

FLSA-1426

October 3, 1974

This is in reply to your letter of August 17, 1974, to Secretary of Labor Brennan concerning an overtime exemption from the Fair Labor Standards Act in order to permit trading of hours worked.

Where an employee is subject to the 40 hour workweek standard prescribed in the Fair Labor Standards Act and the practice of exchanging shifts results in his working in excess of 40 hours in a workweek, the Act requires that he must be paid overtime compensation for the hours in excess of 40 at not less than one and one-half times his regular rate of pay. The payment of overtime compensation for work in excess of the specified standard is required by the express language of the statute and we have no authority to modify this requirement or to permit employers and employees to waive it by agreement.

If you have any further questions, you may wish to contact our Wage and Hour Division office at 535 Grain Exchange Building, 741 North Milwaukee Street, Milwaukee, Wisconsin 53202 (telephone: 224-3585). The people in that office will be glad to assist you in any way possible.

Sincerely,

Herbert J. Cohen
Acting Assistant Administrator
Office of Fair Labor Standards