



COLLECTIVE BARGAINING AGREEMENT

between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

THE NATIONAL TREASURY EMPLOYEES UNION

The effective date of this agreement is October 8, 2015

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
1	Coverage	1
2	Effect of Law and Regulation	3
3	Employee Rights	4
4	Rights of the Employer	9
5	Union Rights	10
6	Union Representation and Official Time	13
7	Use of Official Facilities	18
8	Position Classification/Position Descriptions	22
9	Employee Performance Evaluation	25
10	Actions Based on Unacceptable Performance	44
11	Career Ladder Promotions	46
12	Promotions	48
13	Details and Temporary Promotions	60
14	Reassignments	62
15	Within-Grade Increases	64
16	Training	67
17	Hours of Work	70
18	Overtime	76
19	Annual Leave	78
20	Sick Leave	80
21	Advanced Annual/Sick Leave	83
22	Leave Without Pay	84
23	Administrative Leave	86
24	Other Leave Provisions	89
25	Awards	91
26	Health and Safety	93
27	Dues Withholding	97
28	Labor Management Relations	101
29	Reduction-in-Force	102
30	Equal Employment Opportunity	108
31	Temporarily Disabled Employees	110
32	Part-Time Employment	111
33	Mid-Term Negotiations	113
34	Negotiated Grievance Procedure	116

TABLE OF CONTENTS, cont.

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
35	Arbitration	122
36	Outside Activities and Employment	126
37	Parking	127
38	Personnel Records and Access to Information	128
39	Waiver of Overpayment	130
40	Travel and Per Diem	131
41	Prohibited Personnel Practices	135
42	Retirement/Resignation	138
43	Probationary Employees	139
44	Unfair Labor Practice	141
45	Duration and Termination	142
46	Contracting Out	143
47	Assignment of Work	144
48	Adverse Actions	145
49	Disciplinary Actions	150
50	Voluntary Leave Transfer Program	154
51	Transfer of Function	155
52	Medical Qualifications Determination	156
53	Workers Compensation	157
54	Telework	158
55	Employee Counseling and Assistance	170
56	Child Care Subsidies and Facilities	171
57	Transit Subsidy	172
58	Student Loan Repayment	173
Appendix A	OIG-EPA Warning/Assurance to Federal Employees Required to Provide Information	
Appendix B	Report of Official Time	
Appendix C	EPA-NTEU Telework Application	
Appendix D	EPA-NTEU Telework Agreement	
Appendix E	NTEU Employee Self-Certification Safety Checklist	
Appendix F	NTEU Notice of Termination of Telework Agreement	
Appendix 9-1	Performance Appraisal and Recognition System Performance Plan	
Appendix 9-2	Record of "Min-Sat" Counseling Conversation	

ARTICLE 1 COVERAGE

Section 1. Exclusive Recognition

The Environmental Protection Agency (EPA), hereinafter known as the Employer or the Agency, recognizes the National Treasury Employees Union (NTEU), hereinafter known as the Union, as the exclusive representative for the following employees:

Headquarters

Included: All professional employees of the United States Environmental Protection Agency employed by and located at the Headquarters Offices, Washington, D.C., metropolitan area.

Excluded: All non-professional employees; management officials; supervisors; confidential employees; employees engaged in personnel work in other than a purely clerical capacity; employees engaged in administering the Statute; employees engaged in intelligence or other security work directly-affecting national security; employees primarily engaged in investigation or audit functions related to the internal security or integrity of the Agency; consultants; experts appointed under 5 CFR 304.101; Commission Corps Officers; employees on an IPA assignment; intermittent employees; and temporary employees of 90 days or less.

Region IX

Included: All nonprofessional employees of Region IX, Environmental Protection Agency.

Excluded: Professionals, supervisors, management officials, guards, employees engaged in Federal personnel work in other than a purely clerical capacity, Public Health Commissioned Officers, State assignees, employees detailed to EPA from other agencies, temporary employees of less than 90 days, Neighborhood Youth Corps Trainees, and College Work-Study students.

Cincinnati, Ohio

Included: All professional and nonprofessional General Schedule employees of the U.S. Environmental Protection Agency, Cincinnati, Ohio.

Excluded: Management officials, supervisors, intermittent employees, temporary employees of 90 days or less, Commissioned Corps employees, employees on Intergovernmental Personnel Act (IPA) assignment, co-op and student employees, employees of the following components: Office of Prevention, Pesticides and Toxic Substances; Office of Science Policy; Emergency Response Team; Office of Civil Rights; Office of the General Counsel; and employees described in 5 U.S.C §7112(b)(2), (3), (4), (6) and (7).

Edison, New Jersey

Included: All professional and nonprofessional General Schedule employees of the Environmental Protection Agency, National Risk Management Research Laboratory, Urban Watershed Management Branch located in Edison, New Jersey.

Excluded: Members of the U.S. Commission Corps; employees on an Intergovernmental Personnel Act (IPA) assignment; co-op and student employees; management officials; supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Region VII

Included: All professional employees of Region VII, EPA, Kansas City, Kansas. Excluded: All nonprofessional employees; Commissioned Officers; management officials; supervisors; and employees described in 5 USC 7112 (b)(2), (3), (4), (6) and (7).

Section 2. Other Units

If the Union becomes certified as the exclusive collective bargaining representative for any employees or bargaining unit not currently covered by this Agreement, this Agreement shall extend automatically to all employees covered by that certification on the sixtieth (60th) day following the certification of such unit. However, the dues withholding provisions of the Agreement shall be applicable upon certification of the Union.

Section 3. Not Covered

The terms and conditions of the Agreement do not apply to employees or positions of the Agency not a part of the bargaining units listed above, subject to Section 2 above.

ARTICLE 2

EFFECT OF LAW AND REGULATION

Section 1.

As of the effective date of this Agreement, the Parties are governed in all matters covered by this Agreement, existing and future laws; government-wide rules and regulations in effect upon the effective date of this Agreement. In any conflict between EPA orders, manuals, notices, and advisories in effect on the effective date of this Agreement, and the terms of this Agreement, the Agreement will govern.

Section 2.

Any rule or regulation published after the effective date of this Agreement, over which the Employer is obligated to bargain to the extent required by law, will not be enforced for bargaining unit employees either (1) until the Parties have fulfilled their bargaining obligations in accordance with the FLMRS, or (2) if it conflicts with the specific terms of the Agreement. An exception to this provision will be if the Parties mutually agree to accept enforcement of the rule, regulation, etc. If they agree, the rule or regulation will be effective upon agreement.

Section 3.

Local level agreements and practices will not conflict with the terms of this Agreement.

ARTICLE 3

EMPLOYEE RIGHTS

Section 1.

A. The employer and the Union will recognize and respect the dignity of employees, supervisors and managers in the formulation and implementation of personnel policies, practices and conditions of employment and, at all times, treat employees with courtesy and respect. Relationships between employees, their representatives, and their supervisors will be mutually conducted in a businesslike, courteous and tactful manner.

B. Employees recognize their responsibility to promptly comply with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule, regulation or Agency policy, he/she should state his/her beliefs to his/her supervisor. Additionally, Supervisors recognize their responsibility to ensure that all orders and instructions are consistent with law, rule, regulation or Agency policy.

C. The employee may document his/her belief that the order or instruction violated one or more laws, rules, regulations or Agency policies. If an employee refuses to carry out an order or instruction promptly and the EPA takes an adverse personnel action against the employee as a result of such refusal, that employee may assert as a defense that he/she believed the order or instruction to be illegal. An employee will not be subject to discipline on the basis that the employee carried out the order of the supervisor.

Section 2.

As provided by 5 USC 7102, each employee shall have the right to form, join or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right, except as otherwise provided under 5 USC Chapter 71. Such rights include the right:

1. To act for a labor organization in the capacity of a representative and the right in that capacity to present the views of the labor organization to the Employer, the heads of agencies, and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
2. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this agreement.

Employees formally assigned (as documented by a SF-52) to a non-unit position may not concurrently serve as a Union representative.

Section 3.

A. The initiation of a grievance in good faith by an employee does not affect the employee's standing

with the Agency. Employees who have relevant information concerning any matter for which remedial relief is available under this agreement will, in seeking resolution of such matter, be assured freedom from restraint, interference, coercion, discrimination, intimidation or reprisal.

B. Employees will be free from restraint, coercion, discrimination, interference or reprisal for designating the Union as his/her representative in a matter of concern over the interpretation or application of this Agreement or of representing the employees to any Government agency or official other than the Employer.

Section 4.

If there is a disagreement between the employee and the Employer regarding the employee's right to Union representation pursuant to section 5 of this article, Article 5, sections 2 or 5, and Article 9, sections 24 or 25, the meeting will be delayed no more than one full workday, in order to permit the employee to consult with his/her Union representative, and for the supervisor to consult with the local HR office. Contact with union representatives and/or HR officials should occur as soon as the meeting is scheduled.

Section 5.

A. In accordance with 5 USC 7114(a)(2)(B), the Union will be given the opportunity to be represented at any examination of an employee in the unit by a representative of the Employer in connection with an investigation if (1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and (2) the employee requests the representation. Prior to the start of such an examination, the Employer will inform the employee of the purpose of the meeting.

B. Employees will be informed annually of this right to representation through e-mail at the beginning of each calendar year.

C. If an employee requests Union representation under this Article and a Union representative is not available, the examination will be rescheduled as soon as practicable, but not to exceed two (2) workdays in order to secure a Union representative. If the examination will be in a field office/place based office outside of a regional or district office, or in a headquarters office located in the field where no union representative is co-located, the examination may be rescheduled as soon as practicable, but no longer than (5) five workdays in order for the employee to secure a representative.

D. Any discussion with employees by representatives of the Employer which may reasonably be considered by an employee to lead to disciplinary action will be conducted in private.

At any meeting as referenced in Section 5A above, the Employer agrees:

1. To inform the employee in advance of the meeting, of the general subject of the interview, including whether or not it is criminal in nature; and
2. That the interview will be scheduled to allow the employee an opportunity to seek the counsel of a Union representative and to prepare for the investigatory interview.

E. Employees shall be given any warnings required by law to protect their constitutional privilege

against self-incrimination in criminal proceedings. Refusal to respond to questions based on a proper invocation of the privilege against self-incrimination in a criminal proceeding may not be used as the sole basis for a disciplinary or adverse action. The Employer may determine, in circumstances potentially involving criminal misconduct, that it is necessary or desirable that employees being interviewed be required to respond to questions concerning misconduct or face disciplinary/adverse action, provided that the employees are informed that their answers cannot be used to incriminate them. In such cases, the Employer shall provide a Kalkines warning, orally and in writing, to the employee being investigated (Appendix A).

F. When employees are given the warning, they shall be given a “Statement of Rights and Obligations.” Employees will acknowledge on the statement the receipt of the above warning. Employees may acknowledge on the statement the receipt of this warning. Employees shall be given a copy of the statement for their records. The employee’s acknowledgment indicates only that the employee received the warning. It does not constitute the employee’s admission of any wrongdoing by the employee.

G. When an employee being interviewed is accompanied by a Union representative, the role of the representative includes:

1. Requesting that the interviewer clarify questions;
2. Clarifying responses provided by the employee;
3. Assisting the employee in providing favorable extenuating facts;
4. Suggesting other employees who may have knowledge of relevant facts; and
5. Advising and/or conferring privately with the employee during the course of the meeting.

At the conclusion of the interview, the Union representative and employee may meet briefly to determine if there are additional facts the employee would like to bring to the interviewer’s attention. In the event EPA changes the Kalkines statement in accordance with law, rule or regulation, EPA will provide a copy of the new form to NTEU before it is used.

H. Interviews of employees by investigative officials of the Employer will be limited to matters having a nexus to the efficiency of the service.

Section 6.

All employees will be officially notified at least on an annual basis of the Employer’s policies regarding the monitoring of employee use of the computer system.

Section 7.

Upon request, employees will be authorized up to a maximum of one (1) hour of administrative leave annually, or at the employee’s option may use their lunch break to consult with a national Union-sponsored benefits counselor. Supervisors will approve such requests unless precluded by the employee’s workload.

Section 8.

Employee participation in the Combined Federal Campaign, blood drives, and other solicitations will be voluntary, and employees will not be coerced to contribute. Supervisors may solicit pledges or contributions from employees generally, however, a supervisor will not solicit pledges or contributions from an individual employee under his/her supervision.

Section 9.

An employee cannot be required to tell a supervisor the specific circumstances surrounding his/her need to contact a Union representative. An employee who wishes to meet with a Union representative shall request permission from his/her supervisor prior to leaving the work site indicating the expected duration of his/her absence. Refer to Article 6 for the procedures for documenting use of official time.

Section 10.

In keeping within the spirit and mission of EPA, no sooner than ninety (90) days from the effective date of this Agreement, any remaining delivery of paychecks will be discontinued. Employees will be required to utilize electronic fund transfer unless they qualify for an exemption pursuant to EPA policy 9903.

Section 11.

Subject to the availability of funds and demonstrated need, the Employer will provide the normal and routine current level of service offered by existing health units. Where considered feasible based on the location of the health unit, such services will include care for employees during emergency situations and until proper medical authorities can reach the employee. As testing, inoculations, and special programs are offered by the health unit, such programs will be made available to employees on an as-available basis. If a health unit is closed, or the level of services provided by the health unit will change, the Employer will notify the local union prior to the change and negotiations will occur in accordance with this agreement.

Section 12.

The Employer will comply with all government-wide regulations pertaining to health benefit coverage for employees and open season procedures. The local union can access via the Intranet the OPM approved and provided FEHB Guides (RI-70-1) for the current year and any other OPM materials.

Section 13.

To the extent of its authority and ability, and consistent with its right to determine internal security procedures in accordance with law and statute, the Employer will provide a work environment free from recognized hazards that are likely to cause death or serious harm.

Section 14.

Unit employees' access to existing EPA-sponsored health/fitness centers will continue into the new

agreement. Any changes within management's discretion (e.g., availability to unit employees, fees charged, etc.) will be handled at the local level pursuant to Article 33. The decision to support unit employees' access to exercise facilities will be based on the number of employees who are using or can reasonably be expected to use such facility, the availability of funding for such purpose, the availability of other facilities in the office area, etc. Any change in unit employees' access to such facilities will be handled pursuant to Article 33.

Section 15.

Based on local need and space availability, space will be provided for a lactation room. Should business purposes dictate that space set aside for a lactation room is required to meet mission needs, the Employer will provide the employees with advance notice of the imminent loss of the lactation room. When specific lactation rooms are not available, employees may make arrangements to use vacant offices or conference rooms for lactation purposes.

ARTICLE 4
RIGHTS OF THE EMPLOYER

Section 1. Authority of the Employer

A. In accordance with and subject to the Civil Service Reform Act of 1978, nothing shall affect the authority of the EMPLOYER:

1. To determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
2. In accordance with applicable laws;
 - a. To hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - (1) To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the agency operations shall be conducted;
 - (2) With respect to filling positions, to make selections for appointments from:
 - a. Among properly ranked and certified candidates for promotion or;
 - b. Any other appropriate source; and
3. To take whatever actions may be necessary to carry out the Agency's mission during emergencies.

ARTICLE 5 UNION RIGHTS

Section 1.

The National Treasury Employees Union has been accorded recognition as the exclusive representative of the employees in the unit it represents and is entitled to act for and negotiate collective bargaining agreements covering all employees in the unit. The Union has the right to negotiate with respect to changes in personnel policies, practices, and other matters affecting working conditions. The Union may refuse to represent employees in proposed disciplinary actions, in statutory appeals (for example, adverse actions and equal employment opportunity complaints) and in any other matters permitted by law.

Section 2. Formal Discussions

The union shall be given the opportunity to be represented at formal discussions between the Employer and employees concerning grievances, changes in personnel policies and practices, or other matters that affect working conditions of employees in the unit. The Union President or designee will be notified via electronic mail at the earliest practicable date in advance of any formal meetings; but no less than three (3) workdays in advance of the meeting(s). NTEU recognizes that circumstances may arise with regard to health, safety, facility, or security concerns that require immediate action. In those circumstances, the Employer will provide the NTEU with notice of a formal meeting as soon as possible. If NTEU is unable to provide representation at the meeting due to time constraints, the Employer will give reasonable consideration in, providing up to two (2) additional days to ensure representation.

The union representative will introduce him/herself to the organizer of the meeting, stating his/her role for attending the meeting is to represent the interests of the bargaining unit. The Union representative may participate in such discussions in an orderly fashion, may ask questions, and may outline the Union's position concerning the issue(s) discussed. The Union representative may also inform employees that if any of them wish to discuss or consult with the Union on the meeting topics further or in private, the employee may come to the Union office or another area to meet. If an employee(s) wishes to discuss or consult with the Union regarding any matters discussed at the meeting, he/she may do so in accordance with the procedures contained in Article 3, Section 9.

Section 3. Right to Represent Employees without Restraint, Interference, Coercion, or Discrimination

The Employer shall not restrain, interfere with, coerce, or discriminate against designated representatives of the Union in the official exercise of their responsibilities as representatives for the purpose of collective bargaining, processing grievances, or acting in accordance with applicable regulations and agreements on behalf of an employee or group of employees within the bargaining unit.

Section 4. Bargaining Unit Status Report

For each NTEU Chapter, the Employer will provide at no cost electronic reports of bargaining unit employees each quarter. These bargaining unit status reports will be in an excel spreadsheet or similar format with similar functionality and will include the following information: the employee name,

employee ID number, e-mail address, grade and step, position title, organizational element/unit broken down by Region/Assistant Administrator-ship, Office, Division and Branch, and location/building code. In the event a Union Chapter brings any discrepancies or inaccuracies in the quarterly bargaining unit status report to the Employer's attention, the Employer shall resolve, as soon as practicable, the issue and demonstrate that the issue has been resolved no later than twenty-one (21) calendar days following the report of the discrepancy or inaccuracy to the Employer, unless an extension is mutually agreed to by the parties.

Section 5. Orientation of New Bargaining Unit Employees

During each orientation session, the Employer shall provide the Union with electronic copies of the parties CBA on CD or comparable electronic media. The Union will distribute these copies to the bargaining unit employees attending the orientation. In the event the Union is not able to send a representative to the orientation session, the Employer will distribute the CBA to the bargaining unit employees.

Representatives of the local Chapter will be allowed to participate in the orientation for new bargaining unit employees, in order to inform them of the Union's exclusive recognition status and to provide the employee(s) with literature as determined by the local Chapter, and discuss the parties' Collective Bargaining Agreement. NTEU may produce and distribute any NTEU provided orientation materials which may include a list of names, phone numbers, office location, and email addresses of applicable Chapter President, Vice President, Chief Steward, and Membership Chairperson. The representatives will be given up to 30 minutes at the orientation session to engage in the aforementioned activities with new bargaining unit employees.

NTEU may, during the time provided, introduce the Union at orientation by showing an NTEU video. Management will work with the NTEU to provide technical assistance to facilitate the use of available equipment for the viewing of the video.

If an employee is not included in a group orientation, the appropriate Chapter will be afforded up to thirty (30) minutes to meet with the employees on the employee's first day, or as soon as practicable following the employee's first day. If additional time is required for orientation related matters the employee shall make a request in accordance with Article 3, Section 9.

All other procedures for participation and notification of orientation sessions will be handled at the local level.

Section 6. Briefing on Term Agreement

Each local Chapter shall be granted up to two (2) hours of official time to brief bargaining unit employees on the contents of the term agreement. When necessary, the two (2) hour briefing can be extended by mutual agreement to three (3) hours. At the Union's election, one briefing will be held at each location, except HQ which will have four separate briefings. The briefings shall occur within sixty (60) workdays from the time the Collective Bargaining Agreement is distributed pursuant to Article 7, Section 9.

Section 7. Union Access to Information Regarding Changes in Personnel Policies, Practices, Conditions of Employment, and/or New Rules or Regulations

A. The Employer recognizes its obligations to provide the Union and its representatives with relevant and necessary data within a reasonable time period pursuant to the standards set forth in 5 USC Section 7114(b)(4). When a request cannot be fulfilled within seven (7) working days, the Agency will notify the Union. The parties will then confer to discuss a timeline for the production of the information, modification of the request, and providing/receiving the information that is available early in an interim response. The parties may also agree to postpone or amend deadlines relating to Union-initiated actions that may be impacted by an information request.

B. The Employer will provide the Union with the website or an electronic copy (or a hard copy if not available electronically or on website) of all changes to EPA Orders, Directives, Manuals, and issuances relating to personnel policies, practices, procedures, and matters affecting working conditions of bargaining unit employees.

Section 8. Bargaining Unit Surveys

Prior to surveying bargaining unit employees, the Employer will provide the Union with a copy of the survey document and allow the Union an opportunity to comment on it. The Union will receive a copy of any survey results obtained.

ARTICLE 6

UNION REPRESENTATION AND OFFICIAL TIME

General

The parties recognize and agree that the union has the right to represent and protect the right of employees to organize, bargain collectively and participate through the union in decisions which affect them and facilitate and encourage the amicable settlement of disputes between bargaining unit employees and managers, contributing to the effective conduct of public business, and safeguarding the public interest.

Section 1. Official Time & Union Representatives

A. Official time shall be granted to employees who are representatives of the Union, who have been designated in writing and who are otherwise in a duty status, to accomplish the specified functions as set forth herein.

B. In addition to four Chapter officials, the Union will be entitled to one steward for every 35 bargaining unit employees. Nothing in this section will preclude an NTEU National representative from representing the Union or an employee. One steward will be designated as a chief steward. The Chapter will strive to identify stewards across organizational units such that employees will have reasonable access to a steward.

C. The Chapter will provide a current listing of officials and stewards authorized to receive official time to the local Human Resources Office (HRO) point of contact within 2 weeks after the effective date of this agreement. Thereafter, the Chapters will provide a list of officials/stewards for whom official time is authorized at least once annually (January), and within 2 weeks after any change of any official/steward, to the point of contact. The Employer will not approve such official time until the servicing HR Office receives the written notice. Failure to provide timely notice of a change in steward designation will not serve to deny an employee representation.

D. The Chapters will continue with the current number of full time representatives.

E. Either party may re-open Article 6 only in accordance with Article 45 and is not subject to local negotiations.

Section 2. Union Representational Functions Warranting Approval of a Reasonable Amount of Official Time

A. All authorized representatives shall be granted a reasonable amount of official time in accordance with Section 5 to:

1. Present and prepare for grievances at any step of the Negotiated Grievance Procedure;
2. Represent an employee or the Union at an arbitration hearing, including necessary preparation time;

3. Appear as a witness at any step of a grievance;
4. Appear as a witness at an arbitration hearing;
5. Meet and confer with management;
6. Prepare for and represent an employee (e.g., EEOC, MSPB) or the Union (e.g., FLRA) in appeal hearings covered by regulatory or statutory procedures;
7. Attend meetings or committees on which Union representatives have authorized membership;
8. Represent the Union in formal discussions, grievances or any personnel policy or practice or other general condition of employment of employees, or any other matters covered by 5 USC 7114 (a)(2)(A);
9. Represent employees in investigatory interviews if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests representation;
10. Prepare for meetings scheduled by management to which the union has been invited;
11. Assist employees when designated as their representatives in preparing and presenting a response to a proposed disciplinary, adverse or unacceptable performance action;
12. Prepare responses to management-initiated correspondence to the union;
13. Assist a probationary employee in order to prepare replies in response to a proposed termination;
14. Prepare and negotiate with the Employer, including mediation and impasse proceedings;
15. Confer with employees with respect to matters for which remedial relief may be sought pursuant to terms of this Agreement;
16. Meet with national or field staff representatives of the Union in connection with a grievance, negotiations, arbitration or ULP charge;
17. Prepare reconsideration statements and attend meetings in connection with the denial of within grade increases, when designated as the employee's representative;
18. Contact members of Congress and their staffs to discuss legislative and related matters affecting the Employer and its employees;
19. Participate in ADR activities on behalf of unit employees;

20. Attend Employer-sponsored activities to which the Union has been invited;
21. Present information and attend formal employee orientation sessions;
22. Prepare and maintain records and reports required of the Union by 5 USC 7120;
23. Respond to parties, including journalistic media and members of the general public, who make inquiries of the Union regarding issues affecting the terms and conditions of employment of the bargaining unit (any request for an Agency position on such matters is to be referred to the Office of Media Relations); and
24. Communicate with bargaining unit employees on issues involving terms and conditions of employment.

Section 3. Internal Union Business Precluding Granting Official Time

Any activities performed by Union representatives relating to the internal business of the Union (including the solicitation of membership, election of officials, and collection of dues) shall be performed during the time the Union representatives are in non-duty status.

Section 4. Official Time for Employees

A. Employees who are otherwise in a duty status will be granted a reasonable amount of official time to participate in the following activities:

1. Present and prepare for grievances at any step of the negotiated grievance procedure, including arbitration;
2. Appear as a witness at any step of the grievance process, including arbitration;
3. Prepare and attend appeal hearings covered by regulatory or statutory procedures when their attendance is necessary;
4. Confer with the Union with respect to matters for which remedial relief may be sought pursuant to the terms of this Agreement;
5. Meet with national or field staff representatives of the Union in connection with a grievance, negotiations, arbitration or ULP charge;
6. Prepare reconsideration statements and attend meetings in connection with the denial of within grade increases;
7. Participate in ADR; and
8. Communicate with the Union on issues involving terms and conditions of employment.

B. In requesting time, the employee will follow the procedures delineated in Section 5. The Union will make every effort to ensure that employees do not use an unreasonable amount of official time.

Section 5. Procedure for Use of Official Time

The following procedures apply for the use of official time:

The Union representative and affected employee will notify his or her supervisor or designee of his or her intent to use time under this Article, and the anticipated duration of such usage. The representative and affected employee(s) will be granted the requested time unless their absence would substantially interfere with meeting an essential work related deadline, or pressing mission related need. If the Union representative and/or the employee is not allowed official time, he/she will be granted such use at the earliest possible date, generally within one day. Any denial of official time must be made as quickly as possible and the reasons therefore stated in writing, at the written request of the employee. Upon return to the work area, the representative and/or employee will notify the supervisor of his/her return. The Union representative will document the time spent on representational activities on Appendix B.

Section 6. Official Time for Union Sponsored Training

A. Official time is available for stewards/officials to attend union-sponsored training. Requests for the training time must be made through the supervisory chain at least 10 days in advance of the training, absent extenuating circumstances and must include the name(s) of the affected representatives, the date, time and place of training, and the subject matter. Approval will be subject to workload exigencies.

B. The parties recognize that the training of chapter officers, Chief Stewards, stewards and other chapter representatives is considered to be of mutual interest to the Union and the Employer. Therefore, each chapter will be granted 200 hours of official bank time for the training of such chapter representatives for each year of the contract and for each year that the contract is extended.

Section 7. Use of Official Time and Performance Assessment

A. Union representatives will not be disadvantaged in the assessment of their performance based on their use of official time when conducting labor-management business.

B. The performance of Union representatives will be rated on the basis of prorated work time; i.e., the work performed on available work time after official time has been subtracted.

C. Full time Union representatives may volunteer to do work for their program offices. If a full-time Union representative wishes to engage in regularly assigned work for the purpose of maintaining any necessary license or certification, the representative must coordinate the request to do so with the organization to which the representative is nominally assigned. Any such work assignments will be based on the organization's need to maintain efficient and effective performance. Any such work will be rated/evaluated in accordance with Article 9.

D. For purposes of a RIF, full time union representatives who do not receive a performance rating of record during the time served as a full time representative, will be considered having received the equivalent of a Pass rating for the time that they served full time with the union.

E. Full time union representatives who return to their previous positions within EPA are to be offered retraining when necessary. Additionally, full time union representatives who return to their previous positions within EPA are to be given a reasonable amount of time to familiarize themselves with the duties and responsibilities of the position before being required to meet the performance requirements of the position. Returning employees in need of retraining will discuss and develop in consultation with their immediate supervisor a retraining program.

Section 9. Official Time to Participate in Third Party Proceedings

A. When serving as a designated employee representative in an established appeal procedure, Union representatives shall receive such official time as may be provided or allowed in the law or regulations governing the appeal procedure.

B. Union representatives and employees shall be granted official time, as determined by the Federal Labor Relations Authority, for participation on behalf of the Union in any phase of proceedings before the Authority during the time the representative or employee would otherwise be in duty status.

Section 10. Official Time for Authorized Travel

Where official time is available to employees and Union representatives under the terms of this Article, it shall include all necessary, authorized travel time in accordance with the GTR and EPA travel policy.

Section 11. Travel & Per Diem for Union Representational Activities & Union Sponsored Training

The Union may submit requests for travel and per diem for representational purposes, including union-sponsored training. Such requests are to be submitted to the LR point of contact for coordination. Management will review such requests on a case by case basis. Any denials of such requests will not be grievable.

ARTICLE 7

USE OF OFFICIAL FACILITIES

Section 1. Meeting Space

Upon advance notice by the Union, the Employer will provide meeting space, if available, for meetings, during or after hours. The Union will comply with all security and housekeeping rules and will use local scheduling systems. The meeting may not extend beyond the hours the building is normally open.

Section 2. Office Space and Furniture

The Employer will continue to provide dedicated office space and furniture in the current locations. Changes to the size or location of office spaces, and/or changes to the furniture currently provided are subject to local negotiations by the parties to the extent required by law.

Section 3. Union Access to Government Equipment

- A. The Union will be granted reasonable access, at no cost to NTEU, to LAN, TV/VCR, teleconferencing, fax machines, copiers, scanners, and email, for union representational activities in accordance with Section 4 of this Article. NTEU will be provided reasonable access to videoconferencing equipment if available, at no cost, when necessary for representational activities. The Union will be granted access and reasonable use to a color printer if one is available and necessary.
- B. The Employer will provide each NTEU Chapter with a computer (which may be a laptop), printer, telephone, and voicemail, removable media and associated peripherals consistent with the equipment routinely provided to Agency employees. This hardware and/or software will be refreshed in a manner consistent with the Employer's refresh cycle.
- C. The Employer shall provide the NTEU office a computer with access to Internet resources in a manner consistent with safe and secure IT practices and pursuant to Agency IT policies and procedures applicable to all employees. NTEU may request access to any blocked or filtered sites through the procedures established by the Office of the Chief Information Officer or the appropriate Agency office. If the National Office of the Union reports a problem in communicating with bargaining unit employees through the employer's email system, Agency IT staff will work with local union officials to resolve the problem.
- D. Each Union steward will have access to a telephone. If the steward does not have access to a private telephone, the Employer will, to the extent practicable, allocate space to facilitate the steward's ability to conduct private conversations for representational purposes. Union representatives who have access to Government telephones, voicemail, e-mail, or Government-owned computers, for performing his or her regular duties, may utilize those devices for labor-management matters in accordance with the applicable provisions of Article 6 of this Agreement.

E. Section 4. Use of Email

The Union recognizes that the email system is the property of the employer. In addition:

- A. Use by the Union will be restricted to representational purposes pursuant to 5 USC Section 7101 et. seq.;
- B. Email attachments may need to be limited based on the Agency information technology systems. If the Union email contains attachments the union will limit the size of the attachment to two (2) megabytes in size. For attachments larger than two megabytes, the union will use a link to "Quickplace" or a comparable tool. The Agency will provide reasonable IT support to enable a link. The Union will limit its email communications to those employees who have a relevant interest in the subject matter.
- C. The Union will ensure that no email will violate law or security or contain defamatory material or material maligning the integrity of any individual, the Employer, or the Federal Government.
- D. In addition to the Chapter President, the Union will designate one individual responsible for adherence to this section for mass mailings (i.e., emails sent to all bargaining unit members). The Chapter President will inform the local HR office of the additional designee;
- E. The Union is subject to the same standards that apply to all users as established by EPA Policy.

Section 5. Bulletin Boards

- A. The Employer will provide to the Union, at a minimum one bulletin board per building containing bargaining unit employees. Any additional bulletin boards will be negotiated locally. It is agreed that the Union may title the designated bulletin board space as, "NTEU Chapter _____"
- B. The Union will ensure that no posting will violate law or security or contain defamatory material or material maligning the integrity of any individual, the Employer, or the Federal Government.

Section 6. Mail Distribution

- A. The Union may use the Employer's internal mail system to distribute mail for official representational purposes. The Union shall have the right to receive U.S. Postal Service mail or private express mail services addressed to the Union. The Employer will not, under any circumstances, open such mail addressed specifically to the Union.
- B. The Union shall be permitted to perform desk drops to bargaining unit employees subject to the following constraints:
 - 1. Reasonable notice of a planned desk drop must be given to the appropriate Labor Relations Specialist. Such notice will be given either verbally or in writing far enough in advance so that one (1) full workday elapses between receipt of the notice and execution of the desk drop.

2. The employee performing the desk drop will do so on his or her own time (e.g. lunch periods, before/after work, on annual leave, credit time, or time-off award, or LWOP). When desk drops are performed after work hours, they will be completed by the time the building normally closes.
3. The following area will be considered "restricted areas" and desk drops will not be performed in them: Labor Relations Offices, management areas, or offices in which no bargaining unit employees are located.
4. Employees will not read the material during work time and the Chapter will instruct the employees to this effect.

Section 7. Access to Union Chapter President's Telephone Number

At the request of the union and upon receipt of the relevant information from the Union, the Employer shall list the names of the Chapter President and all full-time NTEU representatives, NTEU titles, telephone numbers, and e-mail address on the Employer's telephone, electronic directory, and the Lotus Notes directory. Appropriate changes will be made in a timely manner when each is updated.

Section 8. Use of Other Non-Work Areas

A Union representative, certified by the Union's National Office, upon advance notice, may visit, as scheduled, the union office, auditorium or other non-work areas located on the Employer's premises to discuss appropriate Union business, including NTEU membership programs on non-work time.

Section 9. Distribution of Collective Bargaining Agreement

- A. The Employer shall provide each bargaining unit employee with an electronic copy of the parties' Collective Bargaining Agreement on a compact disc or other comparable electronic media. The Employer shall provide the National Office with 150 bound copies of the parties' Collective Bargaining Agreement for distribution among their Chapters.
- B. The Employer will provide NTEU's National Office with an electronic copy of the Collective Bargaining Agreement on compact disc or other comparable electronic media.
- C. If requested by a visually challenged employee, the Employer will be responsible for providing a copy of the Collective Bargaining Agreement in an alternative format, e.g. Braille or an electronic copy of this Collective Bargaining Agreement that is accessible to visually impaired employees and, thus, complies with the Rehabilitation Act, 29 U.S.C. § 701, *et seq.*

Section 10. Access to EPA Webpage

- A. The Agency will make available a web site for each local chapter on the intranet. The Union will be responsible for all content posted at its web site. The Employer will post an electronic version of this Collective Bargaining Agreement on each of the local Intranet sites where Chapter material is maintained. The Employer shall provide IT support that will post

material onto the web site. The Chapter will maintain its site in accordance with the same standards applicable to all other users. The Parties at the local level will have to agree on operational issues such as size limits, use of standard software, frequency of updates, and adherence to security controls. The Chapter will provide the Human Resource Office point of contact with a list of the employees that are authorized to post information to the Intranet site.

- B. The Employer will maintain a clearly titled and appropriately positioned link from its Intranet site to NTEU Chapters 279, 280, 294, and 295 web sites, in the event the Chapter maintains a web site. The Employer shall provide a reasonable amount of IT support that will post material onto the EPA web site. The Chapters will be responsible for all content presented at their respective web sites. The Chapter will provide the Human Resource Office point of contact with a list of the employees that are authorized to post information to the Intranet site. NTEU is bound by the Employer's rules that govern use of these resources. The Employer reserves the right to disable the link(s) or remove the content should it determine that information contained on the linked site is defamatory or contains material maligning the integrity of any individual, the Employer, or the Federal Government.
- C. The Employer shall maintain a clearly titled and appropriately positioned link from its Intranet site to the NTEU National web site (<http://www.nteu.org>). The Employer reserves the right to disable the link should it determine that information contained on the linked site is defamatory or contains material maligning the integrity of any individual the Employer, or the Federal Government.

Section 11. Ballot Box Elections

In locations where NTEU does not have a union office, the Employer will provide NTEU a reasonable amount of space to conduct ballot box elections.

Section 12. Chapter Newsletter

Subject to the requirements of this article regarding email distribution, including Sections 4 C and 10 B, NTEU Chapters may electronically distribute any Chapter newsletters and/or materials directly to bargaining unit employees or post any Chapter newsletters or materials to the local NTEU intranet site and notify employees of the Chapter by e-mail of the new or updated material in accordance with the provisions of this Article.

ARTICLE 8

POSITION CLASSIFICATION AND POSITION DESCRIPTION

Section 1.

Bargaining unit employees shall be provided a current position description reflecting their principal duties and responsibilities, within 30 days of entering on duty in that position. Employees may discuss with supervisors any perceived substantial differences between the duties assigned or performed, and those contained in the position description. At times an employee may be required to perform duties which are incidental to the principal duties and responsibilities of the position, as well as duties which may be required in emergency situations, consistent with the agency's mission. When changes in the duties, responsibilities, or supervisory relationship so warrant, the position description may be amended or rewritten.

Section 2.

Bargaining unit employee(s) will be given reasonable advance notice of any position audit or review that may affect the classification of the employee's position. The Union will be given reasonable advance notice of management-initiated audits (i.e., not in response to employee requests or dissatisfaction with current title, series or grade) of two or more bargaining unit employees that may affect the classification of the employees' position. Prior to the audit, the employee will be allowed to review the "Employee Guide to Desk Audits" to prepare for the audit. If the audit or review results in proposed changes to the employee's position description, the employee will be notified prior to effecting the change. Additionally, the employee will be provided a copy of any written evaluation prepared by the Employer as a result of an audit or review.

Section 3.

An employee dissatisfied with the classification of his/her position should first discuss the classification with his/her supervisor. If the supervisor is unable to resolve the issue to the employee's satisfaction, the appropriate human resources official will explain the basis for the classification/job grading.

Section 4.

A General Schedule employee who still believes his/her position is improperly classified may:

1. Request a desk audit at the local level (i.e., the HR office serving that region, lab or headquarters component). This step must happen before selecting any other options provided in this section, since an "appeal" is an appeal of the decision made at the local level.
2. File an appeal at the agency level to the Director, Office of Human Resources and Organizational Services, who is the Agency Appellate Authority; or
3. If dissatisfied with the agency's decision, the employee may file a subsequent

appeal with the Office of Personnel Management; or

4. File an appeal with the Office of Personnel Management through the agency; or
5. File an appeal directly with the Office of Personnel Management.

Section 5.

A Federal Wage System employee who still feels his/her position is improperly classified may:

1. Request a desk audit at the local level (i.e., the HR office serving that region, lab or headquarters component). This step must happen before selecting any other options provided in this section, since an “appeal” is an appeal of the decision made at the local level.
2. File an appeal with the Director, Office of Human Resources and Organizational Services who is the Agency Appellate Authority; and
3. Provide the name, address, and business telephone number of the employee’s representative, if a representative has been selected; and
4. Provide information on other decided or pending appeals, complaints, or administrative decisions where the classification of the same position is or was an issue; and
5. If dissatisfied with agency’s decision the employee may file an appeal with OPM within fifteen (15) calendar days of the date of the receipt of the agency decision.

Section 6.

The appeal should discuss the specific aspects of the position that the employee thinks were either misunderstood or not considered adequately. It should also include copies of the current classified Position Description, and any evaluation report by OHR. The position description submitted should be the employee’s current position description of record.

Section 7.

The Union may assist an employee who has filed a classification appeal with the Employer in the preparation of the appeal.

Section 8.

