

Important information regarding recent overtime litigation in the U.S. District Court of Eastern District of Texas.

Fact Sheet 17P: Construction Workers and the Part 541 Exemptions under the Fair Labor Standards Act (FLSA)

The [FLSA](#) requires that most employees in the United States be paid at least the federal [minimum wage](#) for all hour worked and [overtime pay](#) at time and one-half the regular rate of pay for all hours worked over 40 in a workweek. However, Section 13(a)(1) of the FLSA provides an exemption from both [minimum wage](#) and [overtime pay](#) for employees employed as bona fide [executive](#), [administrative](#), [professional](#) and [outside sales](#) employees. Section 13(a)(1) and Section 13(a)(17) also exempts certain [computer](#) employees. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week.

Construction Workers

The exemptions provided by FLSA Section 13(a)(1) do not apply to manual laborers or other “blue collar” workers, including non-management construction workers, who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt “blue collar” employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees.

FLSA-covered, non-management employees in production, maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to [minimum wage](#) and [overtime](#) premium pay under the FLSA, and are not exempt under Section 13(a)(1) of the FLSA nor the regulations at [29 CFR Part 541](#), no matter how highly paid they might be.

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).

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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