

WAGE AND HOUR DIVISION  
U. S. DEPARTMENT OF LABOR

STATEMENT ON PAYMENT OF OVERTIME

Payments for overtime must be paid in cash and at the time when the employee customarily receives his compensation, Administrator Elmer F. Andrews said today, to clarify a discussion of the problem at Tuesday's press conference.

The Administrator said he regretted that, in an oral discussion at the press conference, he gave a wrong impression of the overtime requirements.

"The Act requires," the Administrator said, "that the employee 'receive compensation' for overtime at one and one-half times his regular rate of pay. This means money, not time. We have expressed the opinion that payment of overtime compensation must be made within a 'reasonable time' after it has been earned. Such 'reasonable time' will normally coincide with the pay period and, in our opinion, the circumstances would be most unusual when this is not the case. This interpretation accords with the practical necessities of administration.

"Any other practice would permit the deferment of payments for overtime to such an extent that the plain purpose of the Act would be defeated. Under an amendment to the Fair Labor Standards Act now being considered by the House Labor Committee, the Administrator would be given authority to approve 'constant wage plans' by which the deferment of payment of overtime would be authorized, and could be safeguarded and regulated. But unless Congress grants that authority an employer would not be justified in failing to pay for overtime at the time when the employee customarily receives his compensation."

With reference to the general question of time off, the Administrator added that within a given pay period -- for example, when an employee is customarily paid fortnightly or monthly -- it is possible that the amount due an employee for overtime earned in one week could be compensated for in another week or weeks within such pay period by giving the employee time off in such week or weeks and yet an amount in wages therein equal to what he would have received if he had worked a full workweek. This could only be done, of course, where the employee had a regular fixed hourly rate of pay.