When the Agency is afforded the opportunity to review and comment on proposed position classification standards by OPM, for bargaining unit positions covered by the agreement, the Agency will provide notice to the Union at the national level. If the opportunity to review the draft is not available to the Union via the OPM website, the Agency will provide the information to the Union. The Union may forward its comments separately to OPM.

Section 9.

The Agency will, upon request, provide the Union with access to written classification standards and qualification standards which the Employer maintains, if such are not available on the Agency's intranet site.

Section 10.

The Employer agrees to inform the Union as soon as possible if significant changes will be made in the duties and responsibilities of positions held by bargaining unit employees due to reorganization or realignment of program responsibilities, or when changes in position classification standards result in changes to title, series or grade or bargaining unit status of bargaining unit employees. The Union may request to make recommendations and present supporting evidence pertaining thereto. The Union must provide its recommendations and supporting evidence within 20 calendar days of the notification. The Employer will consider the Union's recommendations and upon request advise the Union of the results of its review.

ARTICLE 9
EPA-NTEU Performance Appraisal and Recognition System (PARS) Agreement

Section 1. Preamble.

- A. The performance appraisal system will emphasize:
1. Linking employee performance elements and standards directly to the Agency's mission, strategic goals, programs and policy objectives, and/or annual performance plans;
 2. Communicating expectations to employees in a result-oriented performance plan which is applied to their respective areas of responsibility and stated in terms of observable, measurable, and demonstrable performance appropriate to the employee's position description (inclusive of grade level).
 3. Creating a framework for managers and employees to have an ongoing dialogue about the employee's job performance and developmental needs.
 4. Through the Benchmark Standards, differentiating between levels of performance to provide an equitable basis for personnel actions.
 5. Providing managers with uniform objective, and consistent bases for evaluation to provide feedback and appraise employee performance.
 6. Providing a process to improve less than fully successful performance.
- B. Authorities. The administration of all matters covered by this Article shall be governed by 5 U.S.C. Chapter 43; 5 CFR Part 430, 5 CFR Part 432, and 5 CFR Part 531; and EPA Order 3110.16, Reduction in Grade and Removal Based on Unacceptable Performance.

Section 2. Definitions.

- A. "Agency Benchmark Standards" are the written measures of the levels of achievement for employees' duties and responsibilities.
- B. "Additional performance element" means a dimension or aspect of individual, team, or organizational performance that is not a critical element. Pursuant to 5 CFR Section 430.203, such elements will not be used in assigning summary rating levels but are useful for other purposes such as communicating performance expectations.
- C. "Appraisal period" means the established period of time for which performance will be reviewed and a rating of record prepared.
- D. "Assumptions" means known factors over which an employee has little or no control, but which might exert a significant impact on the employee's performance or ability to achieve an objective. Employees will not be held accountable under critical elements for factors outside their control.

- E. "Critical Element" means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable. Such elements shall be used to measure performance only at the individual level.
- F. "Interim rating" means a written rating prepared as input to the rating of record by the former supervisor when a change of supervisor occurs during the appraisal period. An employee must have completed the minimum period of performance to receive an interim rating.
- G. "Measurement Source(s)" means all sources that may establish reliable and supportable bases for a rating and may be used to determine if standards are met or not met. They may include personal supervisory observations, employee written work product, customer, stakeholder and/or team leader feedback.
- H. "Measures and Metrics" means the management-approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at a particular level of performance. Measures may include quality and timeliness of the performance of a particular duty or responsibility. Metrics may be a quantity or an amount of work required to be performed by an employee in a particular position.
- I. "Minimum period of performance" means the minimum amount of time (90 calendar days) under a performance plan that must be completed before a rating of record may be given.
- J. "Performance plan" means all of the written or recorded performance elements setting forth expected performance. A performance plan must include all critical elements and their performance standards. Each performance plan must state the Agency Benchmark Standard described at the "Fully Successful" level. A sample Performance Plan is attached as Appendix 9-1.
- K. "Performance Assistance Plan (PAP)" means a written document from the employee's supervisor, designed to assist an employee to improve performance which is at the "Minimally Satisfactory" level.
- L. "Performance improvement plan (PIP)" means a written document from the employee's supervisor, designed to help an employee improve performance which is at the "Unacceptable" level.
- M. "Performance standard" is the agency benchmark standard with elaboration or clarification as appropriate. The performance standards establish the expressed measure of the level of achievement established by the Employer for the duties and responsibilities of a position or group of positions. Each critical element must have a "Fully Successful" performance standard.
- N. "Progress review" is a required meeting with the employee during the course of the performance cycle where performance progress in critical and additional elements is discussed. A progress review is required once a year, normally held at the mid-year point of the performance cycle and should be documented. The progress review may also include an assessment of the performance plan, development of a plan of action for improving performance (where appropriate), and a discussion of individual development. Along with the Performance Plan, the progress review forms a foundation for employee development; performance improvement; and/or the summary rating of record.

- O. "Rating" means the written appraisal of performance for each critical element as measured by the performance standard(s) for each critical element on which there has been an opportunity to perform for the minimum period.
- P. "Rating of record", also known as the Summary Rating, means the performance rating prepared by the rating official at the end of an employee's appraisal period for performance over the entire period and the assignment of a summary level. The summary level ratings include: "Outstanding," "Exceeds Expectations," "Fully Successful," "Minimally Satisfactory," and "Unacceptable." This constitutes the official rating of record as defined in 5 CFR Part 430. Ratings of record are the official documentation used for personnel actions such as within-grade increases, career ladder promotions, successful completion of probationary period, reduction in force, and adverse performance-based actions, absent acceptable substitutes in accordance with Government-wide regulations.

Section 3. Appraisal Period.

The appraisal Period is also known as the Performance Period. The Performance appraisal period shall run concurrently with the Agency's fiscal year beginning on October 1st and end on September 30th.

Section 4. Minimum Performance Appraisal Period.

Only employees who have completed a minimum period of performance will be evaluated at the end of the appraisal period. The appraisal period begins for individual employees when the employee signs or declines to sign the performance plan. If the minimum 90 day cycle cannot be met before the end of the appraisal period, the appraisal period must be extended until the 90 days are met.

If the employee has not completed the minimum period of performance by the end of the performance cycle, then the rating of record is given at the end of the minimum period. (This section does not apply to employees moving into a new position in the last month of the annual rating cycle, in which case they will be rated by their previous supervisor.) For new EPA employees entering the agency in the last month of the appraisal period, that month will be included as part of the subsequent performance period for appraisal purposes. The new employee will be placed on performance standards for this performance period within thirty (30) days of entering the Agency.

Section 5. Benchmark (Performance) Standards for Rating a Critical Element and Summary Rating Levels.

- A. Agency Benchmark Standards: The Employer has determined that there are five Agency Benchmark Standards for evaluating performance under each critical element. Ratings at all levels must be evaluated in the context of the grade level and job duties of the individual employee to the extent they apply to the critical element. The five Agency Benchmark Standards are listed. Employees do not need to fulfill each requirement listed within a particular Agency Benchmark Standard to be awarded a summary rating level.
 - 1. Outstanding (O): Delivers products or services that, to an extraordinary degree, support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services are of exceptional quality and provide exemplary models for addressing the most difficult and complex work challenges and demonstrate the highest levels of creativity, skill, and knowledge of subject area. Products are consistently produced ahead of the

expected timeframes and reliably comply with applicable statutes, regulations, and established policies and procedures. Adjusts with exceptional quickness and ease to changing priorities, consistently taking the lead. Products or services demonstrate exceptional research and analysis. Exhibits exceptional skills in independently planning, organizing, and prioritizing multiple assignments. Consistently develops and offers suggestions for organizational and work process improvements that substantially increase results, efficiency, or effectiveness. Communicates verbally and in writing with exceptional clarity and effectiveness, often on topics or issues that are emerging and without precedent. Written materials are always well received and easily understood by a range of individuals and groups and significantly promote the Agency's programs and mission. Provides exceptional leadership in promoting teamwork and collaboration across organizations. *Measures and metrics may be included.*

2. Exceeds Expectations (EE): Delivers products or services that, to a degree beyond what can reasonably be expected, support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services are of superior quality and provide excellent models for addressing the most difficult and complex work challenges and demonstrate high levels of creativity, skill, and knowledge of subject area. Products or services are frequently produced ahead of the expected timeframes and reliably comply with applicable statutes, regulations, and established policies and procedures. Adjusts quickly to changing priorities, often taking the lead. Products or services demonstrate high quality research and analysis. Exhibits excellent skills in independently planning, organizing, and prioritizing multiple assignments. Frequently develops and offers suggestions for organizational and work process improvements that increase results, efficiency, or effectiveness. Communicates verbally and in writing with excellent clarity and effectiveness, often on topics or issues that are emerging and without precedent. Written materials are consistently well received and easily understood by a range of individuals and groups, significantly promoting the Agency's programs and mission. Provides high quality leadership in promoting teamwork and collaboration across organizations. *Measures and metrics may be included.*
3. Fully Successful (FS): Delivers products or services that support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services are of a good quality and provide good models for addressing work challenges and require high levels of creativity, skill, and knowledge of subject area. Products are produced within the expected timeframes and reliably comply with applicable statutes, regulations, and established policies and procedures. Adjusts to changing priorities. Products or services demonstrate thorough research and analysis. Exhibits effective skills in independently planning, organizing, and prioritizing multiple assignments. Develops and offers suggestions for organizational and work process improvements that increase results, efficiency, or effectiveness. Effectively communicates verbally and in writing. Written materials are well received and easily understood by a range of individuals and groups, promoting the Agency's programs and mission. Promotes teamwork and collaboration across organizations. *Measures and metrics may be included.*
4. Minimally Satisfactory (MS): Delivers products or services that marginally support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services demonstrate occasional deficiencies in creativity, skill, and knowledge of subject area. Products or services are occasionally produced in an untimely manner or do not comply with applicable statutes, regulations, and established policies and procedures. Has some

difficulty adjusting to changing priorities. Products or services sometimes lack adequate research and analysis. Occasionally demonstrates difficulty with independently planning, organizing, and prioritizing multiple assignments. Infrequently offers suggestions for organizational and work process improvements that increase results, efficiency or effectiveness. Verbal and written communications lack clarity. Written materials are generally not well received or understood by a range of individuals and groups. Infrequently promotes teamwork and collaboration across organizations. *Measures and metrics may be included.*

5. Unacceptable (U): Often delivers products or services that do not support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services demonstrate frequent deficiencies in creativity, skill, and knowledge of subject area. Products are not produced in a timely manner and do not comply with applicable statutes, regulations, and established policies and procedures. Often has difficulty adjusting to changing priorities. Products or services often lack adequate research and analysis. Often demonstrates difficulty with independently planning, organizing, and prioritizing multiple assignments. Rarely offers suggestions for organizational and work process improvements that increase results, efficiency or effectiveness. Verbal and written communications often lack clarity. Written materials are frequently not well received or understood by a range of individuals and groups. Does not promote teamwork and collaboration across organizations. *Measures and metrics may be included.*

B. Summary Ratings

The Employer has determined that there are five summary rating levels. No further distinctions may be documented or recorded.

1. The five summary rating levels are:

- a. Outstanding (O)
- b. Exceeds Expectation (EE)
- c. Fully Successful (FS)
- d. Minimally Satisfactory (MS)
- e. Unacceptable (U)

2. Summary Performance Ratings of Record: The summary rating applies those ratings assigned to each Critical Element in the performance plan. The following formula determines the summary performance rating level (rating of record) for the year:

Outstanding (O): One-half or more Critical Elements are rated Outstanding and none are rated lower than Exceeds Expectations.

Exceeds Expectations (EE): One-half or more Critical Elements are rated Exceeds Expectations or higher and none are rated lower than Fully Successful.

Fully Successful (FS): One-half or more of the Critical Elements are rated at least Fully Successful and none of the Critical Elements are rated Unacceptable.

Minimally Satisfactory (MS): One-half or more of the Critical Elements are rated at least Minimally Satisfactory and none of the Critical Elements are rated Unacceptable.

Unacceptable (U): One or more Critical Elements are rated Unacceptable.

3. When an even number of Critical Elements (CE) is established for a performance plan and the summary ratings given for the CEs are evenly divided, and none of the summary ratings are “Unacceptable”, the rating official shall “round-up” and assign the higher summary rating.
4. Not Ratable (NR): In the rare circumstance that an employee’s performance will not be able to be observed during the appraisal period resulting in a rating of record not being prepared at the end of the appraisal period, the appraisal period shall be extended until the conditions necessary to complete a rating of record have been met. The NR designation indicates only that the employee is not ratable for the current appraisal period and it is not a rating of record. Once the conditions necessary to complete a rating of record are met, the rating of record shall be prepared as soon as practicable.

C. Narrative Justification

All performance appraisals must contain a written narrative justification for each critical element and summary rating beyond simply stating that the standards for a given critical element or that all critical elements (as regards the summary rating) have been met, not met, exceeded, etc. Normally, rating narratives need not exceed two single-spaced typed pages. If no justification is available due to a lack of opportunity to perform on a particular critical element or where observation of performance was necessary but not possible, this fact will be so noted.

Section 6. Supervisors' Performance Management Responsibilities.

Supervisors are responsible for preparing and reviewing performance plans, performance ratings, and performance-related personnel actions, in accordance with the terms of this Article.

Performance Standards will be applied in a fair and objective manner. They will measure actual work performance in relation to the performance requirements of the positions to which employees are assigned and will be based on a reasonable and representative sample of the employee's work.

Employees are responsible for participating in the performance management process, providing input to performance plan and preparing for and engaging in performance discussions. Employees are encouraged to seek performance feedback on an ongoing basis.

Section 7. Content of the Performance Plan.

A performance plan must contain the following items:

- A. Title. "Performance Plan."
- B. Elements. Name and/or description of each performance element.

- C. Element Type (Critical or Additional). Each element will be designated as either a critical element or an additional element. A performance plan shall contain a maximum of five and a minimum of two critical elements. Additional elements are optional.
- D. Performance Standard. A Performance Standard is defined in Section 2 of this Article. The performance standard will clearly define what will constitute Fully Successful performance.
- E. Measurement Source(s). Each performance plan must identify the sources that may establish a reliable and supportable basis for a rating and may be used to determine if standards are met/not met. Measurement Sources are defined in Section 2 of this Article.
- F. Element Rating. Each critical element must have an element rating of O, EE, FS, MS, or U.
- G. Assumptions. The identification of known factors over which an employee has little or no control but which might have a significant adverse impact on his/her ability to successfully meet required performance.
- H. Employee Signature/Date. The employee's acknowledgment of receiving the performance plan.
- I. Supervisor's Signature/Date. Identification of the supervisor and his/her approval of the performance plan.

Section 8. The Performance Plan.

The performance plan is determined by the supervisor. The steps to writing a performance plan include:

- A. Identifying two to five critical elements, considering the organizational strategic goals, function, responsibilities, priorities, and the position description. Critical elements are for individual performance only and affect the employee's summary rating. Additional elements are optional and may be used to review group performance. Additional elements do not affect the summary rating. All elements are rated O, EE, FS, MS, or U.
- B. Using Fully Successful performance standard for each critical element. The fully successful performance standard is derived from the agency benchmark standard with elaboration or clarification as appropriate.
- C. Performance plans must permit the accurate evaluation of job performance. To the extent feasible performance plans should utilize objective criteria related to the positions and grade level in question. These criteria must be written into the performance plan and be shared with the employee.
- D. Performance standards must be specific, observable, measurable and appropriate to the employee's position description (inclusive of grade level). The performance standard must provide a clear means of assessing whether objectives have been met.
- E. Performance plans will be applied in a fair manner for all employees with substantially similar critical elements, performance measures and with similar working conditions, with particular attention to employees performing the same job in the same work unit. To the extent practical

performance plans for employees with similar critical elements, performance measures and working conditions should be substantially similar.

- F. Forced Distribution: the Employer will not prescribe a distribution of levels of ratings for employees covered by this Article.
- G. Both the critical elements and the accompanying performance standards in a performance plan must be consistent with the employee's Position Description (PD). Critical elements and performance standards that are outside of the scope of employees' PD are inappropriate. During the appraisal period it may become clear that the employees' performance plan is being interpreted to require work outside of the scope of the employees' PD. In such an instance, the supervisor will initiate a revision to the employees PD, in accordance with applicable law and the CBA, or change the employees' standards and/or assignments to bring them into line with the employees' PD.
- H. No job function can be designated a critical element unless unacceptable performance under a critical element would result in a determination that an employee's overall performance is unacceptable (5 CFR 430.203).
- I. The supervisor is responsible for using appropriate means to keep performance plans current and accurate and to obtain the performance data required to accurately assess the employee's performance. Employees are encouraged to present any concerns about the accuracy of the performance plan to the supervisor for consideration.
- J. In establishing critical elements and measures and metrics, consideration will be given to:
 - 1. The resources available and the authority delegated necessary to meet the identified critical elements and measures and metrics;
 - 2. Employee input; and
 - 3. Critical Elements and measures and metrics for comparable positions and grade levels.
- K. Employees cannot be held accountable on critical elements for factors outside their control.
- L. When there are unresolved differences between the immediate supervisor and the employee regarding critical elements and performance standards, the employee may add written comments for consideration and final determination by the second-level supervisor.
- M. Employees may be responsible for promoting Agency goals, but will not be held accountable for supervisory goals. Such supervisory goals are the responsibility of the individual supervisor.
- N. Upon request, when establishing an employee performance plan, supervisors will permit an employee to view relevant sections of the supervisor's performance plan in order to better understand how their critical elements are affected by cascading down of a strategic objective. The act of cascading is to take a strategic objective from the senior executive performance plan and link it to the supervisor's performance plan and to the employee's plan through a critical element. This ensures work products or services achieve the required outcomes or objectives.

- O. While not required the supervisor and employee are encouraged to engage in a discussion to clarify the requirements for achieving a rating higher than “Fully Successful.”

Section 9. Communicating Performance Plans.

- A. It is the supervisor's responsibility to communicate the expectations as described in the formal written performance plan to employees within the first 30 days of the appraisal period or within 30 days of the employee's arrival in a new position. The individual employee and supervisor should then agree on the plan by both signing and dating it. However, if the employee and supervisor cannot agree, the plan will still be implemented by the supervisor. The date the employee signs, or refuses to sign, the plan is the beginning date of the minimum period of performance. If the employee refuses to sign the plan, then the supervisor annotates the disagreement and date in the employee signature block. If the employee disagrees with the plan, the employee may attach a statement of concern to the original performance plan. Employees will be provided with a reasonable amount of duty time to prepare the statement of concern. An employee's signature on a plan, where provided for, indicates only that the performance plan has been received, not an employee's agreement with the performance plan. The supervisor shall keep the original plan and provides the employee with a copy.
- B. Each critical element and, if applicable subsections of the critical element, will be numbered and/or lettered for identification purposes. The Employer will inform the employee, at the time that critical elements and performance standards are communicated, whether any aspects of critical elements are to be accorded different priority or criticality. Employees may notify the Union of any changes to their performance plan.
- C. The Agency shall not initiate performance-based action i.e. PAP, PIP, when a performance plan: a) has not been in effect for the period of time specified by this Article; and b) does not comport with the required contents of a performance plan as set forth in this Article.
- D. Upon request, electronic or hard copies of performance plans shall be provided to the Union in a manner consistent with applicable law, rule and government-wide regulation.

Section 10. Changes to performance plans during the performance cycle

- 1. Keeping performance plans current and accurate. A critical element may be added or amended during the appraisal period; however, the supervisor shall not rate an employee on an added or substantially changed critical element until the employee completes the minimum period of performance (90 days) under the added or amended critical element. The employee will be given any changes in the performance plan in writing and may discuss any of the changes with his/her supervisor. Supervisors are responsible for ensuring employees have current and accurate performance plans. Employees may participate in the performance management process by providing input to performance plans and preparing for and engaging in performance discussions. Employees may present concerns with regard to the performance plan to the supervisor for consideration.
- 2. Subsequent discussions on the contents of the performance plan shall occur when there is a change in the work situation which materially alters the performance plan, including, but not limited to the following:

1. A change in the supervisor of record;
2. When an employee returns from an extended absence of ninety (90) calendar days or more.

Section 11. Progress Reviews

In addition to the annual performance appraisal, the supervisor will have at least one formal feedback discussion (progress review) with the employee, usually by mid-year. Usually this discussion will be held between the supervisor and the employee. There may be circumstances for a supervisory team leader to participate in a meeting regarding an employee's performance. Frequent informal reviews of performance throughout the appraisal period may be requested by the employee or conducted by the supervisor. The progress review(s) should be open, candid, and aimed at improving work products, and provide an opportunity for feedback regarding accomplishments and individual developments. At the employee's request, progress reviews will be captured in writing.

The performance appraisal period will begin on October 1st, and end on September 30th. The mid-year performance review will usually occur during the month of April.

- A. Supervisors are encouraged to provide performance feedback to employees on a quarterly basis throughout the rating cycle. Employees are encouraged to seek feedback at anytime during the performance year.
- B. The process of monitoring performance is ongoing. Therefore, the Employer will counsel employees in relation to their overall performance rating on an as needed basis. Such counseling will normally take place when a supervisor notices a decrease in performance and include advice or recommendations on better communicating job requirements, identifying and providing supplemental training (classroom and on-the job), and providing additional coaching, monitoring, mentoring, and other developmental activities, as appropriate, to help improve employee performance until the employee shows improvement. Special emphasis should be given to those cases when an employee's performance indicates a decrease in the overall rating.
- C. Progress reviews shall be scheduled at least one week or more in advance (or as otherwise agreed upon), in order to allow the employee to provide advance input at the option of the employee. If, during or after the mid-year progress review, an employee is in disagreement with the review or feels the supervisor has failed to note accomplishments, such will be discussed with the supervisor during or after the progress review meeting.
- D. Progress reviews shall be conducted in a manner that protects the privacy and dignity of the employee. With the supervisor's permission, the employee may request that a Union representative be present at a progress review. If a Union representative is present the supervisor reserves the right to have another management official or HR representative present.
- E. If performance related information may adversely affect the employee's rating, the employee will be made aware of the information at least seven (7) calendar prior to the review in order to facilitate his or her ability to respond and correct inaccurate information. The sources of such information will be annotated in the performance evaluation. Supervisors will not withhold pertinent and objective information necessary to appraisal of the employee's performance. In the interest of full and fair communication, supervisors will communicate areas of improvement, performance issues and other potential negative feedback as soon as practicable.

- F. The Agency will grant employees a reasonable amount of duty time to make written comments concerning any disagreement with a progress review. Such comments will be attached to and retained with the written review. The supervisor will determine the appropriate time for the employee to prepare the written response based on workload demands. Normally, this time will be scheduled no later than three (3) work days after the receipt of the request for duty time.
- G. Progress reviews are not considered ratings of record and therefore are not grievable in and of themselves; however, they may be challenged in the context of a grievance over an assigned rating of record.
- H. When a review of an employee's work performance is made by a supervisor above the employee's immediate (or first line) supervisor and that review produces negative feedback with respect to that employee's performance, the procedural requirements set forth in paragraph "F" of this section will apply. Wherever possible, the employee will be given the opportunity to meet and/or discuss the matter with the higher-level supervisor who provided the performance-related comments.

Section 12. Interim Ratings

- A. The supervisor shall prepare interim ratings for an employees who has been under a performance plan for the minimum period of performance when the employee completes a detail, is reassigned to another EPA organization, or when the employee's supervisor, having supervised the employee for the minimum period, departs from that supervisory position. (If less than the minimum period of performance, only performance highlights or problems will be provided.) This rating will be shared with the employee.
- B. The supervisor must indicate all measurement sources used in preparing the interim rating.

Section 13. Timing of the Appraisal

- A. Performance appraisals (ratings of record) are scheduled to be performed annually within 30 days of the close of the appraisal period. Under special circumstances, appraisals may deviate from that schedule:
 - 1. If the employee has not completed the minimum period of performance by the end of the performance cycle, then the rating of record is given at the end of the minimum period. (This section does not apply to employees moving into a new position in the last month of the annual rating cycle, in which case they will be rated based upon the interim rating of their previous position.)
 - 2. Whenever an employee leaves EPA after having served the minimum period of performance, the supervisor will prepare a performance rating if so requested by the employee. This will be forwarded to the servicing Human Resources Office (HRO) and placed in the employee's Employee Performance File. This provision does not apply to employees who separate during a probationary period.

Section 14. Performance Assistance

A. Performance Assistance Plan

If at any time an employee's performance in one half or more of his/her critical elements fall to "Minimally Satisfactory", the supervisor shall implement a performance assistance plan (PAP).

1. The PAP will afford the employee at least 45 days to resolve the identified performance-related problem. A written PAP indicates that the employee's performance is below "Fully Successful". However, no rating of record will be assigned until completion of the PAP.
2. The counseling session regarding development of the PAP will be documented in writing, with a copy provided to the employee. An employee may request that a union representative participate in the PAP session. If the supervisor agrees to allow a union representative to be present, the supervisor may also include another member of management or HR representative. The employee may elect to seek assistance from the Union outside of the supervisor-employee PAP collaboration process. The PAP will be tailored to the employee's specific needs and may include formal training, on-the-job training, counseling, assignment of a journeyman mentor, or other assistance as deemed appropriate.
3. The purpose of the PAP is to help the employee improve his/her performance to the "Fully Successful" level. The supervisor will provide assistance to the employee to facilitate the employee reaching the "Fully Successful" level.
4. At any time during this PAP or at the end of the PAP period, the supervisor may determine that assistance is no longer necessary due to improved, sustained performance at the "Fully Successful" level. The supervisor will provide the employee with a written notice of this determination.
5. Notwithstanding the above, if at any time during the PAP the employee's performance is determined to have dropped to "Unacceptable" in one or more critical elements, a formal performance improvement plan shall be initiated under Section 25 of this article.
6. Neither a PAP or a record of a PAP will be placed in the employee's Official Personnel Folder or Employee Performance File.

B. Informal Counseling

Continuous, informal feedback between the supervisor and employee is essential to ensure an atmosphere that maintains successful performance. If an employee's performance falls to a "Minimally Satisfactory" level in less than a majority of critical elements, the supervisor must, at a minimum, conduct informal counseling.

- A. During informal counseling sessions the supervisors will identify the nature of the performance-related problem(s) and counsel the employee with regard to the correction of the performance issues(s). Informal counseling will include at least one counseling session which will cover performance issues to be addressed and next steps (e.g. additional meetings, assignments, deadlines, and any other performance actions) aimed at achieving performance improvement. The points

covered in this conversation must be documented in writing (see attached worksheet in Appendix 9-2).

- B. If after informal counseling ends, the performance issue(s) persists and the supervisor believes that additional assistance, such as the development of a PAP, may be helpful to correct the problem, the supervisor may initiate a PAP in accordance with the requirements of Section 13.1, above.
- C. A record of informal counsel shall not be placed in an employee's Official Personnel File or Employee Performance File.

Section 15. Performance Improvement Plan (PIP)

The Agency shall not take a performance-based adverse action against an employee whose performance plan: a) has not been in effect for the period of time specified by this Article; and b) does not comport with the required contents of a performance plan as set forth in this Article.

If the supervisor determines that the employee's performance in one or more of his or her Critical Elements is "Unacceptable," the supervisor shall develop a written Performance Improvement Plan (PIP). The PIP will be communicated to the employee in a meeting where the employee will be afforded and opportunity to provide input into the PIP. If requested by the employee, a union representative will be permitted to participate. If a Union representative is present the supervisor reserves the right to have another management official or HR representative present. The employee, at her or his own volition, may also contact and work with the Union outside the PIP meeting.

- A. A PIP is a written document intended to identify an employee's performance deficiencies, actions the employee must take to improve performance, and provisions for counseling, training or other assistance designed to afford the employee a reasonable opportunity to demonstrate acceptable performance (to the "Minimally Satisfactory" level or above), commensurate with the duties and responsibilities of the employee's position (5 CFR Part 432.104) Placement on a PIP constitutes a formal opportunity period as required by 5 USC 4302(b)(6).
- B. The employee's performance rating must be based on at least 90 calendar days under an assigned critical element in which performance is determined to be Unacceptable. A PIP must be presented to an employee within 15 working days after the employee is notified in writing of "Unacceptable" performance by the receipt of a new rating of record with a summary rating of "Unacceptable."
- C. A PIP should be in the form of a memorandum from the immediate supervisor to the employee. A specified beginning and ending date should designate the length of time the PIP will be in effect (not less than 60 calendar days); the length of the PIP will depend on the nature of the position and the performance deficiencies involved, and the length of time reasonably required to demonstrate acceptable performance to the "Minimally Satisfactory" level. The following information should be included in the PIP:
 - (1) The employee's name, position title, series, grade, and organizational location;
 - (2) The basis for the PIP, e.g. performance at "Unacceptable" level on one or more critical elements;

- (3) A restatement of the assigned critical element(s) in which the employee is performing unacceptably and a description of how the performance was determined to be deficient in relation to the performance plan;
- (4) References to any previous counseling sessions conducted during the appraisal period;
- (5) A specific description of the requirements that must be met, in terms of quality, quantity, timeliness, manner of performance, or other measure of performance for work to be determined acceptable at the “Minimally Satisfactory” level. Numerical criteria or benchmarks used by the supervisor to interpret a performance standard must also be stated;
- (6) A similar explanation of what will constitute “Unacceptable” performance;
- (7) Examples of ways the employee can improve performance and a description of the various kinds of assistance the employee will receive during the PIP;
- (8) A schedule of any periodic performance reviews that will be conducted during the PIP;
- (9) A list of assignments with due dates or completion dates, if appropriate;
- (10) A statement that the employee is expected to maintain Fully Successful performance in the remaining critical elements; and
- (11) Notification that failure to improve performance to an acceptable level, (at the “Minimally Satisfactory” level or above) may result in a reassignment, reduction in grade or removal.

D. Implementation of a PIP

- (1) The supervisor dates the PIP and sends it to the next higher level supervisor for approval;
- (2) The supervisor will meet and discuss the approved PIP with the employee. The employee signs the PIP and is provided a copy. The employee's signature signifies receipt, not concurrence. If the employee refuses to sign, the supervisor will annotate the PIP and date the annotation;
- (3) The supervisor sends a copy of the PIP to the servicing Human Resources Officer along with the original performance plan and rating package. The PIP will be filed in the EPF;
- (4) For the duration of the PIP or as part of the PIP, the supervisor shall not provide the employee with new performance standards, measures or metrics for any critical element included in the PIP;
- (5) The PIP will be removed from an employee's performance file if the employees' performance improves to “Minimally Satisfactory” or higher, and remains at “Minimally Satisfactory” or higher for one year.

E. Extension of a PIP

The supervisor of record, at their discretion, may extend the PIP at any time with the concurrence of the reviewing official. An extension memo will be added to the Employee Performance File, with a copy to the employee, and will become part of the PIP.

F. Withdrawal of a PIP

During the course of the PIP, there are three changes to an employee's status that would cause the PIP to be withdrawn:

1. If the employee is reassigned to a different position at the same or different grade, the PIP is not continued in the new position. It is removed from the EPF and destroyed after one year of at an acceptable level of performance. An employee placed under a PIP may request a transfer to another position as a means of resolving a performance issue in which case, the employee would not be required to complete the PIP before moving to another position.
2. If the employee's performance improves to at least the "Minimally Satisfactory" level prior to expiration of the PIP. The PIP and memorandum are removed from the EPF and destroyed after the employee's performance has continued to be at an acceptable level of performance for one year.
3. When the employee leaves the Agency. The PIP is removed immediately from the EPF and destroyed.

Upon withdrawal of a PIP, the supervisor of record must prepare a new rating of record if the opportunity period was triggered by an annual rating of "Unsatisfactory." The new rating will be sent to the servicing Human Resources Officer, with the employee and supervisor each retaining a copy. The servicing Human Resources Officer will substitute the new rating of record for the previous one, and destroy the previous rating of record.

G. Expiration of a PIP

If a PIP is not extended or terminated by the designated expiration date, the supervisor must notify the employee of the status of his /her performance. If the employee's performance has improved to an acceptable level ("Minimally Satisfactory" level or above), the supervisor will inform the employee that the PIP has concluded and provide the results. Upon expiration of a PIP, the supervisor of record must prepare a new rating of record if the opportunity period was triggered by an annual rating of Unsatisfactory. The new rating will be sent to the servicing Human Resources Officer, with the employee and supervisor each retaining a copy. The servicing Human Resources Officer will substitute the new rating of record for the previous one, and destroy the previous rating of record.

H. Failure to meet PIP Requirements

Failure to improve performance to an acceptable level (Minimally Satisfactory or above) at the end of the performance period may result in reassignment, reduction in grade, or removal.

Section 16. Assessing Employee Performance.

- A. There may be instances where the performance cycle will be extended. These instances may include PAPs, PIPs, new employees or new Critical Elements.
- B. The rating process requires the supervisor to assess the employee's performance accomplishments against the performance standards contained in the performance plan.

- C. During the final thirty (30) days of an employee's annual appraisal period (or as otherwise agreed upon), the employee may prepare a written self-assessment (email or hardcopy) to submit for his or her supervisor's consideration. The Employer shall provide the employees with a reasonable amount of duty time to prepare a self-assessment.
- D. The supervisor will give due consideration to an employee's self-assessment.
- E. Annual ratings of record will reflect the employee's performance for the appraisal period unless the information necessary to make such an appraisal is not available. In this case supervisors should follow procedures pursuant to section 5 B (2).
- F. Only critical elements will be used to determine an employee's summary rating on their performance appraisal.
- G. An employee's performance rating will be based strictly on his or her performance against those critical elements that apply during the appropriate performance rating cycle. As a basis of a rating a supervisor may consider factors such as size and level of difficulty of a particular assignment.
- H. In the application of performance standards/Agency Benchmark Standards to individual employees, the Employer will take into account mitigating factors, including but not limited to, availability of resources, lack of training, mix of work, collateral duties or frequent authorized interruptions of normal work duties.
- I. Cascaded goals do not alter the requirement that any evaluation of employee performance be based on individual performance against critical job elements in the performance plan.

Section 17. Appraising Disabled Veterans.

As prescribed by Executive Order 5396 and 5 CFR 430.208(f), the performance rating for a disabled veteran will not be lowered because the veteran has been absent from work to seek or receive medical treatment.

Section 18. Protected Union Activities & Collateral Duties.

- A. No union representative shall be prejudiced or adversely affected for using official time for authorized representational activity. Only time spent performing work related to an employee's elements and standards will be considered in performance appraisals. Union representational functions will not be considered a factor when evaluating critical elements.
- B. Authorized time spent performing collateral duties will not be considered a negative factor when evaluating critical elements.

Section 19. Sources of Appraisal Input.

The written performance standards and sources of appraisal input will be applied in a fair and understandable manner. The supervisor is responsible for obtaining the performance data required to accurately assess the employee's performance. The feedback will be factual and relevant to the

performance plan. If the information may adversely affect the employee's rating, the employee will be made aware of the information in order to facilitate the ability to respond to the information and provide clarification. Supervisors will not knowingly withhold pertinent information necessary to the appraisal of the employee's performance.

Section 20. Rating a Critical Element

The supervisor is responsible for obtaining the performance data required to accurately assess the employee's performance. Employees may provide their supervisor with a written self-assessment (e.g., list of accomplishments completed) at the end of the appraisal period. After reviewing the employee's self-assessment and other appraisal input against the performance plan, the supervisor will assign a rating to each critical element. The rating level for each critical element is O, EE, FS, MS or U.

Section 21. Assigning the Summary Rating

Ratings will be assigned pursuant to Section 5 at the end-of-year performance review.

Section 22. Approving the Rating of Record

- A. If the summary level is “Outstanding”, “Exceeds Expectations” or “Fully Successful”, the supervisor must sign and date the form to approve the rating of record. A rating of record of “Minimally Satisfactory” or “Unacceptable” requires a higher-level supervisory review. If the rating of record is “Minimally Satisfactory”, the employee will be given a Performance Assistance Plan (PAP) to improve his/her performance to at least the “Fully Successful” level. See Section 14 for further information about PAPs.
- B. If the rating of record is “Unacceptable,” the employee will be placed on a Performance Improvement Plan (PIP), consistent with 5 CFR Part 432 and given an opportunity to improve his/her performance to at least the “Minimally Satisfactory” performance level in accordance with law and regulation, unless the rating of record has been assigned at the end of a performance improvement plan. See Section 15 for further information about PIPs.

Section 23. Documenting the Rating

Official documentation of the rating of record consists of the established performance plan, showing the rating of each assigned element, combined with the completed cover sheet containing the rating of record, signatures, and comments. Additional pages may be used if required.

Section 24. Communicating the Rating

- A. Following approval of the rating of record, the supervisor will meet privately with the employee to conduct the appraisal interview. No more than one (1) supervisor will be present during the appraisal interview, unless otherwise agreed to by the employee. At the conclusion of the interview, the employee will sign the cover sheet. An employee's signature on the cover sheet indicates only that the rating has been received, not an employee's agreement with the performance appraisal. The date the employee signs or refuses to sign the cover sheet is considered the date the

rating of record was communicated to the employee. The employee will receive a copy of the rating no later than five (5) work days following the appraisal interview.

- B. Employees may make written comments concerning any disagreement with an annual appraisal within fourteen (14) calendar days of receipt. Such comments will be attached to and become part of the appraisal. This period will not impact the time for filing a grievance under Article 34. Failure to rebut does not indicate employee agreement with the appraisal. Similarly, failure by the supervisor to comment on the employee's rebuttal does not indicate agreement with the employee's comments.
- C. An employee may sign or not sign his/her performance appraisal. Signature indicates receipt only, not concurrence.

Section 25. Record Keeping

The servicing HRO will maintain the original appraisal package in an Employee Performance File (EPF) as required by law and regulation.

Section 26. Employee Development

- A. Employees shall be informed of the opportunity to create an individual development plan (IDP) during their appraisal interview and progress review.
- B. The supervisor shall have at least one formal discussion concerning career goals and individual development needs with an employee every year. This may be conducted contemporaneously with the appraisal interview. An individual development plan (IDP) identifies developmental needs and career objectives. An IDP is required if requested by the employee. The IDP process may include conducting a self-assessment, obtaining assessments from others, and identifying opportunities for career growth. If a supervisor identifies required training, he or she will notify the employee and, if applicable, annotate the IDP.

Section 27. Grievability

Because of the importance of the annual performance appraisal, employees and supervisors are encouraged to attempt to resolve any disagreement over its content in an expedited manner that encourages open and constructive dialogue regarding the supervisor's performance expectations, the employee's performance, and the appraisal itself. The employee may file a grievance in accordance with the negotiated grievance procedure article in the parties' collective bargaining agreement (CBA).

Section 28. Advisory Board

- A. The parties agree to form a joint Union Management Advisory Board to review, evaluate and make recommendations for changes in the development and operation of PARS including but not limited to training programs to address areas of concerns (e.g., consideration of problems identified in grievances), surveys and work studies, and implementation issues for PARS. During evaluations and voting procedures, the Union representatives shall serve as participating members of the committee.

- B. The Advisory Board will be comprised of four (4) members: two (2) members selected by the NTEU National Office; and two (2) members to be selected by the Agency. Bargaining Unit members of the Advisory Board will be granted official time for all meetings and work performed in connection with Board, absent workload exigencies. Every effort will be made to schedule Advisory Board meetings such that all members will be able to attend. Meetings shall normally be conducted by teleconference or video conference.
- C. The recommendation(s) of this Advisory Board will be submitted to the Assistant Administrator of the Office of Administration and Resources Management, or her or his designee for consideration. If based on the Advisory Board's recommendation OARM proposes to implement changes, notice will be served upon the union for potential bargaining as required by law and the CBA.
- D. The Advisory Board will meet at least semi-annually. The Advisory Board will establish procedural ground rules at or before the first meeting.

Section 29. Supplemental Provisions

- 1. Should the Agency decide in the future to broadly deploy uniform critical elements and standards affecting employees represented by NTEU, it will bargain the impact and implementation of such a decision with a designated national NTEU representative, to the extent required by law.
- 2. The Union has the right to request information from the Agency including summary performance appraisal rating information for NTEU bargaining unit employees, per 5 USC 7114.

ARTICLE 10

ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

Section 1.

A. This Article applies to all members of the bargaining unit who have completed their trial or probationary period and who are considered to be performing at an unacceptable level following the completion of a performance improvement period. In such a situation, the Employer may consider one or more of the following options:

1. Deny a within-grade increase under 5 CFR 531;
2. Reassign the employee to a vacant position at the same grade, in accordance with 5 CFR 430, if the supervisor believes the noted performance deficiencies in the current position would not prevent successful performance in the vacant position;
3. Propose the employee's demotion to a lower grade, in accordance with 5 CFR 432; or
4. Propose the employee's removal in accordance with 5 CFR 432.

B. When taking action on unacceptable performance, the Employer will do so in an objective fashion. The Employer will make every reasonable effort in accordance with this Agreement to assist an employee in improving deficient performance and will provide a reasonable opportunity for the employee to correct performance problems before initiating any removal or demotion action.

Section 2.

If an employee requests a change to a lower grade due to the employee's inability to perform the duties of the current position, the Employer will consider placing the employee in a vacant position identified by the Employer as one in which the employee has a reasonable chance of successful performance.

Section 3.

A. When the Employer proposes a reduction-in-grade or a removal, the employee will be provided with a 30 day notice period and a notice containing the following information:

1. The action being proposed and the fact that a determination will not be made until after the expiration of the notice period;
2. The critical element(s) and performance standard(s) of the position in which performance is deemed unacceptable;
3. The specific instances of unacceptable performance on which the present action is based;
4. The employee's right to representation and right to present an oral and/or written reply within 15 work days;

5. The right to review the information relied upon by management to support the proposed action;
6. The opportunity to use a reasonable amount of official time to prepare a reply; and
7. The name of the individual to whom the response shall be made.

B. The 30-day notice period shall begin effective the date the employee receives the notice.

C. In reaching a final decision, the Employer may not rely on any employee performance that the employee has not been given the opportunity to reply to either orally or in writing.

Section 4.

The Agency shall make its final decision normally within 30 days after expiration of the advance notice period. The notice period may be extended in accordance with the provisions of 5 CFR 432.105. Unless proposed by the head of the Agency, such written decision shall be made by an employee who is in a higher position than the person proposing the action. The notice shall include the instances of unacceptable performance on which the action is based, the effective date of the action, and the employee's right to appeal. A decision to reduce in grade or remove an employee may be based only on those instances of unacceptable performance that occurred during the one (1) year period ending on the date of issuance of the advanced notice.

Section 5. Right to Appeal

A. Employees may appeal actions taken pursuant to the Article in accordance with established laws, rules and regulations by going to arbitration or filing an appeal with the Merit Systems Protection Board. It is the Union's decision to determine whether the case will proceed to arbitration. The employee may not utilize both procedures but must elect one or the other in writing within the established time limits. If the Union decides to proceed directly to arbitration in the case, then if the Union wishes to raise new issues not raised before the deciding official, it should, as practical, identify any additional issues in its written invocation of arbitration. However, this shall not preclude the Union from raising any new or additional issues prior to the pre-hearing conference. In no event may the Union raise new issues before the arbitrator that have not been identified at the prehearing conference that shall occur no later than 14 days prior to the scheduled hearing date.

B. If the Union elects to appeal an unacceptable performance action to arbitration, the Union must give the Employer notice of its decision within 20 workdays of the employee's receipt of the Employer's final decision. The notice of appeal must be given by certified mail or by hand delivery to the appropriate deciding official. Notice of appeal by certified mail shall be effective when mailed and notice of appeal by hand delivery shall be effective when received.

Section 6.

If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be satisfactory for one year from the date of the advanced written notice provided under Section 3, any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any Agency record relating to the employee.

ARTICLE 11

CAREER LADDER PROMOTIONS

Section 1.

- A. Career ladder promotions shall be awarded in accordance with federal law, rule, and regulations. The timing of career ladder promotions is subject to meeting the conditions prescribed by law and regulation as described below. These conditions must be satisfied before a career ladder promotion occurs. Career ladders are usually established at a trainee level and progress to the journeyman level. The grade of the journeyman level will be determined by the organization's needs, consistent with the work to be performed.

The following conditions, prescribed by law and regulation (including 5 CFR § 335.104, eligibility for career ladder promotions) must be satisfied for an employee to be eligible for a career ladder promotion:

1. Available work exists at the next higher grade level to support the promotion;
2. The employee's performance demonstrates the ability to perform the duties of the next higher grade level;
3. The current rating of record is at the "fully successful" level or above; and
4. The employee has completed the minimum waiting period in the lower-graded position (52 week period pursuant to 5 CFR § 300.604).

Pursuant to 5 CFR § 335.104, no employee may receive a career ladder promotion who has a rating below "Fully Successful" on a critical element that is also critical to performance at the next higher grade of the career ladder.

- B. In the event the employee meets all other eligibility requirements as described in Section 1.A. of this article except work is not available at the next higher grade level that results in a delay in the career ladder promotion, management will notify the employee in writing when the unavailability of work becomes known and will explain the determination to the employee. Upon request of the employee, the agency will provide any available documentation to support the determination of unavailability of work. When an employee continues to meet the other criteria for promotion described in Section 1.A. of this article and the work subsequently becomes available, management will promote the employee at that time.

In the event that the Employer denies or delays a career ladder promotion for any reason other than work not being available, the Employer shall provide notification of such in writing as well as the rationale for the denial or delay to the employee. Employees may grieve the denial or delay of a career ladder promotion consistent with applicable laws, rules, and regulations and the collective bargaining agreement.

Section 2.

For employees in career ladder positions, the progress review (both mid-term and end-of-year) under Article 9 shall include an assessment of the employee's demonstrated ability to perform the duties of the next higher-graded position. The supervisor and employee should focus on the duties and level of performance expected at the higher-grade position and how the employee can demonstrate the ability to perform those duties while in the current position.

The supervisor and employee are encouraged to engage in discussion concerning whether the employee's performance will be sufficient to warrant a career ladder promotion throughout the rating year, including at mid-year and end of year performance meetings.

Section 3.

Within 60 days from the effective date of this agreement, the Employer shall provide the Union with a list, broken down by NTEU chapter/location, of all NTEU bargaining unit employees who are eligible for a career ladder promotion and their anniversary date.

ARTICLE 12 PROMOTIONS

Section 1. Purpose

The purpose of this article is to ensure that merit promotion principles are applied in a consistent manner to all bargaining unit employees. It is agreed that all promotions to bargaining unit positions and the placement actions as set forth below will be made using systematic procedures on the basis of merit, from among properly ranked and certified candidates or from other appropriate sources.

Section 2. Merit Promotion Program

A. General.

Merit promotion is one means of filling vacancies. In the exercise of this responsibility, and through the assessment of the organization's needs, managers may elect to fill vacancies by recruitment alternatives other than merit promotion. Such alternatives include obtaining eligible candidates via reassignment; change to lower grade; transfers from other agencies; reinstatement; OPM registers; EPA delegated examining registers; student appointments, appointment of persons with disabilities, veterans readjustment appointments, disabled veterans who have compensable service connected disability of 30% or more, and other excepted service appointments as appropriate; employees granted priority consideration for placement; and re-employment priority list registrants, etc.

When fully-qualified candidates for a position can be found via other means of recruitment, these methods may be used in lieu of or in addition to the merit promotion process. In all cases, selection should be based on management's needs and the goals and objectives of the organization, as well as in accordance with all applicable law, rules, and regulations.

B. Coverage. This Program applies to all EPA organizations and covers all competitive service bargaining unit positions in grades GS-1 through GS-15.

C. When Competition is Required. Competition is required for the following actions:

1. Promotion or transfer to a higher grade;
2. Temporary promotion for more than 120 days, except as provided in Section E.4. Any prior details to higher-graded positions or temporary promotions during the preceding 12 months (whether competitive or non-competitive) must be included when calculating the number of days;
3. Selection for detail for more than 120 days to a higher-graded-position or to a position with known promotion potential;
4. Selection for training which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for a promotion;

5. Reassignment, demotion, reinstatement or transfer to a position with more promotion potential than a position the employee previously held on a permanent basis in the competitive service (except when a reassignment or demotion is made to place an employee affected by a RIF or in lieu of disability retirement); and
6. Reinstatement to a permanent or temporary position at a higher grade than any grade held in a permanent position in the competitive service.

D. When Competition is Not Required. Competition is not required for:

1. Career Ladder Promotions. Career ladder promotions are permitted when an employee is appointed or assigned to any grade level below the established full performance level of the position (i.e., the position has a documented career ladder and promotion potential). These promotions may be made noncompetitively for any employee who entered the career ladder by:
 - (a) Competitive promotion procedures;
 - (b) Competitive appointment from a certificate of eligibles (through OPM or delegated examining authority); or
 - (c) Non-competitive appointment under a special authority, e.g., conversion of a Student Career Experience Program student or Federal Career Intern, appointment of former ACTION Volunteers or Peace Corps personnel (must clear ICTAP through an announcement), conversion of a Veterans Readjustment Act (VRA) appointee and Presidential Management Intern.
2. Promotion Based on Reclassification When:
 - (a) No significant change occurs in the duties or responsibilities and the position is upgraded due to issuance of a new classification standard, an updated Agency-wide classification policy or the correction of a classification error; or
 - (b) The position is upgraded due to accretion of additional duties and responsibilities and all of the following provisions are met:
 - (1) The employee continues to perform the same basic functions in the same organization, working for the same supervisor (the duties of the former position are administratively absorbed into the new position, and the former position is abolished);
 - (2) The new position has no promotion potential;
 - (3) The additional duties and responsibilities assigned or accrued by the incumbent do not adversely affect or impact the grade-controlling duties and responsibilities of other positions in the unit; and

- (4) The accretion is supported by a written analysis of the position (which may involve an audit with the employee and/or employee's supervisor, or other fact-gathering method).
3. Permanent Promotion to a position held under a temporary promotion when:
 - (a) The assignment was originally made under competitive procedures; and
 - (b) It was known to all competitors at the time that the assignment may lead to a permanent promotion.
4. Temporary Promotion of an employee for less than 120 days, or for more than 120 days to a grade level held previously on a permanent basis in the competitive service.
5. Placement as the Result of Priority Consideration when the referral is a remedy for candidates not given proper consideration in a competitive promotion action;
6. Reduction in Force Placements which result in an employee receiving a position with higher promotion potential;
7. Promotion to a Grade Previously Held on a permanent basis in the competitive service, from which an employee was separated or demoted for other than performance or conduct reasons.
8. Promotion, Reassignment, Demotion, Transfer, Reinstatement, or Detail to a Position Having No Greater Promotion Potential than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.
9. Promotion Resulting From Successful Completion of a Training Program for which the employee was competitively selected;
10. Selection from the Re-employment Priority List at the same or lower grade level than the position from which selected;
11. Reinstatement to any Position of a career or career-conditional employee who served under a career SES appointment consistent with 5 CFR 335.103(c)(3).
12. Promotion as a Legal Remedy as ordered or agreed upon in a legal or administrative proceeding.
13. Details for one hundred and twenty (120) days or less to a higher grade position or to a position with known promotion potential.

E. Area of Consideration (AOC)

1. Since the AOC targets the group of candidates who will be considered for competitive

selection, it is important that it be sufficiently broad to uphold the basic merit principles of open competition, equal employment opportunity and identification of best qualified candidates. The AOC is not intended to limit competition. When establishing the AOC, HRO's should consider any appropriate sources which are likely to help EPA meet its mission and EEO objectives, and contribute fresh ideas and new viewpoints to the organization.

2. The minimum AOC will be an organizational unit, no less than a division, which is considered sufficient to attract more than one qualified candidate for promotional consideration. The local appointing authority has the option of establishing an AOC larger than the minimum prescribed above, especially if experience shows that those minimum areas fail to provide enough qualified candidates.
3. An AOC will be established for each vacancy;
4. OPM will be notified of vacancies in the competitive service for which the Agency will consider applicants from outside the Agency in accordance with 5 USC 3327.

F. Time Limits for Posting Vacancy Announcements

1. The Employer will post a vacancy announcement to cover all vacancies that must be filled in accordance with the procedures of this Article. The HR Office will post the announcement on the Agency's Intranet for a minimum of ten (10) days.
2. Applications post marked or submitted electronically on or before the closing date will be accepted.
3. As a minimum, the vacancy announcement will contain the same type of information as contained in the OPM announcement template, for example:
 - (a) Title, series and grade(s) of the vacancy announcement and announcement number;
 - (b) Geographic and organizational locations;
 - (c) Summary statement of the principal work assignments;
 - (d) Minimum OPM qualification requirements plus any mandatory (selective placement) factors;
 - (e) Knowledge, skills and abilities and/or competencies and/or task statements required;
 - (f) Who to contact for additional information;
 - (g) Where and/or how applications should be sent and what they should include;

- (h) Opening and closing dates;
- (i) If the vacancy has known promotion potential or is a career ladder position;
- (j) A statement of EEO;
- (k) Area of consideration; and,
- (l) Number of positions expected to be filled at the time if more than one.

G. Methods of Locating Candidates. Candidates may be located using a wide range of methods which may vary with each vacancy depending upon the AOC, the type of position, and similar considerations. All Merit Promotion announcements (or subsequent cancellations) under this article will be posted at a minimum on the Agency Intranet. These methods include:

1. Vacancy Listings - A brief summary of multiple positions open to competition under the merit promotion procedures.
2. Individual Vacancy Announcements - Posted notices that advertise one or more positions open to competition under the merit promotion procedures. They will contain the same type of information as found in the OPM announcement template. Individual vacancy announcements will be open for a minimum of 10 calendar days.
3. Open Continuous Announcements - Posted notices through which applications may be accepted and referred to selecting officials on a continuing basis. They may be used when there is a continuous need for candidates in a particular occupation or group of occupations. They will contain the same type of information as found in the OPM template.

H. Priority Consideration. The referral of individuals who by law, regulation, settlement agreement or final decision in a grievance or discrimination complaint must be considered before other candidates. Management must show that the employee received priority consideration for placement. Types of priority consideration include:

1. Repromotion Consideration Eligibles. Employees demoted in the Agency without personal cause and on grade/pay retention are entitled to priority consideration for any vacancies for which they qualify in their local commuting area. Repromotion eligibles are entitled to priority consideration for 2 years unless they are repromoted to their former grade or decline a position of equal grade, whichever occurs first. Candidates may receive consideration only at the grade level in which consideration was lost and having no higher promotion potential than the position previously held.
2. Candidates Who Did Not Receive Proper Consideration In A Previous Merit Promotion Action Due To A Procedural, Regulatory Or Program Violation. These candidates will receive priority consideration for the next appropriate vacancy in the geographic location where proper consideration was denied. The following conditions

must be met before priority consideration under this provision may be granted:

- (a) It is a similar type position in the same pay system as the position for which the employee failed to receive proper consideration;
 - (b) The employee is qualified for and would have been in the best qualified group; and
 - (c) The vacancy is at the same grade level with no higher potential than the position for which consideration was lost.
3. Employees Who Receive Priority Consideration Based on An EEO Complaint. These employees must be given priority consideration if it is either the agreed upon resolution to settle the complaint or the remedial action ordered in the final decision of a discrimination complaint.
 4. Displaced Applicants. The Agency will provide special selection priority to eligible displaced applicants who are determined to be well-qualified, in accordance with the regulatory requirements (e.g., under the Career Transition Assistance Plan or the Interagency Career Assistance Program).

I. Application Procedures.

1. General. Unless otherwise specified in individual vacancy announcements or vacancy listings, interested persons must submit either a resume, curriculum vitae, the Optional Form for Federal Employment (OF 612), or any other written format to describe job-related qualifications and the necessary answers required by the questions provided in the vacancy announcement. A copy of the most recent performance appraisal may be required. The questions contained will be developed through the HR Office with input from the selecting official and/or subject matter expert. The questions contained within will be based on the knowledge, skills, and abilities required for the position. It is understood that vacancy questions and any relevant weighting factors will be developed and identified prior to announcing the vacancy.

No matter what format is used, the application must contain all of the information required in the vacancy announcement/listing.

2. Accepting Applications.
 - (a) When the HR Office Uses a Manual Recruitment System. Generally, the manual system will be used in such situations as identification of systematic problems with the automated staffing system, system failure, and/or loss of the vendor contract. Unless otherwise specified, applications will be accepted from all promotion-eligible candidates whose applications are received in the servicing HRO or postmarked by the closing date.

Applications from noncompetitive eligibles, qualified persons with disabilities, 30% or more compensable disabled veterans, VRA eligibles, and Public Health Service officers

may be accepted up until the time that the certificate of eligibles is sent to the selecting official. Employees within the AOC who are absent for legitimate reasons, such as approved leave, official travel, detail, Intergovernmental Personnel Act assignment, training or military service, may furnish copies of their application to other employees or their supervisor and request in writing that they be submitted for vacancies. Applications from outside the AOC will not be accepted.

- (b) When the HR Office Uses an Automated Staffing System. Unless otherwise specified, applications must be submitted on-line by all candidates by the closing date and time specified in the vacancy announcement. For assistance in applying for a vacancy, applicants may contact the human resources representative listed on the vacancy announcement who will assist applicants to submit their applications online by the closing date of the vacancy announcement. If applying online poses a hardship, applicants must call the human resources representative before the closing date of the announcement to request assistance. In addition, applicants who have a hardship must respond to the same questions as applicants applying online and submit a signed copy of their responses to be received by the servicing HR Office prior to the closing date of the vacancy announcement. The HR Office will input the data into the system on the applicant's behalf for the specific job for which the applicant is applying only. An example of hardship would be where an applicant lives in or is temporarily assigned to a remote location where it would pose a hardship for the employee to get to a computer and/or access the automated staffing system.

J. Eligibility Requirements.

1. General. Applicants must meet OPM qualification requirements and any selective placement factors by the closing date of the announcement. Selective placement (mandatory) factors are knowledge, skills and abilities or competencies not contained in the OPM Operating Guide for General Schedule positions that are so essential for successful performance in a particular position that they become part of the qualification requirements in addition to those outlined in the Operating Manual or the Introduction to the Federal Wage System Job Grading System. Selective placement factors are determined by appropriate management officials and are readily identifiable from the position description or vacancy announcement. A copy of any selective placement factors will be retained in the merit promotion file. However, certain legal and regulatory requirements (i.e., time-in-grade requirements, time-after-competitive appointment, etc.) must be met within 30 days of the closing date of the vacancy announcement. Applicants responding to open continuous announcements must meet the eligibility requirements at the time the application is submitted to the HRO.
2. Minimum Qualification Requirements. Minimum qualification requirements will be those described or approved by OPM for the particular position involved, plus any mandatory (selective placement) factors. Qualification requirements are found in the OPM Operating Manual for Qualification Standards for GS positions.

K. Distinguishing Between Candidates. Candidates who meet eligibility requirements will be divided into two categories:

1. Promotion Eligibles - those applicants who must compete in order to be placed in the position (applicants in the promotion eligible category will be evaluated in accordance with the provisions below); and
2. Noncompetitive Eligibles - those applicants with or without competitive status who are eligible for reinstatement, reassignment, change to lower grade, special appointing authority (e.g., persons with disabilities, disabled veterans, etc.) or other action where competition is not required for placement in the position. Noncompetitive eligibles will be referred alphabetically without being rated and ranked. Such referrals may be made up until the time that the certificate of eligibles is sent to the selecting official.

L. Evaluation of Candidates

1. Applications may be evaluated by a subject matter expert, a rating panel or a human resources representative. Regardless of the evaluator, ratings must be based solely on the application material submitted by the applicant. If an automated staffing system is used to qualify, rate and/or rank applicants, then a human resources representative will conduct a quality review before the rating is finalized. When a quality review is conducted for an automated rating, an adjustment will only be made in the event that an applicant's answer(s) to the automated question(s) are not consistent with the applicant's resume or other documentation provided in the promotion package.
2. All candidates who meet the minimum (basic) qualification requirements must be evaluated on job-related criteria (i.e., work experience, education and training) and the selecting official or interview panel will consider applicant awards and appraisals in the selection process, if they are required by the vacancy announcement.
3. Evaluation methods must include an analysis of the job to determine pertinent knowledge, skills and abilities (KSA's) or competencies that are important for successful job performance. Based on the job analysis, the KSA's/competencies to be used as Mandatory KSA's/competencies and rating factors for the vacancy announcement will be identified and weighted. In an automated staffing system, the identified KSA's/competencies will be elicited in the form of questions or requests for information that the applicant must answer.
4. A rating plan must be developed by the subject matter expert or human resources representative. Only the criteria and established point values given in the rating plan for the vacant position will be applied in this process. The automated staffing system or promotion panel/ranking official will provide an objective assessment of each applicant's potential to perform in the vacant position.
5. All candidates meeting the minimum qualifications for the position will be rated and ranked, regardless of the number of applicants.

6. Anyone present during the panel/ranking official's deliberations is prohibited from divulging to any unauthorized person, including the selecting official, any of the following: contents of rating and ranking worksheets, deliberations, and the numerical scores assigned to candidates until the selection is made. Under no circumstances will such matters be discussed with someone without a need to know.

M. Ranking and Referral of Candidates.

1. **Determining Best-Qualified.** Promotion eligible candidates will be rated against the KSA's/competencies set forth in the rating plan. Candidates will be identified as either "best-qualified" or "qualified" based on the scores received in the evaluation process. When more than 10 candidates are rated as eligible, best-qualified candidates will be determined by using all of the rating factors listed in the vacancy announcements in the evaluation process. Candidates will be ranked according to their rating scores assigned by the automatic staffing system or promotion panel/ranking official.
2. **Referral When There Are More Than Ten Qualified Competitive Candidates.** The Best Qualified threshold score will be set prior to the close of the vacancy (90). The Union will be notified if this number changes. The Best Qualified candidates who will be referred for consideration will be determined based on the most logical (natural) break in scores, i.e., two or more points. However, in the event the natural break method results in more than 9 Best Qualified candidates, then the HR Official will resort to identifying only the top 10 numerically ranked candidates who will then be forwarded to the selecting official/panel in alphabetical order. All tied scores (at number 10) will be forwarded to the selecting official. Candidates will be ranked according to the rating score assigned by the automated staffing system or panel/SME and referred in alphabetical order.
3. If a best qualified certificate is to be used for more than one vacancy, an additional best-qualified candidate (if available) may be added for each additional vacancy.
4. If there are fewer than 10 best-qualified candidates, only the best-qualified candidates will be referred.
5. If there are no best-qualified candidates and the selecting official, with the concurrence of the human resources representative, determines that it is impractical to expand the AOC, then the qualified candidates may be referred in alphabetical order. If the human resources representative makes such a decision, the reason(s) why the further expansion of the AOC is impractical must be fully documented in writing and included in the Merit Promotion case file.
6. **Duration of Merit Promotion Certificate.** Normally, certificates are issued with a 60 calendar day time limit. In extenuating circumstances, certificates may be extended for an additional 60 days with a written request from the selecting official to the servicing HRO. A copy of the written request for extension will be sent to NTEU.
7. **Use of Certificates for Additional Positions.** Certificates may be used to fill additional

vacancies for similar positions up to 120 days. A similar position is one that is located in the same division or office, has the same title, series and grade (and promotion potential, if applicable,) and requires the same KSA's or competencies.

N. Interviews and Selections

1. Interviews may be conducted at the discretion of the selecting official or interview panel, subject to the following; if one EPA internal candidate is interviewed from the best qualified list, all NTEU EPA bargaining unit employee candidates will be given the opportunity to be interviewed.
2. The selection process is a management prerogative involving the exercise of informed judgment coupled with responsibility. Each selecting official should choose the person(s) who will best fulfill their requirements and the objectives of the organization. Selecting officials may select or non-select any candidate on a certificate of eligibles.

O. Release and Notification of Applicants. The human resources representative will work with program officials to establish mutually agreeable release dates based on mission and program requirements. Normally, an employee will be released no later than one complete pay period for promotion, following the selection. When local workforce and program conditions permit, an employee will be released no later than two complete pay periods for reassignments, following the selection. When an employee is nearing the end of a within-grade increase waiting period, consideration should be given to releasing an employee at the beginning of a pay period on or after the effective date of the within-grade increase, provided such an action would benefit the employee. All best qualified applicants will be notified of the outcome of announced vacancies. The effective date for a promotion will be the first day of the pay period in which the selectee assumes the duties of the position for which selected.

P. Disclosure of Information

1. All candidates must have equal access to information on the merit promotion process and procedures.
2. Applicants will be notified of:
 - (a) Whether they were found eligible;
 - (b) Whether they were referred to the selecting official/grouped on the best qualified list; and
 - (c) Who was selected.
3. In addition, applicants may request and receive information concerning:
 - (a) Whether the vacancy announcement was canceled;
 - (b) Areas, if any, in which they should improve to increase their chance for

future promotion; and

- (c) The applicant's own rating assigned in the ranking process, both before and after the quality review if applicable.

Q. Employee Concerns. If an employee/Union wishes to raise concerns about an apparent violation of the merit promotion procedures, he/she may file a grievance under the negotiated grievance procedure. For purposes of raising such an allegation, the grievant is to file the first- step grievance with the HR Officer or with the appropriate HR Staff Director (in HQ) with jurisdiction over the merit promotion case when they have authority to take corrective action.

1. In the processing of grievances related to merit promotion actions taken under the terms of this Article, the employee's representative will, upon request to the appropriate servicing HRO, be furnished the relevant and necessary evaluative material (e.g., the application package, interview notes, quality review results) used in the ranking process and/or by the Selecting Official that is contained in the Merit Promotion file used in the selection action, subject to the following:
 - a. Evaluative material will be confined to the applicants appearing on the Best Qualified List;
 - b. No information will be released that includes identifying information, in order to protect privacy rights;
 - c. If a crediting plan is to be reviewed by a union representative, he/she will perform the review in the presence of an authorized HRO official. A hard copy of the crediting plan will not be provided. The union representative may not release the contents of that crediting plan to any other EPA employee.

R. Priority Consideration.

1. If as a result of a grievance being filed under this Agreement, either the Employer agrees or an arbitrator decides that an employee was improperly excluded from the best qualified list or was not selected in violation of these merit promotion principles, he/she will receive priority consideration for the next appropriate vacancy for which he/she is qualified. An appropriate vacancy is one at the same grade level, in the same area of consideration, and which has comparable promotion opportunities as the position for which the employee received improper consideration. Priority consideration means that the employee alone must be given bona fide consideration by the selecting official before any other candidates [except for the repromotion priority placement plan eligibles] are referred for the position to be filled. The employee is not to be considered in competition with other candidates and is not to be compared with other candidates. In the event two or more employees receive priority consideration for the same promotion action, they may be referred together. However, priority consideration for separate actions will be referred separately and in the order received based on the date the determination of improper consideration is made.

2. When an appropriate authority (e.g., management official or arbitrator) has determined that an employee has been affected by an unjustified or unwarranted personnel action, entitlement to back pay shall be handled in conformance with 5 CFR 550.804(a) and other applicable, laws, rules, regulations and this agreement.

S. Miscellaneous.

1. The fact that an employee is the subject of a conduct investigation will not prevent or delay his/her proper consideration for promotion, unless the Agency determines that such is necessary to protect the integrity of the Agency.
2. Upon request from the Union, the following information will be provided within a reasonable period of time, and in accordance with the Privacy Act to protect the privacy of the eligible candidates and panel members:
 - (a) Announcement number;
 - (b) Number of vacancies;
 - (c) Panel scores of the candidates referred, before and after a quality review;
 - (d) The series, grade of the employees referred, if the candidate was an employee within the unit;
 - (e) If the candidate was not a unit employee, this will be so designated;
 - (f) Selection action;
 - (g) Date of selection action.
3. The Employer will maintain promotion and selection information for two (2) years or after an OPM evaluation, whichever comes first, in accordance with governing laws, rules and regulations.

ARTICLE 13

DETAILS AND TEMPORARY PROMOTIONS

Section 1. Definition

A. A detail is the temporary assignment of an employee to a different position at the same grade held or at a higher or lower grade or to a set of unclassified duties for a specified period when the employee is expected to return to his or her regular duties at the end of the assignment. Selection for details with promotion or career building potential that are less than 120 days will be based on factors such as: employee skills, abilities, experience and developmental needs; existing organizational staffing and workload; mission and goals of the organization; and deadlines. When reasonable to do so, the Agency will communicate detail opportunities to all qualified employees, within the appropriate area of consideration, whenever the detail opportunity is available to more than one employee.

B. A temporary promotion is a temporary assignment for a specified period of time to a position at a higher grade than the one the employee currently holds where the employee is expected to return to his or her regular duties at the end of the assignment. An employee must meet the qualifications for the higher grade level before he or she can be temporarily promoted.

Section 2. General

A. Details will not be used as discipline; however, the Employer may consider a detail when addressing a workplace problem (e.g. allegations of harassment, friction between employees, short-term accommodation needs). The Employer will give reasonable consideration to assertions by an employee that the detail will cause significant personal hardship.

B. The Employer agrees to refrain from rotating assignments to employees solely to avoid compensation at the higher level.

Section 3. Detail to Higher Graded Positions

A. The Employer agrees that an employee who is detailed to a higher grade classified position for a period of more than thirty (30) consecutive calendar days will be temporarily promoted to that position effective with the beginning of the first full pay period following the thirtieth (30th) day of the detail and will be paid at the higher grade for the duration of the temporary promotion, providing the employee meets the appropriate qualification standards.

B. Selection for details to higher graded positions and temporary promotions will be accomplished in accordance with Article 12, Merit Promotion, of this Agreement, when it is reasonable to expect that the assignment to the higher graded position is to last longer than one hundred twenty (120) calendar days. Prior service during the preceding 12 months under noncompetitive details to higher graded positions and noncompetitive temporary promotion counts towards the 120-day total.

C. It is agreed that when an employee is detailed to a higher graded position for more than thirty (30) consecutive calendar days, but is not eligible for a temporary promotion, the employee's

performance at an acceptable level of competence in a higher graded position will be cause for consideration for issuing a special achievement/or special act award, whichever applicable to that employee.

Section 4. Appraisals for Details/Temporary Promotions in Excess of 90 Days

Pursuant to 5 CFR 430, when employees are detailed or temporarily promoted and the assignment is expected to last ninety (90) days or more, the Employer will provide the employees with critical elements and standards as soon as possible (no later than thirty (30) days from the beginning of the assignment). The employees will be rated on the critical elements for the assignment if it lasts for 90 days or longer. These ratings will be considered in deriving the employee's next rating of record.

ARTICLE 14 REASSIGNMENTS

Section 1. General

- A. Consistent with applicable laws and regulations, the Employer's right to assign work and determine the skills and qualifications necessary to perform a particular work assignment, is the right to reassign employees. The provisions of this Article apply solely to reassignments within the bargaining unit.
- B. A reassignment is a permanent change from one position to another without promotion, demotion, or break in service. The decision to reassign employees between positions or work units will be based on management goals and operational considerations.
- C. The Employer will give reasonable consideration to an employee's request for reassignment, or a request not to be reassigned, based upon organizational needs and an employee's reasons for the request, including personal hardship.

Section 2. Employer Initiated Reassignment

- A. When the Employer initiates a reassignment, the Employer will provide an employee with advance written notice of a reassignment as far in advance as practical, but not less than one pay period, unless the employee requests an immediate reassignment. The employee will receive a Standard Form 50 documenting the reassignment and a copy of the position description for the new position. An employee who is reassigned will be given a reasonable period of time to learn and satisfactorily perform the functions of his/her new position, in accordance with Article 9 Performance Appraisal and Recognition System (PARS).
- B. Management may reassign without first soliciting for volunteers in order to expeditiously reassign one or more employees because of mission or management related needs. When practicable, the Agency may advise the appropriate NTEU Chapter whenever it needs to act expeditiously to fill a reassignment based on mission or management related need.
- C. Prior to directing a reassignment, however, management will consider soliciting qualified volunteers for the reassignment when the reassignment opportunity is available to more than one employee. When seeking qualified volunteers to address a mission or management-related need, and merit promotion competition does not apply, the Employer will follow the following procedure:
 - 1. Identify areas from which the reassignment will come;
 - 2. Identify those employees who are qualified to fill the vacant position(s). In determining who is qualified to fill the positions, consideration will include:
 - (a) Qualifications needed for an employee to satisfactorily perform in the positions; and
 - (b) The skills and knowledge needed to effectively and efficiently accomplish the work.

3. Solicit volunteers from among these employees to determine if anyone is interested in a reassignment.
4. Consider factors such as employee knowledge, skills, abilities, experience, attitudes and interpersonal competencies, organizational workload, mission, goals and deadlines, developmental needs and other relevant job qualifications in determining who will be reassigned. The Employer will also consider an employee's personal hardship that may result from the reassignment.
5. Interview all, some or none of the qualified volunteers for the voluntary reassignment.

Section 3. Employee Request for Reassignment

Employees desiring reassignment within the Agency may either apply for vacancies through the merit promotion process, request a reassignment within their current organization or request a reassignment directly to another EPA organization in which they are interested.

Section 4. Change in Duty Station

If a reassignment requires a change in duty station, the Employer agrees to provide the employee(s) a reasonable amount of time to accomplish the change in duty station. If the work of the employee's former position needs to be completed by the employee prior to the change in duty station, the Employer will provide the employee a reasonable amount of time to complete the work.

Section 5. Reassignments with Promotional Potential

Reassignments to positions with promotion potential higher than the employee's current position are processed under the provisions of the Merit Promotion Article (Article 12) of this Collective Bargaining Agreement.

ARTICLE 15

WITHIN-GRADE INCREASES

Section 1. Criteria for Granting a Within-Grade Increase

A. An employee will be granted a within-grade increase when he/she has completed the required waiting period and the employee has performed at an acceptable level of competence during the waiting period as follows:

1. One year to move to steps 2, 3, and 4
2. Two years to move to steps 5, 6, and 7
3. Three years to move to steps 8, 9, and 10

B. Supervisors are responsible for keeping employees informed of the acceptability of their work on a regular basis.

C. An employee is regarded as having reached an acceptable level of competence when the employee's demonstrated work performance in all critical elements meets or exceeds standards established at the "Fully Successful"/pass level, and when the employee's rating of record is "Fully Successful"/pass or higher.

D. Where employees have been assigned to their present supervisor for less than ninety (90) days, and the supervisor cannot adequately assess the employee's performance, the supervisor shall secure the views of the employee's previous supervisor, when available, before making a determination.

Section 2. Denial of Within-Grade Increase

A. Consistent with the principle in Article 9, section 24, a supervisor will give ample warning, normally not less than thirty (30) calendar days prior to the within-grade increase due date, to an employee whose performance does not or may not meet the acceptable level of competence requirement. The supervisor will advise the employee of his or her deficiencies, and tell the employee that he or she may not be certified as meeting the acceptable level of competence requirement unless performance improves. The supervisor will record the date and substance of this notification and provide a copy to the employee, which at a minimum shall include: those critical aspects of the employee's performance in which the employee is deficient and the extent of the deficiency; any instances, specifically described, which support the alleged deficiencies; assistance which will be offered so as to enable the employee to improve his/her performance so as to meet the requirements specified for the position.

B. An employee not under written performance elements and standards will have performance elements and standards established. A determination shall then be made upon completion of the minimum appraisal period of 90 days and shall be based on the employee's appraisal period of 90 days

and shall be based on the employee's rating of record completed at that time. In certain circumstances, the supervisor may postpone the acceptable level of competence determination, e.g., the employee did not receive performance standards at least ninety (90) days before the end of the waiting period and he or she is not performing at an acceptable level of competence. In such cases, the period of postponement shall not be less than ninety (90) days.

Section 3. Notification of Withholding of Within-Grade Increase

A. Written notification to the employee of a determination to withhold a within-grade increase will be given as soon as possible after completion of the waiting period. Such notification shall:

1. Set forth the reasons for the negative determination;
2. Set forth the manner in which the employee must improve his/her performance in order to be granted a within-grade increase, and
3. Notify the employee of his or her right to request reconsideration of the negative determination and file a written response within fifteen (15) calendar days of receipt of the notice pursuant to section 5 of this Article.

B. When an employee receives a negative determination, he or she shall be granted a reasonable amount of official time to review the material relied upon to make the determination. The employee must otherwise be in a pay status in order to be granted official time.

C. If a negative determination is reversed by the Agency (either before or upon reconsideration), the effective date of the increase will be the original due date.

Section 4. Reinstatement of Within-Grade Increase

After a within-grade has been withheld, the Employer will grant the within-grade increase after the employee has demonstrated sustained performance at an acceptable level of competence. After withholding a within-grade increase, the Employer, at a minimum, shall determine whether the employee's performance is at an acceptable level of competence after each fifty-two (52) weeks following the original due date for the within-grade increase.

Section 5. Appeal of Denial of Within-Grade Increase

A. An employee may request reconsideration of a denial of a within-grade increase by filing, with their supervisor, not more than 15 calendar days after receiving notice of determination, a written response to the denial. This request for reconsideration shall set forth the reasons that the agency shall reconsider the determination. Upon request, the supervisor will meet with the employee and their representative. If the parties work within the local commuting area, this meeting shall be in person; otherwise, the meeting will be by teleconference unless the Parties mutually agree to a face to face meeting.

B. The Agency shall provide the employee with a written decision within 15 workdays of receipt of the request for reconsideration.

C. Where an employee is denied his/her within-grade increase by the reconsideration official, the letter transmitting the official's decision shall include a statement which informs the employee about his/her right to appeal the decision through the grievance procedure and the number of days in which the employee must request such an appeal through the Union.

D. When an employee is dissatisfied with the decision, they may invoke the grievance procedure at the 2nd Step, in accordance with Article 34 of this Agreement.

ARTICLE 16 TRAINING

Section 1. General

The Parties agree that the training and development of employees is a matter of importance to fulfilling the mission of the Employer.

A. The Employer agrees to provide employees with training necessary to assist employees in the performance of official duties, subject to budgetary and workload considerations. Training opportunities will be based on such factors as the organization's need for the new skills to meet organizational objectives, the employee's need for the training to acquire skills necessary to perform the duties associated with meeting organizational objectives, and the employee's potential for successfully completing the training and applying the new learning to the job. Employees may raise as a defense in performance related action, when relevant, the failure by the Employer to make available training which the Employer deemed necessary for the performance of the employee's currently assigned duties.

B. Employees are encouraged to participate in professional activities of their occupation. The Employer will give consideration to requests for annual leave, leave without pay, use of earned credit hours or compensatory time, or duty time, as appropriate, to participate in training, professional meetings, professional development, conferences, or continuing education courses. The Employer will make a special effort to grant employee requests, absent workload exigencies, for duty time to take examinations, training or continuing courses, if required to meet a condition of continued employment.

Section 2. Selection for Conferences/Courses not Specifically Related

For training courses/conferences not specifically related to employee needs, but furthering an agency goal, when one or more employees in a unit will be allowed to attend because the course is considered to provide beneficial training, the Employer will select attendees based on factors such as the following: the value of the conference/course offering to the employee and employing organization, whether the employee will be actively participating in the course/conference, the extent to which the employee has not had the opportunity to attend similar course/conferences in the past, and whether the employee is an officer or member of the organization presenting the conference/course.

