

hours—seven consecutive 24-hour periods. It need not coincide with the calendar week but may begin on any day and at any hour of a day. For employees subject to part 610 of this chapter, the workweek shall be the same as the administrative workweek defined in § 610.102 of this chapter.

(c) In this subpart, “irregular or occasional overtime work” is overtime work that is not scheduled in advance of the employee’s workweek.

(d) The maximum earnings limitations described in §§ 550.105, 550.106, and 550.107 of this chapter do not apply to overtime pay due the employee under this subpart.

[45 FR 85665, Dec 30, 1980, as amended at 56 FR 11060, Mar. 15, 1991; 56 FR 20343, May 3, 1991; 57 FR 59279, Dec. 15, 1992]

OVERTIME PAY COMPUTATIONS

§ 551.511 Hourly regular rate of pay.

(a) An employee’s “hourly regular rate” is computed by dividing the total remuneration paid to an employee in the workweek by the total number of hours of work in the workweek for which such compensation was paid.

(b) “Total remuneration” includes all remuneration for employment paid to, or on behalf of, an employee except:

(1) Payments as rewards for service the amount of which is not measured by or dependent on hours of work, production, or efficiency (e.g., a cash award for a suggestion made by an employee and adopted by an agency);

(2) Reimbursements for travel expenses, or other similar expenses, incurred by an employee in furtherance of an agency’s interest, which are not related to hours of work;

(3) Payments made in recognition of services performed during a given period, if both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the agency (e.g., incentive awards for outstandingly high-quality work);

(4) Contributions by an agency to a fund for retirement, insurance, or similar benefits;

(5) Extra compensation provided by a premium rate paid for hours of work performed by an employee in excess of eight in a day, or in excess of the nor-

mal workweek applicable to the employee;

(6) Extra compensation provided by a premium rate paid for hours of work performed by an employee on a Sunday or a holiday where such premium rate is at least one and one-half times the employee’s rate of pay for work performed in nonovertime hours on other days; or

(7) Extra compensation provided by a premium rate paid for hours of work performed by an employee outside his or her regular working hours, where such premium rate is at least one and one-half times the employee’s rate of pay for work performed in nonovertime hours.

[45 FR 85665, Dec. 30, 1980, as amended at 52 FR 47688, Dec. 16, 1987, and 53 FR 27147, July 19, 1988; 56 20343, May 3, 1991]

§ 551.512 Overtime pay entitlement.

(a) An employee’s overtime entitlement under this subpart includes:

(1) The straight time rate of pay times all overtime hours worked; plus

(2) One-half times the employee’s hourly regular rate of pay times all overtime hours worked.

(b) An employee’s “straight time rate of pay” is equal to the employee’s rate of pay for his or her position (exclusive of any premiums or differentials) except for an employee who is authorized annual premium pay under § 550.141 or § 550.151 of this chapter. For an employee who is authorized annual premium pay, straight time rate of pay is equal to basic pay plus annual premium pay divided by the hours for which the basic pay plus annual premium pay are intended.

(c) An employee has been paid in compliance with the overtime pay provisions of this subpart only if the employee has received pay at a rate at least equal to the employee’s straight time rate of pay for all nonovertime hours of work in the workweek.

§ 551.513 Entitlement to other forms of pay.

Overtime pay under this subpart shall be paid in addition to all pay, other than overtime pay, to which the employee is entitled under title 5,

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United States Code, or any other authority. An employee entitled to overtime pay under this subpart and overtime pay under any authority outside of title 5, United States Code, shall be paid under whichever authority provides the greater overtime pay entitlement in the workweek.

[57 FR 59280, Dec. 15, 1992]

FRACTIONAL HOURS OF WORK

§ 551.521 Fractional hours of work.

(a) An employee shall be compensated for every minute of regular overtime work.

(b) A quarter of an hour shall be the largest fraction of an hour used for crediting irregular or occasional overtime work under this subpart. When irregular or occasional overtime work is performed in other than the full fraction, odd minutes shall be rounded up or rounded down to the nearest full fraction of an hour used to credit overtime work.

