
Monday
August 25, 1997

5010-108-0000

Part III

**Office of Personnel
Management**

5 CFR Parts 178 and 551
Settling Claims Procedures and Fair
Labor Standards Act Pay Administration;
Proposed Rules

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 178

RIN 3206-H89

Procedures for Settling Claims

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing rules of procedure for the settlement of claims submitted to OPM for Federal civilian employees' compensation and leave, for proceeds of canceled checks for veterans' benefits payable to deceased beneficiaries, and for the settlement of deceased employees' compensation. Before June 30, 1996, these claims were settled by the United States General Accounting Office (GAO). However, on that date, pursuant to the Legislative Branch Appropriations Act of 1996, the authority to settle these claims transferred to the Director, Office of Management and Budget, who delegated this function to the Office of Personnel Management.

DATES: Comments must be submitted on or before October 24, 1997.

ADDRESSES: Comments may be mailed to the Claims Adjudication Unit, Office of the General Counsel, Room 7537, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Paul Britner, Senior Attorney, 202-606-2233.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Legislative Branch Appropriations Act of 1996, most of the claims settlement functions performed by the General Accounting Office (GAO) were transferred to the Director, Office of Management and Budget. See Sec. 211, Pub. L. 104-53, 109 Stat. 535. Subsequently, the Acting Director delegated these functions to various components within the Executive branch in a determination order dated June 28, 1996. In summary, this order delegated to the Office of Personnel Management the authority to settle claims against the United States involving Federal employees' compensation and leave, deceased employees' compensation, and proceeds of canceled checks for veterans' benefits payable to deceased beneficiaries. Subsequently, Congress codified these changes through additional legislation. See Pub. L. 104-316, 110 Stat. 3826. The procedures in this proposed rule are

substantially similar to the procedures formerly used by the GAO, which are found at 4 CFR parts 31, 32 and 33. Changes to these regulations are discussed below.

II. Analysis of the Regulations

Subpart A—Administrative Claims—Compensation and Leave, Deceased Employees' Accounts and Proceeds of Canceled Checks for Veterans' Benefits Payable to Deceased Beneficiaries

Section 178.101, Scope of Subpart

This section describes the types of claims that may be submitted for settlement to OPM, which are claims for federal civilian compensation and leave and proceeds of canceled checks for veterans' benefits payable to deceased beneficiaries. Claims subject to a negotiated grievance procedure are excluded from this part.

Section 178.102, Procedures for Submitting Claims

This section requires claimants to submit their claims directly to OPM, except that at an agency's discretion, the agency may forward the claim on behalf of a claimant. The information that must be included in a claim and an agency report, when requested by OPM, is described. This section also advises claimants where their claims should be sent, depending on the nature of the claim. As a general rule, claims arising from the Fair Labor Standards Act (FLSA) are to be sent to the designated OPM Oversight Division that has jurisdiction for the location of the claim. All other claims are to be sent to OPM in Washington, DC, to the address set forth in the regulations.

Sections 178.103–178.106

These sections do not make any substantive changes to the comparable GAO procedures.

Section 178.107, Finality of Claims Settlements

Under GAO's regulations, a dissatisfied claimant could appeal an adverse settlement to the Comptroller General and, if sustained, the claimant could request reconsideration of that decision. Unlike the settlement process at GAO, there will be no further review within OPM. At GAO, the initial claims settlement letter was prepared by an adjudicator and was reviewed by an attorney only if the claimant requested an appeal. At OPM, all settlement letters, except those involving FLSA claims, are reviewed by an attorney before they are issued. Therefore, non-FLSA claims settled by OPM will get substantially the same level of review as

claims settled by GAO. Claimants also are advised of their right to bring an action in an appropriate United States court.

Subpart B—Settlement of Accounts for Deceased Civilian Officers and Employees

Section 178.201, Scope of Subpart

This subpart applies to claims for money due to the accounts of deceased civilian officers and employees of the Federal Government and of the government of the District of Columbia, including wholly owned and mixed-ownership Government corporations.

Section 178.202, Definitions

Definitions used in subpart B are provided in this section.