Section 3. Access to Training

A. As supervisors are made aware of OPM or EPA training opportunities generally applicable to employees in the work unit, the supervisor will make the information available to employees except where the information is disseminated to all employees in the unit through either email notices or computer data bases ("unit", for purposes of this section, refers to employees working for common first-level supervisor). Employees have an individual responsibility for researching training opportunities that can increase their potential or enhance their opportunity for advancement.

B. When new technology or equipment is introduced in a unit and creates the need for different knowledge, skills, or abilities in that work unit, the Employer agrees, if practicable, to provide

training to those employees directly affected.

Section 4. Approval for Training

A. All training and related expenses should be submitted, approved and authorized at least ten working days in advance of the starting date of the training. Additional unanticipated appropriate and necessary costs related to training expenses may be submitted to the Employer for approval (e.g. tuition, books, appropriate fees, etc.)

B. Subject to budgetary and workload considerations and in accordance with the objective criteria identified in Section 1(A), in order to be approved, all requests for training expenses must meet the following criteria:

1. The training will contribute to an increased ability to perform his/her current job or a job he/she has been assigned to fill or to the mission of the Agency;
2. Comparable training is not available through EPA developed courses, and it would be too costly for EPA to develop a suitable program;
3. Reasonable inquiry has failed to disclose suitable, adequate, and timely programs being offered without cost by other government agencies within the local area;
4. The course meets the needs of the employee and the Employer as well as or better than other courses of its nature which may also be available at that time;
5. The course is not being taken primarily for the purpose of obtaining a degree.
6. The employee agrees in writing to meet any continuing service agreement established pursuant to 5 CFR 410.

C. Employees who fail to satisfactorily complete training for which the costs have been approved and authorized by the Employer shall reimburse the Employer for all tuition and related expenses that it incurred for such training. If the reason for non-completion of the training is beyond the employee's control, the Employer may waive this requirement. Employees who are approved and authorized to attend other types of training are expected to maintain satisfactory attendance records and complete the course requirements.

D. An employee who is unable to attend training for which he/she has been authorized shall inform the Employer of his/her inability to complete the training as soon as possible after becoming aware of the impediment to attendance, in order to provide the maximum opportunity for the Employer to make other arrangements (e.g., obtain a refund of fees paid, substitute another employee into the course, etc.)

Section 5. Duty Time

Duty time will be granted to take authorized directed training. Additionally, duty time may be granted to take authorized non-directed training provided that the employee's absence would not create a workload or staffing problem, the course offering is unavailable during non-duty hours/the employee is unable to attend during non-duty hours, and it is impracticable for the employee to use

annual leave, leave without pay, credit hours, compensatory time or to change the regularly scheduled hours of work.

Section 6. Career Development

The Employer, if requested by the employee, will discuss the employee's personal career development opportunities and goals. When an employee learns of a training opportunity in which he/she is interested, the employee should discuss the opportunity with the supervisor and document such training requests in mid-year and end of year evaluations and IDPs.

Section 7. Merit Promotion Principles

Competitive procedures contained in the Merit Promotion Article apply to selection for training which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for promotion, per 5 CFR 335.103(c).

Section 8. Information Concerning Training Allocations

At the mid-point of the fiscal year, and upon request, the Agency will provide the local NTEU Chapter with the amount of money spent on training.

ARTICLE 17 HOURS OF WORK

Section 1. General.

The use of alternative work schedules (AWS) has the potential to improve employee productivity and morale, and accomplish the agency's mission and goals in an efficient fashion. Supervisors are encouraged to provide maximum flexibility for their employees. However, because of specific job requirements within the EPA, the same degree of personal choice may not be possible for all employees. Supervisors have the authority and responsibility to require work hour adjustments to meet special work situations and the responsibility to account for overall performance of the organization. All schedules must be consistent with organizational needs, provide for adequate, continuous office coverage, and result in no diminution of work performed.

All work schedules must be approved by the supervisor in advance. If an employee's request for a specific AWS is denied, the supervisor will provide a written explanation to the employee, upon request.

Once AWS are approved for employees under the same first-level supervisor, any conflicts in scheduling (e.g., the regular day off for an employee working a 5-4/9 or 4-10) will be resolved in favor of the most senior employee (EPA Enter of Duty (EOD) Date) after taking into consideration such factors as agency mission and nature of work.

Section 2. Definitions.

- A. Administrative workweek. A period of 7 consecutive calendar days designated in advance by the head of an agency. For EPA employees, the administrative workweek begins on Sunday.
- B. Alternative work schedules or AWS. Includes all flexible and compressed work schedules.
 - 1. A flexible schedule can split the workday into two distinct kinds of time – core hours and flexible hours or bands. Under most flexible schedule arrangements, all employees must be at work during core hours, but they may establish their arrival and departure times during the flexible bands.
 - 2. Compressed schedules are fixed schedules in which a full-time employee can complete the 40-hour workweek in fewer than 5 days or the 80-hour biweekly pay period in fewer than 10 days. Compressed schedules are always fixed schedules; employees may choose their fixed arrival and departure times (subject to supervisor approval); however, there are no provisions for daily employee flexibility in reporting or quitting times under the compressed work schedule program.
- C. 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.
- D. Tour of duty. The hours of a day (daily tour of duty) and the days of an administrative workweek (weekly tour of duty) that constitute an employee's regularly scheduled basic workweek.

- E. Credit hours. Hours in excess of the employee's daily tour of duty which are performed at the employee's option with prior supervisory approval as described in Section 4.C.3 of this article. Credit hours are available only to an employee working a flexible work schedule.
- F. Core hours. Those designated times and days during the biweekly pay period which an employee must be present for duty. Core hours are as follows: Washington DC (9:30 a.m. – 3:30 p.m.), Cincinnati (9:00 a.m. – 3:00 p.m.). Region 7 and Region 9 have core hours specified in their local agreements per Section 3 of this Article.
- G. Work day. The period of time, including the unpaid lunch break, during which an employee is normally scheduled to be at work.

Section 3.

Alternate work schedules in effect in Region 7 and 9 prior to the date of this agreement will remain in effect.

Section 4. Available Work Schedules.

A. Regular Work Schedule

1. The basic 40 hour workweek is scheduled on 5 days, normally Monday through Friday, and the working hours are the same each day.
2. Regular schedule tour of duty times are fixed and must be between 6:00 a.m. and 6:00 p.m.

B. Compressed Work Schedules (CWS)

1. Authorized Compressed Work Schedules

- a. "4-10" Plan (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. Employees preselect fixed arrival and departure times and two fixed nonworkdays. The fixed nonworkdays must be the same day of each administrative work week (i.e., every Monday or Friday) and must not be consecutive.
- b. "5-4/9" Plan: This schedule allows employees to complete the pay period in eight days of 9 hours of work each day and one day of 8 hours of work with 1 nonworkday each pay period, totaling 80 hours of work per pay period. Employees preselect fixed arrival and departure times and a fixed nonworkday.
- c. Employees may change their compressed day off with prior supervisor approval.
- d. Employees who are approved to work a compressed work schedule will be required to provide affirmative evidence that they have worked the proper number of hours in a biweekly pay period in accordance with 5 CFR 610.404

2. Employees must work core hours with pre-determined fixed hours each work day.
3. Supervisors shall use objective criteria in determining whether to approve an employee's request to work a compressed work schedule. Such criteria include the following: adequate office coverage, anticipated emergency situations, additional cost to the Agency, criticality of the employee's position, and customer service.
4. The Agency reserves the right to terminate the employee's CWS when there are documented misconduct or performance issues, when the employee does not comply with the provisions provided in this article, or to meet the organization/unit's specific operating needs. In such event, an employee may request that his/her CWS may be reinstated upon resolution of any such issues.
5. Overtime Work. For a full-time employee, overtime work consists of all hours of work in excess of the established CWS. For a part-time employee, overtime work must be hours in excess of the CWS for the day (more than at least 8 hours a day) or for the week (more than at least 40 hours).
6. Night Pay. The regular rules governing entitlement to night pay, at 5 CFR 550.121 and 122, apply.
7. Holiday Pay.
 - a. 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.
 - b. If the holiday falls on an employee's scheduled compressed day off, the holiday will be charged as follows:
 - i. 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").
 - ii. 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).
8. Compressed schedule tour of duty times are fixed and must be between 6:00 a.m. and 6:00 p.m.

C. Flexible Work Schedules

1. Authorized Flexible Work Schedules
 - a. Flexitour: This schedule allows an employee to select arrival and departure times within a flexible time band; however, once selected, the hours become the employee's regular work schedule. The basic work requirement is the traditional 8 hours of work

a day 40 hours of work a week, and 80 hours in a biweekly period. Even though the daily hours of the employee are “fixed”, this work schedule qualifies as a flexible work schedule and is eligible to participate in the credit hour program.

- b. **Daily Flexible Schedule:** This schedule allows an employee to select a starting and stopping time each day, and may change starting and stopping times daily within the established flexible one hundred and twenty (120) minute time period. The one hundred and twenty (120) minute time period permits the flexibility to begin work up to 60 minutes before or 60 minutes after the scheduled starting time. Departure times are adjusted based on the start time. Once an employee’s daily flexible schedule has been approved, an employee may change their starting and stop times, daily, within the established one hundred and twenty (120) minute time period without prior supervisory approval. The basic work requirement is the traditional 8 hours of work a day, 40 hours of work a week, and 80 hours of work in a biweekly period. An employee’s daily basic work requirement is considered completed following 8 hours of work after the employee’s starting time on a given day.
2. Employees must work established core hours when participating in any Alternative Work Schedule Program.
 3. **Credit Hours:** Credit hours are those hours which are in excess of an employee’s basic work requirement under a flexible work schedule. The earning and use of credit hours must be requested by an employee and approved in advance by the employee’s supervisor. Supervisors may grant a standing request to work credit hours for known or anticipated workload issues. Only employees on flexible work schedules may earn credit hours; employees working under a compressed work schedule cannot earn credit hours.
 - a. Credit hours must be earned in advance of their use and may be used and earned only in increments of fifteen (15) minutes.
 - b. Use of earned credit hours will be requested on OPM-71 or equivalent. Approval of such usage will be based on the same criteria used to grant annual leave.
 - c. When an employee uses credit hours, they constitute part of the basic work requirement to which they are applied. An employee is entitled to the basic rate of pay for credit hours and credit hours may not be used to create or increase entitlement to overtime pay.
 - d. Full-time employees may transfer a maximum of 24 credit hours between biweekly pay periods. Part-time employees may carry over one-fourth (1/4) of the hours in their biweekly work period.
 - e. An employee may generally earn a maximum of two credit hours per workday.
 - f. Subject to law, regulation, agency policy and this agreement, credit hours may be used alone or in combination with annual, sick, leave without pay or compensatory time off. When an employee is in a use-or-lose annual leave status, annual leave must be used prior to the use of credit hours.

- g. Union officials on official time may not accrue credit hours.
 - h. Supervisors will use the same criteria for approving/disapproving requests to work a FWS as they use for reviewing requests to work a CWS.
4. The Agency reserves the right to terminate the employee's FWS when there are documented misconduct or performance issues, when the employee does not comply with the provisions provided in this article, or to meet the organization/unit's specific operating needs. In such event, an employee may request that his/her FWS may be reinstated upon resolution of any such issues.
 5. Overtime Work. 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.
 6. Night Pay. For hours worked between 6:00 p.m. and 6:00 a.m., the Agency is only obligated to pay night pay for those hours that must be worked between those times to complete the 8-hour daily tour of duty or for designated core hours worked between those times. Employees working credit hours outside of the regular 6:00 a.m. to 6:00 p.m. are not eligible for night pay unless those hours are mandated by management.
 7. Holiday Pay. A full-time employee is entitled to no more than 8 hours of pay on a holiday or for an "in lieu of" holiday. A part-time employee is entitled to pay for the number of hours he or she would have worked, not to exceed 8 hours. When a holiday falls on a non-workday of a part-time employee, there is no entitlement to pay for an "in lieu of" holiday.
 8. Employees who are approved to work a flexible work schedule will be required to provide affirmative evidence that they have worked the proper number of hours in a biweekly pay period in accordance with 5 CFR 610.404.

Section 5. General Work Schedule Provisions

- A. Employee participation in an AWS is voluntary; the Employer will accommodate any employee's request to work a regular work schedule.
- B. All schedules will include at least a 30 minute unpaid lunch break. Employees may not use the unpaid lunch break at the beginning or end of the scheduled work day in order to shorten the length of the day. 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 accounting for the lunch period.
- C. The Agency may reopen the Agreement at any time at the local level, under 5 USC § 6131(c)(3)(A), to seek termination of any alternative work schedule in all or a portion of a covered bargaining unit, if it determines that the schedule has had an adverse impact. Should the Agency determine to modify or terminate such a program, it will notify the local NTEU Chapter (and NTEU National if the proposal involves employees at more than one location) and include in the notification the reason(s) for its wish to terminate or modify an existing schedule:
 1. A reduction of productivity;

2. A diminished level of services furnished to the public; or
 3. An increase in the cost of operations (other than an administrative processing cost in the establishment of an AWS).
- D. The Employer may restrict participation in AWS for positions it determines are of a critical nature.
- E. If an employee's work schedule must be temporarily changed based on items 1 through 4 below, the supervisor will inform the employee or the employee will inform the supervisor at the earliest opportunity.
1. A work schedule may be changed when the employee is attending training and the training hours conflict with the work schedule.
 2. A work schedule may be changed when the employee is in a travel status if the hours at the temporary duty station differ from those of the employee.
 3. Supervisors may make temporary changes in employee's work schedules due to work load changes, emergency or time-sensitive assignments, changes in staffing levels, or work assignments involving team efforts, etc.
 4. Work schedules may be changed to accommodate employee assignments involving team efforts.
- F. Employees may request to change their work schedules no more than once per quarter, unless agreed upon by both the supervisor and the employee.
- G. Employees who work an AWS may also fully utilize telework opportunities. Subject to applicable rules and eligibility requirements, teleworking employees are eligible for the same work schedules, including the daily flexible schedule, as non-teleworking employees.

Section 6. Grievability

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

ARTICLE 18 OVERTIME

Section 1. Definitions.

A. Overtime is work in excess of 40 hours in an administrative workweek, in excess of 8 hours in a regular work day, or in excess of the regularly scheduled hours in a compressed schedule work day.

B. Compensatory time is time off on an hour-for-hour basis in lieu of overtime pay. Compensatory time may be granted only for irregular or occasional overtime work.

C. Irregular or occasional overtime work means overtime work that is not part of an employee's regularly scheduled administrative workweek.

Section 2.

When the Agency decides to assign overtime to employee(s) who possess the requisite skills and abilities for the assignment (i.e., possess specific knowledge or experience needed to satisfactorily perform the overtime work) in the same organizational unit performing the same type of duties, the assignment(s) will be made in accordance with the following criteria. Qualified employees assigned to a particular task during regular working hours normally will be given the overtime assignment. In situations involving the need for overtime, when no specialized experience or background is needed, management will solicit interest from among employees in the job classification that would normally perform such work. If excess employees express interest in the assignment, the assignment will go to the most senior qualified employee (service computation date). If too few employees express interest, management will assign the overtime to the least senior qualified employee.

Section 3.

The Agency will balance its needs against the needs of the employee when employees request to be excused from overtime and provide qualified substitutes for the assignment(s).

Section 4.

The Employer will give employees as much advance notice of overtime assignments as is practicable under the circumstances.

Section 5.

Compensation for overtime work will be made in accordance with applicable laws and regulations. Overtime work shall not be performed unless authorized by a supervisor. However, this section shall not be a waiver of the union's or an employee's right to challenge "suffered or permitted" overtime worked by non-exempt employees or for FLSA exempt employees to file an appropriate challenge. When allowable under controlling laws, regulations, and agency policies, employees may request compensatory time in lieu of overtime pay. FLSA exempt employees whose basic rate of pay

exceeds the GS-10, step 10 rate shall normally be compensated for irregular or occasional overtime work with an equivalent amount of time off.

Section 6.

The basic workday for full-time employees shall be eight (8) hours each day, unless flexible work schedule with credit hours or compressed work schedules apply.

Section 7.

EPA sponsors or formally participates in off-site public events for the purpose of outreach and education (e.g., Earth Day, State Fairs, etc.). Employees will be compensated, in accordance with Agency and Government-wide overtime policies, regulations and laws, for time spent on an off-site activity when the activity is authorized by the Agency, when the assignment of work has been made and/or approved by the supervisor, and when the work is done outside of the employee's regularly scheduled work hours. Employees will not be compensated for time spent at off-site activities that are not authorized by the Agency, but for which the employee wishes to volunteer (e.g., beach clean-up).

Section 8.

When employees are called back to work outside of and unconnected with their regular work hours, the employees are credited with either two hours of work or the actual number of hours worked, whichever is greater.

Section 9.

Employees performing required standby duty will be compensated in accordance with applicable standby duty laws and regulations.

ARTICLE 19 ANNUAL LEAVE

Section 1. Request for Annual Leave

A. Use of annual leave is a right of the employee, subject to approval by the supervisor. When an employee submits a formal and timely request for leave on the required OPM-71, the employer will approve and schedule leave either at the time requested by the employee or if that is not possible, because of workload exigencies (e.g. the need to meet a work project deadline, severe work interruption), at another time mutually agreed upon. If leave is denied, the Employer will provide reasons for denial in writing to the employee, if requested. Requests for leave will be approved or denied expeditiously after actual receipt by the supervisor or designee.

B. Where an employee's request for annual leave conflicts with the requests of other employees to the extent that to grant leave to all who have requested would create workload problems, every effort will be made to reach an agreement among the affected employees. If these efforts fail, the employee having requested leave on the earliest date shall be granted leave. In the case of simultaneous requests the most senior employee (EPA EOD date) will be granted leave, unless a workload exigency exists for that employee.

C. It is the responsibility of the employee to request annual leave in advance. However, when an employee is unable to make the request in advance due to unforeseen circumstances, the use of leave may be approved.

D. As soon as the Employer's payroll system is able to track leave in increments of less than 1 hour, employees will be able to use annual leave in increments of 15 minutes.

E. The Employer shall not, in lieu of taking appropriate disciplinary action, deny the use of annual leave as a disciplinary measure. The use or non-use of approved annual leave will not be relied on in the employee performance appraisal or evaluation.

F. Employees will be allowed to schedule previously scheduled leave to another time, subject to the scheduling requirement above.

G. The employer agrees to authorize annual leave or leave without pay to a union representative for attendance at a union sponsored convention, as long as the employee has requested the leave one (1) workweek in advance, the employee is not in a use-or-lose status, and no workload exigencies exist.

Section 2. Change to Sick Leave

Employees may change previously authorized annual leave to sick leave, where the grant of sick leave is appropriate. However, once approved sick leave is taken, employees may not retroactively substitute annual leave, except for the purpose of liquidating an advance of sick leave.

Section 3. Annual Notice of Use or Lose Leave

Each year, the Employer will timely issue a notice advising and reminding employees of the regulations concerning use or lose annual leave and the need to request annual leave to avoid

unintended forfeiture. When canceled use or lose leave is forfeited because of workload exigencies or limited time precludes it from being rescheduled during the remainder of the leave year, management will undertake to restore the forfeited leave the following year, in accordance with applicable law and regulation, upon a request from the employee to restore the forfeited leave.

Section 4. Cancellation

When considering withdrawing earlier approval for an employee's previous approved leave, management will take into consideration the financial costs of the employee's reliance on the supervisor's earlier approval.

ARTICLE 20 SICK LEAVE

Section 1. Sick Leave Use

A. The employee shall use and earn sick leave in accordance with applicable laws and regulations. Accrued sick leave shall be granted to employees when they are:

1. Incapacitated for the performance of their duties by sickness, injury, pregnancy, or childbirth;
2. Receiving medical, dental or optical examination or treatment, including time spent traveling to and from the medical appointment;
3. Providing care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth, or who is receiving medical, dental, or optical examinations or treatment (subject to the limitations set forth in 5 CFR 630.401);
4. Making arrangements necessitated by the death of a family member or attending the funeral of a family member subject to the limitations set forth in 5 CFR 630.401;
5. Certified by the health authorities having jurisdiction or by a health care provider, as jeopardizing the health of others by his or her presence on the job because of exposure to a communicable disease; or
6. Absent for duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys, or travel, court proceedings, and any other activities associated with the adoption process.

B. As soon as the Employer's payroll system is able to track leave in increments of less than 1 hour, employees will be able to use sick leave in increments of 15 minutes.

Section 2. Providing Care for Family Members

A. Per 5 CFR 630.401, Full-time employees are authorized sick leave use of up to a total of 40 hours per year and an additional 64 hours per year to employees who maintain a balance of 80 hours of sick leave in order to pursue the following:

1. Provide care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment; or
2. Make arrangements or attend the funeral of a family member.

B. Per 5 CFR 630.401, an employee who is caring for a family member with a serious health condition may use not more than 480 hours of sick leave (pro-rated for part-time employees) during a leave year to care for the family member.

1. Any leave taken under the provisions of section (A) must be subtracted from the maximum number of hours authorized under this section. If an employee uses the maximum allowable period of time under this section, the employee is not eligible for the leave authorized under section (A).

C. For sick leave approved under the provisions above, family member means:

1. Spouse, and parents thereof;
2. Children including adopted children and spouse thereof;
3. Parents;
4. Brothers and sisters and spouse thereof; or
5. Any individual related by blood or affinity whose close association with the employee is equivalent to a family member (a domestic/life partner relationship meeting this definition qualifies for the use of sick leave as detailed above).

Section 3. Procedures for Requesting Sick Leave

A. If the use of sick leave cannot be anticipated, the request for approval shall go to the immediate supervisor or designee within two hours after the start of the employee's normal tour. Should the employee be unable to reach the immediate supervisor or designee, the employee may leave the immediate supervisor or designees a voicemail requesting the leave.

B. An employee will inform her/his supervisor or designee of the anticipated duration of the absence. If the absence extends beyond the anticipated period, the employee will inform his/her supervisor or designee of the situation promptly.

C. When possible, sick leave for a non-emergency medical, dental or optical examination, operation or treatment shall be requested when the employee becomes aware of the need to take sick leave. Such requests shall be approved unless workload exigencies exist, in which event, the employee would be notified as soon as possible, so that other appointments can be made.

Section 4. Medical Documentation

A. For sick leave of not more than three (3) consecutive days, the employee shall not be required to submit medical certification or other acceptable evidence unless there is reasonable evidence of abuse. Medical certification means a written statement signed by a registered physician or other recognized practitioner certifying the incapacitation, examination or treatment, or the period of disability while the employee was receiving medical care. The supervisor may waive the requirement to provide medical certification when the employee suffers from a well documented, chronic medical condition that requires infrequent absences in excess of three days. Any medical documentation or

evidence submitted by an employee is confidential and may be discussed with other officials only on a need to know basis.

B. If the Employer suspects abuse of sick leave based on a pattern of usage, the Employer will discuss with the employee his/her pattern of leave usage and the reason(s) for the pattern offered by the employee will be considered. If the Employer determines that the employee's leave pattern may indicate an abuse of sick leave, the employee will be advised in writing that an acceptable medical certification as defined in 5 CFR 339 will be required for each subsequent absence for which leave for sick purposes is requested. This written notice is referred to as a leave restriction letter and shall explain the basis for the action. The leave usage of an employee under sick leave restriction will be reviewed every six (6) months and a written decision to continue or lift the restrictions made. If a meeting is held to discuss the results of the supervisor's decision to lift or continue, the employee shall have the right to have a Union representative at the meeting.

C. An employee on leave restriction must provide medical documentation in accordance with the terms of the restriction.

D. A sick leave restriction letter shall also apply to the uses of all types of leave used for sick leave purposes.

Section 5. Attend Health Unit

Except for an emergency, an employee must notify the appropriate official before leaving the work site to go to an agency health unit. An employee who is returned to duty in 59 minutes or less will not be charged leave. Should the health unit recommend that the employee be sent home and the employee is released within 59 minutes of leaving the work site, the initial 59 minutes will not be charged to leave. The employee is responsible for notifying the supervisor or designee immediately that he/she will not be returning to work. Other than an employee on leave restriction, no employee will be required to furnish a medical certificate to substantiate use of sick leave for that day only.

Section 6. Alternative to Sick Leave Usage

Absences qualifying for the use of sick leave may be charged to annual, earned credit hours, earned compensatory time or LWOP if so requested in advance by the employee and approved by the supervisor.

ARTICLE 21

ADVANCED ANNUAL/SICK LEAVE

Section 1. Criteria for Advancing Annual Leave

A. Employees will be given advanced annual leave, unless the Employer determines that the employee's services are necessary, when:

1. They are eligible to earn annual leave;
2. They have served more than ninety (90) days in their current appointment;
3. Their request does not exceed the amount of annual leave they would earn during the remainder of the year; and

B. Employees must repay any leave advanced and not earned at the time of separation except no repayment is necessary if the separation is due to the employee's death or disability retirement.

C. Generally, employees on leave restriction should not receive advanced annual leave.

Section 2. Criteria for Advancing Sick Leave

Absent severe workload considerations, employees will be given advanced sick leave when all the following conditions are met:

1. The employee is eligible to earn sick leave;
2. Their request does not exceed the maximum allowable advancement of 240 hours;
3. There is a reasonable belief that the employee will return to a duty status after having used the leave;
4. The employee has enough in his/her retirement account to reimburse the Employer for the advance, should he/she not return;
5. A written request with acceptable medical documentation as defined in 5 CFR 339 has been properly submitted; and
6. Generally, employees on leave restriction should not receive advanced sick leave.

ARTICLE 22 LEAVE WITHOUT PAY

Section 1. Criteria for Approving Leave Without Pay

A. Leave without pay may be granted to employees, subject to management's approval, and in accordance with applicable law, rules, regulations, and EPA Manual 3165. The LWOP request must contain estimated duration and reason. Valid requests include, but are not limited to:

1. Attending school, if the course of study will increase skills on the job;
2. Maternity leave, if the employee expects to return to duty;
3. For employees whose applications for disability compensation are pending;
4. For illness or injury documented by medical evidence, if the employee is expected to return to duty;
5. While being paid disability compensation unless permanently disabled;
6. To teach at colleges and universities.

B. A condition of granting leave without pay is that the employee will be expected to return to duty. Employees may request leave without pay in lieu of annual leave. However, if an employee has more than eighty (80) hours of comp time or is in a use or lose status, the employee should use either the comp time or use or lose leave prior to requesting leave without pay. Such leave (LWOP) will be granted unless the approving official determines that the absence will create a problem with workload, staffing, or mission accomplishment.

Section 2. Criteria for Approving Leave Without Pay for Union Officers

The Employer will approve leave without pay to no more than 1 employee per chapter who is elected to a national officer position in NTEU for the purpose of serving full-time in that position. The LWOP will be for a period concurrent with the term of office of the elected position. Such LWOP is subject to the following:

1. Approval of LWOP is subject to staffing and workload requirements;
2. If the employee's return to duty is required due to workload needs or the possession of scarce skills, the Employer will cancel the LWOP and direct the employee to return to duty;
3. When the employee returns to a duty status, the Employer will place the employee in the same title, series and grade position held at the time LWOP commenced, to the extent practicable;

4. If the above placement can't be made, the Employer will place the employee in a position for which qualified at the same grade held by the employee when commencing the LWOP (assuming that no RIF has occurred in the interim).

Section 3. Insurance Coverage

As provided by regulation, employees may elect to maintain their group insurance coverage while in LWOP status. Employees contemplating LWOP in excess of 30 days should contact their servicing HR benefits specialist to determine what effects such LWOP will have on within-grade increases and other benefits.

ARTICLE 23

ADMINISTRATIVE LEAVE

Section 1. Definition

Administrative leave is an excused absence from duty without loss of pay and without charge to leave.

Section 2. Voting

When voting polls are not open at least three hours either before or after an employee's tour of duty, he/she must notify his/her supervisor in advance when they intend to adjust reporting or departing time in order to report to the polls. The employee may arrive for work three hours after the polls are open or leave work three hours before the polls close, whichever requires the lesser amount of time. The amount of voting leave allowable will depend upon the employee's tour of duty and the employee's voting location. Under exceptional circumstances where the general rule does not permit sufficient time, an employee may be excused for such additional time as may be needed to enable him/her to vote, depending upon the particular circumstances in his/her individual case, but not to exceed a full day. This exception must be requested and approved in advance in writing.

Section 3. Adverse Working Conditions and other Emergency Situations

Occasionally, severe inclement weather or other conditions posing serious health hazards may result in the administrative closing of the workplace and the excused absence of non-emergency employees for a day or part of a day. In such cases, the following procedures will apply:

1. Employees should check the public media, i.e., radio, television, and/or other established means known to the employee to determine if a decision is made prior to the beginning of the workday to close all or part of the day.
2. If the decision to close the workplace occurs during the workday, the notice of specific release will be communicated through supervisory channels. Treatment of leave requests depends upon whether the office is closed (employees are not allowed to report to work or remain at work) or employees are allowed to report for duty on a delayed basis or leave work early, at their discretion. Workdays on which a federal activity is closed are considered nonworkdays for leave purposes.
3. When hazardous conditions result in the office being closed at the beginning of the shift, with a later scheduled opening, employees will be excused from work for the period of closure without charge to leave, including those who otherwise would have been on approved leave. This does not apply to employees on LWOP, military leave, suspension or otherwise in a non-pay status.
4. When hazardous conditions result in an adjusted home departure/unscheduled leave policy for non-emergency employees, employees who report for work in accordance with the adjusted home departure announcement will not be charged leave for the

period of absence. Employees who do not report for work will be charged leave for the entire shift.

5. When hazardous conditions result in an adjusted work dismissal at an Agency office, non-emergency employees in a duty status at the time of the adjusted work dismissal will be excused without charge to leave. Employees in a duty status who leave work before the dismissal is announced or before the time set for their dismissal will be charged leave for the remainder of the workday. Employees in an approved leave status for the entire workday will be charged leave for the entire workday. If an employee is scheduled to return from approved leave following the announcement of an adjusted work dismissal, the employee will be granted excused absence for the remainder of the workday following the time set for dismissal.

Section 4. Agency Sponsored Blood Donation/Medical Screenings

A. Employees may be granted up to four (4) hours of excused absence for necessary travel and recuperation for the purpose of donating blood, medical screening, or bone marrow screening, when the agency is sponsoring those activities. Excusal for such purposes is subject to supervisory approval, based on staffing and workload needs. The employee will request an excusal for these purposes, as soon as practicable.

B. If an employee is requested to serve as a special donor by a hospital, medical professional or practitioner, any excused absence is subject to the above requirements. Additionally, in such circumstances, the employee must provide a statement from the hospital, professional or practitioner certifying to the request and donation.

Section 5. Tardiness

A. The Employer will excuse infrequent tardiness of less than one (1) hour if the supervisor or designee determines that the following are met:

1. The employee is not on a leave restriction letter, and
2. The employee's lateness is due to an understandable cause that is outside an employee's normal ability to control.

B. In the event that the tardiness does not meet the above criteria and annual leave is charged, the employee will not be required to perform work until the leave time charged is expired. Rather than taking leave, the employee may request to make the time up at the end of the regularly scheduled shift.

Section 6. Volunteer Work

A. Granting of excused absence for volunteer activities will be considered only when law does not specifically prohibit the employee's absence, workload allows the employee's excusal, and the Employer determines that the activity satisfies the following criteria:

1. The absence is directly related to the EPA's mission;

2. The absence is officially sponsored or sanctioned by EPA; and
3. The absence is brief and is determined to be in the interest of the Employer.

B. In all cases, the employee must provide acceptable evidence that the time was used for volunteer activities.

Section 7. Adverse Working Conditions

The Agency may grant administrative excusal to employees when environmental condition problems (e.g., unusually hot or cold, fumes and/or poor air quality, civil disobedience, water line/electric line disruption, on-site construction) create unhealthy or unsafe conditions (as defined by OSHA, EPA, or NRC regulatory criteria) such as to prevent or greatly degrade working in a safe environment, or it may direct employees to another work area until their regular work area is determined to be safe for use. The Agency may also direct employees to take portable work home with them in lieu of administrative excusal.

Section 8. Organ and Bone Marrow Donation

In accordance with 5 USC 6327, employees will receive up to 30 days administrative leave per calendar year when they undergo a medical procedure for organ donation. Additionally, employees will receive up to seven (7) days per calendar year for bone marrow donation. The employee is entitled to use of this leave without loss or reduction in pay, leave to which entitled, credit for time or service, or performance or efficiency rating. The length of absence will vary depending upon the medical circumstance of each case. For medical procedures and recuperation requiring longer than the paid leave authorized by statute, the Employer will continue to accommodate employees by granting additional time off in the form of accrued sick and/or annual leave, and considering requests for leave without pay or advanced sick or annual leave. Leave requested under this section must be supported by a medical certificate submitted by the Employee.

ARTICLE 24

OTHER LEAVE PROVISIONS

Section 1. Religious Holiday

A. An employee will be granted annual leave or leave without pay for a workday, which occurs on a religious holiday.

B. An employee whose personal religion requires abstention from work during certain periods of time may elect to engage in compensatory time and/or credit hours if appropriate, for time lost for meeting those religious requirements.

C. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the agency's mission, the Employer shall, in each instance, afford the employee the opportunity to work compensatory overtime and shall, in each instance, grant compensatory time off to an employee requesting such time off for religious observances when the employee's religious personal beliefs require that the employee abstain from work during certain periods of the workday or workweek.

D. For the purpose stated in paragraph (B) above, the employee may work such compensatory overtime before or after the granting of compensatory time off. A granting of advanced compensatory should be repaid by the appropriate amount of compensatory overtime work within a reasonable period of time, generally within two pay periods. Compensatory overtime shall be credited to an employee on an hourly basis, until the payroll system can accommodate charges of less than 1 hour. As soon as the Employer's payroll system is able to track leave in increments of less than 1 hour, employees will be able to use compensatory time in 15 minute increments. Appropriate records will be kept of compensatory overtime earned and used.

Section 2. Military Leave

In accordance with 5 USC 6323, any full time permanent or part-time permanent employee who is a member of the National Guard or other reserve unit of the Armed Forces shall be entitled to military leave for each day of active duty in such organization up to a maximum of fifteen (15) calendar days in a fiscal year. Unused military leave up to fifteen (15) calendar days may be carried over for a maximum of thirty (30) calendar days and used in the next year (for part time employees, the rate at which leave accrues will be prorated). Approval of the military leave provided in the foregoing shall be based on the copy of the military orders directing the employee to active duty. The employee must furnish a copy of the certification of completion of such duty to the supervisor when the employee returns to work.

Section 3. Court Leave

Jury duty or witness appearances shall be administered in accordance with 5 USC 6322 and any implementing rules or regulations.

1. Court leave is appropriate for: jury duty with a federal, state, or local court, or the District of Columbia court; appearing as a witness on behalf of a state or local

government; or witness duty on behalf of a private party when the federal, District of Columbia, state or local government is a party to the judicial proceeding. Court leave applies only when the employee would be on duty or leave with pay status but for the jury duty or witness service.

2. An employee called for court service will present the court order, subpoena, or summons to the supervisor. The employee must provide to the supervisor any documentation provided by the court confirming the employee's presence in court. The Agency will not request that an employee be released from jury duty unless unusual situations exist where the public interest would be better served by the employee staying in a duty status.
3. Fees for jury duty or witness service by an employee receiving court leave must be submitted to the appropriate finance office. The employee may retain reimbursements for travel, parking and other out-of-pocket expenses.
4. Employees will not be granted court leave for appearances as witnesses that are private, non-official, and non-governmental in nature.

ARTICLE 25

AWARDS

Section 1.

Managers and supervisors will support the awards program by appropriately using the various types of awards authorized for teams, workgroups, and/or individual employees. The administration of all matters covered by this article is governed by 5 USC Chapter 45, 5 CFR Parts 451 and 531, and the Agency Recognition Policy and Procedures Manual (3130 series). The Employer and the Union agree that the timely recognition of unit employees' outstanding achievements contribute to the efficiency of the work force and the accomplishment of the Agency's mission. Recognition and awards shall be based solely on merit, equity and credibility of the program. The parties agree that all awards will recognize specific achievements and that the system for administering and granting awards will be objectively applied without regard to personal favoritism.

Section 2.

The granting of awards is subject to budgetary limitations and awards are paid at the discretion of the Agency.

Section 3.

The Agency will provide each Chapter with an annual report of the bargaining unit employees who received an award during the prior year. The report will contain the employees' names, series and grades, and the numbers and types of awards granted to them, including the dollar amount expended for cash awards. The Chapter will treat this information confidentially. The Local parties will determine whether award recipients are publicized.

Section 4.

The local chapter will be allowed to review award nominations for bargaining unit employees and provide recommendations as outlined below:

A. Each Chapter will designate a union representative as a point of contact (POC) for award information.

B. The appropriate management official will contact the Chapter's POC to provide notice of award nominations. On-the-Spot, Time-off and QSI nominations are not subject to review.

C. The value of cash awards otherwise subject to review cannot be changed unilaterally. If the local parties can't agree on the value of awards subject to this process, the value in effect prior to the date of this agreement will remain in effect.

D. The Chapter will have ten (10) workdays to review and provide any recommendations regarding the nomination (i.e., name of nominee, organization, type of award, basis for award, amount of proposed monetary amount). These recommendations will be promptly forwarded to the official providing the initial notification.

E. The parties at any time may agree to extend this time frame. The deciding official will take into full consideration any recommendations made by the Chapter POC.

Section 5. Awards Information

At the outset of the fiscal year the Chapters will be provided with award budget allocation dollar amounts by region, by AAships (HQ), and by employing organizations (Cincinnati). Thereafter, the Chapter will receive at the end of the fiscal year the actual amounts spent on awards. These aggregate reports will provide the awards expenditures for NTEU bargaining unit employees, for other bargaining unit employees (where applicable), and for unrepresented employees. The aggregate reports will be broken down to the immediate office level at Headquarters, to the division level at Regions 7 and 9 and to the laboratory or program office level at Cincinnati/Edison.

Section 6.

The fact that an employee is the subject of a conduct investigation or has been the subject of a disciplinary action during the rating period will not preclude a performance award that would otherwise be granted unless such preclusion is necessary to protect the integrity of the Service.

ARTICLE 26

HEALTH AND SAFETY

Section 1. General

A. The Employer will provide a safe and healthy work environment for employees. As such, the Employer will comply with all applicable provisions of the General Standards of the Occupational and Safety Health Administration as well as with all other appropriate relevant health and safety codes and standards.

B. Each employee has a responsibility for his/her safety and an obligation to observe established health and safety rules and precautions as a measure of protection for him/herself and others. Employees may not engage in conduct that causes or will likely cause the Employer to be in violation of any rule, regulation, order, permit or license issued by a regulatory authority.

C. The employee will become familiar with and observe health and safety-related policies and procedures and guidelines issued by the Employer, which are applicable to the employee's own actions and conduct. If the Employer provides employees with safety equipment, personal protective equipment, or any other devices and procedures that the Employer considers to be necessary for employee protection, the employees will use such equipment as directed by the Employer. The Employer will provide any necessary training to use such equipment as directed by the Employer.

Section 2. Unsafe or Unhealthy Conditions

In the course of performing their assigned work, employees will be alert to the presence of unsafe or unhealthy conditions. When such conditions are observed, it is the employee's right to report them - with anonymity, if requested by the employee - to supervisory personnel and/or local safety and health personnel, such as the Health and Safety Officer. Copies of all employee reports of unsafe or unhealthy working conditions will be forwarded to the local health and safety committee.

