
29 C.F.R. § 778.413

Guaranty must be based on rates specified in contract.

The guaranty of pay must be “based on the rate so specified,” in the contract. If the contract specifies a regular rate of \$5 and an overtime rate of \$7.50 and guarantees pay for 50 hours and the maximum hours standard is 40 hours, the amount of the guaranty must be \$275, if it is to be based on the rates so specified. A guaranty of \$290 in such a situation would not, obviously, be based on the rates specified in the contract. Moreover, a contract which provides a variety of different rates for shift differentials, arduous or hazardous work, stand-by time, piece-rate incentive bonuses, commissions or the like in addition to a specified regular rate and a specified overtime rate with a guaranty of pay of, say, \$290 from all sources would not qualify under this section, since the guaranty of pay in such a case is not based on the regular and overtime rates specified in the contract.

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