

Rudinger



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Customs Service - Data Transcribers - Overtime
Compensation

File: B-231380

Date: February 8, 1989

DIGEST

The duties of Customs Service "SELECT" data transcribers only involve entering data from an entry package to a computer, and such work does not qualify as the performance of "inspectional services" under 19 U.S.C. §§ 267, 1451 (1982). These employees are entitled to overtime only under 5 U.S.C. §§ 5541 to 5549 (1982).

DECISION

This decision is in response to a request from the Acting Commissioner, United States Customs Service, concerning the entitlement of certain Customs Service data transcribers to overtime compensation under 19 U.S.C. § 267 (1982) or 5 U.S.C. §§ 5541-5549. We conclude that they are entitled to overtime under the provisions of title 5, United States Code, only.

BACKGROUND

The Customs Service has historically authorized overtime under the 1911 Customs overtime law, 19 U.S.C. § 267 as extended by 19 U.S.C. § 1451 (1982), when Customs Service employees perform overtime service in connection with the examination and release of cargo. The agency points out that in conjunction with this work, "SELECT" automated systems have been introduced to facilitate the handling and processing of data in the examination/release process. It has been suggested that since this activity has become so intertwined with the inspectional process for which overtime under 19 U.S.C. § 267 is payable, those who perform this data processing function should also receive the same

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overtime rather than overtime under title 5, United States Code.^{1/}

The Pacific Region Counsel for the Customs Service, by memorandum dated August 18, 1987, pointed out that our Office has taken a very restrictive view of the types of activities for which overtime under 19 U.S.C. § 267 is payable, allowing it only in cases where the duties performed are Customs Service duties required by law. It is his view that data transcription activities would not qualify since the data transcribers have neither the training nor expertise to do actual inspections.

OPINION

We concur with the Regional Counsel's analysis. The provisions of 19 U.S.C. §§ 267 (1982) authorize the payment of overtime at a rate established by the Secretary of the Treasury for officials and employees of the Customs Service when they are required to perform extra duty hours,

"in connection with the loading or unloading of cargo, or the loading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unloading, receiving, or examination of passengers' baggage"

Our decisions have consistently viewed the covered duties as involving inspection, examination, and the making of determinations as part of that inspectional process. Murphy and Doud, B-194568, Feb. 15, 1980; Kenneth J. Corpman, et al., B-214845, Apr. 12, 1985. Unless it can be determined that SELECT data transcribing is inspectional, those who perform those duties would not be entitled to overtime pay under 19 U.S.C. § 267.

As described by the agency, the duties of a data transcriber only involve entering data from an entry package to a computer. While that data entry process produces computer

^{1/} The overtime under 19 U.S.C. § 267 is payable at a rate fixed on the basis of one-half day's additional pay for each 2 hours of overtime and 2 additional days' pay for Sunday or holiday duty. Overtime under 5 U.S.C. §§ 5541-5549 is payable at the rate of one and one-half times the hourly rate of basic pay, not to exceed the minimum rate of basic pay for grade GS-10.

output which can be utilized in the inspection process, the data transcriber has no authority to use it or make decisions with respect to it. Instead, the transcriber is required to turn the output over to an inspector for whatever further action is deemed appropriate. Thus, we conclude that data transcription work is strictly a support activity to the Customs Service's statutory mandate of inspections and the individuals who are employed to perform data transcribing do not qualify for overtime under 19 U.S.C. § 267. Their overtime entitlement is limited to that authorized in 5 U.S.C. §§ 5541-5549.

Milton A. Rosen

for
Comptroller General
of the United States