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Date: 08/24/2006**Category:** 20 - Human Resources **OPR:** HR**Title:** AR 20-29 HOURS OF WORK AND PREMIUM PAY**REVISION SUMMARY:** 24 August 2006

This regulation supersedes AR 20-29, dated 12 September 2003.

AR 20-29 is revised to reflect the deletion of Hazardous Duty pay from paragraph 9 of this regulation. Hazardous Duty pay was replaced by Operational Risk Allowance (ORA). The description and parameters of ORA have been included in the revised version of AR ☐ "Standardized Differences and Allowances." This revision also reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support. In addition, this revision reflects the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service and remove "Deputy Director" designation from the other Directorates and replace it with "Director".

Boldfaced text in this regulation indicates revisions.

This revision was written by HR Policy@DA.

29. (U) HOURS OF WORK AND PREMIUM PAY

(U//AIUO) SYNOPSIS. This regulation defines the basic workweek and the variations thereof, including alternative work schedules, that may be used in the Agency. Adopting, where appropriate, provisions of the Fair Labor Standards Act and title 5 of the United States Code, the regulation sets forth the eligibility for, the methods of computing, and the limitations on compensation for overtime, night, Sunday, and holiday work, and for standby duty and administratively uncontrollable overtime (AUO) work. Time and attendance records must be certified and authorized by a U.S. Government employee. The responsibilities of supervisors, Operating Officials, and other senior officials in certifying and controlling premium pay are detailed throughout the regulation. The regulation

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also prescribes the eligibility for, and the accrual and settlement of, compensatory time. Additional information regarding premium pay and differentials for employees compensated under the Prevailing Rate Systems may be found in subpart E of part 532 of title 5, Code of Federal Regulations.

a. (U//AIUO) GENERAL

- (1) The Agency conducts some of its most important and critical work under conditions over which it has no control. These conditions include the course of world events, the needs of government policymakers, and unpredictable changes in consumer requirements for timely intelligence. Within the constraints imposed by these conditions, hours of work for Agency employees will be established and administered in a manner that provides a normal work life. However, Agency personnel must be sufficiently flexible to adjust their work schedules as required.
- (2) Agency managers and supervisors are responsible for effectively managing the resources and activities of the Agency. It is an important part of this responsibility to ensure that work involving premium pay, particularly overtime, is authorized and performed only when necessary. Every employee, supervisor, and manager has an individual responsibility for ensuring that Agency funds are spent wisely, effectively, and in accordance with applicable laws and regulations.
- (3) An employee's time and attendance record should be certified or authorized by the employee's supervisor or a higher responsible official in the employee's chain of command, absent an exception based on extraordinary circumstances (such as illness, unavailability, and so forth). Official time and attendance reports will record time actually worked in relation to the scheduled workweek of the activity concerned. Any abuse of the pay system will not be tolerated and could result in severe administrative action, including termination of employment, and/or criminal prosecution by the Department of Justice. All employees are obligated to report suspected abuse of the Agency's Time and Attendance System to the Office of Inspector General (OIG) through normal chain-of-command channels or, where confidentiality is a concern, directly to the **OIG.**

b. (U//AIUO) WORK AND WORK SCHEDULES

- (1) **STANDARD BASIC WORKWEEK.** Operating Officials and Heads of Independent Offices will schedule standard basic workweeks for full-time and part-time employees in components under their jurisdictions in accordance with the following standards:
 - (a) Duty hours are regular, scheduled in advance, and cover a period of not less than one week.
 - (b) For full-time employees, the basic 40-hour workweek consists of five consecutive duty days, usually Monday through Friday, with the same working hours in each day.
 - (c) For part-time employees, workweeks specific to each employee will be established consisting of not fewer than 16 hours and generally not more than 32 hours. Work hours must be scheduled in advance and can be for a portion of each day or for certain days each week. Regular work schedules in excess of 32 hours or less than 16 hours

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per week require the approval of the **Director** or Head of Independent Office concerned or designee.

- (d) The basic non-overtime workday does not exceed eight hours.
 - (e) Federal holidays do not affect the designation of the basic workweek. Part-time employees will be paid only for holidays occurring on a day when they normally would be scheduled to work.
 - (f) Breaks in excess of one hour are not scheduled in any basic workday.
- (2) **NONSTANDARD WORK SCHEDULE.** The nonstandard work schedule is a tour of duty that varies from the standard basic work schedule in order to cover operations staffed on a 24-hour basis. The non-overtime scheduled work hours equal 80 hours in a two-week period. A nonstandard work schedule may be implemented when an Operating Official or Head of Independent Office determines that adherence to a standard work schedule would either seriously handicap the unit in carrying out its functions or substantially increase its operating costs. The basic work requirement is 80 hours per biweekly pay period for full-time employees and generally between 32 and 64 hours per biweekly pay period for part-time employees (unless otherwise approved by the **Director** or Head of independent Office concerned or designee). Whenever possible, two consecutive days off will be scheduled in each workweek. At a minimum, one regular day off (preferably Sunday) will be provided. A nonstandard workweek may not extend over more than six days of an administrative workweek, which is a period of seven consecutive calendar days.
- (3) **ALTERNATIVE WORK SCHEDULES.** Operating Officials and Heads of Independent Offices may establish alternative work schedules in the interests of enhancing employee productivity and morale. Under this system, the employee's biweekly schedule may be established with varying daily or weekly work hours. Although alternative work schedules differ from the standard workweek, they are still considered scheduled tours of duty for purposes of computing premium pay and hours of duty. The basic work requirement is 80 hours per biweekly pay period for full-time employees and generally between 32 and 64 hours per biweekly pay period for part-time employees (unless otherwise approved by the **Director** or Head of Independent Office concerned or designee). When an alternative work schedule is implemented or adjusted, a Personnel Action must be prepared to establish the appropriate Fair Labor Standards Act (FLSA) code and record the new schedule in the "Remarks" section. There are two basic types of alternative work schedules:
- (a) **Compressed Work Schedules.** On a compressed work schedule, employees fulfill their basic biweekly work requirement in less than ten workdays. Examples of compressed work schedules for full-time employees include working eight 9-hour days and one 8-hour day per pay period or working eight 10-hour days per pay period. On these schedules, days off will be taken on the same day of the week in each pay period. A supervisor may approve one-time changes to an employee's regularly scheduled non-workday to accommodate training, travel, or other operational requirements. Such changes to the days worked—but not the type of schedule—do

