

DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

Action Date:

For Information Only:

DEPARTMENTAL PERSONNEL MANUAL

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DPM BULLETIN NO. 550- 36

APR - 3 1995

**SUBJECT:** Excused Absence, Exception to the GS-15,  
Step 10 Biweekly Earnings Limitation, and  
Fair Labor Standards Act Exemption Status Changes  
for Employees Performing Work in Connection with  
Flooding in California

On March 17, 1995, President Clinton signed a memorandum to heads of executive departments and agencies requesting that employees who are faced with a personal emergency because of the damage caused by the flooding and who can be spared from their usual responsibilities be excused from duty without charge to leave or loss of pay. This request also applies to employees who are needed for emergency law enforcement, relief, or clean-up efforts authorized by Federal, state, or local officials having jurisdiction. It does not apply to Federal employee members of the National Guard or Reserves who are called up to assist. Military leave is appropriate for those employees.

Under section 550.106(a) of Title 5, Code of Federal Regulations, the Secretary or his designee may authorize an exception to the GS-15, step 10 biweekly earnings limitation for work performed in connection with an emergency situation. Employees excepted from the biweekly limitation are still subject to an annual limitation equal to the rate of pay for GS-15, step 10.

The Assistant Secretary for Administration has determined that the severe flooding in California has created an emergency situation for which an exception to the biweekly earning limitation is appropriate. Operating Administrations (OAs) are therefore authorized, beginning the first day of the first pay period in which the emergency began, to apply the annual GS-15, step 10 limitation to the payment of premium pay for employees performing duties related to the flooding or its aftermath through June 1, 1995. Those OAs which require additional time must submit requests for extensions to the Assistant Secretary for Administration through the Departmental Director of Personnel.

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

**Bulletin Expires:** Upon Notification

**Distribution:** Personnel Council, M-15, AMZ-500, AAA-100, M-80

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

Under section 551.208(f) of Title 5, Code of Federal Regulations, when an agency has no recourse other than to assign exempt employees to perform duties relating to an emergency situation which threatens the life or safety of people, serious damage to property, or serious disruption to operations, the agency may have to change the employees Fair Labor Standards Act exemption criteria. Therefore, if an exempt employee spends more than 20 percent of his/her time during the workweek performing emergency nonexempt duties related to the flooding, his/her exempt status must be changed to nonexempt for that week. This determination must be made on a workweek basis for the duration of the emergency.

If you have any questions, please call Jan Karicher of my staff on (202) 366-9450.



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Director of Personnel

March 17, 1995

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: JAMES B. KING  
DIRECTOR

SUBJECT: Widespread Flooding In California

The following information is intended to bring you up to date on recent actions taken in California in response to the destruction caused by the recent widespread flooding.

Excused Absence

President Clinton signed a memorandum for heads of executive departments and agencies requesting that employees who are faced with a personal emergency because of the devastation caused by the flooding and who can be spared from their usual responsibilities be excused from duty without charge to leave or loss of pay. This request also applies to employees who are needed for emergency law enforcement, relief, or clean-up efforts authorized by Federal, State, or local officials having jurisdiction. This does not apply to Federal employee members of the National Guard or Reserves who are called up to assist. Military leave under 5 U.S.C. 6323(b) is appropriate for those employees.

A copy of the President's memorandum is attached. Questions may be referred to Jo Ann Perrini of OPM's Compensation Administration Division on (202) 606-2858.

Premium Pay for Employees Performing Emergency Work

Agencies are reminded of their authority under the law (5 U.S.C. 5547(b)) and Office of Personnel Management

regulations (5 CFR 550.106) to make exceptions to the biweekly maximum earnings limitation. When the head of an agency or his or her designee determines that an emergency posing a direct threat to life or property exists, an employee who is performing work in connection with the emergency must be paid premium pay under the annual limitation of GS-15, step 10, rather than the GS-15, step 10, biweekly limitation.

We encourage agencies to exercise their authority in the case of any employee who performs emergency work in connection with the flooding or its aftermath. Agency heads are required to make the determination as soon as practicable and to make entitlement to premium pay under the annual limitation effective as of the first day of the pay period in which the emergency began. Questions may be referred to James Weddel of OPM's Compensation Administration Division on (202) 606-2858.

Attachment

March 17, 1995

**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

**SUBJECT:** Excused Absence for Employees Affected by  
Widespread Flooding in California

I am deeply concerned about the devastating losses caused by widespread flooding in California and the impact on the well-being and livelihood of our fellow Americans who have been affected by this disaster. Many parts of the Federal Government have been mobilized to respond to this disaster.

As part of this effort, I request heads of executive departments and agencies who have Federal civilian employees in the areas designated as disaster areas because of the flooding to use their discretion to excuse from duty, without charge to leave or loss of pay, any such employee who is faced with a personal emergency because of the flooding and who can be spared from his or her usual responsibilities. This policy should also be applied to any employee who is needed for emergency law enforcement, relief, or clean-up efforts authorized by Federal, State, or local officials having jurisdiction.

/s/

William J. Clinton