

## **FLSA-1132**

June 7, 1993

This is in response to your letter requesting an opinion concerning the application of the seamen's exemption (section 13(b)(6)) under the Fair Labor Standards Act (FLSA) to employees employed as "cooks" and "stewards" aboard passenger cruise vessels.

You state that you represent an employer who operates several passenger cruise vessels, and the employer is concerned about two job classifications, "cooks" and "stewards". You state that those employees who are classified as cooks normally cook food for both crew members and passengers; and those employed as stewards assist passengers by cleaning their rooms (as well as crew quarters), assisting with luggage, serving meals and clearing tables, and working in the kitchen on a rotating basis assisting in food preparation.

As you know, section 13(b)(6) of the FLSA provides an exemption from the overtime pay provisions for any employee employed as a seaman. As defined in 29 CFR Part 783, "Application of the Fair Labor Standards Act to Employees Employed as Seamen", the term "seaman" includes cooks and stewards if such employees are subject to the authority, direction, and control of the master aboard a vessel, and whose services are rendered primarily as an aid in the operation of a vessel as a means of transportation.

Based on the information you provided, it is our opinion that the "cooks" and "stewards" employed by your client appear to meet the criteria outlined specifically in sections 783.31 and 783.32 of 29 CFR Part 783. Therefore, the seamen's exemption (section 13(b)(6)) would apply to the "cooks" and "stewards" employed by your client during the times they are performing their normal duties aboard the vessel, provided the employees do not spend more than 20 percent of the time worked in a workweek performing work of a nature other than that which characterizes the services of a seaman. Time spent in work such as preparing food for/or servicing noncrew members of the vessel would be included in this 20 percent tolerance on nonexempt work. See Martin v. Bedell, 955 F. 2d 1029 (5th Cir, 1992).

We trust that the above information is responsive to your inquiry.

Sincerely,

Daniel F. Sweeney  
Deputy Assistant Administrator