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not require personnel actions or modifications to the ELECTRON "Work Tour Summary." Instead supervisors should record the actual days worked in the ELECTRON "T&A Summary." If multiple-day training, TDY travel, or other operational reasons preclude rescheduling the non-workday during the pay period, the employee should be placed on a standard or other appropriate work schedule for the duration of the pay period.

(b) Flexible Work Schedules

(1) On a flexible work schedule, the workday is divided into core hours and flexible hours. Core hours refer to that portion of the day established by management during which the employee must be present at work. Flexible hours, established by management, are those portions of the day during which the employee has the option to select and/or vary arrival and departure times. Managers are encouraged to take advantage of the latitude afforded within the flexible schedule format to best achieve office objectives and accommodate employee needs. Examples of flexible work schedules include:

(a) **Flexitour.** Employees select permanent daily arrival and departure times within the established flexible hours.

(b) **Gliding schedule.** Employees vary their daily arrival and departure times.

(c) **Maxiflex.** Employees vary the length of the workday or the workweek by working core hours on fewer than ten workdays.

(2) Subject to the limitations described below, employees on a flexible schedule can work credit hours at their option. Credit hours are hours of work in excess of an employee's basic tour of duty work requirement, which the employee elects to work, in order to vary the length of a workday or workweek. For example, an employee might work an extra hour on Monday so that he or she can work one less hour on Tuesday. Managers may limit the number of credit hours worked on a daily, weekly, or biweekly basis and may set the timeframe within which an employee may use credit hours. However, credit hours must be used in the pay period earned; they cannot be carried over to a subsequent pay period. An employee may not be paid overtime, Sunday, or holiday pay for credit hours.

See the Handbook on Alternative Work Schedules in CIALink, HR Access for additional guidance.

(4) INDIVIDUAL WORK SCHEDULES

(a) Operating Officials and Heads of Independent Offices may establish work schedules for individuals that differ from the basic workweeks of their components when necessary to:

(1) Carry out the missions of those components;

(2) Enable the individuals concerned to take educational courses not constituting official training which will equip them for more effective work in the Agency; or

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- (3) Accommodate individual hardship when deemed appropriate and not detrimental to office production or service. Such individual schedules will entail not fewer than 40 hours per workweek for full-time employees, and generally from 16 to 32 hours per workweek for part-time employees (unless otherwise approved by the **Director** or Head of Independent Office concerned or designee). This authority does not extend to work schedules proposed for operations staffed on a 24-hour basis that involve regularly scheduled tours of duty exceeding eight hours a day or that involve seven or more consecutive working days.
- (b) The duties of each Agency employee include availability for performance of security or operational service on an "as required" basis (during or after regular working hours), to enable the Agency to carry out its intelligence missions and functions, whether or not the employee's position description specifies this job duty. This availability for supplemental security or operational tasks does not entail any new restrictions on the movement or activities of Agency employees and does not create any entitlement to standby duty pay or other such additional compensation. When possible, this supplemental security or operational work will be assigned to employees on a voluntary basis, particularly if overtime will be required.
- (5) **MEAL BREAKS.** The daily schedule for full-time employees, and part-time employees who work five or more hours in a day, must include a non-compensable half hour for a meal break, which does not count toward the hours of work for the day or the week and which may not be scheduled at the end of the daily work period. If a manager allows a meal break in excess of a half hour, the employee's workday must be extended by that excess amount to compensate for the time not worked.
- (6) **LEAVE.** Annual and sick leave will be charged against an employee's established work schedule.
- c. (U//AIUO) **PREMIUM PAY.** The Agency generally has adopted the premium pay provisions of title 5, United States Code, with modifications made as deemed necessary to carry out Agency functions. Premium pay is additional compensation for overtime, night, Sunday, and holiday work; administratively uncontrollable overtime (AUO) work; and regularly scheduled standby duty. Employees at the GS-15 level and below are normally eligible for premium pay. SIS members are not eligible for premium pay; that is, scheduled or unscheduled overtime, compensatory time, Sunday and holiday pay, standby duty pay, and night differential. The Director of the Central Intelligence Agency (D/CIA), the Deputy Director of the Central Intelligence Agency (DD/CIA), or the **Associate Deputy Director of the Central Intelligence Agency (ADD/CIA)** may approve exceptions to this policy. There is one exception to this general policy--SIS members may earn and use compensatory time off for religious purposes.
- (1) **AGGREGATE PAY LIMITATION.** Premium pay can be paid only to the extent that it does not cause an employee's aggregate rate of pay (basic pay plus premium pay) for any biweekly pay period to exceed the greater of the maximum rate for GS-15 or level V of the Executive Schedule (including any applicable locality pay and any special rate of pay). This maximum pay limitation does not apply to overtime pay due an employee

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under FLSA.

