

giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the authorized work of the Department.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 83.	June 26, 1912, ch. 182, § 8, 37 Stat. 184. Mar. 4, 1913, ch. 145 (3d full par. on p. 854), 37 Stat. 854.

The words "or by sections 4109 and 4110 of this title" are added on authority of former sections 2309 and 2318(b), which are carried into sections 4109 and 4110, respectively.

In the last sentence, the words "This section does not" are substituted for "That nothing contained in the Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June twenty-sixth, nineteen hundred and twelve, shall be so construed as to" appearing in the Act of Mar. 4, 1913, 37 Stat. 854.

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

**§ 5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations**

(a) An employee of the Corps of Engineers, Department of the Army, engaged in floating plant operations may be furnished quarters or subsistence, or both, on vessels, without charge, when the furnishing of the quarters or subsistence, or both, is determined to be equitable to the employee concerned, and necessary in the public interest, in connection with such operations.

(b) Notwithstanding section 5536 of this title, an employee entitled to the benefits of subsection (a) of this section while on a vessel, may be paid, in place of these benefits, an allowance for quarters or subsistence, or both, when—

(1) adverse weather conditions or similar circumstances beyond the control of the employee or the Corps of Engineers prevent transportation of the employee from shore to the vessel; or

(2) quarters or subsistence, or both, are not available on the vessel while it is undergoing repairs.

(c) The quarters or subsistence, or both, or allowance in place thereof, may be furnished or paid only under regulations prescribed by the Secretary of the Army.

(Added Pub. L. 91-656, § 7(a), Jan. 8, 1971, 84 Stat. 1954.)

**§ 5948. Physicians comparability allowances**

(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section, section 5307, and such regulations as the President or his designee may prescribe, may enter

into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

(1) \$14,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

(2) \$30,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114<sup>1</sup> of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician.

(b) An allowance may not be paid pursuant to this section to any physician who—

(1) is employed on less than a half-time or intermittent basis,

(2) occupies an internship or residency training position,

(3) is a reemployed annuitant, or

(4) is fulfilling a scholarship obligation.

(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service.

(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the phy-

<sup>1</sup> See References in Text note below.

sician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

(g) For the purpose of this section—

(1) “Government physician” means any individual employed as a physician or dentist who is paid under—

(A) section 5332 of this title, relating to the General Schedule;

(B) Subchapter VIII of chapter 53 of this title, relating to the Senior Executive Service;

(C) section 5371, relating to certain health care positions;

(D) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

(E) chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following), relating to the Foreign Service;

(F) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j),<sup>1</sup> relating to the Central Intelligence Agency;

(G) section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission;

(H) section 2 of the Act of May 29, 1959 (Public Law 86-36, as amended, 50 U.S.C. 402 note),<sup>1</sup> relating to the National Security Agency;

(I) section 5376, relating to certain senior-level positions;

(J) section 5377, relating to critical positions; or

(K) subchapter IX of chapter 53, relating to special occupational pay systems; and

(2) “agency” means an Executive agency, as defined in section 105 of this title, the Library of Congress, and the District of Columbia government.

(h)(1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81 or 87 of this title, or other benefits related to basic pay.

(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician’s basic pay is paid.

(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.

(j) Not later than June 30 of each year, the President shall submit to each House of Congress a written report on the operation of this section. Each report shall include, with respect to the year covered by such report, information as to—

(1) which agencies entered into agreements under this section;

(2) the nature and extent of the recruitment or retention problems justifying the use of authority by each agency under this section;

(3) the number of physicians with whom agreements were entered into by each agency;

(4) the size of the allowances and the duration of the agreements entered into; and

(5) the degree to which the recruitment or retention problems referred to in paragraph (2) were alleviated under this section.

