

ARTICLE 12 WORK SCHEDULES

SECTION 1. PURPOSE & LEGAL BACKGROUND

Purpose

This article establishes the work schedules available to ESC bargaining unit employees at the U.S. Environmental Protection Agency.

This article is designed to maintain and enhance the needs of the Agency, while at the same time, offering scheduling flexibility for individual employees. The Alternate Work Schedules (AWS) program is intended to help employees balance work and life responsibilities and to improve employee satisfaction and retention while increasing productivity through scheduling flexibilities.

Alternative Work Schedule programs have the potential to improve productivity and morale and to accomplish the Agency's mission and goals in an efficient fashion.

The parties recognize that reasonable accommodation may include work schedules and arrangements other than those contained in this article. The work schedule options agreed to in this article are not intended to limit the range of work schedule options available as a form of reasonable accommodation.

Legal Background

- A. Public Law 97-221 permits the establishment of AWS by modifying the premium pay and scheduling provisions of 5 U.S.C. Chapter 61 and the overtime provision of the Fair Labor Standards Act (FLSA). Hours of work for EPA employees shall be in accordance with applicable laws and regulations.
- B. In accordance with 5 USC 6132, an employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with such employee's rights under sections 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours. The term "intimidate, threaten, or coerce" includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation)"
- C. Other Authority and References
 - (a) Title 5, United States Code chapter 61, *Hours of Work*
 - (b) Title 5, Code of Federal Regulations part 610, *Hours of Duty*
 - (c) U.S. Office of Personnel Management, [Handbook on Alternative Work Schedules](#)

Section 2. Definitions

For the purpose of this Article:

- A. **Administrative workweek.** The period of seven consecutive calendar days beginning Sunday and ending Saturday. There are two administrative workweeks per pay period.
- B. **Alternative Work Schedule (AWS).** Work schedules which include either flexible work schedules or compressed work schedules.
- C. **Basic Work Requirement.** The number of hours, excluding overtime hours, that an employee is required to work or to account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off, or time off as an award. For a full-time employee the basic work requirement is eighty (80) non-overtime hours in biweekly pay period.
- D. **Biweekly Pay Period:** The two-week period for which an employee is scheduled to perform work.
- E. **Compensatory Time:** Time off on an hour-for-hour basis in lieu of overtime pay.
- F. **Compressed Work Schedule (CWS):**
 - 1. In the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and
 - 2. In the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays and that may allow an employee to work more than 8 hours in a day;
- G. **Core Hours:** The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required by the agency to be present for work or on approved absence.
- H. **Credit Hours:** Those hours within a flexible work schedule that an employee elects to work in excess of the employee's basic work requirement so as to vary the length of a workweek or workday.
- I. **Fixed Work Schedule:** A work schedule that is assigned or approved by the supervisor and cannot be changed without prior supervisory approval. Standard/Regular and compressed work schedules are fixed work schedules.
- J. **Flexible hours:** The times during the workday, workweek, or pay period within the tour of duty during which an employee covered by a flexible work schedule may choose to vary the employee's times of arrival to and departure from the work site consistent with the duties and requirements of the position.

K. **Flexible work schedule (FWS):** A work schedule established under 5 U.S.C. 6122, that:

1. In the case of a full-time employee, has an 80-hour biweekly basic work requirement that allows an employee to determine the employee's own schedule consistent with this article; and

2. In the case of a part-time employee, has a biweekly basic work requirement of less than 80 hours that allows an employee to determine the employee's own schedule consistent with this article.

L. **Maxiflex:** A type of flexible work schedule that contains core hours on fewer than 10 workdays in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week consistent with this article.

M. **Overtime Hours** means

1. **Standard/Regular (Straight-8) Work Schedule:** Any work hours more than 8 hours in a day or 40 hours in a work week that are ordered in advance by management.

2. **Compressed Work Schedule:** Any hours officially ordered more than those specified hours for full-time employees that constitute the Compressed Work Schedule (i.e., 5-4/9 or 4-10). For part-time employees, overtime hours are hours required to be worked outside of the compressed work schedule. However, if those additional hours still total less than 8, the employee receives a basic pay rate for the added hours. Only hours greater than 8 in a day and 40 in a week earn an overtime rate of pay.