Section 178.203, Designation of Beneficiary

This section combines §§ 33.4 and 33.5 of 4 CFR into one that describes an employee's right to designate a beneficiary for money due, an agency's responsibility for employee notification, and the specific form and procedures for doing so. The procedures have been shortened and streamlined but contain no substantive changes from the GAO procedures.

Section 178.204, Order of Payment Precedence

This section was taken from paragraph (d) of 4 CFR 33.6 and made into a separate section outlining the order of payment precedence.

Section 178.205, Procedures Upon Death of Employee

This section outlines procedures that should be followed upon the death of an employee by the employee's designated beneficiaries or survivors for the settlement of accounts of any money due to the decedent. This section combines 4 CFR 33.7 and 33.8 of the GAO procedures and reorganizes the information provided. The substance of the section remains the same as in the GAO sections.

Section 178.206, Return of Unnegotiated Government Checks

This section contains no substantive change to the GAO procedures.

Section 178.207, Claims Settlement Jurisdiction

This section has been streamlined to include only information about claims settlements. The information regarding order of payment precedence has been placed in a separate section. This section refers claimants to the procedures in subpart A and the

jurisdiction of the Claims Adjudication Unit, Office of General Counsel, Office of Personnel Management, for settlement of any claims arising under this subpart.

Section 178.208, Applicability of General Procedures

This section refers readers to subpart A of this part for application of general claims procedures. This function was previously covered under 4 CFR part 31.

Regulatory Flexibility Act

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

$$\begin{aligned}
 (130 \text{ respondents} \times 1 \text{ hour } \{ \text{average time to prepare claim} \}) &= 130.00 + \\
 (1 \text{ representative} \times .25 \{ \text{time for additional requirements} \}) &= .25 + \\
 (1 \text{ minor or incompetent} \times .25 \{ \text{additional requirements} \}) &= .25
 \end{aligned}$$

annual reporting burden

130.50

Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for OPM.

OMB considers comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have a practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its effect if OMB receives it within 30 days

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Paperwork Reduction Act of 1995

Section 178.102, 178.103 and 178.205(b) contain information collection requirements related to procedures for submitting claims. These regulations assist OPM in settling claims by requiring that information be gathered in an organized and efficient manner. Section 178.102 sets out the required contents of any claim submitted; § 178.103 is an additional requirement of proof if the claim is filed by a representative of the claimant; and

of publication. This does not affect the deadline for the public to comment to OPM on the proposed regulations.

List of Subjects in 5 CFR Part 178

Administrative practice and procedure, Claims, Compensation, Government employees.

U.S. Office of Personnel Management.

James B. King,
Director.

Accordingly, OPM is proposing to amend 5 CFR by adding part 178 as follows:

PART 178—PROCEDURES FOR SETTLING CLAIMS

Subpart A—Administrative Claims— Compensation and Leave, Deceased Employees' Accounts and Proceeds of Canceled Checks for Veterans' Benefits Payable to Deceased Beneficiaries

Sec.

- 178.101 Scope of subpart.
- 178.102 Procedures for submitting claims.
- 178.103 Claim filed by a claimant's representative.
- 178.104 Statutory limitations on claims.
- 178.105 Basis of claim settlements.
- 178.106 Form of claim settlements.
- 178.107 Finality of claims settlements.

Subpart B—Settlement of Accounts for Deceased Civilian Officers and Employees

Sec.

- 178.201 Scope of subpart.
- 178.202 Definitions.
- 178.203 Designation of beneficiary.
- 178.204 Order of payment precedence.
- 178.205 Procedures upon death of employee.

§ 178.205(b) lists the information necessary, should the claim involve a minor or incompetent.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), OPM has submitted a copy of these sections to the Office of Management and Budget (OMB) for review. Collection of Information: Procedures for Submitting Claims for Compensation and Leave, Deceased Employees' Accounts, and Proceeds of Canceled Checks for Veterans' Benefits Payable to Deceased Beneficiaries.

The total estimated annual reporting burden resulting from these collection of information requirements is 130.5 hours.

178.206 Return of unnegotiated Government checks.

178.207 Claims settlement jurisdiction.

178.208 Applicability of general procedures.

Subpart A—Administrative Claims— Compensation and Leave, Deceased Employees' Accounts and Proceeds of Canceled Checks for Veterans' Benefits Payable to Deceased Beneficiaries

Authority: 31 U.S.C. 3702; 5 U.S.C. 5583; 38 U.S.C. 5122; Pub. L. 104-53, sec. 211, Nov. 19, 1995; E.O. 12107.