(Added Pub. L. 95-603, §2(a), Nov. 6, 1978, 92 Stat. 3018; amended Pub. L. 96-166, §2, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97-141, §2, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98-168, title I, §102(a), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 98-615, title II, §204(a)(3), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 100-140, §1, Oct. 26, 1987, 101 Stat. 830; Pub. L. 101-420, §1(a), formerly §1, Oct. 12, 1990, 104 Stat. 908, renumbered §1(a), Pub. L. 103-114, §1(b)(2)(A), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 102-378, §2(51), Oct. 2, 1992, 106 Stat. 1353; Pub. L. 103-89, §3(b)(1)(M), Sept. 30, 1993, 107 Stat. 982; Pub. L. 103-114, §§1(a)(1), 2(a), Oct. 26, 1993, 107 Stat. 1115, 1116; Pub. L. 105-61, title V, §517(a), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 105-266, §7(a), Oct. 19, 1998, 112 Stat. 2369; Pub. L. 106-554, §1(a)(1) [title II, §218(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-28; Pub. L. 106-571, §§2(a)(1), (b), 3(d), Dec. 28, 2000, 114 Stat. 3054, 3057.)

#### REFERENCES IN TEXT

Sections 4104 and 4114 of title 38, referred to in subsec. (a), were repealed by Pub. L. 102-40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 210. Subsequently, section 2004 of Title 38, Veterans’ Benefits, was renumbered as section 4104 of Title 38 and a new section 4114 of Title 38 was added. The new sections 4104 and 4114 do not contain the same subject matter as the former sections. For provisions similar to those contained in former sections 4104 and 4114 prior to repeal, see sections 7401 and 7405 of Title 38.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title II of the Public Health Service Act is classified generally to subchapter I (§201 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

The Foreign Service Act of 1980, referred to in subsec. (g)(1)(E), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 4 of title I of the Act is classified generally to subchapter IV (§3961 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

The Central Intelligence Agency Act of 1949, referred to in (g)(1)(F), is act June 20, 1949, ch. 227, 63 Stat. 208, which was formerly classified generally to section 403a et seq. of Title 50, War and National Defense, prior to editorial reclassification in chapter 46 (§3501 et seq.) of Title 50. Section 10 of the Act, which was renumbered as section 8 of that Act by Pub. L. 85-507, §21(b)(2), July 7, 1958, 72 Stat. 337, is now classified to section 3510 of Title 50. For complete classification of this Act to the Code, see Tables.

Section 1202 of the Panama Canal Act of 1979, referred to in subsec. (g)(1)(G), is classified to section 3642 of Title 22, Foreign Relations and Intercourse.

Section 2 of the Act of May 29, 1959 (Public Law 86-36, as amended, 50 U.S.C. 402 note), referred to in subsec. (g)(1)(H), was formerly set out in a note under section 402 of Title 50, War and National Defense, prior to repeal by Pub. L. 104-201, div. A, title XVI, §1633(b)(1), Sept. 23, 1996, 110 Stat. 2751. Another section 2 of Pub. L. 86-36 was added by Pub. L. 111-259, title IV, §433, Oct. 7, 2010, 124 Stat. 2732, and has been editorially reclassified as section 3602 of Title 50.

#### AMENDMENTS

2000—Subsec. (d). Pub. L. 106-571, §2(a)(1), struck out second sentence which read as follows: “No agreement

shall be entered into under this section later than September 30, 2005, nor shall any agreement cover a period of service extending beyond September 30, 2007."

Pub. L. 106-554 amended second sentence generally. Prior to amendment, second sentence read as follows: "No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002."

Subsec. (h)(1). Pub. L. 106-571, §3(d), substituted "chapter 81 or 87" for "chapter 81, 83, or 87".

Subsec. (j). Pub. L. 106-571, §2(b), in par. (1), substituted "(j)" for "(j)(1)", redesignated subpars. (A) to (E) as pars. (1) to (5), respectively, in par. (5), substituted "paragraph (2)" for "subparagraph (B)", and struck out former par. (2) which read as follows: "In addition to the information required under paragraph (1), the last report due under this subsection before the expiration of the authority to enter into agreements under this section shall include—

"(A) recommendations as to whether or not such authority should be continued beyond September 30, 2000, and, if so, by what period of time; and

"(B) the reasons for those recommendations."

