

Labor-Management Agreement



***Between the
Office of the Adjutant General
North Carolina Army National Guard
and
Old Hickory Chapter
Association of Civilian Technicians***

Effective: 17 November 2005

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ARTICLE I - GENERAL PROVISIONS

SECTION 1-1- Preamble:

This agreement is entered into under the provisions of Public Law 95-454, by and between the National Guard of North Carolina, hereinafter referred to as "Employer," and the Old Hickory Chapter, Association of Civilian Technicians, hereinafter referred to as the Labor Organization.

SECTION 1-2 - DEFINITIONS:

Adverse Action - An Adverse Action is defined as an administrative action resulting in suspension, removal, reduction in grade or reduction of the compensation of an employee.

Authority - means the Federal Labor Relations Authority

Confidential Employee - An employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations.

Consult - To meet so as to consider non-binding views or ideas.

Disciplinary Action - Disciplinary actions are defined as oral admonishments or letters of reprimand.

Emergency - An unexpected, serious occurrence or situation urgently requiring prompt action, such as, but not limited to, a condition posing a threat to human life or property. The employer reserves the right to determine when an emergency exists. At such time, the employer will notify a union official.

Employer - North Carolina National Guard.

Excused Absence - is an authorized absence from duty without loss of pay and without charge to leave. Excused absences will be charged as "Administrative Leave".

HRO - Human Resources Office.

Labor Organization - As defined in 5 USC, Chapter 71, Section 7103(a)(4)

Management Official - An individual who formulates, determines, or influences the policies of the agency. Such individuals are excluded from membership in bargaining unit.

Minimum - The least quantity assignable, admissible, or possible.

National Union Official - A.C.T. National representatives or officer

Negotiate - To confer so as to come to terms or reach an agreement.

Official Time

(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under U.S.C. 5 Chapter 71, section 7131 shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

(d) Except as provided in the preceding subsections of this section (1) any employee representing an exclusive representative, or (2), in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

Promotion – The movement of an employee, while serving continuously within the same agency, to a position at a higher grade level.

Steward - Union representative to whom the union assigns various representational functions, i.e. investigating and processing grievances, change of working conditions.

Supervisor - Under title 5, United States Code, section 7103(a)(10), a supervisor is an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority.

Temporary Promotion - a way to meet a situation requiring the temporary service of a technician in a higher graded position.

Uncommon - An action or event that is outside the normal schedule and consisting of extenuating circumstances beyond the immediate control of the Employer or an agent of the employer. Uncommon missions or requirements usually arise on relatively short notice as directed by the Employer or an agent of the employer.

Union Official - A Union representative appointed in writing.

SECTION 1-3 - Coverage:

a. It is hereby certified that the Labor Organization has been designated and selected by a majority of the technicians of the North Carolina Army National Guard as their representative for purposes of exclusive recognition, and that pursuant to Public Law 95-454; the said organization is the exclusive representative in such unit:

INCLUDED: All North Carolina Army wage grade and general schedule technicians employed in the State of North Carolina.

(1) Management officials, supervisors, are authorized to purchase insurance directly from ACT and will not be considered a Union Member for bargaining purposes. Payroll deduction is not authorized.

EXCLUDED: All managerial and supervisory technicians, to include:

- (1) Confidential technicians;
- (2) Technicians engaged in personnel work in other than a purely clerical capacity;
- (3) Technicians engaged in intelligence, counterintelligence, investigative or security work which directly affects national security;
- (4) Management officials, supervisors, professional employees, and other employees described in Public Law 95-454.

b. This agreement, to include all articles therein, is applicable to identified bargaining unit technicians in the North Carolina Army National Guard

c. For the purpose of representing the Adjutant General under the provisions of this agreement, the Chief of Staff (COS), the Deputy Chief of Staff for Logistics (J4), United States Property and Fiscal Officer (USPFO), Director of Army Aviation and Safety (SAO), Human Resources Officer (HRO) will be hereafter referred to as "Activity Head."

SECTION 1-4 - Purpose of this Agreement:

a. This agreement sets forth the respective roles and responsibilities of the parties; and indicates the nature of the subject matter of proper mutual concern. The Employer and the Labor Organization agree that the parties have had full and fair opportunity to bargain on all aspects of all the topics contained in this agreement and that this contract represents the parties' full, final, and complete agreement on all aspects of the topics included in the agreement for the life of the contract. The purpose of the parties in entering into this is to, but not limited to:

(1) Insure technician's participation in the formulation of personnel policies and procedures through impact and implementation (I&I) bargaining by the Labor Organization.

(2) Provide for the highest degree of efficiency and responsibility in accomplishing the mission of the Employer.

(3) Promote systematic labor-management cooperation.

(4) Facilitate the adjustment of grievances and disputes to a fair and equitable solution.

(5) Establish the procedures and methods that will hereinafter govern the working relationship between the parties.

(6) Express the full agreement of all parties and shall govern those areas covered in this contract, and that the parties will be bound by the terms of this agreement.

b. The Labor Organization agrees to support the Employer in its efforts to eliminate waste, combat absenteeism, conserve materials and supplies, insure timely completion of work, improve the quality of workmanship, encourage the submission of improvements and cost reduction ideas, prevent accidents, and promote the development of good will.

SECTION 1-5 - Law and Regulations:

a. It is agreed that in the administration of all matters covered by the agreement, officials and technicians are governed by existing or future laws and regulations of appropriate authorities including policies set forth in the Code of Federal Regulations (CFR).

b. Management officials of the Agency at each facility retain the right afforded them in 5 USC 7106. Wherever provisions of this agreement identify a specific office or individual to perform a specific function, this is done to provide a guide as to how situations are handled. The Employer retains the right to assign work.

SECTION 1-6 - Matters Appropriate for Consultation and Negotiation:

All matters appropriate for consultation or negotiation, at the State or local level, in accordance with Public Law or regulation, will be addressed upon request of either party provided they are not inconsistent with the terms of this agreement.

SECTION 1-7 - Contracting Out:

Office of Management and Budget (OMB), OMB Circular No. a-76, requires that agencies periodically compare the overall cost of continuing to perform certain activities termed “commercial activities” using civil service personnel. When such a determination has been made the Agency will notify the Labor Organization of its intent to contract out work which is traditionally performed by technicians and could result in a reduction in force, transfer, or loss of function affecting employees in the bargaining unit. The Agency will take all possible actions to minimize the impact on affected technicians. The notification does not affect the Employer’s right to perform historical, routine, and recurring contracting functions necessary to maintain equipment in a fully operational status.

SECTION 1-8 - Rights of the Technicians:

- a. The Employer and the Labor Organization agree that each technician has the right, freely and without fear of penalty or reprisal, to form, join, and assist the Labor Organization or to refrain from any such activity and each technician shall be protected in the exercise of this right.
- b. Except as otherwise expressly provided in Public Law 95-454, the right to assist the Labor Organization extends to participation in the management of the Labor Organization at any level.
- c. The Employer shall take the action required to assure that technicians within the Agency are apprised of their rights, under Public Law 95-454, and that no interference, restraint, coercion, or discrimination is practiced within the Agency to encourage or discourage membership in the Labor Organization. This agreement does not preclude any technician in the bargaining unit, regardless of Labor Organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, rules, regulations, or policy, or from having an Labor Organization Association representative in a grievance or appeal action.
- d. The Employer agrees that, as part of orientation, all new technicians appointed to a position in the bargaining unit shall be informed of the Labor Organization's exclusive status and will be advised of their right to join the Labor Organization. Prior to new employee orientation, the Labor Organization will be notified on AKO and afforded the opportunity to brief new employees during orientation. A copy of the briefing will be provided to HRO prior to presentation for approval They will be given a current Union Officer list as well as a current contract during orientation
- e. A Labor Organization official has the right to be present at mission briefings that are held to brief technicians involved in such assignments pertaining to their technicians status.

f. Management understands that certain circumstances associated with temporary duty assignment away from normal duty station may cause undue personal hardships with technicians involved in that assignment, and therefore, any technician unduly affected will be reconsidered as to his temporary duty assignment. A technician, upon request, will be released from a temporary duty assignment if a qualified replacement is available and willing to work.

SECTION 1-9 - Joint Responsibilities:

a. Correspondence: Correspondence between the Employer and the Labor Organization shall be answered by either party within twenty (20) work days or less of the time receipt of said correspondence. This time limit does not supersede other time requirements as stated in articles of the LMRA. The Employer and the Labor Organization agree that all inquiries relating to technician matters submitted by individual technicians will be processed through administrative channels in a timely manner and that the technician will be provided with a timely reply to the inquiry.

b. Labor/Management Training: The Employer and Labor Organization will insure all supervisory/management personnel and Labor Organization Officers and Stewards are trained as to the provisions of this agreement. A member of both negotiating teams will jointly present the training to a forum of both supervisor/management personnel, and Labor Organization Officers and Stewards between 30 and 45 days following distribution of the contract.

c. Identification of Facts: The Employer and the Labor Organization agree that in accordance with current regulations neither party shall present a charge, defamation, intimidation, or wrongdoing against a person or an employee of the technician program without a complete identification of the facts to include identification of the accusing parties.

SECTION 1-10 - Employer Obligations:

a. The Employer agrees to produce one thousand copies and furnish a copy of this agreement to each new technician at the time of orientation. The Labor Organization will be furnished seven hundred (700) copies of this agreement and the employer will provide all necessary copies required for third party proceedings.

b. The Employer agrees to furnish upon request to the Labor Organization, for its internal use only, a list of authorized bargaining unit positions, as well as, the names of technicians, their grades, and the position titles as defined in the agreement for all technicians in the bargaining unit annually as of 1 January each year.

c. In accordance with Public Law 95-454, the Labor Organization will be afforded its right to request impact and implementation (I&I) bargaining on conditions of employment, to include both personnel policies and practices and matters affecting working conditions at the State or local level. Matters that significantly affect more than one work facility will be conducted at the State level.

d. Official Notification: The employer agrees to notify the union prior to effecting any change to personnel policies, practices, and matters affecting working conditions of the bargaining unit employees.

(1) For the purposes of this agreement official notification will be defined as follows: "Official Notification will be in written form bearing the signature of the initiating individual and delivered to the addressee."

(2) Official notification must be directed to the Chapter President or his/her appointed representative or the appropriate Employer representative.

e. Technicians in the North Carolina National Guard will be issued a US Government Civilian Identification Card . Technicians in North Carolina National Guard will be issued US Government Common Access Card (CAC) through an ID card facility upon request by the individual technician.

SECTION 1-11 - Labor Organization Obligations:

The Labor Organization agrees to furnish the Employer, and maintain on a current basis, a complete list of all Labor Organization officers and stewards to include work area and phone number. Personnel not appointed by the Labor Organization will not be allowed to perform official representational functions, nor will they be allowed the use of official time. The Labor Organization will appoint bargaining unit representatives in writing. The Labor Organization President or Executive Vice-President may appoint bargaining unit representatives telephonically with the appointment to be accomplished in writing within five (5) working days. ACT National Field Representative is included and recognized as a representative for the Labor Organization at their request

SECTION 1-12 - Rights of the Labor Organization:

a. A representative of the Labor Organization shall have the right to be present at any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment, IAW 7114(a)(2)(A) Public Law 95-454.

b. The Labor Organization may, at the election of the agency, negotiate over subjects set forth in 5 U.S.C. 7106 (b)(1).

c. A technician who is elected or appointed to serve full time as a national or state representative or officer with the Labor Organization, at the discretion of the Employer, will be granted LWOP for one (1) year. Extensions for one (1) year periods may be granted upon request of the technician, thirty (30) days prior to the end of the first year, with the approval of the Employer. The technician's rights and privileges will be protected under the provisions of the applicable portions of the Code of Federal Regulations.

d. The Employer agrees that there shall be no restraint, interference, or coercion against any Labor Organization official or steward and that no officer or steward will be transferred from one work assignment to another for the purpose of discrimination against such officer or steward because of their performance of proper Labor Organization functions.

e. The employer will provide to the Labor Organization the names and work locations of new technicians on a monthly basis.

ARTICLE II - SCHEDULING HOURS OF WORK

SECTION 2-1 - Basic Workweek:

a. The Parties agree that the normal administrative workweek is the calendar week 0000 Sunday through 2400 Saturday. The normal basic workweek consists of five (5) standard workdays, Monday through Friday, on each of which technicians are scheduled to work an eight-hour (8) day. The standard workday shall consist of eight (8) hours of work, which normally shall be from 0800 to 1200, and from 1230 to 1630. The period from 1200 to 1230 is established as the normal non-duty time lunch period.

b. Technicians required to work through their regular lunch periods will be given time in pay status to eat at or adjacent to the job site at a time agreed upon by the technicians and their supervisor. Time for clean-up prior to lunch and prior to the end of the workday will be allowed each technician whose duties have been mutually determined by the immediate supervisor and the technician as requiring personal hygiene of each employee involved in handling toxic or hazardous substances. Time, as determined by the supervisor and the technician, will be allowed prior to the end of each work period for protection and security of records, property and equipment to include preventive maintenance services when required.

