

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 10 - Pay Administration**

Amendment: 6109.11-1992-1

Effective date: August 03, 1992

Duration: This amendment is effective until superseded or removed.

Approved by: F. Dale Robertson, Chief

Date approved:

Responsible Staff:

Last Change: No info on last amendment

Superseded Document(s): 6109.11-91-1, March 29, 1991; 6, September 1988; 5, October 1987; 4, September 1987; 3, August 1987; 2, 1986; 1, April 1986; Entire Handbook, February 1986

Digest: Following is an explanation of the changes throughout the directive by section.

This amendment is a reissuance of FSH 6109.11 to conform the format and structure of the Handbook to the requirements of electronic directive issuance.

This amendment makes no substantive changes to the text. The only changes made are those necessary to meet new format requirements or to correct spelling, punctuation, or unit names.

This Handbook is now available electronically in the National Information Center in the same format as the paper copy. Henceforth, amendments to this Handbook will be issued to Forest Service units electronically on a document basis.

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10.2 - Objective

To provide instructions for pay administration for general schedule, performance management and recognition system employees, and wage employees, and guidance about allotments and assignments of pay and grade retention.

11 - Managing, Reviewing, and Documenting Time and Attendance

11.04 - Responsibility

11.04a - Unit Manager

Unit managers shall assure that:

1. Proper timekeeping procedures are being followed.
2. Overtime is properly requested and approved (FSM 6161.04b).
3. They certify Time and Attendance (T&A) reports and verify that overtime paid was authorized and actually performed (FSH 6109.36).
4. Integrated reviews follow payment to determine that personal services payments are correct. Suggested approaches include but are not limited to:
 - a. Comparison of output documents with hours certified on T&A report.
 - b. Quarterly unannounced audits conducted by employees not normally involved in the immediate T&A processing and review function.

11.04b - Program and Activity Reviews

(FSM 1410.) When program and activity reviews are made of lower organizational levels, the reviewers should spot check timekeeping and payroll operations by using available documents, such as the Forest Service Payroll Register and Accounting Distribution Report produced by the National Finance Center and special pay reports and listings, combined with a corresponding review of T&A reports to ensure payments made to employees are proper and meet current regulations and guidelines.

12 - Pay Administration for General Schedule (GS) Employees

This section provides direction for administering within grade increases, premium pay for overtime work, compensatory time off, night pay, holiday pay, Sunday pay, and hazard duty pay under Title 5, United States Code. This section applies to all GS employees. With the exception of the material on within grade increases, it applies to Performance Management and

Recognition System (GM) employees as well. Refer to section 13 for guidance on additional employee entitlements under the Fair Labor Standards Act (FLSA).

12.03 - Policy

1. Full-time, part-time, and intermittent employees who are officially ordered or who have approval to work in excess of 8 hours in a day or 40 hours in a week shall receive overtime pay except for employees whose first 40 hours of work is the basic workweek or for employees on compressed work schedules.

2. All overtime must be ordered and approved in writing using Form FS-6100-30, Overtime Request and Authorization.

3. Compensatory time off may not be earned in lieu of overtime pay for any regularly scheduled overtime, regardless of whether the overtime is scheduled within or outside the 40-hour basic workweek.

12.1 - Within-Grade Increases

The Forest Service applies the within grade increase provision to all permanent employees in the General Schedule (GS). (See FSH 6109.41, FPM 531, for complete information.)

The employee's supervisor must determine if a subordinate meets the acceptable level of competence. (FSH 6109.13, chapter 10.)

12.11 - Process

1. The National Finance Center automatically checks the last performance appraisal and issues Form AD-658, Within-grade Increase Record, 16 weeks prior to the end of the waiting period.

2. An employee of the responsible appointing office sends form AD-658 to the employee's supervisor at least 90 days prior to the date certification is required.

3. The supervisor completes the certification, notifies the employee, and forwards the original and Official Personnel Folder (OPF) copy to the appointing office no later than the last pay period of the waiting period.

If the last performance appraisal indicates that an acceptable level of competence cannot be certified or the supervisor cannot certify that the employee has met an acceptable level of competence, the supervisor should contact the appointing office for advice.

12.2 - Overtime Pay

Employees receive overtime pay for the greater number of hours worked in excess of 8 per day or 40 per week. There are exceptions for certain employees for whom the first 40 hours of work is the basic workweek and for those employees who have alternative work schedules. Guidance on alternative work schedules is in section 22.2. Overtime work may be either part of the regularly scheduled workweek or it may be unscheduled work of an irregular or occasional nature.

12.21 - Computation of Overtime Rates

Overtime pay rates follow:

12.21a - Exempt Employees

1. For an employee whose basic pay rate does not exceed the minimum rate for grade GS-10, the overtime rate is one and one-half times the basic pay rate.
2. For an employee whose basic pay rate exceeds the minimum rate for grade GS-10, the overtime rate is one and one-half times the minimum rate for grade GS-10.

12.21b - Nonexempt Employees

Refer to section 13 for entitlements under FLSA.

12.22 - Callback Overtime Work

Pay employees a minimum of 2 hours overtime pay when they are required to return to their place of employment for unscheduled overtime work. This callback provision does not apply to employees who perform unscheduled overtime work at home without returning to their place of employment (Comp. Gen. Decision No. B-217502). Employees qualify for callback overtime when called back:

1. On a regular workday, before or after the regularly scheduled day's work. Employees who perform unscheduled overtime work immediately after their regular tour or who perform early unscheduled overtime before their regular tour begins are not entitled to the 2-hour callback overtime pay, if the unscheduled overtime work merges with the regular tour and thus no "callback" is involved (45 Comp. Gen. 53).
2. On a nonworkday, employees are entitled to the 2-hour callback minimum overtime pay for each time called back, notwithstanding the fact that second or subsequent callbacks may be required before the expiration of 2 hours from the time the employee was previously called back (35 Comp. Gen. 448).