- (2) **OVERTIME WORK AND COMPENSATION.** The Agency has administratively adopted, and follows where appropriate, the overtime provisions of both title 5 of the United States Code and FLSA, as amended, in determining eligibility for overtime compensation and in computing overtime payments. The overtime provisions of FLSA apply to staff, contract, and local-hire employees, other than those specifically exempted, who are compensated under the General Schedule (GS), the GS-related schedules, the Prevailing Rate Systems, and local pay schedules. The designation of employees as nonexempt or exempt from the overtime provisions of FLSA is determined primarily by the position duties actually performed by the employee. Requests for determinations as to appropriate FLSA designation should be forwarded to **Chief, Human Resources, Strategy and Programs Group (C/HR/SPG)**.

(a) **Definitions**

- (1) *FLSA nonexempt* refers to employees covered by the overtime provisions of FLSA.
- (2) *FLSA exempt* refers to employees not covered by the overtime provisions of FLSA. FLSA exempt employees are compensated for overtime work under Agency policies adopted generally from the overtime provisions of title 5, United States Code.
- (3) *Directed Overtime* is overtime work that has been officially ordered or approved in advance by Heads of Independent Offices, Operating Officials, or other senior officials to whom such authority has been delegated by **Directors**. Directed overtime includes regular overtime and irregular or occasional overtime.
- (4) *Suffered or Permitted Work* is overtime work performed by an FLSA nonexempt employee that has not been ordered or approved, but which the employee's supervisor knows or has reason to believe is being performed, and has an opportunity to prevent from being performed.
- (5) *Regular Overtime* is overtime work that is scheduled in advance of the employee's administrative workweek as part of that workweek.
- (6) *Irregular or Occasional Overtime* is overtime work that is not scheduled in advance of the employee's administrative workweek.
- (7) *Hours of Work*, for purposes of overtime pay under FLSA, is all time during which an employee is required to be on duty and all time during which an employee is suffered or permitted to work for the benefit of the Agency. Hours in a paid non-work status are hours of work. Meal breaks are not hours of work.
- (8) *Overtime Work* for FLSA exempt employees in a standard basic workweek is work performed in excess of eight hours in a day or 40 hours in a workweek that is officially ordered or approved. Hours of work in excess of eight in a day are not included in computing hours of work in excess of 40 in a workweek.
- (9) *Overtime Work* for FLSA nonexempt employees in a standard basic workweek is

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work performed in excess of eight hours in a day or 40 hours in a workweek that is officially ordered or approved, except that suffered or permitted work will be counted as overtime only if it exceeds 40 hours in a workweek. If suffered or permitted overtime work is reported in the same week as leave without pay (LWOP), the suffered or permitted overtime will be converted to regular time until the required 40 hours of regular time are met.

- (10) *Overtime Hours* for employees on flexible work schedules are hours of work performed in excess of eight hours in a day or 40 hours in a workweek that are officially ordered in advance but do not include credit hours.
- (11) *Overtime Hours* for employees on compressed work schedules are hours of work performed in excess of the specified daily or weekly hours that constitute the compressed schedule. In the case of a part-time employee on a compressed schedule, overtime pay will begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

(b) Policy

- (1) All levels of management are expected to exercise sound judgment in planning work requirements and schedules so that overtime work is not normally required.
- (2) Employees have no right to be authorized or permitted to work overtime. Approving or permitting overtime for individual employees is subject to management discretion, within the bounds of the law. It is within management's authority and prerogative to select any appropriate employee to meet a particular overtime requirement. Additionally, management can and should decline to authorize or permit overtime work if management has reason to believe the overtime:
 - (a) Is or would be a risk to cover, security, or an employee's health and/or safety;
 - (b) Is adversely affecting or would adversely affect an employee's nonovertime job performance; or
 - (c) In the case of overtime for another component, is interfering or would interfere with the employee's availability for the parent office's overtime requirements.

These reasons for declining to approve or permit overtime are not all-inclusive, and there may be other valid grounds for such managerial decisions. In exercising these authorities and making these determinations, management may not violate equal employment opportunity laws or retaliate against employees because they have exercised constitutional, statutory, or other legal rights.

- (3) Overtime work generally will be authorized only to meet unforeseen developments or circumstances. Funds must be available for all overtime work.
- (4) Overtime work scheduled on a regular basis must have prior approval of the

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appropriate Operating Official or Head of Independent Office.

