

## Office of Personnel Management

## § 550.1302

maximum annual leave limitation for the position in which reemployed.

(e) When an employee is reemployed in a position listed in 5 U.S.C. 6301(2)(x)–(xiii), the agency must recredit and hold in abeyance the amount of annual leave that would have been reccredited under paragraph (a) of this section. The agency must include unused annual leave in a lump-sum payment when the employee becomes eligible for a lump-sum payment under § 550.1203. If the employee transfers from a position listed in 5 U.S.C. 6301(2)(x)–(xiii) to a position covered by subchapter I of chapter 63 of title 5, United States Code, or to a position under a different formal leave system to which his or her annual leave can be reccredited, the employing agency must recredit the annual leave to the employee's credit as provided in paragraph (a) of this section.

(f) An agency must document the calculation of an employee's lump-sum payment as provided in § 550.1205(b) so as to permit the subsequent calculation of any refund required under § 550.1206(a) and any recredit of annual leave required under this section.

### Subpart M—Firefighter Pay

AUTHORITY: 5 U.S.C. 5545b, 5548, and 5553.

SOURCE: 63 FR 64593, Nov. 23, 1998, unless otherwise noted.

#### § 550.1301 Purpose, applicability, and administration.

(a) *Purpose.* This subpart provides regulations governing the pay of covered Federal firefighters. It implements sections 5542(f) and 5545b of title 5, United States Code, as added by section 628 of section 101(h) of Pub. L. 105–277, and must be read together with those sections of law.

(b) *Applicability.* This subpart applies to any firefighter as defined in § 550.1302.

(c) *Administration.* The head of an agency having employees subject to this subpart is responsible for the proper administration of this subpart.

#### § 550.1302 Definitions.

In this subpart:

*Annual rate of basic pay* (except as otherwise provided in §§ 550.1305 and 550.1308) means the annual rate fixed under the rate schedule applicable to the position held by the firefighter, including a locality rate schedule established under 5 U.S.C. 5304 or a special rate schedule established under 5 U.S.C. 5305, before any deductions and exclusive of additional pay of any other kind.

*Basic 40-hour workweek* means—

(1) A standard 40-hour workweek consisting of five 8-hour workdays that is part of the firefighter's regular tour of duty; or

(2) A designated block of hours within a firefighter's regular tour of duty that, on a fixed and recurring basis, consists of 40 hours of actual work during each administrative week (or 80 hours of actual work in each biweekly pay period), excluding sleep and standby duty hours, provided the regular tour of duty does not consist primarily of 24-hour shifts.

*Firefighter* means an employee—

(1) Whose regular tour of duty, as in effect throughout the year, averages at least 106 hours per biweekly pay period; and

(2) Who is in a position—

(i) Covered by the General Schedule and classified in the Fire Protection and Prevention Series, GS–0081, consistent with standards published by the Office of Personnel Management;

(ii) In a demonstration project established under chapter 47 of title 5, United States Code, or an alternative personnel system under a similar authority, which otherwise would be covered by the General Schedule, and which is classified in the Fire Protection and Prevention Series, GS–0081, consistent with standards published by the Office of Personnel Management, but only if application of 5 U.S.C. 5545b has not been waived; or

(iii) Covered by the General Schedule and classified in the GS–0099, General Student Trainee Series (as required by § 362.203(e) of this chapter), if the position otherwise would be classified in the GS–0081 series.

*Firefighter hourly rate of basic pay* means an hourly rate computed by dividing the applicable annual rate of

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basic pay by 2756 hours, as described in § 550.1303.

*Irregular hours* means hours of work that are outside a firefighter's regular tour of duty.

*Overtime hours* means hours of work in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computations, hours of work in excess of 53 hours in an administrative workweek.

*Overtime pay* means pay for overtime hours.

*Regular tour of duty* means a firefighter's official work schedule, as established by the employing agency on a regular and recurring basis (or on a temporary basis in cases where a temporary change in schedules results in a reduction in regular work hours or a change in the pay computation method used under § 550.1303). The tour of duty may consist of a fixed number of hours each week or a fixed recurring cycle of work schedules in which the number of hours per week varies in a repeating pattern. The regular tour of duty includes only those overtime hours that are part of the fixed recurring work schedule. However, irregular hours are deemed to be included in a firefighter's regular tour of duty if those hours are substituted for hours in the regular tour of duty for which leave without pay is taken, as provided in § 550.1303(d).

