

**\*Note:** The Department of Labor revised the regulations located at 29 C.F.R. part 541 with an effective date of January 1, 2020. WHD will continue to enforce the 2004 part 541 regulations through December 31, 2019, including the \$455 per week standard salary level and \$100,000 annual compensation level for Highly Compensated Employees. The final rule is available at: <https://www.federalregister.gov/documents/2019/09/27/2019-20353/defining-and-delimiting-the-exemptions-for-executive-administrative-professional-outside-sales-and>.

**U.S. Department of Labor**  
Wage and Hour Division



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

This fact sheet provides information on the exemption from minimum wage and overtime pay provided by Section 13(a)(1) of the FLSA as applied to construction workers as discussed in [29 C.F.R. § 541.3](#).

The [FLSA](#) requires that most employees in the United States be paid at least the federal [minimum wage](#) for all hours worked and [overtime pay](#) at not less than 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. These exemptions are often called the “white-collar” or “EAP” exemptions. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$684\* 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 C.F.R. 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).

When state law differs from the federal FLSA, an employer must comply with the standard most protective to employees. Links to your state labor department can be found at [www.dol.gov/contacts/state\\_of.htm](http://www.dol.gov/contacts/state_of.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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