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This is in response to your inquiry concerning §13(a)(1) of the Fair Labor Standards Act (FLSA) and the salary basis requirement contained in §541.118 of 29 CFR Part 541.

In the light of recent litigation, you ask whether it is a violation of §541.118 to require employees such as fire battalion chiefs and similar employees to work specific hours; to record their time worked and compensated absences; and to obtain permission for absence from duty. This section of the regulations defines the term "salary basis," which is one of the tests for exemption under §13(a)(1).

Section 541.118 does not specifically forbid a requirement that an employee work specified hours, or record his or her time worked including compensated absences. Nor does this section specifically forbid a requirement that an employee obtain permission to be absent from duty. In our opinion, the requirements described would not themselves affect an otherwise valid salary basis of payment.

We trust that the above is responsive to your inquiry.

Sincerely

Charles E. Pugh
Acting Administrator