

# The Washington Times

## Fair day's pay for a fair day's work? EPA skirts overtime rules as Obama pushes overtime changes

Kellan Howell

September 22, 2015

As the Obama administration pushes a new proposal to extend overtime pay to 5 million American workers — to the dismay of many employers — its own agencies can't seem to manage overtime payments for federal employees.

A new report from the Environmental Protection Agency's Office of Inspector General revealed that the agency paid unauthorized overtime for almost 15,000 hours of work, and several thousand more hours only got the needed approval after the fact, contrary to the agency's own procedures.

In many instances, the offices used verbal or other written methods to approve overtime. When officials did use the proper forms, they were not always approved in advance, and employees often recorded hours in excess of the authorized amounts.

According to the inspector general, the EPA "did not provide overtime request forms to support 14,494 of the 27,817 overtime hours" recorded in the agency's accounts as having been billed to taxpayers. In addition, the EPA "did not authorize and approve in advance 3,193 of the 13,324 hours included on the overtime request forms provided to the OIG."

"In alt-washington government world, overtime is a way to game the system, and managers have little incentive to curb it because, after all, they are never held accountable for spending and mismanagement of funds. In the private sector, overtime is to be avoided. It reflects unneeded costs and poor personnel management systems," said Tom Fitton, president of the watchdog group Judicial Watch.

According to the report, EPA data showed 163,483 overtime hours at a cost of nearly \$8.1 million for fiscal 2012 and 2013. Individual overtime charges for employees ranged from 1 minute to 2,398 hours, with costs ranging from 10 cents to \$40,167.

"An inordinate amount of administrative cost is being incurred for a small percentage of total hours and total overtime charges," the report reads. "While some instances may have been unavoidable, better time management could eliminate numerous other instances, reducing not only the overtime costs but the administrative costs associated with the approval, management and documentation of overtime."

The report comes just under three months after President Obama released his new proposal for overtime rules, which would more than double the salary ceiling for which overtime is mandatory if a salaried person winds up working more than 40 hours per week. Previously, a worker had to earn \$455 or less per week to get automatic overtime; as of 2016, that ceiling will be raised to \$970 per week, or just over \$50,000 per year, making 15 million people eligible for mandatory overtime pay.

“In this country, a hard day’s work deserves a fair day’s pay. That’s at the heart of what it means to be middle class in America,” Mr. Obama wrote in an op-ed to announce the proposal, published by The Huffington Post in June.

Industry and business groups have argued the new overtime rules would lead employers to reclassify salaried workers as hourly employees and strictly limiting the hours accordingly, thereby stripping those workers of the benefits and flexibility of a salaried post.

Federal budget and tax experts say the EPA report highlights the hypocrisy behind the administration’s push for overtime regulations on private businesses given the government can’t manage its own employee overtime.

“One reason people are cynical of government is that it’s always cracking down on supposed private abuses when it can’t even get its own house in order,” said Chris Edwards, a budget analyst at the Cato Institute.

“The Obama administration is going after private employers for their overtime policies, but there is ongoing overtime abuse within federal agencies such as the EPA. You see the same pattern with the EPA penalizing private environmental practices, but it just spilled millions of gallons of waste into Colorado’s Animas River,” he noted.

Mr. Fitton agreed, noting that people in private businesses have been fired for lesser offenses than the ones highlighted in the IG’s report on the EPA.

The EPA did not respond to a request for comment from The Washington Times.

Labor Secretary Thomas E. Perez told reporters in June that too many managers are falling behind and getting caught in the “middle class squeeze” on overtime.

Proponents of the change say the salary threshold hasn’t seen meaningful change to match inflation for over 40 years, leaving just 8 percent of full-time salaried workers eligible for mandatory overtime now compared to 60 percent in 1975.

The Obama administration predicts the new proposal could cost employers between \$240 million and \$255 million per year in direct costs.

But business groups estimate the costs could be much higher. A recent study by the National Retail Federation estimated employers could end up paying as much as \$874 million to update payroll systems, convert salaried employees to hourly and track their hours under the new regulations.

“President Obama has had no real-world experience running companies; he has contempt for business,” Mr. Fitton said. “He thinks business owners are government employees waiting for

regulation, and he thinks just because it's a good idea, it doesn't matter what the consequences are."