

FLSA-3

June 25, 1988

This is in response to your letter of June 8, addressed to Secretary of Labor McLaughlin, concerning certain Federal labor standards for prisoners.

We have considered your remarks under the provisions of the Fair Labor Standards Act (FLSA), the Federal law of most general application concerning wages and hours of work. This law requires that all covered and nonexempt employees be paid the minimum wage of \$3.35 an hour for all hours worked and not less than one and one-half times their regular rates of pay for all hours worked over 40 in a workweek.

In order for FLSA to apply, there must be an employer-employee relationship. It is the position of the Wage and Hour Division that prison inmates who, while serving their sentences, are required to work by or to do work for the prison, within the confines of the institution, on prison farms, on road gangs, or other areas directly associated with the incarceration program, are not employees within the meaning of FLSA.

Since your inquiry also involves safety and health-related concerns, you may wish to contact the Occupational Safety and Health Administration (OSHA) Area Office at 1835 Assembly Street, Room 1486, Columbia, South Carolina 29201, telephone: (803)765-5904.

We appreciate your interest in labor standards and trust that the above is responsive to your inquiry.

Sincerely,

Paula V. Smith
Administrator