

THE CALIFORNIA STATE UNIVERSITY
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Date: December 18, 2003

Code: HR 2003-28

To: CSU Presidents

Supersedes:

From: Jackie R. McClain 
Vice Chancellor
Human Resources

HR/Salary 1995-15

Subject: **Clarification: Employees Subject to the Fair Labor Standards Act – How to Pay When Assigned to “Alternate” Work Week Schedules**

Historically at the California State University (CSU), an “irregular workweek schedule” typically referred to one with different days off other than Saturday and Sunday. However, in more recent years in response to collective bargaining agreements and changes in CSU policy, non-standard work schedules have expanded to incorporate compressed patterns such as the 4/10, 9/80 and 3/12. These schedules may require a one or two week work period and also may have different days off from the standard State pay period.

Under the State pay plan, salaries of State officers and employees are paid on the basis of 12, nearly equal pay periods each year.¹ The State pay period contains either 21 or 22 normal workdays, called a calendar month. Under this plan, normal workdays are Monday through Friday, including holidays, during the week. The Department of Finance prescribes beginning and ending pay period dates. CSU campuses and agencies under the State pay plan engage some of their employees in “alternate” work schedules that do not necessarily coincide with the 21 or 22 workdays prescribed for a given State pay period. As a result, a practice (also applied in civil service agencies) was adopted for employees who work outside of the “standard shift” (Monday through Friday, eight hours per day), referred to as the “plus/minus,” “excess/minus” or “table of workdays” method. This method has been used to maintain an accounting of deficit (debit) or excess (credit) hours, as appropriate, for employees whose work schedules differ from the State’s “standard shift.”²

¹ Refer to State Administrative Manual, Section 8510 via <http://sam.dgs.ca.gov/TOC/8500/default.htm>.

² “Credits/excess hours” are regularly scheduled hours worked in excess of standard hours within a given pay period. “Debits/deficit hours” are regularly scheduled hours not worked by the employee within a given pay period that were paid by the employer.

Distribution:

CSU Presidents
Vice Chancellor, Human Resources
Vice Presidents, Administration
Human Resources Directors

Employee Relations Designees
Payroll Managers
SOSS Director

Non-exempt CSU employees paid through the State payroll system on a monthly basis³ generate the same monthly salary (based upon time base fraction and base salary entered in the employment history database) even if the employee's regular work schedule has more or less hours than the prescribed 21 or 22 workdays (168 or 176 hours, respectively) within a given State pay period.

Campus Requirements:

The Fair Labor Standards Act (FLSA) provides certain recordkeeping requirements for employees subject to FLSA, including prompt payment of wages and payment of an employee's minimum wages for all work actually performed in a given pay period. CSU campuses are reminded to review their current practices that must, at minimum, meet the following criteria outlined below for employees subject to FLSA:

- **Recordkeeping:** All campuses are required to adhere to FLSA recordkeeping requirements. Campuses must maintain an accounting of hours worked which includes excess and deficit hours, as appropriate, for non-exempt employees on work schedules that differ from the standard State pay plan.
- **Excess Hours:** Non-exempt employees shall be paid for all hours worked within the respective pay period and there shall be no accumulation of excess hours carried forward into subsequent pay periods.
- **Deficit Hours:** Non-exempt employees who have deficit hours in a given pay period may carry forward these deficit hours. These deficit hours shall be offset by any excess number of hours (credits) worked in a subsequent pay period, as appropriate. Employees shall not be paid for excess hours worked in a pay period when an equal or greater deficit balance exists. Employees may choose to offset deficit balances by using other available leave credits such as vacation, compensatory time off (CTO), previously accrued "holiday credits," and/or personal holiday. All campuses shall reconcile employees' deficit hours at least once each calendar year in December and report to the Vice Chancellor of Human Resources each January, the name of each employee requiring a reconciliation, the employee's position and collective bargaining identifier, the total number of deficit hours, the employee's hourly rate equivalent and the amount of the reconciliation. When reconciling an employee's deficit hours in December, the affected employee may use leave balances⁴ be docked⁵, or the campus must establish an accounts receivable, as appropriate⁶, if no leave credits are available to offset the deficit.