Callback provisions do not apply to employees who, while on leave, are called back to work during what is otherwise their regularly assigned tour of duty.

The 2-hour callback provision does not apply at fire duty locations.

12.3 - Compensable Travel

Time spent traveling is considered hours of work if it meets the criteria of one of the conditions described in section 12.31; if at least one of these criteria is not met, the travel time is not compensable and the official who ordered the travel must prepare a statement indicating the reasons for requiring the travel. Upon request, a copy of this statement will be given to the employee concerned. When a Federal agency other than the Forest Service requires noncompensable travel, the Forest Service shall, upon request, help an employee obtain the documentation from the other agency.

Travel is compensable if either:

1. The time spent is within the days and hours of the regularly scheduled administrative workweek, including regularly scheduled overtime hours.
2. The travel (1) involves the performance of work while traveling, (2) is incident to travel involving work while traveling, (3) is under arduous conditions, or (4) results from an event that could not be scheduled or controlled administratively, including return travel from an administratively uncontrollable event.

12.31 - Outside Employee's Regularly Scheduled Administrative Workweek

Under the conditions set forth in sections 12.31a-d, consider official travel outside the days and hours of an employee's regularly scheduled administrative workweek to be hours of work and compensable.

12.31a - Travel Involving Performance of Work While Traveling

This is travel requiring work that an employee can perform only while traveling, such as:

1. Travel in a mobile unit to monitor communications.
2. Travel primarily to operate a truck or other automotive equipment except sedans, for jobs such as hauling employees, equipment, or supplies (26 Comp. Gen. 433).
3. Sedan travel, including travel in station wagons and panels and sedan delivery vehicles with seats for the driver only, when transporting a horse in a trailer, or when transporting passengers for whose safety the employee is responsible and whose transportation is the primary purpose of the trip (26 Comp. Gen. 433).

4. When an employee is required to return a Government vehicle used in assigned duties to a garage to refuel and tidy it up, or to complete required reports at the close of the day (43 Comp. Gen. 273).

5. Work normally performed at the employee's place of business is considered work while traveling, if it is performed while traveling and is required by the employee's supervisor. Limit compensation to the time actually spent working.

12.31b - Travel That Is Incident to Travel Involving Work While Traveling

This is the time spent in travel status away from the official duty station when the purpose of such travel is to get to a destination where, upon arrival, an employee is to perform work that the employee can only perform while traveling. This also includes time the employee spends returning to the official duty station after having performed work while traveling.

An example of this type of travel is a truckdriver "deadheading" to a point to pick up a truck to drive to another destination; or a law enforcement officer or investigator driving or riding in a vehicle to a destination where mobile surveillance or patrol is to begin, or returning from such an assignment.

12.31c - Travel Under Arduous Conditions

This is travel under such arduous and unusual conditions that the travel is inseparable from work. Travel under arduous conditions includes: travel over unusually adverse terrain; travel during severe weather conditions; or travel to remote, barely accessible locations by foot, horseback, or truck.

The following are examples of arduous travel that is inseparable from work.

1. All travel by foot.
2. All travel by horseback (26 Comp. Gen. 433).
3. All travel as a passenger by truck, pickup, carryall, or jeep when the only seat available is the bed of the vehicle or a hard-surfaced, unupholstered-type seat, such as a wooden bench or a metal toolbox (26 Comp. Gen. 433).
4. Travel by bus, other than a bus operated as a common commercial carrier (33 Comp. Gen. 274).
5. Travel during hours normally allotted for sleep when such travel is other than by common carrier equipped with berths, reclining seats, or other sleeping accommodations. Unless established otherwise by the Regional Forester or Station or Area Director, normal sleeping hours shall be 10 p.m. to 6 a.m. Forest Supervisors and District Rangers may establish

hours of sleep for employees on night shifts. Such different sleeping hours must consist of 8 consecutive hours (33 Comp. Gen. 274).

6. The entire time a parachute jumper is in an airplane when suited up for a jump (26 Comp. Gen. 433).

12.31d - Travel That Results From an Event That Could Not Be Scheduled or Controlled Administratively

Travel to and from events that could not be scheduled or controlled administratively is compensable. The phrase "could not be scheduled or controlled administratively" means that the Forest Service has no influence or control over the event.

The following situations are examples of travel to and from events for which travel hours are compensable because they could not be scheduled or controlled administratively:

1. Travel to and from a fire or its extreme potential, to floods, to search and rescue operations, and to natural phenomena that threaten life or Government property.
2. Travel to and from an isolated installation to make emergency repairs on communications equipment.
3. Travel to and from investigating motor vehicle and aircraft accidents or personal injuries to employees.
4. Travel to and from investigating accidents, personal injuries, and fatalities to private citizens in cases where the Government has a responsibility or liability.
5. Travel to and from serving as emergency relief contracting officer's representative or inspector on a contract project requiring constant inspection when the normally assigned employee is absent.
6. Travel to and from meetings, training sessions, and conferences conducted by institutions outside the Government. However, when such an institution conducts one of these events solely for the benefit of the Government, the event is under the administrative control of the Government.

If the Forest Service could schedule or control the event administratively, do not consider the resulting travel that is outside the employee's regular working hours to be hours of employment. The Forest Service is assumed to have control whether it has sole control or whether the control is through a group of agencies acting together.

