraying, and related activities involving the ultimate in precision flying over mountainous forest areas;
- (8) Flying activities in connection with transmission tower construction, transmission line construction, transportation of completed structures with precision setting of footings, concrete pouring; and
- (9) Aerial construction of sections of oil drilling rigs and pipe-lines, and ski-lift and fire lookout constructions.

No enforcement action will be taken, also, with respect to flight engineers engaged primarily in flight testing airplanes or rotorcraft who have formal training equivalent to at least 2 years of college engineering education, 500 hours flight time as a flight engineer or pilot, and who are paid on a salary or fee basis of at least \$300 per week.

This enforcement position does not apply to airplane and helicopter pilots engaged in agricultural crop-dusting operation. This policy is extended only to pilots and copilots engaged in the activities enumerated above. It does not relieve an employer from compliance with the minimum wage and overtime pay standards for support and maintenance personnel covered by the provisions of the Fair Labor Standards Act. This enforcement position does not apply to employees, including pilots and copilots, subject to the provisions of Service Contracts Act, the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act, nor relieve any employer from any obligation incurred under a collective bargaining agreement.

The amended salary requirement under this enforcement position will be effective as of the date of this letter.

Sincerely,

Warren D. Landis
Acting Administrator
Wage and Hour Division