

ARTICLE 12610

HOURS OF DUTY AND HOLIDAYS

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SUBARTICLE 5. ROLE OF THE HUMAN RESOURCES OFFICE

The authority for this Article is contained in 5 United States Code (USC) Chapter 61 and 5 Code of Federal Regulations (CFR) Part 610.

SUBARTICLE 1. WEEKLY AND DAILY SCHEDULING

1-1. Delegation of Authority. Heads of activities are delegated authority to establish and change the hours of duty and designate the place(s) where work or duty will be performed.

1-2. Definitions

a. Administrative workweek means a period of seven consecutive calendar days designated in advance by the head of an agency under Section 6101 of 5 USC.

b. Regularly scheduled administrative workweek, for a full-time employee, means the period within an administrative workweek established in accordance with Subarticle 1-2 of this Article, within which the employee is regularly scheduled to work. For a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.

c. Basic workweek, for full-time employees, means the 40-hour workweek established in accordance with Subarticle 1-2 of this Article.

d. Agency means an Executive agency and a military department as defined by Sections 105 and 102 of Title 5 USC.

e. Head of agency means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

f. Regularly scheduled work means work that is scheduled in advance of a given administrative workweek.

g. Tour of duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that make up an employee's regularly scheduled administrative workweek.

1-3. Establishment of Workweeks

a. By regulation, the head of each activity must establish for each full-time employee:

(1) A basic workweek of 40 hours which does not extend over more than 6 of any 7 consecutive days. The days and hours within the administrative workweek that constitute the basic workweek must be specified.

(2) A regularly scheduled administrative workweek that consists of the 40-hour basic workweek, plus the period of regular overtime work, if any, required of each employee. For purposes of leave and overtime pay and administration, the periods included in the regularly scheduled administrative workweek that do not constitute a part of the basic workweek must be specified by days and hours of each day.

b. When it is impracticable to prescribe a regular schedule of definite hours of duty for each workday of a regularly scheduled administrative workweek, the head of the activity may establish the first 40 hours of duty performed within a period of not more than 6 days of the administrative workweek as the basic workweek. A first 40-hour tour of duty is the basic workweek without the requirement for specific days and hours within the administrative workweek. All work performed by an employee within the first 40 hours is considered regularly scheduled work for premium pay and hours of duty purposes. Any additional hours of officially ordered or approved work within the administrative workweek are overtime work.

c. Standby Duty

(1) Including standby time. The word "station" as used in this paragraph has the following meaning:

(a) The employee's regular duty station.

(b) Quarters provided by the Government expressly for the use of personnel who are required to standby in readiness to perform actual work as the need arises.

(c) The employee's living quarters, whether within or outside the activity, when authorized by local commands following such controls as may be imposed by the official in charge of the appropriate headquarters organization.

(2) Eating and sleeping time. Eight hours of 24 continuous hours on the job will be set aside for sleeping and eating. The sleeping and eating time of eight hours are not hours of employment unless actual work is performed.

(3) Actual work and standing by. Actual work is performed when attention is devoted to doing certain tasks even though the nature of the task does not require constant attention or constant activity. Standby duty is performed when there is waiting within a relatively confined area to perform actual work. For example, an employee on watch in a power plant is performing actual work. A firefighter on duty in the fire station, on the other hand, is standing by during the period when not engaged in performing actual work. A firefighter is performing actual work when standing roll call, inspecting and maintaining fire apparatus and fire suppression devices located throughout the activity, inspecting buildings and areas, giving and receiving training in fire prevention and fire suppression, being present at meetings and gatherings, being present at "hot work" and other types of operations where the danger of fire is present, preparing and maintaining reports and records, standing watches, being on the alert during drills and emergencies and at other times, suppressing fires and conducting related operations, being present with apparatus during light operations, housekeeping, preparing for and standing inspections, supervising the work of others, and performing various duties assigned by proper authority.