Examples of group control include training programs, meetings, or conferences sponsored by a group of Federal agencies or sponsored by one in the interest of all, such as an Office of

Personnel Management Interagency training course. Employees who schedule their own travel, such as inspectors and persons on service trips, may not be paid for hours of this type of travel outside their regular duty hours, because it is possible to administratively schedule or control the event that caused their travel.

Other exceptions are travel to and from a professional meeting such as those of the Association of Government Accountants, Society of American Foresters, and American Society of Range Managers. In such instances, the employee benefits most tangibly from attendance and the Government less tangibly through having improved the professionalism of its employees. In supporting such travel costs, per diem, and so forth, the Forest Service has been more permissive than insistent on attendance. In these cases, consider payment for hours spent in travel to be administratively controllable and thus not compensable.

12.31e - Return Travel

Return travel outside of an employee's regularly scheduled administrative workweek is compensable only when it also meets one of the criteria in section 12.31.

12.32 - Expeditious Travel

Travel shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the traveler.

An employee who, by personal preference, chooses a mode of travel other than that selected by the Forest Service or who for personal convenience, travels by an indirect route or interrupts travel, is in a travel status only for the constructed time that employee would have spent in travel using the mode of travel selected by the Forest Service.

12.4 - Compensatory Time Off

Compensatory time off is time off from regularly scheduled work in lieu of overtime pay for irregular or occasional overtime hours previously worked. Compensatory time may not be granted in lieu of overtime pay for any regularly scheduled overtime, regardless of whether the overtime is scheduled within the 40-hour basic workweek or outside of the 40-hour basic workweek.

12.41 - Eligibility

1. General schedule employees who are paid under Title 5 U.S.C. are eligible for compensatory time off in lieu of overtime pay. Other employees, including GS employees, may be eligible for compensatory time off under the special provisions for adjustment of work schedules for religious observance, section 22.3, and under flexible alternative work schedules, section 22.2.

2. Employees whose rate of basic pay is equal to or less than the maximum rate of grade GS-10 may request that they be granted compensatory time off in lieu of overtime pay, the amount of time off to be equal to the time spent in irregular or occasional overtime work.

3. At the discretion of the authorizing individual, an employee whose rate of basic pay is in excess of the maximum rate for grade GS-10 may be required to take compensatory time off in lieu of receiving overtime payment for irregular or occasional overtime work.

4. Employees who are exempt from coverage by the Fair Labor Standards Act (FLSA) are eligible for compensatory time off.

5. Frequently, nonexempt employees paid under FLSA are not entitled to earn compensatory time. They must receive payment for overtime worked. For circumstances when nonexempt employees may earn compensable time, refer to section 13.91. In addition, all employees assigned to flexible alternative work schedules may request and earn compensatory time.

12.42 - Provisions

1. Compensatory time must be ordered and approved in writing in the same manner as overtime.

2. Employees must request in writing that they receive compensatory time off in lieu of overtime pay. Employees who do not elect, or are not granted, compensatory time off shall receive payment for overtime.

3. The amount of compensatory time that may be credited an employee in any one pay period may not cause the employee's compensation to exceed the maximum scheduled rate of a GS-15 if the overtime were paid at the applicable rates.

4. An employee granted compensatory time for overtime worked as a substitute during another employee's regularly scheduled night shift shall receive the night differential regardless of whether the compensatory time the employee takes off is during a day or night shift.

5. Employees must use compensatory time off by the end of the leave year in which they earned it.

6. Employees must use compensatory time off before they are granted annual leave unless this would result in the forfeiture of annual leave.

7. Employees who have not taken their compensatory time prior to transfer or separation from the Department, transfer to another agency of the Department, or by the end of the leave year in which they earned it, shall receive payment for the overtime work at the rate of pay that applied at the time they performed the work.

12.5 - Night Pay

12.51 - Requirements and Limitations

12.51a - Scheduled Work 6:00 p.m. - 6:00 a.m.

Pay night differential if regularly scheduled work falls between the hours of 6:00 p.m. and 6:00 a.m. See explanation of regularly scheduled work in section 21. An employee is also entitled to night pay differential when temporarily assigned during the administrative workweek to a daily tour of duty that includes night work. However, for fire assignments, see the FSH 5109.34 - Interagency Fire Business Management Handbook. Night pay differential is also authorized for all night hours of the employee's regularly scheduled tour of duty while in an official travel status whether performing actual duty or not.

12.51b - During Leave With Pay

Night differential is payable for hours actually worked. However, the Comptroller General has stated that payment of night differential may be continued to an employee during a period or periods of leave with pay that total less than 8 hours during a pay period. Night differential is not payable for any such period or periods of leave when the aggregate leave taken during the pay period is 8 or more hours (36 Comp. Gen. 734).

12.51c - On Holidays Within Paid Leave Periods

Night differential is payable for absence on holidays that fall within a period of paid leave. Consequently, if an employee who has a regularly scheduled tour of nightwork is in a leave-with-pay status during a period when a holiday occurs, the employee is entitled to have the night differential included in the compensation for the holiday the same as if the employee had worked the regularly assigned tour of duty, including night hours (36 Comp. Gen. 733).

12.51d - Outside Scheduled Workweek

Work at night outside the employee's scheduled workweek is considered irregular or occasional, with no entitlement to night differential.

12.52 - Rate

Night differential is 10 percent of an employee's hourly rate.

12.53 - Relationship to Premium and Basic Pay Rates

Pay the night pay differential in addition to any overtime, Sunday, or holiday pay. In computing overtime or holiday pay, do not include night differential in the rate of basic pay.

