

section (a) of this section [amending this section] shall take effect on the first day of the first applicable pay period which begins on or after the 30th day following the date of enactment of this Act [July 27, 1995].”

#### EFFECTIVE DATE

Pub. L. 103-329, title VI, §633(e), Sept. 30, 1994, 108 Stat. 2428, provided that: “The amendments made by this section [enacting this section and amending sections 5542 and 5547 of this title and section 213 of Title 29, Labor] shall take effect on the first day of the first applicable pay period which begins on or after the later of October 1, 1994, or the 30th day following the date of enactment of this Act [Sept. 30, 1994], except that:

“(1) Criminal investigators, employed in Offices of Inspectors General, who are not receiving administratively uncontrollable overtime compensation or who are receiving such premium pay at a rate less than 25 percent prior to the date of enactment of this Act, may implement availability pay at any time prior to September 30, 1995, after which date availability pay as authorized under this section shall be provided to such criminal investigators.

“(2) Criminal investigators, employed by Offices of Inspectors General, who are receiving administratively uncontrollable overtime at a rate less than 25 percent, shall continue to receive this compensation at the same rate or higher until availability pay compensation is provided, which shall be no later than the last pay period ending on or before September 30, 1995.”

#### IMPLEMENTATION

Pub. L. 105-277, div. A, §101(b) [title IV, §407(b)], div. G, subdiv. B, title XXIII, §2316(b), Oct. 21, 1998, 112 Stat. 2681-50, 2681-102, 2681-828, provided that: “Not later than the date on which the amendments made by this section [amending this section and section 5542 of this title] take effect [see Effective Date of 1998 Amendment note set out above], each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.”

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

#### CERTIFICATION OF CRIMINAL INVESTIGATORS

Pub. L. 103-329, title VI, §633(f), Sept. 30, 1994, 108 Stat. 2428, provided that: “Not later than the effective date of this section [see Effective Date note above], each criminal investigator under section 5545a of title 5, United States Code, as added by this section, and the appropriate supervisory officer, to be designated by the head of the agency, shall make an initial certification to the head of the agency that the criminal investigator is expected to meet the requirements of subsection (d) of such section 5545a. The head of a law en-

forcement agency may prescribe procedures necessary to administer this paragraph.”

#### § 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.

(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.)

### Editorial Notes

#### 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)."

### Statutory Notes and Related Subsidiaries

#### 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—

"(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."

### § 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