



**225 FW 7**  
**Premium Pay**

Supersedes 225 FW 7, FWM 213,  
09/07/95 and Director's Order 181,  
12/07/04  
Date: July 19, 2010  
Series: Personnel  
Part 225: Classification, Pay, and  
Allowances

[PDF Version](#)

TABLE OF CONTENTS	
Topics	Sections
Overview: Purpose, Policy, Authorities, and Terms	<a href="#">7.1 – 7.6</a>
Responsibilities	<a href="#">7.7</a>
Overtime	<a href="#">7.8 – 7.12</a>
Standby duty	<a href="#">7.13 – 7.16</a>
Pre-shift and post-shift activities	<a href="#">7.17</a>
Travel	<a href="#">7.18 - 7.19</a>
Training and meal periods	<a href="#">7.20 - 7.21</a>
Night work	<a href="#">7.22</a>
Sunday work	<a href="#">7.23</a>
Holiday work	<a href="#">7.24</a>
Compensatory time	<a href="#">7.25</a>
Temporary assignments	<a href="#">7.26</a>
Calculating and documenting overtime	<a href="#">7.27 - 7.28</a>
Limitations on maximum premium pay	<a href="#">7.29 – 7.30</a>
Filing for additional compensation	<a href="#">7.31</a>

**7.1 What is the purpose of this chapter?** This chapter establishes Service policy and procedures for administering:

- A. The premium pay provisions in Title 5 of the United States Code, and
- B. The overtime provisions in the Fair Labor Standards Act (FLSA).

**7.2 What is premium pay?** Premium pay is additional pay that an employee is entitled to for:

- A. Overtime, night, holiday, or Sunday work; and
- B. Standby, on-call, administratively uncontrollable overtime (AUO) work, or availability duty.

**7.3 What is Service policy for premium pay?** It is our policy to:

- A. Consider the use of premium pay as one of a number of possible options available to managers to accomplish work;
- B. Use premium pay only when managers determine that it is the most appropriate and economical way to manage personnel costs and achieve objectives;
- C. Properly and uniformly administer premium pay in accordance with pay regulations and policy;
- D. Fairly compensate employees for all work; and

E. Strictly adhere to the overtime provisions of the FLSA.

**7.4 What is the scope of this chapter?** This chapter:

A. Applies to all General Schedule employees, and

B. Does not apply to:

(1) Federal Wage System employees, and

(2) Senior Executive Service members.

**7.5 What authorities govern premium pay?**

A. Title 5, Government Organization and Employees; Subpart D, Pay and Allowances; Pay and Administration; Premium Pay; Section 5542, Overtime rates; computation ([5 U.S.C. 5542](#)).

B. Compensatory time off ([5 U.S.C. 5543](#)).

C. Night, standby, irregular, and hazardous duty differential ([5 U.S.C. 5545](#)).

D. Pay for Sunday and holiday work ([5 U.S.C. 5546](#)).

E. Limitation on premium pay ([5 U.S.C. 5547](#)).

F. Attendance and Leave, Basic 40-hour workweek; work schedules; regulations ([5 U.S.C. 6101](#)).

G. Pay Administration, Subpart A: Premium Pay ([5 CFR 550](#)).

H. Pay Administration, Subparts D: Hours of Work and E: Overtime Pay Provisions ([5 CFR 551](#)).

I. Premium Pay for Emergency Work, FLSA Overtime and Overtime Rates ([P.L. 101-509](#), Sections 204, 210, and 410).

**7.6 What terms do you need to know to understand this chapter?**

**A. Administrative workweek** means a period of 7 consecutive calendar days. Our administrative workweek is normally Sunday through Saturday.

**B. Basic work requirement** is the number of hours, excluding overtime, that an employee must work or otherwise account for (e.g., with annual leave).

(1) The basic work requirement for a full-time employee is 80 hours during the 2-week pay period.

(2) For a part-time employee, the basic work requirement is the number of hours that the employee is officially scheduled to work within a 2-week pay period.

**C. Basic workweek:**

(1) For a full-time employee, the basic workweek specifies the days and hours that the employee is scheduled to work within a 40-hour week during the administrative workweek and not on more than 6 of any 7 consecutive days.

(2) For a part-time employee, the basic workweek is the specific days and hours the employee is officially scheduled to work during the administrative workweek.

**(3)** Employees on flexible or compressed work schedules may have a basic work requirement, not workweek, because their tour of duty is not the standard 40-hour workweek.

**D. Exempt employee** is an employee who is subject to the overtime pay provisions of [5 U.S.C. 5542](#) and who is not subject to the FLSA.

**E. Holiday work** means non-overtime work you perform during your regular work schedule on a holiday.

**F. Irregular or occasional overtime work** is work not scheduled before the beginning of your administrative workweek.

**G. Law enforcement officer** means an employee in the GS-1811 occupational series who is covered by the special retirement provisions for law enforcement officials (see [5 CFR 831](#) and [5 CFR 842](#)).

**H. Nonexempt employee** is an employee who is subject to the overtime provisions of the FLSA.

**I. Rate of basic pay** means the rate of pay fixed by law or administrative action for your position before any deductions (e.g., withholdings for Federal and State taxes or employee benefits) and without premium pay. Your rate of basic pay includes:

**(1)** Locality pay (see [5 CFR 531, subpart F](#));

**(2)** Special rates ([5 CFR 530, subpart C](#)); and

**(3)** Similar payment or supplement under other legal authority.

**J. Regularly scheduled work** means work that is scheduled in advance of an administrative workweek. It does not include work to which availability pay applies. Availability pay is paid on an annual basis as a flat rate to law enforcement officers to ensure their availability for unscheduled duty during hours in excess of 40 in a workweek.

**K. Regular overtime work** means overtime work that is part of an employee's regularly scheduled administrative workweek. For example, because of a due date that an office must meet, the supervisor knows in advance that certain employees must work at least 2 hours of overtime on Monday and Wednesday and 4 hours on Saturday for a month. The supervisor schedules the overtime work with the employees before beginning the administrative workweek.

