

**SUPPLEMENTAL TO MASTER CONTRACT FOR  
DEPARTMENT OF TRANSPORTATION  
MOTOR CARRIER SERVICES DIVISION (MCS)  
Enforcement Officers  
July 1, 2017-June 30, 2019**

**A. IRREGULAR WORKDAY/WORKWEEK**

1. In work areas where a regular workweek, a designated workweek, or a regular workday is not feasible, employees may be assigned to an irregular workweek or irregular workday by mutual agreement.
2. In the event mutual agreement is reached, the Employer will be liable only for overtime accrued under the Federal Fair Labor Standards Act.
3. In case mutual agreement cannot be reached with any employee, the employee with the least seniority within a class will be assigned the duty.
4. When MCS Enforcement Officers are engaged in work that qualifies for an FMSCA Grant specifically for an overtime special activity, overtime will be paid by funds made available via the respective grant. The overtime may not be designated as compensatory time. Opportunity for overtime covered by federal grants will be apportioned according to Article 8, Section 4 of the Master agreement.

**B. ALTERNATE WORK SCHEDULES**

Alternate work schedules may be approved by the Division Administrator when dictated by the efficiency of operations. For purpose of this section, an alternate work schedule is defined as a work schedule consisting of other than five consecutive eight-hour days.

If an alternate schedule is mutually agreed upon, the employer is liable only for overtime/compensatory after 40 hours per week. This includes employees working more than 8 hours per day, who have mutually agreed to less than a 40-hour workweek and/or alternate schedule.

**C. SCHEDULING**

Employees shall normally be given 10 working days advance notice of work schedule changes or field assignment changes, with the following exceptions. In these instances, the Department shall make every effort to provide as much advance notice as is possible.

1. Emergencies.
2. Employees in assignments that are normally on an irregular basis.
3. The normal work hours and workweek of officers shall remain within the discretion of the Employer to establish. It is understood and agreed that the Employer is a 24-hour per day and 7-day per week operation and that nothing in this Agreement shall be

construed as prohibiting the rescheduling of manpower to suit the needs and requirements of the department as they may change from time-to-time.

- a. All hours worked between 10:00 p.m. and 6:00 a.m. shall be compensated at an additional \$1.00 per hour.
4. The workweek for MCS Officers will begin on Saturday a.m. and end on Friday midnight.
5. Schedules will be posted for period covering one month.
6. Officers may be assigned away from their normal work site on a temporary basis by giving at least 24 hours prior notice.
7. The Employer may utilize an irregular workweek for scheduling MCS Officers. An irregular work week is defined as five consecutive days of work followed by at least two days off, which rotate on a regular basis by the addition of a sixth consecutive day of work. An alternate work schedule may be mutually agreed upon.

If the majority of employees in a station agree to an irregular workweek, the Employer will be liable only for overtime accrued under the Montana Minimum Wage and Hour Act, 1971.

Through mutual agreement, officers stationed at the following MCS facilities may work a 4-day 10-hour work shift: Armington Junction, Bozeman, Broadus, Butte, Coutts, Haugan, Lima, Mossmain and Wibaux.

8. Prior to establishing the initial rotation schedule or changing the existing rotation schedule, the Employer will allow affected employees to comment on the proposed schedule of days off.
9. When placing an employee on special assignment, an employee's scheduled days off shall not be temporarily changed solely for the purpose of avoiding the overtime provisions of this Agreement.
10. No employee shall be scheduled to work a shift without at least a 14 -hour duty free break except in unexpected or unusual circumstances.

#### **D. DIFFERENTIAL PAY**

If an employee is required to perform duties normally assigned to a higher level, occupation band or pay band for an entire shift, the employee shall be paid at the appropriate higher level, occupation band or pay band according to MDT's promotion policy for all such hours worked. For purposes of administering this provision, "entire shift" does not include anticipated overtime hours.

In order to be eligible for differential pay, the following shall apply:

1. The employee must be selected and authorized by a management designee to fill the higher graded job and formal written records of such full time and temporary reassignments must be kept.

2. The authorization must be for the employee to fill a vacancy or to assume the duties and responsibilities of a higher graded position.
3. The employee must assume the duties and responsibilities of the higher graded position.
4. The eligibility for the differential shall not be based on activities but rather on the assumption of the duties and responsibilities of the higher position.
5. Motor Carrier Service (MCS Officers who serve at Field Training Officers (FTO's) will be compensated an additional \$1.00 per hour in addition to their base salary for each hour they perform assigned FTO duties. The assignment of FTO duties will be at management's sole discretion.

#### **E. EDUCATIONAL LEAVE**

The Employer may grant leaves with pay for attendance at a college, university, business school, or vocational school for the purpose of training in subjects related to the work of the employee and which will benefit the employee and the Employer.