1998—Subsec. (a)(2). Pub. L. 105-266 substituted "\$30,000" for "\$20,000".

1997—Subsec. (d). Pub. L. 105-61, §517(a)(1), substituted "No agreement shall be entered into under this section later than September 30, 2000, nor shall any agreement cover a period of service extending beyond September 30, 2002." for "No agreement shall be entered into under this section later than September 30, 1997, nor shall any agreement cover a period of service extending beyond September 30, 1999."

Subsec. (j)(2)(A). Pub. L. 105-61, §517(a)(2), substituted "September 30, 2000" for "September 30, 1997".

1993—Subsec. (d). Pub. L. 103-114, §1(a)(1), amended second sentence generally. Prior to amendment, second sentence read as follows: "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995."

Subsec. (g)(1)(C) to (L). Pub. L. 103-89 redesignated subpars. (D) to (L) as (C) to (K), respectively, and struck out former subpar. (C) which read as follows: "chapter 54 of this title, relating to the performance management and recognition system;"

Subsec. (j). Pub. L. 103-114, §2(a), added subsec. (j).

1992—Subsec. (a). Pub. L. 102-378, §2(51)(A), inserted ", section 5307," after "provisions of this section" in first sentence.

Subsec. (g)(1)(D). Pub. L. 102-378, §2(51)(B)(i), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "section 5371 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;"

Subsec. (g)(1)(J) to (L). Pub. L. 102-378, §2(51)(B)(ii)–(iv), added subpars. (J) to (L).

1990—Subsec. (d). Pub. L. 101-420 added second sentence and struck out former second sentence which read as follows: "No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992."

1987—Subsec. (a). Pub. L. 100-140, §1(a)(3), inserted last sentence.

Subsec. (a)(1). Pub. L. 100-140, §1(a)(1), substituted "\$14,000" for "\$7,000".

Subsec. (a)(2). Pub. L. 100-140, §1(a)(2), substituted "\$20,000" for "\$10,000".

Subsec. (d). Pub. L. 100-140, §1(b), substituted "September 30, 1990" for "September 30, 1987" and "September 30, 1992" for "September 30, 1989".

1984—Subsec. (g)(1)(C). Pub. L. 98-615 substituted "performance management and recognition system" for "Merit Pay System".

1983—Subsec. (d). Pub. L. 98-168 substituted "1987" for "1983", and "1989" for "1985".

1981—Subsec. (d). Pub. L. 97-141, §2(1), substituted "September 30, 1983, nor shall any agreement cover a

period of service extending beyond September 30, 1985" for "September 30, 1981, nor shall any agreement cover a period of service extending beyond September 30, 1983".

Subsec. (g)(1). Pub. L. 97-141, §2(2), (3), reenacted provisions preceding subpar. (A) without change, and in subpar. (F), substituted "chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following)" for "title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861-890)".

1979—Subsec. (d). Pub. L. 96-166, §2(1), substituted "September 30, 1981" for "September 30, 1979" and "September 30, 1983" for "September 30, 1981".

Subsec. (g)(1). Pub. L. 96-166, §2(2)(A), directed the amendment of subsec. (g)(1) by inserting "or dentist" after "physician" which was executed by inserting the term after "employed as a physician" in introductory phrase as the probable intent of Congress.

Pub. L. 96-166, §2(2)(B)–(E), redesignated subpars. (B) through (G) as (D) through (I), respectively, added subpars. (B) and (C), substituted in subpar. (D) as redesignated, "5371" for "5361", and substituted in subpar. (H) as redesignated, "section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission; or" for "section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or".