**L. Suffered or permitted work** means any work a nonexempt employee performs for the benefit of the Service, whether requested or not. To be suffered or permitted work, the employee's supervisor must:

**(1)** Know or have a reason to believe the employee is performing the work, and

**(2)** Have an opportunity to prevent the employee from performing the work.

**M. Tour of duty** is the hours of a day (a daily tour of duty) and the days of an administrative week (a weekly tour of duty) that make up an employee's basic workweek. Under a flexible work schedule, it means the limits a supervisor sets within which an employee must complete his or her basic work requirement.

**N. Willful** means a violation in circumstances where officials knew that conduct was prohibited by the FLSA or they showed reckless disregard of the requirements of the Act.

**7.7 Who is responsible for overseeing premium pay?** Table 7-1 shows the overall responsibilities of Service employees for premium pay.

Table 7 1: Premium Pay Responsibilities	
These Service employees:	Are responsible for...

<p><b>A. The Director</b></p>	<p>(1) Approving our policy on the administration of premium pay, including the overtime provisions of the FLSA;</p> <p>(2) Deciding on the payment or forfeiture of unused compensatory time (see <a href="#">section 7.25</a>); and</p> <p>(3) Approving overtime for:</p> <p>(a) Staff members in the Director's office,</p> <p>(b) Non-emergency situations for GS-14 and GS-15 level employees, and</p> <p>(c) When an employee will work more than 600 overtime hours in a calendar year, whether for an emergency or mission-critical work.</p>
<p><b>B. The Assistant Director – Budget, Planning and Human Capital</b></p>	<p>Establishing Servicewide policy for the administration of premium pay and the overtime provisions of the FLSA.</p>
<p><b>C. The Chief, Division of Human Capital</b></p>	<p>Developing, implementing, and managing policy and procedures on premium pay and the overtime provisions of the FLSA.</p>
<p><b>D. Regional and Assistant Directors, and the Chief, Office of Law Enforcement (OLE)</b></p>	<p>The overall administration and management of premium pay within their Regions and program offices according to policy.</p>
<p><b>E. Supervisors:</b></p>	<p>(1) Using cost-effective methods when paying premium pay;</p> <p>(2) Ensuring that they use premium pay appropriately and in compliance with regulations and current policy.</p> <p>(3) Applying their knowledge of the work situation and the availability of staff and resources to explore the following options to determine if they can reduce or eliminate premium pay costs:</p> <p>(a) Reassigning work to other employees,</p> <p>(b) Rescheduling tours of duty,</p> <p>(c) Using flexible and compressed work schedules,</p> <p>(d) Establishing work priorities,</p> <p>(e) Granting compensatory time off,</p> <p>(f) Using call-back overtime,</p> <p>(g) Discontinuing low priority activities, and</p> <p>(h) Seeking other more cost-effective alternatives.</p> <p>(4) Ensuring that:</p> <p>(a) Whenever possible, they approve necessary overtime in the electronic timesheet system before the employee works the overtime,</p> <p>(b) They only pay annual premium pay when the work meets the conditions for that type of pay, and</p> <p>(c) Employees' regularly scheduled workweeks reflect actual work requirements (including authorized overtime work).</p> <p>(5) Not suffering or permitting a nonexempt employee to work</p>

outside of the regularly scheduled tour of duty. Unless a supervisor approves the work and the employee will receive compensation for it, the supervisor must not allow a nonexempt employee to begin the workday before his or her tour of duty begins, perform work for the benefit of the Service during a lunch break, or end the workday after his or her tour of duty has ended.

**7.8 Are there limitations on how much overtime pay a supervisor can approve?**

A. Yes. Table 7-2 shows how much overtime a supervisor may approve.

<b>Table 7 2: Limitations on Approving Overtime (O/T)</b>		
<b>Annual hours of O/T (non-emergency)</b>	<b>600 or fewer hours in a calendar year</b>	<b>More than 600 hours in a calendar year</b>
<b>Director Approves</b>		<b>X</b>
<b>Immediate Supervisor Approves</b>	<b>X</b>	

B. Supervisors must:

- (1) Be fully aware of the reasons for expending funds for overtime and the impact of this cost on the budget and program resources;
- (2) Be knowledgeable of current work demands that make overtime work necessary;
- (3) Before approving the overtime work, determine that there are no alternatives for accomplishing the work and that the type of premium pay is the most cost-effective;
- (4) Ensure that they have approved employees' requests for earning premium pay before scheduling the overtime work or, in emergency situations, within 5 work days after the employee works overtime; and
- (5) Review or direct the review of premium pay expenditures to determine if they can reduce or eliminate costs.

**7.9 What do supervisors do if they want to schedule employees to work more than 600 nonemergency overtime hours in a year?** Supervisors must request that the Director approve nonemergency overtime work in excess of 600 hours in a calendar year.

A. The justification for each request must:

- (1) Identify the employee by name, title, grade, series, and work location;
- (2) Explain the reason for the overtime; and
- (3) State the number of overtime hours the employee has already worked and the number of hours the supervisor expects him or her to work by the end of the calendar year.

B. The supervisor must send the request through the appropriate Regional or Assistant Director or the Chief, OLE for surname.

- (1) The Regional or Assistant Director or Chief, OLE sends requests through the servicing Human Resources office

(HRO) to the Headquarters (HQ) Division of Human Capital.

**(2)** The HQ Division of Human Capital reviews the requests to ensure the justification is adequate and sends them to the Director for consideration.

### **7.10 What are the general requirements for paying overtime?**

**A.** We may pay any full-time, part-time, or intermittent employee for working overtime.

**B.** Unless the overtime work is regularly scheduled (i.e., included in the regularly scheduled workweek), a designated approving official must officially order or approve it in writing. Because an employee's entitlement to premium pay may be based on regularly scheduled work, the employee's actual work requirement must be reflected in an employee's regularly scheduled administrative workweek.

**C.** No official may approve his or her own overtime.

**D.** Supervisors must maintain a copy of each designation to approve overtime or any other form of premium pay for audit purposes.

**E.** Although supervisors may approve overtime, Regional and Assistant Directors and the Chief, OLE, still have overall responsibility for ensuring the supervisors who report to them schedule and pay overtime responsibly.