#### **F. SENIORITY AND LONGEVITY**

1. For personnel actions involving MCS Officer positions, seniority shall be defined as length of service as a MCS Officer. Seniority accrued as a MCS Officer will not apply to other bargaining unit positions or actions where seniority is a consideration.
2. For the purpose of Section 4 of Article 13, the five districts presently defined by the Department of Transportation and Helena Headquarters are the geographical areas identified for purposes of layoff.
3. In accordance with the Master Agreement, employees shall be recalled by classification within geographic location. If a vacancy is not filled by recall as defined above recall rights shall be extended according to the following:
  - a. First, to laid-off employees in a higher graded classification in the same class series within the same geographic location.
  - b. Second, to laid-off employees in the same classification in any geographic location.
  - c. Third, to laid-off employees in a higher graded classification in the same class series in any geographic location.

Recall rights in all cases shall be for a period of two years from the date of layoff.

4. In addition to recall, a laid-off employee will receive a preference for reemployment with the bargaining unit for a period of up to two years following the date of layoff. Any bargaining unit member in RIF status who applies for a position within the bargaining

unit will have five percentage points added to their final score on a scored selection procedure provided, however, they meet minimum qualifications and receive passing scores on each step of the selection process.

5. In addition to recall, a laid-off employee shall receive a preference for reemployment with the Transportation Department Non-Maintenance bargaining unit for a period of up to two years following the date of layoff. A laid-off employee who is subsequently reemployed by the Transportation Department shall retain their seniority and employment benefits including, but not limited to longevity.
6. A laid-off employee who is rehired, pursuant to Section 4 above, in a position at a lower grade than the position held by the employee at the time of layoff, shall still be entitled to his recall rights as set forth in Article 13, Section 5, of the Master Agreement and the Transportation Department Supplemental contract, Paragraph G, Section 4.

#### **G. HOLIDAYS WORKED**

Employees who work on recognized holidays will be paid two and one-half times their regular rate of pay for all hours worked.

Employees who work a 10-hour shift may be able to flex or use two hours of leave during a holiday week under the following circumstances:

They have management approval in writing 30 days in advance to the holiday.

The additional two hours are worked during the work week of the holiday.

Flexing does not put the employee into overtime

Employee only receive 8 hours of holiday pay.

#### **H. REST BREAKS**

Where feasible, Transportation Department employees will be granted one rest break in the first four hours and one rest break in the second four hours of the scheduled workday. Duration of rest breaks will not exceed 15 minutes. Rest breaks will not be allowed to extend lunch periods or allow for early departure or late arrival. Rest breaks will be taken on the job location.

#### **I. ASSOCIATION/MANAGEMENT COMMITTEE**

It is agreed that no more than five bargaining unit members will be allowed to serve on paid time basis if they are normally scheduled to work, to confer with Management on day-to-day type problems.

Meetings will be held when necessary on a mutually agreeable date, time and place. Agendas for said meetings must be submitted by the requesting party no less than 10 working days prior to the meeting date.

It is understood that this committee does not take the place of the grievance procedure. Any decisions reached by the committee in resolving day-to-day type problems shall not alter the terms of this agreement and will be advisory only.

**J. COMPENSATORY TIME**

Employees will have the right to choose whether they to receive compensatory time or overtime pay as provided for in Article 8, Section 2 of the Master Contract. Selection for either option can only be made in April and October, upon initial hire, or when an employee changes positions. MCS Officers will receive overtime pay in accordance with Article 8, Section 1 of the MPEA Master Agreement.

1. MCS Officers will have the right to choose whether they receive compensatory time or overtime pay up to a maximum of 40 hours.

**K. LEAVE WITHOUT PAY**

All accrued annual leave and compensatory time will be taken before a request for leave without pay will be considered. Exhaustion of annual leave is not a prerequisite for consideration of leave without pay requests for bona-fide union activities.

**L. RATINGS, WARNINGS AND SUSPENSIONS**

1. Letters of caution, consultation, warning, admonishment and reprimand shall be considered temporary contents of the personnel file of an employee and shall be destroyed no later than 24 months after they have been placed in the file unless such items can be used in support of possible disciplinary action arising from more recent employee action or behavior patterns or is applicable to pending legal or quasi-legal proceedings.
2. The Employer may place an employee on administrative leave with or without pay for the purpose of investigating.
  - a. For the purpose of investigating, administrative leave with/without pay will be administered which will be determined by the severity of the allegations.
  - b. Administrative leave with pay pending an investigation shall be used in most cases. However, when the outcome of the investigation would result in a recommendation of termination, administrative leave without pay pending an investigation may be administered.
  - c. Administrative leave with pay for investigatory purposes should not exceed five (5) working days. Employer may utilize an investigatory administrative leave without pay for investigation for a maximum of twenty (20) days.
  - d. This section does not constitute a waiver of the Employer's right to impose discipline, including disciplinary suspension. The administrative leave without pay is not subject to the grievance procedure.