- (5) Irregular or occasional overtime work may be authorized prior to performance or after performance by Heads of Independent Offices, Operating Officials, or other senior officials to whom such authority has been delegated by **Directors**.
- (6) Overtime work performed by FLSA exempt employees that is not specifically directed will not be processed for overtime payments nor, if otherwise applicable, for compensatory time in lieu thereof.
- (7) Overtime work performed by FLSA nonexempt employees, excluding certain suffered or permitted hours of work performed in the same week as LWOP, will be processed for overtime payments or, in the case of irregular or occasional overtime and at the request of the employee, for compensatory time in lieu thereof.
- (8) For call-back duty, an employee is entitled to a minimum of two hours of overtime compensation for irregular or occasional overtime work performed either on a day when work was not scheduled for the employee or when required to return to the duty station (or to another Agency duty station) after having departed at the end of the scheduled daily tour of duty. Employees performing scheduled or unscheduled periods of overtime work that represent a continuation of their regularly scheduled tour of duty for that day are not entitled to the minimum two hours of overtime, even if the overtime work is performed at a duty station different from their regular duty site. These employees are entitled to overtime compensation, only for time actually worked.
- (9) Generally, overtime work performed in an "exempt" area is not compensable under FLSA. An exempt area is any foreign country or any territory under the jurisdiction of the United States other than a state of the United States, the District of Columbia, [REDACTED]
[REDACTED]
[REDACTED] Employees permanently stationed in an FLSA exempt area are compensated for overtime work under the provisions of title 5, United States Code. However, when an FLSA nonexempt employee performs work during an administrative workweek in both a geographic area covered by FLSA and in an exempt area, the FLSA overtime provisions apply to the entire workweek, including the work performed in the exempt area.
- (10) For both FLSA exempt and FLSA nonexempt employees, leave with pay will not affect the employee's eligibility for overtime pay.

(c) Compensation for Overtime

(1) Policy

- (a) FLSA exempt employees at the GS-15 level and below who perform directed overtime work will receive overtime pay up to the maximum allowable. See paragraph c(1), Aggregate Pay Limitation, above. Under certain conditions, these employees may take compensatory time off in lieu of payment for

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irregular or occasional overtime.

- (b) FLSA nonexempt employees who perform directed overtime work (in excess of eight hours in a day or 40 hours in a week) or suffered or permitted work (in excess of 40 hours in a week) will receive overtime pay computed solely under FLSA. However, they may request compensatory time in lieu of payment for irregular or occasional overtime.
- (c) Overtime worked between 6 p.m. and 6 a.m. is night work if the overtime is part of the employee's regularly scheduled workweek and, therefore, must be compensated at night differential rates in addition to the overtime rates.
- (d) Employees who perform overtime work on a Sunday or a holiday will be paid for that overtime at the same rate as for overtime work performed on another day.

(2) Overtime Pay

- (a) For FLSA exempt employees, the overtime hourly pay rate is one and one-half times the hourly rate of basic pay but will not exceed one and one-half times the hourly rate of the minimum rate of basic pay for GS-10. Basic pay includes any applicable locality pay and any special rate of pay.
- (b) For FLSA nonexempt employees who are not entitled to any form of premium pay other than FLSA overtime pay, the FLSA overtime hourly pay rate is one and one-half times the hourly regular rate of pay. For all other FLSA nonexempt employees, the overtime entitlement is:
 - (i) The straight time rate of pay times all overtime hours worked; plus
 - (ii) Half the employee's hourly regular rate of pay times all overtime hours worked.
 - (aa) "Straight time rate of pay" is equal to the employee's rate of basic pay, unless the employee is paid AUO or standby duty, in which case the straight time rate of pay is equal to basic pay plus AUO pay or standby duty pay divided by the hours for which the basic pay plus AUO pay or standby pay are intended.
 - (bb) "Hourly regular rate of pay" is determined by dividing the employee's total remuneration by the total number of hours of work in the workweek for which such compensation was paid.
 - (cc) "Total remuneration" is the total amount of all compensation paid to an employee; for example, basic pay, night pay differential, Sunday pay, AUO pay, standby duty pay, environmental differential or hazard pay, and straight time pay for overtime.
- (c) Overtime compensation for FLSA exempt employees will be computed on the basis of quarter hours of work. Time increments of less than one-quarter hour will be forfeited.

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- (d) FLSA nonexempt employees will be compensated for regular overtime work on a quarter-hour basis. A quarter hour will be the fraction of an hour used to compute overtime payments for irregular or occasional or suffered or permitted overtime work as well. Time increments of less than a quarter hour will be disqualified for overtime payments.

(3) Compensatory Time

- (a) Eligibility. FLSA exempt employees who perform directed irregular or occasional overtime work may be granted compensatory time in lieu of overtime pay if they request it by the end of the pay period in which the overtime work was performed. FLSA exempt employees whose rates of basic pay exceed the maximum rate for GS-10 may be required to take compensatory time off in lieu of payment for irregular or occasional overtime work performed. FLSA nonexempt employees may also request compensatory time in lieu of payment for an equal amount of irregular or occasional overtime work, but may not be required to take compensatory time off in lieu of payment.
- (b) Accrual. The number of hours of compensatory time accrued is equal to the number of hours of irregular or occasional overtime worked. For FLSA exempt employees, compensatory time can be granted in lieu of payment for overtime only to the extent that the value of the overtime hours credited to compensatory time, if computed at overtime rates, would not cause the employee's aggregate pay to exceed the maximum biweekly rate of pay for GS-15 (including any applicable locality pay and any special rate of pay).
- (c) Use. The timeframe in which employees are required to use compensatory time is four quarters following the end of the leave quarter in which they earn it. At the end of the four quarters, FLSA exempt employees will forfeit any unused compensatory time and FLSA nonexempt employees will receive payment for any unused compensatory time.
- (d) Payment
 - (i) FLSA exempt employees may carry unused compensatory time to new assignments subject to the time limits outlined above. FLSA exempt employees do not receive payment for unused compensatory time once the time limit has expired.
 - (ii) If an employee's FLSA designation changes to FLSA nonexempt, compensatory time remains on the books until the end of the fourth leave quarter following the leave quarter in which it was earned. Compensatory time earned by the employee prior to the change to FLSA nonexempt status is forfeited if it is not used during the time limits outlined in paragraph c(2)(c) above. Unused compensatory time earned after the change in designation to FLSA nonexempt status will be paid in accordance with paragraph c(2)(d)(iii).

