

**FLSA-1422**

September 24, 1974

This is in reply to your letter of August 15, 1974, to Secretary of Labor Brennan, in which you request the Department to approve a workweek schedule that would vary from week to week. Under your proposed schedule, the first workweek would be on a Monday through Friday basis, for the second workweek it would be Saturday through Wednesday, for the third workweek it would be Thursday through Monday, and so forth.

An employees's workweek is a fixed and regularly recurring period of 168 hours - seven consecutive 24 hour periods. It need not coincide with the calendar week but may begin on any day and at any hour of the day. For purposes of computing pay due under the Fair Labor Standards Act, a single workweek may be established for a plant or other establishment as a whole or different workweeks may be established for different employees or groups of employees. Once the beginning time of an employees's workweek is established however, it remains fixed regardless of the schedule of hours worked by him. The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade the overtime requirements of the Act.

The special overtime provision relating to hospitals, nursing homes and rest homes, to which you refer (section 7(j) of the Act), is a statutory exception and not an exception granted by the Department. The Department has no authority to grant exceptions to the Act's statutory requirements.

Sincerely,

Betty Southard Murphy  
Administrator  
Wage and Hour Division