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BUREAU OF LAND MANAGEMENT  
National Human Resources Management Center  
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EMS TRANSMISSION 07/02/2002

Instruction Memorandum No. HR2002-064  
Expires: 09/30/2003

To: All State Directors  
Attention: Personnel Officers

From: Director, National Human Resources Management Center

Subject: FLSA Exemption Status for Law Enforcement Detailees

**Program Area:** Human Resources

**Purpose:** The purpose of this Information Memorandum is to provide guidance on Pay Administration under the Fair Labor and Standards Act (FLSA) for emergency situations as discussed in title 5 Code of Federal Regulations (CFR) part 551 section 208(d). This guidance is specific to FLSA exempt employees who are or have been detailed to perform non-exempt work at the Main Interior Building or other Department of the Interior (DOI) facilities throughout the Nation during this emergency situation resulting from the events of September 11, 2001.

**Policy/Action:** The issue of the FLSA exemption status of BLM law enforcement officers (LEOs) temporarily detailed to the Main Interior Building or other Interior facilities for security related duties following the events of September 11, 2001, has been brought to the attention of the NHRMC. Under the provisions of 5 CFR 551.208(d), the FLSA status of employees may be changed in an emergency situation. The DOI has determined that the events of September 11, 2001, have created such an emergency situation for designated Interior facilities.

To this date, designated facilities are the main Interior building and Bureau of Reclamation (BOR) dam sites. In response to the emergency, DOI LEOs have been detailed to these sites to provide additional security. Accordingly, LEOs who are normally exempt from the FLSA, who have or will provide security services to the DOI sites should have their FLSA exemption status changed to non-exempt during the period of their details to afford them maximum pay benefits. Exempt LEOs who have already served a detail since September 11, 2001, and whose FLSA exemption status was not changed to nonexempt should have corrected time and attendance reports submitted. LEOs who are normally exempt from FLSA are GS-1811 Criminal Investigators, GS-1801-11 Supervisory Law Enforcement Rangers, and all GS-1801-12 and above Law Enforcement Rangers.

The change in exemption status may cause some higher graded LEOs to exceed the biweekly pay cap. There are no provisions to waive the bi-weekly pay cap for LEOs for work prior to May 5, 2002. Section 1114 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) amended the premium pay cap provisions that apply to General Schedule (GS) employees under 5 U.S.C. 5547. Under the amended 5 U.S.C. 5547, the same caps apply to all GS employees, including law enforcement officers. The cap varies by locality. The actual amounts by location may be found at <http://www.opm.gov/oca/pay/HTML/02GScap2.htm>.

FLSA status may be set on a week-by-week basis in the special message section of Paycheck. Corrected time and attendance sheets should be submitted to our servicing payroll office at the DOI National Business Center with a remark about the change from exempt to non-exempt status.

Included with this guidance as an attachment is a document that may be used or modified as desired to record the changes from exempt to non-exempt status.

**Timeframe:** This policy is effective immediately and retroactive to September 11, 2001, and will continue to be in effect until DOI determines an emergency situation no longer exists.

**Budget Impact:** The cost incurred is the difference between a capped and true overtime premium pay rate. For an exempt employee, overtime pay is a rate capped at 1½ times the minimum rate for GS-10 (including any applicable special rate of pay for law enforcement officers). For a non-exempt employee, overtime pay is 1½ times the “hourly regular rate” computed as outlined in 5 CFR 551.511. The actual budget impact is unknown as the number of employees detailed for security work at qualifying DOI facilities is unknown.

**Background:** Under normal circumstances, employees who are on detail for 30 days or less may not have their exemption status changed during the period of the detail. However, under the provision of 5 CFR 551.208(d), the FLSA status of employees may be changed regardless of the length of their details under an emergency situation.

**Manual/Handbook Sections Affected:** None

**Coordination:** This guidance was coordinated with the BLM National Law Enforcement Office.

**Contact:** The point of contact at NHRMC is Todd Ryan, telephone (303)236-6669. The point of contact at the National Law Enforcement Office is Chief Ranger Felicia Probert, telephone (208)387-5131.

Signed by:  
Linda D. Sedbrook  
Director

Authenticated by:  
Luron Porter  
Staff Assistant

1 Attachment  
1 – FLSA Change Documentation (1pg)

Distribution  
ST-150, BLM Library  
HR-200, Master Directives