(4) Compensation for work which is not compensated under the annual premium pay provisions. When standby duty and actual work cover a period of 24 continuous hours, employees, other than those paid additional compensation on a percentage basis (annual

premium pay), will be paid for 16 of the 24 hours "two-thirds rule." When actual work is performed for more than 16 of the 24 hours, the employee will be paid for all hours of actual work and standby time performed during the period less the time allowed for sleeping and eating. When the period of standby time exceeds 24 hours, the "two-thirds rule" will be applied only to each full 24 hour period. The standby duty will be compensated at basic or overtime rates, as appropriate, the same as if the employee had performed actual work. For example, on a scheduled workday, 8 hours in 24 continuous hours on the job will be compensated at basic rates and 8 hours at overtime rates. (Also refer to 5 CFR 550.)

(5) Duty on ships underway. Unless his/her hours are changed, an employee continues under a regular tour of duty when assigned to duty aboard a ship underway. Compensation is at basic and overtime rates for the actual work performed. When in a position of readiness to perform actual work when the need arises, an employee may be assigned a tour of duty which includes time in a standby status (see Subarticle 1-3c(1)). The standby duty must be ordered in advance of the assignment of duty aboard a ship underway, or approved after it has been performed, by an appropriate individual, in order to be compensable. An employee performing such standby duty will be paid per Subarticle 1-3c(4). An employee assigned to duty aboard a ship underway is considered to be in a travel status whether (s)he is or is not in a standby status. The employee will be entitled to the appropriate per diem allowance prescribed in the Joint Travel Regulations, Volume 2.

1-4. Establishment of Work Schedules

a. Except when the head of an activity determines that the activity would be seriously handicapped in carrying out its functions or that costs would be substantially increased, (s)he shall provide that:

(1) Assignments to tours of duty are scheduled in advance of the administrative workweek over periods of not less than one week;

(2) The basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(3) The working hours in each day in the basic workweek are the same;

(4) The basic nonovertime workday may not exceed 8 hours;

(5) The occurrence of holidays may not affect the designation of the basic workweek; and

(6) Breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

b. The head of an activity shall schedule the work of his or her employees to accomplish the mission of the activity.

(1) The head of an activity shall schedule an employee's regularly scheduled administrative workweek so that it corresponds with the employee's actual work requirements.

(2) When the head of an activity knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in that administrative workweek will differ from those required in the current administrative workweek, (s)he shall reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours. The head of the activity shall inform the employee of the change, and (s)he shall record the change on the employee's time card or other agency document for recording work.

(3) If it is determined that the head of an activity should have scheduled a period of work as part of the employee's regularly scheduled administrative workweek and failed to do so in accordance with Subarticles 1-4b(1) and (2) of this Article, the employee shall be entitled to the payment of premium pay for that period of work as regularly scheduled work under 5CFR 550. In this regard, it must be determined that the head of the activity: (i) Had knowledge of the specific days and hours of the work requirement in advance of the administrative workweek, and (ii) had the opportunity to determine which employee had to be scheduled or rescheduled to meet the specific days and hours of that work requirement.

b. Variations in Work Schedules for Educational Purposes

(1) The head of an activity may authorize a special tour of duty of not less than 40 hours to permit an employee to take one or more courses in a college, university, or other educational institution when it is determined that:

(a) The courses being taken are not training under Chapter 41 of Title 5 USC;

(b) The rearrangement of the employee's tour of duty will not appreciably interfere with the accomplishment of the work required to be performed;

(c) Additional costs for personal services will not be incurred; and

(d) Completion of the courses will equip the employee for more effective work in the activity.

(2) The activity may not pay to the employee any premium pay solely because the special tour of duty authorized under this Subarticle causes the employee to work on a day, or at a time during the day, for which premium pay would otherwise be payable.

c. Variations in Work Schedules for Firefighters

(1) Twelve-hour workday. Each 24-hour tour of duty of firefighters on the two platoon system (i.e., 24 hours on duty, followed by 24 hours off duty) will be scheduled as two separate and distinct 12-hour workdays. For example, if the firefighter is on duty from 0800 Monday to 0800 Tuesday, the period from 0800 to 2000 Monday will be scheduled as the Monday workday and the period from 2000 Monday to 0800 Tuesday will be scheduled as the Tuesday workday.

