

DEPARTMENT OF NATURAL RESOURCES

STATEWIDE PERSONNEL POLICY NO.: 2

EFFECTIVE DATE: JULY 10, 2019

SUBJECT: OVERTIME-COMPENSATORY TIME

AUTHORIZATION: THOMAS F. HARRIS, SECRETARY

I. POLICY

The State of Louisiana (State) fully intends to properly compensate employees for all hours worked as required by law. Overtime, and the related payment of wages or crediting of compensatory leave 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 prudently manage and control the work of their subordinates in order to mitigate the need for overtime, and are required to monitor the accrual of overtime to avoid creating financial liability at the end of each fiscal year. To do so, supervisors must ensure that overtime is pre-approved, the caps on accrual of compensatory leave are not exceeded and compensatory leave balances are not excessive.

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 regular work schedule or scheduled work period. Employee compensation for overtime will be in accordance with the State Civil Service Rules, Executive Order JBE 2016-75 and the Fair Labor Standards Act (FLSA), with the FLSA taking precedence in the event of a conflict within these provisions.

III. APPLICABILITY

This policy applies to all employees of the Department of Natural Resources (DNR) except those designated as "unclassified appointees" as defined within Executive Order JBE 2016-75.

IV. DEFINITIONS

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

- 1) In excess of regular duty hours in the workday;
 - 2) In excess of regular duty hours in the scheduled work period;
 - 3) On a day observed as a holiday; or
 - 4) On a day the office is officially closed.
- B) Scheduled Work Period** – The designated period of time an employee is scheduled to work without being subject to the overtime requirements of the FLSA. This generally will be a 40-hour work week, but may extend to an 80-hour bi-weekly work period for exempt employees as authorized by the FLSA.
- C) Regular Work Schedule** - The designated, recurring work hours and days an employee is required to work.
- D) Hours Worked** - All time during which an employee is required or permitted to perform duties in furtherance of the interests of the State.
- E) FLSA Overtime** - Compensation for overtime to a non-exempt employee required by the FLSA which necessarily involves payment of wages or crediting of compensatory leave for hours actually worked in excess of the scheduled work period. Such compensation will be at the time and one-half rate.
- F) State Overtime** - Compensation for overtime to an employee who is either exempt from the overtime provisions of the FLSA or has not actually worked in excess of the scheduled work period. Such compensation will be at the straight-time rate.
- G) Compensatory Leave** - Leave earned in lieu of paid wages 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 scheduled work period.
- H) Official Work Domicile** – The parish in which an employee's primary duty station is located or such other area as may be formally designated by the Appointing Authority.
- I) Emergency Situations** – A Governor-declared State of Emergency or activation of the State Emergency Operations Center at Level 3 or above. The event shall end on the day and time designated by the Governor or Commissioner of Administration.
- J) Non-Exempt Employee** - An employee who occupies a position covered by the overtime provisions of the FLSA, thereby requiring that he be paid in accordance with the FLSA at the time and one-half rate for hours actually worked in excess of the scheduled work period.

- K) Exempt Employee** - An employee who occupies a position not covered by (exempt from) the overtime provisions of FLSA, thereby permitting him to receive no compensation for overtime hours worked except as authorized by this policy. Employees who occupy positions that are classified in accordance with the FLSA as executive, administrative or professional, outside sales and certain positions in the information technology field may be exempt from receiving compensation for overtime hours worked under the FLSA.

NOTE: The classification of a position as exempt or non-exempt is dependent upon criteria set forth in the FLSA. This determination is made based upon an evaluation of duties actually performed. The designation of positions as exempt or non-exempt is maintained by and available from Human Resources.

V. DESIGNATION AND COMPENSATION

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

- 1) Compensatory leave calculated at the time and one-half rate for overtime hours actually worked in excess of the scheduled work period (FLSA Overtime); and
- 2) Compensatory leave calculated at the straight-time rate for hours worked in excess of the regular work schedule when the total number of hours actually worked is not in excess of the scheduled work period (State Overtime).

NOTE: Special Provisions

- a) Hours actually worked at designated locations due to and directly related to an emergency situation during official office closures may 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. (See policy addendum for details.)
- b) Hours actually worked at designated locations due to and directly related to an emergency situation beyond an employee's regular work schedule may be compensated via the payment of wages calculated at the time and one-half rate with prior approval of the State Civil Service Commission. (See policy addendum for details.)