SECTION 2-2 - Variable Work and Quality of Life Schedule:

It is agreed that technicians may be allowed to choose a daily work schedule to enhance the quality of life, which, subject to management necessities, is most compatible with their personal needs; this shall be referred to as a variable work schedule.

a. By arrangement with their immediate supervisor, when management has determined that it is consistent with the mission, needs of the activity, installation and/or unit assignment, and public it serves, and at the same time accommodate, as far as practical, the technician's choice of daily work schedule within the established limits, technicians may request permission to utilize a variable work schedule.

b. When approved by their immediate supervisor, technicians may start work at any hour, half hour, or quarter hour between 0600 and 0830. However, no technician will be permitted to complete their daily work schedule prior to 1430 nor later than 1700. The following limitations will apply:

(1) Individual technicians shall indicate the starting and release times they have selected. These schedules must be submitted to and approved by the designated management officials of the activity, installation and/or unit of assignment, not later than one (1) biweekly pay period prior to commencement of the change in daily work schedule.

(2) The daily work schedule of individual technicians may be adjusted to allow for a half-hour or up to a full hour lunch period, however, all rest and lunch periods will be scheduled to satisfy the work requirements.

(3) Each individual schedule selected shall conform to a daily, biweekly uniform schedule, and when selected shall be approved for a minimum of six (6) biweekly pay periods. Thereafter, open selection periods may be held to coincide with local grade school semester schedules or when the time is changed from Eastern Standard Time to Daylight Savings Time and vice versa.

(4) If an individual technician's needs change to require an alteration of their work schedule at a time other than during an open selection period, this shall be permitted if the immediate supervisor can arrange the workload so that such change is not detrimental to the functioning of the unit or its mission.

SECTION 2-3 - Changes of Work Hours:

The Parties agree that any change in established hours of work within the normal basic workweek, or in the normal lunch period, will be made only after discussion between the Parties, except in an emergency. Changes made to the normal basic workweek by Management which are of such nature as to preclude advance notice to the Union shall be discussed subsequently with the Union if the reasons for the change are not readily apparent or are questioned by the Union.

SECTION 2-4 - Rest Periods (Breaks):

A rest period shall be allowed in each half of the normal standard workday. The exact timing of the rest period will be determined by the immediate supervisor. However, it is understood that no rest period will be scheduled prior to 0800 during the morning half of the workday; nor prior to 1300 during the afternoon portion. All rest periods shall be limited not to exceed fifteen (15) consecutive minutes. Rest periods granted in accordance with these provisions are considered duty time and are included in the daily tour of duty. The rest period may not be scheduled as a prelude to nor a continuation of the lunch period.

SECTION 2-5 - Overtime Compensation:

Management agrees that technicians who may be required to work before or beyond the normal basic workweek and/or normal standard workday will be compensated in accordance with applicable laws and directives.

SECTION 2-6 - TDY:

Management agrees, in accordance with applicable laws and directives, to the maximum extent possible, that it shall schedule the time to be spent by technicians in a travel status away from their official duty station within the normal basic workweek of such technicians.

SECTION 2-7 - Scheduling of Work:

Management will, when circumstances permit, notify technician three (3) days in advance of scheduling work before or beyond the normal workweek and/or normal standard workday.

SECTION 2-8 - Standby Duty:

An employee is on duty, and the time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official/formal order to a designated post of duty and is assigned to be in a state of readiness to perform work.

ARTICLE III - ATTENDANCE AND LEAVE

SECTION 3-1 - General:

a. It is agreed that attendance and leave policies for all NCARNG unit members shall be administered in accordance with this Agreement, current or future laws and applicable regulations.

b. This agreement covers procedures for authorizing Annual Leave, Sick Leave, Leave Without Pay, Administrative Leave, Compensatory Leave, Holiday Leave, Law Enforcement Leave, Court Leave, Military Leave, Holiday Pay, Premium Pay, absences for maternity reasons, and implementation of the Family and Medical Leave Act (FMLA) and Family Friendly Leave Act (FFLA).

c. Under emergency situations, the Adjutant General or his designated representative may authorize excused absence of effected technicians. In the event of unavailability of the Adjutant General or designee, the facility commander/activity head may authorize excused absence for affected technicians.

d. Unless otherwise amended here, leave policies will be administered per OTAGNC Pam 690-1. If OTAGNC Pam 690-1 is modified, Labor Organization Officials will be afforded the opportunity to negotiate changes, as they would affect Impact and Implementation.

SECTION 3-2 - Adverse Weather:

a. All employees of the North Carolina National Guard will comply with OTAGNC Policy concerning Leave and Administrative Dismissal of Full-Time Support Personnel During Periods of Inclement Weather.

b. Normally all NCNG offices and activities will conduct business as usual during each regular workday; therefor, it is expected that all technicians will report for duty as previously scheduled at their individual worksites during each regular workday unless inclement weather conditions prevail.

c. Full-Time technicians who are unable to get to work because of what they perceive to be local hazardous driving conditions will make every reasonable effort to notify their immediate supervisor within two hours after the start of the normal workday. Under these circumstances, employees will be informed of their leave status, if it is known at that time, for the particular day.

d. In the event local hazardous driving conditions develop during the workday, technicians who anticipate special problems in transportation because of weather conditions will, upon their request

and consistent with mission requirements, obtain permission from their immediate supervisor to leave work early in a leave status, unless other technicians at the activity are released at the same time by order of the Adjutant General or his designated representative.

e. In the event an installation is declared closed and technicians are placed on excused absence, only those technicians in a pay status and available for work will be granted the excused absence.

SECTION 3-3 - Charging of Annual Leave:

Unless established otherwise, the minimum charge for leave is one quarter hour (1/4).

SECTION 3-4 - Annual Leave:

a. Accrual of annual leave is computed on the basis of a technician's number of years of service, both military and civilian. The rate of accumulation for full time technicians is as follows:

<u>Years of Federal Service</u>	<u>Annual Leave Bi-weekly</u>	<u>Accumulated: Per year</u>
Less than 3	4 hours	13 days
3 to 15	6 hours	20 days
15 or more	8 hours	26 days

b. An individual has the right to use available Annual Leave at his discretion. The taking of annual leave is an absolute right of the employee, subject to the right of the head of the activity concerned to fix the time at which leave may be taken. Supervisors will schedule the use of annual leave of technicians to allow for adequate yearly vacation periods. If annual leave is disapproved, a reason must be given for disapproval. The supervisor must initiate action to reschedule the leave.

c. The supervisor will endeavor, consistent with mission requirements, to grant leave in the amount requested by each technician at the time he/she considers conveniently desirable. In the event of a conflict two (2) or more employees requesting leave at the same time, leaving a shop or section unmanned, the supervisor agrees to consider the date of request first; if the same date of request, the employee having the most seniority based on technician service computation date will be granted the leave. Changes in scheduled leave may be allowed by the supervisor provided another technician's selection is not disturbed by the change. If the supervisor does not think it is detrimental to the mission both employees may be given leave off at the same period.

d. Employers agree to maintain a liberal leave policy and will not unreasonably restrict employees from taking short periods of annual leave. Employees will submit requests for more than forty consecutive hours of annual leave reasonably in advance of the desired time. When an employee submits a request for a short period of annual leave for non-emergency reasons, the first level supervisors will inform the employee of acceptance or denial by the end of the work day. If after mid-day first level supervisor or next higher supervisor must give response during the following work day. The technician's designated time and attendance supervisor will be authorized to approve requests for unscheduled annual leave.

e. It is agreed that no employee shall be called back from leave unless an emergency designated by the activity head arises and no other qualified employee of the unit is available to perform the required duties.

f. It is agreed that no employee's leave shall be canceled except for emergencies designated by the activity head, and no other qualified employee of the unit is available to perform the required duties. If the employee's request is canceled the reason for cancellation, upon request from individual concerned, the reason will be provided in writing.

g. Scheduled leave request will be approved or disapproved by the appropriate supervisor within two (2) work days after receipt. The supervisor will act on the request for leave as soon as practicable following submittal and inform the employee of the decision. Justifiable disapproval of leave will be provided in writing if the individual concerned request.

h. Each ARNG installation/facility will provide known dates of all scheduled activities to technicians which normally require their presence to accomplish specific missions for the current leave year as far in advance as possible.

i. Annual leave can be accumulated and carried forwarded from year to year usually not to exceed 240 hours (30 days). Supervisors are responsible for assuring that excess annual leave is scheduled to prevent any unintended loss at the end of the leave year. This may be accomplished by establishing a tentative leave schedule at the beginning of each leave year, which will allow plans for leave to be compared with known work and mission related schedules.

j. Technicians who wish to request advance annual leave, must complete OTAGNC Form 690-3-R. Requests for advance annual leave for ARNG technicians will be submitted through supervisory channels to HRO for approval or disapproval. Requests must be received at least two pay periods in advance of the leave dates unless an emergency exists. A full justification for the advance must be provided. Supervisory personnel must provide recommendations and the basis of the recommendations for approval or disapproval to HRO.

k. Restoration of Annual Leave.

(1) Regulations provide for the restoration of forfeited annual leave due to administrative error, sickness, or exigencies of the public business. Failure to use annual leave due to extended active duty is not considered an "exigency of the public business" for purposes of leave restoration. Therefore, Technicians with a leave balance in excess of 240 hours should be advised to use such leave to avoid forfeiture.

(2) Before annual leave may be restored, in accordance with OTAGNC Pam 690-1, a determination must be made that an exigency of the public business is of such importance that is prohibited a technician from using leave. The approval authority for restoration of Annual Leave is the HRO.

(3) Distribution of approved requests for Restoration of Annual Leave should be made as follows: Original copy should be forwarded to appropriate payroll office (USPFO); second copy should be returned to supervisor for forwarding to the employee; third copy should be retained by the approving official.

1. Upon separation from the Federal service, a technician is normally entitled to a lump-sum payment for all unused annual leave. The lump-sum payment covers the period over which the technician's annual leave would have carried him if he actually used it, excluding holidays. If a technician who has received a lump-sum payment is reemployed prior to expiration of the period covered by the lump-sum payment, he must refund an amount equal to the pay covering the period between the date of reemployment and the expiration of the period covered by the lump-sum payment.

SECTION 3-5 - Leave Transfer:

a. The Office of Personnel Management has established a Voluntary Leave Transfer Program that permits Federal employees to donate annual leave for the use of other Federal employees in medical or family medical emergency situations. Maternity situations will be considered in the same manner as other incapacitating medical conditions of similar duration. Previously, an employee experiencing a "personal emergency" was eligible to participate in the temporary leave transfer program. Under the new law, only employees experiencing a "medical emergency" (including a medical condition of a family member) are eligible to become leave recipients. The following is a definition of "family member":

(1) Spouse, and parents thereof;

(2) Children, including adopted children, and spouses thereof;

(3) Parents;

(4) Brothers and sisters, and spouses thereof; and

(5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

b. Agency is required to accept the transfer of annual leave from a donor employed in another agency if;

(1) The leave donor is a "family member" of the leave recipient;

(2) HRO will determine if the amount of annual leave donated within the agency may not be sufficient to meet the needs of the leave recipient; or

(3) In the judgment of the HRO, acceptance of leave transferred from another agency would further the purpose of the voluntary leave transfer program.

c. Technicians are limited to the amount of annual leave and sick leave a leave recipient may accrue while using transferred leave to 5 days of annual leave and 5 days of sick leave, for use (1) after the medical emergency terminates, or (2) after the leave made available to the employee has been exhausted.

d. Technicians may apply to become leave recipients by completing Optional Form 630 and forwarding it to HRO for approval. If the technician is not capable of making application on his/her behalf, another technician may make written application for him/her. Medical emergency should be verified by attending physician or medical expert in a letter stating the extent of the medical emergency and its approximate duration. HRO will return a copy of the request to the technician indicating approval/disapproval. HRO will hold copies of approved requests until donor(s) are approved. Before approving an application to become a leave recipient, it will be determined that absence from duty without available paid leave because of the medical emergency is (or is expected to be) at least 24 hours. Annual leave transferred under this program may be submitted retroactively for periods of leave without pay (LWOP) or used to liquidate an indebtedness for advanced annual or sick leave.

e. Technicians who wish to become leave donors may apply by completing Optional Form 630-A and forwarding to HRO for approval. HRO will return a copy to the technician indicating approval/disapproval. HRO will attach approved Leave Donor Request, Optional Form 630-A to approved Leave Recipient Request Optional Form 630 and forward them to the appropriate Technician Pay Section. In any one leave year, a leave donor may donate no more than a total of one half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made. A leave donor projected to have annual leave that would be subject to forfeiture at the end of the leave year (amount over 240 hours) may donate no more than the number of hours remaining in the leave year. The donor's copy of the approved Optional Form 630A will indicate the specific recipient, and his/her earnings and leave statement will indicate when the leave transfer has been completed. When the personnel emergency ends no further requests for transfer or annual leave to the leave recipient may be granted.

f. A leave donor cannot donate annual leave to the leave donor's immediate supervisor.

g. The HRO, through the recipient's immediate supervisor, will monitor the status of the medical emergency of the leave recipient. When it is determined that the medical emergency has ended, the supervisor will send to HRO and the appropriate Technician Pay Branch indicating the date that the medical emergency ended. Any transferred annual leave remaining to the credit of the leave recipient when the medical emergency terminates, shall be restored to the leave donor(s) to the extent administratively feasible.

h. The USPFO Technician Pay Branches will maintain files of the leave recipients, leave donors and the total hours of leave transferred between individual pay accounts. HRO records will be maintained in a manner that will record and track the amount of leave donated and by whom. And a copy of the documents that are forwarded to the Technician Pay Branch.

