

## § 548.300

## 29 CFR Ch. V (7-1-05 Edition)

with these employees prior to the performance of the work.<sup>3</sup>

(b) *The rate.* The established basic rate may be a specified rate or a rate which can be derived from the application of a specified method of calculation. For instance, under certain conditions the Regulations permit the use of the daily average hourly earnings of the employee as a basis for computing daily overtime.<sup>4</sup> Thus, a method rather than a specific rate is authorized. Also, under certain conditions, the cost of a single meal a day furnished to employees may be excluded from the computation of overtime pay.<sup>5</sup> It is the exclusion of the cost of the meals that is authorized and each employee's rate of pay, whatever it may be—an hourly rate, a piece rate or a salary—is his basic rate.

(c) *Minimum wage.* The employee's average hourly earnings for the workweek (exclusive of overtime pay and other pay which may be excluded from the regular rate)<sup>6</sup> and the established basic rate used to compute overtime pay may not be less than the legal minimum.<sup>7</sup>

[20 FR 5680, Aug. 6, 1955, as amended at 21 FR 338, Jan. 18, 1956]

### AUTHORIZED BASIC RATES

#### § 548.300 Introductory statement.

Section 548.3 contains a description of a number of basic rates any one of which, when established by agreement or understanding, is authorized for use without prior specific approval of the Administrator. These basic rates have been found in use in industry and the Administrator has determined that they are substantially equivalent to the straight-time average hourly earnings of the employee over a representative

<sup>3</sup>The records which an employer is required to maintain and preserve for an employee compensated for overtime hours on the basis of a basic rate are described in §§ 516.5(b)(5) and 516.21 of this subchapter.

<sup>4</sup>See § 548.302.

<sup>5</sup>See § 548.304.

<sup>6</sup>See §§ 778.200 through 778.225 of this chapter for further discussion of what payments may be excluded.

<sup>7</sup>The legal minimum is the highest rate required by the Fair Labor Standards Act or other Federal, State or local law.

period of time. The authorized basic rates are described below.

[20 FR 5681, Aug. 6, 1955]

#### § 548.301 Salaried employees.

(a) Section 548.3(a) authorizes as an established basic rate: "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 of 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."

(b) Section 548.3(a) may be applied to salaried employees paid on a monthly or semi-monthly basis. Under section 7(a) of the Act the method of computing the regular rate of pay for an employee who is paid on a monthly or semi-monthly salary basis is to reduce the salary to its weekly equivalent by multiplying the monthly salary by 12 (the number of months) or the semi-monthly salary by 24, and dividing by 52 (the number of weeks). The weekly equivalent is then divided by the number of hours in the week which the salary is intended to compensate.<sup>8</sup> Section 548.3(a) is designed to provide an alternative method of computing the rate for overtime purposes in the case of an employee who is compensated on a monthly or semi-monthly salary basis, where this method is found more desirable. This method is applicable only where the salary is paid for a specified number of days per week and a specified number of hours per day normally or regularly worked by the employee. It permits the employer to take into account the variations in the number of regular working days in each pay period. The basic rate authorized by § 548.3(a) is obtained by dividing the monthly or semi-monthly salary by the number of regular working days in the month or half-month, and then by the number of hours of the normal or regular work day.

*Example.* An employee is compensated at a semi-monthly salary of \$154 for a workweek

<sup>8</sup>See § 778.113 of this chapter.