

## § 551.210

one of the criteria in paragraph (b) of this section.

### § 551.210 Exemption of employees receiving availability pay.

The following employees are exempt from the hours of work and overtime pay provisions of the Act:

(a) A criminal investigator receiving availability pay under § 550.181 of this chapter; and

(b) A pilot employed by the United States Customs Service who is a law enforcement officer as defined in section 5541(3) of title 5, United States Code, and who receives availability pay under section 5545a(i) of title 5, United States Code.

### § 551.211 Statutory exclusion.

A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) of section 267 of title 19, United States Code, for time worked may not receive pay or other compensation for that work under any other provision of law. As used in section 5, the term “customs officer” means a United States Customs Service supervisory or non-supervisory customs inspector or a supervisory or nonsupervisory canine enforcement officer.

## Subpart C—Minimum Wage Provisions

### BASIC PROVISION

#### § 551.301 Minimum wage.

(a)(1) Except as provided in paragraph (a)(2) of this section and § 551.311, an agency shall pay each of its employees wages at rates not less than the minimum wage specified in section 6(a)(1) of the Act for all hours of work as defined in subpart D of this part.

(2) The minimum wage provisions of the Act do not apply to a criminal investigator receiving availability pay under § 550.181.

(b) An employee has been paid in compliance with the minimum wage provisions of this subpart if the employee’s hourly regular rate of pay, as defined in § 551.511(a) of this part, for the workweek is equal to or in excess

## 5 CFR Ch. I (1–1–01 Edition)

of the rate specified in section 6(a)(1) of the Act.

[45 FR 85664, Dec. 30, 1980, as amended at 59 FR 66154, Dec. 23, 1994]

### SUBMINIMUM WAGE

#### § 551.311 Subminimum wage.

An agency may, if it meets certain criteria published by the Office of Personnel Management, employ certain groups of less than fully productive employees (e.g., handicapped patient workers) at rates less than the minimum wage specified in section 6(a)(1) of the Act.

[45 FR 85664, Dec. 30, 1980]

## Subpart D—Hours of Work

SOURCE: 45 FR 85664, Dec. 30, 1980, unless otherwise noted.

### GENERAL PROVISIONS

#### § 551.401 Basic principles.

(a) All time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency is “hours of work.” Such time includes:

(1) Time during which an employee is required to be on duty;

(2) Time during which an employee is suffered or permitted to work; and

(3) Waiting time or idle time which is under the control of an agency and which is for the benefit of an agency.

(b) For an employee, as defined in 5 U.S.C. 5541(2), hours in a paid nonwork status (e.g., paid leave, holidays, compensatory time off, or excused absences) are “hours of work” under this part.

(c) Hours in an unpaid nonwork status (e.g., leave without pay, furlough, absence without leave) are not “hours of work” under this part.

(d) Time that is considered hours of work under this part shall be used only to determine an employee’s entitlement to minimum wages or overtime pay under the Act, and shall not be used to determine hours of work for pay administration under title 5, United States Code, or any other authority.