

Fact Sheet #72A: Major Disaster Claims Adjusters Under the Fair Labor Standards Act (FLSA)

The FLSA requires that most employees in the United States be paid at least the federal [minimum wage](#) for all [hours worked](#) and [overtime](#) pay at one and one-half times their regular rate of pay for all hours worked over 40 in a workweek unless an exemption applies.

This fact sheet provides general information regarding an overtime pay exemption for major disaster claims adjusters as a result of specific provisions in legislation authorizing funding for the Department of Labor. The major disaster claims adjusters exemption was first enacted in the [Consolidated Appropriations Act, 2016](#) (P.L. 114-113) and Congress has continued to enact it in subsequent appropriations acts. Before applying the overtime exemption, employers should determine whether an appropriations law authorizing the exemption is in effect for the relevant time period.

Basic Provision

The overtime exemption for major disaster claims adjusters applies for a two-year period following the occurrence of a major disaster, meaning a disaster or catastrophe declared or designated by a State or Federal agency or department.

Major Disaster Claims Adjusters

To qualify for this overtime exemption, all of the following requirements must be met:

1. The employee is employed to adjust or evaluate claims resulting from or relating to such a major disaster, by an employer not engaged, directly or through an affiliate, in underwriting, selling, or marketing property, casualty, or liability insurance or contracts;
2. The employee receives an average weekly compensation of at least \$591, or a greater amount established by the Secretary, for the number of weeks the employee is engaged in any of the duties listed below; and
3. The employee's duties must include *at least one* of the following:
 - a. Interviewing insured individuals, individuals who suffered injuries or other damages or losses arising from or relating to a disaster, witnesses, or physicians;
 - b. Inspecting property damage or reviewing factual information to prepare damage estimates;
 - c. Evaluating and making recommendations regarding coverage or compensability of claims or determining liability or value aspects of claims;
 - d. Negotiating settlements; or
 - e. Making recommendations regarding litigation.

Definitions

1. The term employee "employed to adjust or evaluate claims resulting from or relating to such major disaster" means an individual who

- a. In a timely manner, secured or secures a license required by applicable law to engage in and perform the duties described above relating to a disaster, and
 - b. Is employed by an employer that: (1) maintains worker compensation insurance coverage or protection for its employees, if required by applicable law, and (2) withholds applicable Federal, State, and local income and payroll taxes from the wages, salaries and any benefits of such employees.
2. The term “affiliate” means a company that, by reason of ownership or control holds at least 25 percent of the outstanding shares of any class of voting securities of one or more companies, directly or indirectly, controls, is controlled by, or is under common control with, another company.

Additional Information

The major disaster claims adjusters exemption is distinct from the Section 13(a)(1) [administrative exemption](#), under which certain [insurance claims adjusters](#) may be exempt from minimum wage and overtime pay requirements of the FLSA. Each exemption stands alone and should be evaluated and applied independently based on the particular set of facts and circumstances.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website:

<http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

When state law differs from the federal FLSA, an employer must comply with the standard most protective to employees. Links to your state labor department can be found at www.dol.gov/contacts/state_of.htm.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies..

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