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CHAPTER 610. HOURS OF DUTY

SECTION A. HOURS OF DUTY (GENERAL) (To Be Used With 5 CFR Part 610)

1. SCOPE

a. This chapter contains policies and instructions that pertain to the establishment of hours of duty within the VA, and is applicable to General Schedule employees. Except where otherwise indicated, it is also applicable to wage system employees and to non-U.S. citizen employees outside the United States. Purchase and hire employees are not covered by this chapter; however, they are subject to the provisions of 5 U.S.C. 5544(a). Also excluded from coverage of this chapter are physicians, dentists, nurses, and other excepted employees appointed under authority of 38 U.S.C. ch. 74; Veterans Canteen Service employees appointed under authority of 38 U.S.C. ch. 78; and hospital administration residents excluded by 5 U.S.C. 6101(a)(1) and 5541(2)(v).

b. Subjects closely related to hours of duty, such as leave, computation of basic pay, overtime pay, night differential, and holiday pay, are covered in detail in other chapters of this part.

2. REFERENCES

- a. 5 U.S.C. chs. 51, 55, and 61.
- b. Executive Order 10358 as amended.
- c. 5 Code of Federal Regulations, Parts 550 and 610.

3. POLICY

a. In scheduling hours and tours of duty for VA employees, primary consideration will be given to efficiency in management and conduct of agency functions, and equitable treatment of individual employees.

b. When tours of duty must necessarily vary from the normal tour, employees will be given the opportunity of discussing their assignment and of having their views or personal problems arising in connection with such assignment considered. Tours of duty will not be changed arbitrarily, and insofar as possible, employee will be given notice of any change in their work schedule at least one administrative workweek in advance. Sympathetic consideration will be extended to employees who have religious scruples against working on their Sabbath. If practicable, mutually satisfactory exchange of duty assignments may be worked out for such employees, or substitute work-time may be provided to offset the time required for religious observance. Insofar as possible, work schedules should be arranged to permit employee's observance of their Sabbath on whatever day it occurs.

c. Any overtime duty required of employees should be equitably distributed consistent with the needs of the office. However, overtime duty should not be required of employees when it will impair their health or efficiency or cause extreme hardship to them.

d. Where more than one tour of duty exists for any category of employees in an organizational segment, employees affected shall be afforded the opportunity of rotation. Periodic rotation on an impartial and reasonable basis is encouraged so that all employees concerned will share in assignment between the less desirable and more desirable tours of duty.

e. All employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave; to observe the opening and closing hours established for the tour of duty; and to adhere to established luncheon periods.

f. In the establishment of work schedules, employees will have their assignments scheduled in advance over periods of not less than one administrative workweek and such schedules will be established in a manner that realistically reflects the actual work requirement. For wage employees, see VA Supplement 532-1, section H, paragraph 5.

g. Except where the functions of specific employees, such as chaplains, may be seriously handicapped, breaks in working hours of more than 1 hour will not be scheduled in any basic workday.

h. The occurrence of holidays shall not affect the designation of the basic workweek.

i. Except for unusual circumstances, as provided in paragraph 5a (2) and (3), below, the working hours in each day in the basic workweek shall be the same, and the basic workday shall be 8 hours.

4. DEFINITIONS

In this chapter:

a. Administrative workweek means a period of 7 consecutive calendar days. Within the VA, the period of 7 consecutive calendar days constituting an administrative workweek shall coincide with the calendar week, Sunday through Saturday.

b. Basic workweek, for full-time employees, means the 40-hour workweek established in accordance with 5 CFR 610.111, and paragraph 5, this chapter.

c. Regularly scheduled administrative workweek, for full-time employees, means the period within an administrative workweek, established in accordance with 5 CFR 610.111 and paragraph 5, this chapter, within which these employees are required to be on duty regularly. For part-time employees, it means the officially prescribed days and hours within an administrative workweek during which these employees are required to be on duty regularly.

d. Overtime Work

(1) See definitions in 5 CFR 550.103 and 550.111 for General Schedule employees and non-U.S. citizen employees overseas.

(a) Regular overtime work means overtime work which is regularly scheduled. For this purpose, any overtime work scheduled for an employee in advance of the administrative workweek in which it first is to occur, constitutes regular overtime.

(b) Irregular or occasional overtime work means overtime work which is not regularly scheduled.

(2) Section 6102, title 5, United States Code, requires that the regular hours of work for wage employees be established at not more than 8 per day or 40 per week, but work in excess of such hours shall be permitted when administratively determined to be in the public interest. Work in excess of 8 hours per day, or 40 hours per week, constitutes overtime work for General Schedule and wage employees (5 U.S.C. 5542 and 5544).

5. ESTABLISHMENT OF WORKWEEKS AND WORK SCHEDULES

a. Basic Workweek

(1) Within each administrative workweek, the "basic workweek" for full-time employees shall be 40 hours in length. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the luncheon period, Monday through Friday. Managers and Directors of field stations are authorized to fix the hours of duty constituting the normal tours of duty within the 40-hour basic workweek.

(2) Other tours of duty constituting the 40-hour basic workweek may be established when adherence to the normal tour is administratively impracticable, will handicap operations, or result in substantially increased costs. Under such conditions, Managers and Directors of field stations may schedule the 40-hour basic workweek to include Saturday and Sunday. However, the basic workweek may not extend over more than 6 days in the administrative workweek. Deviations from the normal tour of duty within a station will be kept to a minimum and generally will be authorized only for certain groups of employees in those cases where the service is required on a continuing, around-the-clock basis, or must be performed outside the normal tour of duty of the station. Where costly facilities and equipment are to be utilized during more than 8-hour day for maximum efficiency, employees shall be assigned on a shift basis when appropriate. The head of each Administration may (within his responsible area) prescribe further restrictions or conditions appropriate to scheduling of such tours of duty for specific categories of employees. Administration heads and top staff officials are authorized to approve tours of duty which are other than the normal for Central Office personnel under their jurisdiction with the concurrence of the Deputy Assistant Secretary for Human Resources Management.

