

GUIDELINES FOR FLSA MIXED CLASSES

2000/2004

General

The types of work described below are typically Non-exempt. If a position's primary duty (majority of time) is one or a combination of these activities, the job is likely to be Non-exempt.

Provide interpretation, technical assistance and/or advice regarding existing laws, policies, regulations, program requirements, etc. even at a high level of discretion and complexity.

Gather, analyze, report, explain and/or interpret data unless the employee also has authority for making/effectively recommending decisions (modifying programs or policies) based on the results.

Evaluate eligibility (whether an individual, municipality, organization or program meets requirements for licensure, program participation, state or federal funding, grants, etc.).

Review for compliance or enforce established systems/procedures; monitor or investigate to determine compliance with laws, rules, regulations, program requirements, etc. This includes investigating complaints against licensees on behalf of a professional or regulatory board. However, work requiring someone educated in one of the "learned professions" recognized by the regulations (see 541.301) qualifies under the Professional Test. This would apply, for example, to physicians investigating the medical practices of other physicians or medical professionals, dentists evaluating dental work, or pharmacists investigating the professional practices of pharmacists or pharmacies.

To qualify under the "learned profession" provision of the Professional Test, a degree must be specialized and consistently required. If an agency accepts no degree or a variety of majors, education doesn't meet the criteria. While agency employees performing the same job must all have the specified degree, not all agency employees in the class must be degreed unless all perform the same work. For example, an agency uses Auditor Senior in both its audit and budget sections. The work is the same within a section but varies between sections (i.e., there are two distinct "jobs"). All audit employees have four year Accounting degrees; only some budget employees hold that degree. Even though the budget positions fail to meet the Professional Test (no uniform degree requirement for that job), audit positions are Exempt Professional since everyone performing that job is required to have the necessary degree.

The Administrative Test requires that employees exercise "discretion and independent judgment" which the regulations distinguish from the use of skill in applying techniques, procedures or specific standards. Employees aren't exercising discretion and judgment, as these terms are used in the regulations, if they apply knowledge of procedures or determine which procedure to follow or whether standards are met. Decision-making must also relate to "matters of significance" and not issues of little consequence to the organization. Refer to 541.207 for additional information.

The FLSA requirements for the Executive Test and the PELRA criteria for supervisory designation are not identical. Therefore, positions may meet the PELRA definition but fail to meet the Executive Test and vice versa. To qualify on the Executive Test, supervisors must meet all of the following: 1) supervise at least 2 FTE; 2) exercise discretion; 3) have final authority to hire, fire, promote, demote and approve pay increases (or their recommendations must be given "particular weight"); and 4) have supervision and management as their primary duty.

Accounting Officer Senior and Principal

Positions are primarily exempt under the Professional or Administrative Test.

Employees who have a four year degree in Accounting and/or are CPA's and whose primary duty is professional accounting work involving judgment and discretion are Exempt Professional. CPA's meet the requirement for advanced, specialized instruction even if they do not hold a four year Accounting degree. The following do not satisfy the degree requirement: certificate or two year degree in

Accounting; two or four year degree in general business (e.g., Business Administration, Finance); an accumulation of accounting coursework which does not meet all of the requirements of a four year Accounting degree.

Employees whose primary duty is functioning as the chief budget and financial officer of an agency or particular subdivision of an agency are Exempt Administrative. Determining an agency/subdivision budget is using judgment and discretion and affecting management policy.

Monitoring budgets or setting up systems to do so is not Exempt Administrative work. Developing management policy is an administrative function but it must be the primary duty for the job to qualify as Exempt Administrative. Jobs which have some policy setting but are primarily engaged in interpreting requirements (state and federal laws and regulations, labor contracts) or ensuring that the agency's or the State's practices and systems are consistent with such requirements do not qualify. Example: Department of Finance Payroll Operations Specialists. Likewise, understanding and applying policies, laws and regulations to provide interpretations, training and technical advice/assistance, even at a high degree of complexity, would not qualify.

Accounting Supervisor Intermediate

Two positions in Teachers Retirement spend about 85% of their time in "processing" duties. Although the jobs have at least two subordinates, supervision is incidental and not the primary duty. The jobs were found to be Non-exempt. All other positions qualify under the Executive Test.

