

PAY ADMINISTRATION

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding the time limitation in which compensatory time may be used.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on pay administration. The pages in this issuance replace the corresponding page numbers in Part V, Chapter 2 of VA Handbook 5007. This revision changes the time period in which an employee may use earned compensatory time from seven pay periods to twenty-six pay periods. These changes will be incorporated into the electronic version of VA Handbook 5007 that is maintained on the [Office of Human Resources Management and Labor Relations Web site](#). These provisions are effective February 18, 2007; however, compensatory time earned prior to February 18, 2007, will continue to be used, forfeited or paid under the previous provisions.
- 3. RESPONSIBLE OFFICE:** The Compensation and Classification Service (055), Office of the Deputy Assistant Secretary for Human Resources Management and Labor Relations.
- 4. RELATED DIRECTIVE:** VA Directive 5007, Pay Administration.
- 5. RESCISSIONS:** None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/Robert T. Howard
Assistant Secretary for
Information and Technology

/s/R. Allen Pittman
Assistant Secretary for
Human Resources and Administration

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(c) Overtime is payable for service performed in excess of 40 hours in an administrative workweek, or in excess of 8 hours in a day, whichever is greater, at a rate of one and one-half times the employee's basic hourly rate of pay. **NOTE:** *For a full-time employee on a compressed work schedule, overtime is payable for hours of work in excess of the basic work requirement. For a part-time employee on a compressed work schedule, overtime is payable for hours of work in excess of the basic work requirement for a day (but must be in excess of 8 hours) or for a week (but must be in excess of 40 hours).*

c. Call-Back Overtime

(1) Any overtime on a day when a nurse, PA or EFDA was not scheduled to work, or for which an employee is required to return to his or her place of employment, shall be deemed to be a minimum of 2 hours in duration, regardless of whether or not service is performed for a full 2 hours. When an employee is called back from an on-call status to perform overtime work, the callback overtime provisions shall be applied upon return to duty of the employee.

(2) To be eligible for the full 2 hours of overtime, employees must be called into work at a time which is outside of and unconnected with their basic workweek (45 Comp. Gen. 53).

d. Compensatory Time Off in Lieu of Regular and Irregular or Occasional Overtime for Nurses, PAs, and EFDAs

(1) An official authorized to approve overtime work may, at the written request of eligible employees, grant such employees compensatory time off from their scheduled tour of duty in lieu of overtime pay. The amount of the compensatory time off will equal the amount of time spent in overtime work. Requests for compensatory time off for title 38 and hybrid title 38 employees paid premium pay on the same basis as registered nurses must be in writing.

(2) **Limit on Compensatory Time.** The limitation on overtime pay contained in 5 U.S.C. 5547 does not apply to title 38 employees covered by this paragraph.

(3) Time Limit on Compensatory Time for Nurses, PAs, and EFDAs

(a) Compensatory time should be taken as soon as possible after it is earned, but not later than the end of the [26th] pay period following the pay period in which it is earned.

(b) If the compensatory time is not taken within the time limit prescribed above because of exigencies of the service, the employee will be paid for the overtime work at the overtime rate. If the compensatory time off is not taken within this period because of personal reasons not due to exigencies of service, the right to compensatory time off and overtime pay for the duty is lost.

(c) In cases of inter-station transfers, compensatory time off must be taken or paid for prior to the effective date of transfer. Under no circumstances will the obligation for compensatory time off be transferred to the receiving facility.

(c) In the case of an employee whose rate of basic compensation is in excess of the maximum rate for GS-10, the official authorized to approve overtime work may, at his or her own discretion, provide for compensatory time off in lieu of overtime pay. Such determination shall take into account all pertinent factors, including the employee's views. If, after consideration of all factors, paid overtime is indicated, prior approval will be requested from the field facility head. When a field facility of the National Cemetery Administration is involved, the director of the appropriate Memorial Service Network Office is the approving official. No such approval will be in effect for more than 3 months without a specific re-determination. An employee for whom compensatory time off is directed should be so notified at the time the overtime duty is ordered.

(4) Time Limits on Compensatory Time

(a) Compensatory time off should be taken as soon as possible after it is earned but not later than the end of the [26th] pay period following the pay period in which it is earned. Compensatory time off may be taken only during the employee's basic workweek.

