DEPARTMENT OF NATURAL RESOURCES

HUMAN RESOURCES POLICY NO.: 3

EFFECTIVE DATE: **JANUARY 23, 2015**

SUBJECT: **OVERTIME-COMPENSATORY TIME**

AUTHORIZATION: **STEPHEN CHUSTZ, SECRETARY**

I. POLICY

The Department of Natural Resources (DNR) fully intends to properly compensate employees for all hours worked as required by law. Overtime, and the related crediting of compensatory leave or payment of wages, generally must be authorized prior to the overtime hours actually being worked and shall be authorized based upon business necessity only.

Supervisors are required to manage and control the overtime hours worked by their subordinates. Under no circumstance should overtime which requires the payment of wages be permitted unless and until the supervisor authorizing such overtime has confirmed the availability of funding. To avoid creating financial liability at the end of each fiscal year, supervisors also are required to monitor the accrual and use of compensatory leave to ensure that the caps on accrual are not exceeded.

II. PURPOSE

This policy provides guidelines for the consistent management of overtime compensation for required, authorized work which must be done beyond an employee's regularly scheduled workday or workweek. Employee compensation for overtime will be in accordance with the Civil Service Rules and the Fair Labor Standards Act, with the FLSA taking precedence in the event of a conflict within these provisions.

III. APPLICABILITY

This policy applies to all DNR employees, regardless of status or rank.

IV. DEFINITIONS

1) **Overtime** - Time actually worked by an employee at the direction of and with supervisory approval:

   a) In excess of regular duty hours in the workday;
   b) In excess of regular duty hours in the forty-hour workweek;
   c) On a day observed as a holiday; or
   d) On a day the office is officially closed.

2) **Workweek** - From midnight Sunday through midnight the following Sunday.

3) **Hours Worked** - All time during which an employee is actually required or permitted to perform duties in furtherance of the interests of DNR.

4) **FLSA Overtime** - Compensation for overtime to a qualifying non-exempt employee required by the Fair Labor Standards Act which necessarily involves crediting of compensatory leave or payment of wages for hours actually worked beyond the customary 40-hour workweek. Such compensation will be at the time and one-half rate.

5) **State Overtime** - Compensation for overtime to an employee who is not eligible for overtime under the Fair Labor Standards Act, which may not involve actual work hours beyond the customary 40-hour workweek. Such compensation will be at the straight-time rate.

6) **Compensatory Leave** - Leave earned in lieu of cash payment at the straight-time or time and one-half rate as compensation for overtime hours worked. Crediting of such leave is based upon a determination of the employee's status as exempt or non-exempt, and also upon the number of hours actually worked throughout the designated workweek.

7) **Non-Exempt Employee** - An employee who occupies a position covered by the overtime provisions of the Fair Labor Standards Act, thereby requiring that he/she be paid in accordance with the FLSA at the time and one-half rate for hours actually worked beyond the regularly scheduled 40-hour workweek.

8) **Exempt Employee** - An employee who occupies a position not covered by (exempt from) the overtime provisions of the Fair Labor Standards Act, thereby permitting him/her to receive no compensation for overtime except as authorized by this policy. Employees who occupy positions that are classified as executive, administrative and professional, and certain positions in the information technology field are generally exempt from receiving overtime under the FLSA.

NOTE: The classification of a position as exempt or non-exempt is dependent upon criteria set forth within the Fair Labor Standards Act. This determination is made based upon an evaluation of the actual duties performed by the employee. The designation of positions as exempt or non-exempt is maintained by and available from the Human Resources Division.

IV. DESIGNATIONS AND COMPENSATION

1) **Non-Exempt Positions** – Authorized overtime hours worked by employees who occupy non-exempt positions are to be compensated as follows:

a) Compensatory leave calculated at the time and one-half rate for overtime hours actually worked in excess of 40 hours in a workweek (FLSA Overtime); and

b) Compensatory leave calculated at the straight-time rate for hours worked beyond the regularly scheduled workweek when 40 hours have not been actually worked in the workweek (State Overtime).

NOTE: Special Provisions (Subject to Budget Availability)

i) Authorized hours actually worked at designated locations due to and directly related to emergency situations during official office closures will be compensated via the payment of wages calculated at the time and one-half rate, along with the office closure pay required by the Civil Service Rules.

ii) Authorized hours actually worked at designated locations beyond an employee's customary work hours due to and

directly related to emergency situations that do not cause official office closures will be compensated via the payment of wages calculated at the time and one-half rate.

iii) The Secretary reserves the right to pre-approve payment of wages, rather than credit compensatory leave, at the appropriate rate for designated projects which require an employee to actually work beyond his/her customary work hours.

