

premium pay refers to the provisions of law cited in the first sentence of section 5547(a) of title 5, United States Code. Payment of additional premium pay payable under this section may be made in a lump sum on the last payday of the calendar year.”

Similar provisions were contained in Pub. L. 106-58, title I, §118, Sept. 29, 1999, 113 Stat. 441.

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 5548. Regulations

(a) The Office of Personnel Management may prescribe regulations, subject to the approval of the President, necessary for the administration of this subchapter, except section 5545(d), insofar as this subchapter affects employees in or under an Executive agency.

(b) The Office shall prescribe regulations necessary for the administration of section 5545(d). (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90-83, §1(32), Sept. 11, 1967, 81 Stat. 201; Pub. L. 92-392, §12, Aug. 19, 1972, 86 Stat. 575; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 102-378, §2(44)(C), Oct. 2, 1992, 106 Stat. 1352.)

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. 945.	June 30, 1945, ch. 212, §605, 59 Stat. 304.

The words “an Executive agency” are substituted for “the executive branch of the Government” to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

The remainder of the authority is covered by sections 5504 and 6101.

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

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5548(b)	5 App.: 1072 (as applicable to 5 App.: 1134.) 5 App.: 1134(4) (6th through 9th words).	Oct. 28, 1949, ch. 782, §1101 (as applicable to §804, added July 19, 1966, Pub. L. 89-512, §1, 80 Stat. 318), 63 Stat. 971. July 19, 1966, Pub. L. 89-512, §1 “Sec. 804(4) (6th through 9th words)”, 80 Stat. 318.

This section consolidates into 5 U.S.C. 5548(b) general regulatory authority granted to the Civil Service Commission by section 1101 of the Classification Act of 1949 (as applicable to sec. 804 of that act, added by Public Law 89-512) and the specific requirement in section 804(4) of that act that the Commission prescribe regulations.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-378 substituted “section 5545(d)” for “sections 5545(d) and 5550 of this title”.

1978—Subsecs. (a), (b). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission” and “Office” for “Commission”.

1972—Subsec. (a). Pub. L. 92-392, §12(a), struck out reference to section 5544 of this title.

Subsec. (b). Pub. L. 92-392, §12(b), inserted reference to section 5550 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

DELEGATION OF FUNCTIONS

Function vested in Office of Personnel Management under this section to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

§ 5549. Effect on other statutes

This subchapter does not prevent payment for overtime services or for Sunday or holiday work under any of the following statutes—

- (1) section 10703 of the Farm Security and Rural Investment Act of 2002;
- (2) sections 1353a and 1353b of title 8;
- (3) sections 261,¹ 267, 1450, 1451, 1451a,¹ and 1452 of title 19;
- (4) sections 2111 and 2112 of title 46; and
- (5) section 154(f)(3) of title 47.

However, an employee may not receive premium pay under this subchapter for the same services for which he is paid under one of these statutes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 98-89, §3(a), Aug. 26, 1983, 97 Stat. 599; Pub. L. 107-171, title X, §10703(c)(4), May 13, 2002, 116 Stat. 518.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 941.	June 30, 1945, ch. 212, §601, 59 Stat. 302.

In paragraph (2), the words “sections 1353a and 1353b of title 8” are substituted for “sections 342c and 342d of this title” to reflect the scheduled transfer of those sections to title 8.

In paragraph (5), the words “section 154(f)(3) of title 47” are substituted for “section 154(f)(2) of title 47” on authority of the Act of July 16, 1952, ch. 879, §3(b), 66 Stat. 711, which redesignated subsection (f)(2) as (f)(3).

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

REFERENCES IN TEXT

Section 10703 of the Farm Security and Rural Investment Act of 2002, referred to in par. (1), is section 10703 of Pub. L. 107-171, which enacted section 2219a of Title 7, Agriculture, amended this section and sections 468 and 695 of Title 21, Food and Drugs, and repealed section 394 of Title 7.

Section 261 of title 19, referred to in par. (3), was omitted from the Code in the general revision of sec-

¹ See References in Text note below.

tion 5 of act Feb. 13, 1911, ch. 46, by Pub. L. 103-66, title XIII, § 13811(a), Aug. 10, 1993, 107 Stat. 668.

Section 1451a of title 19, referred to in par. (3), was repealed by Pub. L. 103-66, title XIII, § 13811(b)(1), Aug. 10, 1993, 107 Stat. 670.

AMENDMENTS

2002—Par. (1). Pub. L. 107-171 added par. (1) and struck out former par. (1) which read as follows: “section 394 of title 7;”.

