up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government (e.g., where a State or county law imposes a training obligation on city employees), does not constitute compensable hours of work.

(3) Time spent in the training described in paragraphs (b) (1) or (2) of this section is not compensable, even if all or part of the costs of the training is borne by the employer.

(c) Police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

§ 553.227 Outside employment.

(a) Section 7(p)(1) makes special provision for fire protection and law enforcement employees of public agencies who, at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.

(b) Section 7(p)(1) applies to such outside employment provided (1) The special detail work is performed solely at the employee’s option, and (2) the two employers are in fact separate and independent.

(c) Whether two employers are, in fact, separate and independent can only be determined on a case-by-case basis.

(d) The primary employer may facilitate the employment or affect the conditions of employment of such employees. For example, a police department may maintain a roster of officers who wish to perform such work. The department may also select the officers for special details from a list of those wishing to participate, negotiate their pay, and retain a fee for administrative expenses. The department may require that the separate and independent employer pay the fee for such services directly to the department, and establish procedures for the officers to receive their pay for the special details through the agency’s payroll system. Finally, the department may require that the officers observe their normal standards of conduct during such details and take disciplinary action against those who fail to do so.

(e) Section 7(p)(1) applies to special details even where a State law or local ordinance requires that such work be performed and that only law enforcement or fire protection employees of a public agency in the same jurisdiction perform the work. For example, a city ordinance may require the presence of city police officers at a convention center during concerts or sports events. If the officers perform such work at their own option, the hours of work need not be combined with the hours of work for their primary employer in computing overtime compensation.

(f) The principles in paragraphs (d) and (e) of this section with respect to special details of public agency fire protection and law enforcement employees under section 7(p)(1) are exceptions to the usual rules on joint employment set forth in part 791 of this title.

(g) Where an employee is directed by the public agency to perform work for a second employer, section 7(p)(1) does not apply. Thus, assignments of police officers outside of their normal work hours to perform crowd control at a parade, where the assignments are not solely at the option of the officers, would not qualify as special details subject to this exception. This would be true even if the parade organizers reimburse the public agency for providing such services.

(h) Section 7(p)(1) does not prevent a public agency from prohibiting or restricting outside employment by its employees.

OVERTIME COMPENSATION RULES

§ 553.230 Maximum hours standards for work periods of 7 to 28 days—section 7(k).

(a) For those employees engaged in fire protection activities who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required under section 7(k)
§ 553.231 Compensatory time off.

(a) Law enforcement and fire protection employees who are subject to the section 7(k) exemption may receive compensatory time off in lieu of overtime pay for hours worked in excess of the maximum for their work period as set forth in § 553.230. The rules for compensatory time off are set forth in §§553.20 through 553.28 of this part.

(b) Section 7(k) permits public agencies to balance the hours of work over an entire work period for law enforcement and fire protection employees. For example, if a firefighter’s work period is 28 consecutive days, and he or she works 80 hours in each of the first two weeks, but only 52 hours in the third week, and does not work in the fourth week, no overtime compensation (in cash wages or compensatory time) would be required since the total hours worked do not exceed 212 for the work period. If the same firefighter had a work period of only 14 days, overtime compensation or compensatory time off would be due for 54 hours (160 minus 106 hours) in the first 14 day work period.

§ 553.232 Overtime pay requirements.

If a public agency pays employees subject to section 7(k) for overtime hours worked in cash wages rather than compensatory time off, such wages must be paid at one and one-half times the employees’ regular rates of pay. In addition, employees who have accrued the maximum 480 hours of compensatory time must be paid cash wages of time and one-half their regular rates of pay for overtime hours in excess of the maximum for the work period set forth in §553.230.

§ 553.233 “Regular rate” defined.

The rules for computing an employee’s “regular rate”, for purposes of the Act’s overtime pay requirements, are set forth in part 778 of this title. These rules are applicable to employees for whom the section 7(k) exemption is claimed when overtime compensation is provided in cash wages. However, wherever the word “workweek” is used in part 778, the words “work period” should be substituted.

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart A—General

Sec. 570.1 Definitions.

570.2 Minimum age standards.