3. **Maxiflex:** Any hours more than 8 hours in a day or 40 hours in a week that are officially ordered in advance, but not including credit hours. Credit hours worked by the employee beyond 8 hours in a day or 40 hours in a week are not overtime hours.

N. **Regularly Scheduled Administrative Workweek:** For a full-time employee, the period within an administrative workweek within which the employee is regularly scheduled to work. For a part-time employee, the officially prescribed days and hours within an administrative workweek during which the employee is scheduled to work.

O. **Tour of Duty:** The hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.

P. **Work Day:** The period, including the unpaid lunch break, during which an employee is normally scheduled to be at work.

Q. **Approved Work Schedule:** The number of hours of work and/or hours of absences that the employee plans to accomplish in a given biweekly pay period and which is approved by the supervisor.

R. **Work-Related Needs:** Office staffing, office personnel not available to perform work; office coverage; work priorities; emergencies; time-sensitive assignments; work assignments; the need for team efforts; the need for meeting in person; and other operational needs that involve the work of the Agency.

Section 3. Responsibilities

A. Managers and Supervisors are responsible for:

1. Timely approving/disapproving, changing, modifying or removing an employee from a specific work schedules in accordance with this Agreement.
2. Approving/disapproving an employee's request to earn and/or use credit hours.
3. Approving/disapproving adjustments of more than 1 hour (earlier or later) to the arrival and departure times of the approved Maxiflex proposed work schedule, and any other changes to the approved Maxiflex work schedule in accordance with this Article.
4. Approving/disapproving leave requests in accordance with the Leave Article of this Agreement.
5. Coordinating work schedules among employees in their organization to accomplish the Agency mission.
6. Considering work schedules of the attendees when scheduling meetings or events where employee attendance is required (including virtual participation).
7. Reviewing the employee's time and attendance submissions to ensure they are properly completed and properly coded for overall accuracy.
8. Ensuring that work schedules support mission accomplishment and do not interfere with current activities or projects of the work unit.
9. Ensuring work schedules fall within the parameters of this article before approving, disapproving, or accepting.
10. Disapproving or raising concerns over schedule submissions that do not conform with this Article or do not meet work related needs.

11. Communicating time and attendance inaccuracies and requiring the employee to submit corrections as appropriate.

B. Employees are responsible for:

1. Adhering to the procedures and requirements in this Agreement when requesting and participating in an AWS.
2. Being present, in work status, for duty during hours corresponding to approved work schedules.
3. Ensuring that their time and attendance submission is submitted, coded for overall accuracy, and timely entered and attested to in the Agency Time and Attendance Recording System.
4. Maintaining the quality and quantity of work for their approved work schedule. Attending required meetings or events even though the meeting or event may be scheduled outside of the core hours.
5. Timely requesting work schedules and changes to approved work schedules in accordance with this Article.
6. Requesting prior supervisory approval to be absent from their scheduled hours in accordance with the Leave Article of this Agreement.
7. Timely submitting, in accordance with this article, their proposed bi-weekly work schedule, if on an approved Maxiflex schedule.
8. Unless provided an exception by the supervisor, maintaining their current work schedule on the Agency's electronic calendar to assist coworkers to know their availability for meetings. The employee's free/busy time must be visible to all staff and internal clients, unless provided an exception by the supervisor.
9. Making corrections or updates to their time report for previous pay periods as necessary to ensure accuracy and actual time(s) worked. Should a supervisor identify an issue with an employee's time reporting, the employee will make the necessary correction as directed.

Section 4: General Requirements

- A. **Work Schedule Approvals/Disapprovals:** All participation in the agency AWS program (fixed and flexible) must be approved by the supervisor in advance. No request submitted in accordance with this CBA will be unreasonably denied. If an employee's

request for a specific AWS is denied, the supervisor will provide a written explanation to the employee, upon request.