2) **Exempt Positions –** Authorized overtime hours worked by employees who occupy exempt positions are to be compensated via the crediting of compensatory leave at the straight-time rate.

NOTE: Special Provisions (Subject to Budget Availability)

a) Authorized hours actually worked at designated locations due to and directly related to emergency situations during official office closures will be compensated via the payment of wages calculated at the time and one-half rate, along with the office closure pay required by the Civil Service Rules.

b) Authorized hours actually worked at designated locations beyond an employee's customary work hours due to and directly related to emergency situations that do not cause official office closures will be compensated via the payment of wages calculated at the time and one-half rate.

c) The Secretary reserves the right to pre-approve payment of wages, rather than credit compensatory leave, at the straight-time rate for designated projects which require an employee to actually work beyond his/her customary work hours.

V. COMPUTING OVERTIME

Overtime compensation is calculated based upon a 40-hour workweek. Non-exempt employees are entitled to compensation calculated at the time and one-half rate only after actually working 40 hours. Thus, the use of leave of any nature or the occurrence of a holiday during a workweek affects the rate of compensation to which a non-exempt employee is entitled.

For purposes of calculating hours worked for State overtime, a day off from work due to paid leave or a holiday is considered to be a day worked; however, a day off from work due to paid leave or a holiday is not considered to be a day worked for purposes of calculating hours worked for FLSA overtime.

VI. OVERTIME FOR MEAL PERIODS

Designated meal periods are not considered work time and employees are not allowed to work during the scheduled meal period. If a non-exempt employee is required or authorized to work through the designated meal period, overtime compensation at the appropriate rate is required under the FLSA.

VII. OVERTIME FOR ATTENDANCE AT CONFERENCES, CONVENTIONS AND TRAINING PROGRAMS

When an employee is required by his/her appointing authority to attend a conference, convention, seminar, workshop, training course or related activity on weekends, overnight or outside normal work hours, all time actually spent participating in program activities shall be designated as hours worked for which compensation at the appropriate rate is required.

When an employee elects to and is permitted by his/her appointing authority to attend a non-mandatory conference, convention, seminar, workshop, training course or related activity during regular work hours, he/she shall receive no additional compensation for participating in program activities beyond customary work hours.

VIII. OVERTIME FOR TRAVEL

While on authorized travel status for official DNR business purposes, overtime compensation at the appropriate rate is required for the reasonable and necessary time spent outside normal work hours in transit to and from the destination.

1) Home to Work Travel

Travel to and from the work site is not considered work time. However, when an employee has gone home after completing a day's work and is subsequently called back to work after hours, the appointing authority

may designate all time spent on such travel to and from the work site as work time for which overtime compensation at the appropriate rate may be authorized. Similarly, if an employee is called to work on a weekend, during a holiday or during an office closure, the appointing authority may designate the travel time to and from the work site as hours worked for which compensation at the appropriate rate may be authorized.

2) Conference Travel

Approved travel to and from a conference, convention, seminar, workshop, training course or related activity, when attendance is required, shall be designated as hours worked for which compensation at the appropriate rate is required. Hours worked cease upon arrival at the destination.

Travel beyond customary work hours to and from a non-mandatory conference, convention, seminar, workshop, training course or related activity elected by an employee shall not be designated as hours worked for which compensation is required or permitted.

3) Airline Travel

If travel by airline is required beyond customary work hours, hours claimed for compensation purposes shall be limited to no more than two hours prior to the designated flight departure time and continuing through the pre-scheduled designated time of arrival at the destination.

4) Regular Travel

Travel time away from the official domicile which is necessary to place the employee at a work location to perform field work, on-site visits or similar activities shall be designated as hours worked for which compensation at the appropriate rate is required.

> **Note:** When an employee chooses a different mode of travel than that required by DNR, any additional travel time incurred as a result of the employee's decision shall not be considered hours worked for overtime purposes.

X. CAPS ON ACCUMULATION OF COMPENSATORY LEAVE

1) Leave Earned at the Time and One-Half Rate

The FLSA permits the accumulation of compensatory leave earned at the time and one-half rate up to a maximum cap of 240 hours. The employee must be paid wages at the time and one-half rate for any overtime hour above the 240-hour cap during the pay period such overtime hour is earned. Supervisors are required to insure that the 240-hour cap is not exceeded.

2) Leave Earned at the Straight-Time Rate

The Civil Service Rules permit the accumulation of compensatory leave earned at the straight-time rate in excess of 360 hours, but not more than a total of 360 such hours can be carried forward from one fiscal year to the next. This applies to both exempt and non-exempt employees.