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- (iii) FLSA nonexempt employees who have not used their compensatory time by the end of the period specified in paragraph (c) above will be paid for the overtime work at the FLSA overtime rate that applied when the work was performed. Payment will also be made for compensatory time balances when the employee's FLSA designation changes from nonexempt to exempt.
- (iv) If an FLSA exempt or FLSA nonexempt employee should die or be involuntarily separated, payment will be made for any compensatory time credited to the employee.

(d) Responsibilities for Overtime Administration

- (1) Operating Officials and Heads of Independent Offices are responsible for allocating and approving overtime funds and for monitoring overtime policies and practices within their jurisdictions to ensure that they are administered with consistency and equity.
 - (2) Senior officials will ensure that overtime pay they authorize is in accordance with the policies and provisions prescribed.
 - (3) The **Comptroller** is responsible for reviewing the use of overtime within the Agency.
 - (4) Supervisors are responsible for ensuring that overtime work is not performed by employees designated *nonexempt* from the overtime provisions of FLSA, except when such overtime has been authorized by a designated senior official. They are also responsible for maintaining complete and accurate records of all time worked for all of their employees.
 - (5) The **C/HR** is responsible for providing advice and guidance in the interpretation and application of overtime policies and provisions and for adjudicating internal complaint cases when requested.
- (3) NIGHT WORK AND COMPENSATION.** Night work is regularly scheduled work between 6 p.m. and 6 a.m. An employee who performs night work will be paid night pay differential for that work at a rate equal to 10 percent of basic pay (including any applicable locality pay and any special rate of pay) for all whole hours of regularly scheduled night work.
- (a) Regularly scheduled work is work scheduled for a particular employee in advance of that employee's administrative workweek.
 - (b) An employee performing overtime night work is entitled to night pay differential in addition to overtime pay if the overtime night work is scheduled for that employee in advance of his or her administrative workweek. Employees who perform irregular or occasional overtime work at night are not entitled to night pay differential.
 - (c) An employee is entitled to night pay differential when temporarily assigned during the administrative workweek to a daily tour of duty that includes night work. This temporary change in a daily tour of duty within the employee's regularly scheduled

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administrative workweek is distinguished from a period of irregular or occasional overtime work in addition to the employee's regularly scheduled administrative workweek.

- (d) Night pay differential is payable for regularly scheduled hours of night work when an employee is absent during these hours due to a holiday or is in an official travel status, whether or not performing actual duty. It is payable for periods of paid leave totaling less than eight hours during any biweekly pay period. Payment of night differential is not authorized for any period of paid leave when the total leave in a biweekly pay period is eight hours or more, or for any period covered by a lump sum leave payment.
- (e) There are special night pay differential provisions for employees on a *flexible work* schedule:
 - (1) If the tour of duty includes eight or more hours available for work during daytime hours (6 a.m. to 6 p.m.), the employee is not entitled to night pay differential, even if the employee elects a time of arrival or departure during hours for which night pay is normally required.
 - (2) If the core hours are during daytime hours but the tour of duty includes fewer than eight daytime hours, the employee is entitled to night pay differential for the difference between eight hours and the available number of daytime hours in the tour of duty.
 - (3) If the core hours include hours of night work, the employee is entitled to night pay differential for any non-overtime work performed between 6 p.m. and 6 a.m.
- (f) Night differential is paid in addition to overtime, Sunday, or holiday pay. It is not included in the rate of basic pay used to compute overtime (except for FLSA-nonexempt employees), Sunday, or holiday pay.
- (g) Prevailing rate employees will be paid for night shift differential in accordance with the provisions of 5 CFR 532.505.

(4) SUNDAY WORK AND COMPENSATION

- (a) Sunday premium pay is paid to employees on work schedules that include a regularly scheduled eight-hour period of non-overtime work any part of which is performed on Sunday. It is paid at a rate equal to 25 percent of the employee's rate of basic pay (including any applicable locality pay and any special rate of pay) for each hour of Sunday work that is not in excess of eight hours. Sunday premium pay is paid only for whole hours of work.
- (b) Employees on nonstandard or compressed work schedules that include a regularly scheduled tour of duty, any part of which is on Sunday, will be paid Sunday premium pay for all non-overtime work performed during the entire tour of duty.
- (c) Part-time employees are entitled to Sunday premium pay if they are required to perform work on Sunday as part of their regular work schedule, where such Sunday

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work is necessary to achieve Agency missions and functions. Requests for Sunday premium pay for part-time employees must be submitted through the appropriate Operating Official or Head of Independent Office to the C/HR for approval on a case-by-case basis. The **Chief, Human Resources Staff, NCS**, is authorized to approve Sunday premium pay for part-time employees located in Muslim countries.