**M. PROBATIONARY PERIOD**

All new MCS Officers, including those who have attained permanent status in an agency and who transfer to the Department of Transportation, MCS, must serve a probationary period of at least one year from the date of appointment. An additional probationary period of three months will be served upon successful completion of the Law Enforcement Academy. MCA 7-32-303

## **N. TRANSFERS**

1. Purpose: The purpose of this policy is to provide a procedure for the lateral transfer of MCS officers before newly vacated or created MCS positions are posted in accordance with Article 14 of the Master Agreement.
2. Application: These transfer procedures will apply to all lateral transfers of MCS officers except transfers from stationary scale to mobile patrol positions. Such excepted transfers shall be posted and filled in accordance with the provisions outlined in Article 14 of the Master Agreement.
  - a. A list of work locations will be developed.
  - b. Each MCS officer will be given the opportunity at least once annually to place their name on a transfer list for any work location except where the Department is paying strategic pay for retention purposes. In these situations, the employee is only allowed to laterally transfer to another location once every three years unless otherwise authorized by the Department. Strategic pay under these circumstances will be a minimum of \$1.00 per hour, at the Department's discretion.
  - c. If the Department determines it is necessary to fill MCS officer positions, the hiring authority must first choose to fill those positions from names on the transfer list.
  - d. If more than one worker is on the transfer list, then the hiring authority must hire the most senior employee from the list.
  - e. MCS officers will not be allowed to transfer from one location to another for 12 full months following their last transfer.
  - f. If there are no names on the transfer list, Management can post and recruit for that position, as per the MPEA Master and this supplemental agreement.
  - g. Probationary patrol officers do not receive seniority for patrol positions in the bid process.
  - h. MCS officers will be paid relocation and moving allowances in accordance with Section O of the supplemental and under the following circumstances:
    - i. When the work location is changed as a result of promotion;
    - ii. When the work location change is management-initiated; and
    - iii. Movement from a scale operator to rover position will be considered a promotion for purposes of applying this provision.

**O. VACANCIES**

Article 14, Subsection 3 of the Master Agreement will not apply to MCS Enforcement Officers and members of the Non-Maintenance Unit. All members of each unit (MCS Enforcement Officers & Non-Maintenance Employees) will be eligible to apply for positions in the other contract. All job postings will be posted for at least 7 days.

**P. RELOCATION AND MOVING ALLOWANCE**

The Employer and the Union agree that all matters relating to relocation and moving will be addressed according to departmental policy.

**Q. OTHER EXPENSES**

Each enforcement officer of MCS will be allowed \$60.50 per month for expenses incurred through banking, court appearances and other travel costs. This allowance covers costs related to uniform maintenance and repair. In addition to the \$60.50, authorized officers will be reimbursed for all receipts for money orders.

**R. Pay Adjustments and Health Insurance**

Employees will receive a 1% salary increase each year of the biennium. Wage increases will become effective the first full pay period that included February 15<sup>th</sup> of each year of the biennium.

HCBD is managing the State Employee Group Health Plan to contain costs and minimize member cost impacts. Member contributions, copay amounts, deductibles, coinsurance levels, and maximum out of pocket levels will not increase through December 31, 2018 and shall only increase in the 2019 plan year if the actuarially determined Risk Based Capital Level is at or below 250%.

**S. MPAT ALLOWANCE**

MCS will implement and continue a voluntary fitness program. The Montana Physical Abilities Test (MPAT) will be the standard used to gauge physical fitness levels of Officers. Participation is voluntary and Officers will have an opportunity to complete the test once per year excluding MLEA participation requirements. The department will be responsible for setting up testing opportunities. Participation will be done in an on-duty status and officers will be compensated from driving to and from if travel is required. After completion as outlines below, Officers will be awarded an MPAT allowance as follows:

- a. 10 hours annual leave time for a completion time of 5 minutes and 30 seconds or less
- b. \$100 or a shirt for completion time of 5 minutes and 31 seconds to 6 minutes 30 seconds
- c. \$50 or a shirt for completion in 6 minutes and 31 seconds and above

**T. Grievance Procedure**

The following grievance procedure shall be implemented into the supplemental agreement:  
Any time an employee is suspected of wrong doing in which management is considering formal disciplinary action, management will consider the employee's response prior to issuing the discipline.