Auditor Intermediate, Senior and Principal

Positions in these classes are primarily Exempt Professional. However, employees without a four year degree in Accounting or CPA do not qualify and are Non-exempt. The following do not satisfy the degree requirement: certificate or two year degree in Accounting; two or four year degree in general business (e.g., Business Administration, Finance); an accumulation of accounting coursework which does not meet all of the requirements of a four year Accounting degree. CPA's meet the requirement for advanced, specialized instruction even if they do not hold a four year Accounting degree.

Business Advisor

The Department of Trade and Economic Development designated their positions Non-exempt. All other jobs qualify as Exempt Administrative.

Buyer 2

Positions are primarily Non-exempt. Where the primary duty is one or a combination of the following, employees do not qualify on the Administrative Test and are Non-exempt:

- Develop or maintain purchasing data, records or systems (e.g., create and maintain purchase order and vendor data in MAPS).

- Review RFP's, purchase orders, contracts, etc. to ensure that they meet legal or procedural requirements.

- Provide training, assistance or technical advice on meeting legal or procedural requirements.

- Process purchase orders where little discretion or independent judgment is involved (e.g., purchasing primarily from existing state contracts and/or Central Stores).

To qualify as Exempt Administrative, employees must be the purchasing agent for the agency or a significant function within the agency (work must be of "substantial importance to the management or operation of the business"). In addition, employees must have final purchasing authority. Decisions may be subject to management review/sign-off but employees must have authority to use their discretion in

making independent choices, free from immediate direction, as to vendor, price, quantity, quality and the like (i.e., negotiate the “best deal possible” in the market place). Example: DNR Buyer/Merchandise Coordinator for State Park System.

Client Advocate

Positions with the Ombudsman for Mental Health and Mental Retardation require degrees in Social Work or Law and qualify as Exempt Professional. (DHS designated its jobs as Non-exempt.)

Education Specialist 1

Positions are primarily Non-exempt. Positions are Non-exempt if the primary duty is one or a combination of: data collection, analysis and reporting; data/database maintenance; training; technical assistance; enforcement of standards; verification of calculations. Example: CFL Program/Budget Specialist.

Positions qualify under the Professional Test if the primary duty is classroom teaching and activities directly related to classes the employee teaches (e.g., development of curriculum and class materials). Employees need not have a teaching degree/license to qualify under this provision. Example: DOC Computer Literacy Instructor.

Teaching degrees qualify under the “learned professions” provision of the Professional Test if the degree is consistently required for the job and the work requires the specialized knowledge represented by the degree. This would apply to jobs where a teaching degree is required and employees use that degree to develop K-12 curriculum, even though the employee may not personally teach the curriculum in a classroom setting.

Education Specialist 2

Positions are primarily Exempt Administrative. Employees whose primary duty is administering “academic operations and functions” (i.e., directing education/teaching programs) qualify under the “academic administration” provisions of the Administrative Test. Employees must be primarily engaged in the administration of “curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program.” For additional information, refer to 541.201 (c), 541.202 (e) and 541.215.

Employee Development Specialist 2 and 3

Positions in both classes are primarily Non-exempt.

Positions which function as the overall agency training coordinator with responsibility for developing training policy and negotiating contracts on behalf of the agency (authority to determine who, what and how much to contract for) qualify for the Administrative Exemption. Work must be directly related to management policies or general business operations and involve developing or directly affecting policies and procedures. Work requiring knowledge of policies and procedures is not sufficient. Example: DHS Central Office training coordinator.

Positions where the primary duty is classroom teaching and activities directly related to classes the employee teaches (e.g., developing curriculum and class materials) qualify under the Professional Test. Employees need not have a teaching degree to qualify under this provision. Example: DLI computer trainer.

“Adult Education” and “Training and Development” are not named degrees for purposes of “learned professions” under the Professional Exemption.

Engineering Specialist

Employees with four-year engineering degrees who are doing work requiring an engineering degree are Exempt Professional. Two year programs such as Civil Engineering Technology do not qualify under the Professional Test. Employees who have two or more subordinates, have supervision/management as their primary duty and have the requisite authority to hire, fire, etc. qualify as Exempt Executives. All others positions are Non-exempt. Several positions were proposed as Exempt Administrative but do not meet that test.

Finance Specialist 1 and 2

Positions in both classes are primarily Non-exempt.

Employees are Non-exempt if their work is primarily one or a combination of: training; technical assistance; advising agencies on meeting existing system, policy or procedural requirements; ensuring that systems and procedures meet policy, legal, contract and other requirements; interpreting and providing information on requirements; creating reports or data bases; documenting, implementing or enforcing policies and procedures; scheduling or processing work; software support. Examples: Finance Payroll Accounting Operations Specialist, Ad Hoc Support Specialist, Payroll Accounting Communications Team Leader, Finance Systems Support Specialist Senior.

Employees qualify under the Professional Test if they have a four year Accounting degree or are CPA's. See Accounting Officer and Auditor series above for further discussion.

Employees qualify under the Administrative Test if they are primarily engaged in advising agencies on general financial management practices (business consultant). Possible example: Finance Agency Assistance Specialist 2. (To qualify as Exempt Administrative, general business/financial management consulting--and not technical advice/assistance on MAPS--must be the primary duty.)

Health Educator 3

Positions in this class are primarily Non-exempt.

Employees who are Registered Nurses or possess a Master's in Public Health are Exempt Professionals if the work performed requires and is related to the degree. Degrees in Health Promotion and Health Education do not satisfy the requirements of the Professional Test.

Teaching degrees qualify under the "learned profession" provision of the Professional Test if the degree is consistently required for the job and the work requires the specialized knowledge represented by the degree. This would apply to jobs where a teaching degree is required and employees use that degree to develop K-12 curriculum, even though the employee may not personally teach the curriculum in a classroom setting.

Health Program Representative Senior

Employees are Exempt Professionals if they hold four year or higher degrees in a field recognized by the regulations (e.g., physical and biological sciences, social work, nursing), perform work requiring and directly related to the degree, and exercise independent judgment and discretion.

Employees who do not hold a four year degree or who hold a degree in an area not recognized by the regulations do not qualify under the Professional Test. Employees also do not qualify if they hold a listed degree but perform work not specifically requiring/related to that degree or if they perform primarily non-exempt work such as compliance, monitoring, investigations, data collection and analysis, program implementation, and/or communication and interpretation of existing legal or program policies and guidelines.

Horticulturist

Positions are primarily Non-exempt. Employees with four year degrees in Horticulture qualify as Exempt Professional.

Hydrologist 1 and 2

Positions in both classes are primarily Exempt Professional.

To qualify for exemption, employees must hold a four year degree specifically related to Hydrology (Hydrology, Hydrogeology, Hydraulic Engineering, Water Resources Management). Four year science degrees which are more general and not specific to Hydrology (e.g., Biology, Chemistry, Ecology) do not qualify nor do certificate programs or two year degrees.

As with any Exempt Professional, the primary duty of the job must require and be directly related to the specialized academic instruction represented by the degree. Some position descriptions indicated only a few tasks and a very small amount of time required specialized scientific knowledge. Incumbents were, for example, processing applications, creating and maintaining records and handling correspondence where the majority of work involved familiarity with policies, procedures and practices learned on the job, rather than scientific analysis and application of their degree (Health Local Programs Coordinator).

Information Technology Specialist 2, 3, 4 and 5 (Specialist 1 is Non-exempt.) Revised 2004:

There were many different non-exempt and exempt positions identified by agencies for the ITS class series. For example, some agencies identified positions as Exempt Administrative while other agencies identified positions performing the same or very similar work as Exempt Professional in the same job class and option. The Compensation/Classification Unit of DOER used class specifications, job audits, position descriptions, State of Minnesota regulations, and previous federal regulations to determine FLSA status of the ITS Class Series classifications. We appreciate the work done by agencies and realize that this was the most difficult task because the computer exemption went away.

Determinations:

ITS1 Classification and positions remain non-exempt.

ITS2 Classification and positions (previously mixed) go to non-exempt. More than 20% of work described in position descriptions was non-exempt type work. This level requires general proficiency in information technology, under general supervision and is responsible for more on-going maintenance and production technology work than the higher levels in the class series.

