FEDERAL FIREFIGHTER PAY

INTRODUCTION

Employees classified in the Fire Protection and Prevention Series, GS-0081, with regular tours of duty that average at least 53 hours per week or 106 hours biweekly, are covered by special pay rules in 5 U.S.C. 5545b and 5 CFR part 550, subpart M. The GS-0081 series include line firefighters, supervisory firefighters, and fire inspectors. This reference guide explains how to compute rates of basic pay and overtime pay for covered firefighters. By law, section 5545b firefighters are not entitled to receive any type of premium pay except overtime pay.

DEFINITIONS

Annual rate of basic pay: The annual rate fixed under the rate schedule applicable to the firefighter's position, including a locality rate schedule established under 5 U.S.C. 5304 or special rate schedule established under 5 U.S.C. 5305, before any deductions and exclusive of additional pay of any other kind.

Firefighter: 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 the 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 GS-0081 series--, 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 5 CFR 213.3203(b)), if the position otherwise would be classified in the GS-0081 series.

Firefighter hourly rate of basic pay: An hourly rate computed by dividing the annual rate of basic pay by 2756 hours as described in 5 CFR 550.1303.

Irregular hours: Hours of work outside a firefighter's regular tour of duty.

Overtime hours: 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.

Regular tour of duty: 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 5 CFR 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 5 CFR 550.1303(d).

REGULAR TOUR OF DUTY

A firefighter's *regular tour of duty* determines the method of computing rates of pay for covered firefighters. Most firefighters have a regular tour of duty consisting of three 24-hour shifts per week which includes periods of actual work and designated standby time. While in a standby status, firefighters are free to eat, sleep, and engage in other personal activities, but are confined to the worksite and must remain in a state of readiness to perform actual work.

Some firefighters (e.g., fire inspectors) have a regular tour of duty that includes a basic 40-hour workweek plus a standby shift of 13 or more hours per week. This is called an embedded schedule.

Note: The Defense Civilian Pay System accepts only specific firefighter schedules.

COMPUTING BASIC PAY FOR FIREFIGHTERS WITHOUT A BASIC-40 WORKWEEK

Firefighters with a regular tour of duty that does not include a basic 40-hour workweek are paid a firefighter hourly rate of basic pay for the first 106 nonovertime hours in the biweekly pay period. The *firefighter hourly rate of basic pay* is computed by dividing the annual rate of basic pay by 2,756 hours. (The 2756-hour factor is derived by multiplying the number of weeks in a year (52) by the FLSA weekly overtime standard for firefighters (53 hours), which yields the number of nonovertime hours in a year for a typical full-time firefighter).

Example 1: A nonexempt GS-7, step 1, firefighter in the RUS locality pay area has a regular tour of duty of 144 hours in the biweekly pay period. His annual rate of basic pay is $41,365. What is the firefighter's hourly rate of basic pay and biweekly rate?

Salary: $41,365/2756 = $15.01 (firefighter hourly rate of basic pay)

$15.01 x 106 nonovertime hours = $1,591.06 (biweekly rate of basic pay)

The remaining 38 hours (144 hours – 106 hours) are overtime hours.

COMPUTING BASIC PAY FOR "40+FIREFIGHTERS"

Dual divisors apply to firefighters with a regular tour of duty that includes a basic 40-hour workweek. The 2087-hour factor is used to compute the GS hourly rate of basic pay for hours within the basic 40-hour workweek (or 80-hour biweekly pay period), and the 2756-hour factor is used to compute the firefighter hourly rate of basic pay for nonovertime hours (106 hours -80 hours) in excess of 80 hours biweekly.

Example 2: A nonexempt GS-8, step 2, fire inspector has a regular tour of duty of 118 hours biweekly that includes a basic 40-hour workweek. His annual rate of basic pay is $47,337. Determine the fire inspector's hourly rates of basic pay and biweekly rate?

Salary: $47,337/2087 = $22.68 (GS hourly rate of basic pay)

$47,337 /2756 = $17.18 (firefighter hourly rate of basic pay)

Basic Pay 1st 80 $22.68 x 80 hours   = $1,814.40

Basic Pay 2nd 26 $17.18 x 26 (106 – 80) hours = $ 446.68

Basic Pay 2nd 26   Biweekly Rate of Basic Pay $2,261.08

The remaining 12 hours (118 hours – 106 hours = 12 hours) are overtime hours.

COMPUTING OVERTIME PAY

For exempt and nonexempt firefighters compensated under subpart M, overtime work means officially ordered or approved work in excess of 106 hours in a biweekly pay period. To derive overtime pay for any firefighter, multiple the applicable overtime hourly rate by all overtime hours in the pay period.

To determine the overtime hourly rate of pay for all FLSA-covered (nonexempt) firefighters, multiply the firefighter hourly rate of basic pay by 1.5, regardless of the type of work schedule. For example, the overtime hourly for the fire inspector in example 2 is $25.77 ($17.18 x 1.5 = $25.77). There is no overtime pay cap for FLSA-covered (nonexempt) firefighters.

