

### § 1620.33

### 29 CFR Ch. XIV (7-1-07 Edition)

Employers Under the FLSA). The regulations of that part are adopted herein by reference.

(b) Every employer subject to the equal pay provisions of the Act shall maintain and preserve all records required by the applicable sections of 29 CFR part 516 and in addition, shall preserve any records which he makes in the regular course of his business operation which relate to the payment of wages, wage rates, job evaluations, job descriptions, merit systems, seniority systems, collective bargaining agreements, description of practices or other matters which describe or explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment, and which may be pertinent to a determination whether such differential is based on a factor other than sex.

(c) Each employer shall preserve for at least two years the records he makes of the kind described in § 1620.32(b) which explain the basis for payment of any wage differential to employees of the opposite sex in the same establishment.

(Approved by the Office of Management and Budget under control number 3046-0019)

(Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[46 FR 4888, Jan. 19, 1981, as amended at 46 FR 63268, Dec. 31, 1981. Redesignated at 51 FR 29819, Aug. 20, 1986]

### § 1620.33 Recovery of wages due; injunctions; penalties for willful violations.

(a) Wages withheld in violation of the Act have the status of unpaid minimum wages or unpaid overtime compensation under the FLSA. This is true both of the additional wages required by the Act to be paid to an employee to meet the equal pay standard, and of any wages that the employer should have paid an employee whose wages he reduced in violation of the Act in an attempt to equalize his or her pay with that of an employee of the opposite sex performing equal work, on jobs subject to the Act.

(b) The following methods are provided under sections 16 and 17 of the FLSA for recovery of unpaid wages: The Commission may supervise payment of the back wages and may bring

suit for back pay and an equal amount as liquidated damages. The employee may sue for back pay and an additional sum, up to the amount of back pay, as liquidated damages, plus attorney's fees and court costs. The employee may not bring suit if he or she has been paid back wages in full under supervision of the Commission, or if the Commission has filed suit under the Act to collect the wages due the employee. The Commission may also obtain a court injunction to restrain any person from violating the law, including the unlawful withholding by an employer of proper compensation. A 2-year statute of limitations applies to the recovery of unpaid wages, except that an action on a cause of action arising out of a willful violation may be commenced within 3 years after the cause of action accrued.

(c) Willful violations of the Act may be prosecuted criminally and the violator fined up to \$10,000. A second conviction for such a violation may result in imprisonment.

(d) Violation of any provision of the Act by any person, including any labor organization or agent thereof, is unlawful, as provided in section 15(a) of the FLSA. Accordingly, any labor organization, or agent thereof, who violates any provision of the Act is subject to injunction proceedings in accordance with the applicable provisions of section 17 of the FLSA. Any such labor organization, or agent thereof, who willfully violates the provisions of section 15 is liable to the penalties set forth in section 16(a) of the FLSA.

[46 FR 4888, Jan. 19, 1981. Redesignated at 51 FR 29819, Aug. 20, 1986]

### § 1620.34 Rules to be liberally construed.

(a) These rules and regulations shall be liberally construed to effectuate the purpose and provisions of this Act and any other Act administered by the Commission.

(b) Any person claiming to be aggrieved or the agent for such person may advise the Commission of the statute or statutes under which he or she wishes the Commission to commence its inquiry.