

875—220.223(91D) Meal time.

220.223(1) If a public agency elects to pay overtime compensation to firefighters and law enforcement personnel in accordance with the federal Fair Labor Standards Act, 29 U.S.C. 207(a)(1), the public agency may exclude meal time from hours worked if all the tests in 29 CFR 785.19 are met.

220.223(2) If a public agency elects to use the federal Fair Labor Standards Act, 29 U.S.C. 207(f) exemption, the public agency may, in the case of law enforcement personnel, exclude meal time from hours worked on tours of duty of 24 hours or less, provided that the employee is completely relieved from duty during the meal period and all the other tests in 29 CFR 785.19 are met. On the other hand, where law enforcement personnel are required to remain on call in barracks or similar quarters, or are engaged in extended surveillance activities (e.g., “stakeouts”), they are not considered to be completely relieved from duty, and any meal periods would be compensable.

220.223(3) Where the public agency elects to use the federal Fair Labor Standards Act, 29 U.S.C. 207(k), exemption for firefighters, meal time cannot be excluded from the compensable hours of work where:

- a.* The firefighter is on a tour of duty of less than 24 hours, and
- b.* Where the firefighter is on a tour of duty of exactly 24 hours.

220.223(4) In the case of police officers or firefighters who are on a tour of duty of more than 24 hours, meal time may be excluded from compensable hours of work provided that the tests in 29 CFR 785.19 and 785.22 are met.

SOURCE: 29 CFR 553.223.