

## **Fact Sheet #39D: Incorporating Personal Time, Fatigue and Delay (PF&D) Allowances When Determining Piece Rates to be Paid Workers with Disabilities Receiving Special Minimum Wages under Section 14(c) of the Fair Labor Standards Act (FLSA)**

This Fact Sheet provides general information concerning the establishment of prevailing wages and commensurate wages as they pertain to the employment of workers with disabilities at special minimum wages. Please read [Fact Sheet # 39](#), The Employment of Workers with Disabilities at Special Minimum Wages, for an overview of the general provisions of FLSA Section 14(c). Please consult the Regulations, [29 CFR Part 525](#), Employment of Workers with Disabilities under Special Certificates, for detailed information concerning Section 14(c).

### **What is PF&D?**

Normal fatigue prevents all employees, not just those with disabilities, from producing at their most rapid pace throughout the workday. In addition, breaks, cleanup time, and delay time while materials are being restocked or the finished products are removed all reduce the amount a worker can produce. Employers must take this nonproductive time into consideration when determining piece rates used to compute special minimum wages by including what is known as a Personal Time, Fatigue, and Delay (PF&D) Factor. Regulations, 29 CFR Part 525.12(h)(2)(ii), states that when determining piece rates "appropriate time shall be allowed for personal time, fatigue, and unavoidable delays. Generally, not less than 15% allowances (9 - 10 minutes per hour) shall be used in conducting time studies." The Wage and Hour Division will not accept a PF&D allowance that is less than 9 minutes per hour. A PF&D allowance is required only when establishing piece rates. The regulations do not require that an employer include a PF&D allowance when determining commensurate hourly wages to be paid to workers with disabilities under Section 14(c) of the FLSA.

### **How does an employer incorporate a proper PF&D allowance into a piece rate?**

The PF&D allowance can be properly incorporated when determining the piece rates to be paid workers with disabilities in several different ways.

1. The simplest method is to conduct time studies of the standard setters (workers who do not have disabilities for the work performed) for 25 minutes, and then multiply the number of completed units by 2. Averaging those results will yield the standard - the number of units that an experienced worker without disabilities would be expected to produce in an hour with a properly computed 10-minute PF&D. The piece rate is then obtained by dividing the hourly prevailing wage rate for the work by the standard. For a 9-minute PF&D, the standard setters would be timed for 25½ minutes.
  - Example: Suppose that an employer must establish a piece rate to determine the wages due workers with disabilities paid special minimum wage who are employed to produce a specific product requiring hand assembly. The employer has already conducted a survey and determined that the prevailing wage rate for that work in the vicinity is \$8.00 an hour. By conducting time studies of three experienced workers who do not have disabilities for the work being performed for 25 minutes and averaging the number of completed units produced, the employer determined that the average number of units produced in 25 minutes was 40. Therefore, the standard for this

job, using a 10-minute PF&D, is 80 units. The employer would then divide the prevailing wage rate (\$8.00) by the standard (80 units) to determine a piece rate of \$0.10.

2. An employer could apply an allowance factor to incorporate a proper PF&D. This is accomplished by multiplying the standard time it takes a worker who does not have a disability to produce one unit (or complete one cycle) by an allowance factor of 1.20 for a 10 minute PF&D or 1.1764705 for a 9-minute PF&D.
  - Example: Continuing the example above where the standard setters produced 40 units in 25 minutes, it can be determined that it took 37.5 seconds to produce a single unit. By multiplying 37.5 seconds by the allowance factor of 1.20, the time it took to produce a single unit is increased to 45.0 seconds - an amount that includes a 10-minute per hour PF&D. The number of seconds in an hour (3600) is then divided by 45.0 seconds to yield the number of units that a worker who is not disabled for the work being produced would be expected to produce in an hour that included a 10-minute PF&D.  $3600 \text{ seconds} / 45 \text{ seconds} = 80 \text{ units}$ , the same number of units as determined in the example above. The employer would again divide the prevailing wage rate (\$8.00) by the standard (80 units) to determine a piece rate of \$0.10.
  - **Note: Some employers mistakenly believe that by multiplying the standard time by an allowance factor of 1.15, they are providing a PF&D allowance of 15%, or 9 minutes. This actually incorporates a PF&D of less than 9 minutes and is not in compliance with the regulations, 29 CFR Part 525. An allowance factor of at least 1.1764705 must be used to incorporate an acceptable PF&D when determining piece rates.**
3. An employer could multiply the number of units produced in 60 minutes by the worker who does not have a disability by an allowance percentage of 85% for a 9 minute PF&D or 83.3334% for a 10-minute PF&D. Example: Suppose the standard setters in the previous two examples had been timed for an hour and the average production was 96 units. If the employer multiplied the 96 units by the allowance percentage of 83.3334% (.833334) to allow for a 10-minute PF&D, the standard would be 80 units. The employer would again divide the prevailing wage rate (\$8.00) by the standard (80 units) to determine a piece rate of \$0.10.

### **A word about the rules of ROUNDING when computing special minimum wages.**

Section 14(c) requires that workers with disabilities for the work being performed who receive special minimum wages must receive at least the commensurate wage for all hours worked. An employer who follows the normal business rules of rounding - rounding "up" only when the last decimal point is a five or higher - may actually be underpaying workers with disabilities. Although the underpayment per unit produced would be very small, the eventual back wage liability could be quite large considering the number of units that could be produced over an extended period of time by a number of different workers. This can be avoided by carrying computations out to the fifth decimal and then always rounding up to the fourth place. The Wage and Hour Division will accept the practice of carrying out computations to the fifth decimal point and then rounding up to the fourth decimal place as compliance when computing special minimum wages due workers with disabilities under Section 14(c).

An easy check to ensure that you have properly "rounded" when computing piece rates to be paid workers with disabilities under Section 14(c) is to multiply the piece rate by the standard. If this figure does not equal or exceed the prevailing wage rate, an error in the computation has occurred. In our example, \$.010 multiplied by 80 units equals the prevailing wage rate of \$8.00. Had that figure been less than \$8.00 - such as \$7.998 - the workers with disabilities would be receiving less than required by Section 14(c).

## Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

For more information about these provisions, review the other Fact Sheets in this series which address Section 14(c) compliance issues located at <http://www.dol.gov/esa/whd/fact-sheets-index.htm>.

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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