(3) Notwithstanding other provisions of this chapter, special tours of duty (of not less than 40 hours) may be established for General Schedule employees to take courses in nearby educational institutions as outlined in 5 CFR 610.122. Approving officials for these special tours of duty will be the same as indicated in paragraph 5a(2), above. As indicated in 5 U.S.C 610.122(b), an employee may not receive premium pay solely because the special tour of duty causes the employee to work on a day or at a time of day for which premium pay would otherwise be payable. Accordingly, the approving official or his designee will make a determination of entitlement or non-entitlement to premium pay. The Fiscal activity and unit timekeeper will be informed of this

determination. Stations should maintain appropriate records to assure accurate data for any required reports.

(4) Notwithstanding other provisions of this chapter, deviations from the normal tour of duty may be established when strict adherence to the normal tour of duty would cause undue hardship or restrict employment, placement, or advancement opportunities for seriously disabled veterans and other seriously handicapped individuals. Before a special tour of duty may be authorized under this subparagraph all factors should be considered, such as: the nature and extent of an individual's disability or handicap; the extent to which a disabling condition precludes adherence to a normal tour; the needs, desires and abilities of the individual who would be affected; and, management considerations such as essential staffing requirements and organizational needs. In no case, however, will a special tour of duty be authorized against the wishes of an individual."

b. Regular Scheduled Overtime. A regularly scheduled administrative workweek consisting of a period of overtime work, either as a part of or in addition to the 40-hour basic workweek, may be established by Administration heads or staff office heads, or their designees, for their respective personnel within Central Office, and by field station heads. When a National Cemetery is involved, the Director of the appropriate National Cemetery Area Office will make this determination. If the regular overtime work is not scheduled in advance of the administrative workweek, it may be authorized in accordance with the procedures outlined in paragraph 7b(1) of this chapter. For purposes of leave and overtime pay administration, the authorization shall specify for such employee(s), by calendar days and number of hours a day, the overtime periods included in the regularly scheduled administrative workweek. Compensatory time off in lieu of premium pay may not be granted for such overtime work. (See definition of "regular overtime work," paragraph 4d(1)(a).).

c. Tours of Duty Including Standby Time. Administration heads are authorized to establish regularly scheduled administrative workweeks for employees in General Schedule positions requiring standby duty meeting the conditions set forth in 5 CFR 550.143. This authorization applies to two types of duty tours that include standby duty. These are: (1) the situation in which an employee has a basic workweek requiring full-time performance of actual work and is required, in addition, to perform standby duty on certain nights, or to perform standby duty on certain days not included in his basic workweek; and (2) the situation requiring a longer than 40-hour tour of duty in which a substantial part of the entire tour of duty, at least 25 percent, is spent in a standby status which occurs throughout the entire tour. This latter situation may be recognized only for firefighter personnel. All tours of duty involving standby status shall be clearly delineated, as appropriate, as to the total hours of duty, the number of hours of actual work required, the number of hours of standby required, the specific hours of duty scheduled, and, where applicable, the hours constituting the basic workweek of 40 hours. The length of the regularly scheduled administrative workweek in these cases is the total number of regularly scheduled hours of duty within each administrative workweek.

d. Periodic Review of Duty Schedules. Duty schedules should be reviewed periodically to insure that they meet the needs of the service efficiently with due consideration being given to employee needs. Particular attention should be given to tours of duty which include standby time or regular overtime.

e. LABOR RELATIONS: Management should meet its local labor relations responsibilities when implementing this issuance.

NOTE: The establishment of workweeks in accordance with the provisions of 5 CFR 610.111(b) is not authorized within VA.

6. WORK SCHEDULE INFORMATION

a. Each station shall maintain a centralized listing authorized by the field station head, which indicates, by major organizational element, the daily opening and closing hours established for the various recurring work shifts existing within the station. For example:

Dietetic Service

5:30 a.m.-2:00 p.m.

9:00 a.m.-5:30 p.m.

10:00 a.m.-6:00 p.m.

Engineering Division

6:00 a.m.-2:30 p.m.

8:00 a.m.-4:30 p.m.

11:30 a.m.-8:30 p.m.

b. Whenever more than one tour of duty exists within an organizational segment, that segment shall post, or otherwise make available to its employees, the complete pertinent tour of duty schedule and assignment of employees thereto.

7. OVERTIME

Overtime work means each hour of work in excess of 40 hours in an administrative workweek or in excess of 8 hours in a day, whichever is the greater number of overtime hours. Overtime is considered an expedient to be used only under conditions wherein necessary operations cannot be performed through planned coverage by on-duty personnel during their regular non-overtime basic workweek. Supervisory personnel must obtain proper authorization for overtime before permitting requiring the performance of overtime work by an employee. Administration heads and other top officials are authorized to prescribe, in their responsible areas, such limitations as are necessary to provide control and prevent abuse of the use of overtime. Each responsible official must assure that the rights of employees to compensation for overtime services are observed. Each responsible official shall also adhere to a policy of authorizing only such overtime as can be readily demonstrated as wholly supported from the standpoint of emergency and/or efficiency in carrying out his responsibilities, and with due regard to cost and the availability of current funds. (See also MP-5, pt. I, ch. 630, regarding use of annual leave in proximity to overtime.)

NOTE: See MP-4, part II, chapter 6, regarding procedure for use of VA Form 1098, Request for and Authorization of Overtime Work.

a. Regular Overtime. See paragraph 5b.

b. Irregular or Occasional Overtime

(1) Authorization. Except as indicated in paragraph 7b(3)(c)3, below, Staff office heads, Administration heads, field station heads, or their designees, are authorized to order and approve irregular or occasional overtime.