Subsec. (g)(2). Pub. L. 96-166, §2(3), inserted reference to the Library of Congress.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 517(c) of Pub. L. 105-61 provided that: "The amendments made by this section [amending this section and provisions set out as a note under this section] shall take effect on the date of enactment of this Act [Oct. 10, 1997]."

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103-89, set out as a note under section 3372 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-615 provided that amendment by Pub. L. 98-615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

#### EFFECTIVE DATE OF REPEAL

Section 3 of Pub. L. 95-603, as amended by Pub. L. 96-166, §4, Dec. 29, 1979, 93 Stat. 1273; Pub. L. 97-141, §3, Dec. 29, 1981, 95 Stat. 1719; Pub. L. 98-168, title I, §102(b), Nov. 29, 1983, 97 Stat. 1105; Pub. L. 100-140, §1(c), as added Pub. L. 103-114, §1(b)(1), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 101-420, §1(b), as added Pub. L. 103-114, §1(b)(2)(B), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 103-114, §1(a)(2), Oct. 26, 1993, 107 Stat. 1115; Pub. L. 105-61, title V, §517(b), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 106-554, §1(a)(1) [title II, §218(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-28, which provided that this section would be repealed, unless specifically extended by Act of Congress, effective on Sept. 30, 2007, was repealed by Pub. L. 106-571, §2(a)(2), Dec. 28, 2000, 114 Stat. 3054.

#### SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-571, §1, Dec. 28, 2000, 114 Stat. 3054, section provided that: "This Act [amending this section and sections 8331, 8339, 8401, and 8415 of this title] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 2000'."

#### SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-168, title I, §101, Nov. 29, 1983, 97 Stat. 1105, provided that: "This title [amending this section, enacting provisions set out below, and amending provisions set out as a note above] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1983'."

## SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97-141, §1, Dec. 29, 1981, 95 Stat. 1719, provided: "That this Act [amending this section and section 8344 of this title and provisions set out below and enacting provisions set out as notes under this section and section 8344 of this title] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1981'."

## SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96-166, §1, Dec. 29, 1979, 93 Stat. 1273, provided: "That this Act [amending this section and section 5383 of this title and provisions set out as a note under this section, and enacting provisions set out below] may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1979'."

## SHORT TITLE

Pub. L. 95-603, §1, Nov. 6, 1978, 92 Stat. 3018, provided: "That this Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Federal Physicians Comparability Allowance Act of 1978'."

## CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105-266, §7(c), Oct. 19, 1998, 112 Stat. 2370, provided that: "Nothing in this section [amending this section and enacting provisions set out as a note below] shall be considered to authorize additional or supplemental appropriations for the fiscal year in which occurs the date of the enactment of this Act [Oct. 19, 1998]."

## CONSTRUCTION OF 1993 AMENDMENT

Pub. L. 103-114, §1(a)(4), Oct. 26, 1993, 107 Stat. 1115, provided that: "The amendments made by this subsection [amending this section and provisions set out above] shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending September 30, 1993."

Pub. L. 103-114, §1(c), Oct. 26, 1993, 107 Stat. 1116, provided that: "For purposes of applying the amendments made by this section [amending this section and enacting and amending provisions set out as notes above]—

"(1) the provisions of subsection (b)(1) [enacting and amending provisions set out as notes above] shall be treated as having been enacted immediately before the provisions of subsection (b)(2) [enacting and amending provisions set out as notes above]; and

"(2) the provisions of subsection (b)(2) shall be treated as having been enacted immediately before the provisions of subsection (a) [amending this section and enacting and amending provisions set out as notes above]."

## MODIFICATION OF SERVICE AGREEMENTS IN EFFECT ON OCTOBER 19, 1998; LIMITATION

Pub. L. 105-266, §7(b), Oct. 19, 1998, 112 Stat. 2369, provided that:

"(1) IN GENERAL.—Any service agreement under section 5948 of title 5, United States Code, which is in effect on the date of the enactment of this Act [Oct. 19, 1998] may, with respect to any period of service remaining in such agreement, be modified based on the amendment made by subsection (a) [amending this section].

