

FLSA-735

November 8, 1979

This is in reply to your letter of October 16, 1979, asking what constitutes two full-time employees or the equivalent within the meaning of section 541.105(a) of Regulations, Part 541.

Generally, for purposes of the exemption within the meaning of section 541.105(a), we would consider a full-time employee to be someone who works at least 40 hours a week. As indicated in the example given in that section, we would consider the "equivalent" of two full-time employees to be met where one full-time employee and two part-time employees whose aggregate hours total at least 40 hours a week are supervised. If those supervised are all part-time employees, the aggregate hours of all such employees should total at least 80 per week in order for the requirement to be met.

However, where the employer can show that fewer than 40 hours per week constitutes full-time employment or where full-time and part-time employees are involved, it may justify lower standards in determining the equivalent of two "full-time" employees. In that regard, it has been our consistent position that if a supervisor directs the work of one full-time employee and on fairly frequent occasions directs the work of additional part-time employees, he would meet the supervisory requirement in those workweeks in which he directs the work of more than one employee. If he directs the work of the additional part-time employees only occasionally or sporadically, he would not meet the supervisory requirement even in those workweeks in which he supervises the work of more than one employee.

Your last question presents a situation in which the manager is responsible for the supervision of two or more employees but is not physically present and working at the establishment during the same time two or more of these employees are working. Assuming that this manager meets the sole charge criterion of section 541.113, he would meet the test of section 541.105(a) of Regulations, Part 541 (copy enclosed).

We hope this information will be helpful. If we can be of further service to you, please do not hesitate to contact this office or our local office in Charleston, West Virginia.

Sincerely,

Daniel P. New, Director
Division of Minimum Wage
and Hour Standards

Enclosure