The overtime hourly rate of pay for FLSA-exempt firefighters is 1.5 times the firefighter hourly rate of basic pay except that exempt firefighters are still subject to the same overtime cap as all GS exempt employees. For those exempt firefighters whose firefighter hourly rate of basic pay exceeds the hourly rate of basic pay for GS-10, step 1, (using the 2,087 factor), the overtime hourly rate is equal to the greater of (1) 1 ½ times the GS-10, step 1, rate or (2) the individual's own firefighter hourly rate of basic pay. (See 5 CFR 550.113(e) (2).)

Example 3: The annual rate of pay for an exempt GS-12, step 3, fire chief in the Albany locality pay area is $79,034. The annual rate of basic pay for GS-10, step 1, in the same locality pay area is $56,266. What is the fire chief's overtime rate?

Salary: $79,034/2756 = $28.68 (firefighter's hourly rate of pay)

GS-10, step 1, hourly rate = $26.96 ($56,266/2087) Albany locality rate

GS-10, step 1, overtime hourly rate = $40.44 ($26.96 x 1.5)

Because the firefighter's hourly rate of $28.68 is higher than the hourly rate for GS-10, step 1, $26.96, the firefighter is subject to the overtime pay cap. Therefore, the fire chief is entitled to the greater of the overtime hourly rate for GS-10, step 1, or his firefighter hourly rate of basic pay. In this case, the GS-10, step 1, overtime rate of $40.44 ($26.96 x 1.5) exceeds his firefighter hourly rate of $28.68. Therefore, the fire chief will be paid for overtime work at the overtime rate of $40.44. (See 5 CFR 550.113(e) (2)(i).)

COMPUTING BIWEEKLY RATES OF PAY

A firefighter's biweekly rate of pay is computed using the applicable hourly and overtime rates as discussed in the preceding paragraphs and examples.

Example 4: Nonexempt firefighter with 144-hour biweekly schedule (not embedded)

A nonexempt GS-7, step 1, firefighter ($41,365) in the RUS locality pay area has a regular tour of duty of 144-hours biweekly consisting of six-24 hour shifts. Because the firefighter is nonexempt, his overtime hourly rate is 1.5 times his firefighter rate. What is the firefighter's total biweekly pay?

Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Total
24		24		24			24		24		24			**144**

Firefighter Rate	$15.01 ($41, 365/2756 hours)
Basic Pay	$15.01 x 106 nonovertime hours = $1,591.06
Overtime Hours	144 − 106 = 38 hours
Overtime Rate	$15.01 x 1.5 = $22.52
Overtime Pay	$22.52 x 38 overtime hours = $855.76
Biweekly Pay	**$2,446.82** ($1,591.06 + $855.76)

Example 5: Nonexempt firefighter with a basic 40-hour workweek

A nonexempt GS-8, step 2, fire inspector ($47,337) in the RUS locality pay area has a regular tour of duty of 144-hours biweekly with a basic 40-hour workweek.   Because the fire inspector is nonexempt, his overtime hourly rate is 1.5 times his firefighter's rate. What is his total biweekly pay?

Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Total
	8	24	8	24		8	8		24	8	24	8		**144hrs**

GS Hourly Rate	$22.68 ($47,337/2087 hours)
Firefighter Rate	$17.18 ($47,337/2756 hours)
Basic Pay 1st 80	$22.68 x 80 hours = $1,814.40
Basic Pay 2nd 26	$17.18 x 26 hours = $446.68
Basic Pay	$2,261.08 ($1,814.40 + $446.68)
Overtime Hours	144 − 106 = 38 hours
Overtime Rate	$17.18 x 1.5 = $25.77
Overtime Pay	$25.77 x 38 overtime hours = $979.26
Biweekly Pay	**$3,240.34** ($2,261.08 + $979.26)

Example 6: FLSA-exempt employee

A GS-12, step 5, fire chief ($100,393) in the San Jose CA locality pay area has a regular tour of duty of 112-hours biweekly with a basic 40-hour workweek. What is his overtime hourly rate and total biweekly pay?

Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Total
	8	8	8	8	24			8	8	8	8	24		**112hrs**

GS Hourly Rate	$48.10 ($100,393 /2087 hours)
Firefighter Hourly Rate	$36.43 ($100,393/2756 hours)
Basic Pay 1st 80	$48.10 x 80 hours = $3,848
Basic Pay 2nd 26	$36.43 x 26 hours =$947.18
Basic Pay	$4,795.18 ($3,848+ $947.18)

The next step is to determine the fire chief's overtime hourly rate.

GS-10, step 1, hourly rate = $$32.23 ($67,268/2087) San Jose locality rate

GS-10, step 1, overtime hourly rate = $48.35($32.23 x 1.5)

Because his firefighter hourly rate of $36.43 exceeds the GS-10, step 1, hourly rate of $32.23, the fire chief is subject to the overtime pay cap. Therefore, the fire chief is entitled to the greater of the overtime hourly rate for GS-10, step 1, $48.35, or his firefighter hourly rate of $36.43. Although his firefighter rate exceeds the GS-10, step 1, hourly rate, it is less than the capped overtime rate. Therefore, the fire chief is entitled to the GS-10, step 1, overtime hourly rate of $48.35. (See 5 CFR 550.113 (e) (2) (i).)

