

FLSA-719

October 9, 1973

This is in reply to your letter of August 2, 1973, to Mr. Harry B. Orio, Assistant Area Director, Wage and Hour Division, Memphis, Tennessee, in which you request a determination as to whether the *** operation of *** is exempt from the minimum wage and overtime pay provisions of the Fair Labor Standards Act.

The Act applies to employees engaged in or producing goods for interstate commerce and to employees in certain enterprises. All employees of *** are covered under the Act and, unless specifically exempt, must be paid at least the minimum wage of \$1.60 per hour and not less than one and one-half times their regular rates of pay for hours worked over 40 in a workweek.

By way of clarifying the *** operation you indicate that "the camping accommodations are rented on a per night basis to the traveling public and the facilities supplied by *** include water, electric and waste hookup, paved drive, camping and patio area on each camp site, picnic benches, restroom and showers, laundry facilities, a store that sells grocery supplies, a recreational room offering games and other amusements, miniature golf, and a swimming pool."

Any employee of a retail or service establishment providing such services would be exempt from the minimum wage and overtime pay requirements of the Act under section 13(a)(2), if the establishment has an annual gross volume of sales which is less than \$250,000 (exclusive of certain excise taxes), provided the other conditions of that section, listed on page 8 of the enclosed pamphlet on retail and service establishments, are met. Note, however, that any employee engaged in laundering is excluded from this exemption and, therefore, due both the minimum wage and overtime pay required by the Act, unless otherwise exempt. Similarly, an establishment providing such services may be considered an amusement or recreational establishment and exempt from the minimum wage and overtime pay requirements of the Act under section 13(a)(3), provided it does not operate for more than seven months in any calendar year, or during the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 percent of its average receipt for the other 6 months.

However, the section 13(b)(8) exemption from the Act's overtime pay requirements for hotels and motels could not be applied to your *** operation since a campsite facility is substantially different from a hotel or motel room or cabin. In a trailer camp, the travelers in effect provide their own lodging in space provided by the camp.

Sincerely,

/s/ Warren D. Landis

Ben P. Robertson
Acting Administrator
Wage and Hour Division

Enclosures