³ Employment History Database PIMS Item 310 = "M"

⁴ Leave balances may include vacation and compensatory time off (CTO) hours. "Holiday credit" leave balances acquired under prior collective bargaining contract provisions or CSU policy also may be used. Sick leave hours are not eligible for supplementation for regular work hours unless the employee is sick. As a reminder, the minimum increment for Personal Holiday hours is "one unit" which equates to one day of an employee's regular work schedule.

⁵ Docks may be processed for deficits incurred in the current pay period (e.g., December) only.

⁶ An accounts receivable must be established for deficits incurred in prior pay periods. Refer to Section I of the State Controller's Office (SCO) Payroll Procedures Manual for instructions and additional information.

Campus Requirements for Excess/Deficit Balances Accumulated up to December 2003 Pay Period:

- **Excess Hours:** All campuses must verify excess balances accumulated up to the December 2003 pay period and pay off such balances at the employee's current rate of pay. Such payments must be paid to the employee no later than the close of business **January 30, 2004**. (Campuses using SCO's CLAS can access CIRS Compendium reports that track leave type "EH." Report "G54" reports Excess Hours Earned and Used by Leave Period. Report "G55" reports Employees Whose Excess Hours Balance is Negative.)
- **Deficit Hours:** All campuses must verify deficit balances incurred up to the December 2003 pay period. These deficit hours may be maintained separately from deficit hours generated after the January 2004 pay period. **Campuses must work with employees to ensure that these deficit hours are reconciled by no later than December 31, 2004. Details specific to the reconciliation for the Academic Professionals of California (APC) and State University Police Association (SUPA) bargaining units are in progress and will be addressed under separate cover.**

Again, the CSU requires deficit hours to be offset by excess hours when available.

NOTE: It is important to note that the December 2004 reconciliation incorporates two separate timeframes. The first is a more extended timeline for deficit balances incurred through December 2003. If an employee has an existing deficit, it may not be reasonable to reconcile this outstanding deficit within the same pay period (e.g., December 2003). Therefore, this one-time-only arrangement permits campuses to work with employees to reconcile deficit balances incurred through December 2003 pay period by December 31, 2004. This one-time-only arrangement is separate and apart from the general requirement that deficit hours be reconciled each December for the respective calendar year. The second December 2004 reconciliation timeline is the standard timeline, which requires an annual December reconciliation. In the standard timeline, campuses are required to reconcile any deficits incurred from January through December each December. In this specific instance, campuses are required to reconcile deficits incurred from January through December 2004 by December 2004.

The following attachments are provided to assist campuses in this effort:

- Attachment A: Sample: Notice to Non-Exempt Employees Assigned to Alternate Work Schedules
- Attachment A1: Sample: Notice to Academic Professionals of California Non-Exempt Employees and State University Police Association Employees Assigned to Alternate Work Schedules
- Attachment B: Excess Hours Payroll Processing Guidelines
- Attachment C: Holiday Pay Practices for Employees on Alternate Work Schedules

Attachment D: State Administrative Manual Section 8512, Beginning and Ending Dates of Pay Period and Examples

Questions may be directed to Systemwide Human Resources at (562) 951-4411. This HR Letter is available on Human Resources Administration's Web page at: <http://www.calstate.edu/HRAdm/memos.shtml>. Thank you.

JRMcC/dth

SAMPLE

**Notice to Non-Exempt Employees
Assigned to “Alternate” Work Schedules**

You are receiving this notice because our records indicate that you have an EXCESS/DEFICIT balance of _____ hours as of December 2003 pay period.

Effective with the January 2004 pay period, non-exempt employees will be paid for the number of “regular” hours worked (exclusive of overtime) in excess of the standard pay period (21 or 22 days = 168 or 176 hours, respectively) and there will be no accumulation of excess hours carried forward into a subsequent pay period*. Employees with excess hour balances accumulated through the December 2003 pay period will be paid in full at the employee’s current rate of pay by the end of the January 2004 pay period.

Also, we will work with employees with a deficit hour balance as of December 2003, to reconcile that deficit balance by December 31, 2004. Employees may choose to offset deficit balances by using available leave credits such as vacation, compensatory time off (CTO), previously accrued “holiday credits,” and/or personal holiday.

