



DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES MANAGEMENT
WASHINGTON DC 20420

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HUMAN RESOURCES MANAGEMENT LETTER 05-99-2

FREQUENTLY ASKED QUESTIONS (FAQs)
ABOUT TRAVEL TIME AS HOURS OF WORK

1. **Purpose:** To provide guidance for making hours of work determinations for periods of travel.

2. **General Information:**

a. To be considered hours of work, travel for a Title 5 employee who is not covered (exempt) by the Fair Standards Labor Act (FLSA) must be travel that is away from the employee's official duty station and (1) be travel within the employee's regularly scheduled administrative workweek or (2) travel officially ordered or approved outside the employee's regularly scheduled workweek, which meets one of the conditions in 5 CFR 550.112(g)(2).

To be considered hours of work, travel for a Title 5 employee who is covered (non-exempt) by the Fair Standards Labor Act (FLSA) must meet one of the conditions in either 5 CFR 550.112(g)(2) or 5 CFR 551.422, whichever provides the greater benefit.

Travel as hours of work determinations for Title 38 employees, including hybrid title 38 employees authorized to receive premium pay on the same basis as nurses, are identical to those for Title 5 FLSA exempt employees, except for use of compensatory time off (see FAQ 6 below).

3. **References:**

FLSA exempt
5 U.S.C 5542(b)(2)
5 CFR 550.112(g)

FLSA non-exempt
5 U.S.C. 5544(a)(3)
5 CFR 551.422

Comptroller General Decisions
41 Comp Gen 82
B-146288, 1/3/75

4. **Office of Personnel Management Homepage - Hours of Work for Travel:**

www.opm.gov/oca/worksch/html/travel.htm

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5. Frequently Asked Questions:

FAQ 1: When is travel considered “travel away from the official duty station” for hours of work determinations?

FLSA Exempt and Title 38 – A facility director, or parent station director in the case of an integrated facility, is required to establish a local travel area. Travel outside of this local travel area will be considered travel away from the official duty station. When establishing a local travel area, directors should consider the normal commuting area of the facility and the corporate limits of the city or town in which the facility is located or a mileage radius measured from the official duty site. Typically, the mileage radius for a local travel area is 50 miles, but it may be other (greater or smaller) than 50 miles when necessary to meet the definition of “official station and post of duty” in Federal Travel Regulations.

(Note: the above pertains to travel for hours of work determinations only and not to travel related to a change of permanent duty station.)

Travel from home to work and vice versa to the official duty station is never considered hours of work.

FLSA Non-exempt – Same as above.

FAQ 2: Is travel on non-duty days or on duty days during non-duty hours considered hours of work?

FLSA Exempt and Title 38 – No; unless it otherwise meets one of the conditions in 5 CFR 550.112(g)(2).

FLSA Non-exempt – Travel on duty days during non-duty hours and on non-duty days during periods that do not correspond to an employee’s regular work hours is not hours of work, unless it otherwise meets one of the conditions in 5 CFR 550.112 (g)(2) or 551.422(a). However, travel on non-duty days during periods, which correspond to the employee’s regular work hours is considered hours of work.

FAQ 3: If an employee performs work, e.g., transport of a patient, away from the official duty station to a temporary duty station during non-duty hours, returns to the official duty station the same day during non-duty hours, but performs no work on the return trip, is the return trip considered hours of work?

FLSA Exempt and Title 38 - In this instance, the return trip travel would be considered travel “incident to travel that involves the performance of work” under 5 CFR 550.112(g). As a result, the return trip is considered hours of work.

FLSA Non-exempt – Same as above.

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FAQ 4: If the employee in the scenario in FAQ 3 performs no work on the initial or return trip, i.e., is simply a passenger on a 1-day trip, is the travel time hours of work?

FLSA Exempt and Title 38 – No.

FLSA Non-exempt – Yes. Under 5 CFR 551.422(a)(3), such a trip is considered part of the employee's principal work assignment for the day and as such, is considered hours of work.

FAQ 5: Is travel from home by POV during non-duty hours directly to a temporary duty station outside the limits of the official duty station and the return trip home considered hours of work?

FLSA Exempt and Title 38 – It may be; only the estimated travel from the official duty station to the temporary duty station may be considered hours of work when one of the conditions in 5 CFR 550.112(g)(2) is otherwise met.