§ 178.101 Scope of subpart.

(a) *Claims covered.* This subpart prescribes general procedures applicable to claims against the United States that may be settled by the Director of the Office of Personnel Management pursuant to 31 U.S.C. 3702, 5 U.S.C. 5583 and 38 U.S.C. 5122. In general, these claims involve Federal employees' compensation and leave and claims for proceeds of canceled checks for veterans' benefits payable to deceased beneficiaries.

(b) *Claims not covered.* This subpart does not apply to claims that are under the exclusive jurisdiction of administrative agencies pursuant to specific statutory authority or claims concerning matters that are subject to negotiated grievance procedures under collective bargaining agreements entered into pursuant to 5 U.S.C. 7121(a). Also, these procedures do not apply to claims under the Fair Labor Standards Act (FLSA). Procedures for FLSA claims are set out in part 551 of this chapter.

§ 178.102 Procedures for submitting claims.

(a) *Content of claims.* Except as provided in paragraph (b) of this section, a claim shall be submitted by the claimant in writing and must be signed by the claimant or by the claimant's representative. While no specific form is required, the request should describe the basis for the claim and state the amount sought. The claim should also include:

(1) The name, address, telephone number and facsimile machine number, if available, of the claimant;

(2) The name, address, telephone number and facsimile machine number, if available, of the agency employee who denied the claim;

(3) A copy of the denial of the claim; and,

(4) Any other information which the claimant believes OPM should consider.

(b) *Agency submissions of claims.* At the discretion of the agency, the agency may forward the claim to OPM on the claimant's behalf. The claimant is responsible for ensuring that OPM receives all the information requested in paragraph (a) of this section.

(c) *Administrative report.* At OPM's discretion, OPM may request the agency to provide an administrative report. This report should include:

(1) The agency's factual findings;

(2) The agency's conclusions of law with relevant citations;

(3) The agency's recommendation for disposition of the claim;

(4) A complete copy of any regulation, instruction, memorandum, or policy relied upon by the agency in making its determination;

(5) A statement that the claimant is or is not a member of a collective bargaining unit, and if so, a statement that the claim is or is not covered by a negotiated grievance procedure that specifically excludes the claim from coverage; and

(6) Any other information that the agency believes OPM should consider.

(d) *Canceled checks for veterans' benefits.* Claims for the proceeds of canceled checks for veterans' benefits payable to deceased beneficiaries must be accompanied by evidence that the claimant is the duly appointed representative of the decedent's estate and that the estate will not escheat.

(e) *Where to submit claims.* (1) All claims under this section should be sent to the Claims Adjudication Unit, Room 7535, Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415. Telephone inquiries regarding these claims may be made to (202) 606-2233.

(2) FLSA claims should be sent to the appropriate OPM Oversight Division as provided in part 551 of this chapter.

§ 178.103 Claim filed by a claimant's representative.

A claim filed by a claimant's representative must be supported by a duly executed power of attorney or other documentary evidence of the representative's right to act for the claimant.

§ 178.104 Statutory limitations on claims.

(a) *Statutory limitations relating to claims generally.* Except as provided in paragraphs (b) and (c) of this section or as otherwise provided by law, all claims against the United States Government are subject to the 6-year statute of limitations contained in 31 U.S.C. 3702(b). To satisfy the statutory

limitation, a claim must be received by the Office of Personnel Management, or by the department or agency out of whose activities the claim arose, within 6 years from the date the claim accrued. The claimant is responsible for proving that the claim was filed within the applicable statute of limitations.

(b) *Claims under the Fair Labor Standards Act (FLSA).* Claims arising under the FLSA, 29 U.S.C. 207, *et seq.*, must be received by the Office of Personnel Management, or by the department or agency out of whose activity the claim arose, within the time limitations specified in the FLSA.

(c) *Other statutory limitations.* Statutes of limitation other than that identified in paragraph (a) of this section may apply to certain claims. Claimants are responsible for informing themselves regarding other possible statutory limitations.