- (d) If an employee works during two different regularly scheduled tours, both of which overlap the same Sunday (such as Saturday into Sunday and Sunday into Monday), the employee may earn Sunday premium pay for hours worked in both tours, not to exceed the number of hours specified in paragraphs (a) and (b) above.
 - (e) Premium pay for Sunday work is in addition to premium pay for holiday, overtime, or night work, but is not included in the rate of basic pay of FLSA *exempt* employees when computing such other premium pay.
 - (f) Employees, including prevailing rate (wage grade) employees, whose tours of duty include a regularly scheduled period of non-overtime work on Sunday, will not be paid Sunday premium pay unless they actually perform work on Sunday. Federal law prohibits the payment of Sunday premium pay to employees during any period when no work is performed, including holidays and periods of paid leave, excused absence with pay, compensatory time off, credit hours, or time off as an incentive or performance award.
 - (g) Prevailing rate employees will be paid for Sunday work in accordance with the provisions of 5 CFR 532.509. In the Agency, "prevailing rate employees" includes those employees paid under the Federal Wage System and the Government Printing schedules.
- (5) **HOLIDAY WORK AND COMPENSATION.** The following days designated by Federal statute or Executive order as national holidays in the Federal service are observed by the Agency:
- | | |
|------------------------------------|--------------------------|
| New Year's Day | 1 January |
| Martin Luther King, Jr.'s Birthday | 3rd Monday in January |
| Washington's Birthday | 3rd Monday in February |
| Memorial Day | Last Monday in May |
| Independence Day | 4 July |
| Labor Day | 1st Monday in September |
| Columbus Day | 2nd Monday in October |
| Veterans' Day | 11 November |
| Thanksgiving Day | 4th Thursday in November |
| Christmas Day | 25 December |
- (a) The following rules apply when holidays fall on non-workdays:

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- (1) When the basic workweek is Monday through Friday, the workday immediately preceding a Saturday holiday or the workday immediately following a Sunday holiday is considered a holiday.
- (2) The following provisions apply when the basic workweek is other than Monday through Friday (includes alternative work schedules and nonstandard work schedules):
 - (a) When a holiday occurs on a workday within the basic workweek, that day is considered the regular holiday.
 - (b) When a holiday occurs on a Sunday non-workday, the next workday is considered the holiday.
 - (c) When a holiday occurs on any other non-workday, the preceding workday is considered the holiday.
- (3) **Observance of Certain Holidays at Duty Posts Outside the United States.**

Whenever Monday is designated as a Federal holiday, the first regularly scheduled workday in that workweek is the holiday for an employee working overseas whose basic workweek includes Monday, but is not the typical Monday through Friday work schedule that is found in the United States.
- (4) Managers may approve "in-lieu-of" holidays for employees on compressed work schedules at any time during the same pay period in which the holiday occurs or during the pay period immediately preceding or following the pay period in which the holiday occurs. This allows a six-week window within which to reschedule employees' "in-lieu-of" holidays. This provision is intended to increase management flexibility in covering organizational or operational requirements around holidays as well as providing greater scheduling latitude for the employees involved. This is a management-driven option and unless the manager and the employee have decided that the "in-lieu-of" holiday can be moved, the provisions listed in paragraph (2) above apply when the basic workweek is other than Monday through Friday.
- (5) A part-time employee is not entitled to an "in-lieu-of" day for a holiday that falls outside the employee's scheduled tour of duty.
- (b) Holiday work is non-overtime work, not exceeding eight hours for standard or flexible schedules, authorized and performed on a designated holiday during an employee's regular duty hours. For an employee on a nonstandard or compressed work schedule, holiday work includes all work not in excess of the employee's regularly scheduled hours for that day. An employee paid for work performed on a holiday is not entitled to an "in-lieu-of" holiday. Holiday work may be authorized by Heads of Independent Offices, Operating Officials, or other senior officials to whom such authority has been delegated by **Directors**.
- (c) Work performed on a holiday before or after regular duty hours is considered overtime work.

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- (d) Work on holidays will be kept to a minimum, consistent with work requirements, and will be authorized only when such requirements cannot be satisfactorily completed within regularly scheduled duty hours.
- (e) The following will govern the method of compensation:
- (1) Premium pay for holiday work is equal to twice the employee's rate of basic pay (including any applicable locality pay and any special rate of pay) for that holiday work not exceeding eight hours or, in the case of an employee on a compressed schedule, the employee's regularly scheduled hours for that day.
 - (2) Any employee who is required to perform work for one or more periods on a holiday during regular duty hours will be paid for at least two hours of work for each such period.
 - (3) If a holiday falls on a day a part-time employee is scheduled to work and the employee does not work, the employee is paid for the number of hours scheduled for that day. If the part-time employee works during his or her scheduled hours on a holiday, the employee is entitled to holiday premium pay only for those hours scheduled.
 - (4) Holiday pay is in addition to premium pay for overtime, Sunday, or night work. It is not included in the hourly regular rate of basic pay used to compute overtime pay (except for FLSA nonexempt employees), Sunday pay, or night pay differential.
 - (5) Prevailing rate employees will be paid for holiday work in accordance with the provisions of 5 CFR 532.507.

