

# HUMAN RESOURCES MANUAL

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## Instruction 610-1: Establishing and Administering Hours of Duty

Issuance Date: 05/16/2008

### Material Transmitted:

Department of Health and Human Services (HHS) Instruction 610-1, Establishing and Administering Hours of Duty dated May 8, 2008.

### Material Superseded:

HHS Instruction 610-1, Establishing and Administering Work Hours, Work Weeks, and Work Schedules, dated June 17, 1996.

### Background:

The attached Instruction has been revised consistent with changes in the organization of the Department of Health and Human Services (DHHS) and Office of Personnel Management (OPM) regulations contained in 5 CFR 610.

This Instruction establishes Departmental policy on hours of duty and clarifies roles and responsibilities for administering hours of duty within the Department. The former Instruction merely delegated the authority to Operating Divisions.

This issuance is effective immediately. Implementation of this issuance must be carried out in accordance with applicable laws, regulations, Departmental policies, and collective bargaining obligations.

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INSTRUCTION 610-1

**SUBJECT: ESTABLISHING AND ADMINISTERING HOURS OF DUTY**

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**610-1-00 PURPOSE**

This Instruction promulgates policy on the establishment of workweeks, work schedules, and related matters in order for the Department of Health and Human Services (HHS) to plan and schedule work consistent with the actual work requirements needed to accomplish its mission.

**610-1-10 REFERENCES**

- A. 5 USC § 6101-6133 (Hours of Work)
- B. 5 CFR Part 610 (Hours of Duty)
- C. 5 CFR Part 630 (Absence and Leave)
- D. Executive Order 11582 (Observance of Holidays by Government Agencies, February 11, 1971)
- E. HHS Instruction 630-1 (Leave and Excused Absences)
- F. HHS Guide for Timekeeping

**610-1-20 COVERAGE AND EXCLUSIONS**

- A. Coverage

The provisions of this Instruction apply to all Departmental employees including Federal Wage System employees.

- B. Exclusions.

1. This Instruction does not apply to the U.S. Public Health Service Commissioned Corp and members of the Senior Executive Service (SES).

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2. Departmental policies on alternate work schedules (AWS), telework or telecommuting, and dismissals and closures are covered in separate policy issuances.
3. The provisions of this Instruction pertaining to conditions of employment are fully negotiable in accordance with 5 USC Chapter 71. Therefore, when the provisions of this Instruction differ from the requirements contained in applicable collective bargaining agreement(s), the agreement takes precedence for bargaining unit employees.

**610-1-30      DEFINITIONS**

- A. Administrative Workweek. Any period of seven (7) consecutive 24-hour periods as designated by the Secretary or his/her designee(s).
- B. Alternative Work Schedule (AWS). Includes both flexible and compressed work schedules; however, there is no authority to combine the benefits of both work schedules to create a hybrid work schedule. An employee may be authorized either a flexible or compressed work schedule, but not both.
- C. Basic Workweek. For full-time employees, it is a 40-hour workweek, Monday through Friday, 8 hours a day, with two consecutive days off on Saturday and Sunday; for part-time employees, the officially prescribed days and hours within the administrative workweek during which the employee is scheduled to work.
- D. Compressed Work Schedule (CWS). For full-time employees, an 80-hour biweekly work requirement which is scheduled for less than 10 workdays; for part-time employees, a basic biweekly requirement of less than 80 hours which is scheduled for less than 10 workdays. In essence, a fixed work schedule that enables an employee to fulfill the basic 80-hour biweekly work requirement in less than 10 workdays.
- E. Core hours. The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required by the agency to be present for work. Employees on a compressed work schedule must work a fixed work schedule.
- F. Flexible Work Schedule (FWS). A work schedule which allows an employee to: vary his or her arrival and departure time; earn credit hours within limits set by the Department; and establish a tour of duty that generally consists of 8 hours per day, 40 hours per week.
- G. Regularly Scheduled Administrative Workweek. For full-time employees, it is the period within an administrative workweek, in which an employee is regularly scheduled to work. For part-time employees, it is the officially prescribed days and hours within an administrative workweek during which an employee is regularly scheduled to work.
- H. Regularly Scheduled Work. Work that is scheduled in advance of the administrative workweek and includes both regular and overtime hours consistent with HHS policy and applicable collective bargaining agreements.

