

(ii) Not reporting a personnel or material casualty required to be reported under 46 CFR part 4; or

(iii) A material deficiency listed in § 8.515(b)(3).

#### § 8.560 Waiver.

(a) A Coast Guard District Commander may waive any requirement of this subpart—

(1) If good cause exists for granting a waiver; and

(2) If the safety of the vessel and those on board will not be adversely affected.

(b) Requests for waiver of any requirement of this subpart must be submitted in writing to the cognizant OCMI for review before forwarding to the Coast Guard District Commander for action.

(c) A copy of each waiver granted under this section shall be maintained at all times in the VAP.

#### § 8.565 Appeal.

A company may appeal any decision or action taken under this subpart in accordance with 46 CFR part 1, subpart 1.03 of this chapter.

#### § 8.570 Interim approval of prototype SIP company or vessel plans.

(a) A company operating under an approved prototype SIP company or vessel plan must apply in writing by November 1, 1998, to the cognizant OCMI for approval to continue operating under the plans while revisions are developed to bring the prototype SIP company or vessel plan into conformance with this subpart. The OCMI may approve the request for a period of up to 3 years.

(b) A company that does not request approval as required by paragraph (a) of this section or does not obtain approval to continue operating under a prototype SIP company or vessel plan by February 1, 1999, may no longer operate under the plans and will be inspected in accordance with the requirements of 46 CFR part 2, subpart 2.01 of this chapter.

## PART 9—EXTRA COMPENSATION FOR OVERTIME SERVICES

Sec.

9.1 Extra compensation; Coast Guard civilian personnel.

9.2 Payment although no actual service performed.

9.3 Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945.

9.4 Waiting time; actual report for duties.

9.5 Night, Sunday, and holiday defined.

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9.14 Assessment and collection of fees.

9.15 Application form.

9.16 Billing for services.

9.17 Protests.

AUTHORITY: 46 U.S.C. 2103; Department of Homeland Security Delegation No. 0170.1.

SOURCE: CGD 74-119, 39 FR 33336, Sept. 17, 1974, unless otherwise noted.

#### § 9.1 Extra compensation; Coast Guard civilian personnel.

Civilians assigned to the duties formerly assigned to local inspectors and their assistants, prior to Reorganization Plan No. 3 of 1946 (3 CFR, 1946 Supp.), and customs officers and employees, while performing duties in connection with the inspection of vessels or their equipment, supplying or signing on or discharging crews of vessels, at night or on Sundays and holidays, shall receive extra compensation to be paid by the master, owner, or agent of the vessel to the local United States collector of customs or his representative. (See § 9.16.)

[CGD 74-119, 39 FR 33336, Sept. 17, 1974, as amended by USCG-2000-7790, 65 FR 58458, Sept. 29, 2000]

#### § 9.2 Payment although no actual service performed.

The rates of extra compensation are payable in cases where the services of officers or employees have been duly requested and the officers or employees have reported for duty, even though no actual service may be performed.

### §9.3

#### **§9.3 Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945.**

Overtime, Sunday, and holiday services which are covered by payments under this part shall not also form a basis for overtime or extra pay under the Federal Employees Pay Act of 1945.

#### **§9.4 Waiting time; actual report for duties.**

Extra compensation for *waiting time* will not be allowed unless and until an officer or employee actually reports for duty.

#### **§9.5 Night, Sunday, and holiday defined.**

(a) For the purpose of this part the word *night* shall mean the time between 5 p.m. of any day and 8 a.m. of the following day.

(b) The term *holiday* shall mean only national legal public holidays, viz., January 1, February 22, May 30, July 4, the 1st Monday in September, November 11, the 4th Thursday in November, December 25, and such other days as may be declared legal public holidays by an act of Congress or by an Executive order of the President of the United States.

(c) The term *Sunday* shall include the first day of each calendar week.

