MEMORANDUM FOR: Assistant Administrators
               Staff Office Directors

FROM: Sandra R. Manning
       Acting Director for Workforce Management

SUBJECT: Guidance for Exceptions to the Biweekly Maximum Earnings Limitation

Now that we are in the middle of hurricane season, it is important to provide guidance for exceptions to the biweekly maximum earnings limitation. On September 28, 2005, authority was permanently delegated to Line Office Assistant Administrators and Staff Office Directors to approve exceptions to the biweekly maximum earnings limitation for emergencies for employees who are exempt from the Fair Labor Standards Act (FLSA) who are performing work directly connected with resolving or coping with an emergency or its aftermath. This delegation also applies to granting exceptions to the biweekly maximum earnings limitation for employees to perform work that is critical to the mission of the agency. To reiterate, an emergency is defined as a temporary condition posing a direct threat to human life and property, for example natural disasters such as hurricanes, tornadoes, floods, forest fires, etc. Emergency as used in this context does not apply to the regular duties of law enforcement officers. FLSA exempt employees who are performing work in connection with an emergency, including work performed in the aftermath of such an emergency, or employees performing work critical to the mission of the agency may receive premium pay only to the extent that the payment does not cause the total of his or her basic pay and premium pay for the calendar year to exceed the greater of -

1. the maximum annual rate of basic pay payable for GS-15 step 10 rate (or equivalent) including any applicable locality pay or special rate; or
2. the annual rate payable for level V of the Executive Schedule, $145,700 for 2010.

An FLSA exempt employee who has reached the annual maximum earnings limitation can no longer receive premium pay for additional premium pay hours worked. Therefore, the potential exists for employees to work hours beyond their normal tour of duty without compensation. In these situations, NOAA managers and supervisors need to ensure that every effort is made to distribute workload in a manner where this situation is mitigated to the extent possible. Once an employee’s pay hits the annual maximum earnings limitation for the year, NFC should stop paying them for any premium pay submitted on their Time and Attendance record. Employees should monitor their leave and earnings statement to ensure that they are being paid properly.

Employees can access their leave and earnings statement on the NFC Employee Personal Page at https://www.nfc.usda.gov/personal/.

Information related to the discharge of the exceptions to the biweekly maximum earnings limitation authority can be found at http://www.wfm.noaa.gov/policies/pay_policies-emergency-exceptions.html. If you have questions or need additional information, please contact your servicing Human Resources Specialist in the Workforce Management Office at http://www.wfm.noaa.gov/contact_lists.html.

If you have problems viewing this email, an html format is provided here: http://www.wfm.noaa.gov/emails/ExceptionsBiWeeklyMax.html

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