

FLSA-1406

April 18, 1978

This is in reply to your letter dated March 21, 1978, asking what the overtime requirements are for a two-shift work schedule during which employees would work a twelve-hour shift for seven consecutive days and then have seven consecutive days off.

We have considered your comments under the Fair Labor Standards Act, which is the Federal law of most general application concerning wages and hours of work. The enclosed copy of 29 CFR Part 778 constitutes the official interpretation of the Department of Labor with respect to the meaning and application of the maximum hours and overtime requirements contained in section 7 of the Act.

Under the provisions of section 7(a) of the Act, employees who are subject to its standards are entitled to receive not less than one and one-half times their regular rates of pay for all hours worked in excess of 40 hours "in any workweek". As explained in section 778.105, the workweek is a fixed and regular recurring period of 168 hours--seven consecutive 24-hour periods. The workweek is established by the employer and need not be the same as a calendar week. Once an employee's workweek is established, it remains fixed, and may only be changed if the change is intended to be permanent and is not designed to evade the overtime provisions of the Act. Further, each workweek stands alone and averaging of hours over 2 or more weeks is not permitted, as noted in section 778.104. For a discussion of proper overtime compensation where the commencing and ending days of the workweek are changed, see sections 778.301 and 778.302.

This law does not generally require that an employer pay daily overtime compensation. However, if an employee is working on a government contract subject to the overtime requirements of either the Walsh-Healey Public Contracts Act or the Contract Work Hours and Safety Standards Act, the employee must be paid overtime compensation for hours worked in excess of 8 a day or 40 in a workweek, whichever yields the greater number of overtime hours.

Since we do not know when your workweek commences or have an example of your work schedule, we are unable to definitively answer your question. Therefore, if after reading the enclosed information you should have any further questions, we suggest that you contact our Area Office located at Penn Place, Room 3329, 20 North Pennsylvania Avenue, Wilkes-Barre, Pennsylvania 18701, telephone: (717) 825-6811. That office will be pleased to assist you in any way possible.

Sincerely,

William G. Blackburn, Chief
Branch of Wage and Hour Standards

Enclosure