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

# FSIS NOTICE	86-06	12/20/06

OPERATIONS OCCURRING OUTSIDE APPROVED HOURS

I. PURPOSE

This notice instructs inspection program personnel from the Office of Field Operations (OFO) how to respond when an official establishment operates outside its approved hours of operation without inspection. This notice also instructs inspection program personnel from the Office of International Affairs (OIA) how to respond when an official import inspection facility operates without inspection.

II. BACKGROUND

The District Manager/OFO (DM/OFO) or Regional Import Field Office/OIA (RIFO/OIA) supervisor approves each official establishment's work schedule in accordance with 9 CFR 307.4(d)(1), 381.37(d)(1), and 590.124. Once approved, the establishment is to consistently maintain the work schedule, in accordance with 9 CFR 307.4(d)(2), 381.37(d)(2), and 590.124.

III. PROGRAM EMPLOYEE RESPONSIBILITIES, INSTRUCTIONS, AND DOCUMENTATION

A. What should inspection program personnel do if they determine that operations requiring inspection have occurred outside the approved hours in an official establishment or an official import establishment?

1. Contact the District Office/OFO (DO/OFO) or Regional Import Field Office (RIFO/OIA) to advise the DO or RIFO about the situation. The RIFO/OIA will contact the Deputy Director, Operations/OIA (DDO/OIA).

2. If meat or poultry products were produced outside of official hours without approval (e.g., they were not produced under reimbursable overtime inspection), and

they are still in the official establishment, take a regulatory control action and retain the product as provided for in 9 CFR 500.2(a) and issue a noncompliance record (NR).

3. Document regulatory noncompliance and use Inspection System Procedure (ISP) code 04B04, “General Labeling” on the NR. The product produced outside of approved hours of operation without inspection is misbranded if it bears the mark of inspection. It cannot enter commerce.

4. If the meat or poultry products have been shipped, notify the DO or RIFO. FSIS may request a voluntary recall.

5. In official plants producing egg products, program employees should record the violation on the PY203, Daily Record of Plant Operations, or the PY159, Daily Report of Egg Drying Operations, in accordance with 9 CFR 590.160(f)(1)(ii) and retain product as set out in 9 CFR 590.426.

NOTE: If the egg products have been shipped, FDA would conduct any necessary recall.

6. Additionally, in the case of import facilities, if the establishment is not in compliance with a pre-stamping program (9 CFR 327.10(d) or 381.204(f)), follow the Import Manual of Procedures (IMOP), Part 2, Section 1, and the steps outlined above.

NOTE: If inspection program personnel observe suspicious activity after hours that has the potential to result in a personal safety issue or could result in harm to the employees, they should immediately leave the area, and once in a safe location, contact their supervisor to alert him/her of the situation.

B. What should the Frontline Supervisor (FLS/OFO) or Regional Import Field Supervisor (RIFS/OIA) do?

The FLS/OFO ensures that inspection program personnel are appropriately taking action and documenting the incident, and that the DM/OFO’s instructions are followed.

The RIFS/OIA ensures that in-plant inspection program personnel are appropriately taking action and documenting the incident, and that the DDO/OIA’s instructions are followed.

C. What should the DM/OFO or Deputy Director, Operations/OIA, do when notified by inspection program personnel that operations that require inspection have occurred outside the approved hours in an official establishment or official import inspection establishment?

1. The DM/OFO or DDO/OIA will notify the establishment of the actions taken or the actions that are to be taken. After evaluating the circumstances, the DO/OFO or DDO/OIA is to determine whether it is necessary to refer allegations to OPEER for investigation (e.g., shipment of adulterated product, repetitive violations, or other facts that support knowing, willful, or intentional violations).

2. Following the guidance in FSIS Directive 8410.1, Revision 2, "*Detention and Seizures*," DO/OFO or RIFO/OIA personnel will contact Regional Office (RO)/OPEER personnel if product has entered commerce and needs to be detained.

Direct technical questions about this notice to the Technical Service Center at 1-800-233-3935. Direct other questions through supervisory channels.

Assistant Administrator
Office of Policy, Program, and Employee Development