Wage and Hour Division, Labor § 785.37
constitute an agreement that such
time is hours worked.

TRAVELTIME

§ 785.33 General.
The principles which apply in deter-
miming whether or not time spent in
travel is working time depend upon the
kind of travel involved. The subject is
discussed in §§ 785.35 to 785.41, which are
preceded by a brief discussion in § 785.34
of the Portal-to-Portal Act as it ap-
plies to traveltime.

§ 785.34 Effect of section 4 of the Por-
tal-to-Portal Act.
The Portal Act provides in section
4(a) that except as provided in sub-
section (b) no employer shall be liable
for the failure to pay the minimum
wage or overtime compensation for
time spent in “walking, riding, or trav-
elling to and from the actual place of
performance of the principal activity
or activities which such employee is
employed to perform either prior to the
time on any particular workday at
which such employee commences, or
subsequent to the time on any par-
ticular workday at which he ceases,
such principal activity or activities.”
Section 4(a) further provides that the
use of an employer’s vehicle for travel
by an employee and activities that are
incidental to the use of such vehicle for
commuting are not considered prin-
cipal activities when the use of such
vehicle is within the normal com-
muting area for the employer’s busi-
ness or establishment and is subject to
an agreement on the part of the em-
ployer and the employee or the rep-
resentative of such employee. Sub-
section (b) provides that the employer
shall not be relieved from liability if
the activity is compensable by express
contract or by custom or practice not inconsistent with an ex-
press contract, such traveltime must
be counted in computing hours worked.
However, ordinary travel from home to
work (see § 785.35) need not be counted
as hours worked even if the employer
agrees to pay for it. (See Tennessee
Coal, Iron & RR. Co. v. Musescoda Local,
321 U.S. 590 (1946); Anderson v. Mt.
Clemens Pottery Co., 328 U.S. 690 (1946);
Walling v. Anaconda Copper Mining Co.,
66 F. Supp. 913 (D. Mont. 1946).)

§ 785.35 Home to work; ordinary situa-
tion.
An employee who travels from home
before his regular workday and returns
to his home at the end of the workday
is engaged in ordinary home to work
travel which is a normal incident of
employment. This is true whether he
works at a fixed location or at different
job sites. Normal travel from home to
work is not worktime.

§ 785.36 Home to work in emergency
situations.
There may be instances when travel
from home to work is overtime. For ex-
ample, if an employee who has gone
home after completing his day’s work
is subsequently called out at night to
travel a substantial distance to per-
form an emergency job for one of his
employer’s customers all time spent on
such travel is working time. The Divi-
sions are taking no position on wheth-
er travel to the job and back home by
an employee who receives an emer-
gency call outside of his regular hours
to report back to his regular place of
business to do a job is working time.

§ 785.37 Home to work on special one-
day assignment in another city.
A problem arises when an employee
who regularly works at a fixed location
in one city is given a special 1-day
work assignment in another city. For
example, an employee who works in
Washington, DC, with regular working
hours from 9 a.m. to 5 p.m. may be
given a special assignment in New
York City, with instructions to leave
Washington at 8 a.m. He arrives in New
York at 12 noon, ready for work. The
special assignment is completed at 3