

## Wage and Hour Division, Labor

## § 810.105

interpretation, application, and administration of Chapter 4 (Rules of Origin) and Chapter 5 (Origin Procedures) of the USMCA.

**USMCA.** USMCA means the Agreement between the United States of America, the United Mexican States, and Canada.

**USMCA Country(ies).** USMCA Country means the United States of America, the United Mexican States, or Canada. USMCA Countries means any combination of the United States of America, the United Mexican States, and Canada. These regulations use these terms interchangeably with the term “North America.”

**USMCA Implementation Act.** USMCA Implementation Act means the United States-Mexico-Canada Agreement Implementation Act, Pub. L. 116–113, 134 Stat. 11 (2020), which is codified at 19 U.S.C. 1508, as amended, and 19 U.S.C. 4501 *et seq.*

**WHD.** WHD means the Wage and Hour Division of the U.S. Department of Labor.

### Subpart B—Calculating the High-Wage Component of Material and Manufacturing Expenditures

#### § 810.100 Scope and purpose of this subpart.

(a) Section 202A(e) of the USMCA Implementation Act authorizes the Secretary, in cooperation with the Secretary of the Treasury, to participate in a verification of whether covered vehicle production complies with the high-wage components of the LVC requirements set forth in Article 7 of the Automotive Appendix or, if the producer is subject to the alternative staging regime, under Articles 7 and 8 of the Automotive Appendix. This subpart addresses calculation of the high-wage material and manufacturing expenditures component of the LVC (referred to in the Uniform Regulations as high-wage material and labor expenditures).

(b) The regulations in this subpart describe how producers can meet the high-wage-related aspect of the material and manufacturing expenditures component, which concerns whether workers engaged in direct production work at a plant or facility included in

a producer’s material and manufacturing expenditures calculation earn an average hourly base wage rate of at least US\$16 per hour. All other aspects of material and manufacturing expenditures are addressed in the Uniform Regulations and regulations and/or guidance issued by CBP or other federal agencies.

#### § 810.105 Calculating the average hourly base wage rate.

(a) The average hourly base wage rate (also referred to in the USMCA as the production wage rate, and in the Uniform Regulations as the average base hourly wage rate) is calculated by dividing the total base wages paid for all hours worked in direct production at a plant or facility by the total number of hours worked in direct production at that plant or facility. The average hourly base wage rate must be at least US\$16 per hour for the plant or facility to count toward a producer’s LVC obligation.

(b) The three components of this calculation are computed as follows:

(1) *Hourly base wage rate* is the rate of compensation a worker is paid for each hour worked in direct production.

(i) Benefits, bonuses, premium payments, incentive pay, overtime premiums, and all other similar payments are excluded from the hourly base wage rate.

(ii) Amounts deducted from a worker’s pay that are for the benefit of the worker and are reasonable may be included in the hourly base wage rate. The principles in determining whether deductions are for the benefit of the worker and are reasonable, and thus may be included as part of the hourly base wage rate, are explained in more detail in 29 CFR part 531.

(2) *Hours worked in direct production* means all time a worker spends personally involved in the production of passenger vehicles, light trucks, heavy trucks, or parts used in the production of these vehicles at a plant or facility located in a USMCA Country, or directly involved in the set-up, operation, or maintenance of equipment or tools used in the production of those vehicles or parts at that plant or facility. The total number of hours worked