

FLSA-254

January 28, 1977

This is in reply to your letter requesting official guidance under the Fair Labor Standards Act as to the legal application of section 785.16 of the enclosed copy of Interpretative Bulletin 29 CFR Part 785.

The principles for determining whether waiting or layover time is compensable under the Act are discussed in section 785.12 through 785.16. As indicated in section 785.16, waiting or layover time will be considered off-duty time and not part of the employee's hours of work if the employee is completely relieved of all duties and responsibilities, is permitted to leave the job to go anywhere, knows in advance that work will not resume until a specified time and the period of layover is of sufficient length to be used effectively for the employee's own purposes.

Based on the information provided on route 45363, the workday commences at 0545 and runs until 0810 when the employee is relieved from duty until 1630 when work resumes and runs until 1900; this results in a total of 5 hours and 5 minutes of work. From 0810 until 1630, it appears that the employee is completely relieved from all duties and responsibilities. It is noted that this layover stop is only 8 1/2 miles from the employee's home. As the employee could travel home in 10 or 15 minutes the waiting or layover time would not appear to be compensable, unless the employer required the employee to remain at the layover stop.

As explained in section 785.35 and 785.38, home to work travel is not considered work time and the travel from the layover stop to the home would also be considered in the same light.

Sincerely,

Ronald J. James
Administrator

Enclosure