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U.S. DEPARTMENT OF LABOR  
 EMPLOYMENT STANDARDS ADMINISTRATION  
 WASHINGTON, D.C. 20210



JUL 9 1976

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This is in reply to your letter of April 8, 1976, asking our views on the application of section 13(b)(8) to hotel and motel employees who perform custodial services.

As you are aware, section 13(b)(8)(A) provides a partial overtime exemption (46 hours) to employees of a hotel or motel other than employees who provide maid or custodial services to such an establishment, in which case section 13(b)(8)(B) obtains and the "maid" or "custodial" employees are entitled to overtime pay after 44 hours beginning May 1, 1976 and after 40 hours effective May 1, 1977.

The Wage and Hour Division will, as an enforcement policy, take the position that hotel or motel employees will be considered to come within the 46-hour provision of section 13(b)(8)(A) if, in any workweek, they do not spend a substantial amount of their time in the workweek (more than 20%) in custodial services in the restaurant premises. These duties could include mopping the kitchen floor, vacuuming the dining room rug, cleaning adjacent restrooms, etc. On the other hand, these employees would lose the exemption if they perform custodial services not directly related to maintaining the restaurant premises, such as cleaning guest rooms or cleaning the hotel lobby.

Kitchen and dining room employees (including banquet workers) are not performing "custodial services" when they wash dishes, clean tables, carry out dishes and set tables. This time spent by hotel and motel waitresses, bus boys and banquet workers in such activities will not be counted in the 20% tolerance.

We trust that the above is of assistance to you in this matter.

Sincerely,  
 Warren D. Landis  
 Deputy Administrator  
 Wage and Hour Division

Ronald J. James  
 Administrator  
 Wage and Hour Division

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