

From: Stokes, Richard L
Sent: Tuesday, May 08, 2012 4:55 PM
Subject: RE: Overtime

Section 207(k) allows city and state employers to calculate the pay for non-exempt law enforcement and fire protection personnel based on a maximum 28-day period. For employees engaged in fire protection or law enforcement with a work period between seven and 28 consecutive days, overtime for the excess hours is based on all hours over the number declared as the work period.

Overtime for firefighters is going to depend on the work period you establish. If you establish a 14 day period (bi-weekly), then employees will only be due overtime for hours worked over 86 during the 14 day work period. If you chose a 7 day period, then overtime will be due for all hours worked over 53 in the 7 day work cycle.

This may present some challenges for fire departments as firefighters work a different number of hours and schedules. While I don't know the exact schedule your city operates, many have a "24 on 48 off" schedule. This could result in a situations where firefighters work 72 hours one week and 48 hours the second week resulting in 16 hours of overtime at time and a half bi-weekly (depending on start and stop times). By-the-way, it is improper to pay section 207(k) employees for an 'average' number of hours worked.

The FLSA allows employers to have a different pay period for public sector officials that doesn't relate to the pay cycle. If the city left firefighters on a 28 day cycle, then the amount of overtime would be reduced a bit. In a 28 day pay period, firefighters would work a total of 10 twenty four hour shifts totaling of 240 hours. The overtime threshold for a 28 day cycle is 212 hours. 240 minus 212 equal 28 hours resulting in 14 hours overtime per bi-weekly period.

I hope this information is helpful. Feel free to contact me if you have questions or I can be of any further assistance.

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