- c) The Secretary, in consultation with the Appointing Authority, reserves the right to approve payment of wages at the appropriate rate, rather than credit compensatory leave, for designated projects or work assignments which require an employee to actually work beyond his regular work schedule.

B) Exempt Positions – 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

- 1) Hours actually worked at designated locations due to and directly related to an emergency situation during official office closures may 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. (See policy addendum for details.)
- 2) Hours actually worked at designated locations due to and directly related to an emergency situation beyond an employee's regular work schedule may be compensated via the payment of wages calculated at the time and one-half rate with prior approval of the State Civil Service Commission. (See policy addendum for details.)
- 3) The Secretary, in consultation with the Appointing Authority, reserves the right to approve payment of wages at the straight-time rate, rather than credit compensatory leave, for designated projects or work assignments which require an employee to actually work beyond his regular work schedule.

VI. CREDITING OVERTIME

Overtime compensation is credited based upon hours worked and leave usage during the scheduled work period. Non-exempt employees are entitled to compensation credited at the time and one-half rate only after actually working hours in excess of the scheduled work period. Thus, the use of leave of any nature or the occurrence of a holiday during a scheduled work period affects the rate of compensation to which a non-exempt employee is entitled.

For purposes of crediting hours worked for State Overtime, a day off from work due to paid leave (annual/sick/compensatory leave, holiday, office closure, jury duty, etc.) is considered to be time worked; however, time off from work due to paid leave is not considered to be time worked for purposes of crediting hours worked for FLSA Overtime.

VII. OVERTIME FOR MEAL PERIODS

Designated meal periods are not considered work time and employees are not allowed to work during the scheduled meal period without authorization. If a non-exempt employee is required or permitted to work through the designated meal period, overtime compensation at the appropriate rate is required under the FLSA.

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

When an employee is required by his Appointing Authority to attend a conference, convention, seminar, workshop, training course or related activity on weekends or beyond the regular work schedule, all time actually spent participating in program activities shall be designated as hours worked for which compensation at the appropriate rate is required. Meal periods and social events are not considered conference program activities and are not to be designated as work hours.

When an employee elects, at his expense, and is permitted by his Appointing Authority to attend a non-mandatory conference, convention, seminar, workshop, training course or related activity during regular work hours, he shall receive no additional compensation for travel to or participating in program activities beyond the regular work schedule.

IX. OVERTIME FOR TRAVEL

While in authorized travel status for official State business purposes, overtime compensation at the appropriate rate is required for the reasonable and necessary time spent beyond the regular work schedule in transit to and from the destination.

A) Home to Work Travel

Daily travel to and from the customary work site is not considered compensable work time.

When an employee has returned home after completing a day's work and subsequently is called back to work after hours, the Appointing Authority may designate all or a portion of the time spent on such travel to and from the work site as work time for which compensation at the appropriate rate may be authorized.

Similarly, if an employee is contacted and required to report to work on a weekend, on a holiday (which is not part of the employee's regular work schedule), on a regularly schedule day off or during an office closure, the Appointing Authority may designate all or a portion of the travel time to and from the work site as work time for which compensation at the appropriate rate may be authorized.

B) Conference Travel

Authorized travel to and from a conference, convention, seminar, workshop, training course or related activity, when attendance is required, to the extent such exceeds the employee's normal home-to-work travel time, 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 the regular work schedule 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.

C) Airline Travel

If travel by airline is required beyond regular 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 time of arrival at the destination.

D) Regular Travel

Travel time away beyond the regular work schedule away from the customary work site which is necessary to place the employee at a work location for a meeting, on-site visit, to perform field work or similar activity, to the extent such exceeds the employee's normal home-to-work travel time, shall be designated as hours worked for which compensation at the appropriate rate is required.

X. CAPS ON ACCUMULATION OF COMPENSATORY LEAVE

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

The FLSA permits the accrual of compensatory leave earned at the time and one-half rate only up to a maximum cap of 240 hours. For any FLSA-qualifying overtime in excess of this cap, non-exempt employees shall be paid wages at the time and one-half rate for the pay period such overtime hour is earned. Supervisors are required to monitor overtime worked to ensure that the 240-hour cap is not exceeded.

