

PT-801

Revised: March 2008

For Additional Information: 703-696-6301 (DSN 426) or pay@cpms.osd.mil

Travel as Hours of Work For FLSA-Nonexempt Employees

When FLSA-nonexempt employees travel, they are paid for the hours spent in a travel status that are determined to be hours of work under **either** 5 U.S.C. 5542(b)(2) or Section 7 of the Fair Labor Standards Act (FLSA).

Time in a travel status under any of the following conditions constitutes hours of work:

Rule	Title 5 (FLSA-Exempt) (5 CFR 550.112(g) and (j))	FLSA-Nonexempt (5 CFR 551.422 and 5 CFR 551.401(h))
1	Employee travels during normal duty hours (including regularly scheduled overtime).	Same.
2	Employee works while traveling.	Same, but considers driving as work.
3	Employee must travel in order to work while traveling.	No comparable provision.
4	The travel cannot be administratively controlled (i.e., travel is not controlled by any individual or agency in the Executive Branch of the Government).	No comparable provision.
5	No comparable provision.	Employee is a passenger on a one-day assignment away from the duty station.
6	No comparable provision.	Employee travels on an overnight assignment on non-workdays during corresponding duty hours.
7	No comparable provision.	Employee chooses to use an alternate mode of travel or to travel at another time than offered or selected by the Agency--hours of work will be the lesser of either (a) the actual hours of travel, or (b) the estimated hours of travel using the Agency-authorized mode of travel.
8	The travel time to and from a temporary duty location exceeds the travel time to and from the employee's permanent duty station. NOTE: For this rule to apply, an employee must meet one of the conditions listed in rules 1 through 4.	The travel time to and from a temporary duty location exceeds the travel time to and from the employee's permanent duty station.
9	The travel is under arduous conditions.	No comparable provisions.

Time spent in travel that meets any of the conditions listed above must be compensated as either straight time or overtime, whichever is appropriate. Employees who travel at night or on Sunday **do not** receive night differential or Sunday premium pay unless they are regularly scheduled to work at night or on Sunday.

EXAMPLES OF RULES

Rule 1:

A truck driver is required to attend a one-day training course offered by the University of Hard knocks in another city. The course is scheduled for Tuesday from 9:30 a.m. to 4:00 p.m. The employee's regular tour of duty is Monday through Friday, 8:00 a.m. until 4:30 p.m. The employee leaves work on Monday, mid-morning and arrives at the university about 3:30 p.m. On the return trip the employee leaves at 8:30 a.m. on Wednesday and arrives at his home at 4:00 p.m.

Explanation: All of the employee's travel time counts as hours of work since all the travel occurred during the employee's normal duty hours.

Rule 2:

Two Wage Grade employees are required to travel to a satellite installation two hours away from the main base to repair air conditioning units. The supervisor directed the employees to travel by government vehicle and to be at the alternate worksite at 7:00 a.m. Monday morning. The employees' regular duty hours are from 7:00 a.m. until 3:30 p.m. The first employee left his home on Sunday at 3:30 p.m. and drove to the base to pick up the government vehicle. He then drove to the second employee's home arriving there at 4:30 p.m. The two proceeded to the alternate work site arriving there at 6:30 p.m. The two returned to their permanent duty station on Wednesday, leaving at 8:00 a.m. and arriving at 10:00 a.m.

Explanation:

First Employee: The hours between 3:30 p.m. and 6:30 p.m. on Sunday are considered hours of work because under FLSA driving is considered work. The hours spent traveling on Wednesday are hours of work under rule 1.

Second Employee: None of the hours on Sunday are considered hours of work since the employee was riding as a passenger and the hours do not correspond to the employee's regular working hours (see rule 6). The hours spent traveling on Wednesday are hours of work under rule 1.

Rule 3:

A Federal Marshal in New York City must pick up a prisoner in Chicago and escort him to New York City to testify before the Grand Jury on Monday. The Marshal departed

New York City on Sunday on a 7:30 a.m. flight. He returned to New York City and relinquished responsibility for the prisoner at 11:30 p.m. the same day. The Marshal does not receive premium pay for administratively uncontrollable overtime. His regularly scheduled duty hours are 8:00 a.m. until 5:00 p.m. Monday through Friday.

Explanation: The entire period from the time the Marshal left home (including the travel to the airport and the time spent waiting for the plane) until he relinquished responsibility for the prisoner are considered hours of work. The travel to pick up the prisoner is time spent traveling in order to work while traveling (rule 3) and the time spent escorting the prisoner back to New York is work while traveling (rule 2). He does not receive travel time on the way home after relinquishing the prisoner because it's not work, not traveling to work while traveling, and not traveling during corresponding duty hours, and is time that falls under the control of an agency of the Executive Branch.