SECTION 3-6 - Sick Leave:

a. Employees shall accrue sick leave in accordance with applicable directives and regulations. The Labor Organization and the Employer recognize the insurance value of sick leave and agree to encourage employees to conserve such leave so it will be available to them in case of extended illness.

b. Sick leave may be used when ill, injured, adopting a child, or when in need of other medical examination or treatment such as medical, dental, optical or when caring for immediate family member. Medical certificates, as justification of use of sick leave, may be required under the following conditions:

(1) For absences of 3 consecutive workdays, whenever there is evidence that sick leave is being abused.

(2) For absences of short periods at frequent intervals, whenever there is evidence that sick leave is being abused: in such cases, the technician will be advised in writing that a medical certificate will be required for a period of six months up to one year to support any future grant of sick leave regardless of duration.

(3) An employee's written statement explaining the nature of any illness that exceeds three days may be considered by the Employer in lieu of a doctor's certificate when the employee's illness did not require the services of a doctor.

c. Technicians earn 13-days of sick leave per year regardless of length of service. Sick leave may be accrued and carried over from year to year without limit. Under CSRS, upon retirement, a technician is given service credit for any unused sick leave. Unused sick leave credited to a technician's account at time of separation, is reaccredited to his/her account if reemployed.

d. It is agreed that employees are responsible for notifying their immediate supervisors or other officials in the chain of supervision to receive such a report when they are prevented from reporting for work because of an incapacitating illness or injury. Such requests for sick leave should be made as soon as possible and normally not later than two (2) hours after the start of employee's regular shift on the first working day of absence.

e. Requests for advance sick leave not to exceed 240 hours will be submitted through supervisory channels to HRO for approval or disapproval. Requests must be submitted ten (10) days prior to the beginning of the pay period unless an emergency exists (OTAGNC Form 690-3-R). Consideration of the request will be based on the following documentation:

(1) A Doctor's request must accompany each request stating the technician is under care and estimated date of return to a working status.

(2) All available sick leave is exhausted before advancement.

(3) Annual leave that would otherwise be forfeited is used (over 240).

(4) The Doctor should provide a statement indicating when the technician should be able to return to work in order to allow approval or disapproval for advance of sick leave for the purpose of assuring any sick leave advancement will be repaid.

(5) Approval of advance sick leave requests will be based on past years service, nature of illness/injury, prior sick leave history, and the likelihood of repayment.

f. A technician with a work related injury will be authorized light duty. Light duty may be authorized when a technician receives an injury or illness during non-duty hours if it is determined there are tasks that can be performed within the medical restrictions as documented per Figure 10-16, Chapter 10, OTAGNC Pam 690-1 by qualified medical personnel.

g. In the event that an individual has been in a leave status because of sickness or injury for more than one pay period, he or she must submit a doctor's statement authorizing return to duty status.

h. 5 USC 6381 authorizes up to 40 hours of earned/advanced sick leave a year to care for a "family member" having an illness, injury or other condition which if the employee had such condition would justify the use of sick leave by the employee. It also allows within the same 40 hour limit the use of sick leave to make arrangements for or attend the funeral of a family member. Additional sick leave of up to 64 hours a year may be used providing that the sick leave to the employee's credit does not fall below 80 hours.

i. The following is a definition of a "family member".

(1) Spouse, and parents thereof;

(2) Children, including adopted children, and spouses thereof;

(3) Parents;

(4) Brothers and sisters, and spouses thereof; and

(5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

SECTION 3-7 - Military Leave:

a. Military leave permits a technician to be absent from his technician duties without charge to annual leave or loss of pay while performing active duty, active duty for training or inactive duty for training. Military leave is granted to technicians who are members of a reserve component of the Armed Forces.

b. Military leave accrual is limited to a maximum of 120 hours each fiscal year. Any unused military leave is carried forward to the next fiscal year, but total military leave available may not exceed 240 hours at any time.

c. There is no qualifying period of service that must be performed before a technician is eligible to use military leave. Temporary, intermittent, when actually employed (WAE), and part-time technicians are not entitled to military leave.

d. Granting Military Leave.

(1) A technician cannot be granted more than 240 hours of military leave for any one period of active duty although the tour may extend into another fiscal year. For example, if a technician is ordered to active duty a second time in the same fiscal year, he may take any unused military leave remaining to his credit. If the period of active duty extends into the next year, the technician would be eligible beginning on 1 October to take only the amount necessary to complete the 240 hours of military leave for that period of active duty. Any balance would remain to the technician's credit for use later in the year.

(2) Technicians should be provided the option of using other available leave first i.e., annual, compensatory leave or leave without pay for the performance of such duty.

SECTION 3-8 - Court Leave:

a. Court leave is the authorized absence (without loss of pay or leave) for jury duty, for attending judicial proceedings in a nonofficial capacity as a witness on behalf of a state or local government, or as a witness in a nonofficial capacity on behalf of a private party in connection with any judicial proceedings to which the United States, the District of Columbia, a state or local government is a party.

b. Court leave for duty is granted to both permanent and temporary technician who, except for jury duty, would be on duty or on leave with pay.

c. If a technician is on annual leave when called for jury service, court leave should be substituted. No exception is made for annual leave that would otherwise be forfeited at the end of the leave year. Annual leave forfeited as a result of court leave may be considered for restoration under the conditions and procedures outlined in Section 3-4 (k) above.

d. A technician may elect to use annual leave or compensatory time off instead of court leave for absences for which court leave would otherwise be authorized. However, the technician may not retain any fees received for such service. In order to retain such fees, the technician would have to be in a non-pay status. NOTE: This does not pertain to monies received, which are designated as expenses rather than jury fees.

e. Fees received for jury service performed by technicians on non-workdays outside their regular tour of duty or on a holiday falling within the employee's basic tour of duty, provided that had he not been on the jury duty he would have been excused from his regular duties on the holiday, may be retained.

f. A technician in a leave without pay status when called for jury service and consequently not entitled to court leave may retain all monies received for such service.

g. A request to appear in court should be presented to the supervisor as far in advance of the actual court day as possible. Upon return to duty, the technician will submit written evidence from the court reflecting dates (and hours if possible) of his attendance in court. Appropriate notations should be made on the time and attendance report for the days and/or hours of court leave granted the technician while absent from his regularly scheduled duties.

h. Refer to court leave guide, Figure 10-4, found in OTAGNC Pam 690-1 for proper time and attendance recording under varying conditions in connection with court or court-related services, together with rights of technicians to fees for services rendered and to payment for expenses of travel.

i. Technicians shall not be paid witness fees when testifying on behalf of the United States Government. They shall be paid their regular salary. Time served as a witness will not be deducted for annual leave. A technician who is called as a witness for the United States may accept and retain witness fees if he or she is on a LWOP status during the entire period.

j. In those cases where time and travel permit and where no hardship results when an employee is excused or released by the Court for any day or would allow the employee to return to work for at least one (1) hour, the employee will be expected to return to duty or be charged annual leave, compensatory time, if available, or leave without pay for the time excused. There will be no time charged to annual leave for time traveling from court to work site.

SECTION 3-9 - Absence for Maternity Reasons:

a. This is a period of approved absence for incapacitation related to pregnancy and confinement. There is not a separate "maternity leave" as a type of leave. It is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay.

b. A technician should report her pregnancy as soon as it is known so that any necessary steps can be taken to protect her health or improve working conditions and so that necessary staffing adjustment may be planned.

c. There should be no arbitrary cutoff date, which requires a technician to cease work at a certain date or requires the technician to return to work by a certain date. The length of absence should be determined by her physician. An absence covering pregnancy and confinement is to be treated like any other medically certified temporary disability. A male technician may be granted leave, in accordance with the FFLA, for purposes of assisting or caring for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons, when requested in accordance with the requirements in OTAGNC Pam 690-1.

SECTION 3-10 - Compensatory Time:

a. Compensatory time off is time off from regularly scheduled work in lieu of compensation for overtime worked. Supervisors will insure that workweeks are scheduled so far as practicable to support peak workloads in order to minimize the requirement for compensatory time. Except in unusual situations, compensatory time to be worked should be scheduled at least one week in advance. A technician in compensatory time off status is considered to be in status equal to annual leave.

b. Granting of compensatory time off is subject to the following:

(1) Accrued only in support of the activity/base/unit missions. It will be earned in quarter (1/4) hour increments and may be taken in one (1) hour increments.

(2) Compensatory time off will not be granted before it is earned.

(3) Compensatory time off is not granted for hours worked on a holiday, or observed day, for which the holiday rate is payable.

(4) Compensatory time is granted for time spent by National Guard technicians in a student status outside regular working hours and is considered as hours of work, provided the time spent in training is at the discretion of the training authority, and the purpose of the training is to improve the technician's performance. This would include class preparation time and classes held during weekends as long as such work is directed by the training facility. This includes technician training conducted at the National Guard Professional Education Center. Technician must provide documentation to justify all compensatory time requested.

c. Supervisors are responsible for maintaining a record of compensatory time earned for each technician under their supervision and insure that such time is scheduled and used in accordance with the following procedures:

(1) Requested by the first-level supervisor and approved by the second-level supervisor, except for those technicians under the direct Supervision of the Adjutant General. If extenuating circumstances prevent advance approval, explanation will be included on the NGB Form 46-14.

(2) Recorded on Time and Attendance Cards in accordance with NGB Pamphlet 37-105-1. If compensatory time must be worked after the Time and Attendance Card (T&A) is forwarded to the

USPFO/Payroll Office, a corrected T&A with properly certified NGB Form 46-14, will be submitted on the first workday of the next pay period.

(3) Taken within 26 pay periods following the pay period in which it was accrued. Compensatory time not taken within 26 pay periods will be forfeited. If management fails to schedule the compensatory time or exigencies of the service cause forfeiture, the compensatory time may be restored on a one-time basis for four pay periods. Failure on the part of the technician to request the compensatory time will not be grounds for restoration unless there are reasons beyond the technician's control. The term "exigencies of the service" is defined to mean events such as aircraft conversions, operational readiness inspections, illness, weather, or any other event when scheduling is beyond the control of local management.

d. Requests for restoration of compensatory time must be initiated by the first-level supervisor and forwarded through appropriate channels to the HRO. All requests must contain, as a minimum, the following information:

- (1) Calendar date the compensatory time was scheduled and approved.
- (2) Date(s) during which compensatory time was scheduled for actual use.
- (3) Reason(s) for subsequent cancellation.
- (4) Beginning and ending of the exigency that prevented the taking of scheduled compensatory time off.
- (5) The exact number of hours requested to be restored.

e. Positive steps will be taken by supervisors and technicians to insure that accrued compensatory time is scheduled for use to avoid forfeiture. Compensatory time will be taken before annual leave, except in those instances where forfeiture of annual leave will occur.

f. Compensatory Time Earned during Periods of Travel.

(1) Under the provisions of the Fair Labor Standards Act (FLSA); Overtime is defined as work hours which are in excess of eight hours per day or in excess of forty hours per week. Secondly, in situations of TDY, only those hours of travel which cross the normal duty hours on off duty days are creditable as compensatory hours of work.

(2) Travel of which is performed within the regularly scheduled duty hours on a holiday or on a day designated as the "in lieu of" holiday is not overtime work. Holiday hours are included in the basic forty hour workweek and are, therefore, not considered as overtime, however, required travel within the regularly scheduled duty hours on a holiday will be paid as premium pay.

(3) Many instances occur where return travel to home station commences after 1630 hours on Friday, the last day of the TDY period. Travel time is creditable in these instances only when the

technician is ordered to return to duty station for purpose of reporting to work the next morning. Hours of travel are not creditable when the purpose is to attend the Unit Training Assembly on Saturdays, regardless if it was directed.

(4) When the directed mode of transportation is government automobile, all hours of driving the vehicle during normal duty hours are considered hours of work.

(5) The following examples of situations involving travel and shows the number of hours that would be creditable as compensatory time based on the situations given.

EXAMPLE: BASIC WORK SCHEDULE OF TECHNICIAN IS MONDAY THROUGH FRIDAY, 8 HOURS PER DAY, 0730 - 1600 HOURS. DESIGNATED TDY PERIOD IS 5 DAYS, MONDAY - FRIDAY WITH REPORTING TIME OF 0730 HRS MONDAY.

SITUATION #1 - Technician commences travel on Sunday and reports at 1300 hours at airline terminal, one hour prior to scheduled departure time. Arrival time at TDY location is 1800 hours.

DECISION - Compensatory time authorized would be 3.5 hours from 1300 - 1600 hours. Hours traveled beyond 1630 hours are not creditable.

SITUATION #2 - Technician commences return travel to home station after 1630 hours on Friday on a voluntary basis.

DECISION - No compensatory time is authorized for travel beyond 1630 hours unless directed by competent authority.

SITUATION #3 - Technician commences return travel to home station on Saturday, 1000 hours with arrival time at 1500 hours same day.

DECISION - All travel time hours are creditable, 5 hours, since travel crossed regular scheduled duty hours on off duty day.

SITUATION #4 - Technician elects to travel by privately owned auto and departs Sunday 0800 hours and arrives on or after 1630 hours, same day.

DECISION - Compensatory time would be credited for 3.5 hours. Comp time is based on constructive air travel time when traveling by privately owned auto.

SITUATION #5 - Suppose the directed mode of transportation in #4 is government auto.

DECISION - All hours while driving the vehicle would be creditable.

