

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS DIRECTIVE

4610.2

9/20/22

TOURS OF DUTY

CHAPTER I – GENERAL

I. PURPOSE

This directive provides instructions regarding the assignment of tours of duty (TOD), including standard and alternative work schedules (AWS). FSIS has rewritten this directive in its entirety to update and combine Food Safety and Quality Service (FSQS) Directive 4610.1, *Tours of Duty*, and FSIS Directive 4610.5, *Alternative Work Schedules*, to ensure compliance with [5 CFR 610](#), *Hours of Duty*.

II. CANCELLATIONS

FSQS Directive 4610.1, *Tours of Duty*, 6/3/81

FSIS Directive 4610.5, *Alternative Work Schedules*, 8/18/94

III. BACKGROUND

A. This directive provides instructions on the various types of work schedules and how to apply them in FSIS. If any part of this directive conflicts with the collective bargaining agreement, the collective bargaining agreement is to be the governing document but cannot supersede Federal regulations.

CHAPTER II – INSTRUCTIONS

I. RESPONSIBILITIES

A. Assistant Administrators or designees are to:

1. Establish tours of duty for employees in their program areas (i.e., standard or AWS or both, depending on the work requirements) in a consistent and fair manner that is in compliance with this directive;
2. Establish maxiflex plans for their program area's employees who are eligible for maxiflex. Separate maxiflex plans may be established for individual divisions or branches within a program area based on specific work requirements;
3. Review maxiflex plans annually, or more often as needed, due to changes in work requirements to determine if revisions are needed; and
4. Forward maxiflex plans to the Office of Human Resources (OHR) at FSISHR1@usda.gov, with "Maxiflex Plan" in the subject line, for review and approval.

DISTRIBUTION: Electronic

OPI: OPPD

B. Supervisors are to:

1. Establish work schedules for subordinate employees before the beginning of the administrative workweek. The administrative workweek begins at 12:00 a.m. each Sunday and ends at midnight the following Saturday.
2. Establish and manage employees' TOD expectations and ensure employees who are non-exempt from the Fair Labor Standards Act are properly monitored to avoid overtime unless officially directed and approved by management.
3. Review and approve employees' timesheets in the timekeeping system to ensure accuracy and compliance with policies.
4. Ensure employees adhere to the 12-hour work limitation for each workday except for emergency situations or when extenuating circumstances warrant, with supervisory approval.

C. Employees are to:

1. Complete and submit [FSIS Form 4610-2, Application for Tour of Duty](#), to their supervisors for review and approval to establish or modify their TOD;
2. Submit and validate timesheets in the timekeeping system in a timely manner for actual hours worked or in a leave status, ensuring they are following the established TOD; and
3. Report to their duty location on time and not depart early unless on approved leave.

D. OHR is to:

1. Update policy guidance when new regulations, policies, and procedures are established;
2. Review and approve program area maxiflex plans;
3. Provide advice and guidance to managers, supervisors, and employees regarding policy, departmental regulations, and Federal laws and regulations pertaining to the TOD; and
4. Provide training upon request to managers, supervisors, and employees on the TOD.

NOTE: Submit training requests to FSISHR1@usda.gov with "Tours of Duty Training Request" in the subject line.

II. STANDARD TOURS OF DUTY (TRADITIONAL)

A. Assignments to TODs are to be scheduled in advance, covering periods of not less than 1 week, before the start of the administrative workweek.

B. A basic 40-hour workweek is 5, 8-hour days, Monday through Friday, when possible or otherwise established by management to complete the mission. The 2 non-workdays outside the basic workweek are consecutive.

C. Clock hours in each workday are the same for each day of the basic workweek unless otherwise established by management to complete the mission.

D. The occurrence of a Federally recognized holiday cannot be used as a justification to alter an employee's schedule.

E. Off-duty breaks of more than 1 hour may not be scheduled in any basic workday. (This requirement provides for scheduling a meal period of not less than 30 minutes or more than 60 minutes for each basic workday.)

F. Supervisors are to schedule employees' regularly scheduled administrative workweek (12:00 a.m. on Sunday to midnight on Saturday) to correspond with the employees' actual work requirements.

G. If an employee's supervisor knows before the administrative workweek begins that specific days and/or hours will differ from the current administrative workweek, the supervisor is to reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours, including periods of overtime. Furthermore, the supervisor is to inform the employee of the change in writing.

