

DOUG A. TULINO
VICE PRESIDENT, LABOR RELATIONS



May 20, 2020

Mr. Brian J. Wagner
President
National Association of Postal
Supervisors
1727 King Street Suite 400
Alexandria, VA 22314-2753

Dear Mr. Wagner:

Your April 8 correspondence to Megan J. Brennan, Postmaster General and Chief Executive Officer requesting the Postal Service to exercise its authority under 5 CFR § 550.904 to pay the hazard pay differential to all postal employees has been forwarded to this office for response. Your correspondence also requested that the Postal Service provide additional pay to employees in the Executive and Administrative Schedule (EAS) Grade 18 and above during the current period of the national emergency.

NAPS cites 5 USC § 5545 (d) and 5 CFR § 550.904 to support its request for the Postal Service to exercise its authority in providing the hazard pay differential to postal employees. The Postal Service is excluded from the statutory provision 5 USC § 5545 (d) as well from 5 CFR § 550.904. Therefore, the Postal Service does not have authority to provide the hazard pay differential.

NAPS also requested a temporary modification to the pay policy that provides additional pay for employees in limited FLSA-Exempt positions Grades 23 and below of the EAS schedule. NAPS requested that Employee and Labor Relations (ELM) Manual 434.143, *Eligible for FLSA-Exempt EAS Additional Pay* be expanded to recognize the current period of the national emergency as the provision does for the designated Christmas period. It also requests that the additional pay be expanded to all employees in FLSA-Exempt Grades 18 and above in the EAS schedule during this period.

I have considered your request for additional pay of employees in FLSA-Exempt positions EAS-18 and above in the EAS schedule during the pandemic and decided to temporarily modify applicable pay provisions for the following Field EAS Managers:

- Plant Manager
- Manager Customer Service Operations
- Manager Customer Services
- Manager Distribution Operations
- Manager Field Maintenance Operations
- Manager International/Military Operations
- Manager International Service Center

- Manager Mail Processing Operations
- Manager Maintenance Engineering Support
- Manager Maintenance
- Manager Maintenance Operations
- Manager Maintenance Operations Support
- Manager NDC Operations
- Manager Transportation/Networks
- Manager Vehicle Maintenance Facility

Employees in these positions will be eligible for EAS additional pay if authorized to work over 8.5 hours on a scheduled day or any hours on a nonscheduled day due to an increase in absences related to COVID-19 and the additional hours are spent directly supervising bargaining unit employees. This temporary modification will begin on May 23 and continue through July 17.

Sincerely,



Doug A. Tulino



NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

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April 8, 2020

The Honorable Megan J. Brennan
Postmaster General and Chief Executive Officer
United States Postal Service
475 L'Enfant Plaza, SW Room 4012
Washington, DC 20260-2200

Re: Requests for Hazardous Pay Differential and Additional National Emergency Pay to Regular FLSA-Exempt Employees in EAS Positions

Dear Postmaster General Brennan:

On behalf of the postal supervisors, postmasters and managerial personnel represented by the National Association of Postal Supervisors, we write to request the U.S. Postal Service to exercise its authority under 5 CFR § 550.904 to pay the hazard pay differential to postal employees who are assigned to and are performing duties considered "hazardous" under such authority during the period of national emergency as declared by President Donald J. Trump on March 15, 2020. In addition, we request the Postal Service, in conformance with the spirit of ELM 434.143, to provide additional pay to all regular FLSA-exempt employees in EAS-18 positions and above, including postmasters and officers-in-charge, for authorized supervisory hours worked over 8.5 hours on a scheduled day or any hours on a nonscheduled day during the current period of national emergency, as declared by President Donald J. Trump on March 15, 2020.

Request for Hazardous Pay Differential to Postal Employees Exposed to Hazardous Duty

Pursuant to 5 U.S.C. § 5545(d), OPM has issued regulations at 5 C.F.R. §§ 550.901-550.907, which establish a schedule of hazardous duty pay differentials and provide that an employee who qualifies for hazardous duty pay shall be paid the hazardous duty pay differential for each day that the employee is exposed to hazardous duty. The schedule of hazardous duty pay differentials set forth in Appendix A to subpart I of Part 550 of Title 5, Code of Federal Regulations, provides that agencies shall pay a twenty five percent (25%) hazard pay differential when employees perform work with or in close proximity to "virulent biologicals," which are defined as "materials of micro-organic nature which when introduced into the body are likely to



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cause serious disease or fatality and for which protective devices do not afford complete protection.” 5 C.F.R. § Pt. 550, Subpt. I, App. A. The U.S. Postal Service is covered by the OPM regulations under 5 CFR § 550.904 as an independent establishment of the Executive branch

Some postal employees, including NAPS members, have performed work with or in close proximity to objects, surfaces, and/or individuals infected with the novel coronavirus (“COVID-19”). As you know, the COVID-19 virus can be spread by touching infected objects or surfaces and by breathing in areas where an infected person has coughed or exhaled. As a result of their performance of official duties in close proximity to objects, surfaces, and/or individuals infected with COVID-19, some postal employees may have been exposed to “virulent biologicals” within the meaning of subpart I of Part 550 of Title 5, Code of Federal Regulations and hazardous micro-organisms within the meaning of subpart E of Part 532 of Title 5, Code of Federal Regulations.

Postal workers have been deemed "essential employees" by the government during the ongoing crisis. Yet exposure to objects, surfaces, and/or individuals infected with COVID-19 was not taken into account in the classification and pay of the positions encumbered by these postal employees and should be properly taken into account through payment of the hazardous pay differential. Therefore, this is to request the Postal Service to compensate all eligible postal employees with the hazardous duty pay differential for exposure to virulent biologicals as set forth in Appendix A to subpart I of Part 550 of Title 5, Code of Federal Regulations or the environmental differential for exposure to hazardous micro-organisms set forth in Appendix A to subpart E of Part 532 of Title 5, Code of Federal Regulations.

Request for Additional Pay to Regular FLSA-Exempt Employees in EAS-23 Positions and Below

In addition, NAPS requests the Postal Service, in conformance with the spirit of ELM 434.143, to provide additional pay to all regular FLSA-exempt employees in EAS-18 positions and above, including postmasters and officers-in-charge, for authorized supervisory hours worked over 8.5 hours on a scheduled day or any hours on a nonscheduled day during the current period of national emergency, as declared by President Donald J. Trump on March 15, 2020. This approach would temporarily apply the spirit of ELM 434.143, which authorizes the payment of supervisory pay to certain EAS employees during the designated Christmas period, to all EAS employees who have rendered exceptional services during the national emergency caused by the COVID-19 pandemic.



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Our dual requests for payment of a hazard pay differential and the payment to EAS employees for additional supervisory time worked during a national emergency are necessary and appropriate. They are necessary to compensate eligible employees for working in hazardous conditions and the additional hours worked during extraordinary circumstances. They are appropriate in their reflection of the Postal Service's appreciation for the courage and commitment of EAS employees who are risking their lives in the line of duty during this COVID-19 pandemic. Thank you for your consideration of these requests.

Sincerely,

Brian J. Wagner

Brian J. Wagner
National President

cc: Doug Tulino, USPS Vice President, Labor Relations