B) Leave Earned at the Straight-Time Rate

Compensatory leave earned at the straight-time rate may be accrued without limitation. However, not more than a total of 360 such hours may be carried forward from one fiscal year to the next. This cap applies to both exempt and non-exempt employees.

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

For exempt employees whose straight-time compensatory leave balance exceeds the 360-hour cap, payment for the excess compensatory leave may be made within 90 days of the beginning of the fiscal year. Any such payment shall be at the sole direction and discretion of the Appointing Authority, and subject to the availability of funding as certified by the Undersecretary. All straight-time compensatory leave above the cap, if not paid, shall be canceled by the Appointing Authority within 90 days of the beginning of the fiscal year.

XI. REQUIRED OVERTIME AND USE OF COMPENSATORY LEAVE

Supervisors may require employees to work overtime at any time, including during emergency situations and office closures, as necessary to accomplish job assignments and serve the public's needs. Employees can be disciplined, up to and including termination, for failing or refusing to work overtime as directed by supervisory personnel.

An employee may be required by supervisory personnel, with the approval of the Appointing Authority, to use all or part of his accrued compensatory leave at any time. Compensatory leave earned at the time and one-half rate shall be used before compensatory leave earned at the straight-time rate.

XII. COMPENSATORY LEAVE PAYMENT UPON TRANSFER OR SEPARATION

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

All unused compensatory leave accrued at the time and one-half rate shall be paid upon transfer from one State agency to another or upon separation from State employment.

B) Leave Earned at the Straight-Time Rate

All unused compensatory leave accrued at the straight-time rate by non-exempt employees shall be paid upon transfer from one State agency to another or upon separation from State employment.

All or a portion of an exempt employee's unused compensatory leave accrued at the straight-time rate may be paid upon transfer from one State agency to another or upon separation from State employment. Any payment made shall be at the sole direction and discretion of the Appointing Authority, and subject to the availability of funding as certified by the Undersecretary. All straight-time compensatory leave, if not paid upon

separation or transfer, shall be canceled and will not be re-credited upon reemployment by the State.

XIII. CALCULATING COMPENSATORY LEAVE PAYOUTS

In paying the value of accrued compensatory leave as required by this policy, the following shall apply:

- A)** The hourly rate of pay for State Overtime earned at the straight-time rate shall be calculated using the employee's base pay.
- B)** The hourly rate for State Overtime at the time and one-half rate may be calculated in accordance with the FLSA or in accordance with Subsection A above.
- C)** The hourly rate of pay for all FLSA Overtime shall be calculated in accordance with the FLSA.

XIV. MISCELLANEOUS

- A)** All employees at the time of hiring are required to sign a Statement of Agreement or Understanding Regarding Compensation for Overtime Work.
- B)** Employees are required to secure supervisory approval to work overtime prior to working overtime except in extenuating circumstances (emergency situations, meeting extends beyond scheduled departure time, etc.). If not pre-approved, all overtime hours worked must be timely reported by the employee, along with an explanation of the nature of the work performed and business need therefor. Repercussions for failure to secure pre-approval are outlined in the Violations section below.
- C)** Overtime should be limited and authorized only when the required work cannot be completed during the regularly scheduled work period.
- D)** Overtime hours worked must be submitted electronically in CATS, including an explanation of the nature of the work performed in the Comments section, during the pay period in which the overtime is worked.
- E)** An Appointing Authority may authorize payment of all or a portion of an employee's accrued compensatory leave at any time, subject to availability of funding as certified by the Undersecretary.
- F)** When an employee chooses, with permission, a different mode of travel than that required by the Appointing Authority, any additional travel time incurred as a result of the employee's option shall not be considered hours worked for overtime purposes.

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 La. R.S. 24:523. Employees should be aware that criminal prosecution may ensue for such violations.

Any employee who repeatedly works and claims overtime without prior authorization will be subject to disciplinary action, including the possibility of termination.

XVI. EXCEPTIONS

Requests for exceptions to this policy shall be submitted to the Human Resources Division with specific and compelling written justification. Exceptions may be granted only by the Secretary and then only if such is determined to be in the overall best interest of the State.

XVII. QUESTIONS

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



THOMAS F. HARRIS, SECRETARY

6-17-2019

DATE

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REVISION DATE: 12/18; 07/19