

“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.”

§ 5546. Pay for Sunday and holiday work

(a) An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5542(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay. For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.

(b) An employee who performs work on a holiday designated by Federal statute, Executive order, or with respect to an employee of the government of the District of Columbia, by order of the District of Columbia Council, is entitled to pay at the rate of his basic pay, plus premium pay at a rate equal to the rate of his basic pay, for that holiday work which is not—

- (1) in excess of 8 hours; or
(2) overtime work as defined by section 5542(a) of this title.

(c) An employee who is required to perform any work on a designated holiday is entitled to pay for at least 2 hours of holiday work.

(d) An employee who performs overtime work as defined by section 5542(a) of this title on a Sunday or a designated holiday is entitled to pay for that overtime work in accordance with section 5542(a) of this title.

(e) Premium pay under this section is in addition to premium pay which may be due for the same work under section 5545(a) and (b) of this title, providing premium pay for nightwork.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90-83, §1(29), Sept. 11, 1967, 81 Stat. 201; Pub. L. 90-623, §1(13), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 105-277, div. G, subdiv. B, title XXIII, §2317(2), Oct. 21, 1998, 112 Stat. 2681-829.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 922. June 30, 1945, ch. 212, §302, 59 Stat. 298. May 24, 1946, ch. 270, §11, 60 Stat. 218. Sept. 1, 1954, ch. 1208, §207, 68 Stat. 1110. July 18, 1958, Pub. L. 85-533, §1, 72 Stat. 377.

In subsections (a) and (b), the word “officer” is omitted as included in “employee”.

In subsections (b) and (c), the word “designated” is substituted for “such a” and “such” in former section 922(b) and (c) to identify the holiday as one designated by statute, Executive order, or the Board of Commissioners of the District of Columbia.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Table with 3 columns: Section of title 5, Source (U.S. Code), Source (Statutes at Large). Row 1: 5546(a) 5 App.: 921a. July 18, 1966, Pub. L. 89-504, §405(b)(1), (c), 80 Stat. 297.

In subsection (a), the words “An employee who performs work . . . is entitled to pay . . . at the rate of his basic pay” are coextensive with and substituted for “Any . . . service . . . performed . . . shall be compensated . . . at the rate of basic compensation of the officer or employee performing such work.” The words “section 5542(a) of this title” are substituted for “section 201 of this Act” to reflect the codification of that section in title 5, United States Code. The words “between midnight Saturday and midnight Sunday” are coextensive with and substituted for “within the period commencing at midnight Saturday and ending at midnight Sunday”.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-277 inserted at end “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”

1968—Subsec. (b). Pub. L. 90-623, §1(13)(A), substituted “District of Columbia Council” for “Board of Commissioners of the District of Columbia”.

Subsec. (d). Pub. L. 90-623, §1(13)(B), substituted “5542(a)” for “5442(a)”.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, but amendment of subsec. (d) of this section by section 1(13)(B) of Pub. L. 90-623 effective as of Sept. 6, 1966, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93-198.

CONDITION OF PERFORMANCE

Pub. L. 105-277, div. A, §101(h) [title VI, §624], Oct. 21, 1998, 112 Stat. 2681-480, 2681-518, provided that: “Notwithstanding any other provision of law, no part of any funds provided by this Act or any other Act beginning in fiscal year 1999 and thereafter shall be available for paying Sunday premium pay to any employee unless such employee actually performed work during the time corresponding to such premium pay.”

Similar provisions were contained in the following prior appropriations act:

Pub. L. 105-61, title VI, §636, Oct. 10, 1997, 111 Stat. 1316.

