

PART 541—DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

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Subpart A—General Regulations

§ 541.0 Introductory statement.

(a) Section 13(a)(1) of the Fair Labor Standards Act, as amended, provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a *bona fide* executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee, as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act. Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees.

(b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions.

(c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as *bona fide* executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are administered and enforced by

the United States Equal Employment Opportunity Commission.

§ 541.1 Terms defined.

Act means the Fair Labor Standards Act of 1938, as amended.

Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.

§ 541.2 Job titles insufficient.

A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Subpart B—Executive Employees

§ 541.100 General rule for executive employees.

(a) The term "employee employed in a *bona fide* executive capacity" in section 13(a)(1) of the Act shall mean any employee:

(1) Compensated on a salary basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;

(2) With a primary duty of the management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof;

(3) Who customarily and regularly directs the work of two or more other employees; and

(4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees will be given particular weight.

(b) The phrase "salary basis" is defined at § 541.602; "board, lodging or other facilities" is defined at § 541.606; "primary duty" is defined at § 541.700; and "customarily and regularly" is defined at § 541.701.

§ 541.101 Business owner.

The term "employee employed in a *bona fide* executive capacity" in section 13(a)(1) of the Act also includes any employee who owns at least a 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization.