

CAPS Counter
Management Proposal

Bargaining Unit: 10

Exclusive Representative: CAPS

Subject: Hours of Work and Overtime

ARTICLE 7 – HOURS OF WORK AND OVERTIME

7.8 On-Call Assignments

A. Department of Fish and Game

1. On-Call Program

a. "On-call" is the requirement that an employee be available during specified off-duty hours to receive an order to work. An employee assigned to on-call duty shall at all times while on-call be prepared to respond in a fit and able condition. Employees not scheduled for on-call duty who are called back to work are not eligible for on-call compensation. Rather, appropriate call back provisions apply.

b. ~~The Office of Spill Prevention and Response (OSPR) and the Marine Region Spill Response (MRSR) programs requires~~ designated Unit 10 employees to be available during non-work hours to respond in accordance with program procedures to departmental emergencies and any other urgent, operational needs of the Department. The programs shall clearly specify in writing when any designated Unit 10 employee will be required to be available when not working, and what periods of non-working hours such employees shall be required to be available. *Any Unit 10 employee with appropriate training may be selected for emergency response*

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2. Selection of ~~OSPR and MRSR~~ Unit 10 Employees for On-call Duty *pursuant to this section*

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a. ~~The OSPR and MRSR will establish and publish on-call schedules on a monthly basis for 6-month periods of time. The on-call scheduler will consult with staff required to be on-call in an effort to accommodate staff time off and/or other travel when preparing the on-call schedule. Schedules shall be established with designated program Unit 10 employees bidding on weekly on-call shifts at their respective work locations based on program seniority within his/her classification. Each employee shall be given the~~

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~~opportunity to select one weekly on-call shift at a time in order of seniority until the schedule is complete.~~

~~b. In order to allow employees to substitute for others, the schedules shall be published at least one month in advance. Substitution must be voluntary on the part of both employees and approved by the appropriate Response Supervisor at least 48 hours prior to the beginning of the on-call assignment. A Response Supervisor is a manager or supervisor having the authority to call back and assign employees to an emergency incident.~~

~~e. b If an employee due to an emergency or illness is unable to fulfill his/her on-call duty responsibilities, he/she must notify the dispatch center. The Response Supervisor program will first seek volunteers to cover the on-call shift. However, if no one volunteers or the program is under time constraints, management retains the discretion to make on-call assignments from among program Unit 10 employees.~~

~~d. c Management retains the right to place additional program Unit 10 employees on on-call duty during emergency situations.~~

~~e. d Employees assigned to on-call duty must respond within fifteen (15) minutes of being contacted by a program communication dispatcher. If the employee does not respond to the initial call page, the dispatcher will make a second attempt to reach the contact the employee. If the dispatcher is still unable to reach the on-call employee, the dispatcher shall contact the Response Supervisor, via the listed telephone number provided by the employee. "Respond" in this case means contacting the dispatcher and beginning the response assessment procedure, including fact finding via telephone and/or driving to a particular incident.~~

~~f. e Employees on-call who do not respond or cannot be located may forfeit their on-call compensation.~~

3. Cell Phones Telephonic Pagers

~~a. The program will furnish telephonic pagers and cellular telephones and require employees assigned to on-call duty to carry these with them. Assigned employees shall be required to keep the cell phone pager activated and available, and to respond in the event he/she is contacted by a departmental representative during such on-call time.~~

~~b. The on-call employee shall check in with the dispatcher self-page at the beginning of each on-call shift to verify the dispatcher has the correct on-call schedule. ~~to ascertain~~~~

~~the pager is working, and when visiting an area where the paging system's capabilities are unknown.~~

c. It is the responsibility of the employee to give the dispatcher another contact telephone number if the employee is in an area where the cell phone pager does not work, ~~or during hours when the pager may not be heard by the employee.~~

4. Compensation. Any OSPR Unit 10 employee covered by the Fair Labor Standards Act (FLSA) and assigned to be available for on-call duty shall be credited with four (4) hours of compensating time off (CTO) or cash at department's discretion for on-call time on a workday and six (6) hours of CTO or cash at department's discretion for on-call time on an administrative day off (24 hour period) provided his/her on-call time is not interrupted by a call-back.

If during the workday the employee's on-call time is interrupted by a call-back, then the employee will only be compensated two (2) hours of CTO or cash at department's discretion for eight (8) hours or less of on-call time or four (4) hours of CTO or cash at department's discretion for more than eight (8) hours of on-call time. If this situation occurs during an administrative day off, the employee will receive only two (2) hours of CTO or cash at department's discretion for eight (8) hours or less of on-call time, four (4) hours of CTO or cash at department's discretion for more than eight (8) but less than sixteen (16) hours of on-call time or six (6) hours of CTO or cash at department's discretion for more than sixteen (16) hours of on-call time. For purposes of this agreement, "On-call Time" does not include the employee's normal work hours, including the lunch period, and scheduled or unscheduled overtime.

On-call time and compensation shall not be considered as time worked for overtime purposes consistent with federal and state law.

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Employees who have accumulated less than 240 hours of CTO in a calendar year may elect to cash out up to 40 hours of CTO. This cash out option is only allowed once during a twelve (12) month period.

An OSPR Unit 10 FLSA exempt employee assigned to be available for on-call duty shall be compensated with vacation or annual leave credits instead of CTO. However, with regards to the employee's actual response time, such time is considered part of his/her regular duties for which he/she is fully compensated by his/her monthly salary.

5. Response While On-Call. If a program Unit 10 FLSA covered employee, while on-call duty, is required by the OSPR to attend to the operational needs of the Department and to report to a particular site or work location, that employee shall be compensated in

accordance with the call-back provisions in Article 7.4 of the Memorandum of Understanding (MOU) between CAPS and the State of California. If a response to a particular site or work location is not required, the employee will only be compensated for the actual time spent on the telephone and assessing the situation.

6. Dispute Resolution. Disputes concerning the interpretation or application of this Agreement shall be subject to the grievance and arbitration procedure in Article 9.

B. Department of Health ~~Services~~ Public Health

1. On-call assignment is defined as a work-shift of no less than one day in which the Unit 10 employee is: (1) available by telephone or electronic paging device at all times; and (2) normally immediately available to return to the facility for any emergency response deemed necessary by the employee or supervisor. On-call assignment shall be in addition to the employee's normal work schedule. If the State deems it necessary, the State shall issue a Unit 10 employee an electronic paging device during an on-call assignment.

2. Those employees completing an on-call assignment shall receive one (1) hour CTO for each eight (8) hours time period of each on-call assignment, to a maximum of three hours CTO for each 24 hour period on call. Payment for fractions of an hour shall be made in quarter hour increments.

3. On-call assignments shall not be rescheduled to be less than one full day solely to avoid payment under this Section.

4. Unit 10 employees who complete on call assignments of less than seven (7) consecutive days shall receive pro rata CTO or pro rata pay.

5. On call compensation can apply to all Unit 10 staff regardless of work week group.