

AMENDMENT TO RULES COMMITTEE PRINT

118-36

OFFERED BY MR. NEGUSE OF COLORADO

Add at the end of title XI of division A the following:

1 **SEC. 11__ . SPECIAL BASE PAY RATES FOR WILDLAND**
2 **FIREFIGHTERS.**

3 (a) IN GENERAL.—Title 5, United States Code, is
4 amended by inserting after section 5332 the following:

5 **“§ 5332a. Special base rates of pay for wildland fire-**
6 **fighters**

7 “(a) In this section—

8 “(1) the term ‘firefighter’ means an employee
9 who—

10 “(A) is a firefighter within the meaning of
11 section 8331(21) or section 8401(14);

12 “(B) in the case of an employee who holds
13 a supervisory or administrative position and is
14 subject to subchapter III of chapter 83, but
15 who does not qualify to be considered a fire-
16 fighter within the meaning of section 8331(21),
17 would otherwise qualify if the employee had
18 transferred directly to such position after serv-

1 ing as a firefighter within the meaning of that
2 section;

3 “(C) in the case of an employee who holds
4 a supervisory or administrative position and is
5 subject to chapter 84, but who does not qualify
6 to be considered a firefighter within the mean-
7 ing of section 8401(14), would otherwise qualify
8 if the employee had transferred directly to such
9 position after performing duties described in
10 section 8401(14)(A) for at least 3 years; and

11 “(D) in the case of an employee who is not
12 subject to subchapter III of chapter 83 or chap-
13 ter 84, holds a position that the Office of Per-
14 sonnel Management determines would satisfy
15 subparagraph (A), (B), or (C) if the employee
16 were subject to subchapter III of chapter 83 or
17 chapter 84;

18 “(2) the term ‘General Schedule base rate’
19 means an annual rate of basic pay established under
20 section 5332, before any additions such as a locality-
21 based comparability payment under section 5304 or
22 5304a or a special rate supplement under section
23 5305;

24 “(3) the term ‘special base rate’ means an an-
25 nual rate of basic pay payable to a wildland fire-

1 fighter, before any additions or reductions, that re-
2 places the General Schedule base rate otherwise ap-
3 plicable to the wildland firefighter and that is ad-
4 ministered in the same manner as General Schedule
5 base rates; and

6 “(4) the term ‘wildland firefighter’ means any
7 temporary, seasonal, or permanent position at the
8 Department of Agriculture or the Department of the
9 Interior, or Tribal Firefighters, that maintains
10 group, emergency incident management, or fire
11 qualifications, as established annually by the Stand-
12 ards for Wildland Fire Position Qualifications pub-
13 lished by the National Wildfire Coordinating Group,
14 and primarily engages in or supports wildland fire
15 management activities, including forestry and range-
16 land technicians and positions concerning aviation,
17 engineering heavy equipment operations, dispatch,
18 training, development and technology, or fire and
19 fuels management.

20 “(b)(1) Notwithstanding section 5332, a wildland
21 firefighter is entitled to a special base rate of pay at
22 grades 1 through 15 of the General Schedule, as pre-
23 scribed by this subsection. This special base rate shall re-
24 place the otherwise applicable General Schedule base rate
25 and shall be basic pay for all purposes, including the pur-

1 pose of computing a locality-based comparability payment
2 under section 5304 or 5304a. Such special base rates shall
3 be computed as described in paragraphs (2) and (3) and
4 adjusted at the time of adjustments in the General Sched-
5 ule.

6 “(2) The minimum rate of basic pay for any wildland
7 firefighter in levels 1 through 5 of the General Schedule
8 shall—

9 “(A) be not less than the rate of pay for step
10 3 of GS-6, as adjusted by the pay locality des-
11 ignated as ‘Rest of U.S.’ under section 5304; and

12 “(B) not be greater than the minimum rate of
13 basic pay provided to GS-6 under paragraph (3).

14 “(3) The special base rates for a wildland firefighter
15 in levels 6 through 15 of the General Schedule shall be
16 derived by increasing the otherwise applicable General
17 Schedule base rate on the date of enactment of this Act
18 by the applicable percentage for the wildland firefighter’s
19 grade as shown below and rounding the result to the near-
20 est whole dollar:

21 “GS-6, 27 percent.

22 “GS-7, 24 percent.

23 “GS-8, 21 percent.

24 “GS-9, 18 percent.

25 “GS-10, 15 percent.

