

APR - 6 1995

This is in reply to your letter requesting clarification regarding the payment of additional compensation to employees who are exempt under section 13(a)(1) of the Fair Labor Standards Act (FLSA).

Your specific question and our response are as follows:

- Q. Does the payment of additional compensation to employees who meet both the duties test and salary basis for exemption under Part 541 defeat an otherwise valid exemption?
- A. No. As discussed in section 541.118(b) of Regulations, Part 541 (copy enclosed), additional compensation besides the required minimum weekly salary guarantee may be paid to exempt employees for hours worked beyond their standard workweek without affecting the salary basis of pay. Thus, extra compensation may be paid for overtime to an exempt employee on any basis. The overtime payment need not be at time and one-half, but may be at straight time, or at one-half time, or flat sum, or on any other basis.

If after reading the enclosed publication you have questions concerning the FLSA, you may wish to contact the New Orleans Wage and Hour District Office at 701 Loyola Avenue, Room 13028, New Orleans, Louisiana 70113, telephone: (504) 589-6171. That office is responsible for the enforcement of the FLSA in your area, and will be pleased to offer every possible assistance.

We trust that the above information is responsive to your inquiry.

Sincerely,

Daniel P. Sweeney  
Deputy Assistant Administrator

Enclosure