

29 C.F.R. § 778.404

Purposes of exemption.

The exception to the requirements of section 7(a) provided by section 7(f) of the Act is designed to provide a means whereby the employer of an employee whose duties necessitate irregular hours of work and whose total wages if computed solely on an hourly rate basis would of necessity vary widely from week to week, may guarantee the payment, week-in, week-out, of at least a fixed amount based on his regular hourly rate. Section 7(f) was proposed and enacted in 1949 with the stated purpose of giving express statutory validity, subject to prescribed limitations, to a judicial “gloss on the Act” by which an exception to the usual rule as to the actual regular rate had been recognized by a closely divided Supreme Court as permissible with respect to employment in such situations under so-called “Belo” contracts. See *McComb v. Utica Knitting Co.*, 164 F. 2d 670, rehearing denied 164 F. 2d 678 (C.A. 2); *Walling v. A. H. Belo Co.*, 316 U.S. 624; *Walling v. Halliburton Oil Well Cementing Co.*, 331 U.S. 17; 95 Cong. Rec. 11893, 12365, 14938, A2396, A5233, A5476. Such a contract affords to the employee the security of a regular weekly income and benefits the employer by enabling him to anticipate and control in advance at least some part of his labor costs. A guaranteed wage plan also provides a means of limiting overtime computation costs so that wide leeway is provided for working employees overtime without increasing the cost to the employer, which he would otherwise incur under the Act for working employees in excess of the statutory maximum hours standard. Recognizing both the inherent advantages and disadvantages of guaranteed wage plans, when viewed in this light, Congress sought to strike a balance between them which would, on the one hand, provide a feasible method of guaranteeing pay to employees who needed this protection without, on the other hand, nullifying the overtime requirements of the Act. The provisions of section 7(f) set forth the conditions under which, in the view of Congress, this may be done. Plans which do not meet these conditions were not thought to provide sufficient advantage to the employee to justify Congress in relieving employers of the overtime liability section 7(a).

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