[63 FR 64593, Nov. 23, 1998, as amended at 67 FR 15466, Apr. 2, 2002; 77 FR 28223, May 11, 2012]

### § 550.1303 Hourly rates of basic pay.

(a) For firefighters with a regular tour of duty that does not include a basic 40-hour workweek (e.g., firefighters whose schedules generally consist of 24-hour shifts with a significant amount of designated standby and sleep time), the hourly rate of basic pay is computed by dividing the applicable annual rate of basic pay by 2756 hours. The resulting firefighter hourly rate of basic pay is multiplied by all nonovertime hours to determine the pay for those hours.

(b) For firefighters with a regular tour of duty that includes a basic 40-hour workweek, the hourly rate of basic pay is computed by dividing the

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applicable annual rate of basic pay by—

(1) 2087 hours, for hours within the basic 40-hour workweek (or 80-hour biweekly pay period); and

(2) 2756 hours, for any additional non-overtime hours.

(c) A firefighter's daily, weekly, or biweekly rate of basic pay must be computed using the applicable rates, as derived under paragraphs (a) and (b) of this section.

(d) If a firefighter takes leave without pay during his or her regular tour of duty, the agency shall substitute any irregular hours worked in the same biweekly pay period for those hours of leave without pay. (If a firefighter's overtime pay is computed on a weekly basis, the irregular hours must be worked in the same administrative workweek.) For firefighters whose regular tour of duty includes a basic 40-hour workweek, the agency shall first substitute irregular hours for hours of leave without pay in the basic 40-hour workweek, which are paid at an hourly rate based on the 2087 divisor. All other substituted hours are paid at an hourly rate based on the 2756 divisor, using the applicable overtime rate for overtime hours. The annual rate used to compute any such hourly rate is the annual rate in effect at the time the hour was actually worked.

[63 FR 64593, Nov. 23, 1998, as amended at 67 FR 15467, Apr. 2, 2002]

### § 550.1304 Overtime hourly rates of pay.

(a) For a firefighter who is covered by (*i.e.*, nonexempt from) the overtime provisions of the Fair Labor Standards Act (FLSA), the overtime hourly rate of pay equals 1½ times the firefighter hourly rate of basic pay for that firefighter, as established under § 550.1303(a) and (b)(2).

(b) For a firefighter who is exempt from the FLSA, the overtime hourly rate is computed as provided in § 550.113(e).

(c) For any firefighter, overtime pay for any pay period is derived by multiplying the applicable overtime hourly rate by all overtime hours within that period.

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### § 550.1305 Treatment as basic pay.

(a) The sum of pay for nonovertime hours that are part of a firefighter's regular tour of duty (as computed under § 550.1303) and the straight-time portion of overtime pay for hours in a firefighter's regular tour of duty is treated as basic pay only for the following purposes:

(1) Retirement deductions and benefits under chapters 83 and 84 of title 5, United States Code;

(2) Life insurance premiums and benefits under chapter 87 of title 5, United States Code;

(3) Severance pay under section 5595 of title 5, United States Code;

(4) Cost-of-living allowances and post differentials under section 5941 of title 5, United States Code; and

(5) Advances in pay under section 5524a of title 5, United States Code.

(b) The straight-time portion of overtime pay for hours in a firefighter's regular tour of duty is derived by multiplying the applicable firefighter hourly rate of basic pay computed under § 550.1303(a) and (b)(2) by the number of overtime hours in the firefighter's regular tour of duty.

(c) Pay for any nonovertime hours outside a firefighter's regular tour of duty is computed using the firefighter hourly rate of basic pay as provided in § 550.1303(a) and (b)(2), but that pay is not considered basic pay for any purpose, except in applying §§ 550.105 and 550.106.

(d) For firefighters compensated under § 550.1303(b), pay for nonovertime hours within the regular tour of duty, but outside the basic 40-hour workweek, is basic pay only for the purposes listed in paragraph (a) of this section and for the purpose of applying § 410.402(b)(6) of this chapter and §§ 550.105 and 550.106.

(e) Locality pay under 5 U.S.C. 5304 is basic pay for firefighters only to the extent provided in this subpart, § 531.610 of this chapter, or other specific provision of law.

[63 FR 64593, Nov. 23, 1998, as amended at 67 FR 15467, Apr. 2, 2002; 70 FR 31314, May 31, 2005]

### § 550.1306 Relationship to other entitlements.

(a) A firefighter who is compensated under this subpart is entitled to overtime pay as provided under this subpart, but may not receive additional premium pay under any other provision of subchapter V of chapter 55 of title 5, United States Code, including night pay, Sunday pay, holiday pay, and hazardous duty pay. A firefighter is not entitled to receive paid holiday time off when not working on a holiday, but may be allowed to use annual or sick leave, as appropriate, or may be granted excused absence at the agency's discretion.

