

PART 2051 - HOURS AND PAY

Subpart J - Compensatory Time Off for Travel

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PART 2051 - HOURS AND PAY

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§ 2051.451 General.

The Federal Workforce Flexibility Act of 2004 (Section 203 of Public Law 108-411 dated October 30, 2004) established a new form of compensatory time off for time spent by an employee in a travel status away from the employee's official duty station when such time is not otherwise compensable. This instruction supplements this law; Office of Personnel Management (OPM) regulations, rules, and policies; and the United States Department of Agriculture (USDA) regulations and policies. OPM's regulations implementing the new form of compensatory time off for travel were effective January 28, 2005.

This instruction describes Rural Development policy and procedures for selected issues related to compensatory time off for travel. This instruction is intended to be read and applied within the context of all applicable laws and regulations. OPM's regulations for compensatory time off for travel are found in Subpart N of Part 550 of Title 5 of the Code of Federal Regulations (CFR). USDA's regulations are found in Subchapter 2 of Part 550 of the Department Personnel Manual. In addition, OPM includes memoranda and other relevant explanatory material on compensatory time off for travel on its pay administration website at [www.opm.gov/oca/pay/index.asp](http://www.opm.gov/oca/pay/index.asp).

§ 2051.452 Coverage.

Compensatory time off for travel covers employees as defined in 5 U.S.C. 5541(2). Compensatory time off for travel applies to employees who are exempt and nonexempt from the Fair Labor Standards Act (FLSA). Almost all employees in Rural Development are covered; however, members of the Senior Executive Service (SES) and employees in Federal Wage System (FWS) positions are not eligible to earn compensatory time off for travel.

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§ 2051.453 Authority to Approve Compensatory Time Off for Travel.

Compensatory time off for travel must be for officially authorized travel, i.e., travel for work purposes that has been approved by an authorized Rural Development official or otherwise authorized under established Rural Development policies. Designated officials in Rural Development are authorized to approve travel (RD Instruction 2036-A). If travel has been officially authorized, there is no requirement for a separate request in advance of the travel for compensatory time off. Employees must submit requests to receive credit for compensatory time off for travel AFTER official travel has been completed.

The Under Secretary, Rural Development, has the authority to approve compensatory time off for travel. The Under Secretary redelegates this authority to Agency Administrators and other National Office officials through the level of Division Directors, as well as to State Directors. National Office officials and State Directors may redelegate authority to approve compensatory time off for travel to the lowest supervisory level within their respective organizations. These additional redelegations should be issued in writing. (This delegation of authority mirrors the authority to order or approve overtime as described in RD Instruction 2051-H at 2051.353.) Designated officials exercise the authority to approve employee requests for compensatory time off after travel is completed.

§ 2051.454 Policy and Responsibilities.

- (a) Overall Policy. Whenever possible, an employee's travel should be scheduled within regular hours. This policy applies to both FLSA nonexempt and exempt employees.
- (b) Supervisory Responsibilities. Supervisors are responsible to schedule travel for subordinate employees. When an employee must travel, it is the supervisor who should select the mode of transportation, e.g., automobile or airplane, and the general time and route of travel. Supervisors must make these decisions within budgetary limitations and in recognition of the overall policy to schedule travel within an employee's regular work hours whenever possible.
- (c) General Rule. Supervisors MUST credit an employee with compensatory time off for travel if:
  - (1) travel is authorized;
  - (2) travel is away from the official duty station;
  - (3) travel time is not otherwise compensable hours of work under other legal authority;

## § 2051.454(c) (Con.)

(4) specified exclusions are made from travel time (e.g., bona fide meal periods, normal home-to-work or work-to-home commuting, and extended waiting time, as discussed in 2051.455 (d) - (f)) AND

(5) the employee follows Rural Development procedures for submission of a written request within the specified timeframe.

§ 2051.455 Creditable Travel Time.

An employee is entitled to earn, on an hour-for-hour basis, compensatory time off for time in a travel status away from the employee's official duty station when the travel time is not otherwise compensable hours of work under other legal authority.

(a) Travel Status. Travel status includes only the time actually spent traveling between the official duty station and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel, subject to exclusions discussed in OPM's regulations (5 CFR 550.1404) and in (d)-(f) of this section. Time spent at a temporary duty station between arrival and departure is not time in a travel status. The time an employee spends traveling between temporary lodging and the temporary duty station each day does not qualify as time in a travel status. This time substitutes for the time the employee would have spent in normal home-to-work and work-to-home commuting at the official duty station.

(b) Official Duty Station. Rural Development defines a mileage radius of 50 miles to determine whether an employee's travel is within or away from the limits of the employee's official duty station (ODS). Travel within the ODS limits does not qualify for compensatory time off for travel.

(c) Usual Waiting Time. Usual waiting time that precedes or interrupts travel is time in a travel status. Rural Development credits predeparture waiting time based on standards established by the applicable airline. Predeparture waiting time may vary depending on a number of factors, such as the airline, the airport, the security level, or the time of year. There is no one established amount of time that is universally credited for usual predeparture waiting time. Rural Development credits the actual time spent waiting for connecting flights or as a result of flight delays for waiting time that interrupts travel. This definition of usual waiting time that precedes or interrupts travel is the same as the definition of waiting time included in RD Instruction 2051-H under 2051.357(g).

