

DELEGATION OF AUTHORITY FROM
THE UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE
DELEGATIONS OF AUTHORITY

TYPE OF ACTION: Add X Change _____ Abolish _____

AUTHORITY DELEGATED TO: Deputies of programs, centers and offices who have authority for assigning and approving overtime, National Marine Fisheries Service

TYPE OF AUTHORITY: Administrative


AUTHORITY TO DO WHAT: Approve exceptions to the 80 hour limit on the accrual of compensatory time in cases of emergency or other extenuating circumstances in accordance with the attached NMFS Workforce Management Guidance.

Reference: NAO-202-550. "Timeframes for Use and Limit on Accrual of Compensatory Time"

RESERVED AUTHORITY: Deputies of programs, centers and offices who have authority for assigning and approving overtime, National Marine Fisheries Service, reserve the authority to approve exceptions to the 80 hour limit on compensatory time.

EFFECT ON OTHER DELEGATIONS: None

CLEARANCE BY:



for/ NOAA General Counsel Date 10/31/14
Department of Commerce / Employment and Labor Law Division

APPROVING OFFICIAL:



for/ Assistant Administrator, Date 10/17/14
National Marine Fisheries Service

NAO 202-550
EFF: 12/18/07; ISS: 12/26/07

TIMEFRAMES FOR USE AND LIMIT ON ACCRUAL OF COMPENSATORY TIME

SECTION 1. PURPOSE.

.01 This Order sets forth the National Oceanic and Atmospheric Administration (NOAA) policy on timeframes for use and limitation on accrual of compensatory time off earned in lieu of overtime pay for irregular and occasional overtime worked. Accrual of compensatory time must be monitored and controlled in order to limit financial liability.

02. The Department of Commerce delegated authority to Heads of Operating Units to determine whether a Fair Labor Standards Act (FLSA) exempt employee's balance of "earned and accumulated compensatory time off in lieu of overtime pay" that is unused after specified timeframe(s) will be paid or forfeited. This Order documents NOAA's decision to provide payment to its FLSA exempt employees.

.03 This Order is a revision and retitling of the previously issued NOAA Administrative Order (NAO) 202-550. The revision addresses regulatory changes issued by the Office of Personnel Management and updated policy guidance issued by the Department of Commerce Office of Human Resources Management effective May 14, 2007.

SECTION 2. REFERENCES.

- 5 U.S.C. 5543
- 5 CFR 550.114
- 5 CFR 551.531
- Department of Commerce Premium Pay Handbook, Chapter 8 - Regular and Irregular Overtime
- Department of Commerce, Office of Human Resources (HR) Bulletin #067, FY 07, dated July 10, 2007

SECTION 3. SCOPE.

The provisions of this Order are applicable to all NOAA employees, whether exempt or non-exempt from the FLSA, who are covered by the definition of "employee" at 5 U.S.C. 5541(2) or of "prevailing rate employee" at 5 U.S.C. 5342(a)(2).

SECTION 4. POLICY.

.01 The Office of Personnel Management issued regulations effective May 14, 2007, which imposed the following timeframes for employees to use compensatory time off in lieu of overtime pay.

a. Employees who earn compensatory time off in lieu of overtime pay for irregular or occasional overtime worked on or after May 14, 2007, must use the compensatory time off no later than 26 pay periods after the pay period in which it was earned.

b. Employees who have compensatory time off earned prior to May 14, 2007, must use the compensatory time off by the end of the pay period ending three years after May 14, 2007.

.02 NOAA employees, whether FLSA exempt or non-exempt (but excluding Schedule C employees), who fail to use compensatory time off to which they are entitled by the timeframe indicated in Section 4.01 of this Order, must receive payment for such unused compensatory time off in an amount equal to the amount of overtime pay the employee otherwise would have received as outlined in 5 CFR 550.114(g) or 5 CFR 551.531(g).

.03 NOAA employees, whether FLSA exempt or non-exempt, including Schedule C employees, with unused compensatory time off who separate from federal service or are placed in a leave without pay (LWOP) status under the following circumstances, must be paid for the unused compensatory time at the dollar value prescribed in Section 4.02 of this Order:

a. to perform service in the uniformed services (as defined under 38 U.S.C. 4303 and 5 CFR 353.102); or

b. due to an on-the-job injury with entitlement to injury compensation under 5 U.S.C. Chapter 81.

.04 Schedule C employees who are eligible to earn compensatory time off in lieu of overtime pay for irregular and occasional overtime work as outlined below must adhere to the timeframes indicated in Section 4.01 of this Order or forfeit the unused compensatory time off.

a. Schedule C employees above the GS-12 grade level or equivalent may not earn overtime pay or compensatory time off for irregular or occasional overtime work.

b. Schedule C employees at the GS-12 grade level or equivalent may only earn compensatory time off for hours worked in excess of the basic work week; they may not be paid for overtime.

c. Schedule C employees at or below the GS-11 grade level or equivalent may be paid for irregular and occasional overtime hours worked or, at the employee's request, may earn compensatory time off in lieu of overtime pay.