(b) For employees exempt from the Fair Labor Standards Act (FLSA), if compensatory time off is not taken within the time limit prescribed above because of the exigencies of the service, the employee will be paid for the overtime work at the overtime rate. If compensatory time is not taken within this period because of personal reasons not due to the exigencies of service, the right to compensatory time off or overtime pay for the duty performed is lost for FLSA-exempt employees. Non-exempt employees must be paid overtime pay.

(c) Compensatory time off must be taken or paid for prior to the effective date of the transfer. Under no circumstances will an obligation for compensatory time off be transferred to the receiving facility.

(d) The date of separation stated in an employee's advance notice of separation due to reduction in force may be administratively extended so as to include any compensatory time due. However, where, due to reasons beyond the control of the employee, compensatory time off is not taken prior to separation and no extension of the separation date is granted, overtime compensation is payable in lieu of the compensatory time off (26 Comp. Gen. 750).

4. OVERTIME PAY AND COMPENSATORY TIME OFF FOR EMPLOYEES IN POSITIONS SUBJECT TO THE FWS

a. Overtime pay is to be computed in accordance with the instructions contained in FWS Operating Manual, section S8-4 and 5 CFR, part 551, as appropriate. Overtime entitlement determinations for irregular and occasional overtime and computations for Purchase and Hire (P&H) employees shall be determined as follows, based upon whether or not the employee's position is covered by FLSA.

b. P&H employees in FLSA non-exempt positions (covered by FLSA) shall receive overtime compensation in accordance with 5 CFR, part 551, subpart E. Additional hourly compensation representing fringe benefit considerations and paid to the employee shall be used in computing overtime rates.

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c. P&H employees in FLSA exempt positions (not covered by FLSA) shall receive overtime compensation for authorized work in excess of 8 hours in any one-day or 40 hours in any one week. Such overtime will be approved at such overtime rates as are customarily paid in the locality of the facility for work of a comparable nature, but not less than a rate of 150 percent of the basic hourly day rate of compensation. Additional hourly compensation representing fringe benefit considerations and paid to the employee shall be used in computing overtime rates. All fractional rates shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

d. At the request of a FWS employee, **compensatory time off** may be authorized in lieu of payment for overtime hours. The following provisions apply:

(1) For employees covered by flexible work schedules, the overtime work need not be irregular or occasional. For other FWS employees, the overtime work must be irregular or occasional, i.e., scheduled after the beginning of the administrative workweek.

(2) The [26] pay period time limit for using compensatory time applies to FWS employees in the same manner as for other title 5 employees. A FWS employee who is exempt from the provisions of the Fair Labor Standards Act (FLSA-exempt) and fails to take compensatory time earned before the expiration of the [26] pay periods shall lose the right to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond the employee's control. If compensatory time is not used by a non-exempt FLSA FWS employee before the expiration of the [26] pay periods, the employee must be paid for overtime work at the applicable overtime rate

(3) Managers may not require that FWS employees be compensated for overtime work via compensatory time off in lieu of overtime pay. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with such employee's right to request or not to request compensatory time off in lieu of payment for overtime hours.

5. EXCEPTION TO THE BIWEEKLY PREMIUM PAY LIMITATION FOR MISSION-CRITICAL AND EMERGENCY WORK

a. Title 5 General Schedule employees who are exempt from the Fair Labor Standards Act may not receive any combination of premium pay, including overtime pay, which, when added to their base pay, results in total pay above the higher of two rates: GS-15, step 10, or the rate payable for Level V of the Executive Schedule on a biweekly basis (see 5 CFR 550.105). The applicable rate for GS-15, step 10, includes any locality-based comparability payment or special rate, as applicable.

b. An exception to the biweekly limitation on overtime or other premium pay cited in paragraph a above may be made when the appropriate official determines that an emergency exists, e.g., a natural disaster, and that an employee is performing work related to that emergency, or the aftermath of that emergency, involving a direct threat to life or property. In this instance, such an employee may be paid overtime, or other premium pay, as applicable, based on an annual limitation (see 5 CFR 550.106). The annual limitation provides that in any calendar year during which an employee has been determined to