
29 C.F.R. § 794.141

Workweeks when hours worked do not exceed 12 in any day or 56 in the week; compensation requirements.

(a) The overtime pay exemption provided by section 7(b)(3) is “limited to 12 hours a day and 56 hours a week” in any workweek; the exemption is provided “for employment up to 12 hours in any workday and up to 56 hours in any workweek” without any payment for overtime hours at one and one-half times the regular rate being required. However, the exemption from any such time-and-one-half payment is limited to workweeks when “no more” than the specified hours are worked and is contingent on payment to the employee in such a workweek of “compensation for hours between 40 and 56” at a rate “not less than one and one-half times the applicable minimum wage.” (H. Rept. No. 1366, pp. 12-13, 43, and S. Rept. No. 1487, p. 32, 89th Cong., second sess.) Thus, the exemption will be applicable to an employee otherwise eligible under the principles previously discussed in this part in any workweek when his hours of work do not exceed 12 in any day or 56 in the week if, and only if, his “compensation for employment in excess of forty hours” is “at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6”, as provided in section 7(b)(3). This means that in addition to the requirement of section 6, under which the first 40 hours of work must be paid for at a rate not less than the minimum hourly wage rate therein specified, the compensation requirements applicable to such an employee for whom the 7(b)(3) exemption is claimed include any increase in his regular straight-time pay rate for the hours worked in excess of 40 which may be necessary in order to raise the wage rate for such hours to a level of 50 percent above the rate required under section 6. Of course, if the employee is employed at a regular straight-time rate for all his hours of work which is as great or greater than one and one-half times the minimum wage applicable to him under section 6, no increase for the hours in excess of 40 will be required under the provisions of section 7(b)(3).

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