

## Q & A's from Jackson District Supervisory Meeting, January 27, 2004

Question	Answer
Is the "orange book" available in the field?	<u>Over the years, the "orange book" and its predecessors have been widely distributed as a practical introduction to some difficult pay administration issues. Feel free to share the document as widely as you think useful.</u>
What is the "administrative workweek?"	<u>In USDA, the "administrative workweek" is the 7 consecutive 24-hour periods which run from Sunday 12:00 AM to Saturday 12:00 PM. Within this period, each employee is also assigned a "regularly scheduled administrative workweek," which is normally a 40-hour basic workweek, plus any regularly scheduled overtime. (Note: under separate Title 5 alternative work schedule authority, some employees are on "flexible work schedules" which allow for week-to-week variations.)</u>
Why is it so important to fix an employee's tour of duty before the start of the administrative workweek?	<u>Governmentwide law and regulations require that, to the extent that the work requirements are reasonably known in advance, an employee's tour of duty is to be fixed by the start of the administrative workweek. As a practical matter, this allows the agency to know it has someone to cover the work and lets the employee know what the work requirement is so he/she can plan accordingly. Regulations make it clear that an agency's knowing failure to schedule a period of work as part of an employee's regularly scheduled administrative workweek cannot be the basis for denying premium pay for that work as regularly scheduled.</u>
Does a "mid-week" change in tour of duty only affect bargaining unit employees?	<u>No, the regulations on this matter cover all employees. The issue is not that an employee's tour of duty cannot be changed after the start of the administrative workweek. The issue is that doing so can be very expensive and should only be done as a last resort.</u>
So if I tell a Relief Inspector on Sunday morning that his/her original tour of duty has changed, have I avoided a "mid-week" change?	<u>No, the deadline is midnight Saturday. A change made Sunday morning is a "mid-week" tour of duty change. The only exception to this would be a major emergency such as a natural disaster impacting a large area and requiring the agency to reshuffle significant numbers of employee to keep them occupied and to cover the work requirements. This kind of situation would meet the criteria justifying a mid-week change when "...the agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased,..."</u>

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<p>What happens when an employee on first shift must be kept over for second shift because it is uncovered? What about a 12-hour shift?</p>	<p>You can direct the first shift employee to stay up to 4 hours as long as you record and pay the overtime. Article 13 of the labor agreement (Hours of Work) limits daily inspection duties to 12 hours total (no more than 10 hours on a slaughter line). An overtime requirement like this that arises during the workweek is called “irregular and occasional overtime”. <u>Note: An exemption to the 12-hour rule is possible, but volunteers will be used before non-volunteers are required to work longer than the maximum.</u></p>	<p>Deleted: -</p>
<p>Do I need to explain the requirement to work the extra overtime to the employee?</p>	<p>Yes, <u>be honest and up-front. It is easier that way. However, only order the overtime or schedule change if it is really necessary because you have no better alternatives.</u></p>	<p>Deleted: you should Deleted: it Deleted: y.</p>
<p><u>What if I have a two shift (16 hour) work requirement and only one VMO in the mini-circuit available to cover?</u></p>	<p><u>- If you know about the need before the start of the administrative workweek and the work situation allows, you could schedule the VMO’s 8-hour tour to straddle the work requirement over the two shifts. Any additional time worked would be overtime.</u></p> <p><u>- If the situation arises after the start of the administrative workweek, you could make a mid-week tour of duty change—tell the employee to report to work 2-4 hours later and then stay 2-4 hours longer. That way you’d cover up to 6 hours of inspection on each shift. However, you’d need to compensate the employee for his/her scheduled 8 hour shift plus overtime for whatever hours are actually worked of the second shift, use of the mid-week tour of duty change.</u></p>	<p>Formatted: Underline</p> <p>Deleted: Are there any other ways of covering this 2-shift (16 hour) requirement</p> <p>Formatted: Underline</p> <p>Formatted: Justified, No bullets or numbering</p> <p>Deleted: Yes,</p> <p>Deleted: four</p> <p>Deleted: four hours</p> <p>Deleted: 4</p> <p>Deleted: 12 hours beca</p>
<p>What about plants that have 12-hour shifts? How can I provide inspection coverage?</p>	<p><u>Still on the books are some provisions for TQC plants that allow covering a 12-hour shift with an 8-hour inspector tour. Absent that option, you can regularly schedule the employee to perform 8 hours of work at base pay and 4 hours of regularly scheduled overtime work. (Check with program staff (OFO/RMPS @ 202-418-8928) as to whether there are any other acceptable options such as regularly scheduling weekly tours that involve randomized staggered start times for the 8-hour tour and authorizing overtime periodically to keep things honest.</u></p>	<p>Deleted: -</p> <p>Deleted: Y</p>
<p>Consider the situation of a VMO who is covering 2 shifts, 6-3 pm and 3-11 pm. Can the employee be told in advance that he will cover both shifts, about 4 hours on each shift (10 am to 6:30 pm)?</p>	<p>Yes. <u>If the change in the employee’s tour of duty is announced before the start of the administrative work week, then this adjustment is not a mid-week change. The employee would not be entitled to additional compensation. Otherwise, the change would be a mid-week change and the employee would be entitled to base pay for the 6-3 pm shift and overtime pay for the work from 3-6:30 pm.</u></p>	<p>Deleted: , i</p> <p>Deleted: PM</p> <p>Formatted: Underline</p> <p>Deleted: work</p> <p>Deleted: PM</p> <p>Deleted: AM</p> <p>Deleted: PM</p>