§ 178.105 Basis of claim settlements.

The burden is upon the claimant to establish the timeliness of the claim, the liability of the United States, and the claimant's right to payment. The settlement of claims is based upon the written record only, which will include the submissions by the claimant and the agency. OPM will accept the facts asserted by the agency, absent clear and convincing evidence to the contrary.

§ 178.106 Form of claim settlements.

OPM will send a settlement to the claimant advising whether the claim may be allowed in whole or in part. If OPM requested an agency report or if the agency forwarded the claim on behalf of the claimant, OPM also will send the agency a copy of the settlement.

§ 178.107 Finality of claim settlements.

(a) The OPM settlement is final; no further administrative review is available within OPM.

(b) Nothing in this subpart limits the right of a claimant to bring an action in an appropriate United States court.

Subpart B—Settlement of Accounts for Deceased Civilian Officers and Employees

Authority: 5 U.S.C. 5581, 5582, 5583

§ 178.201 Scope of subpart.

(a) *Accounts covered.* This subpart prescribes forms and procedures for the prompt settlement of accounts of deceased civilian officers and employees of the Federal Government and of the government of the District of Columbia (including wholly owned and mixed-ownership Government corporations), as stated in 5 U.S.C. 5581, 5582, 5583.

(b) *Accounts not covered.* This subpart does not apply to accounts of deceased officers and employees of the Federal land banks, Federal intermediate credit banks, or regional banks for cooperatives (see 5 U.S.C. 5581(1)). Also, these procedures do not apply to payment of unpaid balance of salary or other sums due deceased Senators or Members of the House of Representatives or their officers or employees (see 2 U.S.C. 36a, 38a).

§ 178.202 Definitions.

(a) The term *deceased employees* as used in this part includes former civilian officers and employees who die subsequent to separation from the employing agency.

(b) The term *money due* means the pay, salary, or allowances due on account of the services of the decedent for the Federal Government or the government of the District of Columbia. It includes, but is not limited to:

(1) All per diem instead of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses which are incurred in connection with the travel and for which reimbursement is due;

(2) All allowances upon change of official station;

(3) All quarters and cost-of-living allowances and overtime or premium pay;

(4) Amounts due for payment of cash awards for employees' suggestions;

(5) Amounts due as refund of salary deductions for United States Savings bonds;

(6) Payment for all accumulated and current accrued annual or vacation leave equal to the pay the decedent would have received had he or she lived

and remained in the service until the expiration of the period of such annual or vacation leave;

(7) The amounts of all checks drawn in payment of such compensation which were not delivered by the Government to the officer or employee during his or her lifetime or of any unnegotiated checks returned to the Government because of the death of the officer or employee; and

(8) Retroactive pay under 5 U.S.C. 5344(b)(2).

§ 178.203 Designation of beneficiary.

(a) *Agency notification.* The employing agency shall notify each employee of his or her right to designate a beneficiary or beneficiaries to receive money due, and of the disposition of money due if a beneficiary is not designated. An employee may change or revoke a designation at any time under regulations promulgated by the Director of the Office of Personnel Management or his or her designee.

(b) *Designation Form.* Standard Form 1152, Designation of Beneficiary, Unpaid Compensation of Deceased Civilian Employee, is prescribed for use by employees in designating a beneficiary and in changing or revoking a previous designation; each agency will furnish the employee a Standard Form 1152 upon request. In the absence of the prescribed form, however, any designation, change, or cancellation of beneficiary witnessed and filed in accordance with the general requirements of this part will be acceptable.

(c) *Who may be designated.* An employee may designate any person or person as beneficiary. The term *persons or persons* as used in this part includes a legal entity or the estate of the deceased employee.

(d) *Executing and filing a designation of beneficiary form.* The Standard Form 1152 must be executed in duplicate by the employee and filed with the employing agency where the proper officer will sign it and insert the date of receipt in the space provided on each part, file the original, and return the duplicate to the employee. When a designation of beneficiary is changed or revoked, the employing agency should return the earlier designation to the employee, keeping a copy of only the current designation on file.

