

**TEXAS DEPARTMENT OF STATE HEALTH SERVICES  
MEAT SAFETY ASSURANCE  
AUSTIN, TEXAS**

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<b>MSA DIRECTIVE</b>	12,600.2 Rev. 3	07/17/2023
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**REIMBURSABLE OVERTIME INSPECTION SERVICES AND BILLING  
AT MEAT AND POULTRY ESTABLISHMENTS**

**I. PURPOSE**

This directive provides instructions to Establishment and Meat Safety Assurance (MSA) personnel on how to request overtime services, determine whether overtime inspection services need to be provided, and the manner in which Inspection Program Personnel (IPP) are to provide inspection services during reimbursable overtime periods.

It provides instructions to both the establishment and IPP about the use of the MSA 88 and billing of overtime services.

**II. REASON FOR REISSUANCE**

MSA is reissuing this directive to clarify when MSA charges establishments for reimbursable overtime service or holiday inspection service.

**III. REFERENCES**

9 CFR Parts 307.4 through 307.6 and 417  
9 CFR 381.37 through 381.39  
25 TAC 221.12(d)(2)

**IV. BACKGROUND**

- A. As set out in 9 CFR 307.4 and 381.37, "no operations requiring inspection shall be conducted except under the supervision of a program employee." MSA provides inspection service to official establishments without charge, up to eight (8) consecutive hours per shift during the basic workweek. The regulations further provide that each official establishment is to submit a work schedule to the Circuit Manager (CM) for approval.
- B. A typical workweek is Monday through Friday. A typical workday is 8:00AM to 5:00PM. Variances can be granted by the CM on a case by case basis, provided inspection ~~personal~~ personnel are available. Other variances may be granted by the MSA Director.
- C. At least a 30 minute lunch break is required for all inspectors during a typical workday.

- i. Slaughter Establishments are required to provide at least a 30 minute lunch break for inspectors. All active slaughter must stop during that time.
- ii. Processing Establishments may rotate establishment personnel and continue to work. However, production hours totaling more than 8 during a workday will be charged overtime (e.g., a processing establishment's work schedule is 8:00AM to 5:00PM. They send half of the employees to lunch at 12:00PM and the other half at 12:30PM while work continues during these times. The establishment is charged 1 hour overtime for that workday, because they actually conducted activities that require inspection coverage for 9 hours.)

**Note:** In the event that an inspector is presented with the above scenario the inspector should plan their lunch time at different times periodically to observe operation during either of the lunch breaks.

- D. In general, MSA charges establishments for overtime inspection services when (1) The establishment decides to work outside of its approved operating schedule (in excess of the normally allotted number of hours for regulated establishments in the given day/week), and (2) When an establishment requests and is approved to work on an Official Holiday.
  - i. MSA charges the establishment and provides overtime inspection coverage during the entire time that the establishment conducts activities that require overtime inspection coverage outside of the approved operating schedule (as set out in section VI below).

## **V. REQUESTING OVERTIME FOR AN OFFICIAL HOLIDAY**

- A. Standard practice is for an establishment to make the request to work on an Official Holiday at least 7 business days before the start of the Holiday.
  - i. This request must be made to the IPP in writing or via email. The IPP will communicate the establishments intent to the CM as soon as possible.

**NOTE:** Official Texas state holidays can be found on the State Auditor's Office webpage at <https://hr.sao.texas.gov/Holidays/> .

## **VI. OPERATIONS OR ACTIVITIES THAT REQUIRE INSPECTION COVERAGE, INCLUDING DURING OVERTIME PERIODS**

If an establishment requests overtime inspection services in accordance with this directive and the request is approved, IPP are to provide inspection coverage during overtime periods when an establishment:

1. Prepares meat or poultry for packaging or for further processing into meat or poultry food products. Examples of activities include slaughtering, boning, cutting, slicing, grinding, injecting, pumping, adding ingredients through other mechanical means, formulating, assembling, packaging or labeling meat or poultry or food products containing components of meat or poultry;
2. Requests that the mark of inspection be applied to any product. This applies whether the meat, or poultry are placed in a preprinted container that bears the mark of inspection or if the mark is applied after the products are placed in the container. Placing the products in a container that will bear the mark of inspection requires overtime coverage and applying the mark of inspection to products requires overtime coverage; or
3. Marks, packages, or labels products (as required in [9 CFR 316.3\(b\)](#), and [381.136\(a\)](#)).
4. During a reimbursable period, the Inspection Staff will:
  - a. be present at all slaughter activities
  - b. be present for any or all processing hours necessary to assure fulfillment of regulatory requirements at the establishment.