<p>Can a Monday-Friday employee be directed to work on Sunday? Does it matter if the employee takes leave later in the week?</p>	<p>Yes, you can <u>require an employee on a Monday-Friday tour to work Sunday if the work requires it. Sunday would be an "overtime" day for the employee.</u> Also, the fact that the employee's regular Monday to Friday <u>work week</u> includes periods of leave has no bearing on management's right to assign overtime or on the calculation of payment for the overtime. <u>Among other changes, the Federal Employees' Pay Comparability Act of 1992 eliminated the requirement that for FLSA-covered employees FLSA compensable hours of work in a week be offset by any periods of paid leave.</u></p>
<p>Does this employee receive Sunday premium pay?</p>	<p>No, because Sunday premium pay is for regularly scheduled, <u>non-overtime</u> work, when any part of the scheduled work falls on a Sunday. In this case the employee's basic <u>work week</u> is Monday to Friday.</p> <p>Note: <u>Premium</u> compensation for <u>overtime work by FLSA-</u> non-exempt employees or in-plant exempt employees is normally greater (<u>base rate plus what amounts to a minimum 50% differential</u>) than pay for Sunday work (<u>base rate plus a 25% differential</u>). <u>EXAMPLE: the minimum hourly overtime rate for a GS-7 employee with a base hourly rate of \$18.00 would be \$27.00 (i.e., 1 1/2 x the base hourly rate); the hourly rate for that same employee for base hours worked on Sunday would be \$22.50 (i.e., 1 1/4 x the hourly base rate.)</u></p>
<p>Can an employee who is regularly scheduled to work a holiday receive TC 31 Pay for Holiday Work even if later in the week the employee uses leave?</p>	<p>Yes. Pay for holiday work is for work scheduled and performed on a holiday. <u>Annual leave or sick leave or leave without pay taken later in the week would have no effect whatsoever on an employee's entitlement to TC 66 Holiday Leave and TC 31 Pay for Holiday Work for work performed on a holiday.</u></p>
<p>How do I handle a requirement for pre-operation sanitation inspection?</p>	<p><u>As the norm, a need for pre-operational sanitation inspection should be handled as an overtime situation if the plant is expected to work at least 8 hours on that day. Do not change the tour of duty for the employee after midnight Saturday to avoid any question of a mid-week tour change. If as the norm, the plant routinely works less than 8 hours, then the pre-operational sanitation could be scheduled in advance within the inspector's 8-hour tour of duty.</u></p>
<p>When is night differential paid?</p>	<p><u>Under normal Title 5 rules, night differential is paid for regularly scheduled work (including regularly scheduled overtime work) that occurs during the night hours of 6 pm to 6 am. Normally, irregular overtime doesn't qualify for night differential. However, under special authority given to the Secretary of Agriculture, in-plant inspection employees are</u></p>

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	<p><u>paid night differential for all overtime work falling in the nighttime period whether regularly scheduled or not.</u></p>
<p>What happens when an employee working on a holiday goes home early (doesn't stay the full shift) or doesn't work at all?</p>	<p><u>A full-time employee is entitled to TC 66 Holiday Leave for all base hours of the scheduled shift, whether or not any work is performed. The employee is also entitled to TC 31 Pay for Holiday Work for all hours of the basic shift that are actually worked. Any additional hours worked outside the basic shift would be overtime and coded accordingly.</u></p>
<p>Can an employee earn travel overtime in a large city where the employee's duty station includes the corporate limits of the city (e.g., New York, Atlanta, and Minneapolis)?</p>	<p><u>Theoretically, an employee can earn overtime but the travel must be to a destination outside the ODS. Inter-plant travel within the ODS (say from the first duty station to 2<sup>nd</sup> or 3<sup>rd</sup>) should be scheduled during regular working hours (e.g., TC 01). Under the FLSA, there is no compensation for travel overtime on a same-day trip unless the destination is outside the limits of the employee's ODS.</u></p>
<p>How long can an employee be assigned to a temporary duty station before it becomes an official duty station?</p>	<p><u>- The short answer is "indefinitely". However, "how long" is not really the issue. Management officials need to consider the varied costs associated with an extended detail in deciding whether to cover an assignment in this way or by a permanent reassignment.</u></p> <p><u>- With regard to designation of an employee's "official duty station" where the assignment includes multiple duty points, factors to be considered include: location where the majority of work is to be performed, facilities, location relative to other plants in the assignment, plant operating schedules, availability of relief, etc.</u></p> <p><u>- A change in an official duty station requires a personnel action for an essentially permanent change. The HRFO can give advice on individual cases.</u></p>

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