H. If it is determined that an employee's supervisor failed to schedule a period of work as part of the employee's regularly scheduled administrative workweek in a timely manner, the employee is entitled to the payment of premium pay for the period of work that was considered regularly scheduled work. However, it needs to be determined that the supervisor had:

1. Knowledge of the specific days and hours of the work requirement in advance of the administrative workweek, and
2. Had the opportunity to determine which employee had to be scheduled to meet the specific days and hours of that work requirement.

III. NON-STANDARD TODs

A. First 40-Hour Tour: A first 40-hour schedule is a type of TOD without the requirement for specific days (up to 6 days) and hours within an administrative workweek (Sunday through Saturday). All work performed by an employee within the first 40 hours in the administrative week is to be considered as regularly scheduled work for premium pay (i.e., overtime, comp time), creditable holiday absence, and leave. Any additional hours of work that are officially directed and approved by management beyond the first 40 hours are overtime work.

B. First 8-Hour Indefinite Tour: A first 8-hour indefinite tour is a type of TOD available to employees when the number of workdays within the administrative workweek is known in advance and the hours for each workday are not known in advance.

C. Indefinite Weekly 40-Hour Tour: An indefinite weekly 40-hour tour is a type of TOD available to employees when the starting and ending time and the number of hours for each workday is known in advance, but the workdays within the administrative workweek cannot be determined in advance.

D. Part-Time Schedules: A work schedule of 16 to 32 hours weekly during the regularly scheduled tour of duty. A non-compensable meal break of 30 minutes or 60 minutes is required when 6 or more hours are worked in a workday.

E. Intermittent Employees: Intermittent employees work on an irregular or occasional basis as necessary and do not have regularly scheduled TODs. This is appropriate when the work is sporadic and unpredictable. Intermittent employees are compensated only for the work accomplished.

F. Special Work Schedules:

1. Educational Purposes:

- a. A temporary AWS may be approved to allow an employee to pursue one or more courses at a college, university, or other educational institution;

NOTE: The Department of Education's Office of Post-Secondary Education (OPE) hosts an [accreditation database](#) that lists all accredited educational institutions.

- b. The rearrangement of the TOD schedule is not to significantly interfere with the accomplishment of the work requirement;
- c. Additional costs for personal services (e.g., transportation, parking fees, registration fees, lab fees, late fees) cannot be incurred;
- d. Completion of the courses should equip the employee for more effective work in FSIS;
- e. The employee is not to receive premium pay solely because the modified TOD results in additional hours worked on a day, or at a time during the day for which premium pay would otherwise be payable;
- f. This provision is not applicable when approved annual leave is used to attend courses;
- g. Upon completion of the courses, the employee is to revert to the previous regularly scheduled TOD; and
- h. This provision is not applicable when the training or courses are required by FSIS and time in training is counted as hours worked.

2. Part-Time Teaching Activities:

- a. A temporary AWS may be approved to allow an employee to pursue part-time teaching activities (outside employment); and
- b. The teaching activities are to be in compliance with [FSIS Directive 4735.3](#), *Employee Responsibilities and Conduct*, and other Federal regulations on outside employment.

NOTE: An employee seeking to engage in outside employment, including part-time teaching activities, for which advance approval is required is to submit form USDA [OE-101](#), to their supervisor within a reasonable time before the employee proposes to begin the employment. Additional information can be found at the [USDA Office of Ethics website](#).

3. Emergency Situations:

- a. Employees may be placed on non-standard TODs in cases involving urgent needs as a result of natural disasters such as fires or floods that may have life threatening impacts, and regional or national emergencies. Snow removal, equipment repairs, and other infrequent, but not unanticipated conditions and circumstances are not applicable (excluding power outages.)

- b. The establishment of a non-standard TOD in response to an emergency cannot be for periods of less than 1 week for the sole purpose of avoiding or creating the need for the payment of overtime, night differential, or holiday pay.

IV. AWS

A. An AWS that is available to FSIS employees is not an entitlement. Management has the final authority to approve AWS requests or to revoke employees' AWS, or to restrict employees to a traditional TOD for valid business or conduct reasons.

NOTE: An AWS can be used as a reasonable accommodation for an employee with disabilities.

