



United States
Office of
Personnel Management
The Federal Government's Human Resources Agency

Retirement and Insurance Service
Benefits Administration Letter

Number: 01-107

Date: June 19, 2001

Subject: Firefighter Pay Reform Act, PL 105-277

Background: The purpose of this letter is to inform you of changes in the way firefighter pay is computed. These changes are the result of Public Law 105-277. The changes were effective on the first day of the first pay period beginning on or after October 1, 1998, and apply to GS-081 firefighters, governmentwide, whose regularly established workweeks average 53 hours or more.

There are over 9,000 Federal employees who are classified in the GS-081 Fire Protection job classification series, which includes line firefighters, supervisory firefighters and fire inspectors. Most of these firefighters have extended tours of duty--most commonly, a 72-hour workweek, consisting of three 24-hour shifts. These 24-hour shifts include periods of actual work time and substantial periods of time during which firefighters are in "stand-by" status. Some firefighters, (most commonly supervisors) have a regular 40-hour workweek consisting of five 8-hour days plus regularly scheduled standby duty (e.g., an extra 16-hour standby shift).

Prior to the enactment of PL 105-277, firefighters were entitled to the same rate of basic pay that applied to General Schedule employees with a 40-hour workweek. In addition, they generally received standby duty pay under 5 U.S.C. 5545(c)(1) to compensate them for their extended tours of duty. Standby duty pay was paid as a percentage of basic pay not to exceed 25 percent of the employee's rate of basic pay (but not more than the rate of basic pay for GS-10, step1). The combination of base pay and standby duty pay constituted "basic pay" for retirement purposes.

Firefighters covered by the Fair Labor Standards Act (FLSA) overtime provisions also received additional pay under that Act. Under the FLSA, the overtime standard for firefighters is 53 hours per week (or 106 hours biweekly), instead of 40 hours (or 80 hours biweekly). For overtime hours within their regularly scheduled workweek, firefighters received a supplemental half-rate premium (in addition to basic pay and standby pay received for regularly scheduled hours). For irregular overtime hours, firefighters received time-and-one-half overtime pay.

*Civil Service
 Retirement
 System*

*Federal Employees'
 Group Life
 Insurance Program*

*Federal Employees
 Health Benefits
 Program*

*Federal Employees
 Retirement
 System*

*Long Term
 Care Insurance
 Program*

FLSA computations used the firefighter's "hourly regular rate", which was less than the firefighter's rate of basic pay because the hourly regular rate was derived by dividing the firefighters total remuneration (including standby duty pay) by the total number of hours worked.

The following list of definitions will help you in understand some of the provisions of the new law:

Definitions:

Annual Rate of Basic Pay

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

Annualized Salary

The firefighters' pay used for retirement and insurance purposes

Basic 40 hour workweek

(1) A standard 40-hour workweek consisting of five 8-hour workdays that is part of the firefighter's regular tour of duty, or

(2) A designated block of hours within a firefighter's regular tour of duty that, on a fixed and recurring basis, consists of 40 hours of "actual work" during each administrative week (or 80 hours of work in each biweekly period), excluding sleep and standby duty hours, provided the regular tour of duty does not consist primarily of 24 hour shifts.

FLSA

Fair Labor Standards Act

Firefighter hourly rate of basic pay

An hourly rate computed by dividing the applicable annual rate of basic pay (including locality pay) by 2756 hours, as described in 5 CFR 550.1303

Irregular hours

Hours of work that are 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.

Overtime pay

Pay for overtime hours

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 pay computation method used under § 550.1303). (See 5 CFR 550.1302 for full definition)

Straight Time Portion of Overtime Pay

The firefighter hourly rate of basic pay multiplied by the number of overtime hours in the firefighter's regular tour of duty.

What PL 105-277 Does: There are seven major changes under Public Law 105-277. In summary it:

- Eliminates standby duty pay and pays firefighters on an hourly rate basis.
- Requires that the applicable GS annual rate of basic pay be divided by a 2756-hour factor to derive the “firefighter hourly rate” instead of using the 2087-hour factor applicable to other Federal employees. (The 2756-hour factor is derived by multiplying the number of weeks in a year [52] by the FLSA weekly overtime standard [53 hours], which yields the number of non-overtime hours in a year for the typical full-time firefighter.) Provides time-and-one-half overtime pay for both FLSA-covered and FLSA-exempt firefighters for all overtime hours. (For FLSA-exempt firefighters, the overtime rate is capped at 1½ times the GS-10, step 1, rate (2087 hour basis), but cannot be less than the individual’s firefighter rate of basic pay).