12.54 - Eligibility

1. Experts and consultants are not eligible for night pay differential.
2. Intermittent employees temporarily assigned to a regularly scheduled tour that includes nightwork are eligible to receive night differential (33 Comp. Gen. 40).
3. Code of Federal Regulations, Title 5, Part 550, section 550.122(d), authorizes night differential for an employee temporarily assigned to a different tour of duty that includes nightwork (unpublished Comp. Gen. B-193068 dated April 25, 1984).

12.6 - Holiday Pay

12.61 - Pay for Holiday When No Work Is Done

Employees are entitled to pay for a holiday as follows:

1. Full-time employees excused from duty on a holiday are entitled to their regular (or base) pay for that day.
2. Part-time employees with regularly scheduled tours of duty excused from working on a holiday shall receive base pay for the number of hours normally scheduled.
3. Do not pay intermittent employees for holidays, unless they actually work the holiday.

12.62 - Pay for Work on Holiday Within Employee's Regular Tour of Duty

Employees who are entitled to regular pay for holidays when they do not work are entitled to holiday premium pay for the number of hours regularly scheduled and worked.

1. The rate of such pay shall be twice the regular basic rate of compensation. This premium rate is in lieu of regular basic compensation for the hours worked, and compensatory time off may not be substituted for such payment (26 Comp. Gen. 431 and Public Law 86-362).
2. Pay employees ordered to perform official duties away from their headquarters on a holiday falling within their 40-hour workweek the premium holiday compensation for traveltime, as well as actual worktime, if performed within their regular daily hours of duty.

12.7 - Sunday Pay

Sunday pay is premium pay for Sunday work performed during regularly scheduled working hours. The rate of compensation is the employee's rate of basic compensation plus premium pay at a rate of 25 percent of the rate of basic compensation.

The following provisions apply:

1. Sunday work is any work between midnight Saturday and midnight Sunday.
2. Sunday pay is not payable for overtime work or for those hours an employee is in leave status.
3. Premium pay for Sunday work is in addition to premium pay for holiday work, overtime compensation, or night pay differential that may be payable. Do not include Sunday pay in the rate of basic compensation used to compute the pay for holiday work, overtime compensation, or night pay differential.

12.8 - Relationship of Premium Pay to First 40-Hour Tours of Duty

For premium pay purposes (Sunday, night, and holiday), consider all work performed within the first 40 hours to be regularly scheduled work.

12.9 - Pay for Duty Involving Physical Hardship or Hazard

Full-time, part-time, and intermittent employees serving in General Schedule positions are authorized to receive payment of a differential when exposed to unusual hardship or hazardous duty. This payment is authorized at the rate of 25 percent of the basic rate. Employees hired under the Pay Plan for Emergency Firefighters are not entitled to this differential.

12.91 - Definitions

1. Hazardous Duty. Duty performed under circumstances that could contribute to an accident resulting in serious injury or death is hazardous. An example is work on a high structure without protective facilities, or on an open structure where adverse conditions, such as darkness, lightning, steady rain, or high wind velocity exist.

2. Duty Involving Physical Hardship. Duty that may not be hazardous, but causes extreme physical discomfort or distress that protective or mechanical devices do not adequately alleviate may warrant pay differential. (see sec. 12.92c below.) Such duty would include: (1) a duty requiring exposure to extreme temperatures for a long period of time; (2) a duty involving arduous physical exertion, such as a duty performed in cramped conditions; and (3) a duty involving exposure to fumes, dust, or noise causing nausea or skin, eye, ear, or nose irritation.

12.92 - Eligibility

Hazard pay differential may not be paid an employee if the hazardous duty was taken into account in the classification of the position.

12.92a - Certain Positions Not Entitled to Specific Hazard Pay Differentials

The Office of Personnel Management ruled that employees with the following official classification titles are not entitled to a hazard-pay differential when performing these specified hazardous duties.

<u>Position</u>	<u>Hazardous Duties</u>
Pilots, GS-2181	Operating aircraft (airplanes and/or helicopters in flight)
Forestry Technicians, GS-462	Parachute jumps

However, incumbents in these positions are entitled to a hazard pay differential for performing any other authorized hazardous duty.

12.92b - Duties Covered by Hazard Pay Differential

Interpret the duties listed below literally, not comparatively. The list is incomplete; a complete schedule is available in each appointing office (FSH 6109.41--FPM S-990-2, book 550, subchapter S9).

1. Firefighting

- a. Participating as an emergency member of a firefighting crew in fighting fires of equipment, installation, or buildings.
- b. Participating as a member of a firefighting crew in fighting forest and range fires on the fireline. Persons assigned to duty after official control time are not entitled to hazard pay for forest firefighting duties.

Unless otherwise noted, the following fire-control activity definitions are based on those appearing in FSH 5109.12, chapter 70.

Fireline. For purposes of pay administration for hazardous duty (a departure from FSH 5109.12, ch. 70), the area within or adjacent to the perimeter of an uncontrolled forest or range (tundra) fire of any size in which action is being taken to control the fire. Such action includes, but is not limited to, operations that directly support control of the fire, such as ground scouting, spot fire patrolling, and backfiring. This action does not include personnel engaged in logistical support and members of the service organization.

Control of Fire. To complete control line around a fire, any spot fire therefrom, and any interior islands to be saved; to burn out an unburned area adjacent to the fire side of the

control line and cool down all hot spots that are immediate threats to the control line, until the lines can reasonably be expected to hold under foreseeable conditions.

Forest and Range Fire. An unplanned and uncontrolled fire calling for suppression action that requires fireline preparation, as contrasted with a fire burning under prescribed conditions within prepared lines enclosing a designated area.