NOTE: AUTHORIZED TRAVEL FOR ANY REASON IS CREDITABLE AS HOURS OF WORK UNDER FLSA WHEN TRAVELING AS A PASSENGER DURING HOURS ON NONWORKDAYS WHICH CORRESPOND TO THE REGULAR WORKING HOURS ON REGULAR WORKDAYS

SECTION 3-11 - Leave Without Pay:

a. Leave without pay is a temporary nonpay status and absence from duty granted upon an employee's request. The permissive nature of LWOP distinguishes it from absence without leave (AWOL), which is an absence from duty that is not authorized or approved.

b. Requests for LWOP for over 30 days will be submitted on SF 52.

c. Technicians requesting LWOP to attend a service school or entering on active duty for over 30 days will provide the following:

(1) Dates military leave will be used.

(2) Dates compensatory time off will be used.

(3) Dates annual leave will be used.

(4) Leave Without Pay dates.

(5) The active duty order.

d. Upon the return or anticipated return of the technician who has been on approved LWOP for over 30 days, the supervisor will forward a SF 52 requesting "Return to Duty" and indicating the actual date the individual did return to a work status. The HRO will issue a SF-50 authenticating the return to duty status.

e. Any current federal employee who relocates to another area with their spouse may request LWOP. This period is normally for six months. It is important that the contents of the request contain certain statements from the employee to ensure that the interests of the agency are protected.

f. Employees on approved leave without pay status shall accrue any rights and privileges, including retirement benefits and coverage under Group Life and Federal Employee Health Benefits Program, in accordance with applicable laws and regulations.

SECTION 3-12 - Law Enforcement Leave:

a. This additional leave is authorized without leave loss or reduction of leave to which otherwise entitled for the purpose of providing military aid to enforce the law (5 USC 6323) (c).

b. Each National Guard technician serving under a permanent or indefinite status appointment who is a member of the National Guard is entitled to law enforcement leave for not more than 22 workdays in a calendar year.

c. The Department of Defense Authorization Bill for FY 91, provides that Federal employees (technicians) who are ordered to active duty for purpose of providing military aid to enforce the law, or providing assistance to civil authorities in the protection of life, property or preventing injuries, may elect to use annual leave if available, before using Law Enforcement Leave (LEL).

d. Technicians ordered to active duty on or after 1 October 1990 in support of drug interdiction operations, search and rescue missions, dropping hay to cattle during blizzards, etc., may elect to use annual, compensatory, or leave without pay, prior to using LEL.

e. Technicians should be advised that if they suffer injury or death as a result of State active duty, they are not eligible for employee's compensation benefits under the Federal Employee's Compensation Act. State active duty does not constitute performance of official technician duties. Coverage under the Federal Employee's Compensation Act for injuries incurred while on excused absence in other situations will be determined on a case-by-case basis by the Department of Labor.

f. Pay for State military service under the provision of this section may not be less than the pay due a technician as his/her regular civilian pay for the same period of time. Military pay and allowances received (other than travel, transportation or per diem allowance) shall be credited against the technician's civilian pay and, if less than the civilian pay, the technician shall be paid the difference. If military pay exceeds civilian pay, no civilian pay will be made, nor will a refund of the excess be required.

SECTION 3-13 - Excused Absence:

a. An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave.

b. The Adjutant General or his representative/management is authorized to excuse technicians from duty for situations identified below. Work requirements will be taken into consideration in reaching a decision to approve or disapprove such requests

(1) To take an examination, either physical or mental, as a condition for continued employment or promotional opportunity.

(2) To vote where polls are not open at least three (3) hours before or after the technician's regularly scheduled duty hours.

(3) To participate as active pallbearers or as members of firing squads in funeral ceremonies for members or former members of the Armed Forces, including the National Guard.

(4) Technicians may be excused for short periods to participate in civil activities the Federal Government is interested in encouraging. Before granting excused absence, it should be determined that such participation is in the best interest of the Federal Government (including the National Guard). These periods will be limited to no more than a combined total of 3 workdays

during a calendar year. Official civil activities may include but are not limited to inaugurations, dedication of public buildings and projects, ceremonies for officially invited governmental visitors, and the convening of legislative bodies.

(5) A technician who is an official or representative of a labor organization holding exclusive recognition may be excused without charge to leave or loss of pay in conjunction with attendance at a training session sponsored by that organization providing that such attendance has been determined to be of mutual concern to both the National Guard and the technician in his capacity as the organization representative. Such absence will not exceed four (4) work days for the Chapter President, two (2) work days for Chapter Officers and Stewards, and two (2) additional work days for three undetermined representatives in a twelve month period. The Labor Organization's President or designee may request additional days to the HRO for consideration and approval, not limited to but to include issues identified in 5 USC 7102 (1) and 7131 (d).

(6) Donor: The employer and the Labor Organization recognize the importance and humanitarian need for community blood/marrow donors.

(a) Employees who make blood donations will be granted four (4) hours excused absence to travel to the donation site and/or to receiver. When an employee must travel a long distance, or when unusual needs occur, additional leave may be authorized by management. This will be done, if at all possible, the last four hours of the day. Donors will be required to bring back verification of blood donation.

(b) Technicians that serve as a bone-marrow or organ donor will be authorized seven days excused absence (other than sick and annual) in each calendar year.

(7) Employees may be granted excused absence for short periods of time to participate in volunteer activities that are:

(a) Mission related;

(b) Officially sponsored or sanctioned by the Adjutant General;

(c) and, enhance the professional development and/or skills in their current positions.

(8) When a technician performs volunteer duties as a certified firefighter or ambulance crewmember (certification will be provided to the immediate supervisor), excused leave will be authorized, not to exceed one day per incident, provided the emergency incident began prior to the beginning of the technician's normal workday; and the actual hours of volunteer service performed are certified, in writing, by the individual in charge at the emergency incident. When the emergency incident is found to be under control and the technician's continued presence is no longer needed, an additional one hour time period, plus commuting time, will be authorized prior to reporting to the workplace. The technician will inform his or her supervisor of any such participation in an emergency incident.

SECTION 3-14 - Temporary Closings:

a. The closing of a National Guard activity for brief periods is within the administrative authority of the Adjutant General or designated representative in his absence. This authority is to be used sparingly and only for short periods of time, normally not to exceed three consecutive workdays for any single period of excused absence. Reasons for administrative dismissal may include but are not limited to; breakdown of equipment, interruption of transportation facilities, inclement weather, etc.

b. When group dismissals occur by reason of releasing technicians in the public interest, technicians affected by these actions are generally excused without charge to leave and without loss of pay.

SECTION 3-15 - Premium Pay:

a. Employees will be advised as far in advance as practicable and feasible when they will be required to work on a holiday or Sunday.

b. Exemptions: National Guard technicians are not entitled to payment of night, Sunday, or holiday pay during periods of overtime work.

c. The HRO will determine from the Code of Federal Regulations the technician entitlement to premium pay while assigned to training in a technician status.

d. Night Shift Differential.

(1) General Schedule:

(a) General Schedule technicians on a regularly scheduled tour of duty for not less than one week are entitled to night differential pay for the hours worked (scheduled) between the hours of 6:00 p.m. and 6:00 a.m. The rate of pay is the regular rate plus ten percent.

(b) Payment of night shift differential will continue for General Schedule technicians for regularly scheduled night hours when the technician is absent due to a holiday or other non-workday or is in an official travel status. It continues during short periods of paid leave, i.e., periods of less than eight hours of paid leave, inclusive of night and day hours, during the pay period. Payment of night differential is not authorized for any periods of leave when the total leave in a pay period is eight hours or more.

(2) Wage Board Technicians:

(a) A Wage Board technician on a regularly scheduled tour of duty not less than one week is entitled to pay at his scheduled rate plus a differential of seven and one-half percent of his scheduled rate for regularly scheduled non-overtime work when a majority of his work (5 hours or

more) occurs between 3:00 p.m. and midnight, or ten percent of his scheduled rate if the majority of his work hours occurs between 11:00 p.m. and 8:00 a.m. The differential pay will be paid for the entire shift when a majority (5 hours or more) of the technician's hours fall between the hours above.

(b) A wage technician on a regular night shift for which the night shift differential is payable, is entitled to the night shift differential for periods of excused absence on a holiday, while in official travel status during the hours of his regular night shift, or on court leave.

(c) The night shift differential payable during periods of leave with pay depends upon the shift to which the technician is assigned at the time of going on leave and the duration of the assignment.

e. Holiday Pay

(1) Holiday pay is payable in multiples of 15 minutes.

(2) Premium for holiday work (National Guard Technicians):

(a) Technicians receive their regular straight-time pay for holidays that they are not required to work. When the activity is closed on a Friday or Monday because of a holiday falling on Saturday or Sunday, such closed days are not considered holidays in determining holiday benefits for part-time technicians, but these technicians may be excused without charge to leave for such days.

(b) If a technician works on a holiday falling on one of his regular work-days or on a holiday falling on the day designated as his "in lieu of holiday" he will be paid at twice his regular rate for not more than eight hours of such work. A part-time technician who works on an "in lieu of holiday", will receive only his regular pay for that day. If a technician works on a holiday falling outside his regular workdays, he is allowed compensatory time off for all hours worked. A technician who works on a holiday is credited with a minimum of two hours of work. If the technician is recalled to work two or more times, he is credited with at least two hours for each period up to a total of eight hours.

(c) Holiday Work: Technicians may not be scheduled for holiday work without the expressed prior approval of management.

(d) The following are holidays for purposes of pay of National Guard technicians:

- New Year's Day - First day of January
- Martin Luther King's Birthday - Third Monday of January
- President's Day - Third Monday of February
- Memorial Day - Last Monday of May
- Independence Day - Fourth day of July
- Labor Day - First Monday of September
- Columbus Day - Second Monday of October

- Veterans Day - Eleventh day of November
- Thanksgiving Day - Fourth Thursday of November
- Christmas Day - Twenty-fifth day of December
- Any other day designated as a holiday by Federal statute or Executive order.

(e) Technicians who are normally eligible for basic pay for a holiday when no work is required will not be paid premium pay when:

(1) The technician fails to report for duty after being directly notified that his services would be required on the holiday and an acceptable reason is not provided for the absence.

(2) The holiday falls within a period of non-pay status (a holiday that falls on the first or last day of an authorized period of LWOP is within the non-pay period and payment is not authorized - if the date of the holiday is not included in the period of non-pay status, payment for the holiday is authorized).

(3) The technician was AWOL on the regularly scheduled workday immediately preceding the holiday.

f. Technicians required to work on a Sunday as part of his or her routine scheduled workweek, is entitled to pay at his or her rate of basic pay plus premium pay. Such premium pay will be at a rate as established by existing regulations for each hour of Sunday work which is not overtime work and which is not in excess of a normal workday for each regularly scheduled tour of duty which begins or ends on Sunday.

SECTION 3-16 - Family Medical Leave Act:

a. FMLA provides a total of up to twelve (12) administrative workweeks of unpaid (Leave Without Pay/LWOP) during any twelve month period for permanent and temporary indefinite technicians who have completed at least 12 months of service. Entitlement is for the following purposes:

(1) The birth of a son or daughter of the employee and the care of such son or daughter.

(2) The placement of a son or daughter with the employee for adoption or foster care.

(3) The care of a spouse, son, daughter, or parent of the employee who has a serious health condition.

(a) Son or Daughter - Includes biological, adopted, foster child, step child, a legal ward or a child of a person in loco parentis. The child must be under 18 years of age, or 18 or older and incapable of self-care because of a mental or physical disability.

(b) Parent - A biological parent or an individual who stands or stood in loco parentis to an employee when that employee was a child.

(4) A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

b. A father and a mother are each entitled to 12 administrative workweeks of unpaid leave for a birth, adoption, foster care or for the care of a son or daughter with a serious health condition. The 12 month period begins on the first day of FMLA leave except in maternity leave situations where it would begin the day the baby is born.

c. A technician may elect to substitute other paid time off, as appropriate, for any unpaid leave under the FMLA. FMLA leave is in addition to other paid time off available to technicians. A technician should only take the amount of family and medical leave necessary to manage the circumstance that prompted the need for leave.

d. Serious Health Condition:

(1) Examples of serious health conditions cited in the legislative history include, but are not limited to, heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, emphysema, severe arthritis, severe nervous disorders, injuries cause by serious accidents on or off the job, ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy (such as severe morning sickness), the need for prenatal care, childbirth, and recovery from childbirth. All of these conditions meet the general test that either the underlying health condition or the treatment for it requires absences on a recurring basis or for more than a few days for treatment or recovery. They also involve either inpatient care or continuing treatment and/or supervision by a health care provider, and frequently involve both.

