

DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

Action Date: 6/28/92

For Information Only

DEPARTMENTAL PERSONNEL MANUAL

---

DPM BULLETIN NO. 550-27

DATE:

JUN 30 1992

**SUBJECT:** Termination of Exception to the Biweekly Earnings  
Limitation for Employees Performing Work in  
Connection with Operation Desert Storm

In a Memorandum to Personnel Council Members dated April 3, 1991, we provided you with the Office of Personnel Management's (OPM) interim regulations governing exceptions to the biweekly earnings limitation. Additionally, the memorandum advised you that OPM rendered a decision that work performed in connection with Operation Desert Storm or its aftermath met the criteria for exception to the biweekly earnings limitation. In the Department of Transportation, the exception became effective on March 24, 1991.

On June 16, 1992, OPM issued the attached Memorandum for Directors of Personnel, terminating the exception effective on June 28, 1992. Administrations that have employees covered by the exception for Operation Desert Storm should take the action necessary to again make those employees subject to the biweekly earnings limitation.

If you have any questions, please call Jan Karicher of my staff on 366-9450.

Attachment

  
Director of Personnel

---

**Filing Instructions:** File after FPM Chapter 550 Bulletins

**Bulletin Expires:** Upon Notification

**Distribution:** Personnel Council, APN-100, AAC-25, AAA-100, M-80

**OPI:** M-16/JKARICHER/X69450

# INTERAGENCY ADVISORY GROUP

UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, DC 20415

Secretariat  
1900 E St., NW  
(202) 606-2166

JUN 16 1992

MEMORANDUM FOR DIRECTORS OF PERSONNEL

FROM:   
CONSTANCE BERRY NEWMAN  
DIRECTOR

SUBJECT: Termination of Exception to the Biweekly Earnings  
Limitation for Employees Performing Work in Connection  
with Operation Desert Storm

In a Memorandum to Directors of Personnel dated March 14, 1991, I authorized agencies to apply the GS-15, step 10, limitation on premium pay on an annual basis instead of a biweekly basis for employees determined by the head of an agency to be performing work in connection with Operation Desert Storm or its aftermath. The effective date of this authority was the first day of the first pay period beginning on or after March 15, 1991. The purpose of this memorandum is to notify agencies that this authority will terminate on the first day of the first pay period beginning on or after the date of this memorandum.

Under this authority, employees determined by the head of an agency to be performing work in connection with Operation Desert Storm or its aftermath have continued to be subject to an annual GS-15, step 10, limitation on premium pay. Upon termination of this authority, agencies must apply both the annual and the biweekly GS-15, step 10, limitations on premium pay described in sections 550.105 and 550.106 of the interim regulations on premium pay. (For your convenience, a copy of the interim regulations is attached.) Under these regulations, if the total basic pay and premium pay received by an employee in 1992 equals the annual limitation (\$83,502 for a General Schedule employee not entitled to an interim geographic adjustment or special pay adjustment for law enforcement officers), the employee may not be paid additional premium pay during 1992.

Please direct questions on this matter to OPM's Pay Administration Branch on (202) 606-2858.

Attachment

# Federal Personnel Manual System

## FPM Bulletin

Bulletin No. 550-76

Washington, D. C. 20415  
April 8, 1991

SUBJECT: Maximum Earnings Limitations

Heads of Departments and Independent Establishments:

**An Information Notice on Changes to Federal Personnel  
Regulations Is Attached to This Bulletin**  
**This Notice Must Be Posted in a Prominent Place**

1. The Director of the Office of Personnel Management (OPM) is required to take steps to ensure that OPM regulations that apply to individuals or organizations outside OPM are posted in offices of Federal agencies maintaining copies of Federal personnel regulations [5 USC 1103(b)(2)(A)].
2. To carry out this responsibility, OPM issued regulations under Part 110 of 5 CFR that require agencies to (a) make available for review on request the regulatory material that appears as attachment 1 to this bulletin; and (b) complete and post the notice (attachment 2) in a prominent place.
3. Completion of the notice requires insertion of the room number where the regulations are available for review.
4. Individuals who wish to make comments on regulations or notices should address them to the OPM official whose mailing address is listed on the reprint of *Federal Register* material in attachment 1 of this bulletin.
5. The public comment period on proposed regulations begins when they are published in the *Federal Register* or made available for public inspection at the Office of the Federal Register in Washington, D.C. Sometimes delays in distribution may result in posting notices on proposed regulations being received at agency field offices near the end of the comment period of a regulation. In other cases, the attached posting notice may convey information about a final regulation and no comments will be sought. In either case, the attached notice must still be posted. The purpose of the material is to provide notice rather than to solicit comment.
6. There is no maximum number of days that the attached notice must remain posted; each agency or office is free to make this determination. However, we suggest 10 working days as a minimum. The basic requirement is that there be sufficient opportunity for interested individuals to receive adequate notice of changes in the Federal personnel regulations.