**NOTE:** MSA charges establishments for overtime or holiday inspection service, based on production hours, at the rate set out in Title 25 of the Texas Administrative Code (TAC) 221.16

## **VII. OPERATIONS OR ACTIVITIES THAT DO NOT REQUIRE INSPECTION COVERAGE, INCLUDING DURING OVERTIME PERIODS**

- A. IPP are not required to provide overtime inspection services at establishments when the following are the only types of activities that the establishment performs during the period of operation:

**NOTE:** MSA CMs may at times instruct IPP to verify, through direct observation, an establishment's performance of the below activities when conducted outside of the establishments approved hours. Establishments will be charged overtime for these inspections.

1. Monitoring a Critical Control Point (CCP) in their Hazard Analysis and Critical Control Point (HACCP) plan as required by 9 CFR

417.2(c)(4). For example, the establishment may monitor the cooking or chilling of any products with a continuous or handheld monitoring device. Or the establishment may monitor the application of an organic acid on livestock carcasses outside of active slaughter activities;

2. Conducting any form of sanitation procedure. For example, the establishment may conduct preoperational cleaning and sanitizing of food contact surfaces and conduct operational Sanitation Standard Operating Procedures (Sanitation SOPs) as required by 9 CFR 416.13(a)(b);
3. Monitoring the implementation of the Sanitation SOP as required by 9 CFR 416.13(c);

**NOTE:** When an establishment wants to utilize all of the approved hours for production time and perform pre-op and any equipment set-up before the start of the approved hours of operation, they would need to request that IPP perform pre-op verification during overtime. When an establishment requests that IPP perform pre-op verification procedures, including when IPP observe the establishment monitoring the implementation of their pre-op procedures, before the start of the establishment's approved hours of operation and that request requires IPP to work outside their tour of duty, then the establishment will be charged overtime on those days that IPP perform pre-op verification activities.

4. Moving products, including moving and handling post-lethality exposed RTE products, within the establishment to physically position them for further processing or storage. For example, the establishment may transfer racks loaded with products from smokehouses to the cooler or remove raw tumbled products from the tumbler into tubs. For another example, the establishment may remove whole RTE hams from racks in the cooler and place them into carts, so that they can easily be moved to each slicer for slicing. Moving the hams from the racks to the carts and moving the carts out to the production floor are positioning for further processing and do not require inspection coverage when no other process is done;
5. Receiving meat or poultry, spices, or other ingredients from other establishments or facilities;
6. Applying ice to products in a box or container;
7. Quartering a beef carcass to facilitate loading or making a single cut for grade determination;

8. Receiving and sorting returned products that it had produced by the official establishment as described in 9 CFR 318.3;
9. Performing a verification activity as required by their HACCP plan including: the calibration of process monitoring equipment required by 9 CFR 417.4(a)(2)(i); direct observation of the monitoring procedure required by 9 CFR 417.4(a)(2)(ii); and the review of records generated and maintained in accordance with 9 CFR 417.5(a)(3) required by 9 CFR 417.4(a)(2)(iii)
10. Performing preshipment records review as required by 9 CFR 417.5(c);
11. Performing corrective actions in accordance with its HACCP plan or Sanitation SOPs that do not include any of the activities listed under Section VI above. For example, the corrective action cannot include a reconditioning procedure that involves trimming, packaging, or labeling of products;
12. Collecting or testing samples of its products;
13. Shipping inspected and passed, properly labeled products;

**NOTE:** The above is a comprehensive, but not all inclusive, list of activities that establishments conduct. If IPP have questions regarding whether a particular activity not on the above list requires inspection, they should contact their CM.

B. Additionally, the MSA CM will direct IPP to verify, through observation, an establishment's monitoring of a CCP that occurs during periods outside of an establishment's approved operating schedule. If the activity occurs outside of the inspector's tour of duty as well, MSA will charge the establishment for the cost of the overtime service. If the activity occurs at a time that is not contiguous with the inspector's tour of duty, MSA may charge the establishment for a call-back service as set out in 9 CFR 307.6(b). The decision will be based upon a conversation with IPP, and take into consideration the following:

1. What is the degree of variability associated with the monitoring of the CCP? In other words, is a probe inserted at the same location for every oven or is an organic acid applied at a specific strength in a specific pattern at a certain pressure? If the monitoring of the CCP is consistent and uniform, the decision may be to direct IPP to verify monitoring less often during overtime coverage than if the CCP monitoring procedure is variable;
2. Do IPP have the opportunity to verify the specific CCP and regulatory requirements during the approved hours of operation? For example, if the establishment always monitors a certain CCP outside the approved hours of operation, IPP would verify the monitoring of the CCP during overtime periods at some frequency. However, if IPP have the opportunity to verify the CCP

during the approved hours of operations, there would be less need to verify it during overtime periods; and

3. What is the history of deviation from critical limits or noncompliance for the CCP? For example, if there has not been a deviation from a critical limit, the decision may be to verify at a reduced frequency.