(e) *Effective period of a designation.* A properly executed and filed designation of beneficiary will be effective as long as employment by the same agency continues. If an employee resigns and is reemployed, or is transferred to another agency, the employee must execute

another designation of beneficiary form in accordance with paragraph (d) of this section. A new designation of beneficiary is not required, however, when an employee's agency or site, function, records, equipment, and personnel are absorbed by another agency.

§ 178.204 Order of payment precedence.

To facilitate the settlement of the accounts of the deceased employees, money due an employee at the time of the employee's death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

(a) First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency prior to the employee's death;

(b) Second, if there is no designated beneficiary, to the surviving spouse of the employee;

(c) Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation;

(d) Fourth, if none of the above, to the parents of the deceased employee or the survivor of them;

(e) Fifth, if none of the above, to the duly appointed legal representative of the estate of the deceased employee; and

(f) Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his or her death.

§ 178.205 Procedures upon death of employee.

(a) *Claim form.* As soon as practicable after the death of an employee, the agency in which the employee was last employed will request, in the order of precedence outlined in § 178.204, the appropriate person or persons to execute Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee.

(b) *Claims involving minors or incompetents.* If a guardian or committee has been appointed for a minor or incompetent appearing entitled to unpaid compensation, the claim should be supported by a certificate of the court showing the appointment and qualification of the claimant in such capacity. If no guardian or committee has been or will be appointed, the initial claim should be supported by a statement showing:

(1) Claimant's relationship to the minor or incompetent, if any;

(2) The name and address of the person having care and custody of the minor or incompetent;

(3) That any moneys received will be applied to the use and benefit of the minor or incompetent; and

(4) That the appointment of a guardian or committee is not contemplated.

§ 178.206 Return of unnegotiated Government checks.

All unnegotiated United States Government checks drawn to the order of a decedent representing money due as defined in § 178.202, and in the possession of the claimant, should be returned to the employing agency concerned. Claimants should be instructed to return any other United States Government checks drawn to the order of a decedent, such as veterans benefits, social security benefits, or Federal tax refunds, to the agency from which the checks were received, with a request for further instructions from that agency.

§ 178.207 Claims settlement jurisdiction.

(a) *District of Columbia and Government corporations.* Claims for unpaid compensation due deceased employees of the government of the District of Columbia shall be paid by the District of Columbia, and those of Government corporations or mixed ownership Government corporations may be paid by the corporations.

(b) *Office of Personnel Management.* Each agency shall pay undisputed claims for the compensation due a deceased employee. Except as provided in paragraph (a) of this section, disputed claims for money due deceased employees of the Federal Government will be submitted to the Claims Adjudication Unit, Office of General Counsel, in accordance with § 178.102. For example:

(1) When doubt exists as to the amount or validity of the claim;

(2) When doubt exists as to the person(s) properly entitled to payment; or

(3) When the claim involves uncurrent checks. *Uncurrent checks* are unnegotiated and/or undelivered checks for money due the decedent which have not been paid by the end of the fiscal year after the fiscal year in which the checks were issued. The checks, if available, should accompany the claims.

(c) *Payment of claim.* Claims for money due will be paid by the appropriate agency only after settlement by the Claims Adjudication Unit occurs.

§ 178.208 Applicability of general procedures.

When not in conflict with this subpart, the provisions of subpart A of this part relating to procedures applicable to claims generally are also applicable to the settlement of account of deceased civilian officers and employees.

[FR Doc. 97-22389 Filed 8-22-97; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF PERSONNEL MANAGEMENT**5 CFR Part 551**

RIN 3206-AG70

Pay Administration Under the Fair Labor Standards Act

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is publishing a proposed rule to amend regulations on the Fair Labor Standards Act (referred to as "the Act" or "FLSA"). The purpose of the majority of the revisions is to make text clearer, standardize terms, change to the active voice, reorganize material for added clarity, insert or revise headings to accurately reflect content, reduce internal cross-referencing, correct typographical, punctuation, and grammatical errors, and use "plain English." The proposed rule includes guidance published in the sunsetted Federal Personnel Manual (FPM), adds certain work in the computer software field to the professional exemption criteria, adds an exemption for certain pilots, adds the statutory exclusion of customs officers, and includes regulations on child labor and claims and compliance.

