

§ 553.225

consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the duty cycle or pay period or with a particular day of the week or hour of the day. Once the beginning and ending time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within the period. The beginning and ending of the work period may be changed, provided that the change is intended to be permanent and is not designed to evade the overtime compensation requirements of the Act.

(b) An employer may have one work period applicable to all employees, or different work periods for different employees or groups of employees.

§ 553.225 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift prior to the scheduled starting time. Such early relief time may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work for employees employed under section 7(k) where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer, the time involved must be added to the employee's tour of duty and treated as compensable hours of work.

§ 553.226 Training time.

(a) The general rules for determining the compensability of training time under the FLSA are set forth in §§ 785.27 through 785.32 of this title.

(b) While time spent in attending training required by an employer is normally considered compensable hours of work, following are situations where time spent by employees of State and local governments in required training is considered to be non-compensable:

(1) Attendance outside of regular working hours at specialized or follow-up training, which is required by law

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for certification of public and private sector employees within a particular governmental jurisdiction (e.g., certification of public and private emergency rescue workers), does not constitute compensable hours of work for public employees within that jurisdiction and subordinate jurisdictions.

(2) Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government (e.g., where a State or county law imposes a training obligation on city employees), does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ 553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) The special detail work is performed solely at the employee's option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department