§ 5546a. Differential pay for certain employees of the Federal Aviation Administration and the Department of Defense

(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the “Administrator”) and the Secretary of Defense (hereafter in this section referred to as the “Secretary”) may pay premium

pay at the rate of 5 per centum of the applicable rate of basic pay to—

(1) any employee of the Federal Aviation Administration or the Department of Defense who is—

(A) occupying a position in the air traffic controller series classified not lower than GS-9 and located in an air traffic control center or terminal or in a flight service station;

(B) assigned to a position classified not lower than GS-09 or WG-10 located in an airway facilities sector; or

(C) assigned to a flight inspection crew-member position classified not lower than GS-11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator or the Secretary to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

(2) any employee of the Federal Aviation Administration or the Department of Defense who is assigned to a flight test pilot position classified not lower than GS-12 located in a region or center, the duties of whose position are determined by the Administrator or the Secretary to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety; and

(3) any employee of the Federal Aviation Administration who occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or directly responsible for training employees to perform the duties of a position described in subparagraph (a); (b); or (c) or paragraph (1) of this subsection, and who, immediately prior to assuming such position at such Academy, occupied a position referred to in subparagraph (a), (b), or (c) of paragraph (1) of this subsection.

(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.

(c)(1) The Administrator or the Secretary may pay premium pay to any employee of the Federal Aviation Administration or the Department of Defense who—

(A) is an air traffic controller located in an air traffic control center or terminal;

(B) is not required as a condition of employment to be certified by the Administrator or the Secretary as proficient and medically qualified to perform duties including the separation and control of air traffic; and

(C) is so certified.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 per centum of the applicable rate of basic pay for so long as such employee is so certified.

(d)(1) The Administrator or the Secretary may pay premium pay to any air traffic controller of the Federal Aviation Administration or the Department of Defense who is assigned by the Ad-

ministrator or the Secretary to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 per centum of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration or the Department of Defense provides on-the-job training.

(e)(1) The Administrator or the Secretary may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration or the Department of Defense who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay.

(f)(1) The Administrator or the Secretary shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration or the Department of Defense are to be paid premium pay under this section.

(2) The Administrator and the Secretary may prescribe such rules as he determines are necessary to carry out the provisions of this section.

(Added Pub. L. 97-276, § 151(c)(1), (d), Oct. 2, 1982, 96 Stat. 1200, 1201; amended Pub. L. 97-377, title I, § 145(a), formerly § 145, Dec. 21, 1982, 96 Stat. 1917, renumbered Pub. L. 98-78, title III, § 320(1), Aug. 15, 1983, 97 Stat. 473; Pub. L. 98-525, title XV, § 1537(c)(1)-(6)(A), Oct. 19, 1984, 98 Stat. 2635, 2636.)

AMENDMENTS

1984—Pub. L. 98-525, § 1537(c)(6)(A), inserted “and the Department of Defense” in section catchline.

Subsec. (a). Pub. L. 98-525, § 1537(c)(1)(A), inserted “and the Secretary of Defense (hereafter in this section referred to as the ‘Secretary’)” in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 98-525, § 1537(c)(1)(B), inserted “or the Department of Defense” in provisions preceding subpar. (A) and “or the Secretary” in provisions following subpar. (C).

Subsec. (a)(2). Pub. L. 98-525, § 1537(c)(1)(C), inserted “or the Department of Defense” and “or the Secretary”.

Subsecs. (c)(1), (d), (e)(1), (f)(1). Pub. L. 98-525, § 1537(c)(2)-(5)(A), inserted “or the Secretary” after “Administrator” wherever appearing, and “or the Department of Defense” after “Administration” wherever appearing.

Subsec. (f)(2). Pub. L. 98-525, § 1537(c)(5)(B), inserted “and the Secretary”.

1982—Subsec. (a)(3). Pub. L. 97-377 added par. (3).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective Oct. 1, 1984, see section 1537(f) of Pub. L. 98-525, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 145(b) of Pub. L. 97-377, as added by Pub. L. 98-78, title III, § 320(2), Aug. 15, 1983, 97 Stat. 473, pro-

vided that: “The amendment made by subsection (a) of this section [amending this section] shall be effective as of 5 o’clock ante meridian eastern daylight time, August 3, 1981.”