(2) Callback Overtime. Any unscheduled overtime work performed by an employee who is called back to work on an off-duty day, or on a regular workday after he has completed his regular schedule of work and left his place of employment, will be considered to be at least 2 hours in duration and should be so credited. Further, the employee shall be credited with a minimum of 2 hours of overtime for each time he is called back, notwithstanding the fact that the second or subsequent returns may be required before the expiration of 2 hours from the time he previously reported for duty (35 Comp. Gen. 448, 37 Comp. Gen. 1, 45 Comp. Gen. 53).

(3) Compensatory Time Off for Irregular or Occasional Overtime

(a) Employee Eligibility. Compensatory time off in lieu of payment for irregular or occasional overtime may be granted within the provisions of subparagraphs (b) through (d), below, only to General Schedule employees and non-U.S. citizen employees overseas. Compensatory time off in lieu of premium compensation for overtime services is not authorized for wage employees.

(b) Limitation on Compensatory Time. Section 5547, title 5, United States Code, provides that premium compensation is not payable where it results in an aggregate rate which exceeds the maximum rate of basic compensation provided for grade GS-15. An employee who is prohibited by that aggregate compensation limitation from receiving overtime compensation may not receive compensatory time off in lieu of such prohibited compensation (26 Comp. Gen. 750).

(c) Granting Compensatory Time Off in Lieu of Payment

1. An Official authorized to approve overtime work may, at the request of an eligible employee, grant such employee compensatory time off from his scheduled tour of duty in lieu of overtime pay. The amount of compensatory time off will be equal to the amount of time spent in the irregular or occasional overtime work.

2. In the absence of a specific request by the employee for compensatory time off in lieu of payment, an employee who is covered by FLSA or an employee who is not covered by FLSA whose basic rate of compensation is not in excess of the maximum rate provided for GS-10 of the General Schedule must be paid for the overtime services rendered.

3. In the case of an employee who is not covered by FLSA 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 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 station head. When a field station of the National Cemetery System is involved, the Director of the appropriate National Cemetery Supervising 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.

(d) Time limits on Compensatory Time

1. Compensatory time off should be taken as soon as possible after it is earned, but not later than the end of the 7th pay period following the pay period in which it is earned. Compensatory time off may be taken only during the employee's basic workweek.

2. 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.

3. In cases of interstation transfers for the convenience of the VA, 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 station.

4. 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).

8. LUNCH PERIOD

a. Normally, during each 8-hour shift, employees will be allowed a specific period of time off to eat lunch. A lunch period during which employees are regularly and totally excused from their official duties may not be considered as an official duty period for which compensation is payable. When a lunch period is set aside, the length of the shift or workday will be extended by the length of the non-work period.

b. In some types of situations, however, it may not be administratively practicable to allow a specified period of time off for lunch. For example, when around-the-clock shifts are employed, the scheduling of lunch periods would require overlapping of shifts and the vacating of official duties by employees in a work situation requiring constant service and function. In another instance, the job situation may be such as to require the constant attention and skill of a specific employee, and a suitable relief that would permit reasonable continuity of function is not available. In these types of cases, it is proper to schedule shifts without a lunch period. Although under such unusual circumstances, the employee may not be excused from his official duties, he may be permitted to eat lunch on the job when it is possible to do so without stopping or interrupting his work assignment and responsibility. Such exceptional tours of duty shall be carefully examined as to justification by the approving Manager or Director, and fully documented.

9. HOLIDAYS

a. General. It is VA policy to excuse from duty on legal holidays all employees except those required to maintain the usual essential services. Employees who are notified to appear for duty on

legal holidays and fail to report for work will be, in the absence of satisfactory explanation or justification, determined to be AWOL (absence without leave) and will lose pay for the day.

b. Identification and Determination of Legal Holidays

(1) For identification and determination of legal holidays, see 5 U.S.C. 6103 and 6104, and Executive Orders 10358 (as amended by E.O. 11226 and 11272) and 10552. Also see 5 CFR, Part 610, subpart B.

(2) For purposes of section 4(b) of Executive Order 10358, the employee's first full day off in the calendar week will be considered his day off in lieu of Sunday.

(3) For purposes of 5 U.S.C. 6103(b)(2), the employee's second day off in the calendar week will be considered his day off in lieu of Saturday.

c. Religious Holidays. While there is no official observance of religious holidays, except those which may also be legal holidays, it is the policy of the VA to permit, insofar as practicable, absence from work for those employees who desire to observe religious holidays. Absence of employees on religious holidays will be charged to annual leave, if they have annual leave to their credit, otherwise to LWOP.

d. State and Local Holidays. Except as provided below for non-U.S. citizen employees overseas, State and local holidays will not be observed by the mere fact of their occurrence and such days will be treated as regular workdays if they fall within an employee's basic workweek. Absence on such days will be charged to leave. Managers and Directors may close field stations on State or local holidays only if it is determined that Federal work may not be properly performed. In determining when Federal work may not be properly performed, employees of the office must be actually prevented from working by one of the following circumstances:

(1) The building or office in which the employees work is physically closed; or building services essential to proper performance of work are not operating.

(2) Local transportation services are discontinued or interrupted to the point where employees are prevented from reporting to their work location.