"(2) LIMITATION.—A modification taking effect under this subsection in any year shall not cause an allowance to be increased to a rate which, if applied throughout such year, would cause the limitation under section 5948(a)(2) of such title (as amended by this section), or any other applicable limitation, to be exceeded."

## EFFECTIVENESS OF SERVICE AGREEMENTS LIMITED BY APPROPRIATION ACTS

Pub. L. 103-114, §1(a)(3), Oct. 26, 1993, 107 Stat. 1115, provided that: "Any service agreement entered into on or after the date of the enactment of this Act [Oct. 26,

1993] pursuant to section 5948 of title 5, United States Code, as amended by paragraph (1), shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts."

## DUE DATE FOR FIRST ANNUAL REPORT ON OPERATION OF SECTION

Pub. L. 103-114, §2(b), Oct. 26, 1993, 107 Stat. 1116, provided that: "The first report under section 5948(j) of title 5, United States Code, as amended by subsection (a), shall be due not later than June 30, 1994."

## PAY OF CERTAIN FEDERAL PHYSICIANS FOR FISCAL YEAR 1982

Pub. L. 98-168, title I, §103, Nov. 29, 1983, 97 Stat. 1105, provided that any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of this title is relieved of all liability to the United States for any amounts paid to such individual in excess of such limitation if, and to the extent that, such liability takes into account any allowance paid under this section, provided for repayment to individuals relieved from liability of amounts already paid, and defined the terms "aggregate pay", "appropriate agency head", and "agency".

## SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1981; ADVANCE AUTHORIZATION; FISCAL YEAR 1982

Pub. L. 97-141, §4, Dec. 29, 1981, 95 Stat. 1719, provided that any service agreement entered into on or after Dec. 29, 1981, pursuant to this section, as amended by section 2 of Pub. L. 97-141, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts, and that the amendments made by Pub. L. 97-141 shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending Sept. 30, 1982.

## SERVICE AGREEMENTS ENTERED INTO ON OR AFTER DECEMBER 29, 1979; ADVANCE AUTHORIZATION

Pub. L. 96-166, §5, Dec. 29, 1979, 93 Stat. 1273, provided that any service agreement entered into on or after Dec. 29, 1979, pursuant to this section, as amended by section 2 of Pub. L. 96-166, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

## TIME OF ENTRY INTO ALLOWANCE AGREEMENTS AND FOR COMMENCEMENT OF ALLOWANCE

Pub. L. 95-603, §2(c), Nov. 6, 1978, 92 Stat. 3020, provided that no agreement be entered into under this section before 60th day after Nov. 6, 1978, and that no agreement provide for payment of any allowance under such section for any pay period beginning before later of such 60th day, or Oct. 1, 1978.

## EX. ORD. NO. 12109. DELEGATION OF AUTHORITY TO DIRECTOR OF OFFICE OF PERSONNEL MANAGEMENT

Ex. Ord. No. 12109, Dec. 28, 1978, 44 F.R. 1067, provided: By the authority vested in me as President of the United States of America by Section 5948 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. The Director of the Office of Personnel Management is hereby designated and empowered to exercise, in consultation with the Director of the Office of Management and Budget, the authority of the President under Section 5948 of Title 5 of the United States Code, to prescribe regulations, criteria, and conditions with regard to the payment of comparability allowances to recruit and retain certain Federal physicians.

1-102. Until the Office of Personnel Management is established (on or before January 1, 1979), pursuant to Reorganization Plan No. 2 of 1978 (43 FR 36037) [set out under section 1101 of this title], the Civil Service Commission shall exercise the authority delegated under this Order to the Director of the Office of Personnel Management.

JIMMY CARTER.

