

Computer Jobs & the FLSA

July, 2004

The Fair Labor Standards Act

- ❑ Regulations first passed in 1938, and recently revised, were written to provide employees with various protections in the workplace, such as:
 - Minimum wage
 - Child labor laws
 - Overtime guaranteed after 40 hours worked in a week. The purpose of the recent revisions is to strengthen the overtime protection provisions
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Hourly vs. Salaried

- ❑ The FLSA's standard is that a job is hourly (non-exempt) unless the employer can prove that the job is "exempt" from the hourly standard
 - ❑ It lists types of exempt jobs: executive, administrative, professional, and outside sales (Computer jobs are reviewed under the professional exemption.)
 - ❑ The FLSA directs the Department of Labor to define the exempt terms.
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Department Of Labor Definitions

□ The DOL defines exempt jobs as those meeting these 3 tests:

1) Salary Level Test

2) Salary Basis Test

3) Salary Duties Test (Analysis based on duties not job title)

Salary Level & Basis Tests

- Employee must be paid at least \$23,660 (\$455 per week)
 - Employee must receive a pre-determined amount of compensation each pay period
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Duties Test ~ Computer jobs are reviewed under the Professional Exemption

To be considered exempt, the primary duty of the job must consist of:

- Application of systems analysis techniques and procedures
 - Design, development, documentation, analysis, creation, testing or modification of computer systems or programs
 - Design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 - A combination of the above duties
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Job Classification vs Job Description

- ❑ IT I classification is a general job description that encompasses typical duties and minimum qualifications.
 - ❑ Each employee has a job description specific to his/her own job duties. This job description is used to determine the appropriate classification.
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Jobs under the IT I classification

- ❑ New legal standards require USNH to re-examine some jobs that are currently exempt and make a determination as to their exempt or non-exempt status, based on the 3 tests
 - ❑ Review is based on actual job duties, not job performance, and it certainly is not a reflection of the value or significance of the position to USNH
 - ❑ Review requires an accurate job description
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Transition to OS

- ❑ Earned time (which includes sick pool)
 - ❑ Longevity
 - ❑ OS HR polices, such as additional pay (OT, shift, etc.)
 - ❑ No change in medical, dental, life, LTD, retirement benefits
 - ❑ Paid an hourly rate, which will be derived from the PAT annual salary rate
 - ❑ Still eligible for FY '05 salary increases
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Goals

- ❑ Obtain accurate job descriptions for those in the IT I classification
 - ❑ Provide a smooth transition for an employee in a job that moves from exempt to non-exempt
 - ❑ Ensure USNH's legal compliance
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