Forward going, post December 2003, if a non-exempt employee has deficit hours in a given pay period, those hours may be carried forward and will be offset by any excess number of hours (credits) worked in a subsequent pay period, as appropriate. The employee will not be paid for excess hours worked in a pay period when an equal or greater deficit balance exists. Campuses are required to reconcile employees’ deficit hours at least once each calendar year in December. If an employee has deficit hours, the employee may use leave balances (vacation, compensatory time off [CTO], holiday credit or personal holiday leave), be docked for deficits incurred in the current pay period, or the campus will establish an accounts receivable for prior pay period deficits if leave credits are not available to offset the deficit.

Please contact your campus Payroll Office to receive additional information on how your excess and/or deficit hours will be reconciled and, if applicable, to discuss options available for offsetting deficit hours. Thank you.

* The CSU requested its campuses to review record-keeping and related practices for non-exempt employees on work schedules that vary from the State of California’s standard pay plan. Under the State pay plan, salaries of State employees are paid on the basis of 12, nearly equal pay periods each year. The State pay period contains either 21 or 22 normal workdays, called a calendar month. The Department of Finance prescribes beginning and ending pay period dates. Under this plan, normal workdays are Monday through Friday, including holidays, during the week. CSU campuses engage some employees in “alternate” work schedules that do not necessarily coincide with the 21 or 22 workdays prescribed for a given State pay period. Several campuses may have adopted a practice for employees who work outside the “standard shift” (Monday through Friday, 8 hours per day), referred to as the “plus/minus,” “excess/minus” or “table of workdays” method to maintain accounting of excess or deficit hours, as appropriate. Excess hours are regularly scheduled hours worked in excess of standard hours within a given pay period. Deficit hours are hours paid by the CSU for hours not yet worked by the employee.

SAMPLE

**Notice to Academic Professionals of California (APC)
Non-Exempt Employees and State University Police Association
Employees Assigned to "Alternate" Work Schedules**

You are receiving this notice because our records indicate that you have an EXCESS balance of _____ hours as of December 2003 pay period.

Effective with the January 2004 pay period, non-exempt employees will be paid for the number of "regular" hours worked (exclusive of overtime) in excess of the standard pay period (21 or 22 days = 168 or 176 hours, respectively) and there will be no accumulation of excess hours carried forward into a subsequent pay period*. Employees with excess hour balances accumulated through the December 2003 pay period will be paid in full at the employee's current rate of pay by the end of the January 2004 pay period.

Campuses are required to reconcile employees' deficit hours at least once each calendar year in December. The reconciliation period for balances incurred through December 2003 pay period is December 31, 2004. Details specific to the December 2004 reconciliation of deficit hours for employees represented under the Academic Professionals of California and State University Police Association are currently under discussion and will be provided at a later date.

Post December 2003, if a non-exempt employee has deficit hours in a given pay period, those hours may be carried forward and will be offset by any excess number of hours (credits) worked in a subsequent pay period, as appropriate. The employee will not be paid for excess hours worked in a pay period when an equal or greater deficit balance exists.

* The CSU requested its campuses to review record-keeping and related practices for non-exempt employees on work schedules that vary from the State of California's standard pay plan. Under the State pay plan, salaries of State employees are paid on the basis of 12, nearly equal pay periods each year. The State pay period contains either 21 or 22 normal workdays, called a calendar month. The Department of Finance prescribes beginning and ending pay period dates. Under this plan, normal workdays are Monday through Friday, including holidays, during the week. CSU campuses engage some employees in "alternate" work schedules that do not necessarily coincide with the 21 or 22 workdays prescribed for a given State pay period. Several campuses may have adopted a practice for employees who work outside the "standard shift" (Monday through Friday, 8 hours per day), referred to as the "plus/minus," "excess/minus" or "table of workdays" method to maintain accounting of excess or deficit hours, as appropriate. Excess hours are regularly scheduled hours worked in excess of standard hours within a given pay period. Deficit hours are hours paid by the CSU for hours not yet worked by the employee.

