

# SPECIAL ROUTE INSPECTIONS

## THE PROBLEM

Throughout the Postal Service managers and Carriers spend immeasurable time arguing about "Who should work the overtime." Because of that they come to the mistaken conclusion that their problems are Article 8 problems. Most of their problems, however, are the result of **overburdened routes**. Without overburdened routes, we would have a lot less overtime to talk about. "Article 19 - Handbooks and Manuals", incorporates the Methods Handbook M-39 into the National Agreement. It identifies for us what a properly adjusted route should be. Section 242.122 of the M-3

*"The proper adjustment of carrier routes means an equitable and feasible division of the work among all of the carrier routes assigned to the office. All regular routes should consist of as nearly eight hours as possible."*

In a 1987 award (N4N-1K-C 32218 & 34724), Arbitrator Grossman stated:

*"...The Parties agree that routes must be adjusted as close to eight hours as possible..."*

## THE SOLUTION

We can see that a properly adjusted route is an eight hour route. If a route is not properly adjusted, Section 270 of the M-39 tells us what must be done. It contains the provisions calling for Special Route Inspections.

Section 270 of the Methods Handbook M-39 reads:

### **270 SPECIAL ROUTE INSPECTIONS**

#### **271 WHEN REQUIRED**

*Special route inspections may be required when one or more of the following conditions or circumstances is present:*

- a. Consistent use of overtime or auxiliary assistance.*
- b. Excessive undertime.*
- c. New construction or demolition which has resulted in an appreciable change in the route.*
- d. A simple adjustment to the route cannot be made.*
- e. A carrier requests a special inspection and it is warranted.*
- f. Carrier consistently leaves and/or returns late.*
- g. If over any 6 consecutive week period (where work performance is otherwise satisfactory) a route shows over 30 minutes of overtime or auxiliary assistance on each of 3 days or more in each week during this period, the regular carrier assigned to such route shall, upon request, receive a special mail count and inspection to be completed within 4 weeks of the request. The month of December must be excluded from consideration when determining a 6 consecutive week period. However, if a period of overtime and/or auxiliary assistance begins in November and continues into January, then January is considered as a consecutive period even though December is omitted. A new 6 consecutive week period is not begun.*
- h. Mail shall not be curtailed for the sole purpose of avoiding the need for special mail count and inspections (date: October 22, 1984, incorporated into December 24, 1984 award).*

Seldom does management initiate a Special Inspection as called for under Section 271.a, b, c, d, and f. **If anything is done**, management typically tries to assess the situation with a 1-day instead of 5-day count. However, Section 271.e calls for a **5-day count** when **"a Carrier requests a Special Inspection and it is warranted."** Section 271.f identifies the requirements that must be met in order to qualify for a Special Route Inspection under 271.e. Those requirements

- 1. At least 30 minutes of overtime or auxiliary assistance**
- 2. On 3 days or more in a week**
- 3. For a 6 consecutive week period.**

Although Section 271.g of the M-39 doesn't **require** that a request be made in writing, we recommend that once these requirements have been met, the Regular Carrier always request the inspection under 271.e. **in writing, dated, and in duplicate**. Only then does the Carrier have physical proof that the request was made. That proof should be an adequate defense against an argument from management that the request was never made. It also starts the clock running on the time limits that management must meet on these inspections. The Memorandum of Understanding dated July 21, 1987 makes clear the time limits that **must be met** with regards to Special Inspections.

## **MEMORANDUM OF UNDERSTANDING July 21, 1987**

Re: Special Count and Inspection - City Delivery Routes

The United States Postal Service and the National Association of Letter Carriers, AFL-CIO, agree that it is in the best interests of the Postal Service for letter carrier routes to be in proper adjustment.

Therefore, where the regular carrier has requested a special mail count and inspection, and the criteria set forth in Part 271g of the Methods Handbook, M-39, have been met, such inspection must be completed within four weeks of the request, **and shall not be delayed**. If the results of the inspection indicate that the route is to be adjusted, such adjustment must be placed in effect within 52 calendar days of the completion of the mail count in accordance with Section 211.3 of the M-39 Methods Handbook. Exceptions may be granted by a Division General Manager only when warranted by valid operational circumstances, substantiated by a detailed written statement, which shall be submitted to the local union within seven days of the grant of the exception. The union shall then have the right to appeal the granting of the exception directly to Step 3 of the grievance procedure within 14 days.

