



**U.S. Customs and  
Border Protection**

OBP 100/10.4-C

**MAR 27 2007**

MEMORANDUM FOR: ALL CHIEF PATROL AGENTS

FROM:

*for* David V. Aguilar  
Chief  
U.S. Border Patrol

SUBJECT: Fiscal Year 2007 Overtime Pay Guidelines

The legislative appropriation language in fiscal year (FY) 2007 provides that the aggregate annual overtime earnings limit will include 45 Act Overtime (FEPA), Administratively Uncontrollable Overtime (AUO) and payment for work compensable under the Fair Labor Standards Act (FLSA).

Although the earnings limit is statutorily limited to the \$35,000 limit, I am instituting internal control measures limiting the earnings cap for all Border Patrol employees.

This year, in order for any employee to earn overtime (to include 45 Act, AUO and FLSA) in excess of \$30,000 during the fiscal year, he or she must receive an employee-specific waiver from me.

This measure is being implemented to ensure that the U.S. Border Patrol is not in violation of the congressional mandate prohibiting employees from exceeding earning limits without the proper authorization.

All Chief Patrol Agents should follow these guidelines for overtime earnings tracking and management. Chief Patrol Agents should not rely on obtaining an overtime waiver over the \$30,000 pay cap limit during FY 2007 to manage employee earnings.

The Overtime Pay Cap Waiver process to be used for FY2007 is attached.

Staff may direct questions to Management and Program Analyst Victoria L. Harrison at (202) 344-3799.

Attachments

## Process for Obtaining Overtime Earnings Limit Waiver

1. During fiscal year 2007, "overtime" is hereby defined pursuant to the FY 2007 appropriations language as all pay under; 45 Act (FEPA), Administratively Uncontrollable Overtime (AUO) and Fair Labor Standards Act (FLSA).
2. All sectors are responsible for the oversight, administration and management of all employee overtime earnings, regardless of the deployment location of the employee.
3. Managers and supervisors, at all levels within the sector, will be held accountable to the Chief of the Border Patrol for any and all violations of this directive.
4. In order to request a waiver, sectors must use the attached document template to report all overtime earnings and projected earnings. (An electronic copy will be forwarded to all sectors, attention: Deputy Chief Patrol Agent) All employees for whom a waiver is being requested, must be listed on this form.

This form will require the following information:

Basic biographical information on the employee to include name, social security number, grade and step, location (sector and station), and a justification to include the assignment the agent is performing that has led to the need for a waiver. Any affiliation/membership the employee has to any specialized unit should also be identified. (Canine, BORTAC, BORSTAR, ATVs, Horse Patrol, Bike Patrol, EMT, etc.)

Back-up data in the form of COSS (CBP Overtime Scheduling System) printouts as indicated in step 5 below must accompany this form to establish the accuracy of the data provided.

**Electronic versions, not hard copies sent via mail or fax, will be the required method of submission.**

5. All data collected for all analyses performed must be taken from COSS. Specifically the DC3, DC7 and DC10 functions will be used to obtain overtime earnings documentation (Note: The pay periods within the Inquiry and Report Functions in COSS are based on fiscal year, not calendar year, i.e. Pay Period 1 in the DC3 / DC7 / DC10 function in COSS is Pay Period 20 in the Employee Work Schedule Functions (CC2, CC4, CC7, CC8).
6. All sectors are required to perform an on going analysis and review of all employees (DC10 function in COSS).
7. These analyses are to be used to identify any employee who is projected to earn up to \$30,000; and \$35,000 (or above) in aggregate overtime pay. Any

employee who is identified by the sector as having an operational need to earn more than these amounts will require a request for an Overtime Pay Cap Waiver from the Chief, CBP Border Patrol. Requests that are approved by the Chief that are over the \$35,000 in aggregate overtime pay will also need to be approved by the Commissioner, CBP.

8. Requests for earnings limit waivers must be sent by electronic means to the Headquarters Office of Border Patrol through their operational chain of command at Headquarters, OBP and to Vicky L Harrison, Management and Program Analyst Office of Finance and Logistics Branch. The Finance and Logistics Branch will review and analyze the information provided by the sector and forward any requests to the Chief for review and authorization. For example: Chief Patrol Agent to Chief, CBP Border Patrol through the appropriate Division Chief (i.e. Southwest Border Operations, Northern Border Operations, Coastal Operations, Special Operations) and Branch Chief, Finance and Logistics Branch, Office of Border Patrol.
9. ALL EARNINGS LIMIT WAIVERS MUST BE APPROVED BY THE CHIEF, CBP BORDER PATROL, **BEFORE** THE EMPLOYEE EXCEEDS THE EARNINGS LIMIT THRESHOLD.

<u>Level</u>	<u>Amount</u>	<u>Authority to Exceed</u>
First threshold:	\$30,000	CHIEF APPROVAL
Second threshold:	\$35,000	CHIEF APPROVAL, then COMMISSIONER APPROVAL

10. Any employee who is projected to earn overtime up to any of the identified threshold levels WILL NOT be permitted to work any 45 Act overtime assignment until a waiver is granted at the required level.
11. During the fourth quarter, all sectors are reminded that due to the limitations of the DC10 projection capability of COSS, manual tracking will be required. All employees who are close to any of the above listed overtime earnings thresholds should be appropriately managed. The DC10 function provides actual earnings totals, but may be up to two full pay periods behind actual earnings. (Example: In COSS under function CC2 we may be in pay period 26, but in COSS function DC10 it will only have actual earnings up to pay period 24. Therefore, the projection for pay periods 25 and 26 will be based on the average of all earnings throughout the previous pay periods up to pay period 24.
12. All requests for any employee to exceed the earnings limit (to the next identified threshold) must follow the same procedures as outlined in the above steps.