

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WASHINGTON, D.C. 20210

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DEPARTMENT OF LABOR
UNITED STATES OF AMERICA

26 FEB 1975

This is in reply to your letter of November 27, 1974, regarding the treatment of City of Los Angeles Airport Safety Officers employed at [REDACTED] under section 7(k) of the Fair Labor Standards Act.

A copy of 29 CFR Part 553 which was issued on December 20, 1974, pursuant to section 7(k) and 13(b)(20) of the Act is enclosed. The information provided in your letter and enclosures indicates that the Airport Safety Officers in question may be compensated under the overtime provisions of section 7(k) of the Act pursuant to the principles stated in 29 CFR 553.3 through 553.6.

Section 553.6 specifically deals with the treatment of public safety officers who perform both fire protection and law enforcement activities, and the information you have provided indicates this is the case with respect to the Airport Safety Officers. It is not necessary that employees who are performing both fire protection and law enforcement activities be employed by a public agency which is designated as an organized fire department or fire protection district.

You should know, however, that the Supreme Court has stayed the enforcement of the 1974 Amendments, insofar as they apply to State and local governments, pending its consideration of a challenge to the constitutionality of these Amendments, National League of Cities, et al. v. Brennan. Accordingly, whether or not you bring your wage practices into conformity with these Amendments is for you to decide. However, if the Supreme Court ultimately upholds the constitutionality of the 1974 Amendments, the States and local governments could still be liable for any back wages accruing under the Amendments since their effective date.

We, of course, are not in a position to advise government agencies, their employees and employee unions on how to proceed in light of these developments.

Sincerely,

Warren D. Landis
Deputy Administrator
Wage and Hour Division

Enclosure