



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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The Honorable Harry F. Byrd, Jr.
United States Senate

Dear Senator Byrd:

This is in response to your letter of December 4, 1978, requesting our views on Title IV of Pub. L. No. 95-390 which established a system of [compensatory time for observance of religious holidays.] One of your constituents, Mrs. Marie Langbart, informed you that the Government Printing Office (GPO) has refused to issue regulations claiming that the new Act does not cover GPO or the General Accounting Office (GAO) since both are legislative agencies and not executive agencies.

Title IV of the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Pub. L. No. 95-390, September 29, 1978, adds a new section 5550a to title 5, United States Code, providing in pertinent part:

"(a) Not later than 30 days after the date of the enactment of this section, the Civil Service Commission shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law."

The Civil Service Commission delegated its authority to prescribe such regulations to the individual agency heads. Federal Personnel Manual Letter 550-71, October 2, 1978.

The legislative history of Title IV shows an intent to include all Federal employees. However, Title IV is an amendment to subchapter V of chapter 55, title 5, United States Code. Subchapter V

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has its own definitions of "employee" and "agency" separate from the remainder of title 5. An "agency" is defined therein for purposes of subchapter V as an executive agency, military department, agency in the judicial branch, the Library of Congress, the Botanic Garden, the Office of the Architect of the Capitol, and the government of the District of Columbia. 5 U.S.C. § 5541(1) (1976). Section 105 of title 5, United States Code, defines "Executive agency" as an executive department, a Government corporation, and an independent establishment. Section 104 of title 5, United States Code, defines independent establishment as an establishment in the executive branch and the GAO.

Viewing these provisions of title 5 together, it can be seen that Title IV of the Federal Employees Flexible and Compressed Work Schedules Act of 1978 applies only to employees of the agencies covered by 5 U.S.C. § 5541. Since the GPO is a legislative agency, and is not included within the definition of "agency" in section 5541, it is not covered by the new Act. On the other hand, as indicated above, the GAO is covered under the new Act.

Sincerely yours,

D. F. KELLER

Deputy Comptroller General
of the United States