

WORK WEEK GROUP DEFINITIONS

WORK WEEK GROUPS ESTABLISHED UNDER FAIR LABOR STANDARDS ACT (FLSA)

2. (Established 10/1/85) (Effective 10/01/85) (Revised 04/01/86; 03/01/09)
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- Overtime for employees in classes not eligible for exemption under Section 7K of the FLSA is defined as all hours worked in excess of 40 hours in a period of 168 hours or seven consecutive 24-hour periods.
- Overtime for employees in law enforcement classes, for which exemption under Section 7K of the FLSA is claimed, is defined as all hours worked in excess of 171 hours in a period of 28 consecutive 24-hour periods or a proportional number of hours for any other number of consecutive 24-hour periods down to seven. (42.75 hours in seven consecutive 24-hour periods.)
- Overtime for employees in fire suppression classes, for which exemption under Section 7K of the FLSA is claimed, is defined as all hours worked in excess of 212 hours in a period of 28 consecutive 24-hour periods or a proportional number of hours for any other number of consecutive 24-hour periods down to seven. (53 hours in seven consecutive 24-hour periods.)

a. Hours Worked

For the purpose of identifying hours worked under the provisions of the FLSA, only the time spent which is controlled or required by the State and pursued for the benefit of the State need be counted. However, the State is governed by the provisions of Government Code Section 19853 (c) which states, for the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, compensating time off, or any other leave shall not be considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

b. Work Periods

A work period for Work Week Group 2 employees is defined as a fixed and regularly occurring period of 168 hours - seven consecutive 24-hour periods. The appointing power determines the work week which may begin on any day at any hour. Once the beginning time of an employee's work week is established and noted in the records, it remains fixed regardless of the schedule of hours worked. The beginning of a work week may be changed if the change is intended to be permanent and it is not designed to evade the overtime provision of the FLSA.

A work period for employees in law enforcement and fire suppression classes for which the 7K exemption is claimed may be for any period between seven and 28 days. The work period must be regular and recurring, but may be changed if the change is intended to be permanent and is not designed to evade the overtime provisions of the FLSA.

In order to qualify for the Section 7K exemption, the employer must note in records applicable to each employee affected the 7K exemption is claimed and indicate the length of the work period, the starting day of the work period, and the starting time of the day.

c. Overtime Authorization

An employee shall not work overtime unless ordered to do so by his supervisor. A supervisor shall not allow an employee to perform overtime work without prior authorization and shall take affirmative steps to prevent unauthorized overtime from being worked.

d. Overtime Credit

Overtime will be credited on a one-quarter of an hour basis with a full quarter hour credit to be granted if half or more of the period is worked. Smaller fractional units will not be accumulated.

e. Overtime Compensations

The method of compensation [cash or compensating time off (CTO)] for FLSA overtime worked shall be at the discretion of the appointing power, pursuant to MOU provisions, and in accordance with the following:

CTO on a one and one-half time basis may be authorized in lieu of cash compensation. Safety, emergency, and seasonal employees, as defined by the FLSA, may accrue up to 480 hours of CTO. All other employees may accrue up to 240 hours of CTO.

Cash compensation may be authorized and the rate of cash compensation paid for overtime shall be one and one-half times the hourly equivalent of the employee's salary as of the time the overtime was worked.

Upon termination of employment, unused CTO shall be paid in cash at a rate not less than the average regular rate received by the employee during the last three years, or the final regular rate received by the employee, whichever is higher.

f. Determination of Coverage Under FLSA

The provisions of Work Week Group 2 are made applicable to all classes which are determined by the Director of the California Department of Human Resources to include positions subject to the FLSA.

2D. (Established 7/1/85) (Effective 6/1/92)

Duty week assignments for the Department of Forestry and Fire Protection employees in specific classes. See Bargaining Unit 8 Contract for classes and duty week descriptions.

2E. (Established 7/1/85) (Effective 4/15/85) (Revised 2/1/88)

Duty week assignments for Department of Forestry and Fire Protection employees in specific classes. See Bargaining Unit 8 Contract for classes and duty week description.

2F. (Established 9/1/93) (Revised 9/1/95)

Duty week assignments for Department of Forestry and Fire Protection employees in specific classes. See Bargaining Unit 8 Contract for classes and duty week description.

2G. (Established 5/13/06)

Duty week of 72 hours for Department of Forestry and Fire Protection Battalion Chief (Nonsupervisory) appointed after 5/12/06. See Bargaining Unit 8 Contract for duty week description.

E. Work Week Group "E"

Work Week Group "E" includes classes that are exempted from coverage under the FLSA because of the "white-collar" (administrative, executive, professional) exemptions. To be eligible for this exemption a position must meet both the "salary basis" and the "duties" test.

Exempt (WWG E) employees are paid on a "salaried" basis and the regular rate of pay is full compensation for all hours worked to perform assigned duties. However, these employees shall receive up to 8 hours holiday credit when authorized to work on a holiday. Work Week Group E employees shall not receive any form of additional compensation, whether formal or informal, unless otherwise provided by the provisions of this work week group.

Consistent with the "salaried" nature of such a position, an exempt employee:

1. Shall not be charged any paid leave for absences in less than whole day increments;
2. Shall not be docked pay for absences of less than a whole day.

3. Shall not be subject to a disciplinary action suspension in less than full week increments unless there is a violation of a major safety rule; and
4. Shall not be required to document hours worked for payroll purposes.