2. Flying. Participating in limited control flights: Flights undertaken under unusual and adverse conditions (such as extreme weather, maximum load or overload, limited visibility, extreme turbulence, or low level-flights involving fixed or tactical patterns) that threaten or severely limit control of the aircraft.

a. To be considered a low-level flight, the mission must require performance of a substantial part of the flight, other than landing or taking off, at altitudes of less than 500 feet above the terrain or vegetative canopy in daylight, or at less than 1,000 feet in mountainous areas at night.

b. "Limited control flights" are flights that require unusual flight pattern, maneuvers, or formations that reduce the pilot's control of the aircraft and increase the risk of accident. Such flights do not include routine take-offs and landings. The nature and degree of hazard and the control which may be exercised over the hazard, depend on the type of aircraft and its flight characteristics.

Examples of limited control flights include: (1) Maneuvering aircraft at low levels for the purpose of controlling forest and range fires. A very real hazard exists from turbulent winds created by and associated with fire updrafts and extreme temperature variations. (2) Maneuvering single engine aircraft at low levels and low speeds for the purpose of wildlife and natural resource surveys over rough terrain in remote regions of the country. The hazard is possible engine failure or mechanical malfunction that would dictate emergency landing under the worst possible conditions. (3) Performing flight patterns at low levels for the purpose of making cargo drops and agricultural applications where there is hazard of equipment snagging or dropped material dragging behind the aircraft.

3. Exposure to Hazardous Weather or Terrain

a. When working on cliffs, narrow ledges, or near vertical mountainous slopes where a loss of footing would result in serious injury or death, or when working in areas where there is a danger of rockfalls or avalanches.

b. When it is necessary to travel over secondary or unimproved roads to isolated mountain top installations at night or under adverse weather conditions, such as snow, rain, or fog, which limit visibility to less than 100 feet or when there is danger of sliding rock, mud, or snow.

c. When it is necessary to travel in the wintertime, either on foot or by means of vehicle, over secondary or unimproved roads or snow trails in sparsely settled or isolated areas to isolated installations when there is danger of avalanches or during white-out phenomenon, which limits visibility to less than 10 feet.

d. When work or travel in sparsely settled or isolated areas results in exposure to temperatures and/or wind velocity shown to be of considerable danger, or very great danger, on the windchill chart presented in exhibit 01, and shelter (other than temporary shelter) or assistance is not readily available.

e. When participating in snowplowing or snow or ice removal operations, regardless of whether on primary, secondary, or other of roads, when:

(1) There is danger of avalanche.

(2) There is danger of missing the road and falling down steep mountainous slopes because of lack of snow stakes, white-out conditions, or sloping icepack covering the snow.

4. High Work. Working on any structure extending at least 50 feet above the base level, ground, deck, floor, roof, and so forth, under open conditions, if the structure is unstable or if there are no scaffolding guards or other suitable protective facilities, or if performed under adverse conditions, such as darkness, lightning, steady rain, or high wind velocity.

5. Work in Open Trenches. Work in an open trench 15 feet deep or more until installation of proper shoring.

6. Underground Work. Work underground performed in the construction of tunnel and shafts, and the inspection of such underground construction, until the necessary lining of the shaft or tunnel has eliminated the hazard.

7. Exposure to Hazardous Agents

a. Work with unknown explosive ordnance when operation of the unknown ordnance is manual or when applying new or unevaluated mechanical or explosive techniques to explosive ordnance.

b. Work with or in close proximity to:

(1) Explosive or incendiary materials, which are unstable and highly sensitive.

(2) Toxic chemical materials when there is a possibility of leakage or spillage.

(3) Materials of micro-organic nature that, when introduced into the body, are likely to cause serious disease or fatality and for which protective devices do not afford complete protection.

c. Conducting tests on fire-retardant materials in ventilation restricted rooms where obnoxious odors and smoke continuously contaminate the atmosphere causing irritation to the eyes and respiratory tract.

8. Groundwork Beneath Hovering Helicopter. Participating in ground operations to attach external load to helicopter hovering just overhead.

12.92c - Identifying Hazardous Duties Not Included

Line officers shall identify duties, other than those described in Title 5, United States Code, section 550.904, that may warrant payment of hazard pay differential. When identified, submit an evaluation of the duty with justification to the Washington Office through the appropriate Region or Station personnel office. The evaluation should be detailed enough to be forwarded to the Office of Personnel Management as justification if the Washington Office makes a determination to request authority to establish the differential. The evaluation should also contain a recommendation as to the percentage of differential to be granted if the Office of Personnel Management approves the request. The evaluation should show the:

1. Nature of the duty.
2. Degree to which the employee is exposed to hazard or physical hardship.
3. Length of time during which the duty continues to exist.
4. Degree to which control may be exercised over the physical hardship or hazard.

12.93 - Conditions Governing Payment of Hazard Pay Differential for General Schedule Employees

The authority to pay a hazard differential for duties included in this section presupposes that adequate safeguards do not exist. If adequate safeguards do exist, an employee is not performing a hazardous duty; therefore, no differential is authorized.

12.93a - Computing Hazard Pay

1. All hazard pay differential in the Forest Service is based on a 24-hour day from midnight to midnight. When employees perform duty for which hazard pay differential is authorized, they shall receive the hazard pay differential for all hours in pay status on the calendar day on which they perform the hazardous duty.

2. Midnight becomes the automatic cutoff time. An employee working through midnight into the next day earns entitlement to hazard pay differential for 2 days only if exposed to the hazard before and after midnight.

