**Section 2920.25 Payments Made During Shutdown For Inventory Or Vacation Purposes**

a) Amounts that an employer pays or holds himself liable to pay an individual as vacation pay or allowance, or as pay in lieu of vacation, or as standby pay during an announced period of shutdown for inventory or vacation purposes shall be treated as wages in amounts equal to the individual's wages for a normal work day defined in Section 2920.1. Such amounts treated as wages under this Section shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent work day in such period, except paid holidays, until the amount so paid or owing is exhausted. If a paid holiday occurs during the announced shutdown period, this period shall be extended by such paid holiday.

b) An employer shall announce the period of shutdown for inventory or vacation purposes by posting a notice at the place of employment or by giving other reasonable notice to its employees and the collective bargaining representative, if any, of the period during which the place of employment will be shut down for vacation or inventory. Such notice must be given at least 2 working days prior to the commencement of the shutdown.

c) An employer's announced purpose of the shutdown may be disputed by evidence showing that the shutdown was for purposes other than vacation or inventory. In such case, a determination will be made after a full investigation with respect to the disputed issue, taking into consideration the reasonableness of the period of the announced shutdown, the vacation period prevailing in the industry, the bargaining agreement, if any, and the length of previous shutdowns for vacation or inventory purposes. If it is shown that the shutdown was for purposes other than vacation or inventory, then the amounts that an employer pays or holds himself liable to pay an individual as vacation pay or allowance, or as pay in lieu of vacation, or as standby pay shall not be treated as wages under this Section. Amounts which do not qualify as wages under this Section may qualify as wages under Section 2920.30, because they are made in connection with a separation or layoff.

d) In deciding whether amounts paid or payable to the individual shall be treated as vacation pay under this Section, the actual amount of vacation leave available to the individual at the time of the shutdown is not material.

e) The fact that the period of announced shutdown for vacation or inventory purposes covered under this Section is preceded or followed by a layoff due to lack of work or a period of vacation or holiday covered under Sections 2920.30 or 2920.35 does not affect the treatment of the payments received under this Section. The existence of the situations described in subsections (d) and (e) might be relevant evidence, however, in deciding whether the announced shutdown was truly for vacation or inventory purposes under subsection (c).

1) Example 1: The employer announced a one week shutdown for inventory purposes on June 1, effective for the week beginning June 20. The individual was laid off for lack of work on May 3. If the employer's payments to the individual for the week beginning June 20, otherwise satisfy the requirements of this Section, the fact that the announced period of shutdown for inventory purposes follows a period of layoff due to lack of work does not affect the status of those payments as wages under this subsection.

2) Example 2: Assume the same situation given in the preceding example except for the additional fact that the individual is able to introduce evidence that the shutdown for the week beginning June 20, was not intended for inventory purposes but rather was scheduled because of lack of work. In this situation, the provisions of subsection (c) control in deciding whether the employer's payments to the individual are treated as wages under this Section.