

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 550

RIN 3206-AJ57

#### Administratively Uncontrollable Overtime Pay

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations concerning the rules governing payment of administratively uncontrollable overtime (AUO) pay. AUO is a form of premium pay paid to employees in positions in which the hours of duty cannot be controlled administratively and which require substantial amounts of irregular or occasional overtime work. This final rule permits agencies to pay AUO pay to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related to a national emergency declared by the President. In determining the average hours used in computing future AUO payments, this final rule also excludes from consideration the time period for which AUO pay is paid during a temporary assignment.

**DATES:** March 3, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kevin Kitchelt, (202) 606-2858; FAX: (202) 606-0824; e-mail: [payleave@opm.gov](mailto:payleave@opm.gov).

**SUPPLEMENTARY INFORMATION:** On February 13, 2002, the Office of Personnel Management issued interim regulations (67 FR 6640) to permit agencies to pay AUO pay to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related

to a national emergency. We proposed that an agency should be permitted to continue to pay AUO pay for a period of not more than 30 consecutive workdays for such a temporary assignment and for a total of not more than 90 workdays in a calendar year while on such a temporary assignment. The 90-day comment period ended on April 15, 2002. We received comments from two Federal agencies and an employee association.

One agency suggested that the phrase "declared by the President" be added to the regulation at 5 CFR 550.162(g), which states that an agency may continue to pay AUO pay during a temporary assignment that would not otherwise warrant AUO pay, if the temporary assignment is directly related to a national emergency. We agree and have added the phrase "declared by the President" to 5 CFR 550.162(g).

Another agency requested that we explain the relationship between the existing 60-workday annual limitation for temporary assignments in the last paragraph of 5 CFR 550.162(c) and the new 90-workday annual limitation for temporary assignments directly related to a national emergency in 5 CFR 550.162(g). The new 90-workday annual limitation is separate from the 60-workday limitation provided in 5 CFR 550.162(c). Therefore, 150 workdays is the theoretical maximum number of workdays in a calendar year during which an agency may continue to pay AUO pay for temporary assignments provided the conditions in both 5 CFR 550.162(c) and (g) are met.

The employee association provided several comments on issues that are outside the scope of the interim regulations. We are not addressing these issues in these regulations.

#### E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with E.O. 12866.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR part 550

Administrative practice and procedure, Claims, Government

employees, Wages. Office of Personnel Management.

**Kay Coles James,**  
*Director.*

Accordingly, OPM is adopting the interim regulations amending 5 CFR part 550, published at 67 FR 6640 on February 13, 2002, as final with the following changes:

## PART 550—PAY ADMINISTRATION (GENERAL)

### Subpart A—Premium Pay

1. The authority citation for part 550, subpart A, continues to read as follows:

**Authority:** 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5545a(h)(2)(B) and (i), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105-277, 112 Stat. 2681-101 and 2681-828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

2. In § 550.162, paragraph (g) is revised to read as follows:

#### § 550.162 Payment provisions.

\* \* \* \* \*

(g) Notwithstanding paragraph (c)(1) of this section, an agency may continue to pay premium pay under § 550.151 to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related to a national emergency declared by the President. An agency may continue to pay premium pay under § 550.151 for not more than 30 consecutive workdays for such a temporary assignment and for a total of not more than 90 workdays in a calendar year while on such a temporary assignment.

[FR Doc. 03-2192 Filed 1-29-03; 8:45 am]

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2641

RIN 3209-AA07

#### Post-Employment Conflict of Interest Restrictions; Revision of Departmental Component Designations

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule.

**SUMMARY:** The Office of Government Ethics is issuing this rule to designate