

§ 550.107

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(d) The annual rates under paragraphs (c)(1) and (2) of this section must be computed as follows:

(1) Compute an hourly rate by dividing the published annual rate of basic pay by 2,087 hours and rounding the result to the nearest cent;

(2) Compute a biweekly rate by multiplying the hourly rate from paragraph (d)(1) of this section by 80 hours;

(3) Compute an annual rate by multiplying the biweekly rate from paragraph (d)(2) of this section by the number of pay periods for which a paycheck is issued in the given calendar year under the agency's payroll cycle (i.e., either 26 or 27).

(e) An agency may defer payment of the additional premium pay owed an employee as a result of the annual limitation until the end of the calendar year.

(f) Any payment made in the current calendar year that corrects an underpayment of premium pay in a previous calendar year must be treated as being made in the previous calendar year for the purpose of applying the annual cap under this section.

[67 FR 19321, Apr. 19, 2002]

§ 550.107 Premium payments capped on a biweekly basis when an annual limitation otherwise applies.

(a) The following types of premium pay remain subject to a biweekly limitation when other premium payments are subject to an annual limitation under § 550.106:

(1) Standby duty pay under 5 U.S.C. 5545(c)(1);

(2) Administratively uncontrollable overtime pay under 5 U.S.C. 5545(c)(2);

(3) Availability pay for criminal investigators under 5 U.S.C. 5545a; and

(4) Overtime pay for hours in the regular tour of duty of a firefighter covered by 5 U.S.C. 5545b.

(b) An employee must receive premium pay of the types identified in paragraph (a) of this section before receiving any other type of premium pay.

(c) In any pay period during which an employee is subject to an annual limitation under § 550.106, the employee may receive the types of premium pay identified in paragraph (a) of this section only to the extent that the payment does not cause the total of his or

her basic pay and such premium pay for the pay period to exceed the greater of—

(1) The maximum biweekly 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 5 U.S.C. 5305 or similar provision of law); or

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

(d) Premium pay paid, or projected to be paid, under this section is included in determining whether the sum of the employee's basic pay and premium pay would exceed the annual limitation under § 550.106.

[67 FR 19321, Apr. 19, 2002]

OVERTIME PAY

§ 550.111 Authorization of overtime pay.

(a) Except as provided in paragraphs (d), (f), and (g) of this section, overtime work means work in excess of 8 hours in a day or in excess of 40 hours in an administrative workweek that is—

(1) Officially ordered or approved; and

(2) Performed by an employee. Hours of work in excess of 8 in a day are not included in computing hours of work in excess of 40 hours in an administrative workweek.

(b) Except as otherwise provided in this subpart, a department shall pay for overtime work at the rates provided in § 550.113.

(c) Overtime work in excess of any included in a regularly scheduled administrative workweek may be ordered or approved only in writing by an officer or employee to whom this authority has been specifically delegated.

(d) For an employee for whom the first 40 hours of duty in an administrative workweek is his basic workweek under § 610.111(b) of this chapter, overtime work means work in excess of 40 hours in an administrative workweek that is:

(1) Officially ordered or approved, and

(2) Performed by an employee, when the employee's basic pay exceeds the minimum rate for GS-10 (including any

applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) or when the employee is engaged in professional or technical, engineering or scientific activities. For purposes of this section and section 5542(a) of title 5, United States Code, an employee is engaged in professional or technical engineering or scientific activities when he or she is assigned to perform the duties of a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or engineering or architecture.

(e) Notwithstanding paragraphs (a) and (d) of this section, when an employee's basic workweek includes a daily tour of duty of more than 8 hours and his hourly rate of basic pay exceeds the hourly rate of overtime pay provided by § 550.113, the department shall pay him at his basic rate of pay for each hour of his daily tour of duty within his basic workweek.

(f)(1) Except as provided in paragraph (f)(2) of this section, for any criminal investigator receiving availability pay under § 550.181, overtime work means actual work that is scheduled in advance of the administrative workweek—

(i) In excess of 10 hours on a day containing hours that are part of such investigator's basic 40-hour workweek; or

(ii) On a day not containing hours that are part of such investigator's basic 40-hour workweek.

(2) Notwithstanding paragraph (f)(1) of this section, all overtime work scheduled in advance of the administrative workweek on a day containing part of a criminal investigator's basic 40-hour workweek must be compensated under this section if both of the following conditions are met:

(i) The overtime work involves protective duties authorized by section 3056(a) of title 18, United States Code, or section 2709(a)(3) of title 22, United States Code; and

(ii) The investigator performs on that same day at least 2 consecutive hours of overtime work that are not scheduled in advance of the administrative workweek and are compensated by availability pay.

(3) Any work that would be overtime work under this section but for paragraphs (f)(1) and (f)(2) of this section will be compensated by availability pay under § 550.181.

(g) For firefighters compensated under subpart M of this part, overtime work means officially ordered or approved work in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computations, in excess of 53 hours in an administrative workweek.

(h) Availability hours, as described in § 550.182(c), are not hours of work for the purpose of determining overtime pay under this section.

(i) An employee is not entitled to overtime pay under this subpart for time spent in training, except as provided in § 410.402 of this chapter.

[33 FR 12458, Sept. 4, 1968, as amended at 34 FR 19495, Dec. 10, 1969; 48 FR 36805, Aug. 15, 1983; 56 FR 20341, May 3, 1991; 57 FR 2434, Jan. 22, 1992; 59 FR 66151, Dec. 23, 1994; 61 FR 3542, Feb. 1, 1996; 63 FR 64592, Nov. 23, 1998; 64 FR 4520, Jan. 29, 1999; 64 FR 69175, Dec. 10, 1999]

§ 550.112 Computation of overtime work.

The computation of the amount of overtime work of an employee is subject to the following conditions:

(a) *Time spent in principal activities.* Principal activities are the activities that an employee is employed to perform. They are the activities that an employee performs during his or her regularly scheduled administrative workweek (including regular overtime work) and activities performed by an employee during periods of irregular or occasional overtime work authorized under § 550.111. Overtime work in principal activities shall be credited as follows:

(1) An employee shall be compensated for every minute of regular overtime work.

(2) A quarter of an hour shall be the largest fraction of an hour used for