(2) To be considered a "serious health condition," the condition must require an absence from work, school, or other regular daily activities of more than 3 calendar days. In addition, a "serious health condition" must require continuing treatment by, or under the supervision of, a health care provider.

e. Technicians should provide up to 30 days notice of need for leave as soon as practical. Request should be submitted through appropriate channels (Refer to OTAGNC Form 690-4-R). Medical certification should be provided by using Form WH-380, Certification of Physician or Practitioner. Both forms should be submitted to the supervisor if possible as the 30 day notice. The agency may require, at the agency's expense, a second or third opinion where appropriate.

f. Technicians are entitled to be restored to the same or equivalent position, with equivalent benefits, pay, status and other terms and conditions of employment. The law will not entitle any restored technician to the accrual of any employment benefits during any period of leave or to any right, benefit or position of employment other than those to which the employee would have been entitled had the technician not taken the leave. The supervisor may require certification from the health care provider concerning the technician's ability to resume work. Supervisors may also require periodic status reports on the technician's ability or intention to resume work.

g. Technicians may elect to continue Federal Employees Health Benefits (FEHB) coverage and make arrangements with technician payroll to pay the employee contribution. (Note: FEHB coverage is limited to 1 year of leave without pay at the employee's option and expense)

h. The time and attendance (T&A) card will be used to record family leave usage. Family leave usage will require a dual posting on the T&A card as follows: If annual leave is used, the T&A will be posted with the number of hours on the appropriate day; a second posting on the same day will be required in the "other leave" column with a code "F" to identify the leave charge as family leave. This dual posting procedure will be used for annual, sick and LWOP

SECTION 3-17 - Absence Without Leave:

a. When a technician is absent from duty without prior approval, the absence will be charged as absent without leave (AWOL). When the technician informs the supervisor of the circumstances causing the absence, the supervisor will determine whether or not the charge of AWOL should be changed to annual, sick, or leave without pay (LWOP).

b. If there is a disagreement between a technician and a supervisor as to the type of leave charge for an absence, the disagreement may be resolved by the next level supervisor.

c. Continued periods of absence without leave could result in disciplinary action.

SECTION 3-18 - Continuation of Pay:

Technicians are entitled to a continuation of pay status (COP) for a period not to exceed forty-five (45) days for any covered incapacitating injury resulting from a job related injury or disease or recovery period, as required by a doctor. Light duty may be utilized when appropriate. NOTE: Early filing of a workers compensation claim form is essential to assure full coverage for any job related injury or illness. These forms can be obtained from HRO.

SECTION 3-19 - Granting of Official Time:

a. Labor Organization officials will be granted official time, for periods when they would otherwise be in a duty status, to perform or participate in official Labor Organization activities as provided for in this section in accordance with Public Law 95-454.

b. Official time will be granted in accordance with Public Law 95-454 and applicable directives. Prior to leaving their assigned areas, Labor Organization representatives must obtain concurrence from their immediate supervisors and inform them of the type of the representational duty for which they are requesting excusal and the location to which they are going. In determining whether to grant official time, the supervisor must consider the work load requirements and the urgency of the request for official time. If the request is in reaction to a sensitive issue, which requires an immediate response, the supervisor will make every reasonable effort to grant the request immediately, or as soon as possible. The Labor Organization representative must notify his

immediate supervisor upon his return to his work area. Official time activities include but are not necessarily limited to, a reasonable amount of time for the following:

(1) Stewards and representatives conferring with employees and/or supervisors on grievances and other matters relating to conditions of employment. The recognized shop stewards in the labor unit at the locations they normally represent, or in their absence, duly appointed alternates will be given a reasonable amount of official time to investigate, prepare, and present grievances, appeals, unfair labor practices and other employment related complaints.

(2) Labor management meetings as mutually agreed to by the Employer and the Labor Organization for the purpose of discussing the implementation of policies and procedures, which affect working conditions.

(3) When appearing at third party hearing proceedings. Labor Organization representatives on official time shall not exceed the number of individuals representing the Employer for such purposes.

(4) Labor Organization representatives may be allowed a reasonable amount of time to change to and from the military uniform for those situations specifically covered in this article below.

(5) Travel time to and from pre-arranged meetings with the office of the Adjutant General of North Carolina or other management officials. Travel and per diem, authorized for such meetings will be paid in accordance with applicable Joint Travel Regulations.

(6) Preparation time for grievances, appeals, or scheduled meetings with management officials.

(7) Preparation time for negotiations will be mutually agreed between the Labor Organization and Employer.

c. The immediate supervisor of a Labor Organization representative will maintain OTAGNC Form 690-6 (Union Representation Time Sheet). This form is a record of official time used by Labor Organization representatives and includes the date, time and purpose (Type/Category/Function) of the time. This form will be sent to HRO quarterly by the immediate supervisor. Labor Organization representatives will obtain a copy of this form from their immediate supervisor and forward to the Labor Organization President quarterly.

d. Labor Organization officials will not be required to wear the military uniform in the following situations:

(1) When conducting contract negotiations with the Employer.

(2) While attending labor-management seminars at commercial facilities sponsored or hosted by the national office of the Association of Civilian Technicians, U.S. Department of Labor, Department of Defense, etc.

(3) When representing the Labor Organization at third party proceedings.

(4) When representing the Labor Organization in the performance of representational duties at step 2 and above of the negotiated grievance procedures.

ARTICLE IV - LABOR ORGANIZATION REPRESENTATION

SECTION 4-1 - Labor Organization Stewards:

a. The shop steward is an official labor organization representative. The supervisor of the section will notify the steward designated for an area on any matter, which will/may affect the conditions of employment of the employees within the section prior to any notification of the employees concerned. It is understood that the steward may represent the employees of the section, but will not make decisions on contractual intent.

b. The Employer and the Labor Organization agree to the establishment of Labor Organization steward positions. As a guide, Stewards will be authorized on a ratio of one (1) steward per twenty-five (25) bargaining unit members. The Labor Organization will provide the Employer with a listing of the designated stewards and the work locations represented by each of the stewards. The listing will be updated by the Labor Organization as changes to the steward assignments occur.

c. Subject to security regulations and visitor control procedures, authorized National Officials of the Labor Organization may be allowed to visit the Agency for the purpose of accomplishing official labor organization business. The Labor Organization will request approval of the Employer or his appointed representative for each visitation as far in advance of the desire date as possible. Each request will include the name of the official(s), Labor Organization status or position, purpose of the visit, and person(s) or technician group(s) with whom the visit is desired. Should pressing mission requirements or emergency preclude a request from being honored, the Employer will discuss the situation with the Labor Organization and arrange an alternate time and/or date

d. The labor organization may designate a temporary steward in the event four (4) or more bargaining unit members are absent for an extended period of time . This steward will be selected from this group of members.

SECTION 4-2 - List of Officers, Stewards and Dues Paying Members:

The Human Resources Office will be furnished with a complete list of officers, stewards and dues paying members after each election or anytime a change occurs.

SECTION 4-3 - Representative Title:

The employer agrees to address Labor Organization representatives by their civilian title during the period they are performing representational duties. All correspondence from management concerning labor management issues will be addressed to the Association representative with their civilian title. Military titles will not be used to address Labor Organization representatives during the performance of their representational duties or when receiving correspondence from management.

ARTICLE V - GRIEVANCE PROCEDURE

SECTION 5-1 - Grievance Definition:

A grievance means any complaint:

- a. By any bargaining unit employee concerning any matter relating to the employment agency;
- b. By the Labor Organization concerning any matter relating to employment of any unit employee(s); or
- c. By any bargaining unit employee, the Labor Organization, or the Employer concerning:
 - (1) The effect of interpretation or a claim of breach of this agreement; or
 - (2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- d. The Employer and the Labor Organization agree that the negotiated procedure is the exclusive procedure available to the Labor Organization and the technicians in the bargaining unit for the processing of grievances except where the grievant is provided a choice of the negotiated grievance procedure or a statutory procedure under the provisions of Public Law 95-454. It is agreed that this negotiated procedure is a full coverage procedure except for those matters specifically excluded from the coverage of this agreement.
- e. The Employer and the Labor Organization agree that normal day-to-day discussions between technicians and supervisors are the most constructive means of developing effective work relationships. This procedure provides a means for the prompt and orderly consideration and resolution of technician grievances.
- f. It is the policy of the Employer that all technicians have a right to present their grievances to the appropriate Management officials for prompt consideration and equitable decision. In exercising this right the technician and his/her representative will be free from restraint, coercion, discrimination, or reprisal.
- g. An individual's Supervisor's Brief (formerly NGB Form 904-1) will not be disclosed to any unauthorized personnel. Release of this record to a third party will only be accomplished with the consent of the individual in accordance with the Privacy Act.

SECTION 5-2 - Exclusions:

Certain matters are excluded from coverage by this Grievance Procedure and from coverage by the arbitration procedure either because they are not grievable or arbitrable matters or because they

are matters, which are subject to final administrative review outside the Agency under law or regulations. The following matters are subject to such exclusion:

- a. Political activities (Hatch Act).
- b. Retirement, life or health insurance.
- c. Suspension or removal for national security reasons.
- d. Examination, certification, or appointment.
- e. Position classification, which does not result in loss of grade or pay of an employee.
- f. Management's right to counsel individuals.
- g. Formal EEO complaints.
- h. Actions taken pursuant to 32 US Code, 709 (f) (in conjunction with section 13 of this Article).
- i. Performance Appraisals with overall rating of Meets or Exceeds.

SECTION 5-3 - Coverage:

Any employee or group of employees covered by this Agreement may present a grievance involving matters relating to personnel policies, practices, work conditions, as well as non-adverse actions taken as a result of counseling. Such grievances may be adjusted with or without Labor Organization representation at the grievant's discretion. However, the Labor Organization shall have the right to have its representative present at the adjustment. This right to individual representation does not include the right to take the matter to arbitration unless the Labor Organization agrees to do so. An employee or group of employees in the bargaining unit may be represented only by the exclusive Labor Organization in filing a grievance under this negotiated procedures. However, at no time during the stated process shall the Labor Organization be excluded or impeded in its right to official recognition under Public Law 95-454.

SECTION 5-4 - Procedures:

The Employer and the Labor Organization expect employees and supervisors to make a sincere effort to reconcile their differences. When such efforts fail, however, the following procedures are established for the settlement of grievances: A grievance will be formally presented normally not later than 45 calendar days after the grievant took place or the individual becomes aware of the event that constituted the grievance.

Informal:

a. It is agreed that settling of problems may be accomplished verbally before becoming formal. At this informal stage, the employee and the representative will meet with the supervisor/manager concerned and an attempt will be made to resolve the issue(s) that caused the grievance.

b. If a settlement cannot verbally be agreed to, the following procedure will be utilized:

STEP 1 – (Formal)

The grievance will be prepared in writing, utilizing the agreed to form. The grievance will be presented to the appropriate management official that can resolve the grievance. The grievance and information will be discussed at the time of presentation of the grievance. The management official will provide a determination of settlement, in writing, to the individual and the labor organization within five (5) working days.

STEP 2 – (Formal)

If the grievant is dissatisfied with the settlement offered at step one, a grievance may be elevated to the Activity Head within Ten (10) working days. The Activity Head will provide a determination of settlement, in writing, to the individual and the labor organization within five (5) working days.

STEP 3 – (Formal)

If the grievant is dissatisfied with the settlement offered at step two, a grievance may be elevated to the Adjutant General or his representative within Ten (10) working days. TAG will render a decision, in writing, within Twenty (20) working days to the Grievant and the labor organization. If the aggrieved employee(s) is (are) not satisfied with the decision of the Adjutant General, the Labor Organization will submit a request in writing within twenty (20) work days from the receipt of the Adjutant General's decision to take the matter into arbitration IAW CBA.

LABOR ORGANIZATION GRIEVANCE:

a. Labor Organization, Chapter President or designated representative initiated grievances will name the supervisor / manager / director as respondent. Labor Organization grievance will be filed within thirty (30) working days at the appropriate level which can provide resolution. The Labor Organization agrees to consider an attempt to informally resolve the grievance at an appropriate level prior to formal presentation.

b. If a settlement cannot verbally be agreed to, the following procedure will be utilized:

STEP 1 – (Formal)

The grievance will be prepared in writing, utilizing the agreed to form. The grievance will be presented to the appropriate management official that can resolve the grievance. The grievance and information will be discussed at the time of presentation of the grievance. The management official will provide a determination of settlement, in writing, to the individual and the labor organization within five (5) working days.

STEP 2 – (Formal)

If the Labor Organization is dissatisfied with the settlement offered at step one, a grievance may be elevated to the Activity Head within Ten (10) working days. The Activity Head will provide a determination of settlement, in writing, to the individual and the labor organization within five (5) working days.

STEP 3 – (Formal)

If the Labor Organization is dissatisfied with the settlement offered at step two, a grievance may be elevated to the Adjutant General or his representative within Ten (10) working days. TAG will render a decision, in writing, within Twenty (20) working days to the Grievant and the labor organization. If the aggrieved employee(s) is (are) not satisfied with the decision of the Adjutant General, the Labor Organization will submit a request in writing within twenty (20) work days from the receipt of the Adjutant General's decision to take the matter into arbitration IAW CBA.

SECTION 5-5 - Time Limitations:

a. Grievances must be presented to the appropriate management official normally not later than forty-five (45) calendar days after the occurrence of the matter out of which the grievance arose or normally not later than forty-five (45) calendar days of the date when the technician was aware of the act causing the grievance. If a reasonable effort has been made by the employee, and he is unable to obtain documentation / data to file a grievance, the time may be extended until the employee can obtain needed information /data to prepare his case. The approval authority will be LRS and the Labor Organization mutually agreeing on instances such as this. This is normally not to exceed an additional 15 work days. If the employee does not initiate action to carry the grievance to each succeeding step within the time periods specified, the previous decision rendered will become final and shall not be appealable. If management fails to answer the grievance at any step within the specified time limits, the Labor Organization/grievant will be free to advance to the next step of the procedure.

b. By mutual agreement an extension of the time limitations noted in these procedures may be extended by the parties. The agreement to extend time limitations will be reduced to writing, spelling out the specific extension period agreed to and will be signed by both the aggrieved and the supervisor/management official involved.