3. There is no minimum time requirement for exposure to earn the employee entitlement to differential pay for hazardous duty or physical hardships. Any amount of actual exposure during a calendar day qualifies the employee for the pay differential for all compensable hours performed that day.

4. Hazard pay differential is computed on the basis of hours in pay status. If in an 8-hour workday, the employee performs hazardous duty for 1 hour and is in paid leave status for 7 hours, the hazard pay will be computed on the full 8 hours. On the other hand, if the employee was in nonpay status for the 7 hours, hazard pay would be computed on the basis of 1 hour.

5. Hazard pay will be computed on the basis of an employee's basic compensation and will be paid in addition to any other compensation the employee earns under other statutory authority. For employees being paid a retained rate, that rate is their basic compensation for purpose of computing hazard pay.

6. Hazard pay differential is in addition to any additional premium pay or allowances payable under other provisions of this chapter. Do not consider it to be a part of an employee's rate of basic compensation in computing additional pay or allowances such as Sunday differential. In addition, hazard pay differential is not subject to the limitation that premium pay may not cause total pay in any pay period to exceed the maximum rate for grade GS-15.

7. When otherwise entitled, hazard pay differential is paid currently for work for which the employee has earned compensatory time. Similarly, if employees earn eligibility for hazard pay differential on a given day during which they use compensatory time, they receive the differential for the hours of compensatory time off.

8. An employee may be paid hazard differentials for performing more than one hazardous duty not taken into account in the classification of the position to the extent that the total additional pay for such hazardous duty does not exceed 25 percent of the employee's base pay in any one day.

13 - Pay Under the Fair Labor Standards Act (Flsa).

13.03 - Policy

Nonexempt employees shall receive payment for overtime earned under the FLSA. They shall not earn or have permission to take compensatory time off when the overtime benefit earned is greater under FLSA. However, when the overtime benefit earned is the same or greater under Title 5, United States Code, nonexempt employees may elect and be granted compensatory time in the same fashion as an exempt employee. Notwithstanding these

limitations, nonexempt employees may elect to work compensatory overtime under the provisions of alternative work schedule rules and the provisions for adjurant compensated compensatory time in the same fashion as an exempt employee. Notwithstanding these limitations, nonexempt employees may elect to work compensatory overtime under the provisions of alternative work schedule rules and the provisions for adjustment of work schedules for religious observance (section 22.3).

13.1 - Employee Status Under FLSA

13.11 - Exempt and Nonexempt

Executive, administrative, and professional employees who meet specific criteria must be exempt from FLSA coverage. An employee of the servicing personnel office makes the exemption determination for each position. This determination is documented on Form AD-332, Position Description.

Complete guidance on exemption criteria is found in FSH 6109.41, FPM Letters 551-7, 551-13, and Bulletin 551-16.

13.12 - Section 7(k) Provisions for Federal Employees Engaged in Fire Protection Activities or Law Enforcement Activities

Federal employees who perform forest and range fire protection duties in an emergency fire situation are not covered under section 7(k), FPM Letter No. 551-5 of the FLSA.

13.2 - General Rule for Hours Worked Under FLSA

In general, all hours a nonexempt employee must be on duty or on the agency's premises or at a prescribed workplace are hours of work.

13.21 - Regularly Scheduled Standby Duty

Under the FLSA, an employee is either on duty or off duty. The Act does not recognize a semiduty status, such as standby duty. Do not pay nonexempt employees a standby differential. Consider this time to be hours of work for a nonexempt employee, and pay the employee at the overtime rate when the employee work hours meet FLSA overtime requirements.

13.3 - "Suffer and Permit" Concept of Hours Worked

FLSA introduces a new concept with regard to work in the Federal Service. Under this concept, a nonexempt employee becomes entitled to overtime compensation (for hours worked in excess of 40 hours a week) for all work that management "suffers or permits" the employee to perform. Under this concept, any work performed before or after the normal work hours or during the prescribed lunch period, whether or not requested, is working time if the manager

or supervisor knows or has reason to believe it is being performed or accepts the work or product of the work performed.

13.4 - Nonexempt Employees Who Volunteer Under the Volunteers in the National Forests Act of 1972

Under the provisions of the Volunteers in the National Forests Act of 1972 (FSM 1830), nonexempt employees may volunteer their services when:

1. The employee is not requested, implicitly or expressly, to perform the services volunteered.
2. The services volunteered are not in connection with the employee's principal work activities.

13.5 - Meal Periods and Sleeping Periods

13.51 - Meal Periods

When the employee's meal periods are uninterrupted except for rare and infrequent emergency calls, the meal periods are not considered worktime. It is not necessary that an employee have permission to leave the worksite during the meal period for that time to be excluded from worktime.

13.52 - Sleeping Periods

Legitimate sleeping periods of not more than 8 hours a day may be deducted from hours worked provided that:

1. The tour of duty is 24 hours or more.
2. Adequate sleeping facilities are provided.
3. The employee has the opportunity for an uninterrupted period of sleep. If the sleeping period is interrupted by a call to duty, count the interruption as hours worked. If, because of work interruptions, the employee does not have the opportunity to get at least 5 hours sleep during the sleeping period, the entire period of 8 hours is considered working time under FLSA.

13.6 - Absences With Pay

Absence with pay, holidays, sick, annual, compensatory time used, or other paid leave, are not periods of work under FLSA even though the employee receives compensation for these periods of nonwork.

