

## § 550.101

## 5 CFR Ch. I (1–1–01 Edition)

550.1307 Authority to regularize paychecks.  
550.1308 Transitional provisions.

SOURCE: 33 FR 12458, Sept. 4, 1968, unless otherwise noted.

### Subpart A—Premium Pay

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.

#### GENERAL PROVISIONS

#### § 550.101 Coverage and exemptions.

(a) *Employees to whom this subpart applies.* (1) This subpart applies to each employee in or under an Executive agency, as defined in 5 U.S.C. 105, except those named in paragraphs (b) and (c) of this section.

(2) The sections in this subpart incorporating special provisions for certain types of work (§§ 550.141 through 550.164, inclusive) apply also to each employee of the judicial branch or the legislative branch who is subject to subchapter V of chapter 55 of title 5, United States Code.

(b) *Employees to whom this subpart does not apply.* This subpart does not apply to:

- (1) An elected official;
- (2) The head of a department;
- (3) [Reserved]

(4) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of title 5, United States Code, or by a wage board or similar administrative authority serving the same purpose, except that § 550.113(d) is applicable to such an employee whose rate of basic pay is fixed on an annual or monthly basis;

(5) An employee outside the continental United States or in Alaska who is paid in accordance with local prevailing wage rates for the area in which employed;

(6) An employee of the Tennessee Valley Authority;

(7) An employee of the Central Intelligence Agency (sec. 10, 63 Stat. 212, as amended; 50 U.S.C. 403j);

(8) A seaman to whom section 1(a) of the act of March 24, 1943 (57 Stat. 45; 50 U.S.C. App. 1291(a)) applies;

(9) A member of the United States Park Police or the United States Secret Service Uniformed Division, except for the purpose of night pay under §§ 550.121 and 550.122, pay for holiday work under §§ 550.131 and 550.132, and pay for Sunday work under §§ 550.171 and 550.172 of this subpart;

(10) An officer or member of the crew of a vessel, whose pay is fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry (30 Comp. Gen. 158);

(11) A civilian keeper of a lighthouse, or a civilian employed on a lightship or another vessel of the Coast Guard (14 U.S.C. 432(f));

(12) A physician, dentist, nurse, or any other employee in the Department of Medicine and Surgery, Veterans Administration, whose pay is fixed under chapter 73 of title 38, United States Code;

(13) A student-employee as defined by section 5351 of title 5, United States Code;

(14) An employee of the Environmental Science Services Administration engaged in the conduct of meteorological investigations in the Arctic region (62 Stat. 286; 15 U.S.C. 327);

(15) An employee of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives;

(16) A “teacher” or an individual holding a “teaching position” as defined by section 901 of title 20, United States Code;

(17) A Foreign Service officer or a member of the Senior Foreign Service; or

(18) A member of the Senior Executive Service.

(c) *Employees to whom §§ 550.111, 550.113, and 550.114 of this subpart do not apply.* Except for the purpose of determining hours of work in excess of 8 hours in a day, §§ 550.111, 550.113, and 550.114 of this subpart do not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938 and part 551 of this chapter.

(d) *Services to which this subpart does not apply.* This subpart does not apply to overtime, night, Sunday, or holiday

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services for which additional pay is provided by the act of:

(1) February 13, 1911, as amended (36 Stat. 899, as amended; 19 U.S.C. 261, 267), involving customs inspectors and canine enforcement officers;

(2) July 24, 1919 (41 Stat. 241; 7 U.S.C. 394), involving employees engaged in enforcement of the Meat Inspection Act;

(3) March 2, 1931 (46 Stat. 1467; 8 U.S.C. 1353a), involving inspectors and employees, Immigration and Naturalization Service;

(4) May 27, 1936, as amended (49 Stat. 1380, as amended; 46 U.S.C. 382b), involving local inspectors of steam vessels and assistants, U.S. shipping commissioners, deputies, and assistants, and customs officers and employees;

(5) March 23, 1941 (55 Stat. 46; 47 U.S.C. 154(f)(3)), involving certain engineers of the Federal Communications OPM;

(6) August 4, 1949 (63 Stat. 495; 7 U.S.C. 349a), involving employees of the Bureau of Animal Industry who work at establishments which prepare virus, serum, toxin, and analogous products for use in the treatment of domestic animals; or

(7) August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), involving employees of the Department of Agriculture performing inspection or quarantine services relating to imports into and exports from the United States.

[33 FR 12458, Sept. 4, 1968, as amended at 48 FR 3933, Jan. 28, 1983; 56 FR 20341, May 3, 1991; 57 FR 2432, Jan. 22, 1992; 64 FR 69174, Dec. 10, 1999]

### § 550.102 Entitlement.

A department (and for the purpose of §§ 550.141 through 550.164, inclusive, a legislative or judicial branch agency) must determine an employee's entitlement to premium pay consistent with subchapter V of chapter 55 of title 5, United States Code.

[64 FR 69174, Dec. 10, 1999]

### § 550.103 Definitions.

In this subpart:

*Administrative workweek* means any period of 7 consecutive days (as defined in this section) designated in advance by the head of the agency under section 6101 of title 5, United States Code.

*Agency* means—

(1) A *department* as defined in this section; and

(2) A legislative or judicial branch agency which has positions that are subject to subchapter V of chapter 55 of title 5, United States Code.

*Basic workweek*, for full-time employees, means the 40-hour workweek established in accordance with § 610.111 of this chapter.

*Criminal investigator* means a law enforcement officer as defined in 5 U.S.C. 5541(3) and this section—

(1) Whose position is properly classified under the GS-1811 or GS-1812 series in the General Schedule classification system based on OPM classification standards (or would be so classified if covered under that system);

(2) Who is a pilot employed by the United States Customs Service;

(3) Who is a special agent in the Diplomatic Security Service in a position which has been properly determined by the Department of State to have a Foreign Service primary skill code of 2501;

(4) Who is a special agent in the Diplomatic Security Service who has been placed by the Department of State in a non-covered position on a long-term training assignment that will be career-enhancing for a current or future assignment as a Diplomatic Security Service special agent, provided the employee is expected to return to duties as a special agent in a Foreign Service position with a 2501 primary skill code or to a position properly classified in the GS-1811 series immediately following such training;

(5) Who occupies a position in the Department of State in which he or she performs duties and responsibilities of a special agent requiring Foreign Service primary skill code 2501, pending the opening of a position with primary skill code 2501 and placement in that position as a special agent; or

(6) Who is a special agent in the Diplomatic Security Service with a Foreign Service personal primary skill code of 2501 (or whose position immediately prior to the detail was properly classified in the GS-1811 series) and who meets all of the following three conditions:

(i) The individual is assigned outside the Department of State;