1. In the event of imminent danger situations, employees will make reports to the Employer by the most expeditious means available. The employee has the right to decline to perform his/her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. However, in these instances, the employee must report the situation to his/her supervisor, another supervisor who is immediately available, and/or local safety and health personnel.
2. The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious/physical harm immediately or before the imminence of such danger can be eliminated through normal procedures (29 CFR 1960.2(u)). An employee who abuses these procedures may be subject to disciplinary action.

3. It is the Employer's responsibility to timely respond to health and safety complaints per EPA policy and 29 CFR Part 1960. The Employer will also report back to the employee, at the employee's request, within a reasonable time frame. If the employee has additional concerns with regard to the Employer's response, the employee should notify the local Chapter or the local health and safety committee.

Section 3. Inspection

All areas and operations of each workplace, including office operations, will be inspected at least annually. The Union will be given the opportunity to designate a local representative of the Union to be present for all such inspections. When feasible, the Employer will give the earliest advance notice but no later than two (2) workdays advance notice of the date the inspection is scheduled such notice will provide the time and place where the inspection will begin. Prior to the scheduled inspection, the Union will notify the Employer of either the name of its representative who will be present or its intent not to participate.

Section 4. Annual Review

The Employer will take steps, on at least an annual basis, to ensure that employees are familiar with the proper procedures for leaving their work areas during emergency situations such as suspected fire or bomb threat. When such emergencies occur, the Employer will take all steps necessary to safely and expeditiously evacuate employees. The Union will assist in this effort by encouraging its members to follow established procedures and to serve as monitors/coordinators, where such duties exist. Before serving as monitors/coordinators, employees will complete all necessary training as provided by EPA.

Section 5. Miscellaneous

- A. Employees will be informed of the procedures to use to contact the local emergency management system (e.g., paramedics, fire departments, police departments, ambulance services, etc.).
- B. The Employer will offer first aid, cardiopulmonary resuscitation (CPR) training, and defibrillation training to interested employees as can reasonably be scheduled. The training will be offered at least annually on duty time, as resources, interest and recertification requirements allow. The Union will encourage its members to take the course.
- C. The Employer will furnish the Union with the name and location of the Safety and Health Program Director, Director, SHEMD, and other officials having responsibilities in their respective Safety Program.
- D. The Employer agrees to continue to provide periodic health and safety information on the EPA Intranet. Health and safety program information will be disseminated and posted in accordance with 29 CFR 1960.12(e).

Section 6. Air Quality/Fumes

- A. The parties recognize that EPA employees work at different types of facilities serving many

different purposes. These may include but not be limited to commercial office space, laboratories, animal housing, warehouses, equipment storage, and hazardous waste units. The general use, purpose and indoor air considerations in such spaces is quite different and the indoor air issues relative to such spaces will be different as well.

B. Indoor air quality often refers to comfort issues as well as exposure related health concerns. Occupants are not only the recipients of indoor air quality but also a major variable in influencing indoor air quality. The Environmental Protection Agency has identified indoor air quality as a possible environmental as well as a public health concern. It is EPA's intention to extend this level of concern to employees when addressing indoor air quality issues in buildings occupied by EPA personnel. However, the management of many facilities and supporting services and mechanical systems may be outside the scope of EPA's authority and operating influence.

C. Building/Facility Profile: In order to promote an improved understanding of indoor air quality at a specific location, a general profile or characterization of the basic elements influencing indoor air quality is fundamental. Profiles will vary from region to region or building to building, based upon location, business use, etc. The local Safety and Health Committee should develop and agree upon applicable protocols for profiling the indoor air quality at their respective facilities. A draft guidance, IAQ protocol, will be provided by EPA/SHEMD as an example or format for general office space. The profile will rely on such elements as: facility use(s), building history, potential source identification, supporting habitats, temperature, relative humidity, storage of foodstuffs and perishables, housekeeping, housekeeping practices, internal carbon dioxide vs. external carbon dioxide, total airborne particulates and carbon monoxide (if applicable). The profile information may be used at each location to identify possible areas for improvement, promote corrective actions, and serve as an information source for employee communications to support programs to educate, inform, advise and update on indoor air quality. Additional assessments such as air monitoring, surface sampling, microbial analysis, etc., should be considered only as indicated and supported by the initial profile.

B. Smoking: The Agency will continue to comply with all aspects of EPA Order 1000.9B - Smoking Policy.

Section 7. Equipment

A. Subject to budgetary and workspace constraints, the Employer shall provide to employees who are required on an ongoing basis to use computers on the job with work stations or desks that can hold computer monitors and which may include adjustable keyboard trays, headsets, adjustable work surfaces which are large enough to accommodate the computer workstations (e.g., printers, manuals, work papers, and any other equipment required to be at the employee's work station to perform the duties and responsibilities of their position). Wrist rests will be provided if requested by individual employees, subject to budgetary constraints. The application of this section to employees working at an alternate work location will be subject to local flexiplace negotiations.

B. Subject to the availability of funds, the Employer shall provide ergonomically designed furniture to employees who submit medical documentation supporting the need for such furniture as a necessary accommodation for a medical condition.

Section 8. Safety and Health Committee

Locally, the Parties will continue or form a health and safety committee with union representation. The procedures and composition of such a committee will be worked out locally.

Section 9. Union Designated Representatives

The local Chapter will notify the local management point of contact of its designated representative for health and safety matters.

ARTICLE 27 DUES WITHHOLDING

Section 1. Purpose and Coverage

- A. This article is for the purpose of authorizing eligible bargaining unit employees who are members of the union to pay dues through voluntary allotments from their compensation.
- B. This agreement is based on exclusive recognition granted to the Union by eligible employees in the bargaining unit who (1) are represented under this recognition, (2) are members in good standing in the Union, (3) voluntarily complete or have previously completed Standard Form 1187, and (4) receive compensation sufficient to cover the total amount of the allotment.

Section 2. Union Responsibilities

The Union agrees to assume responsibility for:

1. Informing and educating its members on the voluntary nature of the system for allotment of Union dues, including the conditions under which the allotment may be revoked.
2. Forwarding properly executed and certified Standard Form 1187 to the servicing Human Resources Office on a timely basis.
3. Forwarding an employee's revocation (Standard Form 1188) to the Human Resources Office when such revocation is submitted to the Union.
4. Providing the Human Resources Office with written notification of the name of any participating employee who has been expelled or ceases to be a member in good standing in the Union within ten (10) days of the date of such final determination; and changes in the formula of dues amount.
5. Informing the Director of Human Resources of any change in the amount of membership dues.
6. Purchasing and providing the SF-1187 forms to bargaining unit employees.
7. Forwarding properly executed and certified SF-1187s and keeping the local Employer's Designated Official (EDO) informed of any changes in the certification and remittance procedures. The Union will promptly submit the SF-1187 to the EDO after it is signed by the employee and the authorized union official. The Union will ensure that the employee completes sections 1, 2 and 5 of the form.
8. Advising the Employer of the names and complete mailing addresses, including changes, for officials who are authorized to receive remittances, printouts, and other dues withholding data.

Section 3. Certification and Remittance Procedures

The Employer agrees to do the following:

1. Deduct and process voluntary allotments and change in dues upon certification from the NTEU National President in accordance with this Agreement.
2. Withhold authorized dues on a biweekly basis at no cost to the Union or the employee.
3. Upon receipt of a properly certified SF-1187, prepare the relevant EPA form for transmission within one (1) full pay period of its receipt. The SF-1187 should be entered into the payroll system, and dues withholding started, no later than the full pay period following receipt of the SF-1187 by the Employer's Designated Official.
4. Return the SF-1187 to the Union when an employee, who has submitted a SF-1187, is not eligible to enroll in the automatic dues withholding program because he/she is not included under the recognition in the appropriate, exclusively recognized unit on which the Agreement is based.
5. Have remittance checks transmitted biweekly to the Union or deposited electronically biweekly in an account designated by the Union with an alphabetical listing of employees for whom deductions were made. Transmit to the Union the total amount deducted for all employees; and the report which may not be consolidated will include the following encrypted information:
 - (a) SSN
 - (b) Chapter ID
 - (c) First Name
 - (d) Middle Initial
 - (e) Last Name
 - (f) Dues Amount
 - (g) Seasonal Member (WAEID)
 - (h) DW (Always "D")
 - (i) Agency ID (Always "EPA")
 - (j) Duty Location
 - (k) Grade
 - (l) Step
 - (m) Pay Plan
 - (n) Nat Loc Amount (All zeroes)
 - (o) Adjustable Base Pay
6. The Employer will allow the dues withheld from a Union member to be increased during the year when the employee receives a promotion or step increase, in accordance with the current union dues withholding arrangement.
7. Through the Labor Relations office or the designated office, the Employer will notify the employee and the NTEU Chapter president within fifteen (15) workdays of a determination that an employee is not eligible for a dues withholding allotment, along with the reasons for the decision and the specific duties that disqualify the employee from the bargaining unit.

Section 4. Termination

Allotments will be terminated when:

1. An employee ceases to be a member in good standing of the Union. In accordance with section 5.C, the Union is responsible for notifying the agency of the employee's loss of union membership and requesting that withholding be terminated.
2. The Union loses exclusive recognition for the covered unit.
3. When the employee is detailed, reassigned or promoted outside of the bargaining unit for which the Union has been accorded exclusive recognition.
4. When the employee is separated from the Federal service.
5. Death of the employee.

Section 5. Effective Dates

- A. Starting dues withholding: No later than one full pay period following receipt of the SF-1187 by the Payroll Office for HQ and the HRO/FMO for the regions as applicable.
- B. Change in amount of dues: This dues change will be made as soon as possible, but not later than sixty (60) days after notification. Such changes in dues amounts will be limited to one (1) change each twelve (12) months.
- C. Termination due to loss of membership in good standing: Beginning the first pay period after the date of notification into the Employer's automated personnel and pay system.
- D. Termination due to loss of recognition: Beginning of the first full pay period following the loss of exclusive recognition upon which the allotment was based.
- E. Termination due to separation or movement out of the exclusive unit: Beginning of first full pay period after the date of receipt of notification into the Employer's automated personnel and payroll system unit.
- F. Revocation by employee: Per 5 USC § 7115(a), employees may not revoke their dues withholding for at least one year after the first deduction. To revoke an allotment, an employee must submit an SF1188 (Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee organization Dues) or equivalent to the EDO during the one month period before the anniversary date of the initial SF-1187 and closing on the anniversary date. A revocation shall be effective as of the first full pay period after the anniversary date. If the employee does not submit the SF-1188/equivalent during the one month period, his/her allotment may not be revoked. A revocation will not be accepted until the next open period prior to the employee's anniversary date for dues withholding. Revocations will be affected by submission of a completed SF-1188 that has been initialed by the Chapter President or the Chapter President's designee and that lists the employee's dues withholding anniversary date. If the SF-1188 is not initialed, the Employer will return the SF-

1188 to the employee and direct the employee to the union for initialing. Once received, the SF-1188 will be processed in a timely manner.

Section 6. Bargaining Unit Moves

- A. In the event, an employee moves from one bargaining unit position to another bargaining unit position, and both bargaining unit positions are represented by NTEU, dues withholding will not be cancelled. In the event the transfer of an employee results in a change in the employee's NTEU chapter affiliation, the Employer will note the change and adjust dues withholding as appropriate. In the event that the Employer cancels an employee's dues withholding during a change from one NTEU bargaining unit position to another NTEU bargaining unit position, the Employer shall immediately reinstate the employee's dues withholding. The Employer will notify the employee and the union of the error.
- B. Employees who leave the bargaining unit temporarily will have their withholding suspended and will have the withholding reinstated once they return to the unit.

Section 7. Erroneous Payments

Once it is notified of the erroneous overpayment, the Union will promptly remit such money to EPA. In situations involving omitted or incorrect payments, EPA will promptly remit such money to NTEU. Disputes and disagreements regarding unresolved dues problems are to be processed through the Negotiated Grievance Procedure.

Any rights afforded by law, rule, and regulation will be observed, including but not limited to the right to request a waiver of overpayment/debt.

Section 8. Deductions from Back Pay Awards

In accordance with current law, rule, and regulations, the Employer will deduct NTEU dues from an employee's back pay award for that period in which the employee had an allotment for dues withholding in effect.

Section 9. Discretionary Allotments

Employees may elect as many as five (5) discretionary allotments, (which are not savings allotments) which employees may use to have additional voluntary deductions withheld from their pay. Such discretionary allotments may be used consistent with regulations for various purposes such as insurance and other benefits which may be offered by NTEU.

ARTICLE 28

LABOR-MANAGEMENT RELATIONS

Section 1. General

A. The parties will approach dealings with each other in an atmosphere of mutual respect and cooperation. Nothing in this agreement is intended to prevent or discourage the parties from communicating with each other through their duly appointed representatives at all levels. The parties expressly encourage a continuing dialogue by their representatives in the belief that communication prevents and resolves difficulties which may arise.

B. The Parties at the local level will explore methods to further labor-management cooperation, e.g. local committees, ad hoc joint work groups, etc. The procedures and processes for such activities are a matter for local level agreement. The Parties expressly encourage a continuing dialogue by their representatives at the local level in order to improve communications and prevent difficulties which might otherwise arise.

Section 2. Purpose

The matters to be discussed via any local cooperative process are expected to include the following: the discussion of personnel policies, practices and working conditions; the interpretation and application of rules and policies; the establishment of improved employee/management/union relationships; the prevention of conditions that might lead to misunderstandings and grievances; and the exchange of information designed to enhance labor- management cooperation. These collaborative processes are not intended to resolve individual grievances or complaints raised under the negotiated grievance procedure or appropriate appeals procedure unless otherwise mutually agreed by the parties.

ARTICLE 29

REDUCTION IN FORCE

Section 1.

The provisions of this article will apply to any Reduction in Force (RIF) conducted by the Agency during the life of this Agreement. In addition any RIF will be accomplished in accordance with applicable laws, rules, and regulations. When the Employer reaches a final decision involving a reduction in force (RIF) , it will provide the Union with a written notice at the earliest possible date and not later than 90 days prior to the planned effective date, when practical. The notification will include the reason for the RIF, approximate number and types of positions, the geographic location and anticipated date of the planned action. The Agency shall provide the Chapter, upon request, with information relating to the RIF in accordance with 5 USC 7114(B)(4). In recognition that some of the information provided to the Chapter is considered private and personal to employees, the Chapter will maintain the confidentiality of that information.

Section 2.

The Employer will brief the Union to discuss the reduction in force at a mutually agreeable time as soon as possible, but no later than one (1) week after notification. The Union retains its right to negotiate the impact and implementation of the RIF where not otherwise agreed to in this Article. To minimize the impact of a RIF, the Agency will, to the extent practicable, utilize attrition of employees and other means to effect staffing reduction; and make a reasonable effort to reassign affected employees to vacant positions for which they are qualified within the competitive area. Prior to issuing specific RIF notices to employees, the Agency will seek authorization from the appropriate source(s) to offer Voluntary Early Retirement Assistance (VERA) and Voluntary Separation Incentive Pay (VSIP) to all appropriate affected employees. In the event the Agency is granted authority to offer VERA and/or VSIP to employees, the Agency will brief all affected employees.

Section 3.

The Agency will make a reasonable effort to keep employees in a competitive area anticipating a RIF generally informed of recent developments and decisions. After notification of the Chapter, the Employer may hold general meetings with unit employees. General information concerning the RIF will be provided by an all-employee notice, individually disseminated, or disseminated by email or by posting on official bulletin boards at the location(s). Except with prior approval of Office of Personnel Management (OPM), the Employer will give affected employees an information notice at least thirty (30) days prior to a specific notice.

Section 4.

Employees receiving a specific RIF notice will be advised of their entitlement to Union representation.

Section 5. Timing of a Specific RIF Notice.

The Employer shall issue specific RIF notices to employees affected by a reduction in force at least sixty (60) calendar days before the effective date of the notice.

Section 6.

In emergency situations, in accordance with applicable law and regulations, the Employer will advise the Union in advance of specific situations requiring less than the normal notice period(s), set forth above. Emergency situation in this context is defined as circumstances arising that are not reasonably foreseeable requiring a reduction in force that do not permit 60 days specific notice but at least the minimum 30 days specific notice in unforeseen circumstances. Such requests to provide notice less than 60 days require the approval of the Director of OPM.

Section 7.

Employees on detail will not be released during a reduction in force from the position to which they are detailed, but rather from the employees' official positions.

Section 8. Contents of Specific Notices.

A specific RIF notice and any attachments must contain the following information:

1. What reduction in force action is being taken (e.g., separation, demotion, furlough for more than 30 days, etc.); the reason for the reduction in force; and the effective date of the action
2. The employee's competitive area, competitive level, retention subgroup, service date, and the three most recent ratings of record received during the last 4 years.
3. The place where the employee may inspect the regulations and records pertinent to his/her case;
4. If applicable, the reasons for retaining a lower standing employee in the same competitive level;
5. As applicable, the employee's right to appeal the reduction in force action to the Merit Systems Protection Board under the provisions of the Board's regulations;
6. For employees in tenure groups I and II, but not tenure group III, information on re-employment rights, the Re-employment Priority List and Career Transition Assistance Programs and all other information required by Reduction in Force regulations. Along with the RIF notice of separation, the Agency will give the employee information concerning how to apply for unemployment insurance through his/her appropriate State office. The employee also will be given a release to authorize, at his or her option, the release of his/her resume and other relevant employment information for employment referral to State dislocated worker units.

Section 9.

Before separating any employee by RIF, the Agency will ensure the employee is enrolled in the Agency's Career Transition Assistance Program (CTAP). Also, the Agency has additional notice requirements to OPM, and to other Federal and non-Federal organizations when separating fifty (50) or more employees from a competitive area, consistent with the provisions of 5 CFR 351.803(b).

Section 10.

Bump and retreat rights will be handled in accordance with controlling regulations.

Section 11.

Salary and pay retention for affected employees will be in accordance with applicable law and regulations.

Section 12. Factors Considered in Establishing Competitive Levels.

The agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an agency may reassign the incumbent of one position to any of the other positions in the level without undue interruption. Competitive level determinations shall be made in accordance with controlling regulations.

Section 13. Undue Interruption.

Undue interruption means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position.

Section 14.

In the event of a reduction-in-force, retention registers shall be established with employees listed by tenure group, veterans preference sub-group, and length of service (with credit for Performance included in computing total length of service). The retention registers shall be available for review except by an employee who has received a specific reduction in force notice and/or the employee's representative if the representative is acting on behalf of the individual employee, and an authorized representative from the Office of Personnel Management.

Section 15.

Upon request, an employee who has received a specific reduction in force notice, or representative, will be given the opportunity to review registers and any other records used by the Agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against

the employee.

Section 16.

An employee who has received a specific reduction in force notice or his/her representative, if the representative is acting on behalf of the individual employee, will be given the opportunity to review the retention register with the employee's name and complete retention registers for other positions that could affect the composition of the employee's competitive level and/or the determination of the employee's assignment rights.

Section 17.

A. Additional service credit is based on the last three most recent ratings of record which were received by the employee during the four (4) year period prior to the date of issuance of specific RIF notices.

B. While the Agency is using a "Pass/Fail" performance appraisal system, the Parties will meet prior to a RIF to determine the number of years to be used for additional service credit for "Successful" performance.

C. To be creditable for RIF purposes, rating must have been issued to the employee, including all appropriate signatures and reviews, and must be on record. Performance appraisals will not be given solely to improve an employee's retention standing for RIF purposes. Assumed ratings of fully successful will be used for RIF purposes, in the absence of actual annual ratings of record.

Section 18.

For the duration of a reduction-in-force process, the Employer will provide the Union with up-to- date information and keep it informed of significant action taken regarding RIF's, transfers of function, and reorganizations.

Section 19.

At the employee's request, the Employer will notify the affected employee released as a result of a RIF of their eligibility for outplacement training in accordance with applicable regulations and policies of higher authorities.

Section 20.

The Employer will provide assistance to employees participating in the Re-employment Priority List (RPL) and the Career Transition Assistance Program (CTAP). Assistance will be given in locating the appropriate local state employment security agency (employment office) that should have the information to inform the employee of any benefits that may be available to the affected employee.

Section 21.

Any career or career-conditional employee who is separated because of reduction in force will be placed in a re-employment priority list and such employees will be considered for rehiring in accordance with

applicable regulations.

Section 22.

In accordance with applicable regulations, the Employer will grant a reasonable excused absence to an employee moving outside the competitive area as a result of RIF or transfer of function to find new housing.

Section 23. The Employer will pay relocation expenses for all employees affected by RIF and directed by the Employer to a position within the Agency but outside of the commuting area in accordance with applicable law and regulation.

Section 24.

The Employer will provide information to the affected employee and keep the employee informed on the reduction in force as it affects the employee.

Section 25.

The Employer will refer any Group I or II displaced employee to the Office of Personnel Management (OPM) for consideration for employment under OPM's Displaced Employee Program, per the provisions of 5 CFR 330.

Section 26.

The Employer will cooperate with OPM by referring displaced employees to the Interagency Career Transition Assistance Program under applicable law and regulations.

Section 27.

The Employer will maintain all lists, records and information pertaining to the reduction-in-force for at least one (1) year in accordance with applicable law, rules and regulations.

Section 28. RIF Competitive Areas

The minimum competitive area is a subdivision of the Agency under separate administration within the local commuting area. The local commuting area is the geographic area that usually constitutes one area for employment purposes. It includes the population center and the surrounding localities in which people live and can be reasonably expected to travel back and forth daily to their usual employment.

Section 29.

Management may exclude positions from a competitive level only upon a showing that movement would create undue interruption to a degree that would prevent the completion of required work within deadlines or other demands, or cause impairment to the Agency's mission.

Section 30. RIF Involving Excepted Service Employees

RIF's involving Excepted Service employees will be handled in accordance with law and appropriate regulations. Excepted Service employees do not compete with Competitive Service employees; they compete only with others in the same appointing authority and in the same competitive area. Excepted Service employees have no assignment rights and may not be placed on re-employment priority lists (5 CFR 330.201). Excepted Service employees may not participate in OPM's Displaced Employees Program unless the individual has competitive status and was released from Group I or II (5 CFR 330.303(b)(1)).

Section 31.

Employees separated from employment due to a RIF will receive severance pay in accordance with the provisions of 5 CFR 550 Subpart G.

ARTICLE 30

EQUAL EMPLOYMENT OPPORTUNITY

Section 1.

No employee will be denied a benefit of employment by the Employer, or a benefit or right of unit membership by the Union because of the employee's race, color, national origin, sex, age, religion, sexual orientation, Union affiliation, lawful political affiliation, marital status, or qualifying disabling condition. Both parties support the realization of a representative work force within the units at all levels.

Section 2.

The Parties hereby affirm their support of a positive EEO program.

Section 3.

The local parties may establish an EEO committee or councils. The Chapter will be given the opportunity to have a bargaining unit employee as its representative to participate as a committee member on matters affecting unit employees. Bargaining unit employees serving on the committees/councils will do so on official time and unit employees serving as the Chapter representative shall be selected by the Union.

Section 4.

A bargaining unit employee may file a discrimination complaint under the negotiated grievance procedure or the administrative procedure provided by statute and regulations, but not both. An employee filing a formal EEO complaint under the Agency's procedure is entitled to a representative of his/her personal choice provided that the representation does not create a conflict of interest, as described in 29 CFR 1614.605(c). An employee filing a discrimination complaint under the negotiated grievance procedure may represent himself/herself or may be represented by an authorized Union representative. An employee shall be deemed to have exercised his or her option in filing an EEO complaint at such time as the employee timely initiates a formal written EEO complaint/notice of appeal under the statutory procedures or timely initiates a grievance in writing in accordance with the Grievance article.

Section 5.

Upon request, and in accordance with the provisions of 7114(b)(4), the Employer will provide any prepared statistical reports and EEO complaint summaries on the unit to the Chapter.

Section 6.

Upon request, employees shall be entitled to Union representation and granted duty time in all meetings

with an EEO Counselor subject to the provisions of Article 6 of this agreement.

Section 7.

The Employer, pursuant to 29 CFR 1614.203(c) will make reasonable accommodations to the known physical or mental limitations of qualified employees unless it can be demonstrated that the accommodation would impose an undue hardship on the operations of the Employer's program.

ARTICLE 31

TEMPORARILY DISABLED EMPLOYEES

Section 1. Light Duty Assignments

Upon request, the Employer will make a reasonable effort to provide temporary light duty/ alternative duty assignments within the same branch (work unit) for an employee temporarily unable to perform his/her regularly assigned tasks due to a medical condition, as verified by medical certification. In certain circumstances, the Employer may require a designated medical practitioner to verify an employee's medical condition. The Employer must determine that a genuine need exists for the temporary duties. If the employee cannot carry out the alternate duties, he/she may request leave in accordance with this Agreement and/or applicable laws and regulations. This does not preclude any employee from filing an application for disability retirement or workers compensation in accordance with applicable regulations. Priority for light- duty assignments will be given to employees incapacitated due to a work-related injury or illness.

ARTICLE 32

PART-TIME EMPLOYMENT

Section 1. Definition

For the purpose of this Article, part-time employees are those who are employed in permanent positions with a pre-scheduled tour of duty between sixteen (16) to thirty-two (32) hours per week.

Section 2. Criteria for Approval

The Employer may grant employee requests to work part-time when continuity of operations will not suffer. Decisions will be made within 15 work days of receipt of the request. The employee acknowledges that the request for part-time employment is voluntary.

Section 3. Coverage

The Employer recognizes that part-time career employment may be appropriate, but in no way limited to, the following class of employees:

1. Older employees seeking gradual transition into retirement;
2. Handicapped individuals or others who require a reduced work week;
3. Parents who must balance family responsibilities with the need for additional income; and
4. Students who must finance their own education and vocational training.

Section 4. Holidays

When a holiday falls on a part-time employee's regularly scheduled workday, the employee will be paid for the number of hours he/she was scheduled for that day.

Section 5. Change in Employment Status

- A. In accordance with 5 USC 3403, the Employer will not abolish any position occupied by an employee in order to make the duties of such a position available to be performed on a part-time basis.
- B. Subsection 5(A) above does not preclude the Employer from permitting a full-time employee from voluntarily changing to a part-time schedule in accordance with Section 2 of this Article.
- C. Any person who is employed on a full-time basis shall not be required to accept part-time employment as a condition of continued employment.

Section 6. Request to Return to Full-Time Status

Upon written request, the Employer will consider an employee's request to return to full-time status. If the request is denied, the employee will, upon written request, receive a reason for the denial in writing.

Section 7. Job-Sharing Program

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

ARTICLE 33

MID-TERM NEGOTIATIONS

Section 1. Coverage

These procedures cover the negotiations process for changes in terms and conditions of employment affecting bargaining unit employees. The procedures also apply to Employer and Union-initiated negotiations.

Section 2.

When the Employer wishes to implement negotiable changes in personnel policies, practices and working conditions the Employer will provide the Union advanced notice of the proposed changes in conditions of employment in accordance with law.

1. When the Employer notifies the Union of changes that are not national in scope, i.e., not involving more than one EPA region or area, this notice shall be served on the appropriately designated chapter president or designee.
2. When the Employer notifies the Union of changes that are national in scope, notice shall be provided to the President of NTEU or her/his designee in the NTEU national office.

Section 3.

With Employer initiated changes, the following procedures will apply:

1. The Employer will provide the authorized agent of the Union, subject to Section 2 above, with advance notice of the proposed change. Notice shall be provided within a reasonable period of time prior to the desired implementation date of the proposed change, taking into account the nature and scope of the proposed change and the need for timely implementation.
2. Service may be by hand, by e-mail, certified U.S. mail (return receipt), or facsimile. Once delivered the time frames below begin on the day after actual receipt of the notice. The Party receiving the notice will immediately confirm the receipt by sending an e-mail, fax, mail or making a phone call.
3. The Union may request a briefing on the proposed change by submitting a written request for such. A briefing request will be made within seven (7) work days of the actual receipt of the notice. If the Union does request a briefing, it will have seven (7) workdays from the date of the briefing in which to invoke its right to negotiate over the requested changes. If the Union wishes to forego a briefing, it will have fifteen (15) workdays in which to invoke its right to negotiate over the requested changes. In either event, the Union will have fifteen (15) additional workdays at the end of the event in which to submit its proposals.

4. The Union will submit its invocation to the person designated in the Employer's initial notice of a proposed change. The Union will notify the Employer of its designated representative for bargaining purposes at this time.

Section 4.

Union initiated negotiations. The Union has a right to initiate bargaining over subjects within the Employer's obligation to bargain that are not covered by the terms of this agreement.

1. The Union will notify the designated management official (servicing HR office) at the appropriate level of its intent to initiate negotiations by submitting its written proposals or written interests that it wishes to bargain over.
2. Service and time frames will be as outlined in Section 3.2 and 3.3 above.

Section 5.

Nothing in this article precludes the parties from mutually agreeing to extend the above time frames.

Section 6.

The notice of the proposed change will include the following:

1. A description of the desired change;
2. The contact point for the submitting organization; and
3. Any necessary attachments.

Section 7.

Where the Union wishes to negotiate over the requested change, the Employer will delay the implementation of such change until that time when the Parties have reached agreement on the proposed change unless required by law to implement prior to reaching agreement, or unless the agency is faced with an overriding exigency in accordance with law.

Section 8.

The following ground rules shall govern the conduct of midterm negotiations:

1. At all stages of the process, the Parties will communicate and bargain in a good faith effort to reach agreement in an expeditious fashion.
2. The Employer will provide a site for negotiations.
3. Negotiations shall take place during the regular administrative workday of the office where negotiations are taking place.

4. The Union may have the same number of unit employees serve as negotiators in an official time status as the number of individuals representing the Agency for such purpose. In addition, the Union bargaining team may include an NTEU staff member. Midterm negotiations may be expanded to include advisors for each Party.
5. At the beginning of the bargaining, the party requesting negotiations shall notify the appropriate office of the Federal Mediation and Conciliation Service (FMCS) of the pendency of the negotiations.
6. Either party has the right to request the assistance of an FMCS mediator at the appropriate FMCS office. A requesting party will provide notice to the other party of its intent to seek such assistance.
7. The parties will cooperate with the mediator to schedule mediation sessions as soon as possible.
8. If the parties do not reach agreement following mediation efforts, they will jointly submit the dispute to the Federal Service Impasses Panel (FSIP) for final resolution. The parties may agree to file a joint request to the FSIP requesting that it direct the parties to resolve the dispute in a particular fashion.
9. The parties will jointly share any expenses or fees involved in the resolution of a bargaining impasse by the FMCS, FSIP, or a procedure directed or approved by the FSIP.
10. Nothing in this section will preclude the parties from mutually agreeing to resorting to private mediation-arbitration for impasse resolution.

Section 9. Midterm Agreements—Memoranda of Understanding and Amendments

The Union and Employer will incorporate any agreement into a Memorandum of Understanding (MOU), and each party will sign the MOU. Each MOU will contain a provision indicating an effective date and an expiration date, if applicable. Any MOU will be subject to reopening upon expiration or renewal of the national collective bargaining contract (this Agreement).

Section 10.

Existing conditions of employment not in conflict with provisions of this agreement will remain in effect. Any practice that conflicts with the terms of this agreement is void on the effective date of this agreement. Parties at the local level may not enter into written agreements or practices that conflict with the terms of this agreement.

ARTICLE 34

NEGOTIATED GRIEVANCE PROCEDURE

Section 1.

- A. The grievance procedures contained in this Article shall be the exclusive procedures available to the Parties and the bargaining unit employees for resolving a grievance, except as provided in Sections 1(B) and (C) of this Article; provided, however, that if an alleged grievance also constitutes an alleged unfair labor practice, the aggrieved Party has the option to seek redress under this Article or under the unfair labor practice procedure set forth in 5 U.S.C. Sec. 7116 and 5 C.F.R. § 2423, but not both.
- B. A grievance involving an adverse or unacceptable performance action is defined as removal, suspension for more than fourteen (14) calendar days, reduction in grade, reduction in pay, or furlough of thirty (30) calendar days or less. Such a grievance may be raised either under the appropriate appellate procedure or under this negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his or her option at such time as he or she timely files a notice of appeal under the applicable appellate procedure or timely files a grievance in writing in accordance with the provisions of Section 6 of this Article, whichever occurs first.
- C. A grievance involving discrimination based upon race, color, religion, sex, national origin, age, disability, marital status or political affiliation may, in the discretion of the aggrieved employee, be raised either under the appropriate statutory procedure or under this negotiated grievance procedure, but not both. Pursuant to 5 U.S.C. Section 7121(d), an employee shall be deemed to have exercised his or her option to raise a matter either under the applicable statutory procedure or under this negotiated grievance procedure at such time as the employee timely files a formal complaint of discrimination or timely files a grievance in writing in accordance with the provisions of this Article, whichever event occurs first.

Section 2.

- A. A Grievance means any complaint:
 - 1. By any bargaining unit employee concerning any matter relating to the employment of any employee; or
 - 2. By the Union concerning any matter relating to the employment of any bargaining unit employee; or
 - 3. By any bargaining unit employee, the Union or the Employer concerning:
 - a. The effect or interpretation, or claim of breach, of the collective bargaining agreement; or
 - b. Any claimed violation, misinterpretation, or misapplication of any law, rules, policy or regulation affecting conditions of employment.

- B. Employees in the unit may initiate grievances under this article either singly or jointly, or grievances may be initiated by the Union on behalf of an employee or employees. Additionally, upon mutual agreement of the Parties, grievances already filed may be combined and processed as one, up to and including arbitration.

Section 3.

In addition to any other exclusions contained in the Agreement, the grievance procedure will not apply to:

1. Any claimed violation of prohibited political activities (subchapter III of Chapter 73 of Title 5);
2. Retirement (5 CFR Sec. 831); life insurance (5 CFR Sec. 870); or health insurance (5 CFR Sec. 890);
3. A suspension or removal for national security reasons under 5 USC Sec. 7532;
4. Any examination or certification (5 CFR Sec. 332 and 337); or appointment (5 CFR Sec. 2, 3, and 8);
5. The classification of any position which does not result in the reduction in grade or pay of an employee (5 CFR Sec. 511);
6. The termination of a probationary employee;
7. The termination of a term employee serving a trial period;
8. The preliminary warning notice of potential discipline (oral or written);
9. An appeal by an employee of a RIF action;
10. The adoption or non-adoption of a suggestion or the receipt or non-receipt of an honorary cash award in accordance with the terms of this agreement;
11. Adverse actions affecting (1) preference eligible excepted service employees who have completed less than one year of current continuous service in the same or similar positions, or (2) non-preference eligible employees who have completed less than two years of current, continuous service in the same or similar positions in an Executive Agency under other than a temporary appointment limited to two years or less.

Section 4.

An employee, a group of employees, the Union or the Employer may initiate a grievance. It is understood that an employee processing a grievance under this Article shall be limited to Union representation or self-representation.

Section 5.

When an employee presents a grievance on his/her own behalf, the Union shall have the

opportunity to have an observer present at all steps of the grievance process, and will normally be notified three (3) days in advance of the meeting. The union observer will not participate during the employee's presentation of the grievance, but will be allowed to present the Union's position on the grievance or any relief sought at the conclusion of the meeting. The Employer will provide the Union with a copy of all written grievance correspondence between the Employer and the grievant.

Section 6. Procedure for handling a grievance involving an adverse or unacceptable performance action.

An employee who receives a notice of final action regarding an adverse action has thirty (30) calendar days beginning with the day after the effective date of the action to appeal the action to the Merit Systems Protection Board. If the employee decides to seek recourse through this negotiated grievance procedure and the Union decides to invoke arbitration, without first following the steps of the grievance procedure, notice of a decision to seek arbitration must be served upon the Employer within thirty (30) days beginning with the day after the effective date of the action. If the Union wishes to raise new issues not raised before the deciding official it should, as practical, identify any additional issues in its written invocation of arbitration. However, this will not preclude either party from raising any additional or new issues prior to the pre-hearing conference. In no event may the Union or Agency raise new issues before the arbitrator that have not been identified at the prehearing conference that shall occur no later than 14 days prior to the scheduled hearing date.

Section 7.

- A. All disputes of grievability may be appealed to the next step of the grievance process. In the event the Union invokes arbitration, questions of grievability shall be decided first. If the issue is determined not to be grievable, the grievance will terminate. The Parties agree to make every effort to raise any questions of grievability or arbitrability of a grievance at the lowest level of the negotiated grievance procedure. When the Employer alleges an issue is non-grievable or nonarbitrable, the Union will have 7 workdays to amend and refile the grievance from the date on which the Employer alleges the issue is non-grievable or nonarbitrable. It will be resubmitted at the level at which the issue was raised and proceed as a normal grievance. Where the grievance is timely filed and the Union or employees alleges a violation of rules or regulations, the Employer will not dismiss the grievance as nongrievable solely because of an incorrect reference or citation.
- B. The Employer recognizes its obligations to provide the Union and its representatives with relevant and necessary data pursuant to the standards set forth in 5 USC 7114(b)(4). When a request for information cannot be filled within five (5) working days, the Parties may mutually agree to either postpone or amend any filing or other deadlines related to the information request. If the Agency denies the request, it will provide a written statement giving the reasons why the data will not be provided. The Employer's decision to not provide all or part of the information sought may be joined with the grievance and processed to arbitration in the event the Union invokes arbitration. At arbitration, the arbitrator shall review the Union's information request and the Agency's decision not to provide the information and determine whether or not the information is to be provided to the Union.

Section 8. Employee Grievance Procedure.

A grievance must be filed within 30 calendar days of the notice of the matter, incident or issue out of which the grievance arose or 30 calendar days after the date the grieving party or person reasonably should have been aware of the matter, incident or issue. For this section the use of the word "day(s)" will be interpreted as calendar days. The Parties may mutually agree to extend the time limits contained in this procedure. Additionally, a step of the grievance procedure can be waived by mutual agreement. The Parties must enter into a written extension or waiver prior to the expiration of the time frame called for by the procedure. Failure on the part of the Employer to respond to a grievance within the appropriate time frame will entitle the grievant or Union, at their option, to advance the grievance to the next step.

Step 1

- A. An employee will present his/her grievance in writing to the immediate supervisor, unless the immediate supervisor does not have the authority over the matter grieved. In that case, the employee will present his/her grievance to the management official at the level having the necessary authority. If the employee files with the wrong official, the time limit for responding is automatically extended by the length of time necessary for the receiving official to route it to the proper official; the receiving official will provide the grievant and the Union with written notification that he/she is routing the grievance to the proper official. If the employee wishes to meet with responding official to discuss his/her grievance, the request for such a meeting must be included in his/her Step 1 grievance.
- B. The employee must state specifically that he/she is presenting a grievance; the remedy or relief sought; the name, organizational unit and location of the aggrieved; a statement of the items, regulations, agreement or law alleged to have been violated, citing specific paragraphs or articles; a description of the circumstances giving rise to the violation; and designation by name of the Union representative or statement of self-representation. The grievance must be signed and dated.
- C. If so requested by the employee, the supervisor may schedule a meeting with the employee within 15 days of receipt of the Step 1 grievance. Within 15 days of the meeting, if one is provided, or within 15 days after receipt of the grievance, if no meeting is requested or provided, the 1st level official will issue a written decision. The decision will include, if relief is denied or modified, the reason(s) for such actions, the name and location of the Step 2 responding official, and the time limits for filing a Step 2 grievance.

