

---

## 29 C.F.R. § 778.327

---

### Temporary or sporadic reduction in schedule.

---

- (a) The problem of reduction in the workweek is somewhat different where a temporary reduction is involved. Reductions for the period of a dead or slow season follow the rules announced above. However, reduction on a more temporary or sporadic basis presents a different problem. It is obvious that as a matter of simple arithmetic an employer might adopt a series of different rates for the same work, varying inversely with the number of overtime hours worked in such a way that the employee would earn no more than his straight time rate no matter how many hours he worked. If he set the rate at \$6 per hour for all workweeks in which the employee worked 40 hours or less, approximately \$5.93 per hour for workweeks of 41 hours, approximately \$5.86 for workweeks of 42 hours, approximately \$5.45 for workweeks of 50 hours, and so on, the employee would always receive (for straight time and overtime at these “rates”) \$6 an hour regardless of the number of overtime hours worked. This is an obvious bookkeeping device designed to avoid the payment of overtime compensation and is not in accord with the law. See *Walling v. Green Head Bit & Supply Co.*, 138 F. 2d 453. The regular rate of pay of this employee for overtime purposes is, obviously, the rate he earns in the normal nonovertime week—in this case, \$6 per hour.

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)