

Wage and Hour Division, Labor

§ 541.99

§ 541.5d Special provisions applicable to employees of public agencies.

(a) An employee of a public agency who otherwise meets the requirements of § 541.118 shall not be disqualified from exemption under §§ 541.1, 541.2, or 541.3 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because—

- (1) permission for its use has not been sought or has been sought and denied;
 - (2) accrued leave has been exhausted;
- or
- (3) the employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid “on a salary basis” *except* in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

[57 FR 37677, Aug. 19, 1992]

§ 541.6 Petition for amendment of regulations.

Any person wishing a revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes. In determining such future regulations, separate treatment for different industries and for dif-

ferent classes of employees may be given consideration.

§ 541.52 Special provision for motion picture producing industry.

The requirements of §§ 541.1, 541.2, and 541.3 that the employee be paid “on a salary basis” shall not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$250 a week (exclusive of board, lodging, or other facilities).

[40 FR 7092, Feb. 19, 1975]

EFFECTIVE DATE NOTE: Section 541.52 was removed at 46 FR 3014, Jan. 13, 1981. In accordance with the President's Memorandum of January 29, 1981 (46 FR 11227, Feb. 6, 1981), the effective date of the removal was postponed indefinitely at 46 FR 11972, Feb. 12, 1981.

The text of § 541.52 set forth above remains in effect pending further action by the issuing agency.

Subpart B—Interpretations

§ 541.99 Introductory statement.

(a) Section 13(a)(1) of the Fair Labor Standards Act, as amended, exempts from the wage and hour provisions of the act “any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 percent of his hours worked in the workweek are devoted to such activities).” The requirements of the exemption under this section of the act are contained in subpart A of this part.