(2) Averaging workweeks within pay periods. When it is impracticable or undesirable to schedule the same number of duty hours in each workweek for firefighters on regular standby duty, activities are authorized to schedule workweeks within the pay period that will average the same for each week. For example, four 24-hour tours may be scheduled in 1 week and two 24-hour tours the following week. In the above example, the first administrative workweek ends following completion of the third tour of duty, and the second administrative workweek starts the beginning of the fourth tour of duty, regardless of the week or the day of the week on which the fourth tour of duty starts. (Navy activities may also refer to CPI 550.S1-6.)

d. Grouping nonworkdays. In certain types of shift operations, where both the needs of the activity and the desires of the employees are served, nonworkdays may be grouped on a biweekly basis to provide longer than two-day rest periods. This is done by scheduling 1 weekly tour of duty to end on the last day of one administrative workweek and the next weekly tour of duty to begin the first day of the following administrative workweek.

e. Lunch period. Normally, during each 8 hour shift, employees will be allowed a specified period of time off to eat lunch. A lunch period is nonwork time for which neither basic nor overtime compensation is payable. When a lunch period is set aside, the length of the shift or workday will be extended by the length of the nonwork period. In some types of jobs it may not be administratively desirable to allow a specified period of time off for lunch. For example, it may be desirable to avoid overlapping shifts when night shifts are employed or the job may require the constant attention or availability of the employee without being relieved for lunch. In these cases, it is proper to schedule a shift without a lunch period. The employee may be permitted to eat lunch on the job when it is possible to do so without stopping or interrupting work. When no lunch is scheduled, the schedule shall so indicate. On the other hand, when it is necessary that there be an overlap between shifts, this should be accomplished by scheduling a nonwork lunch period equivalent to the overlap.

1-5. Travel on Official Time

a. Policy. To the maximum extent practicable, the head of an activity shall schedule the time to be spent by an employee in a travel status away from his/her official duty station within the regularly scheduled workweek of the employee.

b. Regulation. Insofar as practicable, travel during nonduty hours shall not be required of an employee. When it is essential that this be required and the employee may not be paid overtime under 5 CFR 550.112(e), the official concerned shall record his/her reasons for ordering travel at those hours and shall, upon request, furnish a copy of his/her statement to the employee concerned.

c. Purpose. The purpose of this policy is to prevent the abuse of an employee's time by requiring him/her to travel without pay during nonduty time through proper scheduling and administrative planning. It is recognized that in some cases no amount of planning or scheduling will prevent an employee from being required to travel outside the regularly scheduled workweek, but when this is necessary, the employee will be paid in accordance with the provisions of Subpart A of Part 550 of 5 CFR.

SUBARTICLE 2. HOLIDAYS

2-1. Legal Public Holidays. The following days are treated as holidays for purposes of pay and leave of Federal employees:

New Year's Day, January 1
Martin Luther King Jr.'s Birthday, the third Monday in January
Washington's Birthday, the third Monday in February
Memorial Day, the last Monday in May
Independence Day, July 4
Labor Day, the first Monday in September
Columbus Day, the second Monday in October
Veterans Day, November 11
Thanksgiving Day, the fourth Thursday in November
Christmas Day, December 25
Any other day declared to be a holiday by Federal Statute or Executive Order

2-2. Determining Holidays

a. When a holiday falls on one of the employee's regularly scheduled workdays in the basic workweek, that workday is the employee's holiday. When a holiday falls on a day outside the employee's basic workweek, the day to be treated as a holiday will depend on what day the holiday falls and what days comprise the employee's basic workweek. This is explained as follows:

(1) Basic workweek Monday through Friday. When a holiday falls on Sunday, the employee's holiday is Monday. When a holiday falls on Saturday, the employee's holiday is Friday.

(2) Basic workweek other than Monday through Friday:

(a) When a holiday falls on the nonworkday that corresponds to Sunday (i.e., the second nonworkday in a 2 day workbreak), the next regular workday within the basic workweek that follows the holiday is the employee's holiday. Conversely, if the holiday falls on the first day of a 2 day break the preceding regular workday will be the employee's holiday.

(b) When an employee's basic workweek does not include Sunday and a holiday falls on Sunday, the employee's next regular workday within the basic workweek is always the employee's holiday.