- B. **Participation Voluntary:** Employee participation in an AWS is voluntary.
- C. **Work Schedule Request Form:** Employees must request their work schedule on the Agency's Work Schedule Request Form or designated electronic system.
- D. **Lunch Period:** All daily tours of duty 6 hours or more must include a 30-minute unpaid lunch break each day. Fixed schedule daily tours of duty cannot contain an unpaid lunch break greater than 60 minutes. An employee cannot skip the lunch break and work during the lunch period to shorten the length of a workday or to earn credit hours. An employee's tour of duty will be established to ensure that the employee works the required number of hours for the type of work schedule selected and accounting for the lunch period.
- E. **Temporary Changes for Work-Related Needs, Meetings, Travel, and Trainings:** Employees scheduled for training, travel or other EPA events may need to arrange their schedules to correspond with the start/stop times and weekdays of the events. Employees will not be excused from attending meetings or other events solely because the employee is on an AWS and the meeting or event is outside of the Agency's core hours. Employees may also need to change their work schedules when necessary to meet work-related needs. Employees and supervisors should discuss options to make temporary adjustments to an employee's schedule and make such adjustments, as necessary.
- F. **Tardiness:** For employees on fixed schedules, the Employer will consider excusing infrequent tardiness using one of the following options:
 - a. if the tardiness is 59 minutes or less, the supervisor can grant an excused absence;
 - b. the employee agrees to make up the time at the end of the day; or
 - c. the employee submits a leave request.
- G. **Requested Changes (Work Schedule Type):** Employees are permitted to change work schedule types periodically (generally no more than once per month) with their supervisor's approval to accommodate workload demands or for personal reasons. However, they are not permitted to change work schedule types pay period by pay period. For example, an employee may not work on a maxiflex schedule one pay period and then the next pay period switch to the 5-4/9 CWS, and then the next pay period switch back to maxiflex. For changes to an existing schedule, the request normally must be submitted at least three (3) workdays prior to the end of the pay period immediately preceding the pay period for which the employee requests the change. Supervisors will make best efforts to accept or reject the request so there is sufficient notification to the employee for the change to be effective for the next pay period.

- H. **Remote Work, Telework and Alternative Work Schedules:** Employees who work an alternative work schedule may utilize remote work and telework opportunities consistent with the Telework and Remote Work Articles of this Agreement.
- I. **Cannot Combine:** Compressed work schedules and flexible work schedules cannot be combined or hybridized.
- J. **Breaks:** Employees may generally take unscheduled breaks as needed for personal reasons (e.g., to obtain coffee; make personal calls; use the restroom; etc.), provided they do not interfere with work-related needs. Therefore, there is no entitlement to two (2) scheduled 15-minute breaks. However, unscheduled breaks may not exceed a total of 15 minutes during each four hours of duty. For all employees, breaks may not be taken at the beginning or end of the workday to shorten the workday, or at the beginning or end of the lunch period to extend the lunch period.
- K. **Unavailability of Time and Attendance Recording System:** If the Agency Time and Attendance Recording System is not available to an employee for use, an employee will be granted sufficient time to update their timesheet once the system is available during the employee's working hours.
- L. **Time and Attendance:** Employees who are approved to work an AWS are required to provide affirmative evidence they have worked the proper number of hours in a biweekly pay period in accordance with 5 CFR 610.404. This is done by making proper entry into the agency time and attendance system.
- M. **Accountability:** Employees are required to record the work hours, including starting and ending times for each workday in the Agency Time and Attendance Recording System.
- N. **Restriction for Critical Positions:** The Agency may restrict participation in an alternative work schedule for positions the Agency determines are of a critical nature.
- O. **Work Schedules for New EPA Employees:** New employees (i.e., employees who have worked at the Agency for less than six months) will be on a Standard/Regular 5/8 Work Schedule through their first full pay period. They may request an alternative work schedule but are encouraged to get experience in their organization or work unit.

Section 5. Types of Work Schedules

The following work schedules are available at the Agency:

- A. Standard/Regular (Straight-8 or 5/8) Work Schedule (fixed)

- B. Compressed Work Schedules (a fixed alternative work schedule)
 - 1. 5-4/9 Work Schedule (a fixed alternative work schedule)
 - 2. 4-10 Work Schedule (a fixed alternative work schedule)
- C. Maxiflex, a Flexible Work Schedules (a flexible alternative work schedule)
- D. Part-time work (which can be on any of the above schedules for the portion of the pay period worked)

Section 6. Standard/Regular Work Schedule

A. **Work Week and Hours:** For full-time employees, the basic 40-hour weekly tour of duty is scheduled on five days, normally Monday through Friday, and the working hours are the same each day. For part-time employees, this schedule allows them to complete a bi-weekly basic work requirement of 32-64 hours (i.e. part-time employees work between 16 to 32 hours per week) and may require the employee to work a minimum of 4 hours and up to 8 hours daily for work-related needs.

B. **Fixed Schedule:** Regular schedule tour of duty times are fixed and must be between 6:00 a.m. and 6:00 p.m.local time.

C. **Night Pay:** An employee is entitled to night pay when the employee is required to work overtime hours between 6:00 P.M. and 6:00 A.M.

D. **Holidays:**

1. When relieved from duty on a holiday, full-time employees are entitled to basic pay for 8 hours. Part-time employees are entitled to basic pay for the number of hours they were scheduled to work on the holiday.

2. When an employee is required to perform non-overtime work on a holiday, the employee is entitled to holiday pay for the number of hours during which work is performed.

3. When an employee is required to perform work on a holiday outside of the employee's regularly scheduled daily tour of duty, the employee earns the employee's overtime rate of pay for the hours worked.

Section 7. Compressed Work Schedules (CWS)

A. Authorized Compressed Work Schedules

1. "4-10" Schedule (4-Day Workweek): This is a fixed schedule that includes four days of 10 hours of work each day and one compressed day off each work week. To be established, employees request, and supervisors must preapprove, fixed arrival and departure times and two fixed non-workdays, one day each week. The fixed non-

workdays must be the same day of each administrative work week. Fixed arrival and departure times must be the same for each workday.

2. "5-4/9" Schedule: 5-4/9 Work Schedule: this schedule allows employees to complete the basic 80-hours requirement in eight days of nine hours of work each day and one day of eight hours of work with one scheduled non-workday each pay period, totaling 80 hours of work per pay period. To be established, employees request and supervisors must preapprove, fixed arrival and departure times and a fixed non-workday. Fixed arrival and departure times must be the same for each workday for full-time employees, On the eight-hours workday a full-time employee must be scheduled to arrive at the same time or depart at the sametime as the nine hours days (i.e., arrive one hour later or depart one hour earlier).

B. Change in Day Off. Employees may request to change their compressed day off prior to the commencement of the pay period, subject to supervisory approval. The change should not generally result in two consecutive days off. A scheduled compressed day off, as part of the schedule, normally should not be changed once a pay period begins, but a change may be permitted by a supervisor for unusual or unforeseen circumstances.

C. Conflicts in Days Off: Supervisors will resolve conflicts in scheduling the regular day off for an employee working a 5-4/9 or 4-10 Compressed Work Schedule. Supervisors may consider the following factors when resolving conflicts:

1. Work-related needs.
2. The order in which involved employees selected the schedule.
3. Employee seniority (based on service computation date for leave).

D. Compressed schedule tour of duty times have fixed start and end times and must be between 6:00 a.m. and 6:00 p.m.

E. Overtime Work. An employee is entitled to overtime pay when the employee is required to work beyond the number of regularly scheduled hours in a day for a compressed work schedule. For a full-time employee, overtime work consists of all hours of work outside of the established Compressed Work Schedule. For a part-time employee, overtime work consists of hours outside of the Compressed Work Schedule for the day (more than at least 8 hours a day) or for the week (more than at least 40 hours).

F. Night Pay. The regular rules governing entitlement to night pay, at 5 CFR 550.121 and 122, apply. Employees are entitled to night pay for regular hours and regular overtime hours ordered to be performed between 6:00 p.m. and 6:00 a.m. local time.

G. Holidays.

1. If a federal holiday falls on an employee's 8 hour work day, it will be recorded as 8 hours. If the holiday falls on a 9 or 10 hour work day, it will be recorded as 9 or 10 hours respectively.
2. If the holiday falls on an employee's scheduled compressed day off, then the "in lieu of holiday" will be observed as follows:
 - a. If the holiday falls on a Sunday, the employee will get the next regularly scheduled workday off (e.g., if the employee's compressed day off is Monday, Tuesday will be observed as the "in- lieu-of holiday").
 - b. If the holiday falls on any other day, the employee will get the preceding regularly scheduled workday off (e.g., if the employee's compressed day off is a Monday and the holiday falls on Monday, the preceding Friday would be the "in- lieu-of" holiday)

H. Credit Hours: Employees on compressed work schedules may not earn credit hours.

Section 8. Maxiflex – a flexible work Schedule

- A. Maxiflex is intended to give employees maximum flexibility to accomplish their work.
- B. Maxiflex allows employees to request their own schedule consistent with this Article. Maxiflex has an 80-hour bi-weekly work requirement for full time employees (and a prorated number of hours for part time employees), rather than a daily or weekly work requirement. Maxiflex permits employees to request to vary the number of hours worked each day and each week. For instance, maxiflex allows full-time employees to complete the 80-hour work requirement in less than 10 workdays each pay period, and to earn approved credit hours for voluntary work performed in more than 80 hours bi-weekly.
- C. Tour of Duty under a flexible work schedule means the limits within which an employee must complete their basic work requirement. The tour of duty is composed of both core hours and flexible hours. The tour of duty for employees on Maxiflex is Monday through Friday and may begin as early as 5:00 a.m. and end as late as 8:00 p.m. local time. Credit hours may be earned outside of the normal tour of duty (5 am- 8 pm, Monday to Friday local time) to include weekends, as permitted in this article.
- D. For employees under maxiflex, there are no daily or weekly hours of work requirement except during designated core hours. Employees must work and/or be on approved absence during the designated core hours. The core hours are 11:00 A.M. to 2:00 P.M. Tuesday through Thursday.
- E. **Core Hours:** The core hours for employees on Maxiflex are Tuesday, Wednesday, and Thursday from 11:00 am to 2:00 pm local time.

- F. But there are daily limits to the number of hours an employee may work. Employees may work up to eleven (11) hours in any one day, excluding lunch break, credit hours, overtime and compensatory time worked. The maximum number of regular, non-overtime, work hours an employee may work is eleven (11) hours.
- G. Unpaid breaks of more than 60 minutes are not normally permitted during core hours. Appropriate paid leave must be used for any additional time off during core hours. Unpaid breaks of any duration outside of core hours are permitted with supervisory approval.
- H. **Day(s) Off:** When establishing the work schedule, an employee on Maxiflex may select day(s) off to be any day(s) during the bi-weekly period subject to advance approval of their supervisor. Variations to the approved schedule are allowed, with prior approval by the employee's supervisor. Core hours do not apply on employee's non-work days.

Section 11: Maxiflex Procedures

- A. **Requesting a Maxiflex Work Schedule:** Employees interested in participating Maxiflex work schedule must:
 - 1. Acknowledge in writing that the employee has read and understands this Article;
 - 2. Submit the completed Work Schedule Request Form to their supervisor for approval or disapproval
- B. Employees may not begin using maxiflex in the middle of a pay period since the maxiflex schedule format is based on two-week intervals.
- C. Advanced Work Scheduling
 - (i) Employees working under Maxiflex will communicate their proposed biweekly work schedule to their supervisor. Some options include: (1) have a standing schedule with no bi-weekly submission or approval required; (2) recording on the +Maxiflex Pay Period Timesheet (MPPTS); or (3) providing a screenshot of the Agency Time and Attendance Recording System attached to an email. Employees must be working or in approved leave status during the core hours on the core days. An unpaid lunch break is allowed during core hours.
 - (ii) The proposed work schedule must indicate the number of hours and starting and ending times the employee plans to work on each day of the upcoming pay period. To the extent possible, the schedule must also include any leave planned for use and any credit hours the employee plans to accrue and or use. Advanced scheduling of the pay period minimizes potential problems in determining an employee's entitlements to pay and leave and gives the supervisor notice of the employee's availability so they can plan and assign work.
 - (iii) Standing proposed schedules do not require bi-weekly submission. It is the responsibility of the employee to notify their supervisor when there is a significant variation from the standing schedule.

- (iv) If an employee does not have an approved standing schedule and fails to timely submit their proposed work schedule, they are required to work a default schedule of eight-hour days (either from 8:00 a.m. to 4:30 p.m. or from 9:00 a.m. to 5:30 p.m. local time) for the affected payperiod unless their supervisor grants an exception.
- (v) Employees may alter their work days on a Maxiflex work schedule on a pay period to pay period basis.
- (vi) Once submitted, the proposed work schedule (including any proposed credit hours) becomes the work schedule for the pay period unless disapproved by the supervisor. The employee and the supervisor should work together to make modifications and gain supervisory approval. The employee will keep track of work schedule adjustments made during the pay period to ensure the basic work requirement for the biweekly pay period is met (e.g., 80 hours for full-time employees), but there is no requirement to report start and stop times on a daily basis.
- (vii) One-Hour Variance. Employees may adjust the start or stop time of their approved work schedule by a maximum of 1 hour without prior supervisory notice or approval as long as the adjustment does not interfere with established core hours, the tour of duty or official business obligations. Employees may deviate from their approved work schedule by more than 1 hour with advanced notice to their supervisors. In unforeseen circumstances or emergency situations when an employee needs to deviate by more than 1 hour, they will notify their supervisor as soon as practicable.
- (viii) Part time and full-time employees follow the same advanced scheduling requirements.
- (ix) If the supervisor objects to all or part of a proposed work schedule, they should state the reason(s) for disapproval and offer some alternatives, if available, in writing.
- (x) Regardless of the particular hours an employee proposes or actually works, at the end of the pay period, all full-time employees must meet the 80-hour biweekly work requirement (or the prorated number of hours for part time employees). There is no mandatory daily or weekly work requirement. For example, employees are not required to meet a daily work requirement of eight hours or a weekly work requirement of 40 hours.
- (xi) Recording Daily hours: Employees must record their time in to work and time out of work daily by a method agreed upon between the supervisor and the employee (e.g. contemporaneous email, or on the maxiflex pay period time sheet, etc.), and in the Agency's time and Attendance Reporting system by the day required each pay period.
- (xii) Recording Credit Hours: Employees must record the number of credit hours earned and used each pay period in the Agency's time and attendance system.

- (xiii) It is solely the responsibility of the employee to notify their supervisor when there is a significant variation in the standing schedule.
- (xiv) Employees must separately request leave and credit hours to be used in the Agency's Time and Attendance Reporting System.
- (xv) Employees must carefully plan and schedule annual leave throughout the year to avoid annual leave forfeiture. Employees on Maxiflex in high leave earning categories or with high leave balances run the risk of annual leave forfeiture at the end of the leave year. Employees must ensure that their annual leave is requested and scheduled in writing each leave year to prevent any loss of annual leave at the end of the leave year. Requesting and recording annual leave is an employee responsibility. An employee's approved work schedule is not a basis on which annual leave can be restored.

SECTION 12: CREDIT HOURS AND MAXIFLEX WORK SCHEDULE

- A. Credit hours earned are those hours that an employee elects to work in excess of the basic work requirement with prior supervisory approval and in accordance with this Article.
- B. Full-time or part-time employees on a maxiflex schedule may earn credit hours.
- C. **Earning Credit Hours:** Earning credit hours must be requested by the employee and preapproved by the supervisor. For an example of credit hours, an employee is scheduled to work seven (7) hours on Monday. The employee requests and is approved to work three (3) additional hours on that day. If the employee works at least seventy-three (73) more hours during the pay period, the three (3) additional hours are considered credit hours because they are more than the scheduled basic 80 hours that the employee is required to work in this particular pay period. However, if at the end of the pay period the employee has not accounted for 80 hours with a combination of approved leave and work, the three (3) additional hours are counted towards the 80-hour biweekly work requirement and are not credit hours.
- D. **Maxiflex Credit Hour Limits:** Employees on Maxiflex can earn up to 3 credit hours per workday and up to 20 credit hours per pay period, subject to prior supervisory approval.
- E. **Exceptions to the 3/20 Credit Hour Limit:** On rare occasions when necessary to meet the work-related needs, supervisors may grant more than 3 credit hours per work day or more than 20 credit hours per pay period, on a case-by-case basis. Standing approvals for more than 3 credit hours per workday or more than 20 credit hours per pay period are not permissible.
- F. **Weekend Credit Hours:** Employees on maxiflex may earn credit hours on weekends only with prior approval of the supervisor. The flexible hours for employees on maxiflex who earn credit hours on Saturday or Sunday are 6:00 a.m. to 6:00 p.m. local time. Employees cannot generally earn credit hours outside of this timeframe on the weekend.

