To: Andrew Reed  

Date: July 25, 2000  

Subject: Individual Coverage Interpretation  

In order for our client, Kettia Pauling, to qualify under the FLSA for "individual coverage," she must be engaged in commerce or in the production of goods for commerce. Zorich

Ms. Pauling can be covered individually even if Del-Ley does not qualify as a covered enterprise. The standards set out by the FLSA are: 1) the individual is engaged in trade, commerce, transportation, a communication of goods among several states or between any state
A any place outside the city of St. Helens, activity
must have been regular and recurring.

Interrogatory No 1. : State the names and
addresses of all timber suppliers Del-Bey Wood
Products Co. has placed orders with
during the past three years.

Reason for proposing : One of the definitions
of casual work by the FLSA is an employee
who receives or handles goods that were
transported or mined from another state.

While Ms. Pauling believes the specialty wood
were from a local lumber company, she is
unsure where the timber came from. If the
Timber came from an out of state supplier, Ms. Pauline; work may be "covered" work.

Interrogatory No 2. State the addressees of each out of state shipment made by Hel-Ray Wood Products Co. for the past three years.

Reason for proposing: one of tests for determining if work is "covered work" is if the employee distributed goods that pass through interstate commerce. Ms. Pauline, remembers she such shipment out of state, but she acknowledges then may be more. If Ms. Pauline filled orders or loaded boxes or boxed parts for out of state
Shipments, her work would be covered and she would qualify for individual coverage.

Interrogatory No. 3: With regard to the answer to the preceding interrogatory, state the dates of all prior out of state shipments by Del Rey Wood Products Co.

Reason for proposing: We need to know the frequency of the out of state shipments. A few isolated shipments will not be considered "covered." The shipments must be regular and recurring to qualify. FSLA § 776.3
Interrogatory No. 4: State the name and address of all saw blade suppliers.

Reason for proposing: Ms. Pauling recalls regularly receiving shipments of saw blades. Such regular shipments may qualify if the supplier was out-of-state. This would have required Mrs. Pauling to regularly handle goods in commerce, FSLA 6776.3, 6776.10.

Interrogatory No. 5

Describe the process by which records of incoming and outgoing shipments are received and maintained for out of state shipments.

Reason for proposing: Employees who directly
aid production are covered under the FLSA.

One such example is an employee who maintains records of goods transported in or out of state commerce. If Ms. Pameiing's job description requires her to maintain all records, for such both in- and out-of-state shipments, she would qualify for individual coverage.

FSLA §776.17

Interrogatory No 6. Provide the names and addresses of all trucking companies utilized by Kel-Ray Wood Co. in the past three years.

Reason for proposing: If Kel-Ray is using
out of state trucking lines who regularly engage in commerce, Ms. Pauwels acts in loading boxes or processing orders for trucking companies who regularly engage in commerce, she may qualify for individual coverage pursuant to FLSA § 776.10. One of the tests for covered work is an employee who uses instruments and channels of interstate commerce regularly. An out of state trucking company may qualify as such a channel.