

08/05/03 - Minimum wage opinion letter- Meal Breaks and Working Time

I am writing in response to your request for this Offices' written opinion regarding the definition of "working time" under the Massachusetts Minimum Wage Regulations, 455 C.M.R. §2.01, and its interaction with the Massachusetts Meal Break Law, M.G.L. c. 149, §§100-101. Specifically, you have asked when an employer provides an uninterrupted half-hour meal break to employees, permits no work but requires the employees to remain on the premises during that time, is this time considered "working time," such that the employees must be paid? [\[1\]](#)

The Massachusetts Minimum Wage Regulations define "working time" as:

all time during which an employee is required to be on the employer's premises or to be on duty, or to be at the prescribed work site, and any time worked before or beyond the end of the normal shift to complete the work. Working time does not include meal times during which an employee is relieved of all work-related duties.

455 C.M.R. §2.01. The first part of this definition expressly includes all time during which an employee is required to on the employer's premises in the definition of "working time." Therefore, the only remaining question is if the second part of the definition, which excludes meal times during which an employee is relieved of all work-related duties, affects a situation such as you have described. Put another way, is the employer's requirement to remain on the premises a "work-related" duty? If so, such an employee would not be deemed to have been relieved of all work-related duties and, therefore, the employer must compensate the employee for this time.

As you may know, the Division of Occupational Safety (DOS) administers the Massachusetts Minimum Fair Wage Law and Regulations, and the Office of the Attorney General (OAG) enforces both these laws and the Meal Break Law. It is my understanding that the OAG, in the absence of an expressed written opinion from DOS, has consistently taken the enforcement position that the employee must be compensated for such time. (See [attached letter, dated August 9, 2000, from Assistant Attorney General Marsha Hunter](#).) Such a position assumes that the requirement to remain at the work site constitutes a "work-related duty." DOS deems this a reasonable interpretation of the regulation, and in the interest of consistency, accepts this interpretation. [\[2\]](#) Therefore, in the situation you described, the time would be considered "working time," and the employee must be compensated at a rate not less than the statutory minimum wage. Conversely, if an employee is permitted to leave the work site for a half-hour meal break, and is relieved of all work during that break, such time is not "working time" and the employer need not compensate the employee.

I hope this information has been helpful. If you have any further questions, please feel free to contact me.

Sincerely,
Lisa C. Price
Legal Counsel

[\[1\]](#) Please note that employers are also subject to the federal minimum wage and hour law, found in the Fair Labor Standards Act (FLSA), and regulations promulgated thereunder. For information about applicable federal wage and hour laws, you should contact the U.S. Department of Labor. The telephone number for the regional office is (617) 624-6700.

[\[2\]](#) This Office is cognizant that federal law, under certain conditions, may permit such time to be non-compensable. See 29 C.F.R. §785.19. However, in this instance, we interpret state law to require compensation.