DATES: Written comments will be considered if received on or before October 24, 1997. Please organize and identify comments by section and paragraph designation.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Jeffrey D. Miller, Director, Classification Appeals and FLSA Programs, Office of Personnel Management, 1900 E Street NW., Room 7679, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jeffrey D. Miller, Director, Classification Appeals and FLSA Programs, by telephone on 202-606-2990; by fax on 202-606-2663; or by e-mail at ADOMSOE@opm.gov.

SUPPLEMENTARY INFORMATION: On January 10, 1995, OPM published a proposed rule (60 FR 2549) to amend regulations on the Fair Labor Standards Act by adding a subpart F—Complaints and Compliance. That subpart F provided for FLSA complaint adjudication by the agency involved rather than by OPM. Comments were received from four Federal agencies, four labor organizations, and one employee organization. OPM reconsidered its proposal and withdrew the proposed subpart F (62 FR 9995, March 5, 1997).

The purpose of the majority of these revisions is to make text clearer, standardize terms, change to the active voice, reorganize material for added clarity, insert or revise headings to accurately reflect content, reduce internal cross-referencing, correct typographical, punctuation, and grammatical errors, and use "plain English." The proposed rule includes guidance published in the sunsetted Federal Personnel Manual, adds certain work in the computer software field to the professional exemption criteria, adds an exemption for certain pilots, adds the statutory exclusion of customs officers, and adds two new subparts, subpart F—Child Labor and subpart G—FLSA Claims and Compliance. The changes are discussed section by section below. When the reason for a revision is one or more of the ones described in this paragraph, we do not repeat the reason when we describe the change.

1. Nomenclature Changes

References to the Office of Personnel Management are changed to "OPM"; the word "shall" is changed to "will" or "must," as appropriate; the phrase "shall be" is changed to "is"; the phrase "employee in a position properly classified" is substituted for "employee classified"; and "primary duty test" is substituted for "primary duty criterion."

2. Miscellaneous Changes

The following changes are made throughout: quotation marks are removed, and paragraph headings are added.

3. New Sections

Two new sections are added to subpart B—Exemptions and the subpart is retitled "Exemptions and Exclusions." One new section (551.204) describes the exemption of Federal Wage System employees. The other new section (551.211) describes the statutory exclusion of customs officers of the United States Customs Service. Customs officers whose exclusive entitlement to overtime pay is governed by section 5 of

the Act of Feb. 13, 1911, as amended (sections 261 and 267 of title 19, United States Code), are excluded from the hours of work and overtime pay provisions of the FLSA. As used in section 5, the term "customs officer" means a customs inspector, a supervisory customs inspector, a canine enforcement officer, or a supervisory canine enforcement officer.

4. New Subparts

Two new subparts are added. The first (subpart F) addresses child labor and the second (subpart G) addresses complaints and compliance.

5. Subpart A

Subpart A is restructured. Section 551.102—Definitions is redesignated § 551.104 with the same title. Section 551.104—Administrative authority is redesignated § 551.102 and retitled "Authority and administration".

6. Section 551.101—General.

The second sentence of paragraph (a) is revised by deleting all that follows the word "Act". Revised paragraph (a) is moved to redesignated § 551.102—Authority and administration.

Paragraph (b) is redesignated paragraph (a). In the first sentence, the phrase "Fair Labor Standards Act of 1938, as amended (referred to as "the Act" or "FLSA")" replaces the word "Act".

Paragraph (c) is redesignated paragraph (b).

7. Redesignated § 551.102—Authority and Administration

Paragraph (a) is moved to this section from published § 551.101 and paragraphs (b), (c), and (d) are added.

Paragraph (a), moved here from published § 551.101, describes OPM's authority. The sole sentence of published § 551.104—Administrative authority is added to paragraph (a) and is revised by deleting all the text following the word "except" and substituting "as specified in paragraphs (b), (c), and (d) of this section."

Paragraph (b) states that the Equal Employment Opportunity Commission administers the equal pay provisions of the Act.

Paragraph (c) lists the United States Government entities for which the Department of Labor administers the Act. Those are the Library of Congress, the United States Postal Service, the Postal Rate Commission, and the Tennessee Valley Authority.

Paragraph (d) lists the United States Government entities for which the Office of Compliance administers the Act. The Congressional Accountability