A grievance shall be processed in accordance with the following procedure:

Step 1: If informal efforts between the employee and his/her supervisors have failed to resolve a grievance within ten (10) working days of the alleged grievance or discovery, the employee may refer the matter to his/her local Union within ten (10) working days of the occurrence of the alleged grievance. If the Union decides to pursue the grievance, the Union shall, within ten (10) working days, present the grievance in writing stating the nature of the grievance and the remedy sought, and discuss such grievance with the Bureau Chief. Within ten (10) working days thereafter, the Bureau Chief shall submit his/her reply in writing to the Union.

All reference to "working days" shall consist of the normal workweek (Monday-Friday) and exclude holidays and weekends.

When a grievance has been filed, upon mutual agreement, the parties may bypass any or all of the remaining steps.

Step 2: Should the Union decide that the reply of the Bureau Chief is unsatisfactory, the local Union shall submit the grievance, within ten (10) working days after receipt of the Bureau Chief's decision, to the MCS Division Administrator. Within ten (10) working days thereafter, the MCS Division Administrator shall submit his/her reply in writing to the Union. Any case pertaining to a discharge: Step 3 will be bypassed and proceed directly to Step 4.

Step 3: Should the local Union decide that the reply of the MCS Division Administrator is unsatisfactory, the local Union shall resubmit the grievance to the MCS Division Administrator, within ten (10) working days after receipt of the MCS Division Administrator's decision at Step 2.

At the discretion of the employee, within ten (10) days thereafter, a four-person fact-finding panel, two persons from the Union, one of whom is not a party to the grievance or been involved in processing the grievance and two persons from management, one of whom is neither involved with the grievance nor supervised by someone involved with the grievance, will be selected to establish facts, hear witness testimony, and determine whether the grievance should be sustained or denied. The fact-finding panel will then hear both parties' case. In non-disciplinary cases, the Union will present their case first. Within ten (10) calendar days thereafter, the fact-finding panel by a majority decision will submit its findings in writing to both parties. The decision of the arbitration board shall be the final solution to the grievance and shall be binding throughout the field maintenance area: no other recourse shall be available to any party to the grievance except in the case of a deadlocked fact-finding panel.

Step 4: Should the fact-finding panel not resolve the grievance, or if not convened at the choice of the employee, the Union shall notify the Director of the Department of Transportation of its desire to move the grievance to arbitration. Such notice shall be in writing and mailed within ten (10) days after the fact-finding panel reached deadlock. The Director or his/her designee and the affected Union shall mutually agree upon an arbitrator within ten (10) days of the Director's receipt of notice from the union, or if mutual agreement cannot be reached, then the parties shall jointly request a list of seven possible persons to serve as arbitrator from the Federal Mediation and Conciliation Service or the Board of Personnel Appeals within ten (10) days of failing to mutually agree upon an arbitrator. Each party shall be entitled to strike three names from the list in alternate order and the name so remaining shall be the arbitrator. The arbitrator shall consider the grievance and shall render a decision within 30 days of the hearing, and that decision shall be final and binding on all parties to the grievance.



The Department of Transportation and the local Union shall share equally the costs of the impartial arbitrator. During the processing of any matter under this or the preceding Steps 1, 2, 3, or 4, the Union agrees not to strike, render unfair reports, or cause slowdowns, and the Employer agrees not to lock out employees represented by the Union.

Any failure or refusal to abide by the terms of the above paragraph shall constitute a waiver by the party who breaches the Agreement of the rights and constraints created by the above paragraph.

No arbitrator shall have the power to add to, detract from, or modify the terms of this Agreement.

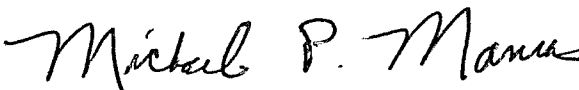
**U. NEGOTIATIONS**

During negotiations for the collective bargaining agreement, five officers chosen by MPEA will be allowed to patrol to and from negotiation meetings or otherwise utilize an MCS vehicle for transportation and be allowed release time for such travel and meetings. No overtime will be approved. If a meeting occurs on an officer's day off, he/she will be allowed to flex the work schedule to allow for the travel and meeting time. MPEA will cover the cost of needed motel accommodations and per diem for the five officers. The Employer shall grant up 120 hours of paid release time per biennium to selected and designated officers for contract negotiations.

DATED this 15<sup>th</sup> day of November, 2017

FOR: STATE OF MONTANA

FOR: MONTANA PUBLIC EMPLOYEES  
ASSOCIATION



Michael P. Manion, Chief  
State Office of Labor Relations

Quinton Nyman, Executive Director



Mike Tooley, Director  
Department of Transportation

Bargaining Unit President