premium rates other than those de-
scribed cannot be treated as overtime
premiums. Wherever such other pre-
miums are paid, they must be included
in the employee’s regular rate before
statutory overtime compensation is
computed; no part of such premiums
may be credited toward statutory over-
time pay.

(b) Non-overtime premiums. The Act re-
quires the inclusion in the regular rate
of such extra premiums as nightshift
differentials (whether they take the
form of a percent of the base rate or an
addition of so many cents per hour)
and premiums paid for hazardous, ardu-
os or dirty work. It also requires in-
clusion of any extra compensation
which is paid as an incentive for the
rapid performance of work, and since
any extra compensation in order to
qualify as an overtime premium must
be provided by a premium rate per
hour, except in the special case of
pieceworkers as discussed in §778.418,
lump sum premiums which are paid
without regard to the number of hours
worked are not overtime premiums and
must be included in the regular rate.
For example, where an employer pays 8
hours’ pay for a particular job whether
it is performed in 8 hours or in less
time, the extra premium of 2 hours’
pay received by an employee who com-
pletes the job in 6 hours must be in-
cluded in his regular hourly rate of pay.
Similarly, where an employer pays for 8
hours at premium rates for a job performed
during the overtime hours whether it is
completed in 8 hours or less, no part of
the premium paid qualifies as overtime
premium under sections 7(e) (5), (6), or
(7). (For a further discussion of this
and related problems, see §§778.308 to
778.314.)

§ 778.209 Method of inclusion of bonus
in regular rate.

(a) General rules. Where a bonus pay-
ment is considered a part of the regular
rate at which an employee is employed,
it must be included in computing his
regular hourly rate of pay and over-
time compensation. No difficulty arises
in computing overtime compensation if
the bonus covers only one weekly pay
period. The amount of the bonus is
merely added to the other earnings of
the employee (except statutory exclu-
sions) and the total divided by total
hours worked. Under many bonus
plans, however, calculations of the
bonus may necessarily be deferred over
a period of time longer than a work-
week. In such a case the employer may
disregard the bonus in computing the
regular hourly rate until such time as
the amount of the bonus can be
ascertained. Until that is done he may
pay compensation for overtime at one
and one-half times the hourly rate paid
by the employee, exclusive of the
bonus. When the amount of the bonus
can be ascertained, it must be apportioned
back over the workweeks of the
period during which it may be said to
have been earned. The employee must
then receive an additional amount of
compensation for each workweek that
he worked overtime during the period
equal to one-half of the hourly rate of
pay allocable to the bonus for that
week multiplied by the number of stat-
utory overtime hours worked during
the week.

(b) Allocation of bonus where bonus
earnings cannot be identified with par-
ticular workweeks. If it is impossible to