

PORTAL-TO-PORTAL COMPENSATION

1056

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Portal-to-portal is the total time spent by an employee away from his/her regularly assigned duty location due to emergency work. It includes such things as travel, meal, and sleep time without regard to any restrictions (or lack of restrictions) placed on the employee's activity. This type of compensation is only available for those in Unit 8 or WWG 4D22. All other employees (and those Unit 8 or WWG 4D22 when they are at the regular duty location or are not performing emergency services) are compensated for overtime on the basis of actual services rendered. This does not include such things as eat and sleep time unless they are done in conjunction with actual work (e.g., station coverage). Work assignments may or may not be on an around-the-clock basis depending on (1) the needs of the department; and, (2) the requirements imposed by the supervisor. The requirement for compensation is generally judged by any restrictions placed on personal pursuits outside regular working hours. (See [Section 1058](#) regarding FLSA considerations and any applicable MOU provisions.)

"Emergency" means a sudden, unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

In the context of CAL FIRE operations and the Unit 8 memorandum of understanding, an emergency involves assignments or work that must be performed immediately, in direct relationship to the emergency and as an integral part of managing the emergency. Emergency time was extended to include "move up and cover" assignments necessitated by the emergency absence of the regular crew. In this and other cases of portal-to-portal qualifying work away from the regularly assigned duty location, it overrides the sleep time exclusion contained in Section 8.01 of the MOU for Fire Fighters I. (**Remember:** the definition of "emergency" for purposes of using the Emergency Fund may be different than the definition offered in this section. See the Incident Fiscal Management Handbook, [Section 3821](#).)

While arson investigations do not meet the above definition of emergency work, it was agreed during bargaining that an exception would be made and that portal-to-portal compensation would be provided to Unit 8 staff during the course of an active fire. Once the fire is declared controlled, investigators are no longer entitled to portal-to-portal compensation. Instead, they receive compensation for actual services rendered. No exception was made for accident investigations. Therefore, compensation is on the basis of actual time worked for the duration of the assignment.

When receiving portal-to-portal compensation, employees are considered "on duty" and must conduct themselves accordingly.

The following are examples of when portal-to-portal compensation may or may not be appropriate. Most of these examples apply to more than one work week group. They are provided only as guidelines for those responsible for authorizing portal-to-portal compensation.

Example 1: WWG 2D/2E

A number of Schedule A employees are sent to fight an SRA wildland fire outside their contract area. Off-duty fire protection employees, including some Fire Fighters I, are brought in from other areas to cover Schedule A engines. Those employees fighting the wildland fire and those covering the engines are performing emergency work for purposes of the portal-to-portal provision.

Example 2: WWG 2D/2E

During a wildland fire, a staffed engine is moved to a more strategic location because of the commitment of other resources to the incident. The employees on the engine are performing emergency work for purposes of the portal-to-portal provision.

Example 3: WWG 2D/2E/4D22/2

A planned vegetation management burn goes without incident for the first day. On the second day a sudden wind shift forces the burn out of control. At that point the burn meets the definition of an emergency. Work performed to control the burn related directly to the emergency. This means that affected employees may begin getting portal-to-portal compensation while away from their assigned work location in response to the incident.

Example 4: WWG 2D/4D22/4D29/2

During the course of an active fire, an employee conducting a routine arson investigation is performing emergency work. An origin-and-cause investigation conducted during a fire is work performed in direct relationship to an emergency. After a fire is controlled, routine arson investigations and the related duties no longer meet the definition for emergency work. Only actual work performed during off-duty hours, including but not limited to standby/on-call time, briefing/debriefing, writing reports, and conducting interviews or surveillance, is overtime.

Example 5: WWG 2D

A Fire Fighter I leaves employment to return to school. Until a new employee can be hired, the unit brings in another Fire Fighter I from another station to fill in temporarily. Although the Fire Fighter I is now working outside her normal assigned duty location, the cause for moving her was routine coverage. This is not an emergency despite the fact that routine incident response will occur while at the station.

Example 6: WWG 2E

After a fire which burned out of control for a week has been extinguished, several Fire Captains are called to the unit headquarters to help process accounting documents and overtime records. Although this work resulted from an emergency, it is not work that must be performed immediately or as an integral part of managing the emergency. Therefore, the portal-to-portal provision does not apply. Instead, the employee will be compensated in accordance with the rules of his work week group for only the actual hours of overtime worked.

Example 7: WWG 4D22

An air attack officer may not be committed to or be present at the emergency, and yet his services may be directly related to an incident. For example, when he flies after a series of lightning strikes to pinpoint fires, he serves as an integral part of managing the emergency.

Example 8: WWG 2D/2E/4D22

During a wildland fire, several staffed engines and the battalion chief are sent away from their regular duty location on a move up and cover assignment because of the commitment of other resources to the incident. The employees on the engines and their supervisors are performing emergency work for purposes of portal-to-portal compensation.

Example 9: WWG 4D22

A district ranger accompanies two engine crews on a move up and cover assignment away from the ranger's regular work location. Because the temporary location is close to the ranger's home, he requests and receives permission to go home at night. If he goes home, is placed on call around the clock and continues to provide direct services, he is still performing emergency work. Portal-to-portal compensation has not been interrupted. However, if he is simply available for response and does not provide direct services at home or is not on call around the clock, portal-to-portal does not apply.

Example 10: WWG 4D22

A battalion chief takes a leave of absence for personal reasons. Until a new supervisor can be appointed, the unit brings in another supervisor from another location to fill in temporarily. Although the supervisor is now working outside his normal assigned duty location, the cause for moving him was routine supervision of the ranger district. This is not an emergency for purposes of portal-to-portal compensation despite the fact that routine incident responses will occur. For this reason, any change to ERP to initiate the new assignment must occur with 24-hour advance notice, and the employee will not receive portal-to-portal compensation. Instead, he will only receive overtime for actual work, on call or standby performed outside his normal duty week (see Sections 1050.1 and 1050.2).

Example 11: WWG 4D22

During ERP a Forester II is sent to the scene of an active wildland fire in another region to join a watershed management and reforestation team. Unless the forester actually participates in fighting the fire, her work does not relate directly to the emergency and is not an integral part of managing the emergency. Therefore, portal-to-portal compensation does not apply.

Example 12: WWG 2E/4D22/4D29/2

The employee is assigned away from his regular duty location to conduct an arson investigation during the course of an active fire. The new work location is closer to his home and, as a result, he is allowed to go home during off-duty hours without any restrictions on the use of this time. The employee does not receive portal-to-portal compensation. Instead, he is compensated only for the actual hours of work.

Example 13: WWG 4D22

The employee is placed on a special staffing pattern and provides expanded coverage at her regular work location. Because she is not performing services in direct relationship to an emergency and as an integral part of managing the emergency, she does not receive portal-to-portal compensation. Instead, she will receive nonemergency overtime compensation for actual hours of work outside her assigned duty week. **(Note:** However, this overtime would qualify for payment from the Emergency Fund.) She will also receive CTO for any standby or on-call hours. This is not portal-to-portal compensation because the actual services performed are the determining factor in receipt of any additional compensation. With portal-to-portal compensation, the actual services are not a consideration unless the employee is actually released from duty as found in Example 12 above.

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