

State of Utah	REF. NR-97-B-1	PAGE 1 of 6
DEPARTMENT OF NATURAL RESOURCES	EFFECTIVE DATE 06/28/97	
POLICIES AND PROCEDURES	REVISION DATE	
SUBJECT: Fair Labor Standards Act Policy		
Ted Stewart, Executive Director		

I. PURPOSE

To implement the U.S. Department of Labor's Fair Labor Standards Act, and to ensure that the policy is followed in accordance with these guidelines.

II. DEFINITIONS

- A. FLSA = Fair Labor Standards Act
- B. DHRM = State Department of Human Resource Management
- C. DOL = U.S. Department of Labor
- D. Workweek = Forty (40) hours within a seven day period
- E. Work Period = Twenty-eight (28) consecutive work days
- F. Exempt Position = A position that compensates overtime in a two-week pay period at straight time
- G. Non-exempt Position = A position that compensates overtime with pay or compensatory at time and a half after working 40 hours in a workweek
- H. On-Call = When the employee has freedom of movement in personal matters as long as he/she is available for call to duty

III. POLICY

- A. Management control of overtime.
 - 1. Management may request an employee to accept extra work on an overtime basis. Each division shall develop internal rules and procedures to control the use of overtime to ensure maximum productive power and financial prudence.
 - 2. These controls will include procedures to ensure management's approval and authorization for all overtime hours worked for non-exempt and exempt employees (with the exception of deputy/assistant directors, division directors and other appointed positions).
- B. Overtime compensation.
 - 1. Non-exempt employees.

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- a. Any non-exempt employee who works over forty(40)hours per week will be compensated at one and one-half times his/her regular hourly rate for each hour worked over 40 hours in a workweek.
- b. Any non-exempt employee may flex his/her time within the 40 hours in that same workweek with approval from the immediate supervisor. (This should be controlled.)
- c. Any non-exempt employee who accumulates more than 80 hours of overtime shall be **paid** for those extra hours on the same pay period for which the 80-plus overtime hours are worked.
- d. At the end of June 30 each year, all non-exempt employees may carry-over 80 hours to the new fiscal year. A division may opt to pay down to zero hours.
2. Law enforcement employees.
 - a. All law enforcement employees currently engaged in a work period of twenty-eight (28) consecutive days, will be compensated at time and a half for overtime in excess of 171 hours in a pay period.
 - b. Law enforcement employees may flex their time, with supervisory approval within the 171 hour work period.
3. Exempt employees.

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- a. Any exempt employee working past 80 hours in a two-week pay period shall be compensated at straight time with **compensatory time off**. Any overtime earned by exempt employees is not an entitlement, a benefit, nor a vested right. All exempt employees must have written approval for any overtime hours worked.
- b. Each division shall establish in written policy an annual uniform overtime year that will define the time when a division's accrued overtime lapses for the exempt employee. The uniform overtime year shall only be established on **specified** pay periods. These pay periods will be as follows: 5th, 10th, 15th, 20th and 25th pay periods. Each division may opt for the regular fiscal year as their uniform annual date. **Exempt employees cannot carry compensatory time past the uniform annual date as established by the division.**
- c. Any overtime earned by an exempt employee who transfers to another agency, terminates, retires or otherwise will not return to work before the end of the overtime year, shall lapse.
- d. Department deputy/assistant directors and division directors are not required to maintain overtime records unless authorized by the department executive director. The department executive director has discretionary authority to approve such overtime for division and deputy/assistant directors, but overtime shall not be compensated with actual payment.
- e. An exempt employee may flex his/her time within 80 hours in a pay period with supervisory approval.

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C. Overtime provisions.

1. Because FLSA provides compensatory time off in lieu of monetary overtime compensation at a rate of not less than one and one-half hours for each hour of overtime worked for non-exempt employees, each department employee, whose position is non-exempt, shall be required to sign an Overtime Compensation Election/Agreement Form (see Appendix I).
2. All anticipated hours to be worked as overtime shall be undertaken only when approved by the division director or a designee made by the division director. All employees anticipating or expecting to work overtime shall make a request **in writing** for authorization to work that overtime. The procedure for the request shall be outlined by each division director.
3. Any employee working overtime without written authorization shall be compensated for that overtime. However, the employee may be issued a letter of warning or a letter of intent to impose disciplinary action for failure to request permission prior to working any overtime hours.
4. All employees shall be encouraged to use compensatory time within thirty (30) days following the pay period in which it was accrued, providing this does not unduly disrupt agency operations.
5. Any non-exempt employee who works overtime over 80 hours or currently carries more than 80 hours of compensation time **must** be paid for that overtime on the pay day for the period in which it was earned.

D. Time record keeping.

1. Except department deputy directors and division directors, all DNR employees are required to complete and sign the state biweekly time sheet, or division developed and approved time sheet.

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2. Division-developed time sheets shall be approved by the department executive director, Human Resources and DHRM and shall contain all required data elements identified on the state approved time sheet.

E. Other FLSA provisions.

1. On-call time.
 - a. An employee's time may or may not be counted as compensable time depending on the employee's freedom while on-call. The time is considered on-call time when the employee is able to move freely on personal matters, but is required to be available for call to duty.
 - b. If an employee is required to be on-call, this type of compensation shall accrue at a rate of one hour for every 12 hours **at straight time**, and shall be recorded as time eligible for compensation but will not be recorded as hours worked.
 - c. Any time actually worked during the on-call period shall be recorded as hours worked in addition to the on-call time.
2. Travel time.
 - a. Travel by an employee from one job site to another job site during the workday is compensable time. Travel from home to work is not compensable time.
 - b. If the employee is called to come back to work after going home, the employee need not be compensated for the travel time, but will require compensation for the actual time worked.

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- c. An employee must be compensated for time spent traveling to and from another city or work site to start work and return home, if that travel time exceeds the employee's normal home-to-work commuting time.
 - d. Although passengers in an automobile may not be compensated for the time traveled while the driver is performing under compensable time, both the driver and the passenger shall be compensated for the travel time.
3. Volunteers.
- a. Bonafide volunteers shall not be paid for hours worked, except for per diem expenses.
 - b. All volunteers must sign the Agreement for Voluntary Services.
 - c. Adequate supervision of volunteer staff must be provided.
4. Excess hours.
- a. Excess hours will be claimed when the total number of hours worked in a work period PLUS additional hours paid (sick leave, annual leave, holiday leave, other leave) exceed the employee=s normal work hours within that work period.
 - b. No employee may make an effort to maximize his/her excess hours without sufficient justification, approved by the division director. In these cases, prior approval should be given by the division director.