

FEB -2 1995

This is in response to your inquiry concerning the application of §7(k), 29 U.S.C. 207(k), of the Fair Labor Standards Act (FLSA), 29 U.S.C. 201 et seq., to firefighters who are cross-trained as emergency medical technicians (EMTs). We regret the delay in responding to your inquiry.

Section 7(k) of the FLSA provides a partial overtime exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies on a work period basis. 29 CFR §553.201. The term "any employee in fire protection activities" refers to any employee (1) who is employed by an organized fire department or fire protection district; (2) who has been trained to the extent required by state statute or local ordinance; (3) who has the legal authority and responsibility to engage in the prevention, control or extinguishment of a fire of any type; and (4) who performs activities which are required for, and directly concerned with, the prevention, control or extinguishment of fires, including such incidental nonfirefighting functions as housekeeping, equipment maintenance, etc. The term also includes rescue and ambulance personnel that form an integral part of the public agency's fire protection activities. 29 CFR §553.210(a).

We have concluded that firefighters who are cross-trained as EMTs qualify for exemption under §7(k) as fire protection employees where they are principally engaged as firefighters meeting the four tests outlined in 29 CFR §553.210(a), as set forth above, and where the EMT functions they perform meet the tests described in 29 CFR §553.215 for ambulance and rescue employees. Under these circumstances, we would consider that ambulance and rescue activities are incidental to the employees' fire protection duties within the meaning of the fourth test in 29 CFR §553.210(a), including any ambulance and rescue activities related to medical emergencies, rather than fires, crime scenes, riots, natural disasters, and accidents.

-2-

In these circumstances, the time engaged in ambulance and rescue activities would be considered to be work performed as an incident to or in conjunction with the employees' fire protection activities within the meaning of 29 CFR §553.212(a), and would not count in the 20 percent limitation on nonexempt work.

We trust that the above is responsive to your inquiry.

Sincerely,

Maria Echaveste
Administrator