C. Similarly, the CM may occasionally direct IPP to verify how the establishment conducts operational Sanitation SOPs outside of an establishment's approved operating schedule through direct observation. For example, an establishment may conduct Sanitation SOP procedures during the transfer of marinated products to coolers to prevent contamination and adulteration. If needed, the CM is to determine the frequency based upon the associated risk with the specific Sanitation SOP procedure, opportunity to verify the procedure during the approved hours of operations, and the rate of Sanitation SOP noncompliance.

#### **VIII. PROVIDING INSPECTION COVERAGE FOR ESTABLISHMENTS WORKING DURING REIMBURSABLE OVERTIME PERIODS**

- A. As stated in 9 CFR 307.4(d)(3), establishments **shall** request same-day overtime inspection services as early in the workday as possible, or before the end of the workday if the establishment is requesting overtime services to be performed on the next day, because they will be conducting activities that require inspection coverage as set out in VI. above.
- B. When overtime charges are assessed by IPP, the below guidelines should be utilized. If IPP have questions about how to charge for reimbursable services they are to direct those questions to CM
  1. IPP are instructed to charge a quarter hour minimum charge for reimbursable overtime services and to charge additional reimbursable time in quarter hour increments.
  2. IPP are instructed to charge a 2-hour minimum charge for reimbursable services during overtime callback situations. A callback occurs when an establishment requests that IPP work during overtime periods that require IPP to return to or travel to the establishment after they have completed their tour of duty, have traveled home, and the CM has instructed the inspector to return for the callback coverage.
  3. If IPP are already present at the establishment requesting overtime during their normal tour of duty such that no additional travel is required due to the overtime, no travel time should be charged in conjunction with that overtime. If IPP are required to make an additional trip to the establishment, such as when working on a Holiday or performing a callback service, IPP are

instructed to include travel time to and from the establishment in the overtime charges.

- C. All reimbursable services will be granted on a case by case basis. MSA will make sincere efforts to accommodate requests for reimbursable services whenever possible. However, short notice requests for reimbursable services and requests for reimbursable services on Official Holidays may be staffed on a volunteer basis. In some cases, particularly at slaughter establishments, this may result in an inspector's travel time and inspection time exceeding the number of hours of reimbursable services requested by the establishment. In such cases the establishment will be billed for the inspector's travel time in addition to the requested reimbursable services time. When this is likely to occur, MSA will inform the establishment of the anticipated charges prior to providing the requested inspection. At that point the establishment may either elect to accept the anticipated charges, alter their request for reimbursable services, or cancel their request for reimbursable services.
- D. In a limited number of situations, it may be advantageous to MSA for an establishment to alter their work schedule. For example, if MSA has scheduled a program meeting for one day during the week and an establishment agrees to work 4, 10-hour days to facilitate the meeting while still meeting their production goals. In such circumstances, the MSA Director may approve an exception to policy to forgo overtime charges.

## **IX. Instructions for the MSA-88 and billing**

### **A. Establishment Information**

#### **i. For proper credit for payments made establishments:**

- Should wait until they receive a statement from the MSA CO before submitting payment.
- Should include the invoice number and service end date.

#### **ii. Statements**

- 1<sup>st</sup> Notice is sent to establishment within 30 days of the MSA-88 being received in the CO
- 2<sup>nd</sup> Notice is sent 30 days after the date of the 1<sup>st</sup> Notice
- Final Notice is sent 60 days after the date of the 1<sup>st</sup> Notice. CM are notified and no more overtime will be granted until the account is current.
- Collection Letter is sent out 75 days after the date of the 1<sup>st</sup> Notice.
- Establishments with overdue payments due to enforcement actions may also be denied overtime services until the account is current.

## **X. Questions**

Refer questions through supervisory channels.

A handwritten signature in blue ink that reads "James R. Dillon". The signature is written in a cursive style with a large initial 'J' and 'D'.

James R. Dillon, DVM, MPH  
Director, Texas State Meat and Poultry Inspection Program  
Department of State Health Services