Of course, the time spent in responding to such calls is compensable.

(g) The fact that employees cannot return home after work does not necessarily mean that they continue on duty after their shift. For example, firefighters working on a forest fire may be transported to a camp after their shift in order to rest and eat a meal. As a practical matter, the firefighters may be precluded from going to their homes because of the distance of the fire from their residences.

[52 FR 2032, Jan. 16, 1987; 52 FR 2648, Jan. 23, 1987]

§ 553.222 Sleep time.

(a) Where a public employer elects to pay overtime compensation to firefighters and/or law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude sleep time from hours worked if all the conditions in § 785.22 of this title are met.

(b) Where the employer has elected to use the section 7(k) exemption, sleep time cannot be excluded from the compensable hours of work where

(1) The employee is on a tour of duty of less than 24 hours, which is the general rule applicable to all employees under § 785.21, and

(2) Where the employee is on a tour of duty of exactly 24 hours, which is a departure from the general rules in part 785.

(c) Sleep time can be excluded from compensable hours of work, however, in the case of police officers or firefighters who are on a tour of duty of more than 24 hours, but only if there is an expressed or implied agreement between the employer and the employees to exclude such time. In the absence of such an agreement, the sleep time is compensable. In no event shall the time excluded as sleep time exceed 8 hours in a 24-hour period. If the sleep time is interrupted by a call to duty, the interruption must be counted as hours worked. If the sleep period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes means at least 5 hours), the entire time must be counted as hours of work.

§ 553.223 Meal time.

(a) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with section 7(a)(1) of the Act, the public agency may exclude meal time from hours worked if all the tests in § 785.19 of this title are met.

(b) If a public agency elects to use the section 7(k) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period, and all the other tests in § 785.19 of this title are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., ''stakeouts''), they are not considered to be completely relieved from duty, and any such meal periods would be compensable.

(c) With respect to firefighters employed under section 7(k), who are confined to a duty station, the legislative history of the Act indicates Congressional intent to mandate a departure from the usual FLSA ''hours of work'' rules and adoption of an overtime standard keyed to the unique concept of ''tour of duty'' under which firefighters are employed. Where the public agency elects to use the section 7(k) exemption for firefighters, meal time cannot be excluded from the compensable hours of work where (1) the firefighter is on a tour of duty of less than 24 hours, and (2) where the firefighter is on a tour of duty of exactly 24 hours, which is a departure from the general rules in § 785.22 of this title.

(d) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the tests in §§ 785.19 and 785.22 of this title are met.

§ 553.224 "Work period" defined.

(a) As used in section 7(k), the term ''work period'' refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28