

## FLSA-246

March 30, 1979

This is in reply to your letter of August 28, 1978, in which you ask whether \*\*\* the Fire Department Incorporated, a private concern in \*\*\*, is required to pay wages to probational fire fighters for the time they are in attendance in a course to become certified as emergency medical technicians.

You state it is the policy of the employer to require emergency medical technician training and certification as a condition of employment. However, you state your client makes an exception to this requirement by employing those who lack such certification by permitting them a one year period in which to obtain certification. Failure to do so within the period may result in employment termination. The certification requirement is not State mandated.

An emergency medical technician training course is provided the employees by the employer and is held outside of the employee's regular duty hours.

We have considered your comments under the provisions of the Fair Labor Standards Act which is the Federal law of most general application concerning wages and hours of work. The enclosed copy of 29 CFR Part 785 contains the official interpretation of the Department of Labor with respect to compensable hours of work.

As explained in section 785.27 time spent by employees in training programs need not be counted as compensable hours of work under the Act, if the following four criteria are met: (1) attendance is outside of the employee's regular working hours, (2) attendance is in fact voluntary (3) the course, lecture, or meeting is not directly related to the employee's job, and 4) the employee does not perform any productive work during such attendance.

In this instance, since the employee is given to understand or led to believe that the continuance of his employment depends upon his successful completion of the emergency medical technician training, attendance is not voluntary. Also, since the training is directly related to the employees' job and is designed to make the employees handle their job more effectively, the criterion (3) noted above has not been met. Therefore the time employees spend in attendance at the certification courses to become emergency medical technicians would be hours worked for which they must be properly compensated.

Sincerely,

Xavier M. Vela  
Administrator

Enclosure