



United States Department of Agriculture

Departmental
Administration

Office of the
Assistant Secretary
for Administration

Office of Human
Resources
Management

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TO: USDA Chief Human Capital Officers
Mission Area Chief Operating Officers
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FROM: Anita R. Adkins
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SUBJECT: Special Premium Pay Cap for Certain Employees in 2021

Title 5 U.S.C. 5547 limits the amount of premium pay an employee may receive. Employees are limited to the rate of a GS-15 step 10 or Level V of the Executive Schedule, whichever is greater. Legislation was signed into law providing a special premium pay cap for certain employees in 2021. The purpose of this memorandum is to remind agencies the special provisions are applicable to specific qualifying work performed in 2021.

- **COVID Work.** Section 303 of Division M of the Consolidated Appropriations Act, 2021 (Public Law 116-260, December 27, 2020), allows the head of an agency to disregard premium pay for services an employee performs during 2021 that are primarily related to the preparation, prevention, or response to COVID in applying the premium pay cap under 5 U.S.C. 5547(a). In addition, any such premium pay must also be disregarded in calculating the employee's aggregate pay for purposes of the aggregate pay limitation under 5 U.S.C. 5307. Under this temporary authority, the combination of basic and premium pay may not exceed the rate for level II of the Executive Schedule (\$199,300). (See [Public Law 116-260](#) for additional information).
- **Emergency Wildland Fire Suppression Activities.** Section 1701 of division B of the Extending Government Funding and Delivering Emergency Assistance Act (Public Law 117-43, September 30, 2021) allows the head of the U.S. Department of Agriculture to disregard premium pay for services designated employees perform during 2021, that are primarily related to emergency wildland fire suppression activities in applying the premium pay cap under 5 U.S.C. 5547(a). In addition, any such premium pay must also be disregarded in calculating the employee's aggregate pay for purposes of the aggregate pay limitation under 5 U.S.C. 5307. Under this temporary authority, the combination of basic and premium pay may not exceed the rate for level II of the Executive Schedule (\$199,300). (See [Public Law 117-43](#) for additional information).

With the new pay year approaching, we want to emphasize that we have not received guidance that would authorize the higher pay cap to extend into 2022. Therefore, in the absence of further guidance, beginning with work performed in 2022, the special provisions for a higher premium pay cap will no longer apply and employees must abide by the existing limitations on premium pay found under 5 U.S.C. 5547 (the rate of a GS-15 step 10 or Level V of the Executive Schedule, whichever is greater). Should anything new be provided that governs a special premium pay cap for certain COVID work or emergency wildland fire suppression activities in 2022, we will communicate to agencies the applicable legislation and how to apply those guidelines.

If you have any questions about this guidance, please contact Lisa Swenka, HR Specialist, Pay & Leave Policy, at Lisa.Swenka@usda.gov or at (202) 731-7958.