

Wage and Hour Division, Labor

§ 548.3

AUTHORITY: Sec. 7, 52 Stat. 1063, as amended; 29 U.S.C. 207, unless otherwise noted.

Subpart A—General Regulations

SOURCE: 20 FR 5679, Aug. 6, 1955, unless otherwise noted.

§ 548.1 Scope and effect of regulations.

The regulations in this part set forth the requirements for authorization of established basic rates to be used in the computation of overtime pay in accordance with section 7(g)(3) of the Fair Labor Standards Act of 1938, as amended. Payment of overtime compensation in accordance with other subsections of section 7 of the Act is explained in part 778 of this title (Interpretative Bulletin on Overtime Compensation).

§ 548.2 General conditions.

The requirements of section 7 of the Act with respect to the payment of overtime compensation to an employee for a workweek longer than the applicable number of hours established in section 7(a) of the Act, will be met under the provisions of section 7(g)(3) of the Act by payments which satisfy all the following standards:

(a) Overtime compensation computed in accordance with this part and section 7(g)(3) of the Act is paid pursuant to an agreement or understanding arrived at between the employer and the employee or as a result of collective bargaining before performance of the work;

(b) A rate is established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder;

(c) The established basic rate is a specified rate or a rate which can be derived from the application of a specified method of calculation;

(d) The established basic rate is a bona fide rate and is not less than the minimum hourly rate required by applicable law;

(e) The basic rate so established is authorized by § 548.3 or is authorized by the Administrator under § 548.4 as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the par-

ticular work over a representative period of time;

(f) Overtime hours are compensated at a rate of not less than one and one-half times such established basic rate;

(g) The hours for which the employee is paid not less than one and one-half times such established basic rate qualify as overtime hours under section 7(e) (5), (6), or (7) of the Act;

(h) The number of hours for which the employee is paid not less than one and one-half times such established basic rate equals or exceeds the number of hours worked by him in any workweek in excess of the maximum workweek applicable to such employees under subsection 7(a) of the Act;

(i) The employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of section 7(e) of the Act are not less than the minimum hourly rate required by this Act or other applicable law;

(j) Extra overtime compensation is properly computed and paid on other forms of additional pay which have not been considered in arriving at the basic rate but which are required to be included in computing the regular rate.

[20 FR 5679, Aug. 6, 1955, as amended at 26 FR 7731, Aug. 18, 1961]

§ 548.3 Authorized basic rates.

A rate which meets all of the conditions of § 548.2 and which in addition satisfies all the conditions set forth in one of the following paragraphs will be regarded as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time and may be used in computing overtime compensation for purposes of section 7(g)(3) of the Act, and § 548.2:

(a) A rate per hour which is obtained by dividing a monthly or semi-monthly salary by the number of regular working days in each monthly or semi-monthly period and then by the number or hours in the normal or regular workday. Such a rate may be used to compute overtime compensation for all the overtime hours worked by the employee during the monthly or semi-monthly period for which the salary is paid.