**Section 210.430 Methods of Computing Overtime**

a) Hourly Rate Employees: If an employee is employed solely on the basis of a single hourly rate, the hourly rate is the "regular rate". For overtime hours, the employees must be paid, in addition to the straight time hourly earning, a sum determined by multiplying one-half the hourly rate by the number of hours worked over the maximum set by statute.

b) Pieceworker: When an employee is employed on a piece-rate basis (so much per piece, dozen, gross, etc.) the regular rate of pay is computed by adding together the total earnings for the workweek from piece rates and all other earnings (such as bonuses) and any sums paid for waiting time or other hours worked. This sum is then divided by the number of hours worked in that week to yield the piece worker's "regular rate" for that week. For the overtime work the piece worker is entitled to be paid, in addition to the total straight time weekly earnings, one-half this regular rate for each hour over the maximum set by statute.

c) Day Rates and Job Rates: An employee may be paid a flat sum for a day's work or for doing a particular job, without regard to the number of hours worked in the day or at the job, and receive no other form of compensation. In such a case, the employee's regular rate is found by totalling all sums received at such day rates or job rates in the workweek and dividing by the total hours actually worked. The employee is then entitled to extra half-time pay at this rate for all hours worked over the maximum set by statute.

d) Employee Paid on a Salary Basis: If an employee is employed solely on a weekly salary basis, the regular hourly rate of pay is computed by dividing the salary by the number of hours which the salary is intended to compensate.

e) Salary for Periods Other Than a Workweek: Where the salary covers a period longer than a workweek, such as a month, it must be reduced to its workweek equivalent. A monthly salary can be converted to its equivalent weekly wage by multiplying by 12 (the number of months) and dividing by 52 (the number of weeks). A semi-monthly salary is converted to its equivalent weekly wage by multiplying by 24 and dividing by 52.

f) Fixed Salary for Fluctuating Hours: The regular rate of an employee whose hours of work fluctuate from week to week, who is paid a stipulated salary with the clear understanding that it constitutes straight time pay for all hours worked, whatever their number and whether few or many, will vary from week to week. The regular rate is obtained for each week by dividing the salary by the number of hours worked in the week. It cannot be less than the applicable minimum wage in any week. Since straight time compensation has already been paid, the employee must receive additional overtime pay for each overtime hour worked in the week at not less than one-half this regular rate.

g) Employees Working at Two or More Rates: Where an employee in a single workweek works at two or more different types of work for which different straight time rates have been established, the regular rate for that week is the weighted average of such rates. That is, the earnings from all such rates are added together and this total is then divided by the total number of hours worked at all jobs.

h) Payments Other Than Cash: Where payments are made to employees in the form of goods or facilities which are regarded as part of wages, the reasonable cost to the employer or the fair value of such goods must be included in the regular rate (for example, lodging would be one such facility).

i) Commission Payments: Commissions (whether based on a percentage of total sales or of sales in excess of a specified amount or on some other formula) are payments for hours worked and must be included in the regular rate. This is so regardless of whether the commission is the sole source of the employee's compensation or is paid in addition to a salary or hourly rate. It does not matter whether the commission earnings are computed daily, weekly, monthly or at some other interval.

j) Commission Paid on a Workweek Basis: When a commission is paid on a workweek basis, it is added to the employee's other earnings for that workweek, and the total is divided by the total number of hours worked in the workweek to obtain the employee's regular rate for the particular workweek. The employee must be paid extra compensation at one-half of that rate for each overtime hour worked.

k) Deferred Commission Payments: If the calculation and payment of the commission cannot be completed until some time after the regular pay day for the workweek, the employer may disregard it until the amount of commission can be determined. When the commission can be computed and paid, the additional overtime compensation will be paid.

l) To compute this additional overtime compensation, the commission is apportioned back over the workweeks of the period during which it was earned. The employee must then receive additional overtime pay for each week during the period in which overtime was worked. If it is not possible or practicable to allocate the commission on the basis of the amount of commission actually earned each week some other reasonable equitable method must be adopted. One such method is to allocate an equal amount of commission earnings to each workweek in the period in which the commission was earned. Another is to allocate equal amounts to each hour worked in that period.

m) Nothing in this Section limits the Department of Labor from authorizing the use of legal methods of computation for the purpose of computing overtime.