

FLSA-249

May 9, 1978

This is in reply to your letter of April 4, 1978, in which you inquire if time off for a holiday should be included in hours worked for purposes of computing overtime compensation and also about a computation plan based on tenths of an hour.

We have considered your comments under the provisions of the Fair Labor Standards Act which is the Federal law of most general application concerning wages and hours of work. The major provisions of this law are highlighted in the enclosed "Handy Reference Guide".

This law does not require that time off for a holiday be included in the computation of hours worked for the purpose of determining overtime pay. In this connection, when an employee receives his regular compensation for hours when he is not at work due to a holiday, the amount so paid is not considered to be compensation for hours of work and need not be included in the regular rate of pay. This is further explained in section 778.218 of the enclosed copy of 29 CFR Part 778.

As explained in section 785.48(b) of the enclosed copy of 29 CFR Part 785, the payment of wages based on recording and computing time to the nearest five minutes or to the nearest one-tenth of an hour is an acceptable practice provided that such rounding is used in a manner that will not result, over a period time in failure to compensate the employee properly for all the time he has actually worked. However, an employer may not arbitrarily fail to count as hours worked any part of the employee's regular working time or practically ascertainable periods of time he is regularly required to spend on duties assigned to him.

If you have any further questions or desire additional information concerning this law, you may wish to contact our Field Station located at 300 North Dakota Avenue, Sioux Falls, South Dakota 57902, telephone: (605) 336-2241, extension 241. That office will be pleased to assist you in any way possible. We suggest that you write or telephone prior to visiting that office since it is staffed by personnel whose duties frequently require them to be away from the office.

Sincerely,

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

Enclosure