

## FIELD OPERATIONS MANUAL

VOLUME:	I – <b>Wage Collection</b> III – Minimum Wage/Overtime/Working Conditions	ORS: 652.020 653.261
SUBJECT:	Relationship of Daily and Weekly Overtime Requirements	OAR: 839-020-0030
SOURCE:	Administration	DATE: 12/16
<input type="checkbox"/> POLICY	<input checked="" type="checkbox"/> INTERPRETATION	<input type="checkbox"/> REFERENCE
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Generally, unless exempt, employees in Oregon who are subject to the state’s minimum wage law are entitled to receive overtime pay at a rate of one and one-half times their regular rate of pay for hours worked beyond 40 in a work week. However, certain statutes in the state’s wage collection law also provide for overtime to be paid on a daily basis. Specifically, ORS 652.020 requires that persons employed in any mill, factory or manufacturing establishment be paid at an overtime rate of one and one-half times their regular rate of pay for hours worked after 10 in a day.

Neither ORS 653.261, which authorizes the Bureau of Labor and Industries to adopt rules concerning maximum hours of work and overtime pay for hours worked after 40 in a week, nor ORS 652.020 stipulates that overtime liability earned under its provisions should be offset by overtime earned pursuant to a separate regulation for work performed during the same work week. The two statutes enact distinct overtime requirements and serve different purposes with respect to restrictions on hours worked by employees. Whereas ORS 653.261 permits the adoption of rules designed to preserve the health of employees by requiring the payment of premium pay when an employee exceeds the weekly maximum, ORS 652.020 specifically restricts the daily hours of work in a manufacturing establishment and requires the payment of a premium when the number of hours of work exceed the daily maximum on any given day. There is no indication in either law that these two overtime regulations are intended to work in tandem, so that only one or the other would be applied when an employee earns both daily and weekly overtime.

Therefore, it is the Wage and Hour Division’s position that employers, when determining the amount of overtime earned by an employee who, during a work week, has worked more than 10 hours per day in a manufacturing establishment and more than 40 hours in the week, must calculate the amount of overtime earned by the employee under each regulation and pay both overtime amounts to the employee.

Example: A manufacturing establishment employee must be paid overtime for any hours worked over 10 in a day and 40 in a work week.

Day	Hours
Monday	12
Tuesday	8
Wednesday	5
Thursday	5
Friday	11

Total Hours Worked = 41

Daily Overtime Hours Worked = 3

Weekly Overtime Hours Worked = 1

The employer must pay for four hours of overtime.