



WHD-OL-1994-0002

June 16, 1994

NAME*

This is in response to your letter requesting an opinion concluding the applicant of section 541.118 of 29 CFR Part 541 to employees who are otherwise exempt under section 13 (a) (1) of the Fair Labor Standards Act (FLSA).

You state that your client is planning to shut down its facility for one or more periods of one complete week each because of a decline in business. To minimize the impact of such shutdowns, some, if not all shutdowns will be scheduled during holiday weeks. Both exempt and nonexempt employees will receive pay for the holidays. For example, you state that if such a shutdown is scheduled for Thanksgiving week, the employees will not work any part of the week but will receive holiday pay for Thursday and Friday. Employees will also be permitted to schedule vacation and to receive vacation pay during the non-holiday portion of the week.

It is your interpretation that your client's decision to close for a week, or other short period of longer duration, will not affect the exempt status of the employees who are otherwise properly classified as exempt under section 13 (a) (1) of the FLSA as long as each exempt employee receives his or her full salary for any week he or she performs any work.

As you correctly point out, section 541.118 of Regulations, Part 541, provides that an employee need not be paid for any workweek in which he or she performs no work. Therefore, it is our opinion that the exempt status of your client's employees would not be affected if in any workweek when they perform no work they are not paid their full salaries. This is true even if employees receive vacation or holiday pay during the period the business is closed.

We trust that the above is responsive to your inquiry.

Sincerely,

Maria Echaveste
Administrator

*Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b)(7).