Exception: Section 2 of Public Law 106-558 amends section 5542(a) of title 5, United States Code, by adding a new paragraph (5), which authorizes an overtime hourly rate of pay equal to one and one-half times the hourly rate of basic pay for certain wildland firefighters. New section 5542(a)(5) is applicable only to wildland firefighters who are exempt from the overtime pay provisions of the Fair Labor Standards Act of 1938, as amended, and who are employees of the Department of the Interior or the United States Forest Service of the Department of Agriculture. The authority also is applicable to wildland firefighters only while they are engaged in wildland fire suppression activities.

- Section 2 becomes effective on the first day of the first applicable pay period beginning on or after 30 days after December 21, 2000 (January 20, 2001), and applies only with respect to funds appropriated after December 21, 2000.
- Provides special pay computations for firefighters whose regular tour of duty includes a basic 40-hour workweek.
- Bars payment of any other premium pay, including night pay, Sunday pay, holiday pay, and hazardous duty pay.

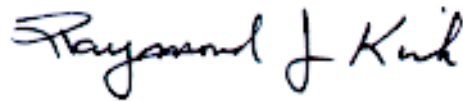
- Guarantees no loss in regular pay during employer-sanctioned training.
- Treats the straight-rate portion of overtime pay for overtime hours in the firefighter's regular tour of duty as basic pay for retirement, TSP basic pay, life insurance, severance pay, non-foreign cost of living allowance, post differential and certain other purposes. (The extra half-rate premium for those overtime hours is not basic pay for these purposes.)

For the typical FLSA-covered firefighter with a 72-hour workweek, the new law results in a total pay increase of about 9 percent. There are basically two different types of work schedules for firefighters. The first is for firefighters not on a regular 40-hour workweek (usually 24-hour shifts), and the second is for firefighters with a regular workweek of 53 hours or more that includes a regular 40-hour workweek. All other firefighters would have a regular workweek of 40 hours and would be paid under the same rules as other 40-hour employees.

Comparison of the provisions under the old and new laws

Old Computation Method	New Computation Method
Were entitled to same rate of basic pay that applied to GS employees with a 40 hour workweek	Requires that the applicable GS annual rate of basic pay be divided by a 2756 hourly factor to derive the "firefighter hourly rate" instead of using the 2087 multiplier applicable to other employees
Generally received standby duty pay to compensate for the extended tours of duty	Eliminates standby duty pay and pays on an hourly rate basis.
Standby duty was a percentage of the employee's rate of basic pay (up to 25% of the employee's rate of basic pay, not to exceed the rate of basic pay for a GS 10 step 1)	
Standby duty pay was basic pay for retirement purposes (5 U.S.C. 8331(3)(C))	Treats the "straight-rate" portion of overtime hours in the firefighters regular tour of duty as basic pay for retirement, TSP basic pay, life insurance, severance pay, non-foreign cost of living allowance, post differential and certain other purposes. The extra half-rate premium for those overtime hours is not basic pay for these purposes
Firefighters under the FLSA overtime provisions also received additional pay under that Act. Under the FLSA the overtime standard for firefighters is 53 hours per week (106 biweekly)	Provides time-and-one-half overtime pay for all overtime hours (includes both FLSA-covered and FLSA-exempt firefighters). For FLSA-exempt firefighters, the overtime rate is capped at one and one half times the GS-10 step 1 rate (2087 basis), but cannot be less than the individual's firefighter rate of basic pay. <i>Note: See exception to cap for wildland firefighters on page 3.</i>
For overtime within their regularly scheduled workweek, firefighters received a supplemental "half-rate" premium (in addition to the basic pay and standby duty pay received for regularly scheduled hours)	
For "irregular" overtime hours, firefighters received time-and-one-half overtime pay	
FLSA computations used the firefighters "hourly regular rate" which was less than the firefighter's rate of basic pay because the hourly rate was derived by dividing the firefighter's total remuneration (including standby duty pay) by the total number of hours worked	
Bars payment of any other premium pay, including night pay, Sunday pay, holiday pay, and hazardous duty pay	
	Provides special pay computations for firefighter whose tour of duty includes a basic 40 hour work week.

This BAL explains how you must compute basic pay for retirement purposes. It also provides additional information on documenting firefighter pay on the Individual Retirement Records, and submitting corrected information for records already forwarded to OPM.

A handwritten signature in black ink that reads "Raymond J. Kirk". The signature is written in a cursive style with a large initial 'R' and 'K'.

Raymond J. Kirk, Acting Director
Benefits Officers Resource Center
Retirement and Insurance Services

Attachment A --Explains how base pay is computed

Attachment B-- Explains how to record base pay on the Individual Retirement Record, SF2806 (CSRS) and SF 3100 (FERS)

Attachment C--Explains how to correct retirement records for employees who have already separated from service.

Attachment D-- Sample Certified Summary of Firefighter Pay and Tour

Attachment E-- Blank Certified Summary of Firefighter Pay and Tour

Attachment F-- Sample SF 2806-1 and Individual Retirement Records