Rule 4:

A research assistant (nonexempt) must travel on a holiday evening to assist with a presentation for a conference sponsored by the University of Michigan. The presentation is scheduled to begin at 8:00 a.m. on Tuesday. The employee left home at 7:30 p.m. on Monday (a holiday) and arrived at the conference site at 11:30 p.m. The employee's regularly scheduled duty hours are 7:30 a.m. until 4:30 p.m., Monday through Friday.

Explanation: Even though the research assistant did not travel during corresponding hours on Sunday, all four hours of her travel time is considered hours of work because the event is not administratively controlled by an agency of the Executive Branch. If the event was controlled by either the Legislative Branch or Judicial Branch the employee would also be entitled to the travel time.

Rule 5:

A group of wage grade employees were sent to assist with an emergency in a neighboring state. They departed the permanent duty station at 12:00 p.m. and were transported by government vehicle to the emergency location which was 120 miles away. Their normal work schedule is 6:00 a.m. until 4:30 p.m., Tuesday through Friday. They worked until 8:00 p.m. and returned to the permanent duty station at 11:30 p.m.

Explanation: The employees' hours of work were from 6:00 a.m. until 11:30 p.m. Even though the return trip took place outside normal duty hours, the assignment lasted only one day.

Rule 6:

Two carpenters were sent TDY to help repair storm damages at a distant installation. Their normal duty hours were 7:00 a.m. until 3:30 p.m. The employees departed their homes at 10:00 a.m. on Sunday and drove to their permanent duty station. They took a military flight which departed at noon and arrived at the TDY location at 5:00 p.m. They

worked at the TDY site for two weeks and departed the TDY site at 2:00 p.m. on Friday. They arrived at the permanent duty station at 8:00 p.m. and arrived home at 8:45 p.m.

Explanation: The hours between 10:00 a.m. and 3:30 p.m. Sunday (rule 6) plus the hours between 2:00 p.m. and 3:30 p.m. on Friday (rule 1) are hours of work. The employees are not entitled to the hours spent traveling outside their normal duty hours because it was not a one-day assignment and they did not work while traveling.

Rule 7:

An employee is sent TDY to a location four hours' driving distance from her home. The installation authorized travel by plane and scheduled her to depart on Sunday at 12:30 p.m. (a one-hour flight). The employee decided she would rather have a car at the temporary location and chose to drive rather than fly. She left her home at 11:00 a.m. and arrived at the TDY site at 3:00 p.m. Her normal duty hours are 7:00 a.m. until 4:00 p.m., Monday through Friday.

Explanation: When an employee does not travel by the authorized mode of travel he or she is entitled to the lesser of the (a) actual hours in travel status or (b) constructed hours the employee would have been in a compensable travel status had he or she traveled as authorized. The employee is authorized one hour of travel time plus the time she would have spent traveling to the airport and a reasonable waiting period.

Rule 8:

On a regular duty day, an employee is required to report to an alternate work site outside the normal duty station. It takes the employee three hours to drive to the TDY site and two and one-half hours to return home at the end of the day. It usually takes the employee 30 minutes each way to drive to and from work.

Explanation: The time an employee spends in normal home-to-work travel is deducted from the travel time of an employee who travels to an alternate duty site outside his or her normal duty station. Therefore, one hour would be deducted from the employee's total travel time of five and one-half hours. Four and one-half hours would be considered hours of work.

Rule 9:

An electrician was sent TDY to a remote mountain top radar site to repair circuits that had been damaged as a result of a recent snowstorm. The radar site was accessible only by an unimproved trail and required use of an all-terrain, four wheel drive vehicle. The employee rode as a passenger in the Government-furnished vehicle and departed at 1:00 p.m. for what would normally have been a two-hour drive. Because of the inclement weather encountered while on the mountain, the employee arrived at the radar site at 6:00 p.m., two hours after the end of his normal duty day. The electrician remained overnight

at the radar site, repaired the circuit, and returned to his permanent duty station the next day, traveling within his normal duty hours.

Explanation: The five hours spent traveling to the TDY site were hours of work since the travel was performed under arduous conditions. If the conditions had not been arduous, only the travel time between 1:00 p.m. and 4:00 p.m. (the end of the duty day) would have been hours of work. The travel time back to the permanent duty station falls under rule 1.