(3) The duties of the employees consist largely or entirely of dealing directly with employees and officials of business or industrial establishments or local government office, and all such establishments are closed in observance of the holiday, and there are no other duties (consistent with their normal duties) to which the employees can be assigned on the holiday. When such determination is made, the records of the station shall be fully documented to reflect the basis and justification for the action. When the office is thus closed, such days are not chargeable to annual leave. The Managers, Manila regional office and the VA Office for Europe, are authorized to excuse non-U.S. citizen employees from duty on legal holidays of the country wherein employed without charge to leave. Employees (including non-U.S. citizen employees) required to work on a State or local holiday, however, are not entitled to premium compensation or to compensatory time off.

e. Holiday benefits in Connection With Absence in Non-pay Status

(1) Employees are entitled to payment for the holiday if they are absent in a non-pay status (including LWOP or AWOL) on the day immediately following the holiday, provided they were in a pay status (duty or leave) the day preceding the holiday, and provided the holiday was not included within the period of non-pay status. If the holiday was included within the period of non-pay status, payment for the holiday will not be made. Wherever possible, periods of LWOP should not be scheduled so as to begin or end on a holiday.

(2) Employees in a non-pay status (including LWOP or AWOL) the day preceding the holiday will receive payment for the holiday, provided they are in a pay status (duty or leave) the next regularly scheduled workday immediately following the holiday, and provided the holiday was not included within the period of non-pay status.

10. ESTABLISHMENT OF BUSINESS HOURS

The periods during the week when the station is open for transaction of the public business will be established by directive of the Manager or Director.

a. Opening and closing hours established at field stations should conform to Central Office hours, insofar as practicable, with due regard to individual station needs and other controlling factors.

b. In Central Office, business hours will be from 8:00 a.m. to 4:30 p.m. each Monday through Friday, inclusive of a 30-minute luncheon period for employees.

11. TEMPORARY CLOSING OF OFFICES

Under some circumstances, it may be necessary to temporarily suspend or reduce operations at a station because of flood, fire, or a similar "Act of God" or for emergent repairs. Managers and Directors are authorized to temporarily close an activity under their jurisdiction when required by those circumstances. For information concerning determination of authorized absence or leave status for employees in such cases, refer to chapter 630 of this part. A report of such emergency closing should be made as soon as practicable to the appropriate Administration in Central Office.

12. DAYLIGHT-SAVING TIME

a. Adoption of Daylight-Saving Time. The VA will observe daylight-saving time in those localities where it is in effect. An employee working on a shift when daylight-saving time goes into effect, and his tour of duty is thereby shortened 1 hour, will be charged 1 hour of leave for the hour lost (26 Comp. Gen. 921).

b. Return to Standard Time. An employee working on a shift when standard time goes into effect will be credited with the number of hours he is actually on duty (26 Comp. Gen. 921).

13. LIMITATIONS ON TOURS FOR WOMEN AND MINORS

State and municipal labor laws generally prescribed special limitations on arrangement of tours of duty for women and minors. Although these laws are not binding upon VA, all VA installations should comply with them insofar as practicable.

14. EMPLOYEES PARTICIPATING IN DISASTER AND CIVIL DEFENSE PROGRAMS

In the case of employees who are assigned to participate in VA disaster and civil defense programs or in civil defense pre-emergency training programs and test exercises conducted by any State or political subdivision thereof, the tours of duty of such employees will, insofar as practicable, be so adjusted that they do not exceed the basic workweek or regularly scheduled administrative workweek. Executive Order 10529, dated April 22, 1954, restricts the period of official time that may be authorized for any such assignment of an employee to not to exceed a total of 40 working hours during a calendar year.

15. DRESSUP TIME--WEARING OF UNIFORMS

a. In consideration of local circumstances and needs, field station heads may (1) permit employees to wear uniforms to and from work, or (2) require that uniforms be changed at the station. The practice adopted should take into consideration the views of employees, the adequacy and location of locker facilities, recommendations of local Infection Committees, and the effect on replacement cost of uniforms. A station's policy concerning the exercise of this discretionary authority shall be clearly set forth in local issuances.

b. When an employee is permitted to wear his uniform to and from work, no time will be set aside within his scheduled tour of duty nor will any additional time be added to his scheduled tour, for the purpose of changing into or out of uniform.

c. When an employee is not permitted to wear his uniform to and from work, the following provisions shall apply:

(1) Except as indicated below, the employee shall be granted a reasonable amount of time within his tour of duty to change into or out of uniform. In situations involving successive shifts requiring continuity of service and exchange of information and instructions between employees, overlapping hours of duty shall be provided to the extent feasible so as to facilitate apportionment of time for purposes of changing into or out of uniforms within the prescribed tour of duty. In all such cases, tours of duty shall be so established as to assure that all full-time employees will be scheduled for a 40-hour basic workweek each calendar week.

(2) If administrative necessity requires the changing into and out of uniform outside the employee's tour of duty, adequate additional time shall be officially scheduled for the employee before and after his regular tour of duty for such purpose. these scheduled periods of time shall be compensated under regulations pertinent to overtime pay, when appropriate.

d. As a convenience for employees permitted to wear their uniforms to and from work, facilities should be made available for those who prefer to change at the station.

CHAPTER 610. HOURS OF DUTY

SECTION B. FLEXIBLE AND COMPRESSED WORK SCHEDULES

1. SCOPE AND EXCLUSIONS

a. Scope. This section implements Department of Veterans Affairs (VA) policies and procedures concerning flexible and compressed work schedules. It applies to employees under the General Schedule and Performance Management and Recognition System, members of the Senior Executive Service, non-U.S. citizen employees outside the United States, and unless excepted under subparagraph b(2), employees compensated under the Federal Wage System and employees appointed under “hybrid” 38 United States code (U.S.C.) 7401(a)(1)(B) appointments, such as physical therapists and registered respiratory therapists.

b. Exclusions. This section does not apply to:

(1) Veterans Health Administration employees appointed under chapter 73 or chapter 74, title 38, U.S.C., except as noted in the preceding paragraph. (NOTE: VA policies on flexible and compressed schedules for nurses, nurse anesthetists, physician assistants and expanded function dental auxiliaries are contained in ch. 7 of pt. II of this manual.)

(2) Veterans Canteen Service employees appointed under 38 U.S.C. ch. 78.

(3) Purchase and hire employees appointed under Schedule A, 5 CFR part 213.