(c) When an employee's basic workweek does not include both Sunday and Monday, if the holiday falls on Monday, the preceding Saturday is the employee's holiday. As indicated above, if the holiday falls on Sunday the next regular workday (Tuesday) within the basic workweek is always the employee's holiday.

2-3. Determining Holidays Under Alternative Work Schedules

a. When a holiday falls on a day that an employee is regularly scheduled to work under either a compressed or flexible work schedule, the scheduled workday is the employee's holiday.

(1) If the employee is covered by a compressed work schedule, the employee's holiday will comprise the number of hours the employee is regularly scheduled to work that day.

(2) If the employee is covered by a flexible work schedule, the employee's holiday will comprise 8 hours.

(3) An employee who is required to work on a regularly scheduled workday that is a holiday receives holiday premium pay for working on the holiday and is not entitled to an "lieu of holiday."

(a) If the employee is covered by a compressed work schedule, the employee is entitled to holiday premium pay for the number of hours (s)he is regularly scheduled to work that day.

(b) If the employee is covered by a flexible work schedule, the employee is entitled to holiday premium pay for eight hours.

b. When a holiday falls on a nonworkday for an employee covered by a compressed work schedule and:

(1) The holiday falls on Sunday, the first regularly scheduled workday following the Sunday holiday is the employee's "in lieu of holiday."

(2) The holiday is not a Sunday, the last regularly scheduled workday preceding the holiday is the employee's "in lieu of holiday."

SUBARTICLE 3. ADMINISTRATIVE DISMISSALS

3-1. Purpose. The purpose of this Subarticle is to provide uniform and equitable standards under which employees may be relieved from duty with pay by administrative order.

3-2. Policy. The authority in this Subarticle may be used only to the extent warranted by good administration for short periods of time not generally exceeding three consecutive work days in a single period of excused absence. This authority may not be used in situations of extensive duration or for periods of interrupted or suspended operations such as ordinarily would be covered by the scheduling of leave, furlough, or the assignment of other work. Insofar as practicable, each administrative order issued under this Subarticle shall provide benefits for regular employees paid at daily, hourly, or piecework rates similar to those provided for employees paid at annual rates.

3-3. Definitions

a. Administrative order means an order issued by an authorized official of an activity relieving regular employees from active duty without charge to leave or loss of pay.

b. Regular employees means employees paid at daily, hourly, or piecework rates who have a regular tour of duty, and whose appointments are not limited to 90 days or less or who have been currently employed for a continuous period of 90 days under one or more appointments without a break in service.

3-4. Coverage. This Subarticle applies to regular employees of the Federal Government paid at daily, hourly, or piecework rates. This Subarticle does not apply to experts and consultants.

3-5. Standards. An administrative order may be issued under this Subarticle when:

a. Normal operations of an establishment are interrupted by events beyond the control of management or employees.

b. For managerial reasons, the closing of an establishment or portions thereof is required for short periods.

c. It is in the public interest to relieve employees from work to participate in civil activities which the Government is interested in encouraging.

d. The circumstances are such that an administrative order under paragraphs (a), (b), or (c) of this section is not appropriate and the activity, under its regulations, excuses or is authorized to excuse without charge to leave or loss of pay, employees paid on an annual basis.

3-6. Supplemental regulations. Activities are authorized to issue supplemental regulations not inconsistent with this Subarticle.

SUBARTICLE 4. ALTERNATIVE WORK SCHEDULES

4-1. General. The use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

4-2. Definitions

a. "Agency" means any Executive agency, any military department, the Government Printing Office, and the Library of Congress.

b. "Employee" has the meaning given it by Section 2105 of Title 5 USC.

c. "Basic Work Requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

d. "Credit Hours" means any hours, within a flexible schedule established under Subarticle 4-2 of this Article, which are in excess of an employee's basic work requirement and which the employee elected to work so as to vary the length of a workweek or a workday.

e. "Compressed Schedule means:

(1) In the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays.

(2) In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays.

f. "Overtime Hours," when used with respect to flexible schedule programs, means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

g. "Overtime Hours," when used with respect to compressed schedule programs means any hours in excess of those specified hours which constitute the compressed schedule.

