

K. A. R.

1-5-26. Stand-by compensation. (a) Any appointing authority may require a non-exempt employee to be on stand-by. "Stand-by time" means a period of time outside a non-exempt employee's regularly scheduled work hours, during which the non-exempt employee is required, at agency direction, to remain available to the agency within a specified response time. Each non-exempt employee on stand-by shall be available at agency direction for recall to perform necessary work. Stand-by assignments shall be limited to work situations where a probability of emergency recall of a non-exempt employee or employees exists. When an employer is able to contact employees by means of a paging device, the employer shall establish a policy stating whether such employees are eligible for stand-by compensation.

(b) Except as provided in subsection (f), each non-exempt employee shall be compensated at the rate of one dollar per hour for each hour the employee serves on stand-by status.

(c) Each non-exempt employee on stand-by who is called in to work shall be compensated for the actual hours worked at the appropriate rate of pay, but shall not be paid stand-by compensation for the hours actually worked. Only the hours actually worked by the non-exempt employee shall be credited in determining eligibility for overtime compensation.

(d) Time during which a non-exempt employee is restricted to a particular telephone number at a location designated by the employer, or to the employer's premises, in order to remain personally available to the employer shall be considered hours worked and the employee shall be compensated at the employee's regular rate of pay instead of receiving stand-by compensation.

(e) Any non-exempt employee on stand-by, or who is subject to the provisions of subsection (d), who is not available when called, and who does not present reasonable justification for failure to report when called, shall lose compensation for that stand-by period and may be subject to disciplinary action.

(f) The head of each agency with employees engaged in law enforcement and firefighting activities as defined in 29 C.F.R. 553, as in effect on July 1, 1994, shall determine whether those employees will be eligible for stand-by compensation as provided in this regulation and shall submit a written statement regarding that determination to the director. The determination as to eligibility for stand-by compensation may be modified by the secretary upon recommendation of the director. (Authorized by K.S.A. 1995 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended May 1, 1985; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 31, 1996.)