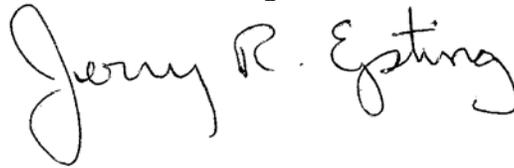


For: FFAS Employees

Overtime Administration Reminders

Approved by: Acting Deputy Administrator, Management



1 Overview

A Purpose

This notice:

- reminds employees of the rules and regulations governing overtime administration
- informs employees covered by the Fair Labor Standards Act (FLSA), as identified in subparagraph 3 B, that work in excess of the employee’s scheduled tour of duty is **not** permitted unless authorized and approved in advance
- reminds exempt employees of the maximum overtime earning limits
- encourages supervisors and management officials to schedule training and meetings on days that will allow employees to travel within their regularly scheduled tours of duty
- does **not** cover overseas employees.

B Agency Regulation

See 32-PM, Part 7 for overtime information.

Disposal Date	Distribution
January 1, 2012	All FAS, FSA, and RMA employees; State Offices relay to County Offices

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2 Approving Overtime

A Requirements

All approvals for overtime **must**:

- be ordered or requested in advance
- be ordered or requested and approved in writing
- include a justification for the overtime.

Emergency situations may be handled by phone and followed up in writing.

B Approval Levels

The following levels may approve overtime.

Office	Approving Official
Non-Federal County Office Employees	CED or designee.
Federal Service Center Employees and CED's	SED or designee.
State Office Employees	SED or designee.
SED's	DAFO or designee.
RMA Regional Offices	Regional Office director or designee.
RMA Compliance Offices	Compliance Office director or designee.
<ul style="list-style-type: none">• National Office• RMA-Kansas City Complex• Kansas City Complex	Division director or designee.

3 Overtime Categories

A Statutes

Entitlement and payment of overtime are covered in the following:

- 5 U.S.C. 5542
- FLSA.

B Categories

Under FLSA, employees are designated as either of the following:

- nonexempt; that is, covered by FLSA, 5 CFR Part 551
- exempt; that is, covered by Title 5 and 5 CFR Part 550.

3 Overtime Categories (Continued)

B Categories (Continued)

The definition of overtime varies, depending on whether an employee is covered by, or exempt from, FLSA.

For nonexempt employees, overtime is covered by both of the following:

- FLSA and 5 CFR Part 551
- 5 U.S.C. 5442.

If the 2 statutes conflict, the employee will receive the greater benefit.

4 Employees Covered Under Title 5 (FLSA-Exempt)

A Title 5 Overtime

Employees who are exempt from FLSA are covered by Title 5 for overtime purposes. Title 5 defines overtime as work that:

- exceeds either 8 hours in a workday or 40 hours in a week
- is officially **ordered and approved in advance**, unless a nonstandard or compressed work schedule is involved.

Employees working on nonstandard or compressed work schedules do **not** earn overtime **unless** approved to work in excess of the daily or weekly work schedule.

Example: An employee on a 5-4-9 work schedule must be approved to work over 9 hours in a workday or over 8 hours on the short workday to earn overtime.

B Title 5 Overtime Rates

GS/CO employees whose rate of basic pay:

- is equal to or less than step 1 of the GS/CO-10 are paid 1½ times the hourly rate of basic pay
- exceeds step 1 for the GS/CO-10, the hourly rate is the greater of 1½ times the hourly rate of basic pay for the GS/CO-10/1 or the employees hourly rate of pay.

No overtime or compensatory time may be granted to an exempt employee whose salary for a biweekly period exceeds the maximum level for a GS-15, step 10. Employees whose biweekly salary, including overtime or compensatory time, exceeds the salary of a GS-15, step 10, will forfeit the amount that exceeds the maximum salary.

4 Employees Covered Under Title 5 (FLSA-Exempt) (Continued)

C Title 5 Overtime and Training

Time spent in training:

- during regular work hours is considered hours of work
- outside the regular work hours is considered compensable **only** if it meets either of the following criteria when training is given:
 - during a period of duty for which the employees is already receiving premium pay for overtime, night, holiday, or Sunday work

Note: Night and Sunday differentials are only paid when part of an employee's regularly scheduled tour.

- on overtime, holiday, or Sunday when the cost, including premium pay, is less than the cost when training is confined to regular workdays.

D Title 5 Overtime and Travel

Official travel time away from the official duty station during the regularly scheduled tour is considered a part of regular work hours.

Time spent traveling outside of the regular tour of duty shall be compensable only if it is officially ordered and approved in advance **and** meets 1 of the following criteria:

- involves the performance of actual work while traveling
- is carried out under such arduous and unusual conditions that the travel is inseparable from work
- results from an immediate official event that could not be scheduled or controlled administratively by the Government, including traveling to and returning from such an event

Example: Administratively uncontrollable work occurs when an employee is subpoenaed to appear as a Government witness before a court on Monday morning, requiring travel on a Sunday.