**7.11 What are the specific requirements for paying employees overtime?** Employees may perform overtime work (i.e., additional time spent in the performance of principal activities) on a regular, irregular, occasional, or call-back basis. See [Exhibit 1](#) for examples of home-to-work and work-to-home travel.

#### **A. Nonexempt Employees:**

**(1)** We must pay nonexempt employees for all the time they spend performing activities for the benefit of and under the control or direction of the Service. This includes, but is not limited to, time:

**(a)** On duty during the basic workweek,

**(b)** When a manager suffers or permits an employee to work beyond the basic workweek,

**(c)** In a travel status (see [Exhibit 2](#)), and

**(d)** When waiting or idle.

**(2)** Supervisors must document the employee's actual work requirement in the regularly scheduled workweek. When a supervisor knows before the beginning of an employee's regularly scheduled workweek that there will be a need for the employee to work overtime or perform other work that would entitle the employee to other forms of premium pay, the supervisor must schedule the hours and days as part of the employee's work requirement.

**(3)** An employee may be entitled to premium pay even if the supervisor doesn't schedule the regularly scheduled workweek to reflect the employee's actual work requirement if the supervisor:

**(a)** Knew of the specific days and hours of the work requirement in advance of the administrative workweek, and

**(b)** Had the opportunity to determine which employees to schedule to meet the specific days and hours of that work requirement.

**B. Exempt Employees.** A full-time exempt employee is entitled to compensation (i.e., monetary or compensatory time off) for officially ordered or approved overtime work.

## **7.12 What hours are counted as overtime hours under the FLSA?**

**A.** Depending on the employee's work schedule (part-time, full-time, compressed, etc.), overtime work may mean hours of work in excess of:

**(1)** 8 hours in a day;

**(2)** 40 hours in an administrative workweek for an employee on a regular tour of duty; or

**(3)** The daily scheduled tour of duty or the biweekly work requirement for an employee on a flexible or compressed work schedule.

**B.** Except as we describe in [section 7.11A](#), we pay overtime to law enforcement officers who receive availability pay for any time scheduled in advance beyond a 10-hour workday. We compensate law enforcement officers with availability pay for irregularly scheduled overtime work.

**C.** We compensate nonexempt employees for every minute of regular overtime work.

**D.** For irregular or occasional overtime work, we may compensate employees in 15-minute increments and round up or down (e.g., you can round up to 45 minutes if the employee worked 41 minutes, round down to 30 minutes if the employee worked 33 minutes, etc.).

**E.** Under the conditions specified in [section 7.17](#) below, we can credit, as hours of work, the time an employee spends in the performance of preparatory or concluding activities.

**F.** We do not consider hours in an unpaid, nonwork status (e.g., leave without pay, furlough, absence without leave) as hours of work.

**G.** We only use the work described in this section to determine an employee's entitlement to wages or overtime under the FLSA—not to determine hours of work for pay under any other authority.

**H.** If employees work overtime on a day on which they were not scheduled to work or were called back and must return to the place of employment, we give the employees credit for working at least 2 hours.

**I.** We consider time an employee spends waiting for and receiving medical attention for an on-the-job or work-related injury as work time if:

**(1)** The medical attention is required on a workday an employee reported for duty and subsequently became ill for work-related reasons or was injured on the job;

**(2)** The time spent receiving medical attention occurs during the employee's regular working hours; and

**(3)** The employee receives the medical attention on the Service's premises or at the direction of the supervisor at a medical facility away from the Service's premises.

**J.** We also consider time an employee spends taking a Service-required physical examination as work time.

**K.** We consider time employees spend during regular work hours working for public or charitable purposes at the Service's request or under the Service's direction or control as hours of work. When employees volunteer for activities during work hours, not at the Service's request or under the Service's direction, they must request and use personal leave. When employees volunteer for such activities outside of their regular working hours, it is not hours of work.

**7.13 What is call-back overtime?** Call-back overtime is irregular or occasional overtime work that an employee performs

on a day when no work is scheduled or when the employee has completed his/her regular tour of duty but must return to the duty station to perform additional work.

- A.** Call-back overtime may be necessary during an emergency (e.g., flood, fire, power failure, or mechanical failure) or because of a similar situation.
- B.** An employee is entitled to a minimum of 2 hours overtime compensation for each instance of call-back overtime work, even if they work less than 2 hours when they're called back.
- C.** The 2-hour minimum for call-back overtime does not apply when an employee must report early and it merges into his/her regular tour of duty, or when an employee works irregular or occasional overtime immediately following the completion of a regular tour of duty.

**7.14 What does the Service consider compensable time for standby duty?**

**A.** If employees have to remain in a state of readiness to perform work, they may be entitled to overtime pay for standby duty. Table 7-3 explains what we consider standby duty.

<b>Table 7 3: Standby Duty</b>	
<b>You are on standby duty if...</b>	<b>You are not on standby duty if...</b>
<p><b>(1)</b> For work-related reasons, your supervisor directs you:</p> <p><b>(a)</b> To a designated post of duty; and</p> <p><b>(b)</b> To be ready to perform work with limitations on activities so substantial that you cannot use the time effectively as you wish. We may restrict consumption of alcohol or use of certain medications that impair an employee's ability to be in a state of readiness when an employee is on standby duty. We do not consider restrictions on drinking alcohol or using certain medications a substantial limitation.</p>	<p><b>(1)</b> You remain at your duty site voluntarily;</p> <p><b>(2)</b> You are restricted to your duty site as a result of geographic isolation or because you live on the Service's premises; or</p> <p><b>(3)</b> You are off-duty and you:</p> <p><b>(a)</b> Leave a telephone number or carry an electronic device (e.g., cell phone, Personal Digital Assistant, pager, etc.) so people can contact you, even if you must remain within a reasonable call-back radius; or</p> <p><b>(b)</b> Make arrangements for another person to perform any work that may arise during the on-call period.</p>

- B.** Supervisors may relieve employees from duty with minimal restrictions on personal activities, which may limit where they may go. Employees are not paid for off-duty hours.
- C.** Employees should request and get approval for nonrecurring standby duty using the same procedures as for overtime.
- D.** If employees are on duty for a 24-hour shift and meet the requirements for standby duty pay, they may receive pay for at least 16 hours (8 hours of basic pay and 8 hours of overtime pay) of the 24-hour shift. Of the full 24-hour shift, up to 8 hours may be excluded for sleep and meals only if the employee has an uninterrupted period of at least 5 hours to sleep.