Remember, that Memorandum identifies **specific** time frames that **MUST BE MET**. They are:

1. **"...such inspections must be completed within 4 weeks of the request and shall not be delayed," and**
2. **"If the results of the inspection indicate an adjustment, such adjustment must be placed in effect within 52 days of the completion of the mail count."**

Frequently, when a request for Special Inspection is made, management comes up with a hundred and one reasons why there is no need for the Inspection. The first normally heard has to do with the Carrier's "unsatisfactory performance." You know the one, "If you were working as hard as you should, it wouldn't take eight hours - I could do your whole route in six hours myself."

Arbitrators have consistently held that the appropriate way to judge the value of a Route, and the level of a Carrier's performance, is a Special Inspection. In 1979, Arbitrator Holly (N4N-S-16-327-D & 328-D) stated:

"The fact is that if management believed that the Grievant was performing unsatisfactorily, his [the Grievant's] heavy usage of overtime provided an opportunity, in fact an obligation, to make a Special Route Inspection as per Section 271 of the M-39."

In 1982, while stating the time limit for the Special Count and Inspection, a National Policy Letter also talked about excuses. It stated:

### **National USPS Policy Letter dated 4/14/82**

"If a route meets the criteria in Section 271g, M-39, and the Regular Carrier assigned to the route requests a Special Count and Inspection, management **must conduct** the count and inspection within 4 weeks of the request and in accordance with appropriate procedures outlined in Chapter 2, M-39. **Unsatisfactory conditions such as 'poor case labels,' 'poor work methods,' or 'no route examiners available'** should not be used as an excuse not to conduct the inspection within the 4-week time frame."

In 1985, Arbitrators Levak and Pribble commented on the issue. Levak said:

### **Arbitrator Levak (W4N-5B-D-3530)**

"The basic principle established by [the National Agreement, Article 34.A-C] is that each employee is to be individually judged by the fair day's work that he accords the Service and that any work standards must be fair, reasonable, and equitable...Accordingly, it is clear that...standards must be established in accordance with M-39"

He also commented that once a Route qualifies for a Special Inspection, and the Regular Carrier requests one, any discipline for expansion of Street Time is inappropriate unless and until such time as an Inspection is conducted.

"It should be noted that the reference in 271.g to 'otherwise satisfactory performance' necessarily relates to 'improper practices' as that term is used in the M-39, Chapter 2, and not to comparisons between the Carrier and other carriers or between the Carrier and himself at an earlier stage in his life."

**Arbitrator Pribble (C4N-4J-C 6365, 4720, & 6273)**

"...one of the contractually required methods for determining the extent and location of problems [on the route] is the Route Inspection."

Despite arguments to the contrary by local managers, Step 4 Settlements in 1980, 1982, and 1983 made it clear that being overburdened is **a function of the ROUTE and not of the Carrier.**

**7N8-W-0343/W8N5BC9396**

1980 Step 4 Settlement

"The Union contends that the provisions of the M-39, Section 271 refer to the Route and NOT THE REGULAR CARRIER...This position is consistent with that of the Postal Service."

**H8N-4B-C-21531**

1982 Step 4 Settlement

[The Regular Carrier's]...request [for a Special Inspection] was refused because within the 6 consecutive work week period, he was off sick. The Union contends the criteria for the Special Inspection has been met even though the Carrier was not serving his Route during the entire period in question.This position is consistent with that of the Postal Service."

**H1N-5G-C 1983**

1983 Step 4 Settlement

"...if the Carrier's restriction is only the fact that he is limited to 8 hours of duty, and no other limitation exists which could distort a proper evaluation, the [Carrier] may qualify for a Special Inspection.

Although sometimes argued to the contrary by Local Management, the right to a Special Route Inspection is unaffected by the fact that the office may be undergoing, or be scheduled for, a unit and route review. A Unit and Route Review, as discussed in Section 211.1 of the M-39, is based on **linear route count** and other variables contained in Section 214 of the M-39. The Special Route Inspection is based on **actual piece count** and follows the same guidelines as a formal count and inspection.

