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U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WASHINGTON, D.C. 20210



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This is in reply to your letter of November 13, 1974, concerning the application of the Fair Labor Standards Act to employees of a public agency engaged in fire protection or law enforcement activities.

Enclosed is a copy of 29 CFR Part 553, which explains how the Act applies to such employees. There is no requirement that sets a single standard of a work period of 28 consecutive days during which 240 hours may be worked without payment of overtime premium compensation. Section 553.15 indicates that there are options available for the use of a work period running from seven consecutive days and 60 hours to 28 consecutive days and 240 hours. Where there is no overtime pay due because the actual hours worked do not exceed the applicable maximum hours standard, the employer and employees may make any work scheduling arrangements agreeable to them, provided, of course, the minimum wage provisions of the Act are met.

There is nothing in the Act which prohibits standards more beneficial to the employee than those required under its provisions. Thus, for example, in the situation cited in your letter there is no barrier to payment of overtime premium before 240 hours are worked because the total number of scheduled hours within the work period had been exceeded.

Where an employee works in excess of the maximum hours standard applicable to the designated work period, he must be paid at a rate of not less than one and one-half times his regular rate of pay for the overtime hours on the regular payday for the period in which the work was performed. An employer may not credit an employee with compensatory time (even at a time and a half rate) for overtime earned which is to be taken at some mutually agreed

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