**7.15 Is there any type of regularly scheduled standby duty for employees?** Yes. Employees who are engaged in fire protection and law enforcement often are regularly scheduled for standby duty and we compensate them for that status. Table 7-4 provides information about paying annual premium pay to employees performing other types of work.



**Table 7 4: Paying Employees for Regularly Scheduled Standby Duty**

<p><b>A.</b> We may pay employees annual premium pay for regularly scheduled standby duty when an employee...</p>	<p><b>(1)</b> Is in a position that regularly requires him or her to remain at, or within the confines of, the duty station during longer than ordinary periods of duty (more than 40 hours a week); and</p> <p><b>(2)</b> A substantial part of the time the employee has to stay at the duty station consists of remaining in a standby status rather than performing work.</p>
<p><b>B.</b> We may pay employees annual premium pay only when the premium pay, over a period that reflects the complete scope of the employee's duties and the full range of conditions in his or her position, would be...</p>	<p><b>(1)</b> More than the premium pay the employee would receive for the hours of actual work normally required in the position, excluding standby time during which he or she performs no work; and</p> <p><b>(2)</b> Less than the premium pay that the employee would otherwise receive for the hours of duty required in the position, including standby time during which he or she performs no work.</p> <ul style="list-style-type: none"> <li>○ An employee is in a standby status only at times when he or she is not required to perform actual work and is free to eat, sleep, read, listen to the radio, or engage in other similar activities.</li> <li>○ An employee is performing actual work, rather than being in a standby status, when his or her full attention is devoted to his or her work, even though the nature of the work does not require constant activity (for example, a guard on duty at his post and a technician continuously observing instruments are engaged in the actual work of their positions).</li> <li>○ Actual work includes both work performed during regular work periods and work performed when called out during periods ordinarily spent in a standby status.</li> </ul>
<p><b>C.</b> An employee is "regularly remaining at, or within the confines of, the duty station," when these three conditions are met...</p>	<p><b>(1)</b> The requirement is definite. The employee's supervisor must officially order the employee to remain at the duty station. It must not be merely voluntary, desirable (e.g., just because an employee lives on the grounds), or a result of geographic isolation.</p> <p><b>(2)</b> The supervisor:</p> <p><b>(a)</b> Includes the hours for standby duty in the employee's tour of duty, and</p> <p><b>(b)</b> Establishes the tour of duty on a regularly recurring basis over a substantial period of time, generally at least a few months.</p> <p><b>(3)</b> The requirement is:</p> <p><b>(a)</b> Not occasional, irregular, or for a brief period; and</p> <p><b>(b)</b> Associated with the regularly assigned duties of the employee's job, either as a continuation of his or her regular work which includes standby time, or as a requirement to stand by at his or her duty station to perform regularly assigned duties, if necessary.</p>
<p><b>D.</b> An employee is "at, or within the confines, of his or her duty station" when one of the following conditions is met...</p>	<p>An employee is:</p> <p><b>(1)</b> At his/her regular duty station;</p> <p><b>(2)</b> In quarters the Service provides that are not the employee's ordinary residence, and which we specifically provide for use of personnel required to stand by in readiness to perform actual work; or</p> <p><b>(3)</b> In an employee's living quarters, when we designate it as his or her duty station and when we narrowly limit his or her whereabouts and substantially restrict activities. This condition exists only during periods when an employee must remain at his or her quarters because we require him or her to be in a state of readiness to answer calls.</p>
<p><b>E.</b> An employee has to spend "a substantial part of time at the duty station in a standby status rather than performing work" when...</p>	<p><b>(1)</b> At least 25 percent of the entire tour of duty (in the administrative workweek) is spent in a standby status that occurs throughout the entire (annual) tour;</p> <p><b>(2)</b> If certain hours of the tour of duty are regularly devoted to actual work and others are spent in a standby status, that part of the tour of duty devoted to standing by is at least 25 percent of the entire tour of duty; or</p> <p><b>(3)</b> When an employee has a basic workweek requiring full-time performance of actual work and is required, in addition, to perform standby duty on certain nights or days not</p>



included in his or her basic workweek.

---

**7.16 How do supervisors determine whether or not to pay premium pay for a regular standby tour of duty, and what is the approval and payment process?**

**A.** The approval of a standby tour of duty is made on a case-by case-basis after the supervisor:

**(1)** Evaluates:

**(a)** The position requirement,

**(b)** The type of coverage needed, and

**(c)** How to achieve the coverage and compensate an employee whose hours of duty exceed 40 hours in a workweek.

**(2)** Considers alternatives to premium pay because there may be a way to get the coverage and achieve the same results at a lower cost;

**(3)** Determines, based on program requirements (e.g., fire protection, security, or unique and unpredictable situations), that not establishing a standby tour will place a program in jeopardy and that it is the most feasible and cost-effective alternative for accomplishing the work; and

**(4)** Compares the employee's regular pay to that with premium pay to determine if the pay, over a certain period (e.g., 1 year) and the full range of conditions in the position, would meet the criteria in [Table 7-4B](#).

**(a)** Compensation for standby duty is an appropriate percentage, up to 25 percent, of that part of an employee's rate of basic pay that does not exceed the rate of basic pay for GS-10, step 1, depending on the employee's work schedule and the hours worked.

**(b)** See [5 CFR 550.144](#) for detailed information.

**(c)** An employee may receive an increased authorized percentage rate by performing Sunday work.

**B. Limitations on paying standby duty.**

**(1)** An employee who gets premium pay for standby duty may not also get paid for regularly scheduled overtime and work at night and on holidays. The employee may receive pay for irregular or occasional overtime work.

**(2)** An employee who gets pay for AUO (see [225 FW 8](#)) or availability pay (see [225 FW 10](#)) may not also get premium pay for standby duty.

**C. Approval requests:**

(1) Supervisors initiate requests for standby duty on [FWS Form 3-2097](#), Authorization for Standby Duty.

