

FLSA-1415

January 16, 1974

This is in reply to your letter of January 10, 1974, in which you state that certain categories of employees are required to perform some duties during their twenty-minute lunch period and other employees are not granted a lunch period during their tour of duty.

Staff member Brooks Sipes discussed this situation with you on January 15th. As he pointed out, the employees in question are exempt from the overtime provisions of the Fair Labor Standards Act by virtue of section 13(b)(2). It also appears that they would receive in excess of the applicable Federal minimum wage of \$1.60 an hour whether or not such time was found to be working time. This latter point is immaterial, however, since you state the twenty-minute lunch period is a paid lunch period.

It was also pointed out that the Act does not require an employer to provide a lunch period for employees during their tour of duty. This is a matter left to agreement between the employer and the employees or their authorized representatives.

Sincerely,

William Hoffman, Acting Chief
Division of Minimum Wage and
Hour Standards
Wage and Hour Division