(d) Extended Waiting Time. If an employee experiences an unusually long wait prior to his or her initial departure or between actual periods of travel during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes, the extended waiting time that is outside the employee's regular working hours does not qualify as time in a travel status. This extended waiting time is not usual. It most often occurs when severe weather conditions or major mechanical difficulties result in flight cancellations and very lengthy, even overnight, delays.

(e) Bona Fide Meal Periods. Bona fide meal periods during actual travel time are not creditable as time in a travel status.

RD Instruction 2051-F includes the requirement for a lunch period on scheduled workdays. Rural Development does not have a mission area policy that requires meal periods at other times, such as on nonworkdays or during travel outside regular working hours; however, any bona fide meal period an employee takes during actual travel time does not qualify as time in a travel status.

(f) Commuting Time. There are times when it is necessary to deduct the amount of time an employee spends in normal commuting between home and work when determining what time qualifies as time in a travel status. For compensatory time off for travel, these deductions must be made for travel on nonworkdays as well as workdays. This differs from determining hours of work for overtime, when commuting time deductions are made only on scheduled workdays.

(1) If an employee is required to travel directly between home and a temporary duty station outside the limits of the ODS, the time the employee would have spent in normal home-to-work and work-to-home commuting must be deducted.

(2) If an employee is required to travel outside regular work hours between home and a transportation terminal outside the limits of the ODS, the normal commuting time also must be deducted.

(3) If an employee is required to travel outside regular work hours between home and a transportation terminal within the limits of the ODS (as part of travel away from the ODS), the time is considered equivalent to normal commuting time and does not qualify as time in a travel status.

(4) If an employee travels between a worksite and a transportation terminal, the travel time outside regular work hours does qualify as time in a travel status, and no deduction for commuting time is made.

§ 2051.455 (con.)

(g) Alternative Mode, Time, or Route of Travel. If an employee requests, and is permitted, to use an alternative mode of transportation (e.g., an employee prefers to drive rather than fly), or travel at a different time or by a different route than selected by the supervisor, the employee will be credited with the lesser of:

- (1) the actual travel time in a travel status; or
- (2) the estimated travel time which would have been considered time in a travel status if the employee would have followed the supervisor's selected travel mode, time, and/or route.

(h) Multiple Time Zones. When an employee's travel involves two or more time zones, the time zone at the point of first departure for the day is used to determine whether, or how much, travel is credited as time in travel status. For example, if an employee begins travel in Washington, D.C., and ends travel that day in St. Louis, all times are converted to the Eastern time zone to determine if any of the travel is time in a travel status.

When the employee returns a later day from St. Louis to Washington, D.C., all times are converted to the Central time zone to determine if any of the travel is time in a travel status.

(i) Multiple-Day Travel Assignments. An employee who is on a multiple-day travel assignment may choose, for personal reasons, not to use temporary lodgings at the temporary duty station, but to return home at night or on a weekend. Typically in such a case, only travel from home to the temporary duty station on the first day and travel from the temporary duty station to home on the last day that is otherwise qualifying as time in a travel status is creditable (subject to the deduction of normal commuting time). Travel to and from home on other days is not creditable travel time unless an authorized agency official, at his or her discretion, determines that credit should be given. Such a determination must be based on the net savings to the Government from reduced lodging costs, considering the value of lost labor time attributable to compensatory time off. The dollar value of an hour of compensatory time off for this purpose is equal to the employee's hourly rate of basic pay, which includes locality pay.

The Under Secretary delegates authority to approve credit for compensatory time off for certain travel on multiple-day travel assignments, based on determination of net savings to the

Government, to senior management officials. These senior officials include the Deputy Under Secretary for Rural Development; Administrators; Associate Administrators; Deputy Administrators; Assistant Administrators; Director, Centralized Servicing Center; Deputy Chief Financial Officer; State Directors; and designated Special Approving Officials (SAO) in the National Office.

(j) Compensable Hours of Work. An employee may not receive double compensation for travel hours. If the travel time is otherwise compensable, the employee may not receive compensatory time off for travel. This includes travel time during regular work hours and during hours that are compensable as overtime under Title 5 or FLSA. An employee may not earn compensatory time off for travel during basic (non-overtime) holiday hours because the employee is entitled to receive his or her regular pay for those hours. Rural Development designates the 8 hours from 8:00 a.m. to 4:30 p.m. as the basic holiday hours for employees on flexible work schedules.

§ 2051.456 Request for Compensatory Time Off for Travel.

(a) Earning Compensatory Time Off for Travel. Approving officials may authorize credit for compensatory time off for travel only in increments of one-quarter of an hour (15 minutes). When travel time results in other than the full one-quarter of an hour, odd minutes shall be rounded up or rounded down to the nearest quarter of an hour. For example, 67 minutes is rounded down to 1 hour, and 68 minutes is rounded up to 1¼ hour. The National Finance Center (NFC) established a separate transaction code/prefix to record credit for compensatory time off for travel. Timekeepers should refer to the Time and Attendance Instructions for detailed information on recording earned compensatory time off for travel.

