

§ 551.3

general effect of reducing the hours worked by drivers or drivers' helpers compensated thereunder to, or below, the maximum workweek applicable to them under section 7(a) of the Act is not authorized under this part unless the Administrator finds that during the most recently completed representative period of one year (based on the experience of the employer in question, or if such employer has not previously used such plan, on the experience of another employer using such plan under substantially the same conditions, all as defined in § 551.8(g)(1)), the average weekly hours, taken in the aggregate, of all full-time employees covered by the plan are not in excess of the maximum workweek applicable to such employees under section 7(a), or unless the Administrator makes an interim finding with respect to such plan that, notwithstanding a lack of experience under it for a representative period of 1 year, its provisions and manner of operation, together with the other available information concerning the plan, indicate clearly that by the end of such first representative year the effect of the plan will have been to reduce the average weekly hours worked by the employees covered by the plan in such first year of operation to, or below, such maximum applicable workweek.

§ 551.3 Petition for a finding.

Any employer desiring to establish an exemption from the overtime pay requirements of the Act with respect to employees whose employment and compensation may be considered to qualify therefor under section 13(b)(11) may petition the Administrator, in writing, for a finding under such section and this part. If the wage payment plan with respect to which the finding is sought has been the subject of collective bargaining with representatives of employees covered by the plan, the employer shall provide timely notice of such petition, in writing, to the authorized representatives or representatives of such employees and shall submit a copy of such notice to the Administrator.

§ 551.4 Requirements for petition.

A petition for a finding under section 13(b)(11) of the Act and this part shall

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include in such detail as the Administrator may deem necessary for evaluation under the standards provided by the statute and this part, all the information required by § 551.5. Such information may be presented in any form convenient to the petitioner; no particular form is prescribed for the petition. The petition shall also include, by attachment, a copy of any collective bargaining agreement or other document governing the method of payment for the work of employees covered by the wage payment plan with respect to which a finding is requested. The petition, together with any such documents, shall be filed with the Administrator, Wage and Hour Division, United States Department of Labor, Washington, DC 20210.

§ 551.5 Information to be submitted.

Every petition filed under §§ 551.3 and 551.4 shall contain the following information:

(a) A full statement of the facts relied upon by the petitioner to establish, under the applicable definitions in § 551.8, that the wage payment plan submitted for consideration: (1) Applies to employees employed (i) as drivers or drivers' helpers, or both, (ii) in "making local deliveries" and (2) determines, "on the basis of trip rates or other delivery payment plan", the compensation which such employees receive for such employment; and

(b) A complete description of the wage payment plan and full information concerning its application showing, among other things: (1) The method of compensation which it provides and the types of payments made to employees covered by the plan, together with such information as may be necessary to show how these payments are computed and how and to what extent they are actually used in determining the total compensation received by employees covered by the plan, (2) a full description of all duties performed by the employees compensated under the plan, including information as to the types of goods delivered, their points of origin and destination and the purposes for and geographical area within which they are transported by the employees, the relationship of the employer to the