(a) The appropriate Assistant Regional Director or Division Chief (for Headquarters employees) must concur with the need for standby duty.

(b) The Regional or Assistant Director, or Chief, OLE approves the request.

(2) The supervisor must complete an [SF-52](#), Request for Personnel Action, to initiate or terminate pay for standby duty or to adjust a percentage rate.

(3) The supervisor sends the [SF-52](#) and approved [FWS Form 3-2097](#) to the servicing HRO.

(4) After getting approval, supervisors must develop a formal schedule that reflects the official days and hours of an employee's tour of duty.

(a) They must display the schedule in a prominent place at the work site. Supervisors must keep the schedules showing standby tours of duty in a file for 5 years.

(b) A formal schedule requires the employee to be on official duty at the days and hours specified, including holidays, unless the absence is excused or covered by some type of approved leave. If the employee has approved leave for a Federal holiday, the absence is charged to the appropriate leave category.

#### **D. Details of payment for standby duty:**

(1) Pay for standby duty begins on the date the employee enters on duty in the authorized position and ends on the date he or she is no longer subject to the conditions serving as the basis for the authorization.

(2) We may continue to pay standby duty pay during periods of temporary assignment if the employee is on that assignment:

(a) For a period of not more than 10 consecutive workdays and not more than 30 total workdays in a calendar year; or

(b) For not more than 60 workdays to a formally approved program for advanced training that is directly related to duties qualifying for standby duty pay.

#### **E. Monitoring the use of standby duty:**

(1) Supervisors must monitor the use of standby duty to annually evaluate:

(a) The need to continue the premium pay, and

(b) The appropriateness of the percentage rates.

(2) Supervisors document the evaluation on [FWS Form 3-2097](#) for the 12-month period ending September 30<sup>th</sup>. Supervisors send the form through supervisory channels to the approving official (e.g., Regional Director) annually by October 5<sup>th</sup>.

#### **7.17 Is time employees spend in preparatory (preshift) or concluding (postshift) activities counted as hours of work?**

**A.** We pay employees for all the time they spend in preshift and postshift activities if the activity:

(1) Is closely related to the employee's principal activities,

(2) Is indispensable to performing the principal activities (see section 7.17D for an example), and

(3) Takes more than 10 minutes.

B. The supervisor determines if preparatory or concluding activities meet the criteria in sections 7.17A(1) and (2).

C. The supervisor must schedule the time necessary for performing preshift or postshift activities. The employee does not get additional compensation if he or she exceeds the scheduled time.

D. A truck driver who has to pick up and return a Government vehicle before he can load material and deliver it is an example of preshift and postshift activities that are principal to the work.

**7.18 May employees receive premium pay when they're on travel?** Yes, we pay employees overtime when they're on travel under the guidelines in [Exhibit 2](#), Paying Overtime when on Travel.

**7.19 May employees get compensatory time off for travel instead of overtime pay?**

A. Yes, employees may earn compensatory time off for time in a travel status away from their official duty station when they will not otherwise receive compensation for the travel time.

B. Employees must receive compensatory time off for travel time (in excess of their regular tour of duty) if:

(1) They must travel away from the official duty station, and

(2) Because of a law or regulation, the employee cannot claim the travel time as hours of work.

C. Employees on temporary duty (TDY) travel must resort to a basic 40-hour workweek (see [226 FW 1](#), Hours of Duty, for additional guidance).

D. An employee's travel status:

(1) Includes only the time he/she actually spends traveling between the official duty station and a temporary duty station or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel; and

(2) Does not include waiting time between periods of travel during which the employee is free to rest, sleep, or otherwise use the time as he/she wants.

E. Travel time ends when the employee arrives at the temporary worksite or lodging at the temporary duty station. It resumes when an employee departs from the temporary duty worksite or lodging.

F. Employees cannot earn compensatory time off for travel time in connection with a permanent change of duty station.

G. When traveling between home and a temporary duty station outside the limits of an employee's official duty station, an employee may get compensatory time off for the travel time minus the time he/she would have spent in normal commuting. The limits of an employee's official duty station is the geographic area surrounding a 50-mile radius of an employee's regular work site.

H. When traveling between home and a transportation terminal as part of travel away from the official duty station, an employee may get compensatory time off for the travel time minus the time he/she would have spent in normal commuting only if the terminal is outside the limits of the employee's official duty station.

I. When an employee travels outside of regular working hours between a worksite and a transportation terminal outside the limits of the employee's official duty station, we do not deduct the time he/she would have spent in normal commuting.

J. Employees must request approval in our online timesheet system to earn and use compensatory time off for travel

**7.20 May employees receive premium pay when attending training?** Yes, we use the guidelines in [Exhibit 3](#) to pay overtime to employees when attending training.

**7.21 May employees receive premium pay for meal periods?** Yes, in some circumstances.

A. A meal period is an approved period of time in a nonpay and nonwork status that interrupts a basic workday or a period of overtime work so that employees can eat or engage in personal activities.

B. Unpaid meal periods must provide true breaks in the workday. If an employee is not excused from job duties or is recalled to job duties, the employee is entitled to compensation. We do not compensate employees who are on-call or must carry a pager or cell phone during meal periods.

C. For nonexempt employees engaged in law enforcement activities and who receive annual premium pay for AUO, we consider meal periods hours of work. We schedule these employees for an 8-hour workday (e.g., 8:00 a.m. to 4:00 p.m., rather than 8:00 a.m. to 4:30 p.m.) so that we don't have to routinely pay overtime for meal periods.

D. Meal periods are not actual hours of work for law enforcement officers who receive law enforcement availability pay.

**7.22 Do employees receive premium pay for working at night?**

A. Employees who perform regularly scheduled work between the hours of 6 p.m. and 6 a.m. receive a night differential of 10 percent of their basic rate of pay.

B. Employees are not entitled to the night pay differential while attending training unless the training is scheduled during night hours because situations that they must learn to handle occur only at night.