- G. Fifteen Minute Increments. Credit hours are earned in 15-minute increments.
- H. Credit hours must be recorded in the time and attendance system each time they are earned and/or used and must be recorded in 15-minute increments
- I. If credit hours are erroneously used instead of use or lose annual leave (i.e., accrued annual leave beyond the 24-hour maximum carry over limit), and the annual leave is subsequently forfeited, the forfeited leave is normally ineligible for restoration.
- J. Employees are eligible to work credit hours at an approved alternate work location.
- K. An employee shall not be paid Sunday pay, holiday pay, or premium pay for night work for credit hours.
- L. Employees must be aware that at the end of the pay period, hours worked will be counted as credit hours only after the 80-hour bi-weekly requirement is met.
- M. **Recording Earned and Used Credit Hours:** Employees are accountable for keeping track of their credit hour balances and to record them accurately in the Agency Time and Attendance Recording System (currently PeoplePlus).
- N. **Using Credit Hours:** The use of earned credit hours is subject to the same approval process as annual or sick leave. An employee may use earned credit hours within the pay period they were earned (“earn and burn”) for all or part of any approved leave. Credit hours must be earned before they may be used.
- O. **Carrying Over Credit Hours:** The statutory limit for credit hour carryover from one pay period to the next is 24 hours for full time employees and 25% of the biweekly work schedule for part time employees. For example, a part time employee who works 64 hours per pay period may carry up to 16 credit hours from one pay period to another. In no instances can an employee carry forward any more credit hours than the statutory limit, even under extenuating circumstances. Employees are accountable for keeping track of their credit hour balances from day to day, week to week, and pay period to pay period. If an employee erroneously carries forward credit hours more than the allowable number and the credit hours are forfeited, the credit hours cannot be restored or paid to the employee. However, there is no prohibition to earning more than 24 credit hours in one biweekly period, but the employee must use the excess hours over 24 hours in the same pay period, or the excess credit hours will be forfeited.
- P. **Standing/Continuing Requests:** At the employee’s request, supervisors may approve continuing requests to work credit hours for known or anticipated work needs that are for a designated time period or time limited project. Approval for an employee’s continuing request to work credit hours for known or anticipated work needs must be made in writing from the supervisor to the employee and must include a designated time period or time-limited project for which credit hours are being approved to work. Requests for continuing approval for credit hours will not be unreasonably denied. At the employee’s written request, the supervisor will provide the reason for a denial in writing. Supervisors may grant standing approval to work credit hours for known or anticipated workload needs if the

credit hours are within the 3 credit hours per workday and within the 20 credit hours per pay period limit. Standing approvals for known or anticipated workload needs must be requested in writing and approved in writing for a designated period with an end date.

- Q. **Credit Hours Do Not Expire:** Although there is a statutory limit on the number of credit hours that an employee may carryover from one pay period to the next, there is no time limit for using earned credit hours. Credit hours do not expire. If the employee's credit hour balance does not exceed the statutory limit, those hours will be available for use as long as the employee is on the Agency's Maxiflex program described in this Article. If for any reason – voluntary or involuntary, separation or transfer—an employee leaves the Maxiflex program described in this Article, the employee will be paid for the accumulated credit hours at the employee's current rate of basic pay.

Section 9. Compensation and a Maxiflex Schedule

A. **Night Pay:** When an employee elects to work credit hours or elects a time of arrival or departure at a time of day when night pay is otherwise authorized, night pay will not be paid. If an employee's daily tour of duty includes eight or more hours available for work during daytime hours (i.e., between 6:00 a.m. and 6:00 p.m. local time), the employee is not entitled to night pay even though the employee voluntarily elects to work hours for which night pay is normally required (i.e., between 6:00 p.m. and 6:00 a.m. local time). However, if an employee who is ordinarily entitled to night differential pay is required to work outside the hours of 6:00 am to 6:00 pm, they are entitled to night differential.

B. **Holidays:** On a holiday, employees under Maxiflex work schedules are credited with 8 hours towards their 80-hour basic work requirement for the pay period, even if they would otherwise work more hours on that day. When the employee is scheduled to work more than 8 hours on the holiday that the employee is relieved from duty, hours greater than 8 must be rescheduled on another day, or the employee must account for those hours by charge to a category of approved absence. Part time employees will be credited with the number of hours that they would have actually worked that day had it not been a holiday; not to exceed 8 hours.

