

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206-AK62

Computation of Pay for Biweekly Pay Periods

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to implement a statutory amendment that requires the pay of heads of agencies and other designated employees to be calculated and paid on a biweekly basis instead of on a monthly basis. The proposed regulations also prescribe the circumstances under which an agency may calculate the pay of an employee on a biweekly pay period basis whose pay otherwise would be calculated on a monthly or other basis.

DATES: Comments must be received on or before December 6, 2004.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415, Fax: (202) 606-4264, or e-mail at pay-performance-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT: Ronald Genua by telephone at (202) 606-2858; by Fax at (202) 606-4264; or by e-mail at pay-performance-policy@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing proposed regulations to calculate pay on a biweekly pay period basis for employees whose pay was formerly calculated on a monthly basis. Section 1124 of Public Law 108-136 (November 24, 2003) amended 5 U.S.C. 5504 to require the pay of heads of agencies (including the heads of military departments) to be calculated

and paid on a biweekly basis instead of on a monthly basis. This law also amended 5 U.S.C. 5504 to cover members of the Foreign Service, the Senior Foreign Service, and the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service. In addition, 5 U.S.C. 5504(c)(3), as amended, allows an agency to make exceptions and elect to calculate the pay of employees on a biweekly pay period basis whose pay otherwise would be calculated on a monthly or other basis. The law requires OPM to issue regulations providing guidelines for these exceptions to be made.

Section 1124 became effective on the first day of the first pay period beginning on or after the date of enactment of the Act (November 24, 2003). Since biweekly pay periods for Federal employees begin on a Sunday, this provision became effective on November 30, 2003, for most officials and employees. OPM notified agencies of this legislative change on December 24, 2004, in a memorandum to human resources directors. (*See <http://www.opm.gov/oca/compmemo/2003/2003-21.asp>*.)

Computation of Pay

The change in the method of computing pay for heads of agencies and other affected employees has no effect on the pay they receive for a given period of work. Prior to the change in 5 U.S.C. 5504, the heads of agencies received a full month's pay for each full month of service (or fraction thereof). For monthly pay computations, an employee's annual salary was divided by 12 to determine the monthly amount. Under the new law, these employees receive a full pay period's worth of pay for each full pay period of service (or fraction thereof). For biweekly pay computations, an employee's annual salary is divided by 2,087 to determine an hourly rate, and the hourly rate is multiplied by 80 to determine the biweekly rate.

Employees Covered

As a result of the amendment to 5 U.S.C. 5504, the pay of most Federal employees in executive branch agencies is calculated on a biweekly pay period basis. However, some categories of employees continue to be excluded because they are excluded from the definition of "employee" in 5 U.S.C.

5541(2) (except as provided in 5 U.S.C. 5504(c)(2)(B)). For example, members of the Uniformed Division of the Secret Service and the U.S. Park Police are not covered by 5 U.S.C. 5504 because they are excluded from the definition of "employee" by 5 U.S.C. 5541(2)(iv). However, agencies may have established biweekly pay period computations for such employees under separate legal authority.

Exceptions

In § 550.605, OPM proposes to allow an agency under certain circumstances to deem that an otherwise excluded employee meets the definition of a covered employee under § 550.602 for the purpose of computing his or her pay on a biweekly pay period basis. OPM proposes to allow agencies to make exceptions in situations where continuing to calculate an employee's pay on a monthly or other basis would diminish the level of services provided to the public by the agency. In addition, we propose to allow an agency head or designee to make an exception to include otherwise excluded employees when he or she determines that computing the pay of such employees under the rules in 5 U.S.C. 5504 would provide cost savings in agency operations. If an agency chooses to make such an exception, an employee's hourly rate of pay would be calculated by using a divisor of 2,087. Each agency that decides to make an exception under § 550.605 must notify OPM in writing of any exceptions made under that authority.

Regulatory Flexibility Act

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

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

Office of Personnel Management.

Kay Coles James,
Director.

Accordingly, OPM is proposing to amend part 550 of title 5 of the Code of Federal Regulations as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

1. A new subpart F is added to part 550 to read as follows:

Subpart F—Computation of Pay for Biweekly Pay Periods

Sec.

550.601 Purpose.

550.602 Coverage.

550.603 Definitions.

550.604 Biweekly pay periods and computation of pay.

550.605 Exceptions.

550.606 Reporting exceptions to OPM.

Authority: 5 U.S.C. 5504; Pub. L. 108–136, 117 Stat. 1637.

Subpart F—Computation of Pay for Biweekly Pay Periods

§ 550.601 Purpose.

This subpart provides regulations to implement 5 U.S.C. 5504 to compute pay on a biweekly pay period basis for employees in an agency, as defined in § 550.603.

§ 550.602 Coverage.

(a) This subpart applies to—

- (1) An employee in or under an agency, except an employee excluded by paragraph (b) of this section;
- (2) The head of an agency;
- (3) The head of a military department, as defined in 5 U.S.C. 102;
- (4) A Foreign Service officer;
- (5) A member of the Senior Foreign Service;
- (6) A member of the Senior Executive Service; or
- (7) A member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

(b) This subpart does not apply to—

- (1) An employee on the Isthmus of Panama in the service of the Panama Canal Commission; or
- (2) An employee or individual excluded from the definition of employee in 5 U.S.C. 5541(2), except employees excluded by 5 U.S.C. 5541(2)(ii), (iii), and (xiv) through (xvii) are covered by this subpart.

§ 550.603 Definitions.

In this subpart—

Agency means an executive agency, as defined in 5 U.S.C. 105.

Employee has the meaning given that term in 5 U.S.C. 2105.

§ 550.604 Biweekly pay periods and computation of pay.

Agencies must apply the biweekly pay period and computation of pay provisions of 5 U.S.C. 5504 for employees covered by § 550.602(a).

§ 550.605 Exceptions.

An agency head or designee may deem that an employee excluded from coverage under § 550.602(b)(2) is covered by 5 U.S.C. 5504 in situations where he or she determines that continuing to calculate the pay of such employees on a monthly or other basis would diminish the level of services provided to the public by the agency. An agency head or designee also may deem that otherwise excluded employees are covered by 5 U.S.C. 5504 when he or she determines that computing the pay of such employees under that provision of law would provide cost savings in agency operations.

§ 550.606 Reporting exceptions to OPM.

Each agency must notify OPM in writing of any exceptions made under § 550.605.

[FR Doc. 04–22530 Filed 10–6–04; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19264; Directorate Identifier 2004–NM–90–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A319, A320, and A321 series airplanes. This proposed AD would require modification of certain auxiliary power unit (APU) alternating current (AC) generators. This proposed AD is prompted by a report of an explosion in the APU compartment, which blew open the compartment doors. We are proposing this AD to prevent oil vapor leakage from the APU AC generator, which, when combined with an electric arc at the electrical receptacle, could result in a fire or explosion in the APU compartment during flight.

DATES: We must receive comments on this proposed AD by November 22, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide Rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.

- *By Fax:* (202) 493–2251.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Technical information: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

Plain language information: Marcia Walters, marcia.walters@faa.gov.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form “Docket No. FAA–2004–99999.” The Transport Airplane Directorate identifier is in the form “Directorate Identifier 2004–NM–999–AD.” Each DMS AD docket also lists the directorate identifier (“Old Docket Number”) as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your