C. We add night pay differential to overtime, Sunday, or holiday premium pay.

D. Supervisors should do everything they can to schedule work so that the Service does not have to pay night pay.

**7.23 Do employees receive premium pay for Sunday work?**

A. Full-time employees are entitled to their rate of basic pay plus Sunday premium pay for work that begins or ends on Sunday during each regularly scheduled basic tour of duty. Supervisors should do everything they can to schedule work so that the Service does not have to pay Sunday premium pay.

B. Table 7-5 provides more information about paying Sunday pay for different situations.

<b>Table 7 5: Paying Sunday Premium Pay</b>	
<b>Situation</b>	<b>We Pay...</b>
<b>(1)</b> An employee on a regular tour of duty works more than 8 hours on a Sunday	The excess hours as overtime. Overtime hours for an employee on a compressed tour of duty are those that exceed the daily hours the employee is scheduled to work.
<b>(2)</b> An employee on a paid absence for part of the tour of duty on Sunday	Sunday premium pay only for those hours actually worked. For example, an employee is regularly scheduled to work on Sunday from 8:00 a.m. to 4:00 p.m. He or she takes annual leave from 8:00 until 11:00, and consequently, is entitled to Sunday premium pay only for the hours from 11:00 to 4:00.
<b>(3)</b> An employee has two	Sunday premium pay for both tours of duty. For

separate tours of duty on a Sunday	example, if an employee works 8 hours during a basic tour of duty that begins on Saturday and ends on Sunday, and also works 8 hours during a basic tour of duty that begins on the same Sunday and ends on Monday, the employee will receive 16 hours of Sunday premium pay.
(4) A full-time employee's regularly scheduled tour of duty begins on Sunday and Sunday is a holiday	Holiday premium pay and Sunday premium pay for up to 8 hours of work during that basic tour of duty. This applies to standard and flexible work schedules. Employees on a compressed work schedule may earn up to the number of hours that they are regularly scheduled to work on Sunday.
(5) An employee is part-time	Part-time employees are entitled to the same Sunday premium pay benefits as full-time employees.
(6) An employee is intermittent	Regular rate intermittent employees are not entitled to Sunday premium pay.

#### 7.24 Do employees receive premium pay for working on holidays?

- A. An employee on a regular tour of duty who performs non-overtime work on a holiday is entitled to twice the amount of his/her rate of basic pay not to exceed 8 hours.
- B. Employees who work flexible work schedules receive holiday pay if they must work during the hours of their basic work requirement (non-overtime hours) on a holiday, not to exceed 8 hours.
- C. Employees on a compressed work schedule who perform non-overtime work on a holiday are entitled to holiday pay for assigned work for all hours they are scheduled to work on the holiday.
- D. If the President issues an Executive Order granting a "half-day" holiday, we pay part-time employees on a flexible work schedule holiday pay if they must work during the last half of their basic work requirement.
- E. An employee who is assigned to work non-overtime hours on a holiday is entitled to holiday pay for at least 2 hours of work (e.g., even if they work for less than 2 hours).
- F. An employee who performs overtime work on a holiday is entitled to overtime pay for those hours in excess of the regularly scheduled workweek.

#### 7.25 When can an employee earn compensatory time off in lieu of overtime pay?

- A. Employees may earn compensatory time off in lieu of overtime pay. They earn one hour of compensatory time off for each hour of overtime they work.
- B. Employees on intermittent work schedules are ineligible for compensatory time.
- C. Table 7-6 shows what requirements apply to nonexempt and exempt employees.

Table 7 6: Earning Compensatory Time		
Requirements	It Applies to...	
	Nonexempt Employees	Exempt Employees
(1) If the employee requests it, the supervisor may approve compensatory time off for:		
(a) Irregular or occasional overtime work, or	X	X

(b) Regularly scheduled overtime work for employees who work under flexible work schedules.		
(2) The supervisor may not require that an employee receive compensatory time off in lieu of overtime pay.	X	
(3) If an employee's rate of basic pay exceeds GS-10, step 10, the supervisor may determine that an employee can earn compensatory time off for irregular or occasional overtime work instead of overtime (monetary) pay.		X
(4) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's rights to request or not request compensatory time off in lieu of payment for overtime hours.	X	X
(5) An employee must receive pay for unused compensatory time or compensatory time off for travel at the overtime rate in effect for the period in which he/she earned it, if the employee:  (a) Is unable to take the time off within 26 pay periods after the pay period during which he/she earned it, or  (b) Transfers to another Federal agency or separates from the Government before taking the time off.	X	
(6) An employee forfeits his/her compensatory time off or compensatory time off for travel if the employee:  (a) Is unable to take the time off within 26 pay periods after the pay period during which he/she earned it, or  (b) If the employee can't take the time off within 26 pay periods, but it is because of an exigency beyond the employee's control, we pay the employee for the unused time off at the overtime rate in effect for the period during which he/she earned the time off.		X
(7) If an employee goes on extended leave without pay to serve in one of the uniformed services or because of an on-the-job injury with entitlement to injury compensation and:  (a) Is unable to use the earned compensatory time off within 26 pay periods, he or she must receive overtime at the overtime rate in effect for the period during which he/she earned the compensatory time off; or  (b) Is unable to use the earned compensatory time off for travel within 26 pay periods, when the employee returns to employment within the Department, we will re-credit the employee with the time earned. The employee must use the time within 26 pay periods following the pay period in which he/she returns to duty or forfeit the time.	X	X

**7.26 What happens to an employee's exemption status when he/she temporarily performs work that is different from his/her regular work?** Employees' exemption status may be affected if they temporarily perform work that is not consistent with the primary or grade-controlling duties of their official position descriptions. A change in the employee's FLSA exemption status may impact the employee's entitlements to premium pay. There is no effect if an employee is detailed to a position of the same grade, series, basic duties, and FLSA exemption status as his or her position.

**A. Effect on employees:**



(1) An employee who must temporarily perform work or duties that are not consistent with the primary or grade-controlling duty of the employee's official position description remains in their exemption status for the entire period of temporary work unless:

(a) The period of temporary work or duties exceeds 30 calendar days, and

(b) The temporary work the employee primarily performs is of a different FLSA status of work (e.g., an exempt employee temporarily performing nonexempt work for more than 30 calendar days would be in a nonexempt status).