1 “GS–11, 12 percent.

2 “GS–12, 9 percent.

3 “GS–13, 6 percent.

4 “GS–14, 3 percent.

5 “GS–15, 1.5 percent.

6 “(4) When the special base rate is expressed as an
7 hourly, daily, weekly, or biweekly rate, the rate is com-
8 puted from the appropriate annual rate of basic pay de-
9 rived under paragraph (2) or (3) in accordance with the
10 rules prescribed by section 5504(b).”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsections (a) and (d) shall be effective on the first day
13 of the first applicable pay period beginning on or after
14 October 1, 2023.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for chapter 53 of title 5, United States Code, is amended
17 by inserting after the item relating to section 5332 the
18 following:

“5332a. Special base rates of pay for wildland firefighters.”.

19 (d) PREVAILING RATE EMPLOYEES.—Section 5343
20 of title 5, United States Code, is amended by adding at
21 the end the following:

22 “(g) For prevailing rate employees described in sec-
23 tion 5342(a)(2)(A) who qualify as a ‘wildland firefighter’
24 based on the definitions of ‘firefighter’ and ‘wildland fire-
25 fighter’ in section 5332a(a), the Secretary of Agriculture

1 or the Secretary of the Interior (as applicable) shall in-
2 crease the wage rates of such employees by amounts (de-
3 termined at the sole and exclusive discretion of the appli-
4 cable Secretary after consultation with the other Sec-
5 retary) that are generally consistent with the percentage
6 increases given to wildland firefighters in the General
7 Schedule under section 5332a. Such an increased wage
8 rate shall be basic pay for the same purposes as the wage
9 rate otherwise established under this section. An increase
10 under this subsection may not cause an employee's wage
11 rate to increase beyond a rate that would produce an
12 annualized rate in excess of the annual rate for level IV
13 of the Executive Schedule.”.

14 **SEC. 11____. WILDLAND FIRE INCIDENT STANDBY PREMIUM**
15 **PAY.**

16 (a) IN GENERAL.—Title 5, United States Code, is
17 amended by inserting after section 5545b the following:

18 **“§ 5545c. Incident standby premium pay for employ-**
19 **ees engaged in wildland firefighting**

20 “(a) In this section—

21 “(1) the term ‘covered employee’ means an em-
22 ployee of the Forest Service or the Department of
23 the Interior who—

1 “(A) qualifies as a wildland firefighter
2 based on the definitions of ‘firefighter’ and
3 ‘wildland firefighter’ in section 5332a(a); or

4 “(B) is certified by the applicable agency
5 to perform wildland fire incident related duties
6 during the period such employee is assigned to
7 a qualifying incident;

8 “(2) the term ‘designated sleep and rest period’
9 means the hours during an incident deployment that
10 a covered employee is deemed to be in sleep or rest
11 status for pay computation purposes, regardless of
12 actual hours spent in that status;

13 “(3) the term ‘incident standby premium pay’
14 means pay to which a covered employee is entitled
15 under subsection (c);

16 “(4) the term ‘prescribed fire incident’ means a
17 wildland fire originating from a planned ignition in
18 accordance with applicable laws, policies, and regula-
19 tions to meet specific objectives;

20 “(5) the term ‘qualifying incident’ means a
21 wildfire incident, a prescribed fire incident, or a se-
22 verity incident, but excludes an initial response inci-
23 dent involving a single operational period of less
24 than 36 hours (unless a longer period is approved by
25 an authorized agency official due to exceptional cir-

1 cumstances) if the employee is in continual work
2 status with no designated sleep and rest period es-
3 tablished by the agency;

4 “(6) the term ‘severity incident’ means an inci-
5 dent in which a covered employee is pre-positioned
6 in an area where conditions indicate there is a high
7 risk of wildfires; and

8 “(7) the term ‘wildfire incident’ means a
9 wildland fire originating from an unplanned ignition,
10 such as lightning, volcanos, unauthorized and acci-
11 dental human-caused fires, and prescribed fires that
12 are declared wildfires.

13 “(b) A covered employee is eligible for incident stand-
14 by premium pay under this section when meeting all of
15 the following conditions:

16 “(1) The employee is deployed to the field by
17 the employing agency to respond to a qualifying inci-
18 dent.

19 “(2) The employee is placed by the employing
20 agency in continuous duty status during the incident
21 deployment.

22 “(3) Any periods of sleeping and resting occur
23 in a field location associated with the duty assign-
24 ment.

