

FLSA-253

February 7, 1977

This is in reply to your letter asking whether the *** "five minute leeway rule" would comply with the provisions on "rounding" of work time under the Fair Labor Standards Act as discussed in 29 CFR 785.48.

Your letter indicates that the *** instructions to time-keepers on the five minute leeway rule provide that when the total daily elapsed time is five minutes (or eight hundredths of an hour) more or less than the employee's scheduled tour, the scheduled hours in the tour will be recorded. Thus, according to of your staff, where an employee with an 8-hour scheduled tour works 8 hours and 5 minutes on the time clock he or she will be paid for exactly 8 hours of work. Where the time clock shows 7 hours and 55 minutes of work, the employee will also be paid for 8 hours. This 5 minute leeway rule is designed to allow employees a sufficient period of time to clock in and out and not be affected by jam-ups at the clocks.

Your letter further indicates that the five minute leeway rule applies only to the scheduled tour of duty. In this connection you state that if an employee is instructed, or suffered or permitted, to work overtime both before and after the scheduled tour of duty, the five minute leeway rule would apply neither at the beginning nor at the end of the tour. In such a situation, you indicate that overtime is recorded to the minute, so that an employee who works 20 minutes beyond scheduled quitting time, for example, would be credited with a full 20 minutes of overtime.

The five minute leeway rule is similar to the practice of recording employees' starting time and stopping time to the nearest 5 minutes, a practice which is accepted by the Wage and Hour Division under 29 CFR 785.48(b). Our acceptance of such rounding practices, as 29 CFR 785.48(b) makes clear, rests on the assumption that the rounding averages out so that employees are fully compensated for all the time they actually work.

So long as the standards laid down in 29 CFR 785.47 and 785.48 are met, we see no objection to the five minute leeway rule.

Sincerely,

Warren D. Landis
Acting Administrator