U.S. Department of Labor

Wage and Hour Division
Washington, D.C. 20210

WHD-OL-1970-0058

CCH-Para. 30,000 Opinion Letter # 1102 (WH-56)

July 21, 1970

21 BJ 925.11

NAME*

This is in reply to your letter of June 22, 1970, in which you ask if a company's seasonal operations within a single national park may be considered collectively to be an "establishment" so that its employees who perform central office or central warehousing functions solely for the various facilities within the park may be considered exempt under section 13(a) (3) of the Fair Labor Standards Act.

Section 13(a) (3) of the Act provides a complete minimum wage and overtime pay exemption for any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 per centum of its average receipts for the other six months of such year.

As used in the Act, the term "establishment" refers to a "distinct physical place of business" rather than to an "entire business or enterprise" which may include several separate places of business. Consequently, the 13(a) (3) exemption which applies to "employees employed by an establishment which is an amusement or recreational establishment …" cannot be so interpreted to include those employees, such as the central office and central warehouse employees you have in mind, who are not employed by a distinct separate place of business of the type contemplated by section 13(a) (3) of the Act. Therefore, employees employed solely to service establishments located in a single national park or in several national parks are not within the scope of the 13(a) (3) exemption.

We hope this satisfactorily responds to your inquiry. If you have any further questions please do not hesitate to let us know.

Sincerely,

Robert D. Moran
Administrator

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