“Excess Hours” Payroll Processing Guidelines	
Processing Responsibility:	Campus
Processing Date(s):	For “Lump Sum” Payout: Excess hour balances accrued through December 2003 pay period must be paid out by the end of the January 2004 pay period. “Prospective” Pay Periods: concurrent with respective pay period
Earnings ID:	“9F”
Amount:	Equals number of excess hours times the employee’s hourly rate equivalent.
Subject to PERS Withholding:	No
Taxable/Reportable	Yes
Subject to Medicare/Social Security	Yes
Additional Information:	Excess Hours will be paid via the PIP system using earnings ID # “9F” and the serial number of the employee’s position or other serial number as designated by the campus.

**Holiday Pay Practices for Non-Exempt Employees
on “Alternate” Work Schedules**

Title 5, Section 42920, specifies holiday provisions for CSU employees. Eligible CSU employees are granted the same number of paid holidays in a year, regardless of work shifts or specific days scheduled in an employee’s assigned work schedule.

If an employee is assigned to an alternate work schedule and the holiday is observed on a non-workday, the employee remains entitled to the holiday observance if he/she is in pay status on the day the holiday is officially observed. The number of paid hours for the holiday observance is typically equal to the employee’s normal workday.⁷ Refer to the appropriate bargaining unit contract for represented employees or CSU policy for non-represented employees to review holiday guidelines for employees on alternate work schedules.⁸

⁷ Academic Professionals of California (Unit 4) Article 25 provides up to an eight (8) hour holiday for full-time employees in pay status on the day a holiday is officially observed, or pro-rata for less than full-time.

⁸ C.S.E.A.’s Article 14 provides: “If an employee is on a compressed work schedule and the holiday is observed on a non-workday, the employee shall be entitled to the number of holiday hours equal to their normal workday. This holiday must be used within ninety (90) days after the holiday was observed.”

Refer to State Employee Trades Council (Unit 6) Letter of Agreement (Appendix D-1) concerning “payment for holidays” campus options when an employee is on an alternative work schedule.

**State Administrative Manual (SAM) Section 8512,
Beginning and Ending Dates of Pay Period**

Section 8512 of the State Administrative Manual assists campuses in determining/projecting excess/deficit hours when comparing a non-standard work schedule to the standard State pay plan for a given pay period. SAM Section 8512 provides pay period inclusive dates for each State pay period through calendar year 2021. Each year has a specific pattern type (e.g., 2003 is year pattern #4, 2004 is year pattern #12). The number of Monday through Friday workdays, including holidays, consists of a 21 or 22 day (168 or 176 hours, respectively) pay period. Section 8512 can be found on the Web at: <http://sam.dgs.ca.gov/TOC/8500/8512.htm>.

The following examples are provided to show how excess/deficit/holiday hours would be treated based upon a non-standard work schedule over the October to December 2003 pay periods. Please note that the holiday schedules shown in the following examples are based upon the schedule approved at the Chancellor's Office for 2003⁹. Campuses with differing holiday schedules will have different outcomes from the following examples.

⁹ Chancellor Office 2003 Holiday Schedule:

Thanksgiving	November 27
Veterans Day	November 28
Christmas	December 25
Lincoln's Birthday	December 26
Washington's Birthday	December 29
Admission Day	December 30
Columbus Day	December 31

**HR 2003-28
ATTACHMENT D**

Example #1

A non-exempt CSEA employee is assigned to 4/10 work schedule, Monday through Thursday. Work schedule is forty (40) hours in a seven (7) day period beginning 12:01 am on Sunday and ending 12:00 midnight the following Saturday:

