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SUBJECT: Agency Responsibility for Work Scheduling
and Premium Pay Entitlement

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The Office of Personnel Management (OPM) provided the following guidance to the Department of Transportation (DOT) concerning an agency's responsibility to schedule work and premium pay entitlements. This will supplement the information contained in the recently revised OPM regulations, 5 CFR 550 and 610 and FPM Supplement 990-2, Book 550, Appendix H. Notification of the revised regulation was provided to the Personnel Council in DPM Bulletin 550-16, "Revision of 5 CFR 550 and 610" dated February 17, 1983.

Agency Scheduling Requirements and General Premium Pay Entitlements.

- o Under chapter 61 of title 5, United States Code, and OPM regulations in 5 CFR Part 610, the head of an agency (within DOT, head of an operating element) is responsible for scheduling the work of his or her employees to accomplish the mission of the agency. In so doing, he or she is responsible for scheduling an employee's regularly scheduled administrative workweek so that it corresponds with the employee's actual work requirements. The term, "regularly scheduled" work, by definition, means work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks in accordance with the law and OPM regulations. Under subchapter V of chapter 55 of title 5, United States Code, and OPM regulations in 5 CFR Part 550, an employee is entitled to premium pay for work at night, on Sunday and on a holiday that is scheduled as part of his or her regularly scheduled administrative workweek.

Night Pay Entitlement.

- o Once the head of an agency schedules an employee's regularly scheduled administrative workweek to include nightwork in accordance with the law and OPM regulations, the employee is required to be on duty during the hours and days scheduled by the head of the agency or have the absence charged to some form of leave or excused absence. At the same time, the employee is

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entitled to work the hours and days scheduled by the head of the agency and is entitled to night pay for nightwork that is scheduled as part of his or her regularly scheduled administrative workweek.

- o The head of an agency should not normally change an employee's regularly scheduled tour of duty during the administrative workweek. In the rare situation where the head of an agency does temporarily change an employee to a daily tour of duty involving daytime hours, the employee shall be entitled to night pay for the regularly scheduled nightwork that was originally scheduled as part of his or her regularly scheduled administrative workweek.
- o The only exception to scheduling work in advance of the administrative workweek to meet the definition of "regularly scheduled" work is the provision in 5 CFR 550.122(d). Under this provision, the head of an agency may temporarily change an employee to a daily tour of duty that includes nightwork, and the employee will be entitled to night pay for regularly scheduled nightwork. In this situation the employee, as a result of the temporary change in daily tour of duty, actually performs nightwork as part of his or her regularly scheduled administrative workweek.


Director of Personnel and Training