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(7) **RELIGIOUS OBSERVANCES.** Employees whose personal religious beliefs lead to abstention from work during certain periods for religious observances may ask to work overtime in exchange for compensatory time off. This time off generally must be earned prior to its use by working an equivalent amount of compensatory overtime. Although generally not eligible for compensatory time, SIS officers may earn and use compensatory time for religious observances. Approval of time off for religious observances will be granted to the extent that modifications in work schedules do not interfere with the accomplishment of the Agency's mission. The premium pay provisions of this regulation, including the limitations for persons in certain grades, do not apply to compensatory overtime worked for this purpose. Direct supervisors are responsible for control of the program. Compensatory overtime and compensatory time off under this provision must be reported on time and attendance records.

(8) **EFFECT OF TRAINING AND TRAVEL ON PREMIUM PAY ENTITLEMENT**

(a) **Training**

- (1) For FLSA exempt employees, hours spent in Agency-sponsored training may not be considered as work hours for purposes of title 5 overtime compensation, holiday pay, night pay differential, or Sunday premium pay. Requests for exceptions to this policy will be forwarded through normal channels to **Chief, Human Resources, Strategy and Programs Group, Policy Staff (C/HR/SPG/PS)** for approval.
- (2) An FLSA nonexempt employee must be paid overtime for time spent in training beyond regular working hours, *if the employee has been directed to participate in such training* by management and if the training is for any of the following purposes:
 - (a) To bring an employee's performance in his or her current position up to an acceptable level.
 - (b) To provide the employee with the knowledge or skills to perform new duties and responsibilities in his or her current position.
 - (c) To participate in an apprenticeship or internship training program, provided productive work is performed during such period.
- (3) FLSA nonexempt employees who spend time in the following types of training outside regular working hours will not receive overtime compensation:
 - (a) Training to raise an employee's performance in his or her current position above an acceptable level; or

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- (b) Training to provide an employee additional knowledge or skills for reassignment or advancement to a position of a higher grade. This includes any developmental training or upward mobility training, even if such training is directed.
- (4) For FLSA nonexempt employees, preparatory time outside the employee's regular work hours is considered to be hours of work only if such preparation is closely related and indispensable to satisfactory completion of a training program that meets the conditions for overtime compensation outlined in paragraph (2) above. If management, after consultation with component training officers or appropriate Central Intelligence Agency University officials, determines that allowance for preparatory time is appropriate, employees should be advised of the time allowed for preparation before commencement of the training program. An employee may voluntarily spend additional time in preparation for training. However, such additional time in excess of the predetermined allowance is not compensable hours of work. Additionally, preparatory time spent for training in an apprenticeship or internship program is not compensable hours of work, unless productive work is performed.
- (5) The fact that the Agency has authorized the expenditure of government funds for training is irrelevant to a determination as to whether the employee may be paid overtime while in a training status.
- (6) No holiday, night differential, or Sunday premium pay will be paid to any employee for a special tour of duty which is solely the result of rescheduling the basic workweek to permit the employee to pursue outside study at the employee's own expense.

(b) Travel

- (1) Time spent in a travel status away from the official duty station of an employee is not hours of work unless:
 - (a) The time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or
 - (b) The travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under such arduous conditions that the travel is inseparable from work, or (iv) results from an event that could not be scheduled or controlled administratively.
- (2) For purposes of determining overtime pay for work in excess of 40 hours in a workweek, time spent by a *nonexempt* employee in a travel status is hours of work in accordance with paragraph (1) above and also if:
 - (a) The employee is required to drive a vehicle or perform other work while traveling;

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- (b) The employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
- (c) The employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.

(9) PAY DIFFERENTIAL FOR EXPOSURE TO HAZARDS, PHYSICAL HARDSHIPS, AND WORKING CONDITIONS OF AN UNUSUALLY SEVERE NATURE

- (a) The Agency will adhere to Federal pay regulations, schedules, and rates of compensation as they apply to environmental differentials paid to prevailing rate employees who are exposed to hazards, physical hardships, and working conditions of an unusually severe nature. Please see AR

- (b) For hazardous duties involving Agency-unique aspects not considered in the establishment of the government-wide schedule of environmental differentials, **C/HR/SPG/PS** will determine, on a case-by-case basis, the applicability and compensation rate of these differentials.

(c) Procedures

- (1) Operating Officials and supervisory personnel are responsible for recognizing duties or situations of employees for which an environmental pay differential (for prevailing rate employees) is authorized under Federal pay regulations.
- (2) Requests for such payment should be submitted through the appropriate **Director** or Head of Independent Office to **C/HR/SPG/PS** for approval. These requests can be for a specific employee or for all employees assigned to a particular station who are engaged in performing similar duties.
- (3) Once the proposal is approved, Operating Officials and supervisory personnel will certify the hours when an employee's duties or working conditions qualify for an environmental pay differential.
- (4) A copy of the approved proposal will be kept on file in the originating component.

(10) ANNUAL PREMIUM PAY FOR ADMINISTRATIVELY UNCONTROLLABLE OVERTIME WORK

- (a) Annual premium pay for AUO work is a form of premium pay designed to compensate an employee assigned to, and performing the duties of, an approved position in which the hours of work cannot be controlled administratively and which requires substantial amounts of irregular, unscheduled overtime duty, with the employee generally being responsible for recognizing, without supervision,

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circumstances which require the employee to be on duty. The circumstance requiring an employee to remain on duty must be a definite, official, and special requirement of the position. The employee must remain on duty not merely because it is desirable to do so but because of compelling reasons inherently related to continuance of duties and of such a nature that failure to carry on would constitute negligence.