**MANNER OF INSPECTION**

The Memorandums of Understanding signed in 1981 and 1984 regarding Route Inspections changed the requirement from annual inspections to annual "Unit and Route Reviews", which were intended to keep routes in adjustment. For most of us they have had little effect. Since we no longer have the annual inspections, we have increasing need for Special Inspections to get routes into proper adjustment. Numerous Step 4 settlements have made it clear that manner of inspection for Special Inspections is the same as for the old annual inspections.

**NC-W-5287/W2092-76N**

1977 Step 4 Settlement

"...Generally special inspections shall be conducted in the same manner as the annual count and inspection...The route may be inspected on more than one day of the week."

**NC-E-10846/E3MOU-739**

1978 Step 4 Settlement

"...we did mutually agree that a supervisor should normally reserve any comments about [the Carrier's] performance during a special route inspection until the inspection is later discussed with the Carrier."

## H1N-5H-C 6171

1982 Step 4 Settlement

"Section 221.31 of Methods Handbook, Series M-39 provides for carrier verification of count when the manager counts the mail during a mail count and inspection. The intent of this language is also applicable to Special Office mail counts as provided for in Section 141.2 of the same Handbook."

Special Inspections differ from Regular Annual Inspections only in that they may be conducted in June, July, or August. The restrictions in the M-39, Section 211.1 against route inspections in June, July, and August apply **only** to management initiated Formal Route Inspections, **not** to employee initiated Special Route Inspections. Section 272 requires that a special route inspection must be conducted "in the same manner as a formal count and inspection." This section governs how, not when they are conducted. Section 272 of the M-39 tells us that the Special Route Inspections provided for in Section 271 must be conducted **in exactly the same manner** as regular counts and inspections called for under Section 221.11 of the M-39 and "**ARTICLE 41.3.S.**"

### 272 MANNER IN WHICH CONDUCTED

"When special inspections are made because of conditions mentioned in 271, they must be conducted in the same manner as the formal count and inspection."

### 211.1 SCHEDULE

"The count of mail on all letter delivery routes, regular and auxiliary, must be for 6 consecutive delivery days...It is not mandatory that mail counts begin on Saturday and continue through Friday so long as they are made on consecutive delivery days."

No Letter Carriers can be required to have a Special Route Inspection in June, July, or August, since Special Inspections can only be triggered by the request of the Carrier. A letter Carrier has the option of delaying a request for a Special Inspection, qualified for under Section 271g, until the end of summer. It is, however, not always in the best interest of letter carriers to request them during the low volume summer months.

## MANNER OF ADJUSTMENT

Once we get through the inspection and move on to the adjustment, we run into an entirely new set of problems. Arbitrators have held that it is not sufficient for the Postal Service to merely follow the procedures specified in the M-39 when examining and adjusting routes. Rather, **the final result must be an eight hour route.**

### C-07630 Arbitrator Dilts

"The inspections are not before the arbitrator as part of the present issue. What is before this arbitrator is the matter of adjustments. In examining the record, it is clear that the subject routes are not eight hour routes. This does not mean that the procedures for adjustment were somehow violated. The methods by which adjustments are made and the results of those adjustments on letter carrier work loads may be viewed as separable issues under the language of the M-39."

### N4N-1K-C 32218 & 34724

Arbitrator Grossman, 1987

"...Therefore, in any future cases where Section 271(G) of the M-39 Handbook is violated by management; or the routes are not adjusted to eight (8) hours, a monetary remedy is necessary to make the Grievants whole..."

### W4N-5K-C 45235

1988 Step 3 Settlement

"...Management has failed to implement the adjustments of the routes after counts were made..."

### W4N-5B-C 8594

Arbitrator Lange, 3/21/89

"The Service's inaction on the inspections and adjustments violated the Carrier's rights to an eight-hour (8 hour) route, regardless of their individual desire or need for overtime work."