SECTION 5-6 - Official Time:

A reasonable amount of official time will be granted to an aggrieved employee and the Labor Organization representative(s) to investigate, prepare, and present a grievance through this procedure, however, no overtime will be paid to any such employee or Labor Organization representative(s) to accomplish these functions. Employee or Labor Organization representative(s) desiring official time for either of the foregoing purposes shall inform the immediate supervisor, if available, or the next higher level supervisor who is available of the reason they desire to be absent from the job site, the anticipated duration of the absence, and must obtain the supervisor's permission before absenting themselves from the work site. The employees and the Labor Organization may utilize Employer facilities and equipment in its grievance process, to include Agency transportation. If transportation is unavailable, the Union Official may be reimbursed in accordance with JTR VOL II.

SECTION 5-7 - Employer Grievances:

Employer grievances will be filed in writing with the Chapter President of the Labor Organization. The grievance shall specify the basis for the grievance and the corrective relief sought. The President shall issue a written decision within thirty (30) work days of receipt of the grievance.

SECTION 5-8 – Rights to Information/Data:

Upon request and subject to Federal law, management will supply the Labor Organization with investigation reports, documents, data used in the original action when denying a grievance. This is to insure the Labor Organization has all the necessary information for a determination to invoke or not invoke the provisions of the arbitration article.

SECTION 5-9 - Grievance File:

A grievance file will be established whenever an employee presents a formal grievance. This file will be maintained in the Human Resources Office in the Adjutant General's Department and contain as a minimum the following:

- a. The original written complaint.
- b. Documentary evidence considered in resolving the grievance.
- c. The written decision.

SECTION 5-10 - Intent:

The Employer and the Labor Organization agree that all employees in the bargaining unit will be treated fairly and equitably. Every attempt will be made by the Labor Organization and Management officials to adjust grievances informally and promptly in the interest of good Employee-Management relations and the mission of the organization.

SECTION 5-11 - Miscellaneous:

a. Grievances not resolved through the provisions of this Article may be referred to arbitration by either the Labor Organization or Employer.

b. Grievability/arbitrability issues if unresolved will be handled as threshold issues at arbitration.

c. If either party questions arbitrability, the Arbitrator will simultaneously hear the question of arbitrability and merits of the case. The Arbitrator will then rule on the question of arbitrability first and, if applicable, will then rule on the merits of the case.

SECTION 5-12 - Appeals:

Actions taken pursuant to 32 US Code, 709(e) (i.e., reduction in force, removal, suspension, furlough without pay, or reduction in rank or compensation) may be appealed through the Agency appeals procedure. The Adjutant General will render a final decision. The decision is not subject to further administrative review.

ARTICLE VI - ARBITRATION

SECTION 6-1 - Invocation of Arbitration:

When a matter pursued through the Negotiated Grievance Procedure, Article V is not satisfactorily resolved, the grievance may be referred to arbitration upon written request of the Employer or the Labor Organization. The request to invoke arbitration must be submitted within twenty (20) work days of receipt of the decision completing the negotiated grievance procedure. Only the parties to this Agreement may invoke arbitration.

SECTION 6-2 - Arbitrator Selection:

The party seeking arbitration will request the Federal Mediation and Conciliation Service to provide a list of seven (7) arbitrators. Representatives of the parties will meet within seven (7) work days of receipt of the list of arbitrators to select one to hear the grievance. One party will strike a name from the list and the other party will strike a name. This process will be repeated until there is but one name left who is the person that shall be requested to arbitrate the matter. If either party fails to participate in the selection process, the arbitration action will proceed with the requesting party accomplishing the selection. The party seeking arbitration will strike first.

SECTION 6-3 - Transcript Fee:

If a transcript is required or used during the arbitration proceedings, management agrees to pay for any costs that might be incurred. Upon request, the transcript will be made available to the Labor Organization for review at the HRO office.

SECTION 6-4 - Arbitrator's Costs:

The fee, per diem, and travel costs of the arbitrator shall be borne equally by the Employer and the Labor Organization.

SECTION 6-5 - Arbitration Hearings:

The arbitration hearing shall be held on a date and at a location mutually agreed upon by the Employer and the Labor Organization. In the event a date or a location cannot be agreed upon, the arbitrator will decide. The arbitration hearing will be held during regular duty hours of the basic workweek.

SECTION 6-6 - Arbitrator's Decision:

The arbitrator will be requested by the parties to render a decision as quickly as possible after the conclusion of the hearing and if at all possible, to do so within thirty (30) calendar days. The

Arbitrator cannot amend, supplement, or add to the provisions of this agreement. Certification of compliance with the decision of the arbitrator to include corrective action taken, where appropriate, shall be provided to the other party as soon as practicable.

SECTION 6-7 - Filing of Exception:

It is agreed that either party may file exceptions to the arbitrator's award with the Federal Labor Relations Authority under regulations prescribed by the Authority. If no exception to an arbitrator's award is filed during the thirty (30) day period beginning on the date the arbitrator's award is served on the filing parties, the award shall be final and binding.

ARTICLE VII - MEDIATION

SECTION 7-1 - Policy:

The Employer and the Labor Organization agree to follow the provisions of the law when agreement cannot be reached over issues that are deemed appropriate for collective bargaining in accordance with PL 95-454.

SECTION 7-2 - Procedures:

The parties agree that when an impasse is reached during negotiations prior to the FSIP the FMCS will be contacted for assistance. The requesting party will assume responsibility to contact the FMCS and coordinate the participation of the mediator in negotiations. Neither party will attempt to unilaterally frame the issue for the mediator. If agreement cannot be reached after invoking mediation, either party may proceed in accordance with PL 95-454.

ARTICLE VIII - UNFAIR LABOR PRACTICES

SECTION 8-1 - Responsibilities:

a. Employer responsibilities. The employer shall not:

(1) Interfere with, restrain, or coerce a technician in the exercise of the rights assured by terms of this agreement and Public Law 95-454;

(2) Encourage or discourage membership in the Labor Organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) Sponsor, control, or otherwise assist any labor organization, except that the Employer will furnish customary and routine services and facilities under PL 95-454, when consistent with the best interests of the Employer, its technicians, and the organization;

(4) Discipline or otherwise discriminate against a technician because he/she has filed a complaint or given testimony under PL 95-454;

(5) Refuse to accord appropriate recognition to the Labor Organization; or

(6) Refuse to consult, confer, or negotiate with the Labor Organization as required by PL 95-454.

b. Labor Organization responsibilities. The Labor Organization shall not:

(1) Interfere with, restrain, or coerce a technician in the exercise of his/her rights assured by PL 95-454;

(2) Attempt to induce the Employer to coerce a technician in the exercise of his/her rights under PL 95-454;

(3) Coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the Labor Organization as punishment or reprisal for, or for the purpose of hindering or impeding his/her performance, his/her productivity, or the discharge for his/her duties owed as an officer or employee of the United States;

(4) Call or engage in a strike, work stoppage, slowdown, picket the Employer (not to preclude the right to informational picket) in a labor/management dispute, or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) Discriminate against a technician with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or this section.

c. Issues, which can be raised under a grievance procedure, may, at the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice (ULP) decisions under PL 95-454 nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Federal Labor Relations Authority (FLRA). The parties also agree to provide a copy of the charges as presented in the ULP.

ARTICLE IX - TECHNICIAN DISCIPLINE AND ADVERSE ACTION

SECTION 9-1 - Administration:

Technician discipline and adverse actions will be administered in accordance with this Article, and Chapter 15, OTAGNC Pam 690-1, and current TPR 752. Supervisor will annotate on the Supervisor's Brief any disciplinary action within five (5) working days from the date of the incident. Justification will be provided when this requirement cannot be adhered to.

a. Prior to discussions of a disciplinary or adverse action, the supervisor or person/persons performing an investigation role for the agency will notify the technician of the right to representation. If the employee request representation, reasonable time will be allowed for the representative to be present prior to continuing questioning.

b. No written entry will be made on the Supervisor's Brief concerning disciplinary matters without the knowledge of the employee. The employee will initial the entry. The employee's initials acknowledge ONLY that the employee KNOWS that an entry was made, but in no circumstance may initialing the entry be considered as an agreement with the entry or an admission of guilt. The employee will have an opportunity to make a written rebuttal or statement in regards to any entry made on the Supervisor's Brief. The supervisor will initial and date the rebuttal or statement to acknowledge review.

SECTION 9-2 - General:

a. General - Counseling a technician can normally resolve a problem without the need for disciplinary or adverse action. Counseling is a friendly businesslike exchange of information guided by the supervisor. It is a private matter between the technician and his/her supervisor and has the specific purpose of improving the technician's conduct or knowledge of a particular subject; it is not a disciplinary action. Unlike counseling, a warning has a more serious intent because along with a business like exchange of information is a warning that disciplinary or adverse action may result if the problem is not corrected. Counseling interviews may be recorded on Supervisor's Brief, in pencil, for a period of 6-12 months, unless related to a recurring infraction/problem.

b. Oral Admonishment.

(1) Oral admonishment is a disciplinary action that notifies a technician to desist from a certain course of action. Oral Admonishments should take place in as private an environment as possible and be in the form of the most appropriate criticism necessary to correct the technician.

(2) An oral admonishment should be annotated in pencil (date and subject) on the Supervisor's Brief. The admonishment will be retained in accordance with 9-2a above.

c. Letter of Reprimand.

(1) A letter of reprimand is a disciplinary action, which makes a technician aware of a violation (improper attitude, violation of agency rules). It can be issued when counseling, warning, and orally admonishing prove ineffective. It can be used when the nature of the violation warrants more than counseling, warning, or an oral admonishment but does not warrant adverse action. The letter of reprimand is normally issued by the first line supervisor.

(2) A supervisor must ensure all relevant facts are raised before issuing a letter of reprimand. This can best be done by discussing the facts with the technician and giving him/her an opportunity to express views or provide explanations. If a letter of reprimand is warranted, the technician is told a reprimand will be issued as soon as possible. A letter of reprimand must, as a minimum:

(a) describe the violation in sufficient detail to enable the technician to understand why the reprimand is being given. If the violation relates to a continuing problem, the supervisor should include a summary of past violations and the attempts made by management to correct those violations.

(b) tell the technician how long (provide actual date) the reprimand will be filed as a temporary document in the Official Personnel Folder (OPF), typically, a minimum period of one(1) year and a maximum period of three (3) years.

(c) tell the technician the reprimand can be grieved through the negotiated grievance system.

(d) include a warning that continued offenses could result in suspension, change to lower grade, or removal.

(3) A letter of reprimand must be cleared for procedural accuracy by the HRO before issuance. Once a letter of reprimand is removed from the OPF, it is as if it never happened and may not be referenced as past discipline. The letter of reprimand and related annotations on Supervisor's Brief must be removed from the supervisor's file when the reprimand is removed from the OPF.

SECTION 9-3 - Types of Adverse Action:

There are only three types of adverse action which may be taken against a technician: (1) Suspension (includes indefinite suspension), (2) change to lower grade, (3) removal, and in the event of suspension, an individual's supervisor may opt for alternative disciplinary action, upon request by individual. If an alternative disciplinary action is agreed upon it will still be considered a step in the disciplinary process.

SECTION 9-4 - Adverse Action Files:

a. HRO is responsible for advising and assisting managers and supervisors, who are ultimately responsible for conclusive processing of adverse actions. In view of the complex body of laws, regulations and case precedents that govern adverse action and the negative consequences that can occur, it is essential that all actions be meticulously documented, researched, prepared, executed and defended.

b. HRO is responsible for obtaining advice and assistance from the legal officer in those cases adjudged necessary.

c. HRO is responsible for reviewing the procedural aspects of the action before issuance of a proposed adverse action notice, original decision, or final decision.

d. HRO is responsible for maintaining the logical adverse action file. It will include all documents relevant to the processing of the adverse action.

SECTION 9-5 - Definitions:

a. Cause for Adverse Action means;

(1) There must be a reason for taking adverse action; the reason is commonly referred to as a "cause" and is defined as "an offense against the employer-employee relationship." A cause is constituted by a decision that must be made on the merits of each situation.

(2) When a "cause" involves off-duty misconduct, management must establish an adequate relationship between the grounds for the adverse action and the efficiency of the service.

b. Preponderance of the Evidence means that considering the record as a whole, the evidence is more convincing to the trier of facts (i.e., deciding official, NGB administrative hearing examiner, or State Adjutant General) than the opposing evidence.

c. Collective Bargaining Agreement establishes requirements under which the State operates. HRO must ensure compliance. Violation of the collective bargaining agreement could be prejudicial to the case.

d. Harmful Error is an error committed by management in the application of its procedures which, if it had not occurred, might have caused management to reach a conclusion different than the one reached.

SECTION 9-6 - Management Responsibilities:

a. Investigating the charges against the technician and/or any defense raised by the technician. The procedures contained in , current AR 15-6, Investigation Guide for Internal Investigations will be used as a framework for conducting such investigations.

b. The State Adjutant General will decide any attempt to disqualify a representative except when the challenge arises after election of an administrative hearing. In this situation, the NGB administrative hearing examiner will make the decision. If there is an attempt to disqualify the examiner, the State Adjutant General will make the decision.

c. Management Officials may consider granting a reasonable amount of excused absence to a technician who has agreed to prepare and present a case for a fellow technician.

SECTION 9-7 - Procedures:

a. Step 1 - Issue proposed adverse action notice.

(1) State what action is being proposed (Reference TPR 752 for guidance in determining penalty). The proposed adverse action notice tells the technician what type of adverse action is being proposed (suspension, change to lower grade, or removal).