13.61 - Time Spent Receiving Medical Attention

1. Consider time spent waiting for and receiving medical attention for illness or injury as hours of work only if all of the following apply:

- a. The medical attention is necessary on a workday an employee reported for duty and subsequently became ill or was injured.
- b. The time spent receiving medical attention occurs during the employee's regular working hours.
- c. The employee receives the medical attention on the Forest Service premises or at the direction of the Forest Service at a medical facility away from the Forest Service's premises.

2. Consider as hours of work the time spent taking a physical examination required for the employee's continued employment with the Forest Service.

13.7 - Travel Time as Hours of Work

13.71 - Travel During Regular Work Hours

Consider all officially authorized travel during regular work hours as hours of work.

13.72 - Travel Outside Regular Work Hours

Make separate determinations under FLSA and Title 5, U.S.C. The rules for time spent traveling outside regular work hours are different under the two statutes.

13.72a - Official Duty Station

Whether or not to consider time spent traveling by a nonexempt employee as hours of work under the FLSA depends upon the kind of travel involved, the location of the travel, and the definition of the employee's official duty station. Under the FLSA, the terms "official duty station" and "designated post of duty" have the same meaning.

The definition of official duty station for the FLSA in the Forest Service is the same as for travel allowance purposes. The limits of the official duty station are the corporate limits of the city or town in which the employee is stationed. If the employee is not stationed in an incorporated city or town, the official station is the Ranger District or an established area or its subdivision having definite boundaries within which the designated post of duty is located.

It is sometimes necessary to give an employee general field-duty assignments that require substantially continuous movement from place to place in the field, so that there is no true

permanent post of duty (22 Comp. Gen. 342). In such cases, the only fixed and known point is the Experiment Station, Forest, Ranger District Office, or similar headquarters out of which the employees perform the work. This is the point to which the employee returns for duty while awaiting assignment to the next project and/or the point at which the employee prepares reports and other office work. Designate that applicable point as the official duty station. This official duty station is shown on Form SF-50, Notification of Personnel Action. In cases where the location listed in the duty block on form SF-50 does not adequately identify the official station for travel and FLSA purposes, include a statement designating the correct official station in the remarks block.

Use the same definition for travel allowance purposes and FLSA determinations. Resolution of doubtful cases must be by both the Personnel Management and Fiscal and Accounting Management Staffs. Send any request for clarification of the limits of an official duty station that cannot be resolved at field levels to the Washington Office Personnel Management and Fiscal and Accounting Management Staffs for review.

13.72b - Travel During Nonexempt Employee's Corresponding Hours on Nonwork Days

Consider time spent traveling on nonworkdays during a nonexempt employee's corresponding hours as hours of work.

1. If an employee regularly works from 8 a.m. to 5 p.m. Monday through Friday, the time spent traveling during these hours is worktime on Saturday and Sunday as well. If the employee traveled from 8 a.m. to 5 p.m. on Saturday, the hours worked would be 8--the total time less the bona fide meal period of 1 hour.

2. For a part-time employee with a tour of Monday through Friday 8 a.m. to 12 p.m., corresponding hours are the same on nonworkdays.

3. For employees with intermittent tours of duty, any day called to duty is a workday. Therefore, it is not necessary to determine corresponding hours for intermittent employees.

4. For an employee with a first 40-hour tour of duty, use hours worked within the 40 hours on the last regular workday to determine the employee's corresponding hours. Corresponding hours for the first 40-hour employees could be more or less than 8 hours for following nonworkdays. If a first 40-hour employee worked on Friday from 8 a.m. to 7 p.m. and those hours worked were within the 40 hours and at regular rates, corresponding hours for the following nonworkdays would be 8 a.m. to 7 p.m. less a bona fide meal period. Always refer to hours worked at regular rates on the last regular workday to determine the corresponding hours for first 40-hour employees.

13.72c - Home-to-Work Travel

Travel by an employee to and from work before and after the regular workday is a normal incident of employment. As a general rule, do not consider home-to-work travel to employee's normal duty station or to a jobsite within the limits of the official duty station to be compensable hours worked. An employee's travel directly from home to a jobsite located within the official duty station in lieu of reporting to the normal duty location is normal home-to-work travel and is not compensable under the FLSA.

An employee may be required to report for duty at a location other than the normal duty location. At times, this may require a trip that is more or less than the employee's normal commuting time. Consider this to be normal home-to-work travel if the jobsite is located within the official duty station.

However, in certain situations an employee may perform an activity required by the Forest Service while traveling from home to work. In some instances, such travel time would constitute hours worked. The following are examples of time compensable:

1. As a required activity, an employee drives a Government vehicle home to enable the employee to respond to emergency calls immediately from home.
2. As a required duty, an employee drives a Government vehicle home to transport other employees or enrollees to their homes, to work, or to a worksite.

13.72d - Travel Within Limits of Official Duty Station

Consider as hours worked the time an employee spends traveling within the limits of the official station before or after regular working hours if such travel directly relates to the performance of a given job assignment and serves to extend the employee's regular tour of duty.

13.72e - Travel Away From Official Duty Station

1. Work Performed While Traveling. Count as hours worked any work a nonexempt employee must perform while traveling. An employee required to drive a vehicle or pilot an aircraft or a boat to a given destination at the request, and on behalf, of the Forest Service, is working while traveling and shall have travel time counted as hours worked. An employee required to ride on trips to assist in the piloting of an aircraft or boat is also working while riding. Count such time spent working while traveling as hours worked. Deduct bona fide meal and sleeping periods from hours worked.

2. Travel as Passenger on 1-Day Assignment. A nonexempt employee's travel during the same day as a passenger to and returning from a temporary duty station that is outside the limits of the official duty station is part of the nonexempt employee's principal duties for that

particular day. Consider the time spent in authorized travel as a passenger (common carrier, vehicle, and so forth) during the 1-day assignment as working time under the FLSA.

