

U.S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

PROPOSED AMENDMENT TO EXTEND OVERTIME EXEMPTION OF TRANSPORTATION EMPLOYEES

A proposed amendment to regulations which would have the effect of extending the overtime exemption of transportation employees was made public today by Thomas Holland, Acting Administrator of the Wage and Hour Division, U. S. Department of Labor. Principal effect of the amendment would be to avoid application of the 40-hour week to highly-paid crews ferrying military planes in the United States and to other countries.

The amendment would add another classification of "administrative" employees, all of whom must be paid on a salary or fee basis at a rate of not less than \$200 a month (exclusive of board, lodging, or other facilities). A subsection would be added to Section 541.2 of the regulations. This subsection (4) would read: "(any such employee) who is engaged in transporting goods or passengers for hire and who performs, under only general supervision, responsible outside work of a specialized or technical nature requiring special training, experience, or knowledge, and whose duties require the exercise of discretion and independent judgment."

The formal notice of the amendment, published in today's Federal Register, reads: "The Administrator will afford interested parties an opportunity to present their views either in support of or in opposition to the proposed amendment for a period of ten days . . . Unless cause is shown why such amendment should not be promulgated, the Administrator will then make it effective."

The War Department requested the Wage and Hour Division to amend its regulations to avoid overtime for employees of Pan-American Airways, Inc. affiliates who are ferrying planes.

The amendment is limited to employees of common and contract carriers doing "outside work"; that is, engaged in transporting. Under the statute, all employees of railroads and all employees of common and contract carriers by truck and bus who are engaged in driving vehicles are exempt from the 40-hour week.

Section 13(a)(4) of the Act exempts "any employee of a carrier by air subject to the provisions of Title II of the Railway Labor Act." This exempts most employees of American air-transport lines. However, the Pan-American affiliates -- Pan-American Airways, Africa, Ltd. and Pan-American Air Ferries -- do not carry mail or passengers and therefore do not come under this exemption. The letter from the War Department to the Administrator of the Wage and Hour Division requesting a change in Wage and Hour regulations said in part: "It would appear, as a matter of fairness, that the provisions of Section 7 (time and a half after 40 hours a week) should be held not to apply to these employees who are to be paid substantial salaries (ranging perhaps from \$800 to \$1500 per month) and will have rest periods (either in the United States or in Africa) between flights. However, the nature of the ferrying operation is such that the hours of employment from time to time will necessarily exceed forty hours in a particular week. In view of the fact that the Act considers each work week as a separate unit, it is evident that very sizeable overtime payments might be required if the employment of these pilots, co-pilots and navigators were held subject to the provisions of Section 7 of the Act."

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