For non-exempt employees whose straight-time compensatory leave balance exceeds the 360-hour cap, payment shall be made within 90 days after the beginning of the fiscal year for the excess compensatory leave.

For exempt employees whose straight-time compensatory leave balance exceeds the 360-hour cap, payment may be made within 90 days after the beginning of the fiscal year for the excess compensatory leave. Such payment may occur if funds are available. If not paid by September 30, all straight-time compensatory leave above 360 hours must be canceled.

XI. COMPELLED USE OF COMPENSATORY LEAVE

An employee who has been credited with compensatory leave earned at the time and one-half rate and/or at the straight-time rate may be compelled by supervisory personnel, with the approval of the appointing authority, to take all or part of such leave at any time.

Compensatory leave earned at the time and one-half rate shall be taken before compensatory leave earned at the straight-time rate. All compensatory leave must be taken prior to granting annual leave or leave without pay, and may be taken upon exhaustion of sick leave only with the express approval of the Secretary in consultation with the Human Resources Director.

XII. COMPENSATORY LEAVE PAYMENT UPON TRANSFER OR SEPARATION

All unused compensatory leave earned at the time and one-half rate by non-exempt and exempt employees shall be paid upon transfer or separation from DNR. Payment shall be calculated upon the employee's base rate of pay.

All unused compensatory leave earned at the straight-time rate by non-exempt employees shall be paid upon transfer or separation from DNR. Payment shall be calculated upon the employee's base rate of pay.

Unused compensatory leave earned at the straight-time rate by exempt employees may be paid upon transfer or separation. Any payment made shall be at the sole direction and discretion of the Secretary.

Unused and unpaid compensatory leave will be canceled upon an employee's transfer or separation and will not be re-credited upon reemployment by the State.

XIII. COMPENSATION DISPUTES

DNR will make every effort to insure that an employee's compensation is correct. Any employee who believes he/she has been improperly compensated should consult supervisory personnel immediately upon discovering the error. Supervisors are responsible for researching the problem and resolving the compensation dispute as quickly as possible. Upon resolution, the supervisor must inform the employee of the outcome of the decision. Should it be discovered that DNR has inadvertently underpaid an employee, he/she shall be paid all funds due and owing.

In the event an employee is inadvertently overpaid wages due to an administrative error, DNR has the right and duty to recoup any and all such funds without the necessity of any action other than prior notification to the employee of the amount paid in error. The employee will be notified of the discrepancy and a method of recovering the funds will be determined by the Secretary in consultation with the employee and Human Resources Director.

XIV. MISCELLANEOUS

1) All employees at the time of hiring are required to sign a Statement of Agreement or Understanding Regarding Compensation for Overtime Work.

2) Supervisors can compel employees to work overtime as necessary to accomplish job assignments. Importantly, employees can be compelled to work overtime during emergency situations and office closures.

3) Employees can be disciplined for failing or refusing to work overtime as directed by supervisory personnel.

4) Prior supervisory approval to work overtime is required.

5) Overtime should be limited and authorized only when the required work cannot be completed during the regularly scheduled workweek.

6) Supervisors should prudently manage the work of subordinates in order to mitigate the need for overtime and are required to monitor overtime hours worked to avoid abuse.

7) All overtime hours worked must be reported in writing, along with an explanation of the nature of the work performed and business need therefor.

8) All overtime hours worked must be entered into ISIS/HR and recorded on the Overtime and Compensatory Leave Earning Record during the payperiod in which the overtime is worked.

9) Employees can be compelled by a supervisor, with the approval of the appointing authority, to use accrued compensatory leave at any time.

10) Payment for compensatory leave shall be calculated at the employee's base rate of pay at the time of payment.

11) Payment of wages as compensation for overtime hours worked in accordance with this policy shall be authorized only after the supervisor has verified the availability of funds in the budget.

XV. VIOLATIONS

Any employee found to have knowingly and intentionally falsely claimed overtime compensation will be subject to disciplinary action, including the possibility of termination. Additionally, falsely claimed overtime will be reported to the appropriate authorities in accordance with law, as a result of which criminal prosecution may ensue.

XVI. EXCEPTIONS

Exceptions to this policy may be approved solely by the Secretary and then only if determined to be in the overall best interest of the Department.

XVII. QUESTIONS

Questions regarding this policy should be addressed to the Human Resources Division.

STEPHEN CHUSTZ, SECRETARY

1/22/15

DATE

INITIAL ISSUE DATE: JULY 1, 2014