**§ 5949. Hostile fire pay**

(a) The head of an Executive agency may pay an employee hostile fire pay at the rate of \$150 for any month in which the employee was—

- (1) subject to hostile fire or explosion of hostile mines;
- (2) on duty in an area in which the employee was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period on duty in that area, other employees were subject to hostile fire or explosion of hostile mines; or
- (3) killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

(b) An employee covered by subsection (a)(3) who is hospitalized for the treatment of his or her injury or wound may be paid hostile fire pay under this section for not more than three additional months during which the employee is so hospitalized.

(c) An employee may be paid hostile fire pay under this section in addition to other pay and allowances to which entitled, except that an employee may not be paid hostile fire pay under this section for periods of time during which the employee receives payment under section 5925 of this title because of exposure to political violence or payment under section 5928 of this title.

(Added Pub. L. 107-107, div. A, title XI, §1111(a), Dec. 28, 2001, 115 Stat. 1238.)

**EFFECTIVE DATE**

Pub. L. 107-107, div. A, title XI, §1111(c), Dec. 28, 2001, 115 Stat. 1238, as amended by Pub. L. 108-375, div. A, title X, §1084(h)(3), Oct. 28, 2004, 118 Stat. 2064, provided that: "Section 5949 of title 5, United States Code, as added by subsection (a), is effective as if enacted into law on September 11, 2001, and may be applied with respect to any hostile action that took place on or after that date."

**Subpart E—Attendance and Leave****CHAPTER 61—HOURS OF WORK****SUBCHAPTER I—GENERAL PROVISIONS**

Sec.	
6101.	Basic 40-hour workweek; work schedules; regulations.
[6102.	Repealed.]
6103.	Holidays.
6104.	Holidays; daily, hourly, and piece-work basis employees.
6105.	Closing of Executive departments.
6106.	Time clocks; restrictions.

**SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES**

6120.	Purpose.
6121.	Definitions.
6122.	Flexible schedules; agencies authorized to use.
6123.	Flexible schedules; computation of premium pay.
6124.	Flexible schedules; holidays.
6125.	Flexible schedules; time-recording devices.
6126.	Flexible schedules; credit hours; accumulation and compensation.
6127.	Compressed schedules; agencies authorized to use.
6128.	Compressed schedules; computation of premium pay.

Sec.	
6129.	Administration of leave and retirement provisions.
6130.	Application of programs in the case of collective bargaining agreements.
6131.	Criteria and review.
6132.	Prohibition of coercion.
6133.	Regulations; technical assistance; program review.

**AMENDMENTS**

1982—Pub. L. 97-221, §2(b), July 23, 1982, 96 Stat. 233, inserted "SUBCHAPTER I—GENERAL PROVISIONS" before item 6101 and inserted "SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES" and items 6120 to 6133 after item 6106.

1972—Pub. L. 92-392, §7(b), Aug. 19, 1972, 86 Stat. 573, struck out item 6102 "Eight-hour day; 40-hour work week; wage-board employees".

**SUBCHAPTER I—GENERAL PROVISIONS****AMENDMENTS**

1982—Pub. L. 97-221, §2(a)(1), July 23, 1982, 96 Stat. 227, added subchapter I heading so as to designate existing provisions as "SUBCHAPTER I—GENERAL PROVISIONS".

**§ 6101. Basic 40-hour workweek; work schedules; regulations**

(a)(1) For the purpose of this subsection, "employee" includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title, except as specifically provided under this paragraph.

(2) The head of each Executive agency, military department, and of the government of the District of Columbia shall—

(A) establish a basic administrative workweek of 40 hours for each full-time employee in his organization; and

(B) require that the hours of work within that workweek be performed within a period of not more than 6 of any 7 consecutive days.

(3) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

(A) assignments to tours of duty are scheduled in advance over periods of not less than 1 week;

(B) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(C) the working hours in each day in the basic workweek are the same;

(D) the basic nonovertime workday may not exceed 8 hours;

(E) the occurrence of holidays may not affect the designation of the basic workweek; and

(F) breaks in working hours of more than 1 hour may not be scheduled in a basic workday.