(b) A firefighter who is subject to section 7(k) of the Fair Labor Standards Act (FLSA) and who is subject to this subpart is deemed to be appropriately compensated under section 7(k) of the FLSA if the requirements of § 550.1304(a) are satisfied.

(c) In computing a lump-sum payment for accumulated annual leave under 5 U.S.C. 5551 and 5552 for firefighters with an uncommon tour of duty established under § 630.210 of this chapter for leave purposes, an agency must use the rates of pay for the position held by the firefighter that apply to hours in that uncommon tour of duty, including regular overtime pay for such hours.

(d) A firefighter compensated under this subpart shall receive basic pay and overtime pay for his or her regular tour of duty in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty, as provided in § 410.402(b)(6) of this chapter.

(e) In applying the compensatory time off provision in § 550.114(c), compare the firefighter's annual rate of basic pay to the annual rate of basic pay for GS-10, step 10.

[63 FR 64593, Nov. 23, 1998, as amended at 67 FR 15467, Apr. 2, 2002]

### § 550.1307 Authority to regularize paychecks.

Upon a written request from the head of an agency (or designee), the Office of Personnel Management may approve an agency's plan to reduce or eliminate variation in the amount of firefighters' biweekly paychecks caused by work

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scheduling cycles that result in varying hours in the firefighters' tours of duty from pay period to pay period. Such a plan must provide that the total pay any firefighter would otherwise receive for regular tours of duty over the firefighter's entire work scheduling cycle must, to the extent practicable, remain the same.

### Subpart N—Compensatory Time Off for Travel

AUTHORITY: 5 U.S.C. 5548(a).

SOURCE: 70 FR 3856, Jan. 27, 2005, unless otherwise noted.

#### § 550.1401 Purpose.

This subpart contains OPM regulations implementing 5 U.S.C. 5550b, which establishes a separate type of compensatory time off. Subject to the conditions specified in this subpart, an employee is entitled to earn, on an hour-for-hour basis, compensatory time off for time in a travel status away from the employee's official duty station when the travel time is not otherwise compensable.

[70 FR 3856, Jan. 27, 2005, as amended at 72 FR 19098, Apr. 17, 2007]

#### § 550.1402 Coverage.

This subpart applies to an employee as defined in 5 U.S.C. 5541(2) who is employed by an agency. In accordance with section 1111 of Public Law 110–181, an employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of title 5, United States Code, or by a wage board or similar administrative authority serving the same purpose, is covered by this subpart effective April 27, 2008.

[73 FR 30455, May 28, 2008]

#### § 550.1403 Definitions.

In this subpart:

*Accrued compensatory time off* means the compensatory time off earned by an employee that has not been used or forfeited.

*Agency* means an Executive agency as defined in 5 U.S.C. 105.

*Authorized agency official* means the head of the agency or an official who is

authorized to act for the head of the agency in the matter concerned.

*Compensable* refers to periods of time that are creditable as hours of work for the purpose of determining a specific pay entitlement, even when that work time may not actually generate additional compensation because of applicable pay limitations.

*Compensatory time off* means compensatory time off for travel that is credited under the authority of this subpart.

*Official duty station* means the geographic area surrounding an employee's regular work site that is the same as the area designated by the employing agency for the purpose of determining whether travel time is compensable for the purpose of determining overtime pay, consistent with the regulations in 5 CFR 550.112(j) and 551.422(d).

*Regular working hours* means the days and hours of an employee's regularly scheduled administrative workweek established under 5 CFR part 610.

*Scheduled tour of duty for leave purposes* means an employee's regular hours for which he or she may be charged leave under 5 CFR part 630 when absent. For full-time employees, it is the 40-hour basic workweek as defined in 5 CFR 610.102. For employees with an uncommon tour of duty as defined in 5 CFR 630.201, it is the uncommon tour of duty.

*Travel* means officially authorized travel—i.e., travel for work purposes that is approved by an authorized agency official or otherwise authorized under established agency policies. Time spent traveling in connection with union activities is excluded.

*Travel status* means travel time as described in § 550.1404 that is creditable in accruing compensatory time off for travel under this subpart, excluding travel time that is otherwise compensable under other legal authority.

[70 FR 3856, Jan. 27, 2005, as amended at 72 FR 19098, Apr. 17, 2007]

#### § 550.1404 Creditable travel time.

(a) *General.* Subject to the conditions specified in this subpart, an agency must credit an employee with compensatory time off for time in a travel status if—