1 “(c) A covered employee who meets the conditions in
2 subsection (b) is entitled to incident standby premium pay
3 for designated sleep and rest periods, and such pay shall
4 be the only compensation payable to the employee for
5 those periods, notwithstanding any other law. Such pre-
6 mium pay shall be paid at an hourly rate equal to 50 per-
7 cent of the employee’s hourly rate of basic pay, rounded
8 to the nearest whole cent. In determining an employee’s
9 minimum wage and overtime pay entitlements under the
10 Fair Labor Standards Act, incident standby premium pay
11 and associated hours shall be disregarded.

12 “(d) A covered employee’s designated sleep and rest
13 periods shall be fixed at 9 hours for every 24-hour duty
14 period associated with a qualifying incident, including nec-
15 essary travel time. If the hours of an incident deployment
16 are not an exact multiple of 24-hour periods, the ratio of
17 $9/24$ shall be multiplied by hours for the less-than-24-
18 hours period of duty to derive the designated sleep and
19 rest period for that duty period, with the result rounded
20 to the nearest fractional increment established by the
21 agency in tracking hours of work.

22 “(e) Incident standby premium pay under this sec-
23 tion—

24 “(1) is not considered part of the basic pay of
25 an employee for any purpose;

1 “(2) may not be considered in determining an
2 employee’s lump-sum payment for accumulated and
3 accrued annual leave under section 5551 or section
4 5552;

5 “(3) may not be used in determining pay under
6 section 8114 (related to workers’ compensation); and

7 “(4) may not be considered in determining pay
8 for hours of paid leave or other paid time off during
9 which the premium pay is not payable.”.

10 (b) OTHER EMPLOYEES.—Title 5, United States
11 Code, is further amended—

12 (1) in section 5544, by—

13 (A) adding the following:

14 “(d) A prevailing rate employee described in section
15 5342(a)(2)(a) shall receive incident standby premium pay
16 under the same terms and conditions that apply to a cov-
17 ered employee under section 5545c if such employee is em-
18 ployed by the forest service or the department of the inte-
19 rior and—

20 “(1) qualifies as a wildland firefighter based on
21 the definitions of ‘firefighter’ and ‘wildland fire-
22 fighter’ in section 5332a(a); or

23 “(2) is certified by the applicable agency to per-
24 form wildland fire incident related duties during the

1 period such employee is assigned to a qualifying inci-
2 dent (as defined in section 5545c(a)(5)).”; and

3 (B) amending the section heading to read:

4 “**Wage-board overtime, Sunday rates,**
5 **and other premium pay**”;

6 (2) in section 5545, by adding at the end the
7 following:

8 “(e) For an employee of the Forest Service or the
9 Department of the Interior who is temporarily deployed
10 to perform wildland fire incident related duties, subsection
11 (c)(2) shall not apply to hours during such temporary de-
12 ployment notwithstanding any other provision of law.”;

13 (3) in section 5545a, by adding at the end the
14 following:

15 “(l) For an employee of the Forest Service or the De-
16 partment of the Interior who is temporarily deployed to
17 perform wildland fire incident related duties, subsection
18 (c)(2) shall not apply to hours during such temporary de-
19 ployment notwithstanding any other provision of law.”;

20 and

21 (4) in section 5547(a), by inserting “5545c,”
22 after “5545a,”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall be effective on the first day of the first

1 applicable pay period beginning on or after October 1,
2 2023.

3 (d) CLERICAL AMENDMENTS.—The table of sections
4 for chapter 55 of title 5, United States Code, is amended
5 by—

6 (1) amending the item relating to section 5544
7 to read as follows:

“5544. Wage-board overtime, Sunday rates, and other premium pay.”

8 ; and

9 (2) inserting after the item relating to section
10 5545b the following new item:

“5545c. Incident standby premium pay for employees engaged in wildland fire-
fighting.”.