For rank and file employees, refer to the appropriate collective bargaining agreement for specific provisions that may otherwise be addressed and not contained in the above work week group definition.

SE. Work Week Group "SE" (Attorneys, Physicians, Teachers)

If the provisions of this definition are in conflict with the provisions of a collective bargaining agreement, the collective bargaining agreement shall be controlling.

Work Week Group "SE" applies to classes and positions with an average work week of 40 hours. The regular rate of pay is full compensation for all time that is required for the employee to perform the duties of the position. However, these employees shall receive up to eight hours of holiday credit when ordered to work on a holiday. Hours of work in excess of the average work week are not compensable, and shall not be deemed overtime. If an employee is not required by the appointing power to work a normal workday or part thereof, the employee nevertheless shall receive the regular rate of pay without deduction for the entire pay period.

For rank and file employees, refer to the appropriate collective bargaining agreement for specific provisions that may otherwise be addressed and not contained in the above work week group definition.

SPECIAL WORK WEEK ALLOCATIONS AND OVERTIME AUTHORIZATIONS
ALL DEPARTMENTS/FLSA - DUAL WORK WEEK GROUPS

Positions in the following classes may be "exempt" or "covered" by the provisions of FLSA depending on individual assignments. Overtime payment for "covered" employees will be based on the criteria in Work Week Group 2. Overtime payment for "exempt" employees will be based on the current work week group assigned to the class.

1. Effective May 2, 1995, the CB/ID "U" class is listed under the following Dual work week groups.

Class

Senior Marketing Specialist	Range A WWG 2
	Range L WWG E
	Range S WWG E

2. Effective May 1, 1991, positions which conduct external audits/examinations in a line program area are covered by the provisions of FLSA. These positions conducting internal audits/examinations (admin support activities) are exempted from FLSA.

Class

General Auditor III
 Governmental Auditor III
 State Financial Examiner III

3. **FISH AND WILDLIFE, DEPARTMENT OF**

Standby Duty - Effective 7/1/95 the following classes at the Department of Fish and Wildlife shall:

- a. Work a minimum work week of forty (40) hours. Employees in these positions work for the Department of Fish and Wildlife, reside in State-owned housing at Department of Fish and Wildlife hatcheries, and are required to perform "standby" duty at the fish hatcheries. "Standby" duty is defined as time that an employee is required to remain on the fish hatchery grounds during nonwork hours for immediate response to duty or to emergencies that may arise.
- b. When assigned "standby" duty, employees in these positions shall receive "standby" compensation at the rate of two (2) hours of compensating time off for fifteen (15) hours of "standby" duty. If an employee does not complete the 15 hours of "standby" duty, the Department of Fish and Wildlife shall pro-rate the compensation earned in accordance with departmental procedure.
- c. During any period of time an employee is assigned to "standby" duty, the compensating time off earned shall not be considered compensation for any and all hours worked. Where compensating time off is not practical, the appointing

authority may authorize cash compensation. Required work in excess of the minimum work week is compensable as overtime in accordance with Work Week Group 2 overtime provisions except for the time worked while assigned to "standby" duty.

- d. Employees on sick leave status or an assigned day off shall not be required to work "standby" duty.

Class

Fish and Wildlife Assistant I
 Fish and Wildlife Seasonal Aid
 Fish Culturist
 Fish Hatchery Manager I
 Fish Hatchery Manager II

4. **FORESTRY AND FIRE PROTECTION, DEPARTMENT OF**

Effective 7/1/99, the following classifications at the California Department of Forestry and Fire Protection (CAL FIRE) shall be temporarily reallocated to Work Week Group 2 during emergencies declared by the Governor, or determined by the appointing power or designee, as referenced in Rule 599.710 of the California Code of Regulations.

Class

Forester I (Nonsupervisory)
 Forester II (Nonsupervisory)
 Assistant Chief (Nonsupervisory)

REALLOCATIONS FOR EMERGENCIES

For purposes herein, "Emergency" is defined as a situation where there is extreme peril to persons and property caused by such condition as fire, flood, storm, epidemic, riot, or earthquake. The Director of CAL FIRE is authorized to temporarily reallocate Work Week Group E employees who are assigned to a non-fire emergency incident for which the Governor has invoked Government Code Section 8625 and issues a Disaster Declaration. The Director of CAL FIRE is also authorized to reallocate Work Week Group E employees who are assigned to emergency incidents when the duties assigned during the emergency incident are clearly not characteristic of the Work Week Group E level and fall outside the typical duties and responsibilities of his/her classification.

REALLOCATIONS FOR OTHER ACTIVITY

The Director of CAL FIRE is authorized to temporarily reallocate Work Week Group E employees based on the following criteria.

- a. The work is not of an ongoing nature; therefore, additional positions cannot be authorized.
- b. The work cannot be shifted or performed by temporary help.

Prior approval from the California Department of Human Resources is required for any temporary reallocation that falls outside the criteria described above.

5. **FOOD AND AGRICULTURE, DEPARTMENT OF
AND
FISH AND WILDLIFE, DEPARTMENT OF**

Effective July 1, 2018, licensed veterinarians working for the California Department of Food and Agriculture and the California Department of Fish and Wildlife (CDFW), and staff toxicologists working at CDFW will be eligible to receive overtime while assigned to an Incident Command Structure Response.

**Food and Agriculture, Department of
Class**

Veterinarian (General)
Veterinarian Specialist (General)
Supervising Veterinarian (General)

**Fish and Wildlife, Department of
Class**

Senior Toxicologist
Staff Toxicologist (Specialist)