Overtime Hours	112 – 106 = 6 hours
Overtime Pay	$48.35 x 6 overtime hours = $290.10
Biweekly Pay	**$5,085.28** ($4,795.18 + $290.10)

Leave without pay (LWOP): For firefighters whose regular tour of duty includes a basic 40-hour workweek (embedded schedule), irregular hours worked must be substituted first for hours of LWOP in the basic 40-hour workweek. (See 5 CFR 550.1303(d).)

Example 7: LWOP on embedded schedule:

A nonexempt, GS-5, step 5, firefighter in the Houston locality pay area has a regular tour of duty of 120 hours biweekly with a basic 40-hour workweek. His annual salary is $43,217. He worked 72 hours of his regular tour of duty and 10 hours of overtime (irregular hours) and has 48 hours of LWOP. Eight of the 10 irregular hours must be substituted first for hours of LWOP in the basic 40-hour workweek. Then 2 hours are counted as nonovertime hours.

Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Total
9	9	9	9	24				24	9	9	9	9		**120hrs**
9	9	9	9	0				0	9	9	9	9		**72 hrs**
													10	**10 hrs**

GS Hourly Rate	$20.71 ($43,217/2087 hours)
Firefighter Rate	$15.68 ($43,217/2756 hours)
Basic Pay 1st 80	$20.71 x 80 hours = $1,656.80
Basic Pay 2nd 26	$15.68 x 2 hours =$31.36

Overtime Hours	None
Overtime Pay	N/A
Biweekly Pay	$1,688.16 ($1,656.80+ $31.36)

TRAINING

A firefighter as defined in 5 CFR 550.1302, who attends agency-sanctioned training will continue to receive basic pay and overtime pay for the firefighter's regular tour of duty in any week in which attendance at agency-sanctioned training reduces the hours in the firefighters regular tour of duty. This pay protection does not apply to firefighters who voluntarily participate in training during non-duty hours, leave hours or periods of excused absence. (See 5 CFR 550.1306(d).)

FREQUENTLY ASKED QUESTIONS

1. If a firefighter covered by 5 CFR part 550, subpart M, is required to work irregular or occasional overtime outside the regular tour of duty, can management withhold pay for meal times or conversely can that non-work time be considered for payment?

If the firefighter is relieved from duty and is free to leave the workstation with no substantial restrictions (i.e., the time can be used for his/her own purposes), the meal period is not compensable. If the firefighter is restricted to the fire station and remains in a standby status, the hours are compensable.

2. When a firefighter is on a management-directed detail with a regularly scheduled tour of 40 hours a week, does he/she continue to receive pay for the firefighter's basic pay and overtime?

No. 5 CFR 550.1302 defines a firefighter as one whose position is classified in the GS-0081 series and who has a regular tour of duty averaging at least 53 hours a week (or 106 hours per biweekly pay period). While on detail with a regularly scheduled tour of 40 hours a week, the firefighter does not meet the definition above.

3. Would the same answer apply to a firefighter who is temporarily placed in a non-firefighter position for the duration of her pregnancy, with a basic 40-hour a week tour of duty?

Yes. Similarly, firefighter pay rules no long apply when a firefighter is temporarily moved to a work schedule with fewer than 53 hours per week, or 106 hour biweekly. To receive firefighter pay under 5 U.S.C. 5545b, the employee must be in a position classified in the Fire Protection and Prevention Series, GS-0081, and have a regular tour of duty averaging 53 hours a week or 106 hours biweekly. Therefore, the normal GS rules would be used to compute her pay.

4. Are firefighters entitled to holiday premium pay for nonovertime work performed on a holiday?

Firefighters who meet the definition of "firefighter" in 5 CFR part 550, subpart M, are not entitled to holiday premium pay on the same basis as regular employees. By law, firefighters are barred from receiving holiday premium pay for working on a holiday; instead, they are paid at their normal rate. (See 5 CFR 550.1306(a).)

5. Are firefighters excused from duty on a holiday and entitled to pay for holiday hours during which no work is performed?

To receive pay for hours during a regular tour of duty that fall on a holiday, firefighters covered by 5 CFR part 550, subpart M, are required to work on a holiday with no entitlement to holiday premium pay, use accrued annual leave or sick leave if appropriate, or be granted excused absence at the agency's discretion.

REFERENCES

- 5 U.S.C. 5542(f) and 5545b
- 5 CFR part 550, subpart M
- Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, October 21, 1998
- OPM: Retirement and Insurance Service Benefits Administration Letter, Firefighter Pay Reform Act, PL 105-277, No.01-107, June 19, 2001
- DoD Financial Management Regulation, Volume 8, Chapter 3, Paragraph 1016

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