1983—Par. (4). Pub. L. 98-89 substituted “sections 2111 and 2112 of title 46” for “section 382b of title 46”.

§ 5550. Border patrol rate of pay

(a) DEFINITIONS.—In this section—

(1) the term “basic border patrol rate of pay” means the hourly rate of basic pay of the applicable border patrol, as determined without regard to this section;

(2) the term “border patrol agent” means an individual who is appointed to a position assigned to the Border Patrol Enforcement classification series 1896 or any successor series, consistent with classification standards established by the Office of Personnel Management;

(3) the term “level 1 border patrol rate of pay” means the hourly rate of pay equal to 1.25 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent;

(4) the term “level 2 border patrol rate of pay” means the hourly rate of pay equal to 1.125 times the otherwise applicable hourly rate of basic pay of the applicable border patrol agent; and

(5) the term “work period” means a 14-day biweekly pay period.

(b) RECEIPT OF BORDER PATROL RATE OF PAY.—

(1) VOLUNTARY ELECTION.—

(A) IN GENERAL.—Not later than 30 days before the first day of each year beginning after the date of enactment of this section, a border patrol agent shall make an election whether the border patrol agent shall, for that year, be assigned to—

(i) the level 1 border patrol rate of pay;

(ii) the level 2 border patrol rate of pay;

or

(iii) the basic border patrol rate of pay, with additional overtime assigned as needed by U.S. Customs and Border Protection.

(B) REGULATIONS.—The Director of the Office of Personnel Management shall promulgate regulations establishing procedures for elections under subparagraph (A).

(C) INFORMATION REGARDING ELECTION.—Not later than 60 days before the first day of each year beginning after the date of enactment of this section, U.S. Customs and Border Protection shall provide each border patrol agent with information regarding each type of election available under subparagraph (A) and how to make such an election.

(D) ASSIGNMENT IN LIEU OF ELECTION.—Notwithstanding subparagraph (A)—

(i) a border patrol agent who fails to make a timely election under subparagraph (A) shall be assigned to the level 1 border patrol rate of pay;

(ii) a border patrol agent who is assigned a canine shall be assigned to the level 1 border patrol rate of pay;

(iii) if at any time U.S. Customs and Border Protection concludes that a border patrol agent is unable to perform overtime on a daily basis in accordance with this section, U.S. Customs and Border Protection shall assign the border patrol agent to the basic border patrol rate of pay until such time as U.S. Customs and Border Protection determines that the border patrol agent is able to perform scheduled overtime on a daily basis;

(iv) unless the analysis conducted under section 2(e) of the Border Patrol Agent Pay Reform Act of 2014 indicates that, in order to more adequately fulfill the operational requirements of U.S. Customs and Border Protection, such border patrol agents should be allowed to elect or be assigned to the level 1 border patrol rate of pay or the level 2 border patrol rate of pay, a border patrol agent shall be assigned to the basic border patrol rate of pay if the agent works—

(I) at U.S. Customs and Border Protection headquarters;

(II) as a training instructor at a U.S. Customs and Border Protection training facility;

(III) in an administrative position; or

(IV) as a fitness instructor; and

(v) a border patrol agent may be assigned to the level 1 border patrol rate of pay or the level 2 border patrol rate of pay in accordance with subparagraph (E).

(E) FLEXIBILITY.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), and notwithstanding any other provision of law, U.S. Customs and Border Protection shall take such action as is necessary, including the unilateral assignment of border patrol agents to the level 1 border patrol rate of pay or the level 2 border patrol rate of pay, to ensure that not more than 10 percent of the border patrol agents stationed at a location are assigned to the level 2 border patrol rate of pay or the basic border patrol rate of pay.

(ii) WAIVER.—U.S. Customs and Border Protection may waive the limitation under clause (i) on the percent of border patrol agents stationed at a location who are assigned to the level 2 border patrol rate of pay or the basic border patrol rate of pay if, based on the analysis conducted under section 2(e) of the Border Patrol Agent Pay Reform Act of 2014, U.S. Customs and Border Protection determines it may do so and adequately fulfill its operational requirements.

(iii) CERTAIN LOCATIONS.—Clause (i) shall not apply to border patrol agents working at the headquarters of U.S. Customs and Border Protection or a training location of U.S. Customs and Border Protection.

(F) CANINE CARE.—For a border patrol agent assigned to provide care for a canine and assigned to the level 1 border patrol rate of pay in accordance with subparagraph (D)(ii)—