(b) Request Format. To receive credit for compensatory time off for travel, an employee must submit a written request and provide sufficient documentation of time in a travel status to allow the approving official to make a written determination.

Rural Development will not require a specific form or format for such a request; however, Exhibit A, Request for Compensatory Time Off for Travel, provides a sample format that may be used. The written request and final determination should be filed with the employee's time and attendance report for the pay period in which the compensatory time off for travel is credited.



## § 2051.456 (Con.)

(c) Request Time Period. An employee should file a written request for credit by the end of the pay period in which travel occurs, but no later than the end of the pay period following the travel. Exceptions for late filing, such as extended illness immediately after travel, may be approved on an individual basis by a senior management official.

These senior officials include the Deputy Under Secretary for Rural Development; Administrators; Associate Administrators; Deputy Administrators; Assistant Administrators; Director, Centralized Servicing Center; Deputy Chief Financial Officer; State Directors; and designated Special Approving Officials (SAO) in the National Office.

(d) Managing Compensatory Time Off for Travel. If travel is authorized, meets the criteria for credit, and employees follow prescribed procedures for submission of written requests within the specified timeframe, supervisors must approve compensatory time off for travel. There is no flexibility to set any type of cap on the accumulation of compensatory time off for travel. Supervisors must manage travel to ensure they manage compensatory time off for travel. The goal within Rural Development is not to exceed more than 40 hours in an employee's balance of compensatory time off for travel.

§ 2051.457 Usage of Accrued Compensatory Time Off for Travel.

(a) Using Compensatory Time Off for Travel. Approving officials may approve requests to use accrued compensatory time off for travel only in increments of one-quarter of an hour (15 minutes). NFC established a separate transaction code/prefix to record usage of accrued compensatory time off for travel. Timekeepers should refer to the Time and Attendance (T&A) Instructions for detailed information on recording charges against an employee's accrued balance of compensatory time off for travel.

(b) Scheduling Compensatory Time Off for Travel. An employee must use OPM Form 71, Request for Leave or Approved Absence, for all requests to use any amount of compensatory time off for travel. Such requests should be recorded under "Other paid absence." The "Remarks" section should indicate the request is for compensatory time off for travel.

§ 2051.458 Forfeiture of Unused Compensatory Time Off for Travel.

(a) After 26 Pay Periods. An employee must use accrued compensatory time off for travel by the end of the 26<sup>th</sup> pay period after the pay period during which it was credited. For example, if an employee is credited with compensatory time off for travel in pay period 6 of 2005, the employee has until the end of pay period 6 in 2006 to use it. If an employee fails to use the compensatory time off within 26 pay periods after it is credited, the employee must forfeit such compensatory time off. NFC will automatically delete any balances of compensatory time off for travel after 26 pay periods. (OPM's regulations and guidance make a point to emphasize that it is the pay period in which compensatory time off is credited, rather than when it is earned, which starts the 26 pay periods before forfeiture. This distinction is not significant under the NFC system, because compensatory time off always should be credited to the pay period in which it was earned. This is true even if the compensatory time off is entered after the pay period in which it is earned because it will be necessary to process a corrected T&A. A corrected T&A ensures the compensatory time off is credited to the pay period in which it was earned.)

(b) Transfer to Another Agency. If an employee voluntarily transfers to another Agency (i.e., outside USDA), any unused compensatory time off is forfeited. Transfer also includes promotion or change to lower grade.

(c) Movement Within USDA. If an employee moves to another USDA agency, any unused compensatory time off is retained.

(d) Movement to a Noncovered Position. If an employee moves to a Federal position not covered by OPM's regulations, any unused compensatory time off is forfeited.

(e) Separation. If an employee separates from Federal service, any unused compensatory time off is forfeited.

(f) Exceptions. There are provisions in OPM's regulations that allow an extended period to use compensatory time off before forfeiture. These provisions include situations where employees separate or are placed in a leave without pay status to perform service in the uniformed services, with restoration rights, or because of an on-the-job injury. Specific criteria can be found in 5 CFR 550.1407. These are the only situations when additional time beyond the 26 pay periods may be approved for use of compensatory time off.

§ 2051.458 (Con.)

(g) Exigency of the Public Business. An employee's use of earned compensatory time off for travel does not constitute an exigency of the public business. If the use of earned compensatory time off that is about to expire results in the forfeiture of excess annual leave, the forfeited annual leave cannot be restored.

§ 2051.459 Pay Caps.

Accrued compensatory time off for travel is not considered in applying maximum earnings limitations under the premium pay provisions (5 CFR 550.105 through 550.107) or the aggregate limitation on pay (5 CFR 530, subpart B).

§ 2051.460 Prohibition Against Payment.

An employee may not receive payment under any circumstances for any unused compensatory time off for travel. This prohibition against payment also applies to surviving beneficiaries in the event of an employee's death.

Attachment: Exhibit A, Request for Compensatory Time Off for Travel

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