(2) If the employee's status changes for the temporary work because it goes on for more than 30 days, we may need to recalculate the amount of premium pay we paid during the first 30 calendar days and pay any difference we owe.

**B. Emergencies.** The Director may at any time determine that because of an emergency situation that directly threatens human life or safety, serious damage to property, or serious disruption to the operations of an activity, there is no recourse other than to assign employees to temporarily perform work in connection with the emergency. In such a designated emergency:

(1) A nonexempt employee remains nonexempt regardless of the type of work he/she performs.

(2) We determine the exemption status of exempt employees by workweek. An exempt employee may be exempt or nonexempt each workweek, depending on the type of work he/she primarily performs.

(3) When an exempt employee is nonexempt for all or part of a biweekly pay period, he or she must obtain the supervisor's approval using our online timesheet system.

**7.27 How does the Service calculate overtime pay?** Table 7-7 shows how our payroll department determines what overtime rate to pay:

<b>Table 7 7: Calculating Overtime Pay</b>	
<b>Type of Employee</b>	<b>Calculated Rate</b>
<b>A.</b> A non-exempt employee	1½ times his or her hourly rate of basic pay
<b>B.</b> An exempt employee whose rate of basic pay does not exceed a GS-10, step 1	1½ times his or her hourly rate of basic pay
<b>C.</b> An exempt employee whose rate of basic pay exceeds a GS-10, step 1	The greater of:  <b>(1)</b> 1½ times the applicable rate of basic pay for a GS-10, step 1; or  <b>(2)</b> The employee's hourly rate of basic pay.
<b>D.</b> An employee performing overtime work on a Sunday or holiday	Receives the same rate of compensation as he/she does for overtime work on any other day

**7.28 How does the Service document the approval of overtime?**

**A.** In general, employees must request and supervisors approve overtime before the employee works the overtime. We use our online timesheet system for requests and approvals.

**B.** In emergency situations where it is not possible to obtain advance approval and it is likely that employees will have to work overtime, they may obtain verbal supervisory approval so they can respond to the situation.

C. If, because of an emergency, an employee does not get advanced approval, the employee must obtain approval and document it in our online timesheet system or on [FWS Form 3-136](#), Overtime/Holiday Pay Authorization, within 5 business days after performing the work.

(1) The employee must get approval before the supervisor can certify the employee's time and attendance in the system.

(2) Employees may not enter and verify overtime or compensatory time off on their time and attendance record until the supervisor approves it in the system.

**7.29 Are there any limitations on the amount of premium pay an employee can receive?** Yes, an employee cannot receive premium pay in excess of annual and biweekly maximum earning limitations (for all salary compensation). Table 7-8 summarizes these limitations.

<b>Table 7 8: Maximum Earning Limitations</b>		
	<b>Annual – May not Exceed...</b>	<b>Biweekly* – May not Exceed...</b>
<b>Non-emergency</b>	<ul style="list-style-type: none"> <li>The maximum annual rate for a GS-15 in effect at the end of the calendar year, or</li> <li>The maximum annual rate payable for a level V of the Executive Schedule in effect at the end of the calendar year</li> </ul>	<ul style="list-style-type: none"> <li>The maximum biweekly rate for a GS-15, or</li> <li>The maximum biweekly rate payable for a level V of the Executive Schedule</li> </ul>
<b>Emergency</b>		<p>Generally, in an emergency situation, premium pay is not subject to biweekly pay caps. The following types of premium pay remain subject to the biweekly limitations in emergencies:</p> <ul style="list-style-type: none"> <li>Standby duty pay,</li> <li>AUO pay,</li> <li>Availability pay for criminal investigators, and</li> <li>Overtime pay for firefighters covered under <a href="#">5 U.S.C. 5545b</a></li> </ul>

\*When we apply the biweekly limitation, we must pay standby duty pay, AUO, and availability pay before paying any other type of premium pay.

**7.30 What is the process for determining if an emergency situation or mission-critical work will allow an employee to exceed biweekly pay limitations for premium pay?**

A. The Director is the only official who may determine if an emergency or mission-critical work makes it necessary for employees to earn more premium pay than is normally allowed. The Director makes these decisions before or as soon as practicable after the work begins.

(1) The Director may not delegate this authority.

(2) The Director's decision governs all Service employees, including employees serving on detail with another bureau or agency. For example, we cannot pay our employees more than the biweekly pay limitations for premium pay if they are on detail at another agency even when the Director of that agency determines a situation is an emergency.

(3) Regional and Assistant Directors and the Chief, OLE, sign requests for approval of an emergency determination or that an employee is needed to perform mission-critical work. He/she must send the requests through the supervisory chain of command to the servicing HRO. The servicing HRO sends them to the HQ Division of Human Capital.

(4) The HQ Division of Human Capital reviews requests and makes a recommendation to the Director about them.

**B. Supervisors are responsible for:**

- (1)** Evaluating work demands and methods of accomplishing work objectives and recommending we pay premium pay when it is the most cost-effective and practical way to accomplish critical work;
- (2)** Ensuring, to the extent possible, that they do not require their employees to work when they know that the employees will not receive compensation for their time because of the biweekly pay cap;
- (3)** Upon realizing that a potential emergency or mission-critical situation exists, immediately starting the paperwork and sending it through the appropriate channels to their servicing HRO to seek a determination;
- (4)** Ensuring that the requests they sign for determinations contain all the necessary information for the Director to make an informed decision (see section 7.30D); and
- (5)** Ensuring that the Director has declared an emergency or determined that work is mission-critical before certifying time and attendance that would lift the pay cap for an employee.