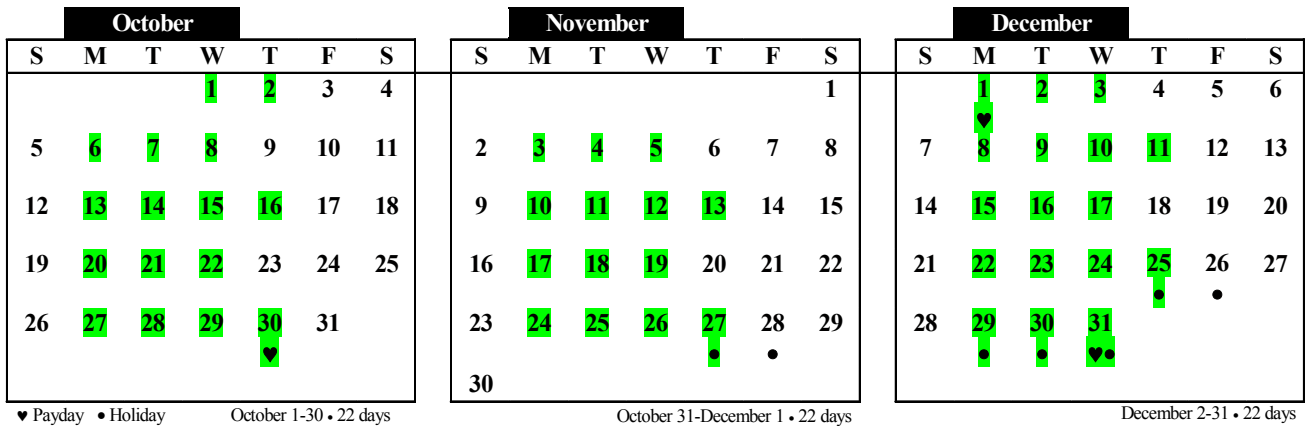
October							November							December						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4							1		1	2	3	4	5	6
5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13
12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31			
				♥			30				•	•			•	•	♥	•		

♥ Payday • Holiday October 1-30 • 22 days October 31-December 1 • 22 days December 2-31 • 22 days

State Pay Period	Actual Time Worked
October 2003 October 1-30 22 days = 176 hours	Total regular hours = 180 Excess Hours = 4
November 2003 Oct 31-Dec 1 22 days = 176 hours	Total regular hours (including November 27 th) = 170 Deficit Hours = 6 Additional Holiday Hours = 1 alternate day off (for November 28 th)
December 2003 Dec 2-31 22 days = 176 hours	Total regular hours (including December 25, 29-31 st) = 180 Excess Hours = 4 Additional Holiday Hours = 1 alternate day off (for December 26 th)

Example #2

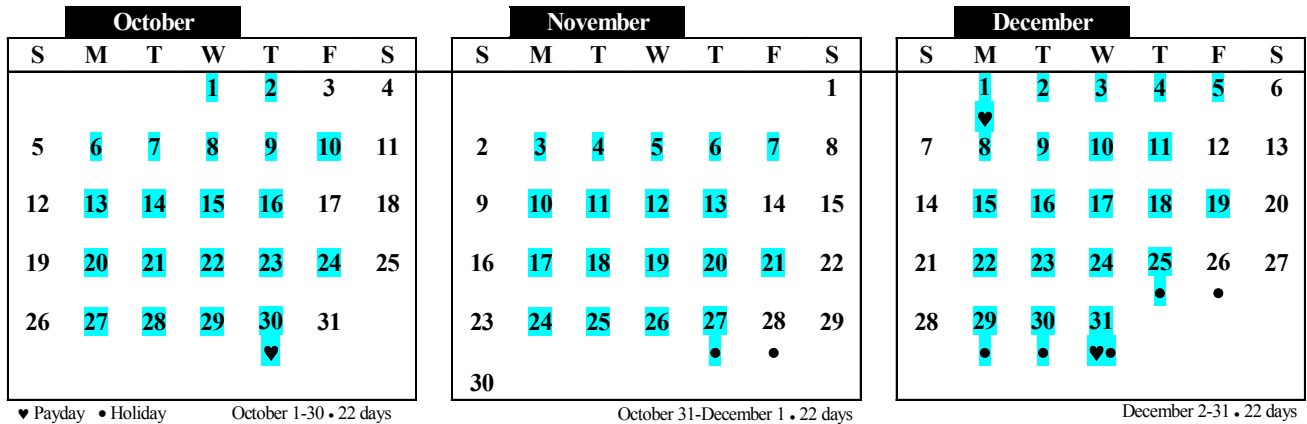
A non-exempt Unit 8 employee is assigned to 3/12 work schedule. The regular work schedule is 80 hours in a 14-day work period commencing 12:01 a.m. Sunday and ending at midnight the Saturday of the second week. The employee works three (3) 12-hour days each week (Monday to Wednesday), plus one (1) eight (8) hour day (Thursday) in the second week of the work period. In this example, October 1 and 2 concludes the second week of the employee's 14-day work period.