(2) State the reasons for the proposed action. The proposed adverse action notice tells the technician the reasons why management is proposing to take adverse action. The reason must be specific and in sufficient detail (who, what, where, when, etc.), so that the technician knows exactly what allegations to refute or which acts to justify.

(3) Provide rationale for penalty selection. The proposed adverse action notice explains the appropriateness of the penalty, including any facts that the supervisor relied on for imposing a penalty more severe than would normally be imposed.

(4) Upon request provide a copy of the material relied on. Evidence must be disclosed to the technician so that he/she has an opportunity to learn what management's case is based on.

(5) Give right to reply. The proposed adverse action notice advises the technician of his/her right to reply, who to make that reply to, time limits involved, and how to request an extension of time.

(6) Provide right to excused absence to prepare reply. The proposed adverse action notice advises the technician that he/she will receive excused absence to prepare reply and who to see to arrange the use of such time.

(7) Give HRO assistance information. The proposed adverse action notice gives the name, telephone number, and address of the HRO staff member who can be contacted for procedural assistance.

(8) Advise technician about the next step. The proposed adverse action notice tells the technician that the deciding official will issue an original decision at the earliest practical date after receipt of replies or after the reply period has ended.

b. Step 2. Technician's Reply

(1) When a technician makes an oral reply, he/she has the right to expect the deciding official to give the reply due consideration and not treat the time as an empty formality. The technician may bring up factors that might benefit his/her response (e.g. marital problems, financial obligations, number of dependents, and alleged bias of immediate supervisor).

(2) A technician is not entitled to call witness during the oral reply since he/she will later be entitled to an administrative hearing or appellate review on the merits of the adverse action.

c. Step 3. Original Decision Letter

(1) State what action was decided upon. The deciding official may uphold the proposed action, change the proposed action to something less severe, or take no action at all. An action more severe than proposed can never be taken.

(2) Include date action will be affected. The original letter tells the technician when the action will take place/start. The National Guard Technician Act requires technicians be given at least 30 (calendar) days advance notice when removal from employment is involved.

(3) Reference the technician's replies. The original decision letter explains that the technician's replies were considered in arriving at the decision. When no replies are received, the original decision letter should document that fact.

(4) Provide reasons for the decision. The original decision includes reasons for the decision. This is done by explaining which reasons in the proposed notice were sustained.

(5) Give HRO assistance information. The original decision gives the name, telephone number, and address of the HRO staff member who the technician can contact for procedural assistance.

(6) Provide appeal rights. The original decision available, how to appeal, and time limits involved. A technician can appeal the original decision by requesting one of the following: an appellate review, an administrative hearing, or an advisory non-binding arbitration hearing conducted by an FMCS arbitrator. If non-binding arbitration is requested the arbitration provisions of Article 6 will be used. Only the Labor Organization can make the final determination to submit the appeal to arbitration. A technician appeals by sending a written notice to the HRO stating which option he/she chooses (See Figures 15-4, 15-5 and 15-6, Chapter 15, OTAGNC Pam 690-1, for sample letters).

d. Step 4. Process Administrative Appeal.

(1) How the HRO processes an appeal depends on the method selected by the technician. If an appellate review is selected, the HRO provides the State Adjutant General with all relevant material and assist in resolving any questions that may arise.

(2) If the technician requests an administrative hearing, the HRO processes the appeal in accordance with Chapter 15, OTAGNC Pam 690-1, and current TPR 752. The HRO will submit a written request to NGB for a list of examiners. In-turn, the NGB will provide a list of hearing examiners from which a selection may be made. A letter will be sent advising the appellant of the name of the hearing examiner.

e. Step 5. The Final Decision.

(1) The issuance of the final decision is the method by which the technician is notified of the State Adjutant General's decision on his/her appeal. The final decision must be provided in writing and must be signed by the State Adjutant General.

(2) In making the final decision, the State Adjutant General must address three issues:

(a) Did the technician do what he/she was charged with?

(b) Will some discipline, based on the proven conduct, promote the efficiency of the service?

(c) Is the penalty appropriate?

(3) In addition to the three outlined above, the final decision must include, if appropriate, information on corrective actions. State that in accordance with 32 U.S.C. 709 (e)(5) there is no further administrative review of the State Adjutant General's final decision.

SECTION 9-8 - Attorney Fees:

a. The State Adjutant General has authority to award reasonable attorney fees under 5 U.S.C. 5596. OPM has issued implementing regulations for payment of attorney fees in 5 CFR 550. The requirements for payment of attorney fees are:

(1) the technician must be prevailing party.

(2) the attorney fee must be reasonable as determined by the State Adjutant General.

(3) a determination must be made by the State Adjutant General that payment is warranted in the interest of justice.

b. Requests for attorney fees must be sent to the State Adjutant General. Once received, such requests are provided to the HRO and legal officer for review and recommendation as to whether or not payment is warranted.

c. The State Adjutant General is bound by the findings on the merit of the case and may not recharacterize them evaluating a request for attorney fees. The State Adjutant General's decision on the attorney fees request is issued as an addendum to the final decision. There are no administrative appeals for attorney fee requests.

ARTICLE X - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

SECTION 10-1 - Policy:

The North Carolina National Guard Technician Equal Employment Opportunity Affirmative Action Plan establishes the requirements of national policy and federal law. It assures equal employment opportunity in every aspect of personnel policy and practice in employment, development, promotion, and treatment of National Guard Technicians. The Employer and the Labor Organization agree to cooperate to the fullest in providing equal employment opportunity for all qualified applicants and technicians and to prohibit discrimination because of race, color, religion, sex, age, national origin, or handicapped. The Employer will consult, confer, or negotiate, as appropriate, on matters concerning personnel policies, practices, and matters affecting working conditions of technicians. Both parties agree to promote and support all programs for equal employment opportunity through a positive and continuing effort.

SECTION 10-2 - EEO Complaint Procedures:

a. Any Technician who believes they have been discriminated against in any matter because of race, color, religion, sex, age, handicapped, or national origin may file an EEO complaint through the statutory procedures by contacting a designated EEO counselor for that specific area within forty-five (45) calendar days of occurrence.

b. When an equal opportunity complaint is handled by an equal opportunity counselor and an adjustment is made at that level, the Employer will afford the Labor Organization an opportunity to be represented at the adjustment. Such appearances must have the concurrence of the complainant except in cases processed under the negotiated grievance procedures.

c. Complaints alleging sexual harassment.

(1) The Employer and the Labor Organization agree that sexual harassment in the workplace will not be condoned. Reported cases of sexual harassment will receive prompt and positive action to include necessary and appropriate action against those individuals found to be guilty of a sexual harassment offense.

(2) Any bargaining unit technician who feels they have been the victim of sexual harassment, may file an EEO complaint through the statutory procedure by contacting an EEO counselor within forty-five (45) days of the occurrence.

(3) The Employer, upon receiving a complaint alleging sexual harassment toward a technician, will evaluate the complaint and take necessary and appropriate action as the circumstances may warrant. When the complaint is filed against a technician's immediate supervisor, or vice versa, the Agency may consider reassigning either of the individuals during the investigation process.

SECTION 10-3 - Technician Employment Statistics:

The Employer agrees to provide to the Labor Organization, on an annual basis, a copy of the Affirmative Employment Plan, which is provided to the National Guard Bureau-Human Resources.

ARTICLE XI - EMPLOYEE ASSISTANCE PROGRAM (EAP)

SECTION 11-1 - Applicability:

This Article applies to all North Carolina Army National Guard full-time support personnel.

SECTION 11-2 - Scope:

The EAP is designed to help full-time support personnel identify and overcome personal problems that have an adverse effect on work performance. The scope of this program includes, but is not limited to, alcohol and drug abuse and emotional, financial, marital, legal, and physical problems. Although particular emphasis will be given to health problems that affect an employee's work performance, particularly alcoholism and drug abuse, nothing shall prohibit an employee from receiving assistance for other personal problems as well.

SECTION 11-3 - Policy:

a. The North Carolina National Guard (NCNG) is concerned with the accomplishment of National Guard missions and objectives and the need to maintain employee morale and productivity. The NCNG is concerned with an employee's personal behavior only when his/her actions interfere with the efficient and safe performance of assigned duties, reduce his/her dependability or that of fellow employees, reflect discredit on the National Guard, or adversely affect other members.

b. As an employer, the NCNG is not concerned with an employee's private decision to use or not to use alcohol, except as it may affect his/her job performance or the efficiency of the service. However, employee drug activity that is contrary to law will not be condoned. When there is good reason to believe criminal conduct is being directed toward or is potentially harmful to the person or property of others, the NCNG's first obligation will be to those persons or properties, and then to the employee involved.

c. The NCNG recognizes alcoholism and drug abuse to be treatable health problems. Employees having these illnesses will receive the same careful consideration and assistance that is extended to employees having any other health problems or illnesses. However, if the employee's conduct continues to be unacceptable and the employee refuses to accept assistance or seek counseling through this program, appropriate corrective action will be taken.

d. As with any other illness or health problem, sick leave will be granted for the purpose of treatment or rehabilitation. Employees who suspect they may have an alcohol or drug abuse problem, even in the early stages, are encouraged to voluntarily seek information and counseling on an entirely confidential basis by contacting the Employee Assistance Program Coordinator (EAPC).

e. As there is no provision in the Public Laws for payment of rehabilitation costs, employees are personally responsible for the costs of all counseling services. In the case of alcoholism or drug abuse, as with other illnesses, financial assistance may be available for technicians through the Health Benefits Plan. Additionally, differing types of rehabilitation programs require varying financial capabilities.

f. The confidentiality of medical records of employees with alcoholism or drug abuse problems will be preserved in the same manner as all other medical records.

g. Employees will not have their job security or promotion opportunities jeopardized by requesting counseling or referral assistance, except as limited by appropriate laws as they relate to sensitive positions.

h. This program will not jeopardize a technician's right to disability retirement if his/her condition warrants it and all eligibility requirements are met.

i. Anyone, including counselors in other programs, such as Equal Employment Opportunity (EEO), who is advised by a fellow employee of his/her alcohol or drug abuse problem should:

(1) Encourage the employee to discuss the matter with his/her supervisor or the EAPC in order to obtain assistance and referral for counseling.

(2) Maintain strict confidentiality regarding the employee's identity.

(3) Release alcohol or drug-related information on the employee only upon his/her written consent and only in accordance with the provisions of law and regulations. Supervisors should encourage employees to sign a release form allowing the supervisor to monitor the employee's progress in the program.

j. Public Laws stipulate that no person may be denied or deprived of federal civilian employment, based solely on the grounds of prior alcohol or drug abuse. Accordingly, when considering applicants who have a history of alcohol or drug abuse for technician employment, a determination must be made on the basis of whether or not the applicant will be a good employment risk. In such cases, the length of time since the last abuse is of less importance than the steps taken by the applicant to obtain treatment through medical care, rehabilitation, and similar actions.

k. Labor organizations will be consulted in the implementation of this program to protect the rights and options of technicians.

SECTION 11-4 - EAP Personnel:

The State Equal Employment Manager (SEEM) serves as the Employee Assistance Program Coordinator (EAPC). The Employee Relations Specialist serves as the Technician Assistance Program Coordinator (TAPC).

SECTION 11-5 - Program Responsibilities:

a. The EAPC is responsible for management and implementation of the program and will:

- (1) Arrange for and/or conduct training programs for supervisors.
- (2) Coordinate counseling services with various state agencies and serve as a resource person for employees participating in the program.
- (3) Evaluate program results and submit reports to National Guard Bureau (NGB) as required.

b. The supervisor is the key to program success and will:

- (1) Ensure that all employees under his/her supervision are made fully aware of the provisions of this program.
- (2) Be alert to changes in work performance or behavior of assigned employees.
- (3) Document specific instances when an employee's work performance, behavior, or attendance fails to meet appropriate standards and appears to be progressively deteriorating.
- (4) Advise the EAPC of the possibility of referral. The supervisor should be able to discuss behavior and work performance but will not attempt to diagnose or draw conclusions as to the cause of the problem. This is a counseling or medical responsibility.
- (5) When poor job performance or other job impairment factors become apparent, interview the employee and inform him/her of the availability of counseling services through this program.
- (6) If the employee refuses help and his/her performance continues to be adversely affected, provide a firm choice of either accepting assistance through counseling or professional diagnosis of his/her problem and cooperating in any treatment indicated, or being subject to disciplinary action based on poor work performance, in accordance with current disciplinary procedures.
- (7) Assist the EAPC in evaluating program results and submit reports to the EAPC as required.

SECTION 11-6 - Confidentiality:

a. Public Law and certain regulations provide specific requirements for maintaining the confidentiality of patient information. Except as outlined below, any person who violates the confidentiality of patient information is subject to be fined not more than \$500.00 for the first offense and not more than \$5,000.00 for each subsequent offense.

b. If a counselor in another program, such as EEO, is advised by an employee of his/her alcohol or drug abuse problem, the procedures in Paragraph 22-3i, of OTAGNC Pam 690-1 will be adhered to.

c. Records concerning the identity, diagnosis, prognosis, or treatment of any employee that are maintained in connection with this program shall be confidential and will be disclosed only for the purposes and under the circumstances outlined below.

(1) If the employee gives his/her written consent, the content of such records may be disclosed to:

(a) Medical personnel for the purpose of diagnosis or treatment of the employee.