B. Compressed Work Schedule (CWS)

1. A schedule that enables a full-time employee to complete the basic work requirement of 80 hours per pay period in less than 10 workdays. Part-time employees may also be assigned a CWS.
2. The starting and ending times each day and length of meal period are fixed in advance. Employees wishing to deviate from their regularly scheduled CWS are required to obtain supervisory approval in advance and use appropriate leave.
3. CWS Schedule Types:
 - a. 4/10 Schedule: Employees work a fixed schedule of 4, 10-hour days each week totaling 80 hours in a pay period; or

EXAMPLE: An employee works Monday through Thursday from 6:30 a.m. to 5:00 p.m. (includes a 30-minute meal period), and Friday, Saturday, and Sunday are non-workdays; or

- b. 5/4/9 Schedule: Employees work a fixed schedule of 8, 9-hour days and 1, 8-hour day, to complete the 80-hour biweekly work requirement in 9 days. This results in 1 additional non-workday.

EXAMPLE: Week 1: An employee works Monday through Thursday from 6:30 a.m. to 4:00 p.m. and Friday from 6:30 a.m. to 3:00 p.m. Week 2: The employee works Monday through Thursday from 6:30 a.m. to 4:00 p.m., and Friday is a non-workday. Saturday and Sunday are also non-workdays.

4. CWS Hardship Entitlement and Rights:

- a. If being placed on a CWS would cause a personal hardship, then the employee has the right to request not to be placed under one or to be reassigned. Employees are to communicate with their supervisors through normal internal procedures. Management is to review the request and approve or deny it, within 10 workdays of receiving the request.
- b. Employees have the right not to be coerced to participate in a CWS if doing so will result in a personal hardship; and
- c. Employees also have the right to file complaints with the Office of the General Counsel for allegations of coercion that are prohibited under 5 USC 6132.

C. Flexible Work Schedule (FWS) Types:

1. Variable Day:

- a. A Variable Day TOD is an FWS type that permits employees to vary the hours worked each workday during an administrative workweek;
- b. Employees may vary arrival and departure times daily without the need for prior supervisory approval provided they are present and working during the established core hours during the workday; and

NOTE: Core hours are designated days and times that employees on an FWS are required to be working unless otherwise granted excused absence.

- c. Full-time employees are required to complete the basic weekly work requirement of 40 hours in 5 workdays per week.

2. Maxiflex:

- a. Maxiflex is the most versatile type of FWS available to employees as it combines benefits of several FWS types into one. Employees can vary their arrival and departure times daily, vary their total hours worked each workday or workweek, elect to have extended meal breaks of more than 1 hour, and work 10 or fewer workdays each pay period. However, all flexibilities afforded by the maxiflex schedule are subject to supervisory approval;
- b. Full-time employees have the basic work requirement of 80 hours, regardless of the daily hours worked in a workday or the number of workdays worked within a bi-weekly pay period;
- c. Employees are required to be present and working during established core hours on each workday or in an approved leave status; and
- d. The basic work requirement of maxiflex is 80 hours each biweekly period (for full-time employees).

3. Credit Hours Under FWS:

- a. Credit hours are voluntary hours worked within the TOD window in excess of a full-time employee's basic requirement of 80 hours in a pay period;
- b. Part-time employees who work 16-32 hours per week and 32-64 hours per pay period may earn credit hours once they have worked their scheduled basic work requirement;
- c. With supervisory approval, employees under a maxiflex schedule can elect to accrue credit hours in excess of their basic work requirements;
- d. Senior Executive Service members are ineligible to earn credit hours while participating in any FWS programs;
- e. Employees can have up to 24 credit hours in their leave balance. If employees accumulate more than 24 hours, the additional hours are forfeited; and

- f. Credit hours generally cannot be earned while in a travel status except in very limited circumstances. Under certain conditions, supervisors may authorize an employee to earn credit hours while performing measurable work during a period of travel;

Example: While traveling on a train outside the employee's scheduled tour of duty, the employee voluntarily writes speeches, draft or edit reports, or other measurable work on a laptop. The supervisor must first approve the request to earn credit hours and verify the work performed during the time traveling is completed outside the employee's scheduled tour of duty.

NOTE: If the immediate supervisor directs an employee to perform work while traveling (i.e., plane, train) the employee would be paid travel overtime for the hours worked outside of their scheduled tour of duty.

- g. With advance notice to the employee, a supervisor may place the employee on a traditional work schedule during the period of travel;
- h. Earning credit hours does not establish an employee entitlement to earn either overtime pay or compensatory time off; and
- i. If an employee who works an FWS later decides to change to a non-flexible work schedule and they transfer or separate from the organization, they will receive a lump sum payment of their accumulated credit hours paid at their current rate of basic pay.