4-3. Flexible Schedules

a. Authority

(1) Activities may establish, in accordance with this Subarticle, programs which allow the use of flexible schedules which include:

(a) Designated hours and days during which an employee on such a schedule must be present for work.

(b) Designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in Subarticle 4-3a(1)(b) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

(2) Notwithstanding any other provision of this Subarticle, but subject to the terms of a collective bargaining agreement, if the activity head determines that any organization within the activity which is participating in a flexible schedule is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such activity head may:

(a) Restrict the employee's choice of arrival and departure time.

(b) Restrict the use of credit hours.

(c) Exclude from such program any employee or group of employees.

b. Credit Hours Accumulation and Compensation

(1) Subject to any limitation prescribed by the Office of Personnel Management, the agency, or the activity, a full-time employee on a flexible schedule can accumulate not more than 24 credit hours, and a part-time employee can accumulate not more than one-fourth of the hours in such employee's biweekly basic work requirement, for carryover from a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

(2) Any employee who is on a flexible schedule program and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for:

(a) In the case of a full-time employee, not more than 24 credit hours accumulated by such employee.

(b) In the case of a part-time employee, the number of credit hours (not in excess of one-fourth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

4-4. Compressed Schedules

a. Authority. Activities may establish programs which use a 4-day workweek or other compressed schedule.

b. Participation

(1) A bargaining unit shall not be required to participate in any program under Subarticle 4-4a unless a majority of employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

(2) Upon written request from an employee to an appropriate activity official, if a determination is made that participation in a program under Subarticle 4-4a would impose a personal hardship on such employee, the activity official shall:

(a) Except such employee from such program.

(b) Reassign such employee to the first position within the activity:

1. Which becomes vacant after such determination,

2. Which is not included within such program,

3. For which such employee is qualified, and

4. Which is acceptable to the employee.

A determination by an appropriate activity official shall be made not later than 10 days after the day on which a written request for such determination is received by the activity.

4-5. Criteria and Review

a. Notwithstanding the preceding provisions of this Subarticle or any collective bargaining agreement and subject to Subarticle 4-6 of this Article, if the head of an activity finds that a particular flexible or compressed schedule under this Subarticle has had or would have an adverse activity impact, the activity shall promptly determine not to:

(1) Establish such schedule.

(2) Continue such schedule, if the schedule has already been established.

b. For purposes of this section, "adverse activity impact" means:

(1) A reduction of the productivity of the activity.

(2) A diminished level of services furnished to the public by the activity.

(3) An increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule).

4-6. Relationship to Negotiated Agreement. For activities which have unions with exclusive recognition, this Subarticle applies to covered unit employees, except in the case of conflict, then the negotiated agreement will take precedence.

If an activity and union reach an impasse in collective bargaining with respect to an activity determination under Subarticle 4-5a not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel (hereinafter referred to as the "Panel"). The Panel shall consider any case presented and shall take final action in favor of the activity's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse activity impact.

If an activity and union have entered into a collective bargaining agreement providing for use of a flexible or compressed schedule under this Subarticle and the head of the activity desires to terminate a flexible or compressed schedule, the activity may reopen the agreement to seek termination of the schedule involved. If the agency and exclusive representative reach an impasse in collective bargaining with respect to terminating such schedule, the impasse shall be presented to the Panel. The Panel shall promptly consider all cases presented and shall rule on such impasse not later than 60 days after the date the Panel is presented the impasse. The Panel shall take final action in favor of the activity's determination to terminate a schedule if the

finding on which the determination is based is supported by evidence that the schedule has caused an adverse activity impact. Any such schedule may not be terminated until:

a. The agreement covering such schedule is renegotiated or expires or terminates pursuant to the terms of that agreement; or

b. The date of the Panel's final decision, if an impasse arose in the reopening of the agreement.

SUBARTICLE 5. ROLE OF THE HUMAN RESOURCES OFFICE (HRO)

The servicing HRO Personnel Management Specialist will provide advice and guidance to activities regarding any matter contained in this Article.