ITS3 Classification and positions remains mixed. Some positions are non-exempt and some are Exempt Administrative. Some positions required more than 20% non-exempt type work while others have duties that support the business by performing a "staff function" to line management and employees. No positions required the Exempt Professional type level work.

ITS4 Classification and positions remains mixed. At this level, very few positions are non-exempt. They are primarily Exempt Administrative, unless the position requires a 4-year college degree in computer science to perform the work, qualifying it for the Professional Exemption.

ITS5 Classification and Systems Architect Classification and positions are Exempt Professional (previously mixed). These two classifications requires a high level of expertise as per class Hay rating, position descriptions, and class specifications. The job specific knowledge is at a seasoned professional level requiring a "broad grasp of at least one complex body of practices and precedents or of advanced principles of a specialized field of knowledge" (such as information technology) per the Minnesota Hay chart.

Where the primary duty is one or a combination of the following, employees are Non-exempt:

Installation, maintenance, troubleshooting and repair of computer hardware and related equipment; technical support.

User support and training (unless employees have "teaching" as their primary duty and qualify under that provision of the Professional Test; see Employee Development Specialist 2 and 3).

Design and implementation of data systems (as opposed to development and design of software to support data systems).

Data base development, administration and maintenance.

Computer operation.

Investigator Senior

Positions are primarily Non-exempt. However, a few jobs qualify as Exempt Professionals because the work requires someone educated in a "learned profession" recognized by the regulations (see 541.301). Example: Compliance Officer for the Board of Dentistry who is a licensed Dentist. Investigator jobs do not qualify as exempt under the Administrative Test.

Job Service Program Specialist 3

The employee who functions as an internal business analyst (analyzing and effectively recommending changes in business operations, advising management on long-range organizational and systems planning) qualifies as Exempt Administrative. Several other jobs have a management policy component and may affect the general business operations of the agency's clients but the materials did not indicate that this was the primary duty. Positions primarily engaged in technical assistance, providing or coordinating training and/or developing systems would be Non-exempt.

Loan Officer Senior

Positions are primarily Non-exempt. Employees may be Exempt Administrative if their primary duty is independently negotiating loan terms (e.g., amount, interest rate, length of time, form and amount of collateral) of significant consequence. Employees must have authority to make independent choices free from immediate supervision and direction, which includes written guidelines and parameters. Work must demonstrate the use of judgment and discretion, rather than skill in applying knowledge of agency or program procedures and standards. Jobs are Non-exempt if there are criteria such as agency rules, policies or practices, which establish conditions for interest rates, acceptable collateral and other loan terms. In addition, jobs are Non-exempt if the primary duty consists of reviewing loans or applications to determine if they meet requirements, monitoring loans and borrowers' practices, record keeping, and/or providing training and technical assistance on program procedures and requirements.

Management Analyst 3 and 4

Management Analyst 3 positions are primarily Non-exempt. Management Analyst 4 positions are a combination of Non-exempt, Exempt Administrative and Exempt Professional.

Positions are Non-exempt if the primary duty (majority of time) is one or a combination of:

Inspection and compliance assurance (reviewing for compliance with established laws, systems, policies and procedures). Examples: Department of Public Safety Driver Training Coordinator, DTED Contract Agent.

Communicating policies, procedures or other requirements; providing training; preparing newsletters, on-line help or other communication; providing technical assistance on meeting requirements. Example: Department of Finance Payroll Training/Communication Specialist.

Maintaining programs and ensuring that procedures comply with laws and standards. Example: Veterans Homes Board Veterans Benefits, Safety and Facilities Coordinator.

Recordkeeping and maintaining files.

Developing data collection instruments, questionnaires or client feedback mechanisms; collecting and analyzing data (also see Research Analysis Specialist). Example: DTED Program Analyst.

Developing and maintaining data bases; analyzing, reporting and interpreting data to support management decision-making. Examples: MnSCU budget team which collects, organizes, interprets and analyzes data to support budget and collective bargaining activities; Finance position which provides analytical and research support to management in financial reporting and budgeting, prepares and interprets financial reports and analyzes/compares expenditures and revenues.

Developing and maintaining monitoring systems.

Positions are Exempt Administrative if the primary duty is one or a combination of:

Writing legislation and rules where the work involves developing and analyzing policy alternatives and developing/effectively recommending management policy. Example: Public Safety and Health Department Rule Writers.

