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29 C.F.R. § 1620.13

"Equal Work"—What it means.

(a) *In general.* The EPA prohibits discrimination by employers on the basis of sex in the wages paid for "equal work on jobs the performance of which requires equal skill, effort and responsibility and which are performed under similar working conditions * * *." The word "requires" does not connote that an employer must formally assign the equal work to the employee; the EPA applies if the employer knowingly allows the employee to perform the equal work. The equal work standard does not require that compared jobs be identical, only that they be substantially equal.

(b) *"Male jobs" and "female jobs."* (1) Wage classification systems which designate certain jobs as "male jobs" and other jobs as "female jobs" frequently specify markedly lower rates for the "females jobs." Such practices indicate a pay practice of discrimination based on sex. It should also be noted that it is an unlawful employment practice under title VII of the Civil Rights Act of 1964 to classify a job as "male" or "female" unless sex is a bona fide occupational qualification for the job.

(2) The EPA prohibits discrimination on the basis of sex in the payment of wages to employees for work on jobs which are equal under the standards which the Act provides. For example, where an employee of one sex is hired or assigned to a particular job to replace an employee of the opposite sex but receives a lower rate of pay than the person replaced, a prima facie violation of the EPA exists. When a prima facie violation of the EPA exists, it is incumbent on the employer to show that the wage differential is justified under one or more of the Act's four affirmative defenses.