- (b) An employee receiving AUO pay may not be compensated for directed irregular or occasional overtime but may be compensated for any regularly scheduled overtime, night, holiday, or Sunday work.
- (c) Authorized AUO will be paid at a specified rate of not less than 10 percent nor more than 25 percent of that part of the employee's basic compensation that does not exceed the minimum rate of basic pay for GS-10 (including any applicable locality pay and any special rate of pay).
- (d) Employees will not be entitled to AUO if, over a period of time, such premium pay would total more than would other forms of premium pay that otherwise would be payable to the employee for the hours of duty required in the position, exclusive of regular overtime work and work at night, on Sundays, and on holidays.
- (e) AUO premium pay may be paid to Agency employees serving:
 - (1) (S)
 - (2) In various Directorate of Intelligence (DI) positions as identified by the DI.
 - (3) In a limited number of positions in the Directorate of Science and Technology and **the Directorate of Support** where the nature of the work has consistently met the criteria for AUO premium pay.
- (f) Employees who are at an overseas or domestic field station for less than a full two-week pay period are not eligible for AUO.
- (g) Premium pay for AUO may start the first pay period after the employee qualifies for AUO and ends when the employee ceases to meet one or more of the eligibility requirements. It will also cease for any pay period in which the minimum AUO work requirement of three hours per week is not met.
- (h) Prevailing rate employees are not eligible for AUO.

- (j) Annual premium pay for positions not listed in paragraph (3)(e) above must have the

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concurrence of the appropriate **Director** or Head of Independent Office and the approval of the **C/HR**. The request will include all pertinent information, such as the frequency and duration of the irregular or occasional overtime work required; names of employees performing such work; the nature of the work that prevents hours of duty from being controlled administratively; and the necessity for employees being responsible for recognizing, without supervision, circumstances which require them to remain on duty. Such proposals will not be approved on a retroactive basis.

- (k) AUO is considered additional compensation and is not part of an employee's basic pay.

(11) ANNUAL PREMIUM PAY FOR REGULARLY SCHEDULED STANDBY DUTY

- (a) Annual premium pay for regularly scheduled standby duty is a form of premium pay designed to compensate an employee in a position requiring the employee to remain regularly at, or within the confines of, the duty station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work.
- (b) Premium pay for regularly scheduled standby duty is paid on an annual basis in lieu of premium pay for regularly scheduled overtime, night, holiday, and Sunday work. An employee receiving regularly scheduled standby duty pay may be compensated for irregular, unscheduled overtime work in excess of the employee's regularly scheduled administrative workweek.
- (c) Authorized annual premium pay for regularly scheduled standby duty is set at a rate not less than 5 percent nor more than 25 percent of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS-10 (including any applicable locality pay and any special rate of pay). The appropriate rate for each employee or group of employees is determined by considering all relevant factors, including type of work schedule, hours of actual work, hours required to be in a standby status, and conditions that make the work more onerous. The percentage of premium pay authorized will be increased 2.5 percent when an employee is required to perform work on 20 to 40 Sundays a year, and increased 5 percent when the employee is required to perform work on 41 or more Sundays a year. However, the total percentage of premium pay may not exceed the 25 percent maximum.
- (d) The following requirements and conditions must be met for entitlement to annual premium pay for regularly scheduled standby duty:
 - (1) The employee must be officially ordered to remain at the duty station on a standby basis during hours that are included in the employee's tour of duty, which must be established on a regularly recurring basis over a substantial period of time and for which at least 25 percent of the time is spent in a standby status and not in a work status.
 - (2) The standby duty must be associated with the regularly assigned duties of the employee, either as a continuation of regular work which includes standby time, or as a requirement to stand by at the employee's post to perform regularly

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assigned duties if the necessity arises.

- (3) The standby duty must be performed at, or within the confines of, the employee's duty station. This may include nonresidential quarters provided by the Agency specifically for use of employees required to stand by in readiness to perform actual work when the need arises. This also may include the employee's residential quarters, when designated by the Agency as the duty station and when the employee's mobility and activities are narrowly restricted.
- (4) The annual premium pay for standby duty must be:
 - (a) More than other forms of premium pay which otherwise would be payable to the employee for the hours of actual work customarily required in the position, excluding standby time during which no work is performed; and
 - (b) Less than other forms of premium pay which otherwise would be payable to the employee for the hours of duty required in the position, including standby time during which no work is performed.
- (e) Requests for annual premium pay for regularly scheduled standby duty must have the concurrence of the appropriate Director or Head of Independent Office and the approval of the C/HR. The request must include full information regarding the employee's tour of duty; that is, the number of hours of actual work required and how it is distributed throughout the tour of duty; the number of hours in a standby status required and the extent to which the employee's mobility and activities are restricted during standby periods; and the extent to which the assignment is made more onerous by night, holiday, or Sunday duty or by hours of duty beyond eight in a day or 40 in a week.
- (f) Annual premium pay for regularly scheduled standby duty is included as part of the employee's basic rate of pay, which is used to compute retirement and group life insurance deductions.
- (g) Prevailing rate employees are not eligible for annual premium pay for regularly scheduled standby duty.

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