FLSA Non-exempt – It may be; the time spent in normal home to work travel is deducted from the travel time from home to the temporary duty station. Only the difference, if any, is considered hours of work.

FAQ 6: May an employee request compensatory time off for travel time?

FLSA Exempt – Yes, consistent with the compensatory time off rules under 5 CFR 550.114. Unless the employee has a flexible work schedule, the travel must have been unscheduled and result in an entitlement to overtime pay for irregular or occasional overtime work. For employees on flexible schedules, compensatory time off is OK in lieu of irregular or occasional or regularly scheduled overtime work. The employee must request compensatory time off in lieu of pay, unless his or her basic pay is in excess of the rate for GS-10, step 10, in which case, the facility director has the discretion to make payment or to provide compensatory time off in lieu of such payment.

Title 38 – MP-5, part II, chapter 3, section A, paragraph 4g(9) applies. Same as for title 5 FLSA exempt employees, except the overtime entitlement may be for regular or irregular overtime work and in no instance may the employee be required to take compensatory time off in lieu of payment, unless the employee request it.

FLSA Non-exempt – The compensatory rules off under 5 CFR 551.531 apply. However, in no instance may the facility director or other management official require an employee to take compensatory time off in lieu of payment, unless the employee requests it.

FAQ 7: If an employee encounters a long delay enroute to a destination, e.g., due to weather delaying air travel, is the time resulting from the delay considered hours of work?

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FLSA Exempt and Title 38 – No

FLSA Non-exempt - Normal waiting time, e.g., up to an hour for air travel, may be considered hours of work. Delays/waiting time in excess of “normal waiting time” are not considered hours of work

FAQ 8: What constitutes travel which results from an event which could not be “scheduled or controlled administratively?”

FLSA Exempt and Title 38 – If VA or a component of VA, e.g., a medical center, controls the scheduling of the event singularly or in conjunction with another Federal agency, then there is administrative control over the event; in this instance, travel to the event may not be considered hours of work under 5 CFR 550.112 (g)(2)(iv). If VA has no control over the scheduling of the event or the employee is required to travel to the event because of an unforeseen circumstance, it is presumed that the agency has no control over the event and travel to it may be considered hours of work.

FLSA Non-exempt – same as above.

FAQ 9: May an employee’s tour of duty be changed to accommodate travel time, e.g., from a compressed work schedule to a regular 5 day per week/8 hour per day work schedule?

FLSA Exempt and Title 38 – Yes; when possible, changing an employee’s work schedule in a timely manner, i.e., in advance of the administrative workweek is preferred to avoid the possibility of paying premium pay. (Note: Facility officials should ensure that any applicable labor-management obligations under local collective bargaining agreements are met when changing tours of duty).

FLSA Non-exempt – Same as above

FAQ 10: If an employee chooses to travel to or from a temporary duty station at a time other than that authorized by VA, is the travel time considered hours of work?

FLSA Exempt and Title 38 - No, unless it otherwise meets the conditions in 5 CFR 550.112(g)(2), which includes a requirement that the travel be officially ordered or approved.

FLSA Non-exempt - If it meets one of the conditions in 5 CFR 550.112(g)(2) or 5 CFR 551.422, the employee is entitled to the lesser of the actual travel time or the estimated travel time for the time/route authorized by VA.

FAQ 11: How is an employee compensated if he or she travels on a holiday?

FLSA Exempt and Title 38 – If the employee travels during regularly scheduled non-overtime hours on a holiday, the employee is paid holiday pay, not to exceed 8 hours under the provisions of 5 CFR 550.131; if the travel is hours of work under 5 CFR

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550.112(g) during other than the employee's regularly scheduled tour, all hours in excess of 8 hours is paid as overtime under 5 CFR 550.113.

FLSA Non-exempt – Same as above. However, overtime hours, i.e., hours in excess of 8 during other than the employee's regular tour are overtime under 5 CFR 551.501 (FLSA).

Note: Compensatory time off is not allowable for travel on a holiday when the employee is entitled to holiday pay because compensatory time off is only applicable in lieu of overtime pay.

6. Questions: Questions concerning this HRM Letter may be referred to the Customer Advisory and Consulting Group at 202-273-9801 (Team A – Alan Beale) or 202-273-9804 (Team B – Marie Favicchio) depending on your geographic area.



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