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- I. Tour of duty. The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that comprise an employee's regularly scheduled administrative workweek.

**610-1-40 ROLES AND RESPONSIBILITIES**

- A. The Office of Human Resources (OHR), Assistant Secretary for Administration and Management (ASAM), is responsible for developing, issuing, interpreting and administering the provisions of this Instruction for the Department.
- B. Operating Divisions (OPDIV) are responsible for:
  1. Establishing and publishing supplemental policy on the administrative workweek for full-time employees that includes a 40-hour basic workweek consisting of five (5) consecutive, 8-hour days, Monday through Friday, including the hours of duty.
  2. Authorizing exceptions to the basic workweek to include the establishment of first 40-hour tours of duty or other uncommon tours of duty tailored to mission requirements (i.e. tours of duty requiring shift or rotational tours of duty).
  3. Ensuring that regularly scheduled overtime is used prudently and that it is requested in writing and approved in advance of the administrative workweek, where practicable.
  4. Tracking and recording hours worked, leave usage, overtime, credit hours, compensatory time and other forms of paid and non-paid duty status.
  5. Authorizing variations in work schedules for educational purposes and other circumstances consistent with mission objectives.
  6. Approving, modifying, or terminating alternative work schedules in accordance with HHS policy and applicable collective bargaining agreements.

**610-1-50 WEEKLY AND DAILY SCHEDULING OF WORK**

- A. Basic Work Schedule.
  1. HHS shall observe an administrative workweek that consists of seven (7) consecutive calendar days which run from 12:01 a.m. Sunday to 12:00 midnight Saturday.
  2. The basic workweek shall consist of 40-hours over five (5) consecutive days.
  3. The tour of duty during the administrative workweek shall be from Monday through Friday, eight (8) hours per day with two consecutive days off on Saturday and Sunday.
  4. The official hours of duty are from 8:30 a.m. to 5:00 p.m., which includes a 30-minute lunch break that is generally taken between 11:00 a.m. and 2:00 p.m. unless a negotiated agreement specifies a different lunch time-frame. The lunch break must be taken daily and

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cannot be forgone in order to shorten the daily tour of duty, unless an exception is approved by an authorized management official. OPDIVs may vary the official hours of work, the length of the lunch break, and the time-frame during which lunch breaks may be taken based on mission requirements and consistent with applicable law, regulations, HHS policies and applicable collective bargaining agreements.

5. In consultation with their supervisors, employees may establish alternate work schedules (including flexible work schedules or compressed work schedules) which differ from the official hours of duty. However, employees may be required to be present for duty during the OPDIV's established core hours.
  6. Nontraditional work schedules may be authorized based on mission requirements and when it is impractical or more costly to require employees to work a traditional work schedule.
  7. Changes in work schedules are subject to collective bargaining with recognized labor organizations.
- B. OPDIVs may establish supplemental written policies on scheduling work as needed to accomplish the mission of the organization.
  - C. OPDIVs shall schedule work according to the actual work requirements. When changes in work requirements are known in advance of the administrative week, authorized OPDIV officials shall change employees' tours of duty and notify employees of changes prior to the beginning of the administrative workweek. By proper planning and scheduling of work, organizational performance is improved while reducing the cost of overtime.
  - D. When it is impractical to prescribe a regular schedule of definite hours of duty for each tour of duty, OPDIVs may authorize uncommon tours of duty consistent with mission requirements.
  - E. When standby duty covers a period of 24 consecutive hours (except in cases of emergencies), eight (8) of the 24 hours will be allocated for sleeping and eating, and the 8 hours allocated for sleeping and eating shall not be compensable as hours of work.

**610-1-60 HOLIDAYS**

- A. 5 USC § 6103 and Executive Order 11582 govern the identification and determination of holidays. However, when a holiday falls on a non-work day, the day to be treated as a holiday for pay and leave purposes will be determined as follows:
  1. When a holiday occurs on a Saturday, the Friday immediately before is a legal holiday (for employees whose basic workweek is Monday through Friday); or
  2. If the actual holiday falls on a Sunday, the in lieu of holiday will be the following workday (Monday for most employees).