(4) Employees compensated under the Executive Schedule (5 U.S.C. ch. 53).

2. REFERENCES

a. 5 U.S.C. 6120--6133 (Federal Employees Flexible and Compressed Work Schedules Act of 1982, Pub. L. 97-221, July 23, 1982, 96 Stat. 227).

b. 5 CFR 610.401--610.407.

c. Office of Personnel Management Handbook on Alternative Work Schedules, December 1996.

3. DEFINITIONS

a. Basic Work Requirement means the number of hours during a biweekly pay period, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise.

b. Biweekly Pay Period means the pay period covering two administrative workweek authorized under 5 U.S.C. 5504.

c. Compressed Schedule means:

(1) In the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays.

(2) In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays.

d. Core Time Band means those designated hours and days during the biweekly pay period when an employee on a flexible schedule must be present for work.

e. Flexible Time Band means that part of the schedule of working hours during which, under procedures contained herein, employees may choose their time of arrival and departure from the work-site, within limits consistent with the duties and responsibilities of their position.

f. Flextime means a system of work scheduling which splits the workday into two distinct kinds of time: Core time and flexible time.

g. Flex-tour is a type of flexitime where an employee, having selected starting and stopping times within the flexible time band, continues to adhere to these times. Employees may request different starting and stopping times. Such tours, and changes to such tours, however, must be approved by the employee's supervisor and documented in accordance with the procedures in this section.

h. Modified Flexitour is another type of flexitime where the employee selects a starting time within the established flexible time band which establishes the employee's assigned schedule; however, in this case the employee is given 15 minutes of flexibility on either side of the selected arrival time. The actual time of arrival becomes the employee's starting time for that day. For example, an employee selecting 7:30 a.m. as a starting time under the modified flexitour may report for work anytime between 7:15 a.m. and 7:45 a.m. If an employee arrives for duty at 7:20 a.m., this becomes the employee's starting time for that day. Assuming a half-hour lunch period and an 8-hour tour of duty, the departure time would be 3:50 p.m. If the same employee reports at 7:05 a.m., his or her starting time would not begin until 7:15 a.m. The same employee arriving for work at 7:50 a.m. is 5 minutes tardy. Under the modified flexitour, the starting time, and changes in the starting time; must be approved by the supervisor and documented in accordance with the procedures in this section.

i. Overtime Work means:

(1) For the purposes of flexitime, overtime work means all hours of work in excess of 8 hours in a day or 40 hours in a week which are officially ordered and approved.

(2) for the purposes of compressed work schedules, overtime work means:

(a) For full-time employees, the term overtime hours refers to officially ordered or approved hours of work which are performed outside of, and in addition to, the employee's basic work requirement.

(b) For part-time employees, overtime hours are those hours of work after which a full-time employee on the same type of compressed work schedule would begin receiving overtime pay.

j. Work Unit means an organizational entity located in one place with a specific mission and with homogeneous procedures or technology headed by a supervisor or manager authorized to certify a group of employees' time and attendance.

4. PLANNING FLEXIBLE AND COMPRESSED WORK SCHEDULES

Flexible and compressed work schedules require careful advance planning and good employee communication. The possible positive and negative effects of flexible and compressed schedules must be explored. If affected employees are in an exclusive unit of recognition, the employee involvement will be provided by, or coordinated with, their exclusively recognized labor organization. An analysis of the work requirements in the work unit and an evaluation of the potential impact of flexible and compressed work schedules on the functions of the work unit should be made. This should include special attention to the following:

a. Workload Characteristics

(1) Tasks which must be performed within a specific period or according to a predetermined schedule;

(2) How much workflow can be adjusted to accommodate a system of flexible or compressed work schedules;

(3) The coordination required between work units and functions, as well as employee scheduling;

(4) The period of daily or weekly peak workloads where all or most of the employees in the work unit must be present;

(5) The employee coverage required during public service hours; and

(6) The effect of such schedules on efficiency and productivity.

b. Other Considerations

(1) Work unit costs (additional staff, premium pay, space and equipment), potential increased heating and cooling costs, impact on employee commuting, operation of the cafeteria and employee health unit, potential increased rent or standard level user charges, increased security, cleaning, and maintenance service expenses;

(2) Effects on recruitment and retention, opportunities for full and part-time employment, and opportunities for women and handicapped individuals;

(3) Method and extent of training required to acquaint employees and supervisors with changes in their responsibilities;

(4) Potential adverse impact on morale of employees who, for operational reasons, may not be placed on flexible or compressed work schedules, or the adverse impact on employees not desiring such placement;

(5) Impact of extending the hours during which employees may work thereby requiring more management control for both preparing and certifying time and attendance reports; and

(6) Ability of employees to work independent of supervision.

c. Additional Guidance. Office of Personnel Management Handbook on Alternative Work Schedules contains a further discussion of the above factors and other considerations, which may be helpful in planning flexible and compressed work schedules.

5. RESPONSIBILITIES

a. Secretary. The Secretary, or designee is responsible for approving or discontinuing flexible and compressed work schedules for VA Central Office employees. Policies and procedures concerning such schedules are to be approved by the Secretary and will be published separately.

b. Administration Heads, Assistant Secretaries, other key officials, Deputy Assistant Secretaries. Except as provided in the preceding paragraph , these officials may place additional conditions and/or limitations on the flexible and compressed work schedules of employees under their jurisdiction.

c. Facility Directors. Consistent with preceding paragraph , facility Directors are responsible for approving or discontinuing flexible and compressed work schedules for employees under their jurisdiction.

d. The Deputy Assistant Secretary for Human Resources Management will advise management and operating officials on the policies and procedures in this section.

e. Supervisors are responsible for assuring that sufficient numbers and kinds of personnel are scheduled to be present to carry out operations in an efficient and economical manner. They must also ensure adequate coverage during public business hours and that participating employees are treated equitably.

f. Employees using flexible or compressed work schedules are responsible for fulfilling their obligation to account for a full day's work. Abuse of flexible or compressed work schedules may result in restrictions on the employee's starting and stopping times, discontinuing the flexible or compressed work schedules under paragraph 8 and/or appropriate disciplinary action.