EFFECTIVE DATE

Section 151(h)(1), (2) of Pub. L. 97-276 provided that:
 “(1) The amendments made by subsections 152 [151] (b), (c), (e), and (g) of this joint resolution [enacting subsecs. (a) and (b) of this section and amending sections 5532, 5547, and 8344 of this title] shall take effect at 5 o’clock ante meridian eastern daylight time, August 3, 1981.

“(2) The amendments made by subsection 152 [151] (a) and subsection 152 [151] (d) of this joint resolution [enacting subsecs. (c)–(f) of this section and amending section 4109 of this title] shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution [Oct. 2, 1982].”

§ 5547. Limitation on premium pay

(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, and 5546(a) and (b) only to the extent that the payment does not cause the aggregate of basic pay and such premium pay for any pay period for such employee to exceed the greater of—

(1) the maximum rate of basic pay payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(2) the rate payable for level V of the Executive Schedule.

(b)(1) Subject to regulations prescribed by the Office of Personnel Management, subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency (including a wildfire emergency) that involves a direct threat to life or property, including work performed in the aftermath of such an emergency.

(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would, in any calendar year, exceed the greater of—

(A) the maximum rate of basic pay payable for GS-15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

(3) Subject to regulations prescribed by the Office of Personnel Management, the head of an agency may determine that subsection (a) shall not apply to an employee who is paid premium pay to perform work that is critical to the mission of the agency. Such employees may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would not, in any calendar year, exceed the greater of—

(A) the maximum rate of basic pay payable for GS-15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

(c) The Office of Personnel Management shall prescribe regulations governing the methods of applying subsection (b)(2) and (b)(3) to employees who receive premium pay under section 5545(c) or 5545a, or to firefighters covered by section 5545b who receive overtime pay for hours in their regular tour of duty, and the method of payment to such employees. Such regulations may limit the payment of such premium pay on a biweekly basis.

(d) This section shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90-83, §1(31), Sept. 11, 1967, 81 Stat. 201; Pub. L. 97-276, §151(e), Oct. 2, 1982, 96 Stat. 1201; Pub. L. 98-525, title XV, §1537(d), Oct. 19, 1984, 98 Stat. 2636; Pub. L. 100-523, §2, Oct. 24, 1988, 102 Stat. 2605; Pub. L. 101-509, title V, §529 [title II, §204, title IV, §410(b)], Nov. 5, 1990, 104 Stat. 1427, 1456, 1469; Pub. L. 102-378, §2(43), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 103-329, title VI, §633(b)(2), Sept. 30, 1994, 108 Stat. 2427; Pub. L. 107-107, div. A, title XI, §1114(a), Dec. 28, 2001, 115 Stat. 1239.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 943.	June 30, 1945, ch. 212, § 603, 59 Stat. 302. May 24, 1946, ch. 270, §7(a), 60 Stat. 218. July 3, 1948, ch. 830, §303(a), 62 Stat. 1268. Sept. 1, 1954, ch. 1208, § 209, 68 Stat. 1112.

Former section 943(a), (b) is combined and restated for clarity and conciseness. The word “officer” is omitted as included in “employee”. The word “scheduled” is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the “Classification Act of 1949, as amended” is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

In the codification of 5 U.S.C. 5547, the words “premium pay under this subchapter” were substituted for “premium compensation provided by this Act” appearing in the source statute—section 603 of the Federal Employees Pay Act of 1945, as amended (former 5 U.S.C. 943). This amendment of 5 U.S.C. 5547 is made for clarity and precision of reference and in recognition that the source statutes for certain sections of subchapter V of chapter 55 of title 5 include statutes that were not a part of the Federal Employees Pay Act of 1949. Specifically, 5 U.S.C. 5544(a) is based in part on section 23 (2d proviso) of the act of March 28, 1934, as amended by 76