

§ 552.109

3(s)(1) of the Act, or (c) is employed in or about a home where work in the production of goods for commerce is performed.

§ 552.109 Third party employment.

(a) Employees who are engaged in providing companionship services, as defined in § 552.6, and who are employed by an employer or agency other than the family or household using their services, are exempt from the Act's minimum wage and overtime pay requirements by virtue of section 13(a)(15). Assigning such an employee to more than one household or family in the same workweek would not defeat the exemption for that workweek, provided that the services rendered during each assignment come within the definition of companionship services.

(b) Employees who are engaged in providing babysitting services and who are employed by an employer or agency other than the family or household using their services are not employed on a "casual basis" for purposes of the section 13(a)(15) exemption. Such employees are engaged in this occupation as a vocation.

(c) Live-in domestic service employees who are employed by an employer or agency other than the family or household using their services are exempt from the Act's overtime requirements by virtue of section 13(b)(21). This exemption, however, will not apply where the employee works only temporarily for any one family or household, since that employee would not be "residing" on the premises of such family or household.

§ 552.110 Recordkeeping requirements.

(a) The general recordkeeping regulations are found in part 516 of this chapter and they require that every employer having covered domestic service employees shall keep records which show for each such employee: (1) Name in full, (2) social security number, (3) address in full, including zip code, (4) total hours worked each week by the employee for the employer, (5) total cash wages paid each week to the employee by the employer, (6) weekly sums claimed by the employer for board, lodging or other facilities, and (7) extra pay for weekly hours worked

29 CFR Ch. V (7-1-06 Edition)

in excess of 40 by the employee for the employer. No particular form of records is required, so long as the above information is recorded and the record is maintained and preserved for a period of 3 years.

(b) In the case of an employee who resides on the premises, records of the actual hours worked are not required. Instead, the employer may maintain a copy of the agreement referred to in § 552.102. The more limited record-keeping requirement provided by this subsection does not apply to third party employers. No records are required for casual babysitters.

(c) Where a domestic service employee works on a fixed schedule, the employer may use a schedule of daily and weekly hours that the employee normally works and either the employer or the employee may: (1) Indicate by check marks, statement or other method that such hours were actually worked, and (2) when more or less than the scheduled hours are worked, show the exact number of hours worked.

(d) The employer may require the domestic service employee to record the hours worked and submit such record to the employer.

PART 553—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Subpart A—General

INTRODUCTION

- Sec.
- 553.1 Definitions.
- 553.2 Purpose and scope.
- 553.3 Coverage—general.

SECTION 3(E)(2)(C)—EXCLUSIONS

- 553.10 General.
- 553.11 Exclusion for elected officials and their appointees.
- 553.12 Exclusion for employees of legislative branches.

SECTION 7(O)—COMPENSATORY TIME AND COMPENSATORY TIME OFF

- 553.20 Introduction.
- 553.21 Statutory provisions.
- 553.22 "FLSA compensatory time" and "FLSA compensatory time off".
- 553.23 Agreement or understanding prior to performance of work.

Wage and Hour Division, Labor

§ 553.2

- 553.24 "Public safety", "emergency response", and "seasonal" activities.
553.25 Conditions for use of compensatory time ("reasonable period", "unduly disrupt").
553.26 Cash overtime payments.
553.27 Payments for unused compensatory time.
553.28 Other compensatory time.

OTHER EXEMPTIONS

- 553.30 Occasional or sporadic employment—section 7(p)(2).
553.31 Substitution—section 7(p)(3).
553.32 Other FLSA exemptions.

RECORDKEEPING

- 553.50 Records to be kept of compensatory time.
553.51 Records to be kept for employees paid pursuant to section 7(k).

Subpart B—Volunteers

- 553.100 General.
553.101 "Volunteer" defined.
553.102 Employment by the same public agency.
553.103 "Same type of services" defined.
553.104 Private individuals who volunteer services to public agencies.
553.105 Mutual aid agreements.
553.106 Payment of expenses, benefits, or fees.

Subpart C—Fire Protection and Law Enforcement Employees of Public Agencies

GENERAL PRINCIPLES

- 553.200 Statutory provisions: section 13(b)(20).
553.201 Statutory provisions: section 7(k).
553.202 Limitations.

EXEMPTION REQUIREMENTS

- 553.210 Fire protection activities.
553.211 Law enforcement activities.
553.212 Twenty percent limitation on non-exempt work.
553.213 Public agency employees engaged in both fire protection and law enforcement activities.
553.214 Trainees.
553.215 Ambulance and rescue service employees.
553.216 Other exemptions.

TOUR OF DUTY AND COMPENSABLE HOURS OF WORK RULES

- 553.220 "Tour of duty" defined.
553.221 Compensable hours of work.
553.222 Sleep time.
553.223 Meal time.
553.224 "Work period" defined.
553.225 Early relief.

- 553.226 Training time.
553.227 Outside employment.

OVERTIME COMPENSATION RULES

- 553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).
553.231 Compensatory time off.
553.232 Overtime pay requirements.
553.233 "Regular rate" defined.

AUTHORITY: Secs. 1-19 52 Stat. 1060, as amended (29 U.S.C. 201-219); Pub. L. 99-150. 99 Stat. 787 (29 U.S.C. 203, 207, 211).

SOURCE: 52 FR 2032, Jan. 16, 1987, unless otherwise noted.

Subpart A—General

INTRODUCTION

§ 553.1 Definitions.

(a) *Act* or *FLSA* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219).

(b) *1985 Amendments* means the Fair Labor Standards Amendments of 1985 (Pub. L. 99-150).

(c) *Public agency* means a State, a political subdivision of a State or an interstate governmental agency.

(d) *State* means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other Territory or possession of the United States (29 U.S.C. 203(c) and 213(f)).

§ 553.2 Purpose and scope.

(a) The 1985 Amendments to the Fair Labor Standards Act (FLSA) changed certain provisions of the Act as they apply to employees of State and local public agencies. The purpose of part 553 is to set forth the regulations to carry out the provisions of these Amendments, as well as other FLSA provisions previously in existence relating to such public agency employees.

(b) The regulations in this part are divided into three subparts. Subpart A interprets and applies the special FLSA provisions that are generally applicable to all covered and nonexempt employees of State and local governments. Subpart A also contains provisions concerning certain individuals (*i.e.*, elected officials, their appointees, and legislative branch employees) who are excluded from the definition of