  
Constance B. Newman  
Director

**Attachments (2)**

**Inquiries:** Pay and Leave Administration Division, Office of Pay and Performance,  
Personnel Systems and Oversight Group, (202) 606-2858 (FTS 266-2858)

**Code:** 550, Pay Administration (General)

**Distribution:** Basic FPM and FPM Supplement 990-2

**Bulletin Expires:** April 20, 1992

## Rules and Regulations

Federal Register  
Vol. 56, No. 51  
Friday, March 15, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

### OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550 and 551

RIN 3206-AE29

#### Pay Administration (General); Premium Pay for Emergency Work

AGENCY: Office of Personnel  
Management.

ACTION: Interim rule with request for  
comments.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing interim regulations on the exception from the biweekly limitation on premium pay authorized by section 204 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) and the special biweekly limitation on premium pay for certain law enforcement officers authorized by section 410 of FEPCA. Section 410 of FEPCA became effective on November 5, 1990.

**DATES:** Section 204 of FEPCA and the interim regulations set forth below are effective on the first day of the first pay period beginning on or after March 15, 1991. Comments must be submitted on or before May 14, 1991.

**ADDRESSES:** Comments may be sent or delivered to Barbara L. Fiss, Assistant Director for Pay and Performance, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 7H28, 1900 E Street, NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:**  
John P. Cahill, (202) 606-2858.

**SUPPLEMENTARY INFORMATION:** Section 204 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509, November 1990) provides that employees not covered by the special limitation in section 410 (discussed below) who perform certain types of emergency work will no longer be

subject to the GS-15 step 10, biweekly maximum earnings limitation under 5 U.S.C. 5547(a), but will instead be subject to a GS-15, step 10, annual limitation during the period of time they perform the specified types of work. The interim rule provides that heads of agencies or their designees may apply the exception from the biweekly limitation to employees performing emergency work in connection with natural disasters posing a direct threat to human life or property without obtaining OPM approval. In addition, with OPM approval, heads of agencies may apply the exception from the biweekly limitation to employees performing work in connection with other conditions posing a direct threat to human life or property. In both cases, this exception applies only if the work performed by the employee is directly related to resolving or coping with the emergency or its immediate aftermath.

Under the interim rule, employees covered by 5 U.S.C. 5547(b) remain subject to the annual limitation on premium pay throughout the calendar year. This means that an employee may reach the annual limitation even though he or she has not reached the biweekly limitation for a particular pay period. For example, an employee might reach the annual limitation (and therefore be ineligible to receive additional premium pay) if he or she earned large amounts of premium pay while performing emergency work earlier in a calendar year (and therefore was not subject to the biweekly limitation for that time period) and subsequently continues to perform work normally compensable at premium rates.

Section 410 of Public Law 101-509 and the interim rule provide a special biweekly maximum earnings limitation for certain law enforcement officers equal to the lesser of (1) 150 percent of the minimum rate for GS-15, including any locality-based comparability payment or interim geographic adjustment and any special salary rate, rounded to the nearest whole cent, or (2) the rate payable for level V of the Executive Schedule. By statute, this special biweekly limitation became effective on the date of enactment—i.e., November 5, 1990.

Finally, the interim regulations contain a conforming amendment in part 551 of title 5, Code of Federal Regulations.

Pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The 30-day delay in the effective date is being waived to give affected employees the benefit of these new premium pay provisions at the earliest practicable date.

#### E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

#### List of Subjects in 5 CFR Part 550

Government employees, wages.  
U.S. Office of Personnel Management.  
Constance Berry Newman,  
Director.

Accordingly, OPM is amending parts 550 and 551 of title 5 of the Code of Federal Regulations as follows:

#### PART 550—PREMIUM PAY

1. The authority citation for subpart A continues to read as follows:

Authority: 5 U.S.C. 5548 and 6101(c).

#### § 550.103 [Amended]

2. In § 550.103, a new paragraph (r) is added to read as follows:

(r) *Emergency* means a natural disaster or other temporary condition posing a direct threat to human life or property, including a forest wildfire emergency.

3. Section 550.105 is revised and §§ 550.106 and 550.107 are added following the undesignated center heading to read as follows:

#### Maximum Earnings Limitations

§ 550.105 Biweekly maximum earnings limitation.

