



# *The Four Winds*

*National Weather Service Employees Organization*

## **Final Settlement of Overtime Grievance 161 Employees to Get True Time and One-half Pay**

(October 4, 2010) NWSEO and NWS have reached a final settlement of the August 2009 grievance which challenged the FLSA exempt status of 185 bargaining unit employees. The parties have agreed that 161 of the employees were improperly exempted from coverage of the Fair Labor Standards Act. As a result, these employees will now be paid at time and one-half of their normal hourly rate for overtime worked.

The NWS has also agreed to pay the 161 employees who were improperly classified lost overtime wages plus an equal amount of damages for all overtime worked since August 2007. These employees will receive the difference between the lower “Title 5 overtime rate” at which they were paid for these overtime hours (which in many cases was the employee’s straight time rate) and true time and one-half. In addition, the employees will receive an equal amount as liquidated damages for the delay in payment and interest.

Employees who took compensatory time will also receive overtime pay for those hours plus liquidated damages. Employees who received payment for unused compensatory hours will receive payment for the difference between the rate at which those hours were paid (the Title 5 overtime rate) and the time and one-half rate. Employees who earned but who have not used comp time during this period will also be given the option of receiving payment for those hours at the true time and one-half rate. Employees who wish to exercise this option should not use the banked comp time; payment will be made automatically after 26 pay periods.

Under the Fair Labor Standards Act, employees who were not officially directed to work overtime on a particular occasion, but who worked overtime with the knowledge and tacit approval of their supervisors, are entitled to overtime. Any of the 161 employees who have worked what is known as “suffered and permitted” overtime since August 2007 may now receive payment for this work if they can demonstrate that these extra hours were worked with the knowledge of management.

Many different occupational categories were included in this grievance. However, the major groups of employees involved include GS-11 Facilities Engineering Technicians and GS-12 Regional Maintenance Specialists. All affected employees have been personally notified by the union.

All of the 161 grievants have already been converted to FLSA “non-exempt” status. Twenty-two of the grievants were converted on November 8, 2009 and have been receiving true time and one-half overtime pay since that date. Twelve of this original group have already shared \$25,000 in back pay and damages. The remaining 139 employees were converted to non-exempt status on August 1, 2010. It will take approximately six months, however, for these employees to receive their back pay and damages.

Earlier this year, NWSEO and NWS also settled a grievance which challenged the FLSA exempt status of the GS-11 met interns. As a result, 270 met interns were converted to non-exempt status and shared \$140,418 in back pay, damages and interest.

**In total, 431 NWS employees were converted from exempt to non-exempt status as a result of the two grievances filed by NWSEO in 2009 – or nearly 10% of the entire NWS workforce.**