D. This directive does not provide an exhaustive list of all available FWS types but rather provides information on the types most often used by the FSIS workforce. The responsibility of determining which FWS types and flexibilities are made available to employees, including setting core hours, is delegated to program area Assistant Administrators.

CHAPTER III – ADDITIONAL REQUIREMENTS

I. MEAL BREAK REQUIREMENTS

A. Meal breaks are to be scheduled after the 2nd and no later than the 6th hour on duty during a workday.

B. Employees are not required to take a meal break if the total hours worked in a workday are less than 6 hours.

C. Employees are authorized to leave their duty stations during the unpaid meal break.

D. Offices may restrict the movement of employees in an on-call status to a limited area such as a government building during a meal period. However, the meal period is non-compensable while on an on-call status.

E. An employee in an on-call status is required to be accessible (on-call) while not required to remain on the employer's premise or actively working. The time an employee spent in an on-call status shall not be considered hours of work, if

1. The employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or
2. The employee is allowed to make arrangements for another person to perform any work that may arise during the on-call period.

F. Employees are entitled to receive pay if barred from being released from their job duties or recalled back to work during their regularly scheduled meal break.

G. Employees are not eligible for compensable pay if they are on-call or required to carry a cell phone or other mobile device during a meal period.

H. All employees (including part-time) are required to take a non-compensable meal break of not fewer than 30 minutes or more than 60 minutes during a workday of six hours or longer. Employees under a Maxiflex schedule may elect to take meal breaks exceeding 60 minutes.

I. Employees may not skip a meal period to arrive at the duty station late or depart from their duty station early.

II. NURSING MOTHERS

Supervisors are required to provide reasonable break times and appropriate space to accommodate a nursing mother's need to express milk.

III. HOLIDAYS

A. Legal Public Holidays:

Holiday	Date
New Year's Day	January 1
Birthday of Martin Luther King, Jr.	The third Monday in January
Washington's Birthday	The third Monday in February
Memorial Day	The last Monday in May
Juneteenth National Independence Day	June 19
Independence Day	July 4
Labor Day	The first Monday in September
Columbus Day	The second Monday in October
Veterans Day	November 11
Thanksgiving Day	The fourth Thursday in November
Christmas Day	December 25

B. Special Holidays:

1. Federal employees in the Washington, DC, area are entitled to a holiday on the day a President is inaugurated on January 20th for each fourth year, if they would be otherwise

scheduled to work on Inauguration Day within the "Inauguration Day Area." The "Inauguration Day Area" is defined as:

- a. District of Columbia;
- b. Montgomery and Prince George's Counties in Maryland;
- c. Arlington and Fairfax Counties in Virginia; and
- d. Cities of Alexandria and Falls Church in Virginia.

2. Any other day declared to be a holiday by a federal statute or executive order.

C. Holiday Requirements:

1. Employees are not to report to work on Federal holidays unless required to do so by their supervisors.
2. In the case of tours of duty with workdays covering portions of 2 calendar days that fall on a holiday, employees will be excused from work for an entire workday that commences on any such calendar day.

D. For full-time employees with a basic workweek of Monday through Friday:

When a holiday falls on:	Then the holiday will be observed on:
Any day of the employee's basic workweek	That day
A Saturday	The Friday immediately before is a legal public holiday
A Sunday	The next workday of the basic workweek

E. For full-time employees with a basic workweek that includes Sunday:

When a holiday falls on:	Then the holiday will be observed on:
Any day of the employee's basic workweek	That day
A Saturday	The first workday immediately before Saturday is a legal public holiday.
A Sunday	That day

F. For full-time employees with 40 indefinite hours of duty within an administrative workweek:

When a holiday falls on:	Then the holiday will be observed on:
Any day of the employee's basic workweek	That day
A Saturday	The Department shall designate, in advance, either Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hours TOD shall be deemed to include 8 hours on the day designated as the employee's holiday.
A Sunday	The Department shall designate, in advance, either Sunday or Monday as the employee's holiday and the employee's basic 40-hours TOD shall be deemed to include 8 hours on the day designated as the employee's holiday.

IV. QUESTIONS

Refer questions regarding this directive to supervisors, or as needed to OHR via e-mail at FSISHR1@usda.gov with "Tours of Duty" in the subject line or call 877-FSIS-HR1 (877-374-7471) and select Option 4.

A handwritten signature in black ink, appearing to read "Rachel A. Edelstein". The signature is fluid and cursive, with the first name "Rachel" being more prominent.

Assistant Administrator
Office of Policy and Program Development