Advising management on general business operations and management (e.g., organizational design, mission/vision, business goals and strategies). Example: DOT District 7 Management Consultant.

Developing agency/division budget and financial management policies. Employees must be developing the budget itself, not simply the budget documents.

Identifying and analyzing alternatives and developing/effectively recommending management policy in areas of significant impact on the overall organization.

Examples of jobs which qualify on the Professional Test include Health Financial Management Analyst (BA Accounting, CPA), Health administrative appeals and contested case positions (JD's), DNR Ethics and Compliance Officer (JD).

MNSCU Program Director 2 and 3

Positions in both classes are primarily Exempt Administrative.

Employees whose primary duty is administering "academic operations and functions" (i.e., directing education/teaching programs) qualify under the "academic administration" provisions of the Administrative Test. Employees must be primarily engaged in the administration of "curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program." For additional information, refer to 541.201 (c), 541.202 (e) and 541.215. Examples: Director of EMS/Safety and Health (Laurentian); Director for Adult Learning: Neighborhood Centers and Corporate Sites (Minneapolis).

In addition, several positions in non-teaching programs qualify under the general provisions of the Administrative Test:

Director of Alumni Relations (South Central)--Manages alumni relations including developing policies, procedures and budget; marketing/communications; and generating revenue; qualifies as a "one man department" as described in 541.201 (a) (2).

Director of Marketing Communications (Normandale) and Marketing, Communications and Media Relations Coordinator (Dakota)--Report directly to the President and act as advisory specialists; head a "general business operations" function (as opposed to directing a "line" program such as admissions, registration or financial aid where positions were determined to be Non-exempt).

A few positions were proposed as Exempt Executive but did not appear to meet that test. Generally the documentation did not indicate that employees had the required authority to hire, fire, etc., did not have supervision/management as their primary duty and/or did not supervise at least two 2 FTE throughout the year.

NR Parks Program Coordinator

Positions are primarily Exempt Administrative. However, two jobs in real estate management were primarily engaged in program implementation (e.g., implement land acquisition; review designs, appraisals and other documents; maintain land ownership data), rather than in policy and priority setting, budget, program development, etc. These positions were determined to be Non-exempt.

NR Supervisor 1 and 2 Parks

A few employees qualify on the Executive Test. However, most supervise only seasonal staff and don't have two FTE and supervision as the primary duty throughout the year. These jobs are Non-exempt when staff are on seasonal layoff but may be designated as Exempt Executive during periods when they direct two or more employees and supervision/management is primary.

Office Services Supervisor 2 and 3

Positions in both classes are primarily Exempt Executive.

Employees who have fewer than two subordinates or who do not have supervision as their primary duty do not qualify as Exempt Executive. Executive duties are not primary if the principal focus of the job--generally measured by time spent--is work other than supervision and management (e.g., providing direct services, performing the same work as subordinates).

The OSS 3 position which functions as the human resources administrator for the Office of the State Auditor qualifies as exempt under the Administrative Test. Other OSS 2 and 3 positions proposed as Exempt Administrative were determined not to meet that test. However, positions which act as administrative assistants (not clerical support) to Commissioners or other agency executives may qualify under the Administrative Test as "executive and administrative assistants." See 541.201 (a) (1), 541.207 (d) (2) and 541.208 (d) for further information.

Personnel Officer Senior and Principal Personnel Representative

Positions in all three classes are primarily Non-exempt.

Employees who serve as the overall human resources/labor relations administrator and "advisory specialist" for an agency or an independent unit of a larger agency are typically Exempt Administrative. Work must consist primarily of developing policies and advising management on policy and/or general business operations. Examples: HR/LR Directors at individual Veterans Homes (Senior Officers), Minnesota Zoo and DOT District HR/LR positions (Principal Officers), Human Rights HR/LR Director and Administration LR Director (Personnel Representatives), Health Department Personnel Representatives who function as "HR Team Leaders" for particular operating divisions.

Employees who primarily explain and interpret the content and application of existing policies, contracts, etc. are not "advising" or "consulting" but rather, passing on learned, technical knowledge. Providing interpretation, technical assistance and advice regarding existing laws and policies, past practice and so on, even at a high level of discretion and complexity, is not exempt work. Example: Secretary of State

Personnel Representative who provides technical guidance to managers and supervisors regarding interpretation of agency and statewide human resource policy and the administration and interpretation of bargaining agreements.