Step 2

- A. If the matter is not satisfactorily settled following Step 1, the aggrieved employee and/or his/her representative, if any, may within 10 days of the notification of denial present the matter in writing to the next level supervisor over the supervisor who heard Step 1. The grievance will contain the information submitted in Step 1 plus the disposition at Step 1. If the employee wishes to meet with this next level supervisor, he/she must request such a meeting in his/her Step 2 grievance.
- B. If the employee has requested a meeting with the next level supervisor, the next level supervisor, or designee, will schedule a meeting within 15 days of receipt of the Step 2

grievance. The supervisor shall issue a written decision on the grievance within 15 days of the meeting, if one is provided, or within 15 days of receipt of the grievance, if no meeting is requested or provided. The decision will include, if relief is denied or modified, the reason(s) for such actions, the name and location of the Step 3 responding official, and the time limits for filing a Step 3 grievance.

Step 3

- A. If an employee is dissatisfied with the response provided in Step 2, he or she may appeal the grievance to the next level supervisor over the supervisor who heard the grievance at Step 2. Such notice of appeal will be timely made within ten (10) days of receipt of the response in Step 2. If an appeal is made, either party may request that a meeting be held to discuss the matter or the parties may agree that no meeting be held. If either party elects a meeting, it shall take place with the third level official or designee within fifteen (15) days of the notice of appeal. Within fifteen (15) days of the meeting, if one is requested, or within 15 days after receipt of the grievance, if no meeting is requested, the third level official will issue a written decision. At Headquarters, the grieving party may request of the official with whom the third step grievance is filed that an official outside of the AA-ship in which the grievance arose serve as responding official. If the official receiving this request grants it, the time limit for responding to the grievance will be extended by the length of time necessary to find a designated responding official.
- B. If the grievance is not satisfactorily settled, the Union may refer the matter to binding arbitration in accordance with the procedures set forth in Article 35 of this Agreement. Issues not raised at Step 3 may not be raised in arbitration unless mutually agreed to by the Parties in writing.

Section 9. Grievance of the Parties.

- A. Should either Party have a grievance concerning institutional rights granted by law, regulation or this agreement, it shall inform the designated representative of the other Party of the specific nature of the complaint in writing, as well as any provision of law, rule or regulation allegedly violated, and the relief sought, within thirty (30) days of the date of the matter, incident or issue being grieved, or the date the Party reasonably should have been aware of the matter, incident or issue. The grieving party will file the grievance with the designated representative of the other Party at the level of recognition.
- B. Within thirty (30) days after receipt of the written grievance, the receiving party will send a written response stating its position regarding the grievance. If the matter is not resolved, the grieving party may refer it to arbitration in accordance with the Arbitration Article.

Section 10.

Either before or after a grievance is filed, the following alternative dispute resolution (ADR) process may be entered into by mutual agreement of the affected employee (for section 8 grievances), the Union and the Employer. Any request for ADR must be filed in writing prior to the expiration of any other controlling time frame, in order to receive consideration. If ADR is entered into, the following procedure applies:

1. The Parties will secure a mediator from the shared neutrals or a comparable program and select a date to meet that is mutually acceptable to all participants. In Headquarters, the parties will utilize an internal mediator selected by Workplace Solutions Staff, so long as the HQ Workplace Mediation Program remains in effect. This step should occur within 15 days of the date that agreement to pursue ADR is reached.
2. The meeting will include the parties involved in the dispute, the mediator, and other mutually agreed to participants such as union and management representatives, and subject matter experts.
3. The parties will meet to attempt to resolve the issue until/unless the mediator determines that further progress is unlikely or until any party to the ADR submits a written notice of withdrawal from the process.
4. If a matter is not resolved through ADR, the grievance will continue through the grievance process, beginning at the step at which grievance proceedings were stopped pending ADR efforts or at the first step if the request for ADR was timely made so as to suspend the time for filing a grievance initially, and employing the time remaining under the applicable time limits in effect at that step.
5. If the matter is resolved, the settlement will be reduced to writing and will be signed by the grievant, the Union and the Employer, and the grievance will be withdrawn as settled.
6. Settlement offers or discussions will not be used as evidence or referred to in the remaining steps of the grievance process or at arbitration, if the ADR efforts do not result in agreement.
7. Any expenses associated with the ADR will be shared equally by the Employer and the Union.

ARTICLE 35 ARBITRATION

Section 1.

When a matter pursued through the Negotiated Grievance Procedure is not satisfactorily resolved, the Union or the Employer may refer the grievance to arbitration. The requesting party must serve a written notice of its intent to invoke arbitration on the other party within 30 calendar days of the date of the final grievance decision. In adverse action cases, the Union may refer the action directly to arbitration in lieu of having the matter first proceed through the grievance procedure. The request for arbitration must occur within 30 days of the decision on the proposed adverse action.

Section 2. Arbitration Panels.

The Parties at the Regional, Laboratory and Headquarters level shall each establish a panel of three mutually acceptable arbitrators. At each location, the Parties shall jointly request that the FMCS submit a list of 11 arbitrators for consideration. Upon receipt, the Parties shall alternately strike names until three names remain. The Union shall strike first. The three remaining arbitrators will constitute the available arbitrators the Parties shall use for subsequent arbitrations, subject to the following:

1. Arbitrators will be listed alphabetically. Cases will be assigned to the arbitrators in sequential order.
2. Either Party may unilaterally remove an arbitrator from the panel after the arbitrator has rendered an initial decision. Following the removal, the parties shall mutually contact the FMCS to obtain a new list of seven arbitrators to select a replacement. The party removing the prior arbitrator shall strike first, and shall bear any associated FMCS cost.
3. Once an arbitrator is removed from the panel, no further cases may be assigned to him/her.
4. The moving party will notify the selected arbitrator, who will contact the Parties to arrange for the hearing. The hearing with the arbitrator must be scheduled within two months of the moving party's initial contact with the arbitrator (the arbitrator's schedule permitting).

Section 3. Arbitrator fees.

A. The arbitrator's fees and expenses shall be borne equally by the Parties. Once a hearing date is scheduled, should one Party request unilaterally that the hearing be postponed or canceled for whatever reason, that Party will pay any fees charged by the arbitrator for the delay.

B. In cases where the Parties mutually agree to postpone or cancel a hearing, the Parties will share any fees charged by the arbitrator for the delay.

Section 4.

Generally, no transcript will be made of the hearing, however, either party may request a verbatim transcript at their own expense.

Section 5.

Issues and charges raised before the arbitrator shall only be those raised at the last stage of the applicable grievance procedure, however this does not preclude either party from raising an issue as to the arbitrability of any grievance issue. The arbitrator shall have no authority to alter in any way the terms and conditions of this Agreement, or any supplemental agreement between the Parties.

Section 6. Pre-Hearing Procedures.

A. The Parties will arrange for a pre-hearing conference, in person or telephonically, with or without the arbitrator if requested no later than 14 calendar days prior to the hearing, to discuss possible settlement and means of expediting the hearing. During this conference, the Parties will need to discuss the issue(s) and reduce them to writing, exchange witness lists, and determine whether any facts can be stipulated and whether any documents or exhibits can be authenticated. In the event of a disagreement over whether proposed witnesses are redundant, the Parties will initiate a conference call with the arbitrator at least 7 calendar days prior to the hearing to seek a ruling on whether the contested witnesses will be allowed to testify.

B. Either party may elect to draft the mutually agreed to issue statement that will be presented to the other party (10) days prior to the hearing, at a minimum. The Parties will attempt to stipulate the issue(s) to be arbitrated, any stipulated joint exhibits, and any factual matters which will expedite the arbitration hearing. If the Parties fail to agree on a joint issue statement, each will submit its proposed issue statement to the arbitrator at the start of the hearing. The parties can mutually agree to submit issue lists to the arbitrator to resolve prior to the hearing. The arbitrator will determine the issue(s) to be resolved.

Section 7.

In the event no questions of fact exist, the parties may mutually agree to forego a formal hearing and present the grievance directly to the arbitrator by individual written submission. The Parties will agree on the time frame within which joint submissions are due to the arbitrator. Each Party will serve a copy of its written submission to the other Party. The Parties may mutually agree to forego reply briefs.

Section 8. Arbitration procedures.

A. The arbitration hearing will be held during regular day shift hours of the basic workweek. The grievant(s), his/her Union representative, and witnesses with personal knowledge of the facts at issue shall be allowed official time only when otherwise in a duty status. The arbitration will be held at the grievant's POD unless the parties mutually agree to do otherwise for the proceedings. If mutually agreed, witnesses who are not in the local commuting area will testify by speaker phone.

B. All witnesses will testify under oath or affirmation.

C. The arbitrator has the authority to make an employee whole, to the extent consistent with law and regulation. An arbitrator has the authority to award reasonable attorney fees in accordance with the standards established under 5 U.S.C. Section 5596.

D. Except in disciplinary and adverse action cases, the grieving party will make its presentation first in the arbitration proceeding.

E. The arbitrator has the authority to make all grievability and/or arbitrability determinations. The arbitrator shall make decisions as to the arbitrability of a grievance before addressing the merits of the case. Upon mutual agreement of the Parties, such threshold issues may be submitted to the arbitrator by brief, and decided prior to a hearing on the merits of the underlying grievance. If the arbitrator determines there is a reasonable basis that the issue is arbitrable, he will hear the merits of the underlying grievance and decide the issues together.

F. In cases involving performance-based actions (i.e., removal or reduction in-grade due to unsatisfactory performance), the Agency must support its case by substantial evidence. In disciplinary or adverse actions, the Agency must support its case by preponderant evidence. In all other matters, the moving Party must support its grievance by preponderant evidence.

Section 9.

The Parties will request the arbitrator to issue the decision thirty (30) days from the close of the record. However, at the very latest, the arbitrator shall render a decision no later than 60 days from the closing of the record, unless otherwise agreed to by the Parties, per title 29 CFR 1404.14. In the event the arbitrator has not rendered a timely decision, either party may notify the FMCS.

Section 10.

The arbitrator's award shall be binding on the parties; however, either party may file an exception with the Federal Labor Relations Authority under regulations prescribed by the Authority. In matters covered by 5 USC 7121(f), the Agency may seek judicial review of an arbitrator's award in accordance with the provisions of 5 USC 7703. The filing of an exception with the Authority, or a request for judicial review, will serve to automatically stay the implementation of the award until the Authority rules on the exception or the court rules on the request for review.

Section 11. Arbitration Award

Any dispute over the application of the award shall be returned to the same arbitrator for clarification. The arbitrator shall possess the authority to make an aggrieved employee whole to the extent that such remedy is not limited by law or regulation, including the authority to award back pay, reinstatement, attorney fees, where appropriate, and to issue an order to expunge the record of all references to a disciplinary, adverse or unacceptable performance action, if appropriate.

Section 12. Expedited Arbitration

A. The Parties agree that certain cases can appropriately be referred to an expedited arbitration procedure. The Parties have identified the following grievances as appropriate for expedited

arbitration:

1. Travel Issues (denial of claims and/or hardship requests as result of proposed PCS/TDY)
2. Disciplinary Actions
3. Denials of Leave
4. Dues Withholding
5. Denials of request for Official Time
6. Bulletin Board postings and literature distribution
7. Denials of requests to use credit hours

B. The request for expedited arbitration under this Article must be made within ten (10) workdays after receipt of the final Employer decision by the Union.

C. The same procedures identified earlier in this Article will be used for selecting the arbitrator.

D. The arbitrator will conduct the hearing within ten (10) calendar days after being notified of his/her selection, subject to the availability of witnesses and party representatives. If the selected arbitrator is unable to hear the case within this time frame, the last struck arbitrator on the list will be selected, unless otherwise agreed to by the Parties.

E. By mutual agreement, the Parties may arrange for a pre-hearing conference with or without the arbitrator, to consider means of expediting the hearing. For example, by reducing the issue(s) to writing, stipulating facts, exchanging lists of proposed witnesses, and/or authenticating proposed exhibits.

Section 13. Procedures for Expedited Arbitration

A. The arbitration will be held on EPA premises at the grievant's post of duty or any mutually agreed upon site.

B. The following procedural guidelines will apply:

1. The hearing shall be informal;
2. A verbatim transcript will not be prepared. Upon submission of reasonable proof to the arbitrator that a witness who has personal knowledge of the facts involved cannot be physically present, the arbitrator may accept an affidavit. The arbitrator should accord weight to this type of evidence as the circumstances warrant given the inability of the opposing party to cross-examine. Copies of affidavits will be made available to all parties concerned; and
3. The arbitrator will be requested to issue an expedited decision no later than five days from the closing of the record.
4. All other matters will be governed by sections 1-12.

ARTICLE 36

OUTSIDE ACTIVITIES AND EMPLOYMENT

Section 1. General

A. The Employer agrees to objectively evaluate all requests for approval of outside activity, including outside employment. All requests for outside activity must be submitted in writing, no less than ten (10) calendar days in advance of the proposed start date for the outside activity.

B. Employees who wish to engage in outside employment or activities of the type listed in 5 CFR 6401.103(a)(1) and 5 CFR 2635 must submit a written request for approval of such outside employment or activity prior to engaging in it. The request for outside employment must address the criteria contained in 5 CFR 6401.103(b), and must be submitted to the appropriate Deputy Ethics Official (DEO) via the employee's immediate supervisor. The Employer will objectively evaluate all requests for outside employment or activity, consistent with the applicable statutes and Federal regulations.

Section 2.

Approval for requested outside employment shall only be granted upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation. Approval requests remain valid only for 5 years unless the DEO specifies a longer time frame.

Section 3.

Where an employee transfers to an organization for which a different DEO has responsibility, the employee must obtain approval from the new DEO. Approved requests remain valid only for five years unless the DEO specifies a longer period of time.

Section 4.

If an employee wishes to dispute the DEO's written disapproval of the request to engage in outside employment, he/she may file a request for reconsideration with the DEO. If the request for reconsideration is denied, the employee may appeal that decision to the next higher level ethics official. A final appeal of a negative determination made by a DEO may be made to the Alternate Agency Ethics Official.

ARTICLE 37
PARKING

Employee parking will continue in accordance with past practices. Any changes to the current practice will be reserved for local bargaining.

ARTICLE 38

PERSONNEL RECORDS AND ACCESS TO INFORMATION

Section 1. Official Personnel Records

A. Employees or their designated representative will, upon written request to their servicing HRO, be given an opportunity to review their Official Personnel Folder (OPF), consistent with OPM or other government-wide rules and regulations. Designation of a representative must be in writing before access to the OPF will be granted. Access will take place in the presence of an individual having custody of the record. Before disclosure of a record is made to the employee or a personally designated representative, the identification of both must be verified.

B. Access to an OPF shall be made available for review within two workdays of the request, if the OPF is maintained on the premises where the employee is located and is immediately available, absent extenuating circumstances. If the OPF is not maintained on-site, the Employer will initiate prompt action to obtain it.

C. One copy of documents maintained in the OPF will be provided to the employee or designated representative without cost, upon request, if the document has not previously been provided to the employee within the preceding 12 months. If charges for the copy are assessed, the charges will be made in accordance with the Privacy Act and title 29 CFR 1611.11.

Section 2. Other Records

A. Each employee, or employee representative designated in writing, will have access to any record pertaining to the employee maintained in a system of records, with the exception of records restricted by law or regulation. Any such access shall take place in the presence of the individual having custody of the records, following verification of the identity of the employee or personally designated representative.

B. Access to such records will be granted within 10 working days following the employee's written request. If unable to meet this time frame, the systems manager will provide the requester with the reason for the delay and an estimate of when access will be granted. If access is denied or delayed, the custodian of the record will provide an explanation to the employee or designated representative.

C. Any charges for copies of documents will be assessed in accordance with title 29 CFR 1611.11.

D. No official record, file, or document pertaining to an employee will be made available to any unauthorized persons for inspection or photocopying.

Section 3.

OPF's and other personnel records will be maintained in accordance with applicable laws, rules and regulations. OPF's are the property of OPM and their contents may not be removed, altered or added to, except by proper authority.

Section 4.

Personal notes maintained by an employee's supervisor and which are seen only by that supervisor are exempt from the access and disclosure requirements of the Privacy Act. Such notes will not be given to a succeeding supervisor.

Section 5.

Medical documentation will be treated confidentially, and the Agency will observe all requirements of the Privacy Act and other appropriate legal authorities. Medical file system records will be maintained in accordance with title 5 CFR 293 Subpart E and 5 CFR 297.205.

Section 6.

The Employer recognizes its obligation to provide the Union and its representatives with relevant and necessary data pursuant to the standards set forth in 5 USC 7114(b)(4). When a request cannot be fulfilled within 5 working days, the parties may mutually agree to either postponing or amending any filing or other deadlines related to the information request.

ARTICLE 39

WAIVER OF OVERPAYMENT

Section 1.

An employee may request a waiver of an erroneous overpayment of pay or allowances or an erroneous payment involving travel, transportation or relocation expenses, in whole or in part. The Agency will recommend waiver of the obligation to repay such overpayment, if the overpayment occurred through administrative error and there is no indication of fraud, misrepresentation, fault or lack of good faith on the employee's part and is otherwise in accordance with title 5 USC 5584 and applicable regulations. Administrative error will not necessarily result in the approval of a waiver request or an entitlement to the amount received in error. To the maximum extent feasible, the Agency will suspend collection of the overpayment in question pending final decision of the waiver request. If the waiver is not authorized, the Agency will attempt to establish a repayment schedule that can be accommodated by the affected employee. In the event a waiver is not granted the employee is entitled to request a repayment schedule. Collection will begin no earlier than thirty (30) days after the employee is notified of the amount of overpayment.

Section 2.

Notification of the overpayment, the employee's right to request a waiver of the overpayment or to dispute its validity, the employee's right to review documents establishing the debt, and the employee's right to request a hearing on the amount and validity of the debt prior to the initiation of salary offset, will all be in accordance with the provisions of 40 CFR 13.22(c) and the applicable government-wide regulations of the Department of the Treasury.

Section 3.

An employee will be notified of his or her right to dispute the underlying debt in accordance with 40 CFR, Part 13.

ARTICLE 40 TRAVEL AND PER DIEM

Section 1. Travel Outside Established Tour of Duty

- A. The Employer agrees to schedule travel during the regular work hours and workweek of the employee, to the maximum extent practicable. Employees may travel on their own time if they so choose. The time spent traveling outside the established workday results in the travel being considered hours of work for non-exempt employees, and is compensable, if it meets the appropriate provisions of Title 29 of the Fair Labor Standards Act, e.g., travel results from an event which cannot be scheduled or controlled administratively.
- B. If the meeting is within the control of the Employer, and it is administratively feasible, the EPA has determined that it will reschedule the meeting to avoid required travel on non-workdays. Emergency travel can be required on non-work days.
- C. When a supervisor knows in advance that an employee's administrative workweek will differ from the regularly scheduled tour of duty, due to travel, the supervisor will reschedule the employee's administrative workweek to correspond with the specific days and hours the employee is expected to work.
- D. Employees traveling on their own time at their option are responsible for any additional costs resulting from travel deviations.

Section 2. Travel During Established Tour of Duty

If circumstances require an employee's attendance at a temporary duty station at a time too early to permit travel on that day during the employee's regularly scheduled working hours, the employee may travel during regularly scheduled hours on the preceding day. If the preceding day is a non-workday, an employee may travel during the regularly scheduled hours on the last workday preceding the non-workday. If an employee choose to do so, subsistence reimbursement and use of the government travel card will be limited to what the employee would have been entitled to if traveling on a non-workday.

Section 3. Return to Duty Station

- A. Employees who are unable to return from temporary duty stations (TDS) during normal duty hours may return that evening or the following day during normal duty hours. An employee electing to travel the next day should return at the earliest practicable opportunity during the regularly scheduled hours of work.
- B. If the scheduling of a meeting is not within the control of the Employer, and it is administratively feasible, the Employer will attempt to reschedule the meeting to avoid required travel on non-workdays. Emergency travel can be required on non-workdays.

Section 4. Advance Notice of Travel

If employees are required to travel, the Employer will provide employees with advance notice as reasonably possible.

Section 5. Advance of Travel Funds

Sufficient travel advances will be made available prior to the date of departure to those employees without a travel card and who make timely application to receive an EFT deposit.

Section 6. Emergency Travel

In cases of emergency travel, an employee is expected to use the government issued individual travel card to cover necessary official travel expenses. The Employer will accommodate a traveler who does not have a travel card through an EFT deposit or other government provided means to avoid having an employee use personal funds to cover official travel expenses.

Section 7. Reimbursement of Business Related Travel Expenses

- A. The Employer agrees to reimburse employees when in a travel status for authorized expenses incurred by them in the discharge of their official duties to the extent allowable by law and regulation.
- B. Official travel generally begins when the employee leaves home, office or other authorized point of departure and ends when the employee returns home, to the office, or other authorized point at the conclusion of the workday or trip unless, for personal reasons, the traveler is mixing personal leave time and destinations with official travel. A per diem allowance shall not be allowed for travel within the limits of the official duty station or the vicinity of the employee's home.

Section 8. Use of Private Vehicle for Official Business

When use of a privately owned vehicle for official business is advantageous to the Employer, the employee providing such automobile will be reimbursed in accordance with government travel regulations. In no case may an employee be required to use his/her privately owned vehicle in connection with official business.

Section 9. Voluntary Return for Non-Workdays

- A. When an employee in travel status voluntarily returns to his/her official duty station or residence for non-workdays, the maximum reimbursement for the round-trip transportation and per diem en route shall be limited to the per diem allowance and travel expenses which would have been allowed had the employee remained at the temporary duty station or actual travel expenses, whichever is less. The employee shall perform any such voluntary return travel during non-duty hours or periods of authorized leave.
- B. Employees who are required to routinely perform extended periods of temporary duty may, at agency discretion and within the limits of appropriations available for payment of travel expenses, be authorized round-trip transportation expenses and per diem en route for periodic return travel to their official duty station or residence for non-workdays.

Section 10. Illness During Travel

When an employee in a travel status becomes ill and is expected to remain so for any significant length of time, the Employer will cover all normal travel expenses in connection with returning that employee to his/her normal post of duty area as promptly as possible.

Section 11. Denial of Claim for Reimbursement of Travel Expenses

A. If the review of a travel claim by a travel review officer (TRO) discloses irregularities, the TRO will notify the traveler as soon as practical and attempt to resolve the irregularity with the traveler. If the serving finance office (SFO) finds the voucher improper, the SFO must return the voucher to the traveler and include an explanation, written if requested by the employee, of the reason(s) for the return and a contact in the SFO for assistance. The Agency must not exceed seven (7) working days for notifying the traveler that the travel claim is not proper.

B. Consistent with EPA policy and the FTR, if an audited voucher contains some items not properly supported or allowable, the traveler will be reimbursed initially only for those items properly supportable or allowable. The employee will be notified in writing regarding disallowed items and provided an opportunity to provide additional information/documentation to support the claim. If still unable to support all or part of a claim, the employee will be notified, in writing, why the claim remains disallowed and the process for filing a reclaim voucher or appeal. Travel vouchers not selected for audit will continue to be paid, as a general rule, within 30 days after submission.

Section 12. Access to Travel Regulations

A copy of official EPA travel regulations and/or guidelines will be made accessible to employees on EPA's Intranet site, and the GSA travel regulations can be accessed via the Internet. These guidelines will include the appropriate use of government credit cards. All such regulations and guidelines will be explained to the employees upon request. The Employer agrees to provide the Union notice of changes to government travel regulations in accordance with Article 34.

Section 13. Travel Voucher

- A. Employees are to submit a completed travel claim normally within 5 days after the end of the travel. If the employee is in a continuous travel status, the employee is to complete and submit a travel claim at least once every 30 days when practicable.
- B. The Agency must reimburse the employee within 30 calendar days from the date the voucher is received from the traveler. If the voucher is returned to the traveler because of questionable claims or because it is incomplete, the 30 day time limit will resume when the voucher is resubmitted.
- C. If the Agency fails to meet the 30 calendar day limit following submission of a complete and proper travel voucher, the Agency will reimburse the employee with a late payment fee per the provisions of the FTR and the agency's policy. When an employee's late payment was due solely to administrative problems not within the employee's control, the travel voucher approving official or the servicing finance office (wherever the administrative delay occurred) will, at the employee's request, explain to the credit card company that the late payment was not due to the employee

submitting a late or incomplete voucher.

- D. Upon request, the Employer agrees to determine the status of an employee's travel voucher and provide the employee with the status and reason why an EFT payment has not been received 15 days after an employee submitted his/her travel voucher to his/her supervisor.

Section 14. Time in Travel Status Defined

A. Time spent traveling shall be considered hours of work and therefore compensable for employees non-exempt from the FLSA if:

1. An employee is required to travel during regular working hours;
2. An employee is required to drive a vehicle or perform other work while traveling;
3. An employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
4. An employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.

B. Time spent in a travel status away from the official duty station for employees exempt from the FLSA shall be deemed employment only when:

1. It is within his/her regularly scheduled administrative workweek, including regular overtime work; or
2. The travel:
 - (a) Involves the performance of work while traveling (such as driving a truck containing materials necessary for a project);
 - (b) Is incident to travel that involves the performance of work while traveling (such as deadhead travel in order to drive an empty truck back to the point of origin);
3. The travel is carried out under arduous conditions (such as traveling by foot, on horseback, or over rugged terrain in the back of a vehicle); or
4. The travel results from an event that could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of such employee from such an event to his or her official duty station (such as training scheduled solely by a private firm or job-related court appearance required by a court subpoena).

ARTICLE 41

PROHIBITED PERSONNEL PRACTICES

Section 1. Definitions

A. For the purpose of this Article and in accordance with title 5 USC 2302, a prohibited personnel practice means any action described in Section 2.

B. For the purpose of this Article, A personnel action means -

1. An appointment;
2. A promotion;
3. An action under title 5 USC chapter 75 or other disciplinary or corrective action;
4. A detail, transfer, or reassignment;
5. A reinstatement;
6. A restoration;
7. A re-employment;
8. A performance evaluation under title 5 USC chapter 43;
9. A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this section;
10. A decision to order psychiatric testing or examination; and
11. Any other significant change in duties, responsibilities, or working conditions.

Section 2. Prohibited Practices

In accordance with title 5 USC 2302(b), any employee who has the authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority:

1. Discriminate for or against any employee or applicant for employment on the basis of:
 - (a) Race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964;
 - (b) Age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967;

- (c) Sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938;
 - (d) Handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973;
 - (e) Marital status or political affiliation, as prohibited under any law, rule or regulation;
2. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action except as provided under title 5 USC 3303(f);
 3. Coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in any such political activity;
 4. Deceive or willfully obstruct any person with respect to such person's right to compete for employment;
 5. Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
 6. Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
 7. Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in title 5 USC 3110(a)(3)) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in title 5 USC 3110(a)(2)) or over which such employee exercises jurisdiction or control as such an official;
 8. Take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of -
 - (a) Any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences -
 - (1) A violation of any law, rule or regulation, or
 - (2) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

- (b) Any disclosure to the Special Counsel, or to the Inspector General of the agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences -
 - (1) A violation of any law, rule, or regulation, or
 - (2) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;
- 9. Take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of -
 - (a) The exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;
 - (b) Testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (a);
 - (c) Cooperating with or disclosing information to the Inspector General, or the Special Counsel, in accordance with applicable provisions of law; or
 - (d) For refusing to obey an order that would require the individual to violate a law.
- 10. Discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;
- 11. Knowingly take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement, or knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or
- 12. Take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in title 5 USC 2301.

ARTICLE 42

RETIREMENT/RESIGNATION

Section 1. Withdrawal of Resignation/Retirement Application

The Agency may allow an employee to withdraw a resignation or retirement at any time before it becomes effective. The Agency may decline a request to permit an employee to withdraw a resignation or retirement before its effective date only when the Agency has a valid reason and explains that reason to the employee. A valid reason includes, but is not limited to, administrative disruption or the hiring or commitment to hire a replacement.

Section 2. Access to Union Retirement Information

The Employer will allow local Union representatives the opportunity to provide to all retiring bargaining unit employees a package of information.

Section 3. Counseling

The Employer will make available information to each requesting employee who separates voluntarily or involuntarily as to his/her rights and benefits under the applicable retirement system.

ARTICLE 43 PROBATIONARY EMPLOYEES

Section 1. General

The Parties recognize that new employees with the Federal Government may require counseling and assistance during their probationary period.

Section 2. Performance

Pursuant to Article 10 the probationary employee will receive at least one (1) progress review, typically mid-way (if not sooner) during his/her probationary year, except if the Employer determines it necessary to terminate the employee prior to the review. Employees are encouraged to request updates on their performance.

Section 3. Termination of Probationers for Unsatisfactory Performance or Conduct

An employee's separation from the rolls under this Article must be effected before the employee has completed the probationary period. When an agency decides to terminate an employee serving a probationary or trial period because their work performance or conduct during this period fails to demonstrate their fitness or qualification for continued employment, it shall terminate their services by notifying them in writing as to the reason(s) for termination and the effective date of the action.

Section 4. Termination for Pre-Appointment Reasons

A. When an agency proposes to terminate an employee serving a probationary or trial period for reasons based in whole or in part on conditions arising before his/her appointment, the employee is entitled to the following:

1. Written notice stating the reasons, specifically and in detail, for the proposed action.
2. A reasonable time for filing a written answer to the notice of proposed adverse action and for furnishing affidavits in support of his/her answer. If the employee answers, the agency shall consider the answer in reaching its decision.
3. Delivery of the decision at or before the time the action will be made effective. The notice shall be in writing, inform the employee of the reasons for the action, inform the employee of any right to appeal to the Merit Systems Protection Board (MSPB), and inform him or her of the time limit within which the appeal must be submitted as provided in 5 CFR 315.806(d).

Section 5. Right to Appeal to EEOC

When the probationary employee believes that his or her termination is based on discrimination, the employee may pursue established EEO complaint procedures.

Section 6. Voluntary Resignation in Lieu of Termination

Probationary employees may choose voluntary resignation in lieu of termination at any time prior to the date of their termination. If the probationary employee voluntarily resigns, the employee's official personnel folder will reflect the voluntary resignation.

ARTICLE 44
UNFAIR LABOR PRACTICE

Notwithstanding the Union's right to file an unfair labor practice, the Parties, in principle, agree that it would be in the best interest of labor management relations to notify the other Party seven workdays prior to filing an unfair labor practice. The Parties agree that reasonable efforts to address and correct misunderstandings will be addressed during the seven day period.

ARTICLE 45

DURATION AND TERMINATION

Section 1. Duration

A. This Agreement shall remain in effect for a period of four (4) years from its effective date and shall be automatically renewable for an additional one (1) year period unless either Party notifies the other Party, in writing, at least sixty (60) days, but not more than 105 days prior to the expiration date of its intention to reopen, amend, modify, or terminate this Agreement. The Parties will agree on mutually satisfactory ground rules for the conduct of these negotiations. This Agreement shall continue in full force until a new Agreement has been approved.

B. If neither the Agency nor the Union serves notice on the other to renegotiate the Agreement, it will be automatically renewed for 1 year periods, subject to the other provisions of this article. Any provision of the Agreement conflicting with a government-wide regulation issued during the term of the Agreement will be brought into compliance with the controlling regulation effective with the renewal date.

Section 2. Mid-Term Reopener

Either party may reopen this Agreement 20 months from the effective date of this Agreement. The parties desiring to reopen the Agreement will notify the other party in writing not less than sixty (60) days, but not more than ninety (90) days prior to the 20th month anniversary of the Agreement by presenting written proposals. Each Party is limited to reopening four (4) articles in this Agreement. The parties will meet within 45 days of receipt of the request to reopen the agreement.

Section 3.

A. If either party desires to renegotiate this Agreement upon termination, it will notify the other party in writing not less than 60 days, but not more than 105 days prior to the expiration date of the agreement (or anniversary date if the agreement has been extended).

1. The written notice may be accompanied by proposed ground rules.
2. Once the request to renegotiate the Agreement is served, the Parties will set up a meeting to negotiate ground rules within 45 days of the service of the notice.

ARTICLE 46

CONTRACTING OUT

Section 1. General

A. The Employer will notify the Union regarding any anticipated review of a function, currently being performed by bargaining unit employees, undertaken for the possibility of contracting out that function. To the extent required by law, the Parties will maintain the confidentiality of all information concerning the study and contract process until a decision is reached either to not contract out or to award a contract.

B. The Union shall be advised prior to the contracting out of work. It shall have the opportunity to engage in impact and implementation bargaining concerning any adverse personnel actions for employees resulting from the contracting out of work.

C. The Employer will make reasonable efforts to minimize the impact on employees when a function is contracted out. The Employer will provide reasonable, necessary training to employees who are reassigned as a result of a decision to contract out the work they formerly performed.

Section 2. Information

A. At the Union's request, the Agency will provide information concerning commercial activity studies affecting unit employees, to the extent consistent with law, rule or regulation.

B. The Union will be involved in all phases of an A-76 study to the extent permitted by law and regulation.

ARTICLE 47
ASSIGNMENT OF WORK

The Parties agree that work assignments will be made in an objective manner. Therefore, when assigning work to employees, supervisory officials will consider such factors as efficiency, employee developmental needs, knowledge, skills, abilities, experience, interpersonal competencies, existing organizational workload, mission and goals and deadlines.

ARTICLE 48

ADVERSE ACTIONS

Section 1. Coverage.

This article applies to the following bargaining unit employees:

1. Employees in the competitive service who have completed a trial or probationary period;
2. Employees in the competitive service serving in an appointment not requiring a trial or probationary period and who have completed one year of current, continuous service in the same or similar positions under other than a temporary appointment limited to one year or less;
3. Preference eligible employees in the excepted service who have completed one year of current, continuous service in the same or similar positions; and
4. Non-preference eligible employees who have completed two years of current, continuous service in the same or similar positions under other than a temporary appointment limited to two years or less.

Section 2.

A. For purposes of this Article, an adverse action is defined under 5 USC 7512 as a suspension of more than fourteen (14) calendar days, reduction in grade or pay, furlough of thirty (30) calendar days or less, and removal.

B. An adverse action will be taken only for such cause as will promote the efficiency of the Service.

Section 3.

When proposing and effecting disciplinary/adverse actions, the Employer will consider each case on its own merits. The Employer will be guided by the principle of progressive discipline. The Employer will use the agency Table of Penalties as a guide in determining the appropriate action to take. Additionally, the Employer will consider relevant factors, including those listed below.

Section 4.

A. Decisions of courts and the Merit Systems Protection Board (MSPB), and issuances of the Office of Personnel Management (OPM), have long recognized the “Douglas Factors” (Douglas v. Veterans Administration, 5 MSPR 280 1981) as being relevant considerations in determining the appropriateness of a penalty in an adverse action case. Without purporting to be exhaustive, the factors generally recognized at the time of execution of this Agreement as being relevant to the setting of the penalty include the following:

1. The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a fully satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with any applicable Agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the Agency;
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10. Potential for the employee's rehabilitation;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation on the part of others involved in the matter; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

B. All of these factors may not be relevant in every case. Factors may or may not weigh in an employee's favor. Selection of an appropriate penalty involves a responsible balancing of the relevant factors.

Section 5.

A. In all cases of proposed adverse action, except as stated in Section 8 of this Article or when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, an employee will be given at least thirty (30) calendar days advance written notice of the proposed action. This notice will state specifically and in detail the reasons for the action. It is understood that the proposal notice is not grievable upon receipt. However, disputes regarding the advance notice of proposed action may be merged in a grievance concerning the final

decision of the Employer, after that final decision is issued.

An advance written notice and opportunity to respond are not necessary for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

B. The employee will be given a reasonable time of not less than fourteen (14) calendar days to make an oral reply and/or to submit a written reply. The employee may make an oral reply pursuant to the provisions of 5 CFR 752.404(c). Reasonable requests for extension will be granted. The proposal notice will specify who will hear/receive the oral and/or written reply.

C. The employee will have the right to be represented in the preparation and presentation of his/her reply. The employee and his/her representative will receive reasonable time to prepare the reply in accordance with the terms of Article 6.

D. The proposal notice shall inform the employee of his/her right to review the material which is relied upon to support the proposed adverse action. The term "material relied upon" includes all documents contained in the adverse action file, whether favorable or unfavorable to either party's positions. The Employer will make a copy of such material available for review, concurrent with the delivery of the proposal notice to the employee. The Employer may sanitize any information provided consistent with legal or regulatory requirements.

E. Where management has relied upon witnesses to support the reasons for the proposed action, the Employer will make available, as part of the material relied upon, the identity of those witnesses and any written statements taken from them. The Employer reserves the right to sanitize any material which is provided to the employee or the employee's representative, when required by law. If requested by the employee or his/her representative, the Employer will furnish a copy of such material prior to the oral reply.

F. In making a reply, the employee may set forth mitigating circumstances, refute aggravating circumstances, and give reasons as to why the proposed action should not be effected.

G. If an employee chooses to make an oral reply, the reply to the deciding official or designee will normally be held at the employee's work site. If that is not feasible, the reply will be handled by telephone if the representative and/or employee agree. If neither of these options is feasible, the Employer will pay the travel expenses for the employee to travel to the Deciding Official's or designee's work site.

H. The Employer will summarize an employee's oral response and include the summary in the case file. The Employer will provide a copy of the written summary to the employee prior to serving the decision. The employee may submit comments about the written summary which will also be included in the case file. Employees making an oral response should provide an outline of their presentations at the beginning of the reply meeting.

I. The Employer agrees that the employee may use the same means as the Employer does to make notes during the oral reply.

Section 6.

The final decision in an adverse action covered by this Article must be made by the next higher level official in the proposing official's chain of command, unless the proposing official is the Deputy Administrator or the Administrator of the Agency. The decision notice will specify the charge(s) sustained and the reason(s) for the decision.

Section 7.

A. In the event the Employer sustains the charge(s) and effects an adverse action against the employee, the employee may elect to challenge the adverse action in only one of the following ways:

1. Under this Agreement and only with the Union's concurrence, by appealing directly to binding arbitration (which may include an allegation of discrimination), within the time set forth in Article 35;
 - (a) If the Union wishes to raise new issues not raised before the deciding official it should, as practical, identify any additional issues in its written invocation of arbitration. However, this will not preclude either party from raising any additional or new issues prior to the pre-hearing conference. In no event may the union or agency raise new issues before the arbitrator that have not been identified at the prehearing conference that shall occur no later than 14 days prior to the scheduled hearing date.
2. By filing an appeal with the MSPB in accordance with applicable law and regulation (currently thirty (30) calendar days); or
3. By filing a formal complaint of discrimination under the administrative EEO process.

B. The final decision letter which is issued on the adverse action to the employee will contain a statement of his/her right to challenge the action. Once an employee has elected one (1) of these procedures, the employee cannot change thereafter to a different procedure.

Section 8.

A. Under ordinary circumstances, an employee whose removal has been proposed shall remain in a duty status in his/her regular position during the advance notice period. In those circumstances where the Employer determines that the employee's continued presence in the workplace during the notice period may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize Government interests, the Employer will consider whether any of the following alternatives is preferable:

1. Assigning the employee to duties where he/she is no longer a threat to safety, the Agency mission, or to Government property;
2. Placing the employee on leave with his/her consent;

3. Carrying the employee on appropriate leave (annual, sick, leave without pay, or absence without leave) if he or she is absent for reasons not originating with the Employer.

B. If none of these alternatives is selected, the Employer may place the employee in a paid, nonduty status during all or part of the advance notice period, if otherwise consistent with applicable law, rule or regulation. The Employer may also curtail the notice period when it can invoke the provisions of 5 CFR 752.404(d)(1) (the “crime provision”). This provision may be invoked even in the absence of judicial action if the Employer has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed.

