

## § 550.111

## 5 CFR Ch. I (1–10 Edition)

would exceed the annual limitation under § 550.106.

[67 FR 19321, Apr. 19, 2002, as amended at 69 FR 55943, Sept. 17, 2004]

### OVERTIME PAY

#### § 550.111 Authorization of overtime pay.

(a) Except as provided in paragraphs (d), (f), and (g) of this section, overtime work means work in excess of 8 hours in a day or in excess of 40 hours in an administrative workweek that is—

(1) Officially ordered or approved; and

(2) Performed by an employee. Hours of work in excess of 8 in a day are not included in computing hours of work in excess of 40 hours in an administrative workweek.

(b) Except as otherwise provided in this subpart, a department shall pay for overtime work at the rates provided in § 550.113.

(c) Overtime work in excess of any included in a regularly scheduled administrative workweek may be ordered or approved only in writing by an officer or employee to whom this authority has been specifically delegated.

(d) For an employee for whom the first 40 hours of duty in an administrative workweek is his basic workweek under § 610.111(b) of this chapter, overtime work means work in excess of 40 hours in an administrative workweek that is:

(1) Officially ordered or approved, and

(2) Performed by an employee, when the employee's basic pay exceeds the minimum rate for GS-10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) or when the employee is engaged in professional or technical, engineering or scientific activities. For purposes of this section and section 5542(a) of title 5, United States Code, an employee is engaged in professional or technical engineering

or scientific activities when he or she is assigned to perform the duties of a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or engineering or architecture.

(e) Notwithstanding paragraphs (a) and (d) of this section, when an employee's basic workweek includes a daily tour of duty of more than 8 hours and his hourly rate of basic pay exceeds the hourly rate of overtime pay provided by § 550.113, the department shall pay him at his basic rate of pay for each hour of his daily tour of duty within his basic workweek.

(f)(1) Except as provided in paragraph (f)(2) of this section, for any criminal investigator receiving availability pay under § 550.181, overtime work means actual work that is scheduled in advance of the administrative workweek—

(i) In excess of 10 hours on a day containing hours that are part of such investigator's basic 40-hour workweek; or

(ii) On a day not containing hours that are part of such investigator's basic 40-hour workweek.

(2) Notwithstanding paragraph (f)(1) of this section, all overtime work scheduled in advance of the administrative workweek on a day containing part of a criminal investigator's basic 40-hour workweek must be compensated under this section if both of the following conditions are met:

(i) The overtime work involves protective duties authorized by section 3056(a) of title 18, United States Code, or section 2709(a)(3) of title 22, United States Code; and

(ii) The investigator performs on that same day at least 2 consecutive hours of overtime work that are not scheduled in advance of the administrative workweek and are compensated by availability pay.

(3) Any work that would be overtime work under this section but for paragraphs (f)(1) and (f)(2) of this section will be compensated by availability pay under § 550.181.

(g) For firefighters compensated under subpart M of this part, overtime work means officially ordered or approved work in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime

pay computations, in excess of 53 hours in an administrative workweek.

(h) Availability hours, as described in § 550.182(c), are not hours of work for the purpose of determining overtime pay under this section.

(i) An employee is not entitled to overtime pay under this subpart for time spent in training, except as provided in § 410.402 of this chapter.

[33 FR 12458, Sept. 4, 1968, as amended at 34 FR 19495, Dec. 10, 1969; 48 FR 36805, Aug. 15, 1983; 56 FR 20341, May 3, 1991; 57 FR 2434, Jan. 22, 1992; 59 FR 66151, Dec. 23, 1994; 61 FR 3542, Feb. 1, 1996; 63 FR 64592, Nov. 23, 1998; 64 FR 4520, Jan. 29, 1999; 64 FR 69175, Dec. 10, 1999]

#### **§ 550.112 Computation of overtime work.**

The computation of the amount of overtime work of an employee is subject to the following conditions:

(a) *Time spent in principal activities.* Principal activities are the activities that an employee is employed to perform. They are the activities that an employee performs during his or her regularly scheduled administrative workweek (including regular overtime work) and activities performed by an employee during periods of irregular or occasional overtime work authorized under § 550.111. Overtime work in principal activities shall be credited as follows:

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

(2) 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.

(b) *Time spent in preshift or postshift activities.* A preshift activity is a preparatory activity that an employee performs prior to the commencement of his or her principal activities, and a postshift activity is a concluding activity that an employee performs after the completion of his or her principal activities. Such activities are not principal activities as defined in paragraph (a) of this section.

(1) (i) If the head of a department reasonably determines that a preshift or postshift activity is closely related to an employee's principal activities, and is indispensable to the performance of the principal activities, and that the total time spent in that activity is more than 10 minutes per daily tour of duty, he or she shall credit all of the time spent in that activity, including the 10 minutes, as hours of work.

(ii) If the time spent in a preshift or postshift activity is compensable as hours of work, the head of the department shall schedule the time period for the employee to perform that activity. An employee shall be credited with the actual time spent in that activity during the time period scheduled by the head of the department. In no case shall the time credited for the performance of an activity exceed the time scheduled by the head of the department. If the time period scheduled by the head of the department for the performance of a preshift or postshift activity is outside the employee's daily tour of duty, the employee shall be credited with the time spent performing that activity in accordance with paragraph (a)(2) of this section.

(2) A preshift or postshift activity that is not closely related to the performance of the principal activities is considered a preliminary or postliminary activity. Time spent in preliminary or postliminary activities is excluded from hours of work and is not compensable, even if it occurs between periods of activity that are compensable as hours of work.

(c) *Leave with pay.* An employee's absence from duty on authorized leave with pay under subchapter I of chapter 61 of title 5, United States Code, during the time when he would otherwise have been required to be on duty during a basic workweek (including authorized absence on a legal holiday, on a non-workday established by Executive or administrative order, and on compensatory time off as provided in § 550.114) is deemed employment and does not reduce the amount of overtime pay to which the employee is entitled during an administrative workweek. Leave of absence with pay under subchapter I of chapter 61 of title 5, United States