Program specialists are generally Non-exempt. Although jobs have some policy development responsibility, the primary duty (majority of time) is data collection, monitoring, training, technical assistance and other non-exempt work. Example: DOER Workers' Compensation Placement Specialist.

Plant Health Specialist 1

Agriculture determined its positions are Non-exempt but DOL agreed a position in DNR met the Professional Test. (All Specialists 2 are in Agriculture and the class is Non-exempt.)

Plant Maintenance Engineer Chief

Two positions in the Department of Administration did not have supervision/management as the primary activity and were determined to be Non-exempt. All other positions qualified as Exempt Executive.

Pollution Control Specialist Intermediate and Senior

Positions in both classes are primarily Non-exempt. One position responsible for the multimedia regulation project was identified as Exempt Administrative (develops strategy, policy and procedures on how the agency will handle facilities subject to regulation by multiple programs; initiates related legislation, rule and policy development or revision). In addition, several types of work qualify as Exempt Professional:

BS in Biology; field biologist--conducts scientific research and analysis related to and requiring the degree; establishes biologic indices.

BS/MS in Environmental Science; analyzes and interprets environmental chemistry data to identify contaminants and evaluate abatement effectiveness.

Project Specialist, Consultant and Consultant Senior

At the Specialist level, positions are primarily Non-exempt (and agencies identified almost all as Non-exempt) since they perform data collection, analysis and reporting on a larger project directed by someone else. At the Consultant and Consultant Senior levels, positions are a combination of Non-exempt, Exempt Administrative and Exempt Professional. In addition to the examples below, see Management Analyst and Research Analysis Specialist.

Following are examples of positions which qualify (or may qualify) as Exempt Administrative:

Corrections Safety Administrator for Willow River, Moose Lake and Rush City--Advise management, develop policy and establish procedures to implement policy in the areas of health, safety and wellness.

DHS Organizational Development Consultant--Provide consultation and assistance to senior management in organizational development, workforce planning, organizational structure and design, etc. (internal management consultant).

DOT Performance Measurement Management Consultant--Develop and lead deployment for performance measurement, performance management and target setting by managers and business units; integrate performance measurement into management decision-making (strategic, business and transportation planning, budget).

DTED--Assists the Director of Administration by developing, implementing and enforcing policies and operating procedures pertaining to DTED's overall administrative functions (i.e., "general business

operations”) and providing information and direction to staff and managers. If these are the primary duty (no percentages of time were provided), the position would qualify as an executive/administrative assistant under 541.201 (a) (1).

DTED Community Finance Office Representative--Analyzes funding requests and recommends approval, disapproval or modification to the Commissioner; negotiates on behalf of the State. If these are the primary duty and the employee's recommendations are given “particular weight” and the employee has independent authority for negotiation on significant matters (see Loan Officer Senior), the position qualifies as Exempt Administrative. If outreach, technical assistance, verifying that financing requests meet program requirements, monitoring, etc. are primary, the position is Non-exempt.

Following are examples of positions which qualify as Exempt Professional:

Health--Various positions which develop policies and programs and lead and provide technical expertise to initiatives related to the employee's advanced and specialized education (e.g., MPH in Public Health Nutrition directing nutrition-related projects such as nutrition education during pregnancy for Southeast Asian women; MSW coordinating statewide suicide prevention planning; Ph.D. in Community Health Services performing analysis and planning to develop an adolescent health agenda and address adolescent health care issues).

DNR Remote Sensing Image Analysts--MS in Forestry with specialization in remote sensing; apply image analysis technology and analyze and interpret aerial and space imagery; collaborate with other federal and state officials to devise new methodology and incorporate it into departmental procedures.

DNR Metadata Catalogers--MS in Library Science or Information Management; catalog electronic information resources and implement metadata record development to advance the creation of high quality metadata for state electronic information and data resources.

Following are examples of positions determined to be Non-exempt:

Minnesota Forestry Council (DNR)--Forestry degree but largest percent time is non-exempt administrative support work (prepare information on the program, arrange and provide administrative support for meetings, prepare meeting minutes, maintain mailing lists, update website, coordinate printing and distribution of materials).