State Pay Period	Actual Time Worked
October 2003 October 1-30 22 days = 176 hours	Total regular hours = 180 (October 1 = 12 hours; October 2 = 8 hours) Excess Hours = 4
November 2003 Oct 31-Dec 1 22 days = 176 hours	Total regular hours (including November 27 th) = 172 Deficit Hours = 4 Additional Holiday Hours due for November 28 th
December 2003 Dec 2-31 22 days = 176 hours	Total regular hours (including December 25, 29-31 st) = 184 Excess Hours = 8 Additional Holiday Hours due for December 26 th

Example #3

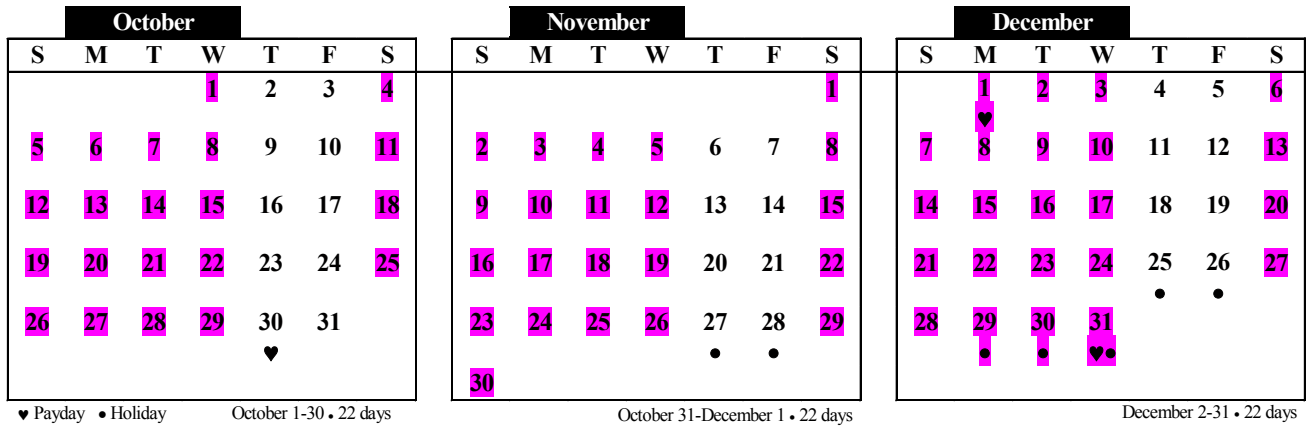
A non-exempt CSEA employee is assigned to a 9/80 schedule. The regular work schedule is 80 hours in a 14-day work period. The employee works nine (9) hours per day on four (4) consecutive days (Monday to Thursday) during each work week and eight (8) hours per day on the alternating fifth (5th) day (Friday) during the fourteen (14) day period of time. In this example, October 1 and 2 are days worked during the first week of the employee’s 14-day work period.



State Pay Period	Actual Time Worked
October 2003 October 1-30 22 days = 176 hours	Total regular hours = 178 Excess Hours = 2
November 2003 Oct 31-Dec 1 22 days = 176 hours	Total regular hours (including November 27 th) = 169 Deficit Hours = 7 Additional Holiday Hours = 1 alternate day off (for November 28 th)
December 2003 Dec 2-31 22 days = 176 hours	Total regular hours (including Dec. 25, 29-31 st) = 178 Excess Hours = 2 Additional Holiday Hours = 1 alternate day off (for December 26 th)

Example #4

A Unit 8 employee is assigned to a 5/40 schedule, five (5) days, eight (8) hours per day. The regular schedule is 40 hours within a one-week work period, commencing 12:01 am Sunday and ending midnight the following Saturday. The employee's regular days off are Thursday and Friday.



State Pay Period	Actual Time Worked
October 2003 October 1-30 22 days = 176 hours	Total regular hours = 168 Deficit Hours = 8
November 2003 Oct 31-Dec 1 22 days = 176 hours	Total regular hours = 184 Excess Hours = 8 Additional Holiday Hours due for November 27-28 th
December 2003 Dec 2-31 22 days = 176 hours	Total regular hours (including December 29-31 st) = 176 Additional Holiday Hours due for December 25-26 th