- time spent traveling outside of regular work hours and is not otherwise compensable and does not meet the criteria in this subparagraph shall be considered compensatory time for travel.

5 Employees Covered Under FLSA (Nonexempt)

A FLSA Overtime

FLSA-covered (nonexempt) employees are:

- not permitted to work in excess of the employee's scheduled tour of duty, unless the overtime is authorized and approved in advance
- entitled to overtime compensation under the suffered and permitted concept, even if the work was not scheduled or approved in advance, if the:
 - work performed benefitted the Agency
 - supervisor knew or had reason to believe that the work was being performed.

B FLSA Overtime Rates

Under FLSA, there are no maximum pay rates for overtime compensation. The hourly overtime rate of pay for FLSA employees is 1½ times the hourly base rate.

C FLSA Overtime and Training

Time spent in training:

- during regular work hours is considered a part of regular work hours
- outside of regular work hours shall be considered compensable, if it meets the following criteria:
 - the employee is directed by the Agency to participate

Example: The training is required by the Agency and the employee's performance or retention is jeopardized by not taking the training.

- purpose of the training is to improve the performance in the employee's current duties and can be either of the following:
 - remedial or refresher training to bring the employee to an acceptable level of performance
 - training to learn a new method, procedure, or technique that is added to the job.

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5 Employees Covered Under FLSA (Nonexempt) (Continued)

C FLSA Overtime and Training (Continued)

The following may be counted as hours of work for FLSA overtime purposes:

- preparation for training, such as homework, when the length of time is defined in advance by the instructor
- attending a meeting, lecture, or conference when held outside of regular working hours, if the employee is directed to attend or performs work for the Agency during the meeting
- as authorized, training that meets the exceptions outlined in 5 CFR 410.402.

Note: This includes training given on overtime when the cost of training, including premium pay, is less than the cost of the same training that is confined to regular duty hours.

D FLSA Overtime and Travel

Official travel away from the duty station is considered regular hours of work if it is performed within the regularly scheduled administrative workweek.

Official travel outside of regular working hours shall be compensable, only if it meets 1 of the following criteria:

- work, including operating a vehicle, is performed while traveling
- an employee travels, as a passenger, on a 1-day assignment outside the duty station
- an employee travels, as a passenger, on an overnight trip away from the duty station.

Note: The travel must take place during either of the following times:

- normal duty hours
- hours on a nonworkday that correspond to the employee's normal duty hours.

Example: Employee normally works Monday through Friday, 8 a.m. to 4:30 p.m., and leaves for travel at 1 p.m. on Sunday and travels until 6 p.m. The employee is allowed travel time from 1 p.m. to 4:30 p.m. and compensatory time for travel from 4:30 p.m. to 6 p.m.

5 Employees Covered Under FLSA (Nonexempt) (Continued)

D FLSA Overtime and Travel (Continued)

The Federal Employee Pay Comparability Act of 1990 authorized travel performed under any of the following circumstances to be counted as hours of work under FLSA:

- work while traveling
- arduous or unusual circumstances
- to or from an event not administratively controllable and an immediate official need exists.

These circumstances give FLSA-covered employees additional entitlements equivalent to those only covered by Title 5.

6 Compensatory Time

A Overtime Compensation

Supervisors can determine that FLSA-exempt employees shall receive compensatory time instead of overtime.

The decision on whether FLSA-covered employees receive overtime or compensatory time rests with the FLSA-covered employee and **not** the supervisor.

Note: Compensatory time is a form of overtime compensation and must be scheduled and approved in advance by the officials listed in subparagraph 2 B.

7 Scheduling Travel

A Requirements

Schedule travel within the employee's regular work hours to the maximum extent possible. When this is not possible, the supervisor must make available, when requested by the employee, the reasons for requiring the travel outside the regular work hours.

B Reminder

Supervisors and management officials are encouraged to schedule meetings and training on workdays that will permit their employees to travel within normal work hours whenever possible.

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8 Questions About This Notice

A Agency Regulation

Most overtime and compensatory time for travel questions are addressed in 32-PM.

B Contacts

If there are additional questions, contact the appropriate SPO according to this table.

IF located in...	THEN contact...
FAS, FSA, or RMA National Office	Lisa Flores, HRD, Policy and Accountability Branch by telephone at 202-401-0516.
FAS Overseas Posts	Audrey Armstrong, Foreign Agriculture Servicing Branch, by telephone at 202-401-0167.
FSA State or County Office	State administrative officer.
<ul style="list-style-type: none">• FSA or RMA outside the National Office• RMA Regional and Compliance Offices	Latrisha Peterson, HRD, Talent Acquisition Branch, by telephone at 816-823-2483.