Administration--Assess public information needs and provide services (writing, publication, press release distribution) to increase public awareness of the Technology Policy Bureau. (Developing management policy on the release of information and developing procedures and guidelines to implement that policy would be Exempt Administrative work but this did not appear to be the primary duty.)

CFL--Organize promotional events, community outreach and media coverage to communicate high profile agency initiatives.

Project Team Leader

Positions are primarily Exempt Administrative. One position in Economic Security qualifies as Exempt Executive (8 staff and 80% time spent in supervision and other managerial duties). The Regional Audit Coordinators in MnSCU may qualify as Exempt Professionals if a four year Accounting degree or CPA is required of all incumbents. In addition to the examples below, see Management Analyst, Project Specialist/Consultant and Research Analysis Specialist.

Following are examples of positions which qualify as Exempt Administrative:

CFL Office of Public Affairs and Policy Development--Directs studies and policy development strategies for emerging policy areas with statewide implications; provides policy direction and standards for departmental communications. (The position would be Non-exempt if the employee did not set or effectively recommend policy but conducted studies and provided information for policy and decision making by others or if the employee was primarily engaged in providing public information, rather than establishing management policy on communications and developing procedures and guidelines to implement that policy.)

CFL Team Leader for Food and Nutrition Service Financial Management Team--Leads analysis, evaluation and policy development for financing child nutrition programs; analyzes financial policies, performance measures, etc. to develop financial and program policy changes; advises agency, State and legislative leaders on financing system and policy; develops budget and legislation to implement financing policy and strategy. (Position's primary duty is not only management policy, but also "general business operations.")

Revenue--Business process analysis and redesign for Income Tax Reengineering; primary duty is designing new systems and processes and redesigning how Revenue does work in significant areas of business operations.

Following is an example of a position determined to be Non-exempt:

DOER SEMA4 Policy Writer--Collects and disperses information; documents and communicates--but does not set--general business policies. (Also supervises 3 staff but does not qualify as Exempt Executive because supervision/management is not primary.)

Realty Specialist Senior

Positions are primarily Non-exempt. However, jobs in DNR regions which function as "purchasing agents" qualify as Exempt Administrative. Employees must have authority to determine/effectively recommend which land is to be acquired and how it will be acquired (sale, donation, lease, etc.) and to structure/restructure the acquisition package.

Recreation Therapist

Positions are primarily Non-exempt. However, employees providing "for credit" education in the Experiential Education Program at Thistledeew Camp have teaching as their primary duty and qualify as Exempt Professionals.

Research Analysis Specialist

Positions are primarily Non-exempt.

Positions are Exempt Administrative if the primary duty is analyzing data and drawing conclusions which are important to the determination of financial or other general business or management policies of the agency or the agency's clients. Deciding or advising the agency or its clients on what to do based on the results (not just interpreting what the results are) is exempt work but the employee's recommendations for action must be given significant weight to qualify as Exempt Administrative. Research to support decision-making by others is not exempt work. Possible examples (recommendations must be given "particular weight" to qualify as exempt.): Health SENSOR Program Analyst who conducts scientific research to design new protocols (i.e., how the agency does work) for occupational injury surveillance systems; DNR Management and Budget Services Analyst who researches economic, financial and organizational issues to recommend changes in policy, budget, programs and long range plans.

Positions are Non-exempt if the primary duty consists of one or a combination of: determining how research will be done (defining research problems, methods and techniques); collecting data; selecting data analysis methods and procedures; compiling, tabulating and analyzing data; reporting/presenting data, explaining and interpreting data and research results; decision support. Examples: MnSCU Labor

Market Analyst who compiles, analyzes and interprets labor market data to support academic planning and program review; DTED Economic Analyst who prepares comparative economic analyses for use by the agency in encouraging businesses to locate and expand in Minnesota; Military Affairs GIS manager who develops and operates the Geographic Information System.

Research Analyst Supervisor Senior

Positions are primarily Exempt Executive. However, one position in DNR has a single subordinate and does not qualify on other tests. That job was determined to be Non-exempt.

Revenue Tax Specialist Principal

The position responsible for developing legislation and policy for the Income Tax Division is Exempt Administrative. All other positions are Non-exempt.