3. Travel as Passenger That Keeps Employee Away From Official Duty Station Overnight.

The time an employee spends traveling as a passenger outside regular working hours and outside corresponding hours of nonworkdays is not hours of work if the travel keeps the employee away from the official duty station overnight and the employee performs no work while traveling.

13.72f - Special Situations

1. Travel by Mode of Transportation Other Than That Selected by Forest Service. When a nonexempt employee does not use the mode of transportation selected by the Forest Service for personal reasons, such as an aversion to flying, credit the employee with the lesser of (1) actual travel time that is working time under the FLSA or (2) the estimated travel time that would have been considered working time under the FLSA had the employee used the mode of transportation selected by the Forest Service.

2. Travel at Time Other Than That Selected by Forest Service. When a nonexempt employee travels for personal reasons at a time other than the time selected by the Forest Service or travels for personal convenience by an indirect route or interrupts such travel, credit the employee with the lesser of (1) the actual travel time that is working time under the FLSA or (2) the estimated travel time that would have been considered working time under the FLSA had the employee traveled at the time and by the route selected by the Forest Service.

13.8 - Overtime Entitlement

The FLSA does not affect overtime entitlements for exempt employees. However, nonexempt employees are covered by both the FLSA and Title 5, U.S.C. Where the FLSA and other statutes are not consistent, nonexempt employees shall receive the greater benefit.

Overtime entitlement under the FLSA does not begin to accrue until the employee has completed 40 hours of actual work in a week. For employees participating in Alternative Work Schedules (AWS), see section 22.2 for rules concerning over-time entitlement.

13.81 - Regular Rate of Pay

If an employee performs more than 40 hours of actual work in a week and is entitled to overtime compensation under FLSA, it is necessary to compute the employee's regular rate under FLSA. Compute the regular rate by adding up all includable payments made for all hours of actual work for the week. Normal includable payments are basic pay, differentials, and hazard pay. Divide the sum of all includable payments by the total hours of actual work for the week. Typically the regular rate of pay under FLSA is equal or greater than the basic rate of pay under Title 5, United States Code.

See the Federal Personnel Manual Letter 551-1, attachment 5, page 2, for a complete list of includable payments.

The FLSA overtime entitlement is an additional one-half the regular rate for each hour worked beyond 40 hours for the week. Compare the total amount due under the FLSA and Title 5, United States Code, and pay the employee the greater amount.

13.82 - Maximum Earnings Limitation

Any overtime paid to General Schedule employees under the provisions of the FLSA is not subject to the limitation otherwise imposed under Title 5, United States Code.

13.83 - Overtime While Assigned for Training

Title 5, United States Code, does not provide for overtime payments to an employee for the period of time spent in actual training, unless the exceptions in FPM Chapter 410, Subchapter 6 are met. These circumstances occur rarely in the Forest Service. See your Personnel Officer for additional information. However, certain training given to nonexempt employees meets the definition of hours of work under the FLSA.

13.83a - Time Spent in Training or Attending a Lecture, Meeting, or Conference

Administer time spent in training or attending a lecture, meeting, or conference (whether or not it is under the purview of Code of Federal Regulations, Title 5, Part 410), as follows:

1. Consider time spent in training during regular working hours to be hours of work.
2. Consider time spent in training outside regular working hours to be hours of work if:
 - a. The training is to meet identified deficiencies in an employee's performance of his or her current position. Such training is designed to bring the employee's performance up to an acceptable level as determined by the Forest Service.
 - b. The training provides an employee the knowledge or skills to perform new duties or responsibilities required in the employee's current position. This is training in revised procedures, products, or processes so that the employee may perform the duties and responsibilities of his or her current position at an acceptable level.
 - c. Do not consider as hours of work the time spent in apprenticeship or other entry level training or internship or other career related work study training or training under the Veterans Readjustment Act outside regular working hours provided that the employee performs no productive work during such periods.

- d. Consider time spent by an employee performing work for the Forest Service during a period of training as hours of work.
3. Consider as hours of work the time spent by an employee within the Forest Service's allowance of preparatory time for attendance at training if such preparatory time is:
 - a. During an employee's regular working hours.
 - b. Outside the employee's regular working hours and the purpose of the training meets the requirements of Chapter 10, section 13.83a (2).
4. Consider time spent attending a lecture, meeting, or conference as hours of work if attendance is:
 - a. During an employee's regular working hours.
 - b. Outside an employee's regular working hours and the Forest Service directs the employee to attend such an event where employee performs work for the benefit of the Forest Service during such attendance.

13.9 - Compensatory Time Off

13.91 - Eligibility

Consider the following to determine eligibility:

1. Nonexempt employees who work more than 40 hours in a week and who receive additional premium pay (hazard, nightshift, Sunday and post-differential, or cost-of-living allowance) whose base rate is above GS-10, step 1, are not entitled to receive compensatory time in lieu of overtime. They must be paid overtime.
2. Nonexempt employees who work more than 40 hours in a week, but who have no additional premium pay (hazard, nightshift, Sunday, and post-differential, or cost-of-living allowance) whose base rate is GS-10, step 1, or below and who do not exceed the maximum pay earning limitation may elect to take compensatory time in lieu of overtime.
3. Nonexempt employees who do not work over 40 hours in a week, but who are eligible to earn overtime because they are in a pay status during the workweek (holiday, annual leave, sick leave, and military leave) and who work over 8 hours in a day or 40 hours in a week, may elect to take compensatory time in lieu of overtime.