## W4N-5T-C 36919

Arbitrator Lange, 8/23/89

"Since a valid request for a Special Route Inspection was made on October 4, 1986, the completion date pursuant to the M-39 was November 4, 1986 [not April 1989]. Contrary to the Service's argument, if a route adjustment is indicated by the results of the special route inspection, **the adjustment must be made.**"

Even if everybody accepts the fact that the end result must be an eight (8) hour route, we are faced with problems in the immediate future. Postal Headquarters has mandated that local managers exhaust **ALL** alternatives to route adjustment by territory transfer **prior to making an adjustment by territory transfer**. The M-39 established the basis for this decision. Section 243.21.b states:

"Permanent relief may sometimes be provided by reducing carrier office time. Consider items such as additional firm holdouts, relocating of vehicle parking, withdrawal of mail by clerks or mailhandlers, providing a cart system for accountable items, etc..."

We know which manner of adjustment we prefer. We all know the easiest manner of adjustment to put a definitive value on. We all know the manner of adjustment that we are most familiar and comfortable with, **Territory transfer**. However, we must accept the fact that it's unlikely, at least for the time being, that we'll get that kind of adjustment. We must also be prepared to deal with the alternative methods of adjustment in such a way that we actually end up with eight (8) hour assignments.

## REMEDY FOR FAILURE TO INSPECT/ADJUST

### W4N-5B-C 8594

Arbitrator Lange, 3/21/89

"As is pointed out in the often quoted Eaton award (W8N-5K-C 13928), **there is no right without a remedy.**"

Arbitrators have granted monetary remedies in cases where the Postal Service violated the Contract by refusing to conduct special route inspections when they were required to do so by the terms of the M-39, Section 271. They reasoned that, since the grievants were required to work overtime they should not have worked, no possible future remedy could return that time to them. Since merely instructing the Postal Service not to violate the Agreement in the future would not, in their view, be sufficient to make the grievants whole, monetary remedies were ordered.

### C4N-4J-C 6365, 4720, & 6273

Arbitrator Pribble, 1985

"In this case, the three Grievants have been required to work overtime that they should not have worked. No possible future remedy can return this time to them. Moreover, it would be an insufficient remedy here to merely instruct the MSC not to breach the Agreement in the future... The employer is ordered to pay [the Grievants] one extra hour's pay at their regular rates of pay for each and every day... that each Grievant has worked overtime until the results of their Special Inspections are implemented."

There is more agreement among arbitrators that **some** monetary remedy is due in such cases, than there is upon the exact form any such remedies should take. In contrast to Arbitrator Pribble's award cited above, Arbitrator Grossman, in C-06720(12-16-86), ordered the Postal Service to pay "**one hour's pay at his regular rate of pay for each and every hour that he was required to work in excess of eight and one half hours.**" Other arbitrators have ordered, or memorialized consent awards agreeing to, monetary payments in fixed dollar amounts as remedies.

### W4N-5K-C 45235

1988 Step 3 Settlement

"...The Carriers identified above are to be given a lump sum payment of \$250 each."

### W4N-5B-C 8594

Arbitrator Lange, 3/21/89

"The appropriate Remedy is that the Carriers who had requested route adjustments in October 1984 shall receive Administrative Leave in an amount equal to fifty percent (50%) of all overtime hours worked from September 13, 1985, to the day when the route adjustments were implemented."

## W4N-5T-C 36919

Arbitrator Lange, 8/23/89

"The appropriate remedy is that the Grievant shall receive one additional hour of pay at his straight time rate for each overtime hour worked from January 2, 1987, to the implementation date of his route adjustment in November 1988."

After review of all applicable arbitration awards, the NALC Contract Administration Unit has concluded that the most appropriate remedy in these cases is similar to those granted in C-07630 (Diltz 10-1-87) and C-07536 (Sirefman 11-9-87). The following wording is suggested:

**"All carriers not on the Overtime Desired List be paid an additional 50 percent premium for all overtime worked from the time the special route exam should have been conducted until such time as the results of the exam are implemented."**

In review, let's consider what we've discussed.

1. **Carriers have the Contractual right to an eight hour assignment,**
2. **Section 271.g of the M-39 lays out the criteria that a Route must meet in order to qualify for a Special Inspection,**
3. **Inspections of routes that qualify for an inspection, must be conducted within four (4) weeks, and if over eight (8) hours, must be adjusted within fifty two (52) calendar days.**
4. **All of the above have substantial support in numerous arbitrations, Step 4 settlements, Memorandums of Understanding, and USPS National Policy Letters.**