(a) Except as provided in paragraph (b) of this section, an employee may be paid premium pay under this subpart only to the extent that the payment does not cause the total of his or her basic pay and premium pay for any pay period

to exceed the maximum rate for GS-15, including—

(1) A locality-based comparability payment under 5 U.S.C. 5304 or an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509); and

(2) A special salary rate established under 5 U.S.C. 5305.

(b) This section does not apply to—

(1) Any pay period for which an exception has been authorized under § 550.106 (a) or (b) of this part;

(2) An employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under 5 U.S.C. 5546a; or

(3) A law enforcement officer within the meaning of 5 U.S.C. 8331(20) or 8401(17).

**§ 550.106 Annual maximum earnings limitation for work in connection with an emergency.**

(a) For any pay period in which an employee performs work in connection with an emergency involving a natural disaster, including a forest wildfire emergency, the head of an agency or his or her designee may authorize payment of premium pay under the annual limitation described in paragraph (c) of this section, instead of under the biweekly limitation described in § 550.105(a) of this part.

(b) For any pay period in which an employee performs work in connection with an emergency other than a natural disaster, the Office of Personnel Management, on its own motion or at the request of the head of an agency, may authorize payment of premium pay under the annual limitation described in paragraph (c) of this section, instead of under the biweekly limitation described in § 550.105(a) of this part. A request made under this paragraph shall be submitted within 30 days after the first day of the first pay period beginning on or after March 15, 1991 or the beginning of the emergency, whichever is later.

(c) In any calendar year for which an exception has been authorized under paragraphs (a) or (b) of this section for any period of time, an employee may be paid premium pay under this subpart only to the extent that the payment does not cause the total of his or her basic pay and premium pay for the calendar year to exceed the maximum rate for GS-15 in effect on the last day of the calendar year, including—

(1) A locality-based comparability payment under 5 U.S.C. 5304 or an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509); and

(2) A special salary rate established under 5 U.S.C. 5305.

(d) For the purpose of applying paragraphs (a) and (b) of this section, an employee shall be considered to be performing work in connection with an emergency only if the work is directly related to resolving or coping with the emergency or its immediate aftermath.

(e) This section does not apply to—

(1) An employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under 5 U.S.C. 5546a; or

(2) A law enforcement officer within the meaning of 5 U.S.C. 8331(20) or 8401(17).

**§ 550.107 Special maximum earnings limitation for law enforcement officers.**

A law enforcement officer within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code, may be paid premium pay under this subpart only to the extent that the payment does not cause the total of his or her basic pay and premium pay for any pay period to exceed the lesser of—

(a) 150 percent of the minimum rate for GS-15, including a locality-based comparability payment under 5 U.S.C. 5304 or an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509) and any special salary rate established under 5 U.S.C. 5305, rounded to the nearest whole cent, counting one-half cent and over as a whole cent; or

(b) The rate payable for level V of the Executive Schedule.

#### **PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT**

4. The authority citation for part 551 continues to read as follows:

Authority: Sec. 4(f) of the Fair Labor Standards Act as amended by Pub. L. 93-259 enacted April 8, 1974, 88 Stat. 55; 29 U.S.C. 204f.

**§ 551.501 [Amended]**

5. In § 551.501, paragraph (c) is revised to read as follows:

(c) The maximum earnings limitations described in §§ 550.105, 550.106, and 550.107 of this chapter do not apply to overtime pay due the employee under this subpart.

[FR Doc. 91-6197 Filed 3-14-91; 8:45 am]

BILLING CODE 5325-01-M



United States  
Office of  
Personnel  
Management

## Notice of Changes to Title 5 of the Code of Federal Regulations

The Office of Personnel Management has issued interim regulations on the limitations on premium pay established by the Federal Employees Pay Comparability Act of 1990.

These regulations prescribe the circumstances under which the Office of Personnel Management and Federal agencies may authorize exceptions from the GS-15, step 10, biweekly limitation on premium pay, and establish a special biweekly limitation on premium pay for certain law enforcement officers.

You can review a copy of the complete text of the regulations in the room shown below. The U.S. Office of Personnel Management would like to hear any comments you may have. Please send them to arrive by the date shown below to the address indicated.

Location of complete text:		Send comments to: Barbara L. Fiss, Assistant Director for Pay and Performance, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E St. NW, Room 7H30, Washington, DC 20415
Notice expires:	Date comments to arrive: May 14, 1991	

The Director of the Office of Personnel Management (OPM) is required to take steps to ensure that OPM regulations which apply to individuals or organizations outside OPM are posted in Federal agencies maintaining copies of the Federal personnel regulations [5 USC 1103(b)(2)(A)]. This notice, which should be posted in a prominent place, carries out that regulation.

OPM Form 1122 P12 11/90