[48 FR 36806, Aug. 15, 1983]

COMPENSATORY TIME OFF

§ 551.531 Compensatory time off.

(a) At the request of an employee, as defined in 5 U.S.C. 5541(2), the head of an agency may grant compensatory time off from an employee's tour of duty instead of payment under § 551.501 of this part for an equal amount of irregular or occasional overtime work.

(b) At the request of an employee, as defined in 5 U.S.C. 2105, the head of an agency may grant compensatory time off from an employee's basic work requirement under a flexible work schedule under 5 U.S.C. 6122 instead of payment under § 551.501 of this part for an equal amount of overtime work, whether or not irregular or occasional in nature.

(c) An agency may not require that an employee be compensated for overtime work under this subpart with an equivalent amount of compensatory time off from the employee's tour of duty.

(d) The head of an agency may fix time limits for an employee to request and take compensatory time off under this section. If compensatory time off is not requested or taken within the es-

tablished time limits, the employee must be paid for overtime work at the overtime rate in effect for the work period in which it was earned under this subpart.

[56 FR 20343, May 3, 1991]

SPECIAL OVERTIME PAY PROVISIONS

§ 551.541 Employees engaged in fire protection activities or law enforcement activities.

(a) An employee engaged in fire protection activities or law enforcement activities shall be paid at a rate equal to one and one-half times the employee's hourly regular rate of pay for those hours in a tour of duty which exceed the overtime standard for a work period specified in section 7(k) of the Act or which are in excess of 40 hours in a workweek for such an employee who does not receive compensation for those hours of work under 5 U.S.C. 5545 (c)(1) or (c)(2).

(b) The "tour of duty" of an employee engaged in these activities shall include all time the employee is on duty. Meal periods and sleep periods are included in the tour of duty except as otherwise provided in §§ 551.411(c) and 551.432(b) of this part.

(c) Each agency shall establish the "work period" to be used for application of section 7(k) of the Act. The work period shall be at least seven days and not more than 28 days.

[45 FR 85665, Dec. 30, 1980, as amended at 57 FR 59280, Dec. 15, 1992]

PART 553—REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

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553.202 Request for delegation of authority to approve reemployment without reduction in emergencies.

553.203 Status of individuals serving without reduction.

AUTHORITY: 5 U.S.C. 5532, 8344, and 8468.

SOURCE: 56 FR 6206, Feb. 14, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 553.101 Applicability.

This part applies to employment of both civilian annuitants who would be subject to termination of annuity or annuity offset under 5 U.S.C. 8344 or 5 U.S.C. 8468 and former members of the uniformed services who would be subject to reduction in retired or retainer pay under 5 U.S.C. 5532. Agencies may request exceptions as provided in subpart B from the reemployed annuitant provisions of 5 U.S.C. 8344 (for Civil Service Retirement System annuitants) or 8468 (for Federal Employees Retirement System annuitants), as appropriate, and/or from either or both of the reductions in retired pay required by 5 U.S.C. 5532.

[57 FR 12406, Apr. 10, 1992]

§ 553.102 Definitions.

(a) *Agency*, as used in this part, means an executive agency as defined in 5 U.S.C. 105.

(b) *Annuitant*, as used in this part, refers to a current or former civilian employee who is receiving, or meets the legal requirements and is applying or has announced intention to apply for, an annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on his or her service.

(c) *Retiree*, as used in this part refers to either an annuitant as defined in paragraph (b) of this section or a former member of a uniformed service who is receiving retired or retainer pay.

§ 553.103 General policy.

(a) *Agency discretion and responsibility*. The decision to request an exception, or to grant an exception under delegated authority, for any individual under any of the provisions of this part will be at the discretion of the employ-

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ing agency. A determination made in connection with one position does not require a like determination in connection with any other position. In deciding whether to request an exception or grant an exception under delegated authority, each agency is expected to weigh fiscal responsibility and employee equity and should consider such factors as availability of funds as well as the criteria set out in this part.

(b) *Application of exceptions*. An exception to the reduction in retired pay provisions of 5 U.S.C. 5532 or to the salary offset provisions of 5 U.S.C. 8344 or 8468 authorized by OPM or an agency under this part applies only to the particular individual for whom it was authorized and only while that individual continues to serve in the same or a successor position. The exception terminates upon the individual's assignment to a different position unless a new exception is authorized under the provisions of this part.