6. FLEXITIME

a. Policy

(1) The establishment of flexible tours of duty is limited to the flexitour and the modified flexitour, as defined in paragraph 3 g and h of this section.

(2) Core time bands shall be determined as authorized; however, core time bands should be the same for employees performing similar work under similar situations. The appropriate official may authorize deviations from approved core time bands for individual employees in unusual cases.

(3) The approving official, or designee, may determine the numbers and kinds of employees on duty during the core hours of any given day. Further, to assure essential services are provided outside core hours, the approving official, or designee, may restrict the employee's choice of arrival and departure time if participation in flexible schedules proves disruptive or otherwise impedes efficient operations.

(4) A flexible work schedule under this paragraph and a compressed workweek under paragraph 7 of this section may not be simultaneously established in the same work unit.

(5) The modified flexitour will not be used in combination with standby tours of duty or on-call duty.

(6) Flexible schedules will not be established if they will result in payment of night differential to an employee, or group of employees, who would not normally perform night work.

(7) If it is found that a flexible schedule has had or would have an adverse impact (see par. 8), the approving official shall not establish, or shall discontinue, it.

b. Time and Attendance Records.

(1) The arrival and departure times will be recorded for each employee, including supervisors, in any work unit using flexible work schedules. A Time and Attendance Report (VA Form 5631 or an electronic time and attendance system authorized for use in VA) must be used as the official means to record, certify, and report employees' time and attendance, including the accumulation and use of credit hours, if applicable.

(2) When the employee's work schedule is the same as that of the timekeeper's or supervisor's, no documentation, other than the Time and Attendance Report or electronic system, will be used to record employee attendance. When the employee's work schedule varies from that of the supervisor, some other method must be used to provide reasonable assurance of employee attendance, e.g., (a) observation by another supervisor; (b) occasional telephone calls to the employee when the employee is scheduled to be on-duty; or (c) determining reasonableness of work output for time spent.

(3) Sign-in/sign-out sheets, including VA Form 5283, Weekly Attendance Record (Flexitime) will not be used to document employee attendance. In rare situations, such as to record the attendance of employees with attendance problems, alternative methods may be used to document attendance. These may include logging on to a computer terminal, reporting in to a supervisor on duty, or a personal log maintained by the employee. Alternate reporting requirements should be limited to specific time periods and designated in writing.

(4) Supervisors may determine which available method works best for their unit.

c. Computation of Premium Pay for Employees on Flexible Schedules (not applicable to SES)

(1) Overtime and Compensatory Time Off in Lieu of Overtime Premium Pay

(a) Overtime Hours. Paragraph 3i(1) contains a definition of overtime hours for employees on flexible schedules. Employees on flexible and compressed work schedules are eligible for callback overtime.

(b) Compensatory Time Off in Lieu of Overtime Pay

1. Except as provided in subparagraph 3 below, appropriate officials, or their designees, may, at the request of a GS or FWS employee on a flexible schedule under this paragraph, grant compensatory time off in lieu of overtime pay, whether such overtime hours are regularly scheduled or irregular or occasional in nature. If the employee does not request compensatory time off in lieu of overtime pay, or if the employee's request for compensatory time off in lieu of overtime pay is not granted, the employee shall be compensated for such overtime under the applicable statutory provisions. OPM guidance which states that FWS employees on flexible schedules are not eligible for compensatory time is incorrect.

2. For GS employees on a flexible schedule under this paragraph who are exempt employees under FLSA who have a rate of basic pay in excess of the maximum rate for GS-10, the approving official, or designee, may require the use of compensatory time in lieu of overtime. If that option is not exercised, the provisions of the preceding paragraph shall apply.

3. The time limits and other provisions in paragraph 7 of section A of this chapter concerning compensatory time shall apply to all compensatory time taken under this section. It should be noted, however, that if an employee covered by the Fair Labor Standards Act on flexible schedules fails to take the compensatory time within seven pay periods, he or she shall be compensated for the overtime work under the FLSA.

(2) Night Differential

(a) Full-Time General Schedule Employees

1. If the tour of duty includes 8 or more hours available for work during daytime hours (6 a.m. to 6 p.m.), the employee is not entitled to night differential.

2. If the core time band is during daytime hours (i.e., 6 a.m. to 6 p.m.), but an 8-hour tour of duty includes less than 8 daytime hours, the employee is entitled to night differential for the difference between 8 hours and the available number of daytime hours in the tour of duty.

3. If the core time band includes night work, the employees is entitled to night pay for any non-overtime work performed at night.

(b) Part-Time General Schedule Employees. A part-time General Schedule employee is entitled to night differential for night work performed only during his or her basic work requirement.

(c) FWS Employees. If the core time band includes night work, a FWS employee is entitled to the appropriate night differential if a majority of the non-overtime hours of the tour of duty falls between either 3 p.m. and midnight or 11 p.m. and 8 a.m. (NOTE: Meal breaks of 1 hour or less that occur when a night shift differential is authorized shall be included for the purposes of determining a FWS employee's entitlement to night differential.)

(3) Holiday Premium Pay

(a) A full-time employee on a flexible schedule, who performs non-overtime work on a day designated as his or her holiday, is entitled to his or her rate of basic pay, plus premium pay equal to the basic pay for that non-overtime holiday work.

(b) A part-time employee on a flexible schedule is entitled to holiday premium pay for the number of non-overtime hours he or she works on the holiday, up to a maximum of 8 hours.

