

Wage and Hour Division, Labor

Pt. 778

the future hold otherwise, the construction of such new highways and expressways will be regarded as covered.

§776.30 Construction performed on temporarily idle facilities.

The Act applies to work on a covered interstate instrumentality or production facility even though performed during periods of temporary non-use or idleness.⁵² The courts have held the Act applicable to performance of construction work upon a covered facility even though the use of the facility was temporarily interrupted or discontinued.⁵³ It is equally clear that the repair or maintenance of a covered facility (including its machinery, tools, dies, and other equipment) though performed during the inactive or dead season, is subject to the Acts.⁵⁴

PART 778—OVERTIME COMPENSATION

Subpart A—General Considerations

- Sec.
- 778.0 Introductory statement.
- 778.1 Purpose of interpretative bulletin.
- 778.2 Coverage and exemptions not discussed.
- 778.3 Interpretations made, continued, and superseded by this part.
- 778.4 Reliance on interpretations.
- 778.5 Relation to other laws generally.
- 778.6 Effect of Davis-Bacon Act.
- 778.7 Effect of Service Contract Act of 1965.

Subpart B—The Overtime Pay Requirements

INTRODUCTORY

- 778.100 The maximum-hours provisions.
- 778.101 Maximum nonovertime hours.
- 778.102 Application of overtime provisions generally.

⁵² *Walton v. Southern Package Corp.*, 320 U.S. 540; *Slover v. Wathen & Co.*, 140 F. (2d) 258 (C.A. 4); *Bodden v. McCormick Shipping Corp.*, 188 F. (2d) 733; and *Russell Co. v. McComb*, 187 F. (2d) 524 (C.A. 5).

⁵³ *Pedersen v. J. F. Fitzgerald Construction Co.*, ante; *Bennett v. V. P. Loftis*, ante; *Walling v. McCrady Const. Co.*, ante; and *Bodden v. McCormick Shipping Corp.*, 188 F. (2d) 733.

⁵⁴ *Maneja v. Waialua Agricultural Co.*, 349 U.S. 254; *Bowie v. Gonzalez*, 117 F. (2d) 11; *Weaver v. Pittsburgh Steamship Co.*, 153 F. (2d) 597, certiorari denied 328 U.S. 858; *Walling v. Keensburg Steamship Co.*, 462 F. (2d) 405.

- 778.103 The workweek as the basis for applying section 7(a).
- 778.104 Each workweek stands alone.
- 778.105 Determining the workweek.
- 778.106 Time of payment.

PRINCIPLES FOR COMPUTING OVERTIME PAY BASED ON THE "REGULAR RATE"

- 778.107 General standard for overtime pay.
- 778.108 The "regular rate".
- 778.109 The regular rate is an hourly rate.
- 778.110 Hourly rate employee.
- 778.111 Pieceworker.
- 778.112 Day rates and job rates.
- 778.113 Salaried employees—general.
- 778.114 Fixed salary for fluctuating hours.
- 778.115 Employees working at two or more rates.
- 778.116 Payments other than cash.
- 778.117 Commission payments—general.
- 778.118 Commission paid on a workweek basis.
- 778.119 Deferred commission payments—general rules.
- 778.120 Deferred commission payments not identifiable as earned in particular workweeks.
- 778.121 Commission payments—delayed credits and debits.
- 778.122 Computation of overtime for commission employees on established basic rate.

Subpart C—Payments That May Be Excluded From the "Regular Rate"

THE STATUTORY PROVISIONS

- 778.200 Provisions governing inclusion, exclusion, and crediting of particular payments.

EXTRA COMPENSATION PAID FOR OVERTIME

- 778.201 Overtime premiums—general.
- 778.202 Premium pay for hours in excess of a daily or weekly standard.
- 778.203 Premium pay for work on Saturdays, Sundays, and other "special days".
- 778.204 "Clock pattern" premium pay.
- 778.205 Premiums for weekend and holiday work—example.
- 778.206 Premiums for work outside basic workday or workweek—examples.
- 778.207 Other types of contract premium pay distinguished.

BONUSES

- 778.208 Inclusion and exclusion of bonuses in computing the "regular rate".
- 778.209 Method of inclusion of bonus in regular rate.
- 778.210 Percentage of total earnings as bonus.
- 778.211 Discretionary bonuses.
- 778.212 Gifts, Christmas and special occasion bonuses.