

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES**PART III - EMPLOYEES****Subpart D - Pay and Allowances****CHAPTER 55 - PAY ADMINISTRATION****SUBCHAPTER V - PREMIUM PAY****§ 5545b. Pay for firefighters**

- (a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS-081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year, consists of regular tours of duty which average at least 106 hours per biweekly pay period.
- (b) (1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504 (b) shall be applied as follows in computing pay—
- (A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and
 - (B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);
- (2) For the purpose of sections 5595 (c), 5941, 8331 (3), and 8704 (c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter's regular tour of duty (including overtime hours).
- (c) (1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504 (b) shall be applied as follows in computing pay—
- (A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;
 - (B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and
 - (C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.
- (2) For purposes of sections 5595 (c), 5941, 8331 (3), and 8704 (c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—
- (A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and
 - (B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).
- (d) (1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.
- (2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7 (k) shall be deemed to have occurred if the requirements of section 5542 (a) are met, applying section 5542 (a) as provided in subsection (f) of that section: Provided, That the overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.

(4) Notwithstanding section 8114 (e)(1), overtime pay for a firefighter subject to this section for hours in a regular tour of duty shall be included in any computation of pay under section 8114.

(Added Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(a)(2)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–519; amended Pub. L. 106–554, § 1(a)(3) [title VI, § 641(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169.)

References in Text

Section 7(k) of the Fair Labor Standards Act of 1938, referred to in subsec. (d)(2), is classified to section 207 (k) of Title 29, Labor.

Amendments

2000—Subsec. (d)(4). Pub. L. 106–554 added par. (4).

Effective Date of 2000 Amendment

Pub. L. 106–554, § 1(a)(3) [title VI, § 641(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169, provided that: “The amendment in subsection (a) [amending this section] shall be effective as if it had been enacted as part of the Federal Firefighters Overtime Pay Reform Act of 1998 [Pub. L. 105–277, div. A, § 101(h) [title VI, § 628]] (112 Stat. 2681–519).”

Effective Date

Section effective on first day of first applicable pay period which begins on or after Oct. 1, 1998, see section 101 (h) [title VI, § 628(e)] of Pub. L. 105–277, set out as an Effective Date of 1998 Amendment note under section 4109 of this title.

Regulations

Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(f)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, provided that: “Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.”

Eligibility for Pay Increase

Pub. L. 106–31, title III, § 3032, May 21, 1999, 113 Stat. 104, provided that:

“(a) The treatment provided to firefighters under section 628(f) of the Treasury and General Government Appropriations Act, 1999 (as included in section 101(h) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) [set out as a note above] shall be provided to any firefighter who—

“(1) on the effective date of section 5545b of title 5, United States Code [see Effective Date note above]—

“(A) was subject to such section; and

“(B) had a regular tour of duty that averaged more than 60 hours per week; and

“(2) before December 31, 1999, is involuntarily moved without a break in service from the regular tour of duty under paragraph (1) to a regular tour of duty that—

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“(A) averages 60 hours or less per week; and

“(B) does not include a basic 40-hour workweek.

“(b) Subsection (a) shall apply to firefighters described under that subsection as of the effective date of section 5545b of title 5, United States Code.

“(c) The Office of Personnel Management may prescribe regulations necessary to implement this section.”

No Reduction in Regular Pay

Pub. L. 105-277, div. A, § 101(h) [title VI, § 628(g)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-521, provided that: “Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.”