11 **SEC. 11 ____. SPECIAL LIMITATIONS ON PAY FOR WILDLAND**
12 **FIREFIGHTERS.**

13 (a) IN GENERAL.—Title 5, United States Code, is
14 amended—

15 (1) by inserting after section 5547 the fol-
16 lowing:

17 **“§ 5547a. Special limitations on premium pay for em-**
18 **ployees engaged in wildland firefighting**

19 “(a) In this section—

20 “(1) the term ‘covered employee’ means an em-
21 ployee of the Forest Service or the Department of
22 the Interior who—

1 “(A) qualifies as a wildland firefighter
2 based on the definitions of ‘firefighter’ and
3 ‘wildland firefighter’ in section 5332a(a); or

4 “(B) is certified by the applicable agency
5 to perform wildland fire incident related duties
6 during the period such employee is assigned to
7 a qualifying incident;

8 “(2) the term ‘covered services’ means services
9 performed by an employee that are determined by
10 the Secretary of the Interior or the Secretary of Ag-
11 riculture, as applicable, to primarily involve emer-
12 gency wildfire suppression activities, including any
13 periods of duty when the employee is sleeping or
14 resting during an extended period of deployment to
15 engage in those activities;

16 “(3) the term ‘emergency wildland fire suppres-
17 sion activities’ means initial-response and extended-
18 response activities that directly relate to suppression
19 of a wildfire, including activities associated with a
20 severity incident but excluding activities associated
21 with a prescribed fire incident (as those terms are
22 defined section 5545c); and

23 “(4) the term ‘premium pay’ means the pre-
24 mium pay paid under the provisions of law cited in

1 section 5547(a), except as otherwise provided in sub-
2 section (h).

3 “(b) Any premium pay earned by a covered employee
4 for covered services shall be disregarded in calculating the
5 aggregate of such employee’s basic pay and premium pay
6 for purposes of applying a limitation under section 5547.

7 “(c) Any premium pay that is disregarded under sub-
8 section (b) shall be disregarded in calculating such em-
9 ployee’s aggregate pay for purposes of applying the limita-
10 tion in section 5307.

11 “(d) Pay that is disregarded under subsection (b)
12 may not be paid to the extent it would cause the aggregate
13 of the employee’s basic pay, premium pay, and hazard pay
14 under section 5545(d) payable in the applicable calendar
15 year to exceed the rate of basic pay payable for a position
16 at level II of the Executive Schedule under section 5313,
17 as in effect at the end of such calendar year. Any premium
18 pay that is subject to a biweekly limitation under section
19 5547(c) must be paid first before other premium pay in
20 applying the level II limitation.

21 “(e) Application of the limit in subsection (d) or sub-
22 section (h) to a covered employee may be waived at the
23 sole and exclusive discretion of the Secretary of the Inte-
24 rior or the Secretary of Agriculture, as applicable. Before
25 authorizing such a waiver for employees of their respective

1 agencies, each Secretary, after consulting with the other
2 Secretary, shall prescribe criteria that will be applied in
3 making a determination to grant a waiver.

4 “(f) Any additional pay resulting from application of
5 this section may not be used in computing a lump-sum
6 payment for accumulated and accrued annual leave under
7 section 5551 or section 5552.

8 “(g) The Departments of the Interior and Agri-
9 culture shall maintain records that document uses of the
10 authority provided by this section.

11 “(h)(1) For prevailing rate employees described in
12 section 5342(a)(2)(A) who meet the requirements in sub-
13 section (a)(1) to qualify as a covered employee, premium
14 pay may not be paid to the extent it would cause the ag-
15 gregate of the employee’s basic pay and premium pay in
16 the applicable calendar year to exceed the rate of basic
17 pay payable for a position at level II of the Executive
18 Schedule under section 5313, as in effect at the end of
19 such calendar year.

20 “(2) For the purposes of this subsection, the term
21 ‘basic pay’ means wages, environmental differential pay,
22 and night shift differential pay, and the term ‘premium
23 pay’ means overtime pay, Sunday premium pay, and holi-
24 day premium pay.”; and

1 (2) in section 5541(2)(xi), by inserting““, section
2 5547a(h),” after “section 5544”.

3 (b) CALENDAR YEAR 2023.—For the purpose of ap-
4 plying section 5547 and section 1701 of division B of Pub-
5 lic Law 117–43 (5 U.S.C. 5547 note) in calendar year
6 2023, incident standby premium pay shall be included in
7 premium pay that is subject to the limits established in
8 those sections.

9 (c) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall take effect on the first day of the first
11 pay period that has a payment date in January 2024. Sub-
12 section (b) shall be effective on the first day of the first
13 applicable pay period beginning on or after October 1,
14 2023.

15 (d) CLERICAL AMENDMENT.—The table of sections
16 for chapter 55 of title 5, United States Code, is further
17 amended by inserting after the item for section 5547 the
18 following new item:

“5547a. Special limitations on premium pay for employees engaged in wildland
firefighting.”.

