



WHD-OL-1962-NNNN

April 6, 1962

NAME*

This is in further reference to your letter of March 19, 1962, concerning the application of the Fair Labor Standards Act to certain employees to be employed by one of your clients who owns and operates dog kennels in **NAME*** and in a farm in **NAME***.

The Fair Labor Standards Act applies to employees engaged in interstate commerce or in the production of goods for interstate commerce, including any closely related process or occupation directly essential to such production, and to employees in certain large enterprises which are so engaged. Such employees must be paid according to the basic wage and hours standards set out on pages one and two of the enclosed Handy Reference Guide, unless a specific exemption is applicable.

From the information contained in your letter, it would appear that the person to be employed at the dog kennels will be engaged in activities that are covered by the Act and insofar as there is no exemption provided in the Act for this type of employment, this employee would be entitled to the minimum wage and overtime benefits of the Act.

You state that your client breeds, raises and keeps race horses at his farm in **NAME*** and that he will hire a man to work on that farm to take care of the horses, clean the stalls, cut the grass in the meadows and repair fences. Occasionally, this employee will also drive his employer on hunting or field trips (in connection with his dog kennel activities) and to horse races in other States, but will do no training or racing of the horses at the track.

Section 13(a) (6) provides an exemption from the minimum wage and overtime requirements of the Act for employees employed in agriculture, which, as defined in section 3(f), includes farming in all its branches and any practices performed by a farmer or on a farm as an incident to such farming operations. This exemption is discussed in detail in Subpart B of Interpretative Bulletin, Part 780, a copy of which is enclosed. As you will note in section 780.131 of this bulletin, employees engaged in the breeding, raising and training of race horses or in any activities performed on the farm as an incident thereto are employed in "agriculture", within the meaning of the Act. Activities performed off the farm in connection with commercial racing or other nonfarming activities, however, are not within the scope of this exemption.

Based on the information supplied in your letter, we are of the opinion that the man who will be hired to work on you client's farm will be exempt from the minimum wage and overtime requirements under section 13(a) (6) of the Act, except during those workweeks in which he engages in work, such as driving his employer to race tracks or to hunting or field trials, which is not a part of nor an incident to his employer's actual farming operations.

If further information is desired you may find it more convenient to communicate with the Divisions' Regional Office at **NAME*** or the Filed Office **NAME***. Those offices will be pleased to offer every possible assistance.

Sincerely yours,

Clarence T. Lundquist
Administrator

Enclosures (2)

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