Subpart B—Special Provisions for Reemployment Without Penalty to Meet Exceptional Recruiting or Retention Needs

§ 553.201 Requesting OPM approval for reemployment without reduction in individual cases.

(a) *Request by agency head*. The head of an agency may request OPM to approve individual exceptions on a case-by-case basis to meet temporary emergency hiring needs or when the agency has encountered exceptional difficulty in recruiting or retaining a qualified candidate for a particular position. Authority to submit such a request may not be redelegated to an official below the agency's headquarters level (or, in the case of the Department of Defense, to an official below the headquarters level of the military department or Defense agency).

(b) *Requirements for all requests*. (1) Each request must identify the individual for whom the exception is requested, the appointing authority to be used, and the position to which he or she will be appointed.

(2) The request must be submitted in accordance with the criteria set out in paragraph (c), paragraph (d), or paragraph (e) of this section.

(3) Unless the request is submitted in accordance with paragraph (e) of this section, the individual must be off the agency's rolls before submission.

(4) Unless the request is submitted in accordance with paragraph (c) of this section, or involves employment that is excluded from retirement coverage, a request for continuation of an annuity that would otherwise be terminated under 5 U.S.C. 8344 or 8468 must show that continuation of the annuity would be within the spirit of the applicable law.

(c) *Requests based on an emergency hiring need.* An agency may request reemployment without penalty for an individual whose services are needed on a temporary basis to respond to an emergency involving a direct threat to life or property or other unusual circumstances. Requests submitted on this basis must meet the following criteria:

(1) *Nature of emergency.* Describe the military threat, natural disaster, or other unforeseen occurrence, the date it occurred, and the expected duration of the emergency response effort.

(2) *Need for the individual's services.* The agency must show either that the individual is uniquely qualified for the emergency response work to be done or that the number of positions to be filled and/or urgency of response justifies making the particular appointment without further delay. OPM will not approve reemployment without penalty under 5 U.S.C. 5532, 8344, or 8468 solely to meet normal seasonal workload fluctuations.

(d) *Requests based on severe recruiting difficulty.* Generally, requests for exception will be based on exceptional difficulty in recruiting a qualified candidate for a particular position. Requests submitted on this basis must include a description of the length, breadth, and results of the agency's recruiting efforts for the position and any other factors demonstrating that a legitimate recruiting need cannot be met without the requested waiver. These factors may include, but are not limited to, unusual qualification requirements or working conditions, possibility of job reengineering or contracting, or a need to fill the position without further delay.

(e) *Exceptions based on need to retain a particular individual.* In very rare cases, an exception may be appropriate when an agency needs to retain the services of a particular individual who is uniquely qualified for an ongoing project. Requests submitted on this basis must meet the following criteria:

(1) *Critical nature of project.* The agency must describe the importance of the project to the agency's mission, the potential costs of project failure or delay, legislative or Presidential deadlines, if any, and any other factors demonstrating that the project is unusually critical. Exceptions will not be approved under this paragraph merely to avoid delay in scheduled completion of ongoing work.

(2) *Candidate's unique qualifications.* The agency must describe the knowledges, skills, and abilities possessed by the individual that are essential for successful completion of the project and that could not be acquired by another appointee within a reasonable time.

(3) *Need for retention.* The agency must show good cause to believe that the employee will retire (or, in the case of an individual currently reemployed without an exception, will resign from that position) and that the agency will lose his or her services if the exception is not granted.

(4) *Other staffing options.* While an agency in this situation is not required to conduct outside recruiting, the request for exception must address why the work could not be assigned to other employees involved with the same project.

(f) *Length of exceptions.* OPM may specify a time limit for reemployment without penalty of any individual approved under this subpart. If the agency wishes to continue the exception for an individual beyond the specified time, the request for renewal must demonstrate that the conditions justifying the initial exception still exist.

[56 FR 6206, Feb. 14, 1991, as amended at 57 FR 12406, Apr. 10, 1992]