#### **§9.6 Rate for night service.**

The rate of extra compensation for authorized overtime services performed at night on any week day is hereby fixed at one half the gross daily rate of regular pay of the employee who performs the services for each 2 hours of compensable time, any fraction of 2 hours amounting to at least one hour to be counted as 2 hours. In computing the amount earned, each 2 hours is the time period for the purpose of computation, at least one hour means the minimum service in each period for which extra pay may be granted. If service continues beyond a 2 hour period, it must extend for at least one hour into the following 2 hour period to be entitled to extra pay for the second period. When the overtime extends beyond 5 p.m., payment of extra compensation from 5 p.m. for services consisting of at least one hour is authorized, even though such services may

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not actually begin until 7 p.m., 9 p.m., or later: *Provided*, That the officer rendering the service remained on duty from 5 p.m., in which case the time between 5 p.m., and the time of beginning the actual service shall be computed as waiting time; and where the actual services begin as late as 9 p.m., there should be an affirmative statement that the officer was required to remain on duty between 5 p.m. and 9 p.m., if a charge for waiting time is made. The maximum amount of extra compensation which may be paid an employee for services during one night shall not exceed two and one-half times the gross daily rate of his regular pay.

#### **§9.7 Rate for Sunday or holiday services.**

The rate of extra compensation for Sunday or holiday services is hereby fixed at twice the gross daily rate of regular pay of the employee who performs the service, for any and all services totaling an aggregate of not more than nine hours, with one hour for food and rest, during the 24 hours from midnight to midnight of the Sunday or holiday including actual waiting time and time required for travel between posts of duty but not including other time not spent at the post of duty. This rate shall apply regardless of the length of time served within the aggregate of the aforesaid 9 hours, whether it is served continuously or in broken periods, and whether it is served for one or more applicants. Services in excess of an aggregate of the aforesaid 9 hours performed during the 24 hours of a Sunday or holiday shall be compensated on the same basis as overtime services performed at night on a weekday, the time between the completion of the aggregate of the aforesaid 9 hours and midnight being considered as the hours of a night. The maximum amount which may be paid an employee for services performed during the 24 hours of a Sunday or holiday shall not exceed four and one-half times the gross daily rate of his regular pay.

## Coast Guard, DHS

## §9.17

### §9.8 Broken periods.

In computing extra compensation where the services rendered are in broken periods and less than 2 hours intervene between such broken periods the time served should be combined with the waiting time and computed as continuous service.

### §9.9 Two hours between broken periods.

Where 2 hours or more intervene between broken periods, one-half day's extra pay will be allowed for each distinct 2-hour period or part of a 2-hour period, if waiting time and actual service rendered within each period consists of at least 1 hour.

### §9.10 Waiting time.

The same construction should be given the act when charging for waiting time as governs the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least one hour.

### §9.11 Proration of charges.

If services are performed for two or more applicants during one continuous tour of overtime duty, the charge for the extra compensation earned shall be prorated equitably according to the time attributable to the services performed for each applicant.

### §9.12 Travel status overtime.

When employees are in travel status, overtime shall apply the same as at official station.

### §9.13 Congressional appropriations necessary.

Payment of extra compensation for overtime services shall be subject to appropriations being made therefor by Congress.

### §9.14 Assessment and collection of fees.

Assessment and collection of fees against steamship companies for overtime services shall be made even though the payment to employees for such services may not be made until funds are appropriated for that purpose.

### §9.15 Application form.

An application on a form prescribed by the Commandant of the Coast Guard, shall be filed with the office being requested to furnish overtime services before such assignment can be made.

### §9.16 Billing for services.

Overtime services shall be billed to the steamship companies on collection voucher provided for that purpose. Remittance shall be made by postal money order or certified check payable to the *Collector of Customs, Treasury Department* and forwarded to that officer at the port indicated on the voucher, who shall in turn deposit such remittance to a properly designated receipt account.

### §9.17 Protests.

Protests against the exaction of extra compensation shall be forwarded to the Commandant of the Coast Guard.



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EDITORIAL NOTE: This listing is provided for informational purposes only. It is compiled and kept current by the U.S. Coast Guard, Department of Homeland Security. This index is updated as of October 1, 2009.

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