Revenue Tax Specialist Senior

The attorney responsible for consulting with and advising the Attorney General and agency management on significant income tax litigation is Exempt Administrative. All other positions are Non-exempt.

Safety and Health Officer 1 and 2

Positions in both classes are primarily Exempt Administrative. Employees who serve as the overall safety director for an agency or independent subdivision (e.g., separate facility, DOT district, DNR region) qualify as Exempt Administrative. Employees must be the highest level safety position in the agency/subdivision and advise management on safety policy.

Safety Investigator Principal

Positions are primarily Non-exempt (conducting complex investigations and carrying out the mission of the agency). However, the position in Health qualifies under the Professional Test (Master's degrees in Environmental/Occupation Health and in Physics performing work related to both degrees).

State Program Administrator Coordinator

Positions are primarily exempt, generally under the Administrative Test. However, several jobs qualified under the Professional Test: DOT's architectural historian; MDH's health alert plan and statewide bioterrorism position; MNSCU's tax advisor.

Following are examples of positions identified as Exempt Administrative:

DHS--Team leader and spokesperson representing management in the negotiation of managed care contracts. Develop, present and modify proposals with significant discretion to fashion agreements within general parameters such as cost effectiveness and legal defensibility; develop/recommend changes in legislation, policy and budget in response to contract negotiations.

DTED--Advisor to the Director of the Public Facilities Authority and administrative coordinator of its programs. Effectively recommend establishment of new programs and reworking of existing programs including developing policy, drafting legislation and rules and negotiating agreements; advise/assist the Director in bond issuance; advise the Commissioner and develop policy positions/recommendations on issues before the EQB.

MnSCU--Director of administrative operations for the Fire/EMS Center including planning, budgeting and other general business operations; "advisory specialist" to management in "general business operations" such as facilities planning, capital projects and bonding.

Positions are Non-exempt if the primary duty consists of one or a combination of: monitoring contract compliance; providing technical support; coordinating and monitoring grants; ensuring compliance with grant or program requirements; developing, implementing or maintaining data collection systems; developing training or training delivery plans; communicating, explaining or providing training on policies, procedures and program requirements; designing and directing complaint systems; program implementation. Examples: EMS Board Regional EMS Liaison, PCA District Enforcement Coordinator.

State Program Administrator Senior and Principal

Positions in both classes are primarily Non-exempt. Most are engaged in "line" functions and do not qualify on the Administrative Test. They carry out the mission of the agency and perform mainly non-exempt work such as reviewing contracts and other documents for compliance with requirements; technical assistance and training; monitoring and auditing projects, programs or grants for consistency with objectives and guidelines.

Several jobs qualify as Exempt Administrative:

DHS Organizational Development Consultant.

Department of Administration/Risk Management claims resolution position.

DOER Pay Equity Coordinator - "One-man department" under 541.201 (a) (2); program not directly related to agency mission.

Assistants to the Commissioner of IRRRB and the Administrator of the Minneapolis Veterans Home - "Executive and administrative assistants" under 541.201 (a) (1).

A few jobs qualified as Exempt Professionals including DOT Intelligent Transportation Systems Engineer (BS in Engineering), DNR Fish and Wildlife Division (MS in Fisheries), and Health Professionals Services Program (Master's in Counseling or Social Work).

Survey Crew Supervisor

Jobs which do not have at least two subordinates and/or where supervision is an incidental part of the job and not the primary duty do not meet the Executive Test and are Non-exempt. Positions with at least two FTE and a primary duty of supervision/management qualify under the Executive Test.

Tourism Travel Information Center Supervisor

DTED requested a Mixed class to accommodate one position at the Anchor Lake TIC which is Non-exempt. All other positions are exempt under the Executive Test.

Transportation Program Specialist 4

Positions are primarily Non-exempt (e.g., Agreement Administrator). However, employees who function as the District Safety Administrator and advise management on safety policy qualify as Exempt Administrative.

ADDITIONAL NOTE

Personnel Director 1 and 2

All positions in these classes are exempt, with most qualifying under the Executive Test. The few jobs which failed under that test (fewer than two FTE and/or supervision/management was not primary) were determined to meet the Administrative Test.