.05 NOAA has an 80 hour limit on the accrual of compensatory time. Exceptions may be granted in cases of emergency or other extenuating circumstances as outlined in Section 6. of this Order.

SECTION 5. LABOR-MANAGEMENT RELATIONS.

Prior to implementation of this policy, all labor management obligations must be satisfied. Management will notify the labor organizations of its intent to implement this policy and negotiate in good faith.

SECTION 6. DELEGATIONS OF AUTHORITY.

.01 Assistant Administrators and Staff Office Directors are delegated authority to approve exceptions to the 80 hour limit in cases of emergency or other extenuating circumstances.

.02 This authority may be redelegated to management officials who have authority for assigning and approving overtime. This redelegation must be in writing and a copy shall be retained by the delegating official.

SECTION 7. RESPONSIBILITIES.

.01 The Deputy Under Secretary for Oceans and Atmosphere is responsible for holding offices accountable for managing compensatory time balances.

.02 Line and Staff Offices are responsible for the following:

- a. monitoring the accrual and use of compensatory time;
- b. arranging the work requirements so employees with accrued compensatory time have an opportunity to use their compensatory time;
- c. adhering to union contracts in managing the accrual and use of compensatory time; and
- d. submitting appropriate paperwork to the servicing Workforce Management Office to process payment for unused compensatory time for eligible employees after the pay period in which it expires.

.03 The Workforce Management Office is responsible for the following:

- a. providing the Chief Financial Officers a listing of their employees who have accrued compensatory time;
- b. monitoring compensatory time balances in the National Finance Center system and processing payment for unused time; and
- c. educating managers and employees on compensatory time.

NATIONAL MARINE FISHERIES SERVICE
Workforce Management Guidance
Exceptions to the Limit on Accrual of Compensatory Time

Purpose:

To provide the National Marine Fisheries Service (NMFS) approval and reporting requirements regarding requests for an exception to the NOAA 80 hour limit on the accrual of compensatory time.

Background:

Per NAO 202-550, NOAA has an 80 hour limit on the accrual of compensatory time. Authority to grant exceptions in cases of emergency or other extenuating circumstances was re-delegated in writing by the NMFS Assistant Administrator to the Deputies of NMFS programs, centers and offices who have authority for assigning and approving overtime. A copy of this re-delegation is retained by the NMFS Office of the Assistant Administrator.

Guidance:

- NMFS Deputies are responsible for ensuring compliance with NAO 202-550 and monitoring the accrual and use of compensatory time as each accrual creates a financial liability. An employee must receive payment for unused compensatory time if failure to use it is due to an exigency beyond the employee's control.
- Exceptions to the NOAA 80 hour limit on the accrual of compensatory time should be requested in writing and approved in advance by the applicable NMFS Program, Center or Office Deputy. Exceptions may be granted in cases of emergency or other extenuating circumstances only. Justifications for the exception and for the Deputy's approval should be documented on the written request.
- Supervisors/leave approving officials should be well aware of the amount of compensatory time hours granted to employees as each accrual creates an operating unit liability. A supervisor/leave approving official should not continuously grant compensatory time to an employee that, given the timeframes for use, and the employee's anticipated work requirements, he or she would not be able to use. Similarly, supervisors should arrange the work requirements of an employee with accrued compensatory time hours so the employee has the opportunity to use his or her compensatory hours within the required timeframes.
- The Deputy should ensure that all new supervisors/leave approving officials are trained on the process for requesting exceptions to the NOAA 80 hour limit on the accrual of compensatory time. Retraining should be provided and corrective action taken (including revocation of the delegated authority from individual supervisors/leave approving officials), if warranted, for non-compliance.

- As a management control to ensure compliance with NAO 220-550, the Deputy should request a monthly MARS compensatory time report.
- The Deputy should review the monthly report with his or her Operations, Management and Information (OMI) administrator to ensure compliance with NAO 202-550 and this NMFS Workforce Management Guidance. Report generation and review should occur more frequently towards the end of the fiscal year to minimize the FMC's financial liability associated with unused compensatory time.
- Upon request from NMFS Headquarters, the Deputy should provide the FMC's current compensatory time report and other supporting documentation related to exception requests.

Reference:

NAO 202-550:

http://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_202/202-550.html

MARS Compensatory Time Report Generation Instructions:

- Logon to MARS Reporting and Querying
- Click on Document List (top left of screen)
- Click on Corporate Categories
- Click on the Workforce Management tab
- Select Comp Time – Regular Comp with Expiration
- Click on Refresh All (top of screen)
- Click on NMFS or enter your FMC's org code, i.e., 30-11 (delete * at beginning of org code field)
- Click on Run Query (bottom of screen)
- Click on Expiration Detail for employee-specific information (bottom of screen)
- To export to Excel – click on Document tab (top left of screen), Save as...

Questions:

Contact your NMFS timekeeper or MB2 Workforce Management Account Manager.