C. **Overtime, Compensatory Time and Credit Hours:** Overtime work consists of hours of work that are officially ordered in advance and in excess of 8 hours a day or 40 hours in a week, but does not include hours that are worked voluntarily, including credit hours. Credit hours are distinguished from overtime/compensatory time off hours in that credit hours are at the election of the employee. If an employee has elected to work credit hours and overtime/compensatory time is subsequently authorized, the employee will be afforded the opportunity to elect to work the overtime/compensatory time rather than accumulate additional credit hours.

D. **Conversion of Credit Hours to Pay:** Full time employees receive pay for a maximum of 24 hours of unused approved credit hours when they separate by retirement, transfer to another Agency, or when no longer subject to a flexible work schedule with credit hours. Part

time employees will be paid for credit hours up to one-quarter of their biweekly work requirement. Credit hours are paid at the employee's current rate of basic pay.

Section 13. Part-time Work

- A. Employees may request to a part-time work schedule of between sixteen (16) to thirty-two (32) hours per week. The Agency may, at its discretion, grant such a request.
- B. Employees on a part-time schedule may request to return to a full-time work schedule. The Agency may consider an employee's request to return to full-time status. If the request is denied, the Agency will, upon written request, provide a reason for the denial in writing.

Section 14. Job-Sharing Program

Management may consider requests from employees to voluntarily job-share a position.

Section 15. Non-Compliance and Removal from an AWS

A. Removal from an AWS: The supervisor or management official may remove an employee from AWS when there are documented misconduct or performance issues the supervisor determines are related to their ability to work effectively on an AWS, when the employee does not comply with the provisions provided in this article, or to meet the organization or unit's specific work-related needs. The default work schedule for the employee in such circumstances is a Straight-8 schedule or a modified Maxiflex schedule, but the supervisor or management official has the authority to permit temporary changes to the schedule on rare occasions and due to extenuating circumstances.

B. For AWS removals resulting from misconduct or performance issues related to their ability to work effectively on an AWS or for the employee's failure to comply with the provisions of this article, employees may apply no sooner than six months after termination.

C. For AWS removals resulting from work-related needs, the employee may reapply in the Agency's Official Time and Attendance System if or when any such issues are resolved. It is presumed the employee may return to their previous work schedule.

D. For minor issues of non-compliance, the supervisor may counsel an employee when they do not comply with the provisions of the AWS work schedules program. For face-to-face counseling (including virtual) employees are entitled to be accompanied by a union representative for any counseling and will be provided reasonable notice to obtain union representation, if requested. The supervisor must make clear that they are counseling the employee, and that the supervisor is concerned about whether or not the employee is following this Article. Counseling will consist of identifying the problem and what the employee must do or stop doing going forward. Nothing in this paragraph will prohibit management from multiple counseling sessions with an employee.

E. Supervisors are expected to use reasonable judgment and understanding that an employee may on rare occasions fail to comply with the many Maxiflex rules.

F. Before a decision to remove an employee from an AWS, the employee will be notified in writing of the reason for their removal and may provide a response within one work day. The employee may request to return to AWS after six (6) months.

Section 16. Implementation

Training: The Agency will prepare and offer training for all employees and supervisors on the requirements and provisions of this Article. The Union will have the opportunity to review the training materials and participate in the training.

1. Training shall be required for all supervisors and all timekeepers, for new employees or employees new to AWS, and those electing to work Maxiflex or CWS work schedules for the first time. Employees on existing AWS schedules, while not required to take training, are required to sign a statement that they are aware of and agree to abide by all guidance and rules.
2. Training sessions will be offered at least four times initially. A training package will be established within three (3) months of Agency Head review of this Article is completed for employees opting to work AWS after the initial training sessions have been conducted. Training materials, including Q&As based on questions received during the training, will be posted on the Agency intranet and notices of the availability of these materials will be sent to all employees at least twice a year, at the April mid-year evaluation and the October end-of-year evaluation

Section 17. Grieveability

Employees may grieve the denial of any work schedule request or the suspension of any work schedule request consistent with law and regulation.

FOR ESC:

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