Section 9.

In case of off duty misconduct, the proposal and the decision will establish the relationship (i.e., nexus) between the misconduct and the efficiency of the Service.

Section 10.

So long as the information request standard found in Article 5 is met, management will issue, upon request, sanitized copies of proposed and final adverse action notices.

Section 11.

The documentation maintained in an adverse action file will be purged/destroyed pursuant to applicable rules for the system(s) of records governing adverse action files in which the documentation is maintained. If an adverse action is overturned, appropriate action will be taken with respect to all other records (e.g., SF 50) in accordance with the disposition of the case.

Section 12.

The deciding official may either reduce or overturn the proposed action, or sustain the proposed action, or alternatively may offer the employee a settlement agreement in resolution of the matter.

ARTICLE 49

DISCIPLINARY ACTIONS

Section 1.

This article applies to all employees in the competitive or excepted service who are not serving probationary or trial periods under an initial appointment or who have completed 1 year of current, continuous service in the same or similar positions under other than a temporary appointment limited to 1 year or less.

Section 2.

- A. For purposes of this Article, disciplinary actions include suspensions for 14 calendar day or less, reprimands, and reprimands reduced to writing.
- B. Disciplinary actions exclude counseling/warnings, whether oral or in writing. When an employee is counseled/warned/admonished, in writing, the employee may respond in writing and have the writing attached to the counseling document.
- C. Supervisors and managers will take appropriate and timely action once they become aware of a potential problem.

Section 3.

- A. When proposing and effecting disciplinary actions, management will consider each case on its own merits. The Employer will be guided by the principle of progressive discipline. The Employer will use the agency Table of Penalties as a guide in determining the appropriate action to take.
- B. When determining the appropriateness of a disciplinary action, the Employer agrees to consider the following factors, as relevant:
 - 1. The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
 - 2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
 - 3. The employee's past disciplinary record;
 - 4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
 - 5. The effect of the offense upon the employee's ability to perform at a fully satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
 - 6. Consistency of the penalty with those imposed upon other employees for the same or

similar offenses;

7. Consistency of the penalty with any applicable Agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the Agency;
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10. Potential for the employee's rehabilitation;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation on the part of others involved in the matter; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

C. All of these factors may not be relevant in every case. Factors may or may not weigh in an employee's favor. Selection of an appropriate penalty involves a responsible balancing of the relevant factors.

D. An effective means of maintaining appropriate conduct in the workplace is through the promotion of cooperation, sustained good working relationships, and the self-discipline and responsible performance expected of mature employees. The Union agrees to encourage employees to:

1. Conscientiously perform assigned duties;
2. Comply with Government-wide and EPA standards of conduct;
3. Cooperate and strive to maintain good working relations with their supervisors and fellow employees; and
4. Maintain satisfactory attendance records.

Section 4.

A. No employee will be disciplined except for such cause as will promote the efficiency of the service.

B. In the case of off-duty misconduct, the proposal and/or action will establish the nexus between the misconduct and the efficiency of the service.

C. The employee and his/her representative will be given reasonable time to prepare the reply, in accordance with the terms of Article 6.

Section 5.

When the Employer takes a suspension action against an employee, the following procedures will apply:

1. The written proposal will be delivered in no less than 14 calendar days prior to taking the disciplinary action and will contain the specific reasons for the proposed action, stated in detail. It is understood that a proposed notice is not grievable upon receipt. However, grievances regarding the proposal may be merged into a grievance concerning the final decision of the Employer, after that final decision is issued.
2. The employee will be given not more than 10 calendar days from the date he/she receives the notice of proposed disciplinary action, in which to deliver an oral and/or written reply. Reasonable requests for extension will be granted. The proposal notice will specify who will hear/receive the oral and/or written reply. This official will be the person who will be making the final decision on the matter, or his/her designee.
3. The employee and his/her representative will be given reasonable time to prepare the reply, in accordance with the terms of Article 6.
4. The proposal notice shall inform the employee of his/her right to review the material which is relied upon to support the proposed action. The term "material relied upon" includes all documents contained in the disciplinary action file, whether favorable or unfavorable to either party's position. The Employer will make a copy of such material available for review, concurrent with the delivery of the proposal notice to the employee. The Employer may sanitize any information provided, consistent with legal or regulatory requirements.
5. Where management has relied upon witnesses to support the reason for the proposed action, the Employer will make available, as part of the material relied upon, the identity of those witnesses and any written statements taken from them. The Employer reserves the right to sanitize any material which is provided to the employee or the employee's representative, when required by law. If requested by the employee or his/her representative, the Employer will furnish a copy of such material prior to the oral reply.
6. In making a reply, the employee may set forth mitigating circumstances, refute aggravating circumstances, and/or give reasons why the proposed action should not be effected.
7. If an employee chooses to make an oral reply, the reply will be made either at the work site of the employee or the Employer may arrange to hear the reply by phone if the employee's representative agrees to such an arrangement. If the oral reply is to be made at a location outside of the employee's local commuting area, the Employer will pay, in accordance with law, rule and regulation, the travel and per diem expenses of the employee.
8. The Employer will summarize an employee's oral response and include the summary in the case file. The Employer will provide a copy of the written summary to the

employee prior to serving the decision. The employee may submit comments about the written summary which will also be included in the case file. Employees making an oral response should provide an outline of their presentation at the beginning of the reply meeting.

9. The Employer agrees that the employee may use the same means as the Employer does to take notes during the oral reply.

Section 6.

The final decision in a disciplinary action covered by this article must be made by the next higher level official in the proposing official's chain of command, unless the proposing official is the Administrator or Deputy Administrator of the Agency. The decision notice will specify the charge(s) sustained and the reason(s) for the decision.

Section 7.

An employee subject to disciplinary action may grieve the action under the negotiated grievance procedure.

Section 8.

A. Letters of reprimand will be retained in the employee's Official Personnel Folder (OPF) for the period of time specified in the letter, which may not exceed two years.

B. Oral admonishments which are reduced to writing will be retained by the employee's supervisor. Retention of the record will normally not exceed one (1) year from the date of issuance provided the Employer has demonstrated that the conditions or expectations in the admonishment have clearly been met.

C. The documentation maintained in a disciplinary action file will be purged/destroyed pursuant to applicable rules for the system of records governing disciplinary action files in which the documentation is maintained. If a disciplinary action is overturned, appropriate action will be taken with respect to all other records (e.g., SF-50) in accordance with the disposition of the case.

Section 9.

To the extent not prohibited by law, the Employer agrees that upon delivery of a copy of the final decision letter for suspensions of fourteen (14) calendar days or less to the employee, upon request by the employee or the Union, it will provide the Union a sanitized copy of the letter.

ARTICLE 50
VOLUNTARY LEAVE TRANSFER PROGRAM

The current voluntary leave transfer program covering unit employees will remain in effect. Employees may access the program via the EPA Intranet.

ARTICLE 51 TRANSFER OF FUNCTION

Section 1.

The Employer shall provide notice to the Union at the earliest possible date when it is considering a transfer of function involving bargaining unit employees, so that the Union has an opportunity for pre-decisional involvement.

Section 2.

The Employer shall provide a written notice to an employee whose position has been transferred outside the competitive area sixty (60) days in advance of the effective date.

Section 3.

An employee will have 30 days after issuance of the written notice to accept or reject the offer of transfer. Failure to respond within the 30 day period will act as a declination of the offer. Reasonable extensions to the above time limits may be granted for good cause. An employee may subsequently change an initial acceptance offer. An employee may not subsequently change a declination offer.

Section 4.

At the employee's request, the Employer will assist an employee who declines a transfer of function outside the competitive area in attempting to locate employment within the Agency or with other Federal agencies. Such assistance will be provided per the provisions of EPA Order 3115.1.

Section 5.

Severance pay for those employees declining a transfer of function will be in accordance with applicable law and regulation. In the event an employee moves to accompany his/her position, the Employer will pay moving expenses in accordance with law and regulation.

ARTICLE 52
MEDICAL QUALIFICATIONS DETERMINATIONS

Section 1.

In directing employees to undergo a fitness-for-duty examination, the Employer will observe applicable laws and regulations, including title 5 CFR 339.

ARTICLE 53

WORKERS COMPENSATION

Section 1.

Employee(s) and/or witness(es) should report all on-the-job injuries immediately or as soon as possible to management.

Section 2.

The appropriate Human Resources Officer or designee will provide the proper form(s) and assistance to the employee or representative required for medical treatment and/or claim for benefits to be filed with the Office of Workers' Compensation.

Section 3.

The employee will be allowed to review documents concerning workers' compensation benefits available, as well as procedures for filing for benefits. If the employee is unable to conduct this review, his/her representative will be allowed to do so, subject to a written authorization from the employee.

Section 4.

When an on-the-job injury is reported, the Employer will arrange for necessary emergency or appropriate medical treatment for any such injury or illness suffered by an employee while on the job.

Section 5.

The Employer will counsel an injured employee on options, compensation benefits, and/or types of leave when the injury or illness causes an absence of more than three (3) days.

Section 6.

The Employer will counsel a disabled employee, on all aspects of disability retirement, if appropriate, while a compensation claim is pending. When an employee has been on Workers' Compensation benefits (LWOP) for over one year, with no anticipated return to full duty, the Employer will provide him/her with possible job options, such as disability retirement, resignation or removal from Federal service.

ARTICLE 54
TELEWORK
(Formerly Flexiplace)

Section 1. General

Pursuant to the Telework Enhancement Act of 2010, the parties agree to the following. The eligibility of employees to participate in telework is based on: 1) the extent to which their work is portable; and 2) the employee eligibility requirements outlined in this Article. Employee participation in telework is voluntary and approval of telework is discretionary.

Section 2. Scope

This Article establishes the telework procedures applicable to NTEU-represented bargaining unit employees. Where this Article and any EPA telework policy conflict, this Article shall govern unless the parties mutually agree otherwise. This article supersedes all local agreements and neither this agreement nor its procedures are subject to local negotiations.

Section 3. Definitions

- A. *Telework*. Telework is work performed away from an office worksite at an approved location.
- B. *Alternate Work Location (AWL)*. The AWL is an approved work location other than the employee's office worksite. A telework AWL will generally be an employee's residence, a telecenter or other approved worksite and will generally be within the local commuting area (as that area is defined in 5 CFR 351.203), such as a facility established by state, local or county government or private organization for use by teleworkers.

In limited circumstances supervisors may approve employee requests to work at an AWL outside of the local commuting area pursuant to section 5(B), in cases of episodic telework, section 5(C) in cases of medical telework and section 9(E), in cases of full-time telework.
- C. *Portable Work*. Work that is normally performed at the employee's official work site but which can be performed at another location with equal effectiveness with respect to quality, timeliness, customer service and other aspects of accomplishing EPA's mission. Such work is part of the employee's regular assignments and does not involve a significant change in duties or the way in which assignments are performed.
- D. *Official Worksite*. The official location of an employee's position of record as determined under 5 CFR 531.605. *Official worksite* is the "official duty station" as that term is used in 5 USC 5305(i).
- E. *Position of Record*. An employee's official position defined by grade, occupational series, employing agency, law enforcement officer status and any other condition that determines coverage under a pay schedule (other than official worksite), as documented on the employee's most recent Notification of Personnel Action (Standard Form 50 or equivalent) and current position description, excluding any position to which the employee is temporarily detailed.

- F. *Telework-Ready Employee.* Any employee who has a Telework Agreement currently in effect, authorizing any type of telework as outlined under Section 5 below.

Section 4. Guidelines and Operating Principles

- A. The governing rules, regulations and policies regarding time and attendance, overtime, leave, flexible and compressed work schedules, including all requirements for supervisory approvals, are unchanged by participation in telework.
- B. Injuries that arise in the performance of duty at the AWL are subject to the Federal Employees' Compensation Act.
- C. All employees with Telework Agreements are required to telework from an approved AWL when EPA offices are closed subject to Section 6.
- D. Teleworking employees must ensure that working from the AWL causes no disruption in the efficiency of work, and that the employee is available to his or her customers, co-workers and supervisors. This means, for example, that teleworking employees cannot make their regular teleworking hours unavailable for calls, meetings or virtual meetings in their electronic calendars or put "out of office" messages on e-mail and voice mail systems indicating that they are unavailable.
- E. Teleworking employees must be available and accessible to supervisors, co-workers and customers while performing work at an AWL to the same extent as employees working at their official work site. Teleworking employees must ensure that incoming calls, voice mails, instant messages and emails are handled seamlessly with the same expectations as if they are working at the official worksite. In the event of interruptions in communications caused by the failure of agency equipment/technology, employees will promptly notify their supervisor or their designee and they will provide guidance on how to proceed in order to minimize disruption in work.
- F. Teleworking employees must be capable of joining and be available to join teleconference meetings or conference calls while working at the AWL and are subject to the recall procedures in section 13.A.
- G. Teleworking employees are responsible for communicating as needed with their supervisor to receive assignments and complete work in accordance with the supervisor's instructions.
- H. If the employee is unable to work at the AWL due to circumstances beyond his or her control, the employee should contact his or her supervisor to request the appropriate leave or to notify the supervisor that he or she will return to the office worksite, if practicable. Contact shall be made in a timely manner, typically within thirty (30) minutes of such an inability, absent extenuating circumstances.
- I. Teleworking employees must participate in an annual recertification process at a time to be determined by each office, division or higher organizational unit.

Section 5. Types of Telework

Telework may take any of the following forms:

- A. Regular. Under this type of telework, employees may request approval to perform their duties at an alternate work location on a regular and recurring basis, on predetermined days each pay period. Regular telework may range from one day per pay period up to full time. Full time telework must comply with all requirements for regular telework and with additional criteria set out below.
- B. Episodic. This form of telework is appropriate for work or assignments of specific limited duration or that may occur intermittently as opposed to a regular telework schedule as defined above. An employee must have an approved episodic Telework Agreement in place and receive approval in advance each time he/she wishes to telework. An employee may be approved for both episodic telework and regular telework.

In limited circumstances for episodic telework, supervisors may approve employees to work at an AWL that is outside of the local commuting area. This determination will be made by the supervisor, on a case-by-case basis and provided that the employee meets all eligibility requirements contained in this agreement. The Agency will not be responsible for nor reimburse any costs associated with an employee AWL outside of the local commuting area, including those incurred in the event the employee is recalled or required to return to their official work site.

Note: If the employee does not physically report to the official worksite at least twice each biweekly pay period, their locality pay may be impacted consistent with 5 CFR 531.605(d).

- C. Medical. This form of telework is designed for the continued accomplishment of Agency work while an employee has a physician-certified medical condition which does not affect the employee's ability to perform his or her regular work assignment at an AWL. This type of telework may be for the equivalent of full time, but is not intended to be a permanent arrangement and will normally not exceed three (3) months. After three (3) months, a medical telework agreement may be extended for up to three additional ninety day (three months) periods if the additional medical certification justifies such at each extension. The total maximum allowable time for a medical telework agreement is (12) twelve months in any one rolling calendar year.

Medical Telework is separate and distinct procedure from the Reasonable Accommodation procedure. If disabled, an employee may wish to review the Agency's Reasonable Accommodation procedures to determine if a request under that authority is more appropriate for them than a request for medical telework. Such a request may be made at any time. Information on the Agency's Reasonable Accommodation procedures (including the procedures and contact information) can be found on the Agency's Office of Civil Rights website.

In limited circumstances for medical telework, supervisors may approve employees to work at an AWL that is outside of the local commuting area. This determination will be made by the supervisor, on a case-by-case basis and provided that the employee meets all eligibility requirements contained in this agreement. The Agency will not be responsible for nor reimburse any costs associated with an employee AWL outside of the local commuting area, including

those incurred in the event the employee is recalled or required to return to their official work site.

Note: If the employee does not physically report to the official worksite at least twice each biweekly pay period, their locality pay may be impacted consistent with 5 CFR 531.605(d).

- D. **Unscheduled.** Telework not scheduled in advance, but performed when the Agency announces changes to its operating status, including changes to dismissal and closure procedures pursuant to OPM and Federal Executive Board operating status announcements. Unscheduled telework may be performed by any telework ready employee at an approved AWL, subject to available portable work.
- E. **Continuity of Operations Plan (COOP).** Pursuant to the Telework Enhancement Act, telework is an important part of the agency's COOP plan (see EPA Order 2030-1-A and the Federal Emergency Management Agency's Federal Continuity Directive 1 (FCD 1)). Telework enables employees to work from AWLs during emergencies and is a key tool in continuing EPA's vital role in the federal government at such times. During any period that EPA is operating under a COOP, the COOP supersedes this policy. Any employee, with or without a Telework Agreement, may be asked to telework during that period.

Section 6. Changes in Operating Status

A. Office Closure.

In the event of an office closure, telework-ready employees already scheduled to telework that day are required to do so, subject to Section 6.D below. Telework-ready employees not scheduled to telework that day are required, in coordination with their supervisor, to utilize unscheduled telework to the maximum extent possible, subject to available portable work; and if there is insufficient portable work as determined by the supervisor, the employee may be granted administrative leave. Employees who are required to work during their regular tour of duty on a day when Federal offices are closed to the public (or during delayed arrivals or early dismissals) are not entitled to receive overtime pay, credit hours, or compensatory time off for performing work during their regularly scheduled hours. Employees reporting to an AWL other than the employee's primary residence during the workweek will follow the closure or dismissal procedures of the AWL.

B. Late Arrivals/Early Dismissals at the Regular Office Location.

When the Agency announces early closure or late arrival of the regular office location, telework-ready employees already scheduled to telework that day are required to telework their regularly-scheduled non-overtime hours. Telework-ready employees that are not scheduled to telework that day will be required, subject to Section 6.D below and in coordination with their supervisor, to utilize unscheduled telework to the maximum extent possible, subject to available portable work as determined by the supervisor. If there is insufficient portable work as determined by the supervisor, the employee may be granted administrative leave for their regularly-scheduled non-overtime hours when the office is closed. Early release for holidays shall be granted to those on telework to the same extent as granted to those employees working in the office.

C. Liberal / Optional Use of Telework Announced

In the event the office is open but there is an announcement of liberal leave or optional use of telework that day, telework-ready employees not otherwise scheduled to telework may come to the office, request approval for unscheduled telework, or request approval for annual, credit or other leave.

D. General Provisions

It is recommended that supervisors and employees coordinate in advance if there is an anticipated severe weather event to ensure that employees have portable work and the necessary equipment to perform telework during an office closure to the extent possible.

As with scheduled telework, an employee performing unscheduled telework must have a sufficient amount of work to perform throughout the workday when teleworking. An employee who does not have enough work must report to the office if it is open, contact their supervisor for additional work, or request annual leave, credit time or other leave. When severe weather or other circumstances prevent work from the AWL (e.g., electricity, employee must evacuate, infrastructure/connectivity and child/elder care issues) or there is a lack of portable work as determined by the supervisor, and the office is closed to employees, a telework-ready employee may be granted administrative leave by his or her supervisor or manager.

Section 7. Responsibilities

A. Supervisors are responsible for the overall management of telework within their work units, including:

1. Approving or disapproving new or revised requests to telework within a reasonable timeframe (i.e., normally within 15 calendar days);
2. Providing the rationale to the requesting employee (see Appendix C);
3. Ensuring proper office coverage;
4. Overseeing day-to-day telework operations, and modifying individual telework agreements to meet mission needs or changing circumstances;
5. Ensuring that teleworkers comply with existing security policies and procedures, including those relating to IT security and personally identifiable information (PII) and Confidential Business Information (CBI); and
6. Ensuring proper use of appropriate telework time reporting codes to document hours teleworked.
7. Monitoring Performance. Appropriate management controls and reporting procedures must be in place before employees begin telework assignments. Teleworkers and non-teleworkers are treated identically for the purposes of monitoring and assessing job performance; however, supervisors may need to utilize different mechanisms for communicating with teleworking employees.

Deputy Assistant Administrators/Deputy Regional Administrators (or their designees) approve requests for full-time telework consistent with Section 9 below.

B. Employees are responsible for:

1. Completing a Telework Agreement (Appendix D) and submitting it to their supervisor for approval prior to teleworking;
2. Communicating as needed with his/her supervisor to receive assignments and complete work in accordance with the supervisor's instructions.
3. Performing an assessment of the AWL and answering the required questions on the Safety Checklist (Appendix E);
4. Adhering to the telework policy and procedures and the terms and conditions of the approved Telework Agreement;
5. Annual recertification if required by their office, division or higher organizational unit;
6. Maintaining communication with the supervisor while teleworking, and working with the supervisor to overcome problems or obstacles as they occur so that the work of the organization is accomplished in an effective and timely manner;
7. Complying with EPA/Regional/Office policies for information technology security and use of government equipment/materials;
8. Ensuring personal disruptions such as non-business telephone calls and visitors are kept to a minimum;
9. Complying with all existing security policies and procedures, including those relating to personally identifiable information (PII) and Confidential Business Information (CBI);
10. Teleworking to the extent feasible in the event the Agency announces changes to its operating status, including changes to dismissal and closure procedures; and,
11. Making arrangements for dependent/elder care, if applicable, during the time the employee is working at an AWL.

Section 8. Eligibility

A. Although the supervisor or manager has ultimate decision making authority, an employee and supervisor should work together to determine if telework is appropriate. Employees may be authorized to telework if:

1. The employee has sufficient portable work for the amount of telework requested;
2. The employee is currently performing at the “Fully Successful” level or above. If an employee’s last rating of record is less than “Fully Successful” a supervisor may

nevertheless at his or her discretion approve such an employee to telework if the supervisor determines that the employee is now performing at a “Fully Successful” level or higher;

3. The employee has no documented performance deficiencies within the preceding 12 months;
 4. The employee has no documented conduct deficiencies within the preceding 12 months, including but not limited to letters of reprimand, written warnings or leave restrictions (unless the supervisor determines that the conduct deficiencies have no impact on employee ability to telework);
 5. The employee has not been absent without permission for (5) five or more days in a calendar year, or violated subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch pertaining to pornography;
 6. The employee agrees to return to the official worksite on a telework day if required to do so by his or her supervisor pursuant to recall procedures contained in Section 13A;
 7. The employee continues to comply with the terms of his or her written and approved Telework Agreement; and,
 8. The employee has been employed at the EPA for at least a reasonable “orientation” period of 90 days up to six (6) months, as determined by the supervisor. In addition to the basic eligibility requirements for EPA employees noted above, managers authorizing telework for new employees should consider previous federal service, if any, length and nature of previous work experience, and any previous experience teleworking.
- B. The nature of an employee’s duties determines whether work is portable for the purpose of telework eligibility. Duties which employees are not likely to be able to perform while teleworking include those that:
1. Require the employee to have daily face-to-face contact with the supervisor, colleagues, clients or the general public in order to perform his or her job effectively, which cannot otherwise be achieved via e-mail, telephone, fax or similar electronic means;
 2. Require daily access to classified information or a classified installation;
 3. Involve the construction, installation, maintenance and/or repair of EPA facilities;
 4. Involve the physical protection of EPA facilities or employees; or
 5. Other physical presence/site-dependent activity (e.g., emissions testing, laboratory trials).
- C. COOP or Other Emergency Designation. Any employee who has been designated essential for inclement weather or other emergencies, or is an emergency response employee for COOP purposes, must meet telework eligibility requirements and be approved for telework.

Section 9. Requirements for Full Time Telework.

- A. Eligibility. In addition to meeting the eligibility requirements set forth above for all teleworkers, employees seeking to telework full time must meet the additional criteria set forth below. As with all telework, management reserves the right to determine if authorizing an employee to perform full-time telework is appropriate. Approval for full-time telework should only be authorized when all of the following criteria are met:
1. All of the employee's work is portable;
 2. The employee's position requires minimal in-person interface with management officials and other employees;
 3. The employee has a demonstrated track record of meeting performance plan objectives and working without close supervision;
 4. Technology needed to perform duties is available and fully functional; and,
 5. The DAA or DRA (or their designee) has approved the request for full-time telework based on a determination that an employee meets all required criteria in this section.
- B. Recertification. Within thirty (30) days of the effective date of this Article, any employee that is currently performing full-time telework, under a Telework Agreement or otherwise, must recertify that they meet all eligibility criteria set forth in A. above.
- C. Approvals Must Be in Writing. All requests for telework must be approved in writing by the requesting employee's immediate supervisor or other appropriate agency manager, and may be terminated at any time based upon an employee's failure to adhere to requirements of this agreement or based upon any other consideration impacting employee eligibility. A request for full-time telework must also be approved in writing by the Deputy Assistant Administrator (DAA) or Deputy Regional Administrator (DRA) (or their designee) of the employee's organization.
- D. If approved for full-time telework, the employee understands and agrees that:
1. If the employee chooses to move, any relocation costs associated with moving is the sole responsibility of the employee;
 2. If the Telework Agreement is terminated for any reason, the employee is responsible for all costs associated with returning to the official worksite location. The first-line supervisor will provide a written notice of intent to terminate the agreement. The employee will have 10 (ten) work days to report back to the official worksite. This deadline may be extended at the supervisor's discretion.
 3. Locality pay may change.
- E. Relocation. Requests by employees engaged in full-time telework who are seeking to relocate outside of the local commuting area will be approved only in circumstances where an employee

meets all the requirements set forth in both Section 9A and Section 9E. Any such request is voluntary on the part of the employee. The relocation, if approved, would be for the convenience and benefit of the employee, and the Agency will therefore not pay for nor reimburse any relocation costs incurred by the employee. Employees engaged in full-time telework seeking to change their Official Worksite to relocate outside of the local commuting area must receive the written recommendation for doing so, in advance, from their supervisor or manager. The written recommendation must be submitted by the supervisor to the DAA or DRA (or their designee) that clearly explains how the employee is fully able to perform all of his or her duties effectively from the remote location, so that approval of the request will not, under any circumstances, diminish the Agency's ability to accomplish its mission and meet its operational goals. An assessment of relocation requests, must, at a minimum include 1) a consideration of the employee's current and likely future duties and whether or not the employee is likely to retain full-time telework eligibility in the future; and, 2) the costs associated with any recall that may be necessary (particularly those requesting to relocate significantly outside of the local commuting area). This documentation must be approved and signed by the DAA/DRA (or their designee). If disapproved, the DAA/DRA (or their designee) will respond in writing with the reasons the request was denied.

Change in official worksite will impact employee locality pay consistent with 5 CFR 531.605(d).

Section 10. Records Management

When working at an AWL, EPA employees must continue to comply with EPA's Records Management Policy and any other applicable policies on using, creating, maintaining and disposing of records. Employees shall also comply with the Federal Records Act, the Freedom of Information Act (FOIA), the terms of litigation holds, discovery in litigation and any requests for records by the Office of Inspector General. Any record removed from the official worksite for telework assignments remains the property of EPA and any information generated from telework assignments is the property of EPA. Employees are responsible for maintaining the integrity of their records and for producing records on demand. Agency work maintained on an employee's personal computer or on any portable media (e.g., disks, flash drives) may be subject to litigation discovery or FOIA even if it is not considered a record under the Federal Records Act.

Section 11. Facilities and Equipment at AWL and the Official Worksite

- A. No reimbursement for any AWL expenses. EPA will not reimburse employees for any operating costs, home maintenance, utility costs or other residential costs, or for any telephone or internet service. Government-issued calling cards or mobile phones may be used by teleworking employees for official government business.
- B. Equipment at AWL. Employees who have an Agency-issued laptop or mobile phone assigned to them may use such equipment while teleworking and shall take reasonable safeguards against theft and damage when they do so. All Agency-issued equipment and supplies remain the property of the Agency, and EPA remains responsible for service and maintenance of that equipment. EPA is under no obligation to provide such equipment to an employee solely for the purpose of teleworking. EPA is under no obligation to service or maintain equipment belonging to the employee, even if the employee uses it for Agency work.

- C. Workstations at regular work location. The office, region or other organizational unit to which an employee is assigned may implement space-saving initiatives in regard to employees who have approved telework agreements and who are regularly working in the office for only two days or less per week, or four days or less per biweekly pay period. Such space-saving options may include shared workstations, smaller workstations, or unassigned touchdown / hoteling workstations. If management seeks to implement any such space saving initiatives they will notify the union and bargain to the extent required by the CBA, local agreements, and applicable law, rule and regulation.
- D. For employees that work at an AWL outside of the LCA, the Agency is responsible for service and maintenance of Agency equipment. In cases where Agency equipment is in need of repair and upgrade, the Agency will make all reasonable efforts to initiate repairs and upgrades remotely. However, should on-site assistance be required, employees must either return to their home office or make other arrangements with their supervisor to ensure that repairs and upgrades can be made expeditiously. In consultation with the employee, supervisors will make determinations over questions such as the employee's duty status, appropriate work assignments and potential temporary equipment during the interim period between when repairs and upgrades are required and when they are completed.

Section 12. Process and Procedures

- A. Employees who meet the eligibility criteria outlined above must complete telework training specified by the Agency and/or by the employee's organization, prior to applying for telework.
- B. Employees complete and sign the EPA Telework Agreement (Appendix D) and the Safety Checklist (Appendix E) and submit them, along with a certificate of telework training, to their immediate supervisor for approval. Only one Telework Agreement is required for approval of episodic telework, but each episodic telework occasion must be approved by the immediate supervisor. Each Telework Agreement shall cover the terms and conditions of the telework arrangement, including but not limited to hours and days of duty at each work location, the voluntary nature of the agreement, adherence to all applicable guidelines, policies for timekeeping and leave, and responsibilities for government equipment and records.
- C. The employee and supervisor discuss the proposed telework arrangements and what work of employee's is portable.
- D. The supervisor reviews each proposed agreement on an individual basis prior to approval, based on the eligibility criteria set forth in this Article. This review should generally be completed within 15 calendar days. The supervisor shall notify the employee in writing of approval or disapproval. If telework is not approved, the supervisor shall also specify in writing the reasons for the disapproval. The supervisor may use the Notification Template (Appendix F) for reference when preparing the notification.

Section 13. Additional Guidelines

A. Recalls

1. Employees participating in the telework program, including full-time telework must be accessible and available for recall to their official worksite for a variety of reasons such as, but not limited to: meetings, briefings, special assignments, training, travel, unscheduled absence of other employees, emergencies or other situations deemed necessary by the supervisor to meet mission, staffing, and workload requirements.
2. A supervisor may recall an employee to the official worksite by notifying them at least 24 hours in advance. A supervisor may recall an employee to the official worksite with fewer than 24 hours advance notice when recall is essential for the Agency to meet its mission and the employee is not prevented from commuting to the official worksite.
3. An employee may request, but, is not entitled to another telework day as a result of being recalled to the official worksite on an otherwise scheduled telework day, or for any other reason being unable to telework on a scheduled day.

B. Work Schedules. Employees who telework will work the same schedules that they work in the official worksite, including compressed or flexible schedules under an approved alternate work schedule plan and may not work non-standard evenings and weekend schedules. Eligible work schedules for employees participating in telework are the same as those employees working at the official worksite. In the event of emergency or extreme circumstances, work schedules may be changed with supervisor approval and in accordance with established procedures. Unstructured arrangements where employees work at the AWL without prior supervisory approval are not permitted.

Work schedules may also include fixed times during the day for supervisor/employee telephone conversations. Establishing such times may be helpful to ensure ongoing communication. E-mail and voice mail messaging offers additional supervisor/employee communication options.

C. Prohibited Uses of Telework. Supervisors, managers and approving officials are prohibited from authorizing regular, episodic, or unscheduled telework for employees seeking to engage in activities solely of a personal, non-work-related nature that should otherwise be accommodated through other appropriate processes. Examples include, but are not limited to:

- Substituting telework for dependent/elder care (i.e., when the home is the AWL, an employee should not be using telework as a means to care for his or her spouse, child, or relative);
- Allowing an employee to telework in lieu of leave;
- Accommodating an employee's personal requests that should legitimately be resolved by other appropriate means (e.g., sick leave, annual leave, leave without pay, donated leave, advanced leave, accrued compensatory time, change in work schedule, reassignment, etc.); and
- Including time spent in routine commuting to and from the official worksite.

NOTE: There may be circumstances where telework eligible employees utilize leave for a portion of the workday and at the supervisor's discretion may be permitted to telework at an AWL for the remainder of the workday.

Section 14. Changes, Review and Termination of Telework Agreements.

- A. Telework is a voluntary program and not an employee entitlement. The operational needs of the Agency are paramount. Employees who telework do not have an automatic right to continue teleworking. Telework arrangements may be modified, adjusted, or terminated at any time by management based upon an employee's failure to adhere to requirements of this agreement or based upon any other consideration impacting employee eligibility. Telework arrangements may also be modified, adjusted, or terminated at any time when requested by an employee. Management has the right at any time to end an employee's use of telework, if, for example, the employee's performance falls below "Fully Successful," the employee engages in misconduct, the employee fails to comply with this Article or with the terms of the employee's Telework Agreement, or if the telework arrangement no longer meets the organization's needs. Participation in telework will be terminated when the employee no longer meets the eligibility criteria.

Management shall provide sufficient notice (typically 7 calendar days), when feasible, before modifying or terminating a Telework Agreement to allow the affected employee to make necessary arrangements. The reason for termination will be documented, signed by the supervisor/approving official, and furnished to the affected employee. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.

- B. When any significant aspect of an employee's work changes (*e.g.*, position, work assigned, alternate work location), the supervisor will reassess the portability and suitability of employee's work for continued telework approval.
- C. An employee may withdraw an application for telework, or terminate an approved Telework Agreement, at any time without prejudice, and return to the regular work location. The employee must notify the supervisor in writing, and the supervisor should in turn acknowledge the employee's notice in writing, to prevent misunderstandings about work location.

Section 15. Implementation

All employees currently participating in telework and employees seeking telework eligibility must sign a Telework Agreement in the form attached as Appendix D, and in doing so, agree to applicable dismissal and closure procedures, and to meet requirements contained in the Agency's operating status announcements. Employees currently engaged in full-time telework must also comply with recertification requirements pursuant to Section 9(b) of this Article.

ARTICLE 55

EMPLOYEE COUNSELING AND ASSISTANCE PROGRAM

Section 1.

The Employer and the Union recognize the importance of an Employee Assistance Program for employees whose job performance is affected by alcohol abuse, drug abuse, emotional illness or other personal problems. Employee participation in the program shall be voluntary.

Section 2.

Initial ECAP consultations will be approved as duty time, providing the employee notifies the approving supervisor that the time away from the office will be used for ECAP consultation. The ECAP counselor may advise the Employer as to whether an employee attended a counseling session and the approximate length of the session, when the employee attends the session on duty time. Employees who choose to see an ECAP counselor on non-duty time (e.g., before/after work) are not required to notify their supervisor.

Section 3.

Employee counseling may include referral to outside professional treatment and assistance sources. Employees may request annual or sick leave, or earned compensatory time, for purposes of undergoing a treatment program. Such leave requests will be approved or denied on the same basis as similar requests resulting in an employee's absence from work.

Section 4.

The Parties shall inform unit members who are experiencing performance, conduct and/or attendance problems of the existence and operation of the program and refer those seeking assistance to the Program. If the Agency must discontinue the program due to staffing or funding limitations, it will notify the Union in accordance with Article 33.

Section 5.

On a periodic basis, the Parties shall publicize the Program, including the name of the Program Coordinator, to employees.

ARTICLE 56
CHILD CARE SUBSIDIES & FACILITIES

Section 1.

EPA will continue to provide opportunities for access to child care facilities. Changes to the manner in which the Agency offers child care opportunities to employees will be reserved for local bargaining.

Section 2.

The Agency is committed to establishing a child care subsidy program. When it has developed a policy establishing such a program, it will provide the draft policy to NTEU per the terms of Article 33.

ARTICLE 57
TRANSIT SUBSIDY

Subject to the availability of funds, the Agency will support the transit subsidy program to the maximum allowable as a tax-free benefit under the Internal Revenue Service Code. If EPA determines that due to budgetary constraints the maximum allowable amount cannot be maintained for all employees, NTEU will be timely notified and may re-open negotiations pursuant to Article 33. The amount of the subsidy depends on the employee's actual commuting costs and cannot exceed the costs incurred.

ARTICLE 58

STUDENT LOAN REPAYMENT

Section 1. Student Loan Repayment Plan

The Employer has established a Student Loan Repayment Plan in accordance with 5 U.S.C. 5379 and 5 C.F.R. 537 and other government-wide rules and regulations. Implementation of the Student Loan Repayment Program is subject to the availability of funds. The Employer may use the plan as an incentive to recruit highly qualified candidates and to retain highly qualified employees likely to leave for employment outside the Federal service, at the Agency's discretion.

Section 2. Criteria

There is no entitlement to participation in the Student Loan Repayment Plan. The Employer may use this student loan repayment incentive on a case-by-case basis in accordance with 5 C.F.R. Section 537. Under the Plan, employees may be considered for loan repayment assistance up to the statutory limit, which is currently \$10,000 per calendar year, with a total limitation of not more than \$60,000 for any one employee.

Section 3. Coverage

The Employer may offer student loan repayment incentives to recruit or retain the following full-time or part-time employees:

- Permanent employees (including employees serving on indefinite appointments);
- Employees serving on term or excepted appointments with at least 3 years remaining on their appointments;
- Employees serving on excepted appointments that can lead to non-competitive conversion to term, career, or career-conditional appointments

The following employees are ineligible for the Student Loan Repayment Program:

- Employee who separates from the agency, either voluntarily or involuntarily;
- Employee who does not maintain an acceptable level of performance; acceptable level of performance is performance that is fully successful or higher;
- Employee who violates a condition in the service agreement

Section 4. Service Agreement

Once approved, employees must sign a written service agreement that requires the employee to complete, at a minimum, a three-year period of employment with the Employer regardless of the

amount of the loan repayment authorized. If the employee separates voluntarily or is separated involuntarily for misconduct or poor performance before fulfilling the service agreement, he or she must reimburse EPA for any of the amount of the benefit received. (See 5 USC 5379.) Loss of eligibility in the program and employee reimbursement to the Agency are described, respectively, in 5 CFR Parts 537.108 and 109 and in Sections 3 and 5 of this Article.

Section 5. Requirement to Reimburse and Waiver Request

A. Pursuant to 5 CFP Part 537.109, Employee Reimbursement to Government, an employee is indebted to the Federal Government and must reimburse the paying agency for the amount of any student loan repayment benefits received under a service agreement if he or she –

1. Fails to complete the period of service required in the applicable service agreement (except as provided by paragraph (b) of this section); or
2. Violates any other condition that specifically triggers a reimbursement requirement under the agreement.

B. An agency may not apply paragraph (a) of this section based on an employee's failure to complete the required period of service established under a service agreement if –

1. The employee is involuntarily separated for reasons other than misconduct, unacceptable performance, or a negative suitability determination under 5 CFR part 731; or
2. The employee leaves the paying agency voluntarily to enter into the service of any other agency, unless reimbursement to the agency is otherwise required in the service agreement, as provided by § 537.107(e).

C. If an agency and an employee mutually agree to modify an existing service agreement to provide additional student loan repayment benefits for additional service (as provided by § 537.107(b)), the modified service agreement may stipulate that, if the employee completes the initial service period but fails to complete the additional service period, he or she is required to reimburse the paying agency only for the amount of any student loan repayment benefits received during the additional service period.

D. If an employee fails to reimburse the paying agency for the amount owed under paragraph (a) of this section, a sum equal to the amount outstanding is recoverable from the employee under the agency's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and 5 CFR Part 550, subpart K, or through the appropriate provisions governing Federal debt collection if the individual is no longer a Federal employee.