**C. Servicing HROs must ensure regulatory compliance and that there is sufficient information in the request before sending it to HQ.**

**D. Table 7-9 shows what must be in the request memorandum for emergencies and mission-critical work.**

<b>Table 7 9: What to Include in the Request Memorandum</b>		
<b>Information to include...</b>	<b>For requests to declare an emergency</b>	<b>For requests to declare mission-critical work</b>
<b>(1)</b> A description of the situation	<b>X</b>	<b>X</b>
<b>(2)</b> A statement that adequately describes how the work being performed meets the definition of mission-critical		<b>X</b>
<b>(3)</b> How it poses a direct threat to human life or property	<b>X</b>	
<b>(4)</b> The date the situation began	<b>X</b>	<b>X</b>
<b>(5)</b> The estimated duration of the situation (if known)	<b>X</b>	<b>X</b>
<b>(6)</b> The names of employees affected and their position titles	<b>X</b>	<b>X</b>
<b>(7)</b> An estimate of the number of hours each employee will work	<b>X</b>	<b>X</b>
<b>(8)</b> The types of premium pay involved (e.g., overtime, Sunday pay, holiday, or night differential)	<b>X</b>	<b>X</b>

**E. If the Director approves that the situation is an emergency or mission-critical, the biweekly pay cap is lifted, effective on the first day of the pay period in which the emergency or mission-critical situation began.**

**F. An employee may not exceed the biweekly pay limitation by choosing compensatory time off as a substitute for monetary overtime pay.**

**G. Servicing HROs must establish a separate file to keep a record of each determination allowing us to exceed an annual maximum limitation.**

**7.31 May employees file claims for additional compensation?** Yes, any employee who believes that he or she has cause may file a claim for additional compensation. This does not apply to claims concerning matters that are subject to

negotiated grievance procedures under collective bargaining agreements (see your collective bargaining agreement for information) or to claims under the FLSA (see [section 7.31B](#)).

**A. Claims for Additional Compensation.** Employees may file claims with the Service or the Office of Personnel Management (OPM).

(1) There is no specific form to submit a claim for compensation, but employees must describe the basis for the request and state the amount sought in writing. Employees or their representatives must sign the claim. (See [section 7.31B](#) for matters subject to negotiated grievance procedures under collective bargaining agreements or claims under FLSA.)

(2) Table 7-10 describes what information must be included in claims sent to the Service or to OPM.

<b>Table 7 10: What Needs to be in a Claim</b>		
<b>Required Information</b>	<b>To Service</b>	<b>To OPM</b>
Employee's name, address, telephone number and fax number, if available	X	X
Name, address, telephone number, and fax number of the Service employee who denied the claim		X
Description of the nature of the claim and specific issues or incidents giving rise to the claim, including the time period the claim covers	X	X
An explanation relating to the nature of the claim, documents in support of the claim, and the dates and number of hours for which the employee is claiming additional compensation.	X	X
A description of the actions the employee took to resolve the claim	X	X
A copy of the denial of the claim		X
Any other information the employee thinks OPM should consider		X

**(3) Where to send the claims:**

**(a) To the Service:** Employees send the claim to their servicing HRO.

**(b) To OPM:**

Office of Personnel Management  
 Program Manager, Office of Merit Systems Oversight and Effectiveness  
 1900 E Street NW, Room 7671  
 Washington, DC 20415.  
 Telephone: (202) 606-7948

**(4) OPM may request that the Division of Human Capital provide an administrative report. This report should include the Service's:**

**(a)** Factual findings;

**(b)** Conclusions of law with relevant citations;

**(c)** Recommendation for disposition of the claim;

**(d)** Copies of any regulation, instruction, memorandum, or policy that the Service relied on in making its determination;

**(e)** Statement that the claimant is or is not a member of a collective bargaining unit. If he/she is a member of a bargaining unit, the Service must include a statement that the claim is or is not covered by a negotiated grievance procedure that specifically excludes the claim from coverage; and

(f) Any other information that the Service believes OPM should consider.

**B. Claims under the FLSA.** This subsection applies to FLSA pay claims for minimum wage or overtime pay for work an employee performs under the Act.

(1) All FLSA pay claims are subject to a 2-year statute of limitations (3 years for willful violations). For example, if an FLSA violation occurred on October 1, 2009, a nonexempt employee must file his or her claim on or before September 30, 2011, to comply with the 2-year statute of limitations. If the violation was willful, the employee must file the claim no later than September 30, 2012.

(2) An employee or a representative may preserve the claim period by sending a written claim either to the Service or to OPM during the claim period.

(a) The date the Service or OPM receives the claim is the date that determines when the 2 or 3 year period starts.

(b) The employee is responsible for tracking when the Service or OPM received the claim. Employees should use certified, return receipt mail or request written acknowledgment of receipt of the claim.

(c) The Service or OPM must establish whether or not the basis of the claim was the result of a willful violation.

(d) If the Service or OPM establishes a claim for back pay, the employee will receive pay for a period of up to 2 years (3 years for a willful violation) from the date the claim was received.

(3) If an employee does not file the claim within these time limitations, the claim is barred forever. The employee cannot receive any award of additional compensation.

(4) A servicing HRO that adjudicates a claim filed under the FLSA, and decides that an employee is entitled to additional compensation (and interest, as appropriate), provides written notification to the employee and the employee's office concerning the entitlement and amount of compensation owed. The Service must pay retroactive compensation for such claims.

(a) Before we pay a claim, the servicing HRO must establish an effective date for the payment in order to compute the additional compensation due.

(b) Our payroll department pays the claim when it receives official documentation from the servicing HRO. The documentation must include:

(i) Identifying information about the employee,

(ii) The specific period of entitlement,

(iii) The amount awarded, including any interest due the employee as part of the back pay award, and

(iv) As appropriate, amended time and attendance records (obtained from the employee's office) to cover the period of entitlement.

(5) When an employee files with OPM, OPM reviews alleged violations of the FLSA. After its adjudication of the claim, OPM will notify the Service and the employee of its decision. If the decision is favorable, the Service will pay the employee for the period covered by the statute of limitations.

---

*For information on the content of this chapter, contact the Division of Human Capital. For more information about this Web site, contact [Krista Holloway](#) in the Division of Policy and Directives Management.*

---

[Directives Home](#)

PDM Web sites: [Centralized Library of Servicewide Policies](#) | [FWS Forms](#) | [PDM Services](#)  
[Privacy, Disclaimer and Copyright Information](#) | [Information Quality Act](#)  
[U.S. Fish and Wildlife Service Home Page](#) | [Department of the Interior](#) | [USA.gov](#) |  
[About the U.S. Fish and Wildlife Service](#) | [Accessibility](#) | [Privacy](#) | [Notices](#) | [Disclaimer](#) | [FOIA](#)

---