(4) Sunday Premium Pay. A full-time employee on a flexible schedule shall be entitled to Sunday premium pay for non-overtime work performed during a regularly scheduled tour of duty, when any part of that tour of duty is on a Sunday. Part-time employees are not entitled to Sunday premium pay.

(5) SES. Members of the SES are not entitled to any form of premium pay.

e. Temporary Duty. If an employee is temporarily detailed, reassigned or promoted, and is moved from or to a position which has flexible scheduling, the approving official, or designee, may allow the employee to continue to use his or her previous work schedule.

f. Absence and Leave

(1) Sick and Annual Leave

(a) For employees on flexible schedules, time off work during the flexible and core time band must be charged to the appropriate leave category, compensatory time off or excused absence, if appropriate.

(b) The maximum amount of sick or annual leave an employee may apply to a basic work requirement for any day is the number of hours the employee is scheduled to work that day.

(2) Holidays. A full-time employee on a flexible schedule, relieved from working on a day designated as his or her holiday, shall be entitled to pay with respect to that day for 8 hours. A part-time employee prevented from working on the holiday shall be entitled to basic pay for the number of hours he or she was scheduled to work on that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday.

(3) Excused and Unexcused Absences. On the flexitour, the employee's selected starting and stopping times shall be used to determine the amount of excused or unexcused absence to be granted and/or charged. On the modified flexitour, the employee's selected starting and stopping times shall be used to record absences unless the employee has actually reported for work. If at

work, the time the employee reported and his or her basic work requirements for that day, shall be used to determine absences.

g. Travel

(1) Travel outside regularly scheduled duty hours must be officially ordered or approved and must meet one of the four conditions specified in 5 U.S.C. 5542(b)(2)(B).

(2) OPM Handbook on Alternative Work Schedules, paragraph 12(n) provides additional information about nonexempt employees traveling outside regularly scheduled duty hours.

(3) On the flexitour, the employee's selected starting and stopping times shall be used to determine if the employee is traveling during regularly scheduled hours. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has already reported for work. If at work, the actual time the employee reported, and his or her basic work requirement for that day, shall be used in making the determination. This method should be used also in determining corresponding hours for travel and non-workdays by nonexempt employees under the FLSA.

7. COMPRESSED WORKWEEKS

a. Establishing Compressed Workweeks. Officials authorized in paragraph 5 of this section may establish compressed workweeks for employees under their jurisdiction.

b. Policy

(1) A compressed workweek may be established only if all daily tours of duty within the compressed workweek are in whole hour increments, excluding the meal period (e.g., eight 10-hour tours, eight 9-hour tours and one 8-hour tour, etc., each biweekly pay period). If, however, the meal period is considered hours of work, any daily tour of duty on such a day shall be in whole hour increments, including the meal period.

(2) A work unit employee participating in a compressed workweek under this paragraph may not simultaneously work a flexible schedule under paragraph 6 of this section.

(3) A compressed workweek should not be established in a work unit if it will overlap a standby tour of duty.

(4) Participation.

(a) An employee in a work unit which is not covered by a collective bargaining agreement shall not be required to participate in any compressed workweek unless a majority of employees (i.e., more than half of affected employees in the work unit) have voted to be included. The specific procedures for this vote are left to the approving official. Use of written secret ballots are encouraged; paragraph 9 below contains a prohibition against the coercion of employees making such determinations.

(b) Exclusion because of personal hardship:

1. An official, or designee authorized to approve compressed workweeks, who, upon written request of an employee determines that participation of the employee would cause a personal hardship, shall:

a. Except the employee from the compressed workweek; or

b. Reassign the employee to the first vacant position in the organization not on a compressed tour which is acceptable to the employee and for which he or she qualifies.

2. Determinations under this subparagraph shall be made no later than 10 days after the written request is received by the deciding official.

(5) The establishment of compressed workweeks does not relieve approving officials, or their designees, from the requirement to establish workweeks to accomplish the mission and goals of the organization and to correspond with the employee's actual work requirements.

(6) The approving official may exclude from compressed workweeks any employee or group of employees whose coverage would create an adverse impact (see par. 8 below).

c. Time and Attendance Records. Under fixed work schedules, such as compressed work schedules, the supervisor usually has personal knowledge of each employee's number of hours on duty, attendance, and the nature and length of absences and can, therefore, certify each employee's entitlement to pay without the use of special time accounting devices. The VA Form 5631, Time and Attendance Report, is the official means for recording, certifying and reporting time and attendance.

d. Computation of Premium Pay (not applicable to SES)

(1) Overtime Hours and Compensatory Time Off in Lieu of Overtime Premium Pay for Irregular or Occasional Overtime Work (Not applicable to FWS employees)

(a) For full-time employees, the term overtime hours refers to hours of work officially ordered or approved and performed outside of, and in addition to, the basic work requirement. For part-time employees, overtime hours are those hours of work after which a full-time employee on a similar work schedule would begin receiving overtime pay. Employees on compressed workweeks are eligible for callback overtime. To receive such pay, however, they must be called back to work at a time which is outside of and unconnected with their basic work requirement (see par. 7b(2) of sec. A, this chapter).

(b) Compensatory time off in lieu of overtime premium pay. GS Employees on compressed workweeks may receive (or be required to take, if appropriate) compensatory time off in lieu of premium pay for irregular or occasional overtime work (see par. 7 of sec. A of this chapter). If the employee is on a compressed work schedule, compensatory time off may not be authorized in lieu of premium pay for regularly scheduled overtime work.

(2) Night Differential

(a) GS employees are entitled to night differential for regularly scheduled night work between the hours of 6 p.m. and 6 a.m.

(b) FWS employees are entitled to the applicable night differential if a majority of the non-overtime hours of the tour of duty falls between 3 p.m. and midnight or 11 p.m. and 8 a.m.