E. An authorized agency official may waive, in whole or in part, a right of recovery of an employee's debt if he or she determines that recovery would be against equity and good conscience or against the public interest. (See 5 U.S.C. 5379(c)(3).)

F. Any amount reimbursed by, or recovered from, an employee under this section must be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited must be merged with other sums in such account and must be available for the same

purposes and time period, and subject to the same limitations (if any), as the sums with which merged. (See 5 U.S.C. 5379(c)(4).)

Section 6. Reporting

Once a year, upon request, the Employer shall provide NTEU the following for NTEU bargaining unit employees:

- number of employees selected to receive student loan benefits;
- name and job classification of the employees selected to receive benefits; and
- the amount of benefit received by each employee.

Nothing herein precludes the Union from requesting additional information concerning the student loan repayment program consistent with 5 U.S.C. 7114(b)(4).

APPENDIX A

**OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**WARNING AND ASSURANCE TO A FEDERAL EMPLOYEE
REQUIRED TO PROVIDE INFORMATION**

This is an official administrative inquiry regarding allegations of misconduct or improper performance of official duties. In accordance with the Privacy Act of 1974, you are advised that the authority to conduct this interview is contained in the Inspector General Act of 1978, as amended.

This inquiry pertains to _____

(State the general nature of the inquiry)

The purpose of this interview is to obtain information which will assist in the determination of whether administrative action is warranted.

You are going to be asked a number of specific questions regarding the performance of your official duties.

You have a duty to reply to these questions and disciplinary action, including dismissal, may be undertaken if you refuse to answer or fail to reply fully and truthfully.

Neither your answers nor any information or evidence gained by reason of your answers can be used against you in any criminal proceeding, except that if you knowingly and willfully provide false statements or information in your answers, you may be criminally prosecuted for that action. The answers you furnish and any information or evidence resulting therefrom may be used in the course of agency disciplinary proceedings which could result in disciplinary action, including dismissal.

ACKNOWLEDGMENT

I have read and understand my rights and obligations as set forth above.

Date

Time

Employee's Signature

Witnessed by

Title

Witnessed by

Title

Place

Case Number

APPENDIX B

REPORT OF OFFICIAL TIME USAGE (Including official time related travel)

Pay Period Ending Date: _____

Name of Union Official/Steward/ Designated Representative: _____

Name of Supervisor: _____

Union Local/Location: _____

Signature/Date

Union Representative

	Negotiations		Representational Duties		Training		Partnership Activities		Total	
	hrs	qtrs	hrs	qtrs	hrs	qtrs	hrs	qtrs	hrs	qtrs
Mon										
Tue										
Wed										
Thur										
Fri										
Mon										
Tue										
Wed										
Thur										
Fri										
Total										

Negotiations includes:

- Formal negotiations under the LR Statute
- Preparation time for negotiations
- Time spent with FMCS/FSIP representatives

Representational Duties include:

- Pre-dispute consultation with employees
- Fact-finding discussions
- Informal dispute resolution discussions
- Alternative Dispute Resolution (ADR)
- Attendance at formal discussions
- Formal dispute resolution (e.g., grievances/complaints)
- Arbitration Cases or hearings
- Preparation of grievances/complaints/charges
- Technical research (e.g., case law, regulations)
- Presentations at employee orientations

Training includes:

- Attendance at Union-sponsored training
- Attendance at Federal agency-sponsored training

Partnership Activities include:

- Participation on workgroups as union representative
- Attendance at local and/or national partnership meetings

(Enter number of hours and quarters spent on each activity and submit to supervisor.)

Certification:

Appendix C- EPA-NTEU Telework Application

Employee Name:	Job Title & Grade:
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Office/Region and Division:

Employee's Work Phone:	Employee's Work E-mail Address:
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First-line Supervisor:	First-line Supervisor's Work Phone:
-------------------------------	--

Proposed Start Date:	Proposed End Date: (for Medical Telework)
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Address of Alternate Work Location (Including city, state and zip code):

Phone Number of Alternate Work Location:	Fax Number of Alternate Work Location (if applicable):
---	---

Request:

New Request
 Annual Recertification
 Request for Modification to Existing Agreement

Type of Telework Agreement:
 Regular
 Episodic
 Medical
 Full-time

If Regular Telework, Number of days per week:_____ or number of days per pay period:_____

If request is for Medical Telework, medical documentation justifying the reason for the request and the projected duration that it will be needed is attached to the application. (If requested by supervisor).

Requested Telework Schedule: For Regular and Full-time teleworkers, identifying your requested work schedule/location.

	Monday	Tuesday	Wednesday	Thursday	Friday
Pay Period Week #1					
Official Worksite					
Alternate Work Location					
Pay Period Week #2					
Official Worksite					
Alternate Work Location					

Description of Portable Work to be performed at Alternate Work Location:

Approval/Disapproval (attach additional documentation, if needed):

Approved
 Approved with Modifications (cite reason(s) and modification below)
 Disapproved (cite reason(s) below)

Employee's Signature:	Date:
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Supervisor's Signature:	Date:
--------------------------------	--------------

DAA/DRA (or designee Signature (For Full-time Telework):	Date:
---	--------------

NOTE: If approved, employee agrees to submit and sign the EPA-NTEU Telework Agreement and Self-Certification Safety Checklist.

Distribution: The supervisor and the employee should keep a copy of this form for their own records. A copy shall also be forwarded to the program/regional office telework coordinator.

Appendix D- EPA-NTEU Telework Agreement

Section 1. Employee/Office Information

Employee Name:	Job Title & Grade:
Office/Region and Division:	
Employee's Work Phone:	Employee's Work E-mail Address:
First-line Supervisor:	First-line Supervisor's Work Phone:
Proposed Start Date:	Proposed End Date: (for Medical Telework)
Address of Alternate Work Location (Including city, state and zip code):	
Phone Number of Alternate Work Location:	Fax Number of Alternate Work Location (if applicable):

Section 2. Type(s) of Telework Approved (Check appropriate box(es)):

Type of Telework Agreement: Regular Episodic Medical Full-time
All types of Telework Agreements May Require Unscheduled Telework: In the event of an office closure, telework-ready employees already scheduled to Telework that day are required to do so unless other circumstances described on Section 6(D) of the Telework Article prevent work from the AWL. Telework-ready employees not scheduled to Telework that day are required, in coordination with their supervisor, to utilize unscheduled Telework to the maximum extent possible, subject to available, portable work unless other circumstances described in Section 6(D) of the Article prevent work from the AWL.

Section 3. Employee's Approved Telework Schedule

The employee's work schedule (official tour of duty) while participating in the Telework Program is listed below.
 The employee agrees to observe hours of work in accordance with established policies. The employee's work schedule at an AWL must be the same as that in place at the official worksite.

	Monday	Tuesday	Wednesday	Thursday	Friday
Pay Period Week #1					
Official Worksite					
Alternate Work Location					
Pay Period Week #2					
Official Worksite					
Alternate Work Location					

Section 4. Time and Attendance Requirements

General: The governing rules, regulations and policies regarding time and attendance, overtime, leave, work schedules, including all requirements for supervisory approvals, are unchanged by participation in Telework.
Time Reporting Codes: Employee's timekeeper (if applicable) will have a copy of the employee's Telework schedule. Employees must enter their time and attendance as Telework Time using the designated codes established for each telework category. Employee's supervisor will certify bi-weekly time and attendance for hours worked.

Work Schedules: Employees who telework will work the same schedules that they work in the official worksite, including compressed or flexible schedules under an approved alternate work schedule plan and may not work non-standard evenings and weekend schedules. Eligible work schedules for employees participating in telework are the same as those employees working at the official worksite. In the event of emergency or extreme circumstances, work schedules may be changed with supervisor approval and in accordance with established procedures.

This agreement does not restrict the employee's right to request a change of schedule in accordance with existing policies.

Leave: Employees performing work at the alternate work location will follow established procedures for requesting and obtaining approval of leave, consistent with the Collective Bargaining Agreement, applicable laws, rules, regulations and Agency policies.

Overtime/Compensatory Time: Employees performing work at the AWL are subject to the same maximum workday limits as they would be if they were performing work at the official duty station. Employees must seek prior approval from their supervisor prior to working overtime or compensatory time at their AWL.

Section 5. Work Performed at AWL

Monitoring Performance: Teleworkers and non-teleworkers are treated identically for the purposes of monitoring and assessing job performance; however, supervisors may need to utilize different mechanisms for communicating with teleworking employees.

Communication during Telework: Employees are responsible for communicating as needed with their supervisors to receive assignments and complete work in accordance with the supervisor's instructions. The employee agrees to maintain communication with the supervisor while teleworking, and work with the supervisor to overcome problems or obstacles as they occur so that the work of the organization is accomplished in an effective and timely manner.

Teleworking employees must ensure that working from the AWL causes no disruption in the efficiency of work, and that the employee is available to his or her customers, co-workers and supervisors. This means, for example, that teleworking employees cannot make their regular teleworking hours unavailable for calls, meetings, or virtual meetings in their electronic calendars or put "out of office" messages on e-mail and voice mail systems indicating that they are unavailable.

Inability to Work at AWL: In the event of interruptions in communications caused by the failure of agency equipment/technology, employees will promptly notify their supervisor or their designee and they will provide guidance on how to proceed in order to minimize disruption in work. If the employee is unable to work at the AWL due to circumstances beyond his or her control, including technical issues with the Agency's network or equipment, the employee should contact his or her supervisor to request the appropriate leave or to notify the supervisor that he or she will return to the office worksite, if practicable. Contact shall be made in a timely manner, typically within thirty (30) minutes of such an inability, absent extenuating circumstances.

Note: Reference Section 4 of the Article regarding Guidelines and Operating Principles

Section 6. Employee Eligibility

Employee agrees that in order to maintain eligibility for telework:

- The employee has sufficient portable work for the amount of Telework requested;
- The employee is currently performing at the "Fully Successful" level or above. If an employee's last rating of record is less than fully successful a supervisor may nevertheless at his or her discretion approve such and employee to telework if the supervisor determines that the employee is now performing at a fully successful level or higher;
- The employee has no documented performance deficiencies within the preceding 12 months;
- The employee has no documented conduct deficiencies within the preceding 12 months, including but not limited to letters of reprimand, written warnings or leave restrictions (unless the supervisor determines that the conduct deficiencies have no impact on employee eligibility for telework);
- The employee has not been absent without permission for (5) five or more days in a calendar year, or violated subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch pertaining to pornography;
- The employee agrees to return to the official worksite on a telework day if required to do so by his or her supervisor pursuant to recall procedures contained in Section 13A;
- The employee continues to comply with the terms of his or her written and approved Telework Agreement; and;
- The employee has been employed at the EPA for at least a reasonable "orientation" period of 90 days up to six (6) months, as determined by the supervisor. In addition to the basic eligibility requirements for EPA employees noted above, managers authorizing telework for new employees should consider previous federal service, if any, length and

nature of previous work experience, and any previous experience teleworking.

Note: Reference Section 8 of the Article for additional eligibility requirements.

Section 7. Recalls to Official Worksite

Employees participating in the telework program, including full-time telework must be accessible and available for recall to their official worksite for a variety of reasons such as, but not limited to: a compelling need for in-person participation in meetings or briefings, special assignments, training, travel, unscheduled absence of other employees, emergencies or other situations deemed necessary by the supervisor to meet mission, staffing, and workload requirements.

A supervisor may recall an employee to the official worksite by notifying them at least 24 hours in advance. A supervisor may recall an employee to the official worksite with fewer than 24 hours advance notice when recall is essential for the Agency to meet its mission and the employee is not prevented from commuting to the official worksite.

An employee may request but, is not entitled to another telework day as a result of being recalled to the official worksite on an otherwise scheduled telework day, or for any other reason being unable to telework on a scheduled day.

Section 8. Changes in Operating Status

Office Closure: In the event of an office closure, Telework-ready employees already scheduled to Telework that day are required to do so unless other circumstances described in Section 6(D) of Article 54 prevent work from the AWL. Telework-ready employees not scheduled to Telework that day are required, in coordination with their supervisor, to utilize unscheduled Telework to the maximum extent possible, subject to available, portable work unless other circumstances described in Section 6(D) of Article 54 prevent work from the AWL. Employees are not entitled to receive overtime pay, credit hours, or compensatory time off for performing work during their regularly-scheduled hours even though the office is closed. Employees reporting to an AWL other than the employee's primary residence during the work week will follow the closure or dismissal procedures of the AWL.

Late Arrivals/Early Dismissals at the Regular Office Location: In the event of an early dismissal or late arrival to the regular office location, Telework-ready employees already scheduled to Telework that day are required to Telework their regularly-scheduled non-overtime hours. Late arrival and early dismissal procedures do not apply to employees that are already scheduled to telework on that day or exercise the option to telework on that day if that option is also offered pursuant to Section 6(C) of Article 54.

Liberal/Optional Use of Telework announced: In the event the office is open but there is an announcement of liberal or optional use of Telework that day, Telework-ready employees not otherwise scheduled to Telework may come to the office, or request approval for unscheduled Telework, or request approval for annual, credit hours or other leave. Consistent with Section 6(D) of Article 54, employees are encouraged to work with their supervisors to ensure that they have available, portable work and the necessary equipment to enable them to telework if they anticipate that they may request unscheduled telework when this is offered due to adverse weather conditions.

General Provisions: It is recommended that supervisors and telework-ready employees coordinate in advance if there is an anticipated severe weather event to ensure that employees have portable work and the necessary equipment to perform telework during an office closure. Telework-ready employees with limited portable work are encouraged to work with their supervisors to consolidate work in a manner to allow them to telework during adverse weather conditions.

As with scheduled telework, an employee performing unscheduled telework must have sufficient amount of work to perform throughout the workday when teleworking. An employee who does not have enough work must report to the office if it is open, contact their supervisor for additional work, or request annual leave, credit time or other leave. When the severe weather or other circumstances prevent work from the AWL (e.g. electricity, employee must evacuate, infrastructure/connectivity and child/elder care issues) and the office is closed to employees, a telework-ready employee may be granted administrative leave by his or her supervisor or manager.

Section 9. Unauthorized Use of Telework

Supervisors, managers and approving officials are prohibited from authorizing regular, episodic, or unscheduled telework for employees seeking to engage in activities solely of a personal, non-work related nature that should otherwise be accommodated through other appropriate processes.

Examples of unauthorized telework include, but are not limited to:

- Substituting telework for dependent/elder care (i.e. when the home is the AWL, an employee should not be using telework as a means to care for his or her spouse, child, or relative);
- Allowing an employee to telework in lieu of leave;
- Accommodating an employee's personal requests that should legitimately be resolved by other appropriate means (e.g., sick leave, annual leave, leave without pay, donated leave, advanced leave, accrued compensatory time, change in work schedule, reassignment, etc.); and

- Including time spent in routine commuting to and from the official worksite.

There may be circumstances where telework eligible employees utilize leave for a portion of the workday and at the supervisor's discretion may be permitted to telework at an AWL for the remainder of the workday.

Section 10. Equipment, Security and Records

Agency-Owned Equipment: Employees who have an Agency-issued laptop or mobile phone assigned to them may use such equipment while teleworking and shall take reasonable safeguards against theft and damage when they do so. All agency issued equipment and supplies remain the property of the Agency, and EPA remains responsible for service and maintenance of that equipment. EPA is under no obligation to provide such equipment to an employee solely for the purpose of teleworking. EPA is under no obligation to service or maintain equipment belonging to the employee, even if the employee uses it for Agency work.

The Agency will provide necessary office supplies that are regularly available at the Agency (such as paper, pens, disks/drives, envelopes, tape, staples, etc.).

Employee-Owned Equipment: If an employee furnishes his or her own equipment/workstation at home, the government will not reimburse the employee for the purchasing costs of the equipment/workstation. In addition, the employee is responsible for the maintenance, repair, and replacement of privately-owned equipment.

Expenses at AWL: No reimbursement for any AWL expenses. EPA will not reimburse employees for any operating costs, home maintenance, utility costs or other residential costs, or for any telephone or internet service. Government-issued calling cards or mobile phones may be used by teleworking employees for official government business.

Employees working at an AWL outside of the LCA: The Agency is responsible for service and maintenance of Agency equipment. In cases where Agency equipment is in need of repair and upgrade, the Agency will make all reasonable efforts to initiate repairs and upgrades remotely. However, should on-site assistance be required, employees must either return to their home office or make other arrangements with their supervisor to ensure that repairs and upgrades can be made expeditiously. In consultation with the employee, supervisors will make determinations over questions such as the employee's duty status, appropriate work assignments and potential temporary equipment during the interim period between when repairs and upgrades are required and when they are completed.

Technology Security: The employee must comply with EPA/Regional/Office policies for information technology security and use of government equipment/materials.

Records Management: When working at an AWL, EPA employees must continue to comply with EPA's Records Management Policy and any other applicable policies on using, creating, maintaining, and disposing of records. Employees shall also comply with the Federal Records Act, the Freedom of Information Act (FOIA), the terms of litigation holds, discovery in litigation and any requests for records by the Office of Inspector General. Any record removed from the official worksite for Telework assignments remains the property of EPA and any information generated from Telework assignments is the property of EPA. Employees are responsible for maintaining the integrity of their records and for producing records on demand. Agency work maintained on an Employee's personal computer or any portable media (e.g., disks, flash drives) may be subject to litigation discovery or FOIA even if it is not considered a record under the Federal Records Act.

The employee agrees to use approved safeguards to protect Agency records from unauthorized disclosure or damage and to comply with the requirements set forth in the Privacy Act of 1974, as amended, 5 U.S.C. 552a, and those concerning release of confidential business information (CBI).

Section 11. Full-time Telework

Eligibility: In addition to meeting the eligibility requirements set forth above for all teleworkers, employees seeking to Telework full-time must meet the additional criteria set forth below. As with all Telework, management reserves the right to determine if authorizing an employee to perform full-time Telework is appropriate. Approval for full-time Telework should only be authorized in those instances when:

1. All of the employee's work is portable;
2. The employee's position requires minimal in-person interface with management officials and other employees;
3. The employee has a demonstrated track record of meeting performance plan objectives and working without close supervision;
4. Technology needed to perform duties is available and fully functional; and,
5. The DAA or DRA, or their designee, has approved the request for full-time telework based on a determination that an employee meets all required criteria in this section.

Approvals for Full-time Telework: All requests for telework must be approved in writing by the requesting employee's immediate supervisor or other appropriate agency manager, and may be terminated at any time based upon an employee's

failure to adhere to requirements of this agreement or based upon any other consideration impacting employee eligibility. A request for full-time telework must also be approved in writing by the Deputy Assistant Administrator (DAA) or Deputy Regional Administrator (DRA) (or their designee) of the employee's organization.

Termination of Full-time Telework Agreement: If the Telework agreement is terminated for any reason, the employee is responsible for all costs associated with returning to the official worksite location. The first-line supervisor will notify the employee of the decision to terminate full-time telework and will provide 10 (ten) work days to return to work unless an alternate return date is granted by the supervisor upon request by the employee.

Relocation: Requests by employees engaged in full-time telework who are seeking to relocate outside of the local commuting area will be approved only in circumstances where an employee meets all the requirements set forth in both Section 9A and Section 9E of Article 54. Any such request is voluntary on the part of the employee. The relocation, if approved, would be for the convenience and benefit of the employee, and the Agency will therefore not pay for nor reimburse any relocation costs incurred by the employee. Employees engaged in full-time telework seeking to change their Official Worksite to relocate outside of the local commuting area must receive the written recommendation for doing so, in advance, from their supervisor or manager. The written recommendation must be submitted by the supervisor to the DAA or ORA (or their designee) that clearly explains how the employee is fully able to perform all of his or her duties effectively from the remote location, so that approval of the request will not, under any circumstances, diminish the Agency's ability to accomplish its mission and meet its operational goals. An assessment of relocation requests, must, at a minimum include 1) a consideration of the employee's current and likely future duties and whether or not the employee is likely to retain full-time telework eligibility in the future; and, 2) the costs associated with any recall that may be necessary (particularly those requesting to relocate significantly outside of the local commuting area). This documentation must be approved and signed by the OAA/ORR (or their designee). If disapproved, the OAA/ORR (or their designee) will respond in writing with the reasons the request was denied.

Change in official worksite will impact employee locality pay.

Section 12. Safety Certification, Property Damage and Personal Injury

Safety Certification: The "Employee Self-Certification Safety Checklist" identifies significant safety standards that must be met in order to seek approval for the employee's AWL. The employee will notify the supervisor if anything changes at the AWL, and submit a new "Employee Self-Certification Safety Checklist," if applicable.

Property Damage and Personal Injury: Questions related to claims for personal property damage or loss or personal injury related to the employee's performance of official duties should be directed to the servicing Human Resources Office. The Agency will address issues of employee or Agency liability in accordance with the specific facts of each case and under the provisions of the Federal Employees Claims Act, the Federal Tort Claims Act, the Military Personnel and Civilian Employees Claims Act, and local law as appropriate.

The employee is covered under the Federal Employee's Compensation Act (FECA) if injured in the course of performing official duties at the official worksite or AWL, in accordance with applicable Department of Labor regulations and standards governing FECA liability.

(NOTE: Any accident or injury occurring at the AWL must be brought to the immediate attention of the supervisor and the servicing Human Resources Office and/or other designated office (e.g., Health and Safety). Because an employment-related accident sustained by an employee participating in the Telework Program could occur outside the premises of the official duty station, the supervisor must investigate all reports immediately following notification.)

Inspections of AWL: Provided the employee is given at least 24 hours advance notice, the employee agrees to permit periodic inspections of his/her AWL during the employee's normal working hours to ensure site conformance with safety standards. Such inspections will occur only on days when the employee is working at the AWL

Section 13. Changes, review and Termination of Telework Agreements

Telework is a voluntary program and not an employee entitlement. The operational needs of the Agency are paramount. Employees who telework do not have an automatic right to continue teleworking. Telework arrangements may be modified, adjusted, or terminated at any time by management based upon an employee's failure to adhere to requirements of this agreement or based upon any other consideration impacting employee eligibility. Telework arrangements may also be modified, adjusted, or terminated at any time when requested by an employee. Management has the right at any time to end an employee's use of telework, if, for example, the employee's performance falls below fully successful, the employee engages in misconduct, the employee fails to comply with this Article or with the terms of the employee's Telework Agreement, or if the telework arrangement no longer meets the organization's needs. Participation in telework will be terminated when the employee no longer meets the eligibility criteria.

Management shall provide sufficient notice (typically 7 calendar days), when feasible, before modifying or terminating a Telework Agreement to allow the affected employee to make necessary arrangements. The reason for termination will

be documented, signed by the supervisor/approving official, and furnished to the affected employee. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect.

When any significant aspect of an employee's work changes (e.g. position, work assigned, alternate work location), the supervisor will reassess the portability and suitability of employee's work for continued telework approval.

An employee may withdraw an application for telework, or terminate an approved Telework Agreement, at any time without prejudice, and return to the regular work location. The employee must notify the supervisor in writing, and the supervisor should in turn acknowledge the employee's notice in writing, to prevent misunderstandings about work location.

Section 14. Employee Certification and Signature

Employee Certification: I certify that I have read and understand the EPA-NTEU Telework Article and this Telework Agreement Form. I understand that this Agreement may be used or reviewed by management and EPA's Agency and local telework coordinators for the purpose of implementing agency policy and assessing EPA's Telework Program. I certify that I have read and understand the requirements regarding the safety and liability, safeguarding information, and other requirements included in this Agreement. I will work according to this Telework Agreement. I have the equipment necessary to accomplish my work at my alternative work location (AWL) and I have completed the required telework training for employees.

Telework Training

Employee completed required telework training (attached certificate of completion.) Date: _____

Employee's Signature:

Date:

Supervisor's Signature:

Date:

DAA/DRA (or designee) Signature (For Full-time Telework):

Date:

Privacy Act Statement: This information is subject to the Privacy Act of 1974 (5 Y.S.C. Section 552a)

Appendix E- NTEU EMPLOYEE SELF-CERTIFICATION SAFETY CHECKLIST

The following checklist is designed to assess the overall safety of the Alternate Work Location (AWL) and must be completed and given to your supervisor with your Telework Application.

	Yes	No	N/A	Comments
1. Is the space free of asbestos material?				
2. If NO, is the asbestos undamaged and in good condition?				
3. Does the space appear to be free of indoor air quality problems?				
4. Is the work space free from excess noise?				
5. Is water available and drinkable in the space?				
6. Is ventilation adequate?				
7. Is a bathroom available with hot and cold running water?				
8. Are there handrails for stairs with more than 3 steps?				
9. Are circuit breakers/fuses in the electrical panel labeled as to intended service?				
10. Do circuit breakers clearly indicate if they are opened or closed?				
11. Is electrical equipment free of recognized hazards that would cause physical harm (for example, frayed wires, bare conductors, loose wires, exposed wires fixed to the ceiling, a rat's nest of plugs in a single outlet and so on)?				
12. Will the building's electrical system permit the grounding of electrical equipment?				
13. Are aisles, doorways, and corners free of obstructions to permit visibility and movement?				
14. Do file cabinets and storage closets open so they do not obstruct walkways?				
15. Do chairs have stable and secure wheels/casters?				
16. Are rungs and legs of chairs stable and sturdy?				
17. Are the phone lines, electrical cords and extension wires safely secured?				
18. Is the office free of combustible materials?				
19. Is there adequate electrical lighting to accomplish the work assignments?				
20. Are floors surfaces clean, dry, and level?				
21. Are carpets well secured to the floor and free of frayed or worn seams?				
22. Are there any other known safety issues that should be addressed for this work space?				

Signing this form does not guarantee that the AWL is hazard free, but does verify that the employee has made a reasonably careful inspection for potential hazards. Employees are responsible for informing their supervisors of any changes to their AWL which could impact on health and safety of the employee and others.

Employee's Signature _____

Date _____

Supervisor's Signature _____

Date _____

Appendix F- NTEU NOTICE OF TERMINATION OF TELEWORK AGREEMENT

DATE:

TO: (Name of Employee)

FROM: (Name of Supervisor)

SUBJECT: Termination of Employee Telework Agreement

I am terminating your telework agreement effective

_____ Date

The specific reason(s) for my decision is as follows:

Signature of Supervisor

Received by _____
Signature of Employee/Date
(Signature does not imply agreement)

APPENDIX 9-1



**EPA Performance Appraisal and Recognition System
Performance Plan Coversheet
NTEU Bargaining Units**

Employee Name	Title, Series, Grade
Performance Period	Organizational Location

PRIVACY ACT STATEMENT

The maintenance of this information is governed by Privacy Act system of records OPM/GOVT-2. The authority for the maintenance of this system is 5 U.S.C. 1104, 3321, 4305, and 5405, and Executive Order 12107. This information is required. Not providing this information may hinder the Agency's ability to process personnel actions concerning you. This information is used to define the critical elements, performance standards, and performance measures directly related to your job. It will be used to document your mid-year review, any other reviews, and your end of year rating. The information may also be used in connection with selection for and publication of cash and honor awards; other personnel actions based on performance such as training and development decisions; the hiring or retention of an individual or the issuance of other benefits; relevant judicial or administrative proceedings; law enforcement purposes; personnel research or survey purposes; and negotiated grievance procedures. Disclosure may also be made to the MSPB, the EEOC, and other Federal agencies for purposes authorized by law; to a Congressional office at your request; and to officials of labor organizations when relevant and necessary to their duties as exclusive representatives of Federal employees. This is a summary of the routine uses for these records. For a full description of this system notice, including routine uses, see 65 FR 24737 (Apr. 27, 2000).

Do Not Remove this Coversheet until the Entire Form Is Placed in the Employee Performance File in the Servicing Human Resources Office.



**EPA Performance Appraisal and Recognition System
Performance Plan Coversheet
NTEU Bargaining Units**

Employee Name	Title, Series, Grade
Performance Period	Organizational Location

SECTION 1. DETERMINING CRITICAL ELEMENTS AND SETTING STANDARDS

My supervisor and I have discussed the critical elements that I will be rated upon during the course of this rating period.

Employee's Signature and Date	Supervisor's Signature and Date
--------------------------------------	--

Individual being rated is a: Team Leader Employee

Linking CEs: It is important that critical elements (CE's) be linked to the Agency Strategic Plan, or to a Regional Strategic Plan, as appropriate. The Plan contains five long-term, results-based environmental goals. It also describes seven Cross-Goal Strategies. If you link a CE to a Goal, then use the relevant objective(s) to more specifically define the linkage. If your duties include the performance of cross-Agency or cross-media work (including administrative, financial or legal support functions, or information management) then it may be more appropriate to link each CE to a Strategy, rather than to an environmental Goal. For management and support functions not captured by the seven Cross-Goal Strategies, use the alternative linkage statement: *This work is an enabling and support function that supports the outcomes of all five of the Agency's strategic goals.*

Indicate which Strategic Plan Goal(s) is/are linked to the Critical Elements for this position:

SECTION 2. PROGRESS REVIEW(S)

	Mid Year Review <i>(Required)</i>	"Other" Review <i>(Optional)</i>	"Other" Review <i>(Optional)</i>
Supervisor's Initials and Date			

My supervisor and I have discussed my performance for this period in relation to my performance standards and measures.

Employee's Initials and Date		Employee Comments <input type="checkbox"/> attached <input type="checkbox"/> not attached
-------------------------------------	--	---

SECTION 3. END OF YEAR RATING

<p align="center">Summary Rating Levels*</p> <p><input type="checkbox"/> Outstanding <input type="checkbox"/> Minimally Satisfactory <input type="checkbox"/> Exceeds Expectations <input type="checkbox"/> Unacceptable <input type="checkbox"/> Fully Successful</p> <p><i>* See next page for definitions and additional guidance</i></p>	<p align="center">Learning and Development</p> <p>My supervisor and I have discussed my training needs for the year and an Individual Development Plan (IDP). <input type="checkbox"/> is attached <input type="checkbox"/> is not attached</p>
---	--

My supervisor and I have discussed my performance for the fiscal year in relation to my performance standards and measures. My supervisor has informed me of my rating of record.

Supervisor's Signature and Date	Employee's Signature and Date Employee Comments <input type="checkbox"/> attached <input type="checkbox"/> not attached
--	---

Higher Level Supervisor's Signature and Date (Where Summary Rating Level = MS or U)	
---	--



EPA Performance Appraisal and Recognition System Performance Plan Coversheet NTEU Bargaining Units

Definitions of Summary Rating Levels

Outstanding	<p>*Consistently proposes new, creative approaches and practical ideas that are accepted by fellow workers and incorporated into day-to-day work operations to improve efficiency and effectiveness of the work.</p> <p>*Coworkers are motivated and energized by employee's actions and the employee is often sought for advice concerning complex, controversial, and difficult issues prior to implementation.</p> <p>*Employee is consistently proactive, demonstrates initiative, and uses exceptional judgment.</p> <p>*Understands the political realities of situations, keeps supervisor and/or Team Leader informed of issues and problems and uses discretion in keeping sensitive matters confidential.</p> <p>*Employee most often resolves problems independently and effectively eliminates problems from happening without supervisory intervention or assistance.</p> <p>*Employee makes significant contributions to the mission and priorities of the unit, office, region and constituencies on a regular basis.</p>
Exceeds Expectations	This level signifies that the results achieved are clearly beyond what could be reasonably expected for Fully Successful performance.
Fully Successful	This level signifies the employee's performance results achieved are those that can be reasonably expected of any employee on the job in order to fully and adequately achieve assigned responsibilities.
Minimally Satisfactory	This level signifies that there is a performance-related problem(s) although the performance has not reached "Unacceptable" in any Critical Element. The employee demonstrates limited ability in producing work of acceptable volume and/or quality within established timeframes; or exhibits limited sense of personal responsibility and accountability in work assignments; or experiences difficulty in addressing new or unusual work situations under normal pressure; or requires frequent guidance and assistance from supervisor or others. When performance is rated at this level, informal assistance in the form of a Performance Assistance Plan (PAP) must be provided to the employee to help improve his/her performance to "Fully Successful."
Unacceptable	This level signifies the performance of the employee consistently fails to meet the established performance standards in one or more critical elements of the employee's position. When performance is rated at this level, a performance Improvement Plan (PIP) must be implemented to help the employee improve his/her performance to "Fully Successful."

Determining Summary Performance Ratings

Apply the following process to determine the summary performance rating level for the year.

Note: When an even number of Critical Elements (CE) is established for a performance plan and the ratings given for the CEs are evenly divided, and none of the ratings are "Unacceptable," supervisors are to "round-up" and assign the higher summary rating.

Outstanding	For a summary performance rating of Outstanding, one half or more of the Critical Elements are rated Outstanding and none of the Critical Elements are rated lower than Exceeds Expectations.
Exceeds Expectations	For a summary performance rating of Exceeds Expectations, one half or more of the Critical Elements are rated at least Exceeds Expectations and none of the Critical Elements are rated lower than Fully Successful.
Fully Successful	For a summary performance rating of Fully Successful, one half or more of the Critical Elements are rated at least Fully Successful and none of the Critical Elements are rated Unacceptable.
Minimally Satisfactory	For a summary performance rating of Minimally Satisfactory, one half or more of the Critical Elements are rated at least Minimally Satisfactory and none of the Critical Elements are rated Unacceptable.
Unacceptable	For a summary performance rating of Unacceptable, one or more Critical Elements are rated Unacceptable.



EPA Performance Appraisal and Recognition System
Performance Plan and Summary Appraisal Package
Agency Benchmark Standards
NTEU Bargaining Units

Instructions for Applying Standards: Ratings at all levels must be evaluated in the context of the grade level and job duties of the individual employee to the extent they apply to the critical element.

<p>Outstanding</p>	<p>Delivers products or services that, to an extraordinary degree, support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services are of exceptional quality and provide exemplary models for addressing the most difficult and complex work challenges and demonstrate the highest levels of creativity, skill, and knowledge of subject area. Products are consistently produced ahead of the expected timeframes and reliably comply with applicable statutes, regulations, and established policies and procedures. Adjusts with exceptional quickness and ease to changing priorities, consistently taking the lead. Products or services demonstrate exceptional research and analysis. Exhibits exceptional skills in independently planning, organizing, and prioritizing multiple assignments. Consistently develops and offers suggestions for organizational and work process improvements that substantially increase results, efficiency, or effectiveness. Communicates verbally and in writing with exceptional clarity and effectiveness, often on topics or issues that are emerging and without precedent. Written materials are always well received and easily understood by a range of individuals and groups and significantly promote the Agency's programs and mission. Provides exceptional leadership in promoting teamwork and collaboration across organizations. <i>Measures and metrics may be included.</i></p>
<p>Exceeds Expectations</p>	<p>Delivers products or services that, to a degree beyond what can reasonably be expected, support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services are of superior quality and provide excellent models for addressing the most difficult and complex work challenges and demonstrate high levels of creativity, skill, and knowledge of subject area. Products or services are frequently produced ahead of the expected timeframes and reliably comply with applicable statutes, regulations, and established policies and procedures. Adjusts quickly to changing priorities, often taking the lead. Products or services demonstrate high quality research and analysis. Exhibits excellent skills in independently planning, organizing, and prioritizing multiple assignments. Frequently develops and offers suggestions for organizational and work process improvements that increase results, efficiency, or effectiveness. Communicates verbally and in writing with excellent clarity and effectiveness, often on topics or issues that are emerging and without precedent. Written materials are consistently well received and easily understood by a range of individuals and groups, significantly promoting the Agency's programs and mission. Provides high quality leadership in promoting teamwork and collaboration across organizations. <i>Measures and metrics may be included.</i></p>
<p>Fully Successful</p>	<p>Delivers products or services that support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services are of a good quality and provide good models for addressing work challenges and require high levels of creativity, skill, and knowledge of subject area. Products are produced within the expected timeframes and reliably comply with applicable statutes, regulations, and established policies and procedures. Adjusts to changing priorities. Products or services demonstrate thorough research and analysis. Exhibits effective skills in independently planning, organizing, and prioritizing multiple assignments. Develops and offers suggestions for organizational and work process improvements that increase results, efficiency, or effectiveness. Effectively communicates verbally and in writing. Written materials are well received and easily understood by a range of individuals and groups, promoting the Agency's programs and mission. Promotes teamwork and collaboration across organizations. <i>Measures and metrics may be included.</i></p>
<p>Minimally Satisfactory</p>	<p>Delivers products or services that marginally support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services demonstrate occasional deficiencies in creativity, skill, and knowledge of subject area. Products or services are occasionally produced in an untimely manner or do not comply with applicable statutes, regulations, and established policies and procedures. Has some difficulty adjusting to changing priorities. Products or services sometimes lack adequate research and analysis. Occasionally demonstrates difficulty with independently planning, organizing, and prioritizing multiple assignments. Infrequently offers suggestions for organizational and work process improvements that increase results, efficiency or effectiveness. Verbal and written communications lack clarity. Written materials are generally not well received or understood by a range of individuals and groups. Infrequently promotes teamwork and collaboration across organizations. <i>Measures and metrics may be included.</i></p>
<p>Unacceptable</p>	<p>Often delivers products or services that do not support the Agency's strategic plan, programs, policies, organizational annual performance plans, or budget priorities. Products or services demonstrate frequent deficiencies in creativity, skill, and knowledge of subject area. Products are not produced in a timely manner and do not comply with applicable statutes, regulations, and established policies and procedures. Often has difficulty adjusting to changing priorities. Products or services often lack adequate research and analysis. Often demonstrates difficulty with independently planning, organizing, and prioritizing multiple assignments. Rarely offers suggestions for organizational and work process improvements that increase results, efficiency or effectiveness. Verbal and written communications often lack clarity. Written materials are frequently not well received or understood by a range of individuals and groups. Does not promote teamwork and collaboration across organizations. <i>Measures and metrics may be included.</i></p>



**EPA Performance Appraisal and Recognition System
Performance Plan Coversheet
NTEU Bargaining Units**

Employee Name

Organizational Location

CE 1:

Strategic Plan elements supported by this CE:

Assumptions:

Employee Performance Must be Evaluated against the Agency Benchmark Standards.

Measures and Metrics:

Supervisor's Notes: *

*** All performance appraisals must contain a written narrative justification for each critical element and summary rating.**

Rating: Outstanding Exceeds Expectations Fully Successful Minimally Satisfactory Unacceptable



**EPA Performance Appraisal and Recognition System
Performance Plan Coversheet
NTEU Bargaining Units**

Employee Name

Organizational Location

CE 2:

Assumptions:

Employee Performance Must be Evaluated against the Agency Benchmark Standards.

Measures and Metrics:

Supervisor's Notes: *

***All performance appraisals must contain a written narrative justification for each critical element and summary rating.**

Rating: Outstanding Exceeds Expectations Fully Successful Minimally Satisfactory Unacceptable



**EPA Performance Appraisal and Recognition System
Performance Plan Coversheet
NTEU Bargaining Units**

Employee Name

Organizational Location

CE 3:

Strategic Plan elements supported by this CE:

Assumptions:

Employee Performance Must be Evaluated against the Agency Benchmark Standards.

Measures and Metrics:

Supervisor's Notes: *

***All performance appraisals must contain a written narrative justification for each critical element and summary rating.**

Rating: Outstanding Exceeds Expectations Fully Successful Minimally Satisfactory Unacceptable

APPENDIX 9-2

Attachment

Record of "Min-Sat" Counseling/Conversation

Name of Employee _____

Name of Supervisor _____

Office/Division/Branch _____

Date of Conversation _____

Attendees _____

Critical Element Rated "Min Sat" _____

Performance Issues to be Addressed:

-
-
-
-

Next Steps:

-
-
-
-

Signature of Employee: _____

Signature of Supervisor: _____