

## **FLSA-1133**

September 12, 1973

This is in reply to your letter of August 2, 1973, asking if oceanographic party chiefs are employed as seamen under the provisions of the Fair Labor Standards Act.

You refer to the opinion in Sennett v. Shell Oil Company, 325F. Supp.1 (1971), in support of an affirmative reply. The action arose out of the death of an employee of an oil company who was aboard an oceanographic research vessel and concerned the right to recover damages. The case did not involve the definition of the term "seaman" under the Fair Labor Standards Act. In that case the court held that if the deceased member of the scientific (or oceanographic) party, who was employed solely to perform scientific duties, was a seaman there could be no recovery for ordinary negligence resulting in his death. The decision concluded that he was not a seaman and the operators of the vessel owed him the duty of reasonable care in providing him with a safe place to carry out the purpose of his business. Thus, in our view, this decision would not support an affirmative reply to your question.

The interpretations of the Act which define employees employed as seamen, for purposes of sections 6(a)(4), 13(a)(12) and 13(b)(6), are discussed in detail in 29 CFR 783.27 through section 783.37. A seaman is considered as one who performs, aboard a vessel and subject to the direction and control of the master, service which is rendered primarily as an aid in the operation of the vessel as a means of transportation.

A careful review of the documents enclosed with your letter, which describe the tasks performed by oceanographic party chiefs, leads us to the opinion that such employees are not employed as seamen within the meaning of the Act. These documents indicate that their services are not rendered primarily as an aid in the operation of the vessel as a means of transportation, but that their tasks relate directly and exclusively to the scientific mission. The functions of the scientific mission and its party chief are distinct, separate and unrelated to the operation of the ship as a means of transportation. One whose primary duties are not those of a seaman within the meaning of the Act is excluded from the application of its provisions relating to seamen.

Sincerely,

Warren D. Landis

Ben P. Robertson  
Acting Administrator  
Wage and Hour Division

Enclosures