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U. S. DEPARTMENT OF LABOR
Workplace Standards Administration
Washington, D. C. 20210

MAY 10 1971

21 BJ 929
21 BJ 301.6
21 BJ 922
21 AC 205.2529

This is in further reference to your letter of November 6, 1970, concerning the application of the Fair Labor Standards Act to vending machine operations.

We have had occasion to review the position stated in our previous letter to you (letter dated Dec. 23, 1970) and wish to advise you of our present position regarding such operations. We would consider a vending machine operation carried on at a plant or building to qualify as a separate and distinct establishment where the machines are placed at such a location under a lessee-lessor arrangement whereby the lessee retains title and control and agrees to install the machines and keep them supplied with merchandise. Hostesses and inside routemen employed solely at such a plant or building for the purpose of servicing machines that are used in the selling of food and beverages at retail are exempt under sections 13(a)(2) or 13(b)(8) of the act where the tests of those exemptions are met.

However, employees at the central office, commissary, warehouse, or repair shop (or working out of such central location) do not come within the above mentioned exemptions as they are not employed by a "retail or service establishment" or an "establishment which is a restaurant" within the meaning of the act.

Sincerely,

Horace E. Menasco
Administrator