(3) Holiday Premium Pay

(a) A full-time employee on a compressed work schedule, who performs non-overtime work on the day designated as his or her holiday, is entitled to his or her basic rate of pay, plus premium pay equal to basic pay for that non-overtime holiday work. An employee may not, however, receive holiday pay for work in excess of his or her basic work requirement for the day.

(b) A part-time employee on a compressed schedule is only entitled to holiday premium pay for non-overtime work performed on the holiday. Part-time employees are not entitled to a day off in lieu of the holiday (see par. 7e(1)(b), below).

(4) Sunday pay. A full-time employee on a compressed schedule who performs non-overtime work during a period of service, a part of which is performed on Sunday, is entitled to Sunday premium pay for the entire period of service. Part-time employees covered by this chapter are not entitled to Sunday premium pay.

e. Absence and Leave

(1) Holidays

(a) Full-Time Employees

1. When a holiday falls on a workday in the employee's compressed workweek, that workday shall be designated as his or her holiday.

2. When a full-time employee on a compressed schedule has two non-workdays in the administrative workweek, the first day off shall be considered the employee's "Sunday" and the second day off shall be considered the employee's "Saturday." If the holiday falls on the employee's "Sunday," the first workday following that day shall be designated as the employee's day off in lieu of the holiday. If the holiday falls on the employee's "Saturday," the first workday preceding that day shall be designated as the employee's day off in lieu of the holiday. These rules shall apply whether or not the employee's day off actually falls on Saturday or Sunday, and regardless of whether this causes the designated holiday to fall in another administrative workweek or pay period.

3. When a full-time employee on a compressed workweek has three days off in the administrative workweek and the holiday falls on one of these non-workdays, the following rules shall apply:

a. When the holiday falls on the first or second day off of the administrative workweek, the following workday shall be designated as the day off in lieu of the holiday, regardless of administrative workweek.

b. When the holiday falls on the third day off in the administrative workweek, the preceding workday shall be designated as the day off in lieu of the holiday, regardless of administrative workweek.

(b) Part-Time Employees. If a holiday falls on a day during a part-time employee's scheduled compressed workweek and, if the employee is prevented from working, he or she is entitled to pay for the number of hours he or she was scheduled to work that day. Part-time employees are not entitled to a day off in lieu of the holiday.

(2) Leave. Time off from an employee's basic work requirement must be charged to the appropriate leave category, unless the employee is authorized compensatory time off or excused absence.

(3) Excused and Unexcused Absences. The amount of excused or unexcused absence shall be based on the employee's compressed work schedule in effect at the time. (NOTE: An employee excused for part of a day is expected to return to duty, except when there is so little time remaining that no appreciable amount of service would be rendered or the duty station is so distant that it would be an unreasonable requirement.)

f. Temporary Duty. When an employee covered by a compressed work schedule is temporarily detailed, reassigned or promoted to a position subject to another schedule, the approving official, or designee, may allow the employee to continue to use the compressed schedule, require use of the work schedule at the new organization, require return to the home site to make up the difference, or grant excused absence for the difference between the daily compressed work requirement and the number of hours of work possible under the schedule at the temporary site [see OPM Handbook on Alternative Work Schedules, paragraph 13(m)]. It is important that the work schedule at the receiving site and the effective date of any change be fully resolved and understood prior to the assignment to ensure complete understanding about days off, overtime, time spent in a travel status, etc.

g. Travel. Since compressed work schedules are fixed schedules, guidance for time spent in a travel status away from the official duty station may be found in OPM Handbook on Alternative Work Schedules, paragraph 13(n).

8. CRITERIA AND REVIEW

a. Determinations to Establish or Discontinue Flexible or Compressed Schedules. Notwithstanding the previous provisions of this section, and subject to subparagraph d below, any approving official who finds that a particular flexible or compressed work schedule has had or would have an adverse impact shall promptly determine not to establish the schedule, or shall discontinue it if it has already been established.

b. Adverse Impact. For the purposes of the preceding paragraph, adverse impact means a reduction in productivity, a diminished level of service, or an increase in the cost of operations (other than reasonable administrative costs relating to the establishment of a flexible or compressed schedule).

c. Records Maintenance. Each VA facility is encouraged to maintain records regarding the development, maintenance, or termination of a flexible or compressed work schedule. These records should address any increased cost, changes in productivity, and any effect on providing services. An approving official who thinks that establishing a flexible or compressed work schedule would have an adverse VA impact or that a modification or discontinuance of an existing schedule is necessary due to such impact, should maintain sufficient records to support such actions.

d. Employees Covered by a Collective Bargaining Agreement

(1) Flexible or compressed work schedules for employees in a unit represented by an exclusive representative shall be subject to the provisions of this section and the terms of any applicable collective bargaining agreement.

(2) Determination Not To Establish Flexible or Compressed Work Schedules. If the approving official and the exclusive representative reach an impasse in collective bargaining with respect to a determination not to establish a flexible or compressed work schedule, the impasse shall be presented to the Federal Service Impasses Panel (FSIP) for resolution. The panel shall take final action in favor of VA's determination if it is supported by evidence that the schedule is likely to have an adverse impact.

(3) Termination of a Flexible or Compressed Work Schedule. If the approving official and the exclusive representative have entered into a collective bargaining agreement providing for the use of flexible or compressed work schedules, and the approving official determines under paragraph 8a above of this section to terminate it, the approving official may reopen the agreement to seek termination. Impasses concerning such termination shall be presented to the FSIP for resolution. A flexible or compressed work schedule may not, however, be terminated until agreement is reached or the FSIP so rules.

(4) Further Information. Contact the appropriate labor management specialist in VA Central Office, Customer Advisory and Consulting Group (051) for further guidance.

9. PROHIBITION OF COERCION

An employee may not be directly or indirectly intimidated, threatened or coerced by any other employee for the purposes of interfering with an employee's rights under this section.