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3. Except when the holiday falls on a Sunday, the in lieu of holiday is the next basic workday;  
or
  4. For employees whose workweek is other than Monday through Friday and the holiday occurs on a non-workday, the in lieu of holiday is the workday immediately before the holiday.
  5. If Inauguration Day falls on a non-workday, there is no provision for an in lieu of holiday.
- B. For employees who work a compressed work schedule, in lieu of holidays will be determined as follows, and subject to applicable collective bargaining agreements:
1. If the holiday is on Sunday and Monday is the employee's day off under CWS, Tuesday will be the employee's in lieu of holiday off.
  2. If the holiday falls on Monday and that is the employee's day off under CWS, the in lieu of holiday may be either the previous workday or the following workday.
  3. If the actual holiday falls on Friday or Saturday, employees whose day off under CWS is Friday would have an in lieu of day off on Thursday.
  4. OPDIVs may adjust in lieu of days off in other circumstances based on mission requirements and consistent with this Instruction and applicable collective bargaining agreements.
- C. A part-time employee is entitled to a holiday when the holiday falls on a day when he/she would otherwise be required to work or take leave. This does not include overtime work. Part-time CWS employees are not entitled to an in lieu of holiday off when a holiday falls on a non-work day for the employee. However, when a part-time employee is prevented from working because the facility is closed to provide full-time employees an in-lieu-of holiday, the part-time employee may either be placed on an appropriate leave status or be excused (placed on administrative leave category or be excused without loss of pay for the number of hours he/she is regularly scheduled to work on that day).
- D. Employees who are authorized to work a flexible work schedule shall receive a maximum credit for a holiday of eight (8) hours towards the 80-hour biweekly work requirement even if they would otherwise work more hours on that day. If the President issues an Executive Order granting a half-day holiday, a full-time employee on a flexible work schedule is credited with half the number of hours he/she was scheduled to work, not to exceed four (4) hours. Part-time employees who are excused from work on a holiday receive their rate of basic pay for the hours they are regularly scheduled to work.
- E. On a holiday, employees assigned to a compressed work schedule are excused from all of the non-overtime hours they would otherwise work on that day and which apply to their "basic work requirement". For example if an employee's basic tour of duty consists of a 9 or 10-hour workday, the employee's holiday is 9 or 10 hours respectively. If the President authorizes a half-day holiday, a full-time employee on a compressed work

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schedule is entitled to basic pay for half the number of hours he/she would otherwise work on that day.

- F. When an employee's regularly scheduled tour of duty includes two shifts, which begins during the same 24-hour period, holiday benefits shall apply to the calendar day on which the first shift begins.

**610-1-70 LUNCH BREAKS AND BREAKS**

- A. A lunch break is an approved period of time in a non-pay and non-work status that interrupts a basic workday or a period of overtime work for the purpose of allowing an employee to eat or engage in personal activities. Employees who work five (5) or more hours in a day are allocated a 30-minute lunch break. OPDIVs may make exceptions to the 30-minute lunch break based on work priorities and requirements. Employees must take a lunch break and may not save any part of the thirty (30) minutes in order to leave early or extend subsequent lunch periods, unless an exception is authorized by the supervisor or other approving official.
- B. At the discretion of an OPDIV management official, and subject to collective bargaining for unit employees, management may authorize a brief period of paid work-time off of 15 minutes or less to improve organizational and employee proficiency. However, breaks may not be scheduled immediately before or after a lunch break or at the start or end of the workday, and may not be accumulated for use at a later time or in lieu of paid leave.
- C. Employees on fixed work schedules, including CWS, are authorized 30 minutes for lunch.
- D. Employees on flexible work schedules may request supervisory approval to extend the lunch period and make up the difference either at the beginning or ending of the same day. If the additional time would extend the employee's workday beyond the time in which he/she may earn credit hours, the extra time will be charged to annual leave, sick leave (if appropriate), credit hours, and/or accrued compensatory time.
- E. An employee must be excused from job duties during his/her lunch break. However, if an employee is recalled to job duties, the employee is entitled to be paid for compensable work in accordance with applicable law and regulation.
- F. Nonexempt firefighters and certain law enforcement personnel who receive annual premium pay for administratively uncontrollable work are entitled to compensation for lunch breaks, when such employees are not completely relieved from job duties. Bona lunch breaks for criminal investigators who receive law enforcement availability pay (LEAP) are not hours of work and as such are not compensable.