(b) Government personnel for the purpose of obtaining benefits to which the employee is entitled.

(2) Whether or not the employee gives his/her written consent, the content of such records may be disclosed to:

(a) Medical personnel to the extent necessary to meet a bona fide medical emergency.

(b) Qualified personnel for the purpose of scientific research, management of financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any employee in any report or otherwise disclose his/her identity in any manner.

(3) The content of such records may also be disclosed without the employee's written consent if authorized by an appropriate court order of competent jurisdiction after assessing good cause and the need for disclosure against injury to the employee, the physician-patient relationship, and the treatment services. Upon granting such an order, the court, in determining the extent to which disclosure of all or any part of the record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

d. Except as authorized by a court order, no record maintained on any employee in conjunction with this program may be used to initiate or substantiate any criminal charges against or to conduct any investigation of the employee.

e. The prohibitions contained herein continue to apply to records concerning any individual who has been a patient, regardless of when he/she ceased to be a patient.

SECTION 11-7 - Disciplinary Actions:

a. This program supplements, but does not replace, existing procedures for dealing with problem employees. Its premise is that one type of problem employee is the substance abuser, the alcoholic, problem drinker, or drug abuser and with this particular kind of individual, a special situation exists. The drinking or drug abuse is either an illness or a symptom of an illness, and as with other illnesses, it is the NCNG's policy to try and assist employees in rehabilitation and restoration to full job performance.

b. In practice, the alcoholic, problem drinker, or drug abuser should be dealt with a little differently than other problem employees. The supervisor will consult with the EAPC about those cases that appear to be developing a trend, discuss with the employee, and advise him/her of the availability of assistance through this program.

(1) Supervisory documentation of an employee's job performance and actions taken to motivate correction of deficiencies will be filed in the supervisor's work folder. The supervisor's notes are not subject to the requirements of confidentiality regulations, since supervisors as such are not performing an alcohol or drug abuse prevention function. If a supervisor refers an employee to the EAPC, the supervisor will not be entitled to feedback on the employee's progress unless the EAPC obtains written consent from the employee.

(2) Documentation of referrals for counseling will not be made in the supervisor's work folder nor maintained in the Official Personnel Folder or Military Personnel Records Jacket. When not in use, records on employees who have been referred for counseling will be maintained in a secure room, locked file cabinet, safe, or other similar container.

c. This program is carried out as a nondisciplinary procedure aimed at the rehabilitation of employees who suffer from a health problem. It will not be used to tolerate inefficiency, absenteeism, or poor performance, as this would clearly contribute to the progression of the illness by delaying entry into a rehabilitation program.

SECTION 11-8 - Definitions:

For purposes of administering this program, the following definitions apply:

a. Alcoholic. A person who has the illness of alcoholism, as characterized by repeated and uncontrolled use of alcoholic beverages.

b. Alcoholism. A chronic disease characterized by repeated excessive drinking that interferes with a person's health, interpersonal relations, economic functioning, or social standing.

c. Drug Abuse. A health problem characterized by the use of a drug in a manner or to a degree that interferes with the individual's health, interpersonal relations, economic functioning, or social standing.

d. Problem Drinker. An individual whose drinking habits interfere with his/her job performance. He/she may or may not be an alcoholic. A problem drinker, whether or not he/she has lost the ability to control the use of alcohol, does not control it well enough to perform his/her job in an acceptable manner.

SECTION 11-9 - Authority:

Public Laws provide for the establishment of treatment and rehabilitation programs and services for the prevention of alcohol and drug abuse among federal employees.

ARTICLE XII - OCCUPATIONAL HEALTH AND SAFETY

SECTION 12-1 - General:

It is the employers responsibility to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under the Occupational Safety and Health Act of 1970 as implemented by Executive Order 12196s for Federal Employees, Part 1960, Code of Federal Regulations 1910, NGR 385-10, Army National Guard Safety and Health Program and other governing regulations.

SECTION 12-2 - Responsibilities:

a. Managers and supervisors of the Employer will:

(1) Provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.

(2) Insure that work complies with health and safety standards.

(3) Provide protective clothing and equipment as required and enforce the use thereof in compliance with standards.

(4) Conduct workplace safety, health, and fire prevention self-inspections and investigate all mishaps.

(5) Train employees in safety standards procedures and requirements of the job task, and plan work so it can be done safely and insure it is accomplished as prescribed by safety directives.

b. Employees will:

(1) Comply with standards, regulations, job guides, technical orders and all operating procedures in job accomplishment.

(2) Identify and report hazards and unsafe work conditions to their supervisor or the safety office.

(3) Use protective clothing or equipment when required.

(4) Report any injury or impaired health that occurs on the job to their supervisor.

(5) Report any suspected actual exposure to chemicals or hazardous materials to their supervisor.

SECTION 12-3 - Suggestions:

The employer encourages the submission of safety suggestions and recommendations by its employees. Upon request, the State Safety Office will assist employees in the preparation and processing of suggestions for submission to higher authority for review and determination.

SECTION 12-4 - Hazard Reporting:

a. A hazard may be reported by any person and may be submitted on any event or condition that effects safety.

b. Respiratory Protection:

(1) Supervisors will contact the Occupational Health Specialist, as needed, in order to determine the respiratory protection and ventilation requirements for specific activities.

(2) Supervisors will ensure that employees receive instruction in the care and fitting of respirators, as appropriate to their job requirements.

c. Imminent Danger: When an imminent danger situation is discovered, it will be brought to the immediate attention of the supervisor in charge, who will take immediate action to eliminate or reduce the hazard, or cease the operation until such action is taken to eliminate the hazard. If the supervisor believes the condition or corrected condition does pose an imminent danger, he will request assistance from the State Safety office.

d. Limited Duty: Any employee who has been injured or who is temporarily incapacitated on the job, but deemed able by his/her attending physician to perform limited light duty may be assigned such duties until he/she is released by physician and, has fully recovered from the injury or incapacitation. Employees serving in temporary limited duty status may apply for and will be considered for promotion, if otherwise eligible.

e. Placement of Technicians with Disabilities: The Employer will place qualified employees with disabilities to the extent practical and permitted by law and ARNG regulations.

SECTION 12-5 - Safety Representation:

Safety committees within the North Carolina Army National Guard will be established in accordance with applicable regulations and directives. Appropriate Labor Organization representation is assured on these committees. The Labor Organization representatives will be notified of the committee meetings and known agenda items per the SOP regulating the safety committee. Labor Organization will be provided voting membership representation on the North Carolina Army National Guard State Safety Council. If an annual safety conference attendee is not an Labor Organization Representative, a Labor Organization Representative will be afforded the opportunity to attend the Annual Safety Conference provided by the State Safety Office.

Reasonable technician travel expense incurred by the representative will be handled IAW Volume II or JTR.

SECTION 12-6 - Conduct of Safety and Health Inspections:

An authorized Labor Organization representative shall be given the opportunity to accompany any Safety and Health Inspector or organic safety representative when conducting announced or unannounced safety inspections of work areas. At the conclusion of any inspection the inspector shall confer with the official in charge and Labor Organization official to advise them of inspection findings. A copy of any Notice of Unsafe or Unhealthful Working Conditions and/or inspection report will be sent to the Labor Organization at the same time of notification to the work place. Every effort will be made to have a representative present during safety inspections. Copies of abatement plans will also be provided to the Labor Organization representative.

SECTION 12-7 - Hazardous Material Communication Training:

a. Hazardous material information and training will be made available in accordance with applicable regulations and public law.

b. All personnel will receive the training required by the directives and standards detailing the hazards associated with chemical used in their respective workplace. Employees who handle, use, or are potentially exposed to hazardous materials in the course of official duties will receive training on the specific hazards in their work area. This training will be conducted upon initial work area assignment and whenever a new hazard is identified or introduced into a work area. This initial training will be provided whenever possible before employees are exposed to hazardous material.

c. On an annual basis, management will review chemical hazards common to the workplace and present the known and predicted health hazards associated with that chemical, protective measures, and symptoms of over exposure to the employees. All training documentation will be maintained in the technician's permanent records.

d. Manufacture Safety Data Sheets (MSDS) will be on file in a known location and accessible to all technicians working with the chemical hazard. In the event of an employee being involved in an accident involving a hazardous chemical, the appropriate MSDS will accompany the employee to the medical facility.

SECTION 12-8 - Extreme Weather Hazards:

a. Cold - The Employer and the Labor Organization mutually recognize the hazards of working in extremely cold temperatures. It is acknowledged that it is the responsibility of each employee to insure the adequacy of cold weather gear worn and to make full and proper use of all such protective equipment prior to venturing out into extreme temperatures. It is also realized that tolerance between individuals differ and that common sense must be applied by both technicians and managers. The employer agrees that all outside activities will cease at -20 F chill factor unless special cold weather equipment rated for Arctic use is provided. This will not include emergency

related mission requirements or aircraft cross country arrivals or departures. The official temperature and wind velocity will be obtained, if available, from the local airport tower or national weather service.

b. Heat - The hazards of working in extreme heat are also recognized by the Employer and the Labor Organization. It is acknowledged that it is the responsibility of the Employer to ensure that adequate supplies of potable water is available to employees required to work in high heat conditions. It is the responsibility of the technician to ensure adequate protective measures are followed and that wearing of military issue (bush hat, sunscreen, and gloves) hot weather protective equipment is used when available. The facility head may authorize by SOP the minimum dress code. However, protective headgear, eyewear and safety boots will be required when a hazard is identified.

SECTION 12-9 - Emergency Medical Assistance and Data Sheet:

Management will provide medical services to injured employees where required by regulation and law. Each activity will develop an emergency medical assistance plan that will enable immediate evacuation to the closest EMT activity. This plan will be posted in all appropriate work areas. Employer will provide and encourage employees to use the OTAGNC Form 690-1-R Emergency Data Record; however, the use of the form by the employee will be strictly on a voluntary basis.

SECTION 12-10 - Special Tools and Equipment:

a. The employer will furnish at no cost to the technicians, safety eyeglasses to include prescription lenses to technicians who are required by medical prescription to wear glasses. All issued safety glasses broken on the job will be replaced at no cost to the technician. The individual may select either plain or tinted lenses. Prescription lenses will only be provided in non-tinted shades.

b. All protective clothing and equipment authorized by applicable regulations will be provided by the employer and cleaned at no cost to any technician.

c. Any special tools and safety equipment required by TM or applicable regulation, necessary to safely and properly accomplish an employee's duties, will be made available with no expense to the employees.

d. Protective clothing will be furnished to unit members engaged in hazardous work.

ARTICLE XIII - ENVIRONMENTAL DIFFERENTIAL PAY (EDP)

SECTION 13-1 - References:

- a. NGB Pam 37-105.1. (ARNG)
- b. 5 CFR 532, Subpart E, Section 532.511

SECTION 13-2 - Objective:

The primary objective of this plan is to provide the basis for orderly and efficient management of the state EDP program. An EDP/HDP Committee will be established to aid in the management of this plan. This committee will assist the Human Resources Office (HRO) by reviewing request for EDP entitlements, request for the establishment of a locally required category and recommendation for changes to EDP plan. The committee will consist of personnel from the NCARNG of which will include safety and/or environmental health personnel. The Position Classification Specialist will be an advisor to supervisors, management, HRO and the committee, on as needed basis. One voting member of the EDP/HDP committee will be a Labor Organization Representative.

SECTION 13-3 - General:

- a. North Carolina Army technicians paid under a Federal Wage System (FWS) wage schedule are authorized Environmental Differential Pay (EDP) as indicated in Appendix, Subject: Schedule of Environmental Differential Pay, of OTAGNC Pam 690-1.
- b. Documentation for authorizing and substantiating entitlement to EDP will be in accordance with paragraph 8-6, OTAGNC Pam 690-1.
- c. EDP for wage technicians will be computed in accordance with instructions contained in 5 CFR, Subpart E, Section 532.511.
- d. EDP is authorized only when technicians are in a pay status. Overtime, which is worked for compensatory time off, is not a paid status for this purpose. Technicians who are paid annual premium pay are excluded from payment of EDP. (Comptroller General decision B-172031, 9 June 1971, unpublished).
- e. It is recognized that identification of hazards, working conditions, or physical hardships of an unusual nature will be on a continuing basis. When local situations or circumstances arise which are identified as potentially authorizing entitlement to EDP a request in memorandum format (see appendix, Subject: Request for Approval of Environmental Differential Pay Situation, OTAGNC Pam 690-1), must be submitted to the HRO for review. The HRO may refer the request to the EDP Committee for evaluation. This committee, in coordination with safety and environmental health personnel, will review the request and file a report with the HRO. This report will contain a review

of the request to determine if the exposure is listed on the schedule contained within the appropriation regulations, and will contain a recommendation on whether the request should be approved. This committee shall also, conduct an annual review of all previously established local categories to determine if continued payment for exposure should be authorized and forward copy of results to HRO. These annual reviews will include coordination of safety and environmental health personnel. The HRO, under authority delegated by The Adjutant General, will either approve or disapprove additions or deletions to the locally established category listing.

SECTION 13-4 - Responsibilities:

a. Human Resources Office.

(1) Appoint an EDP committee consisting of management and a Labor Organization Representative.

(2) Insure compliance with directives.

(3) Provide advice and assistance to managers, supervisors, technicians and the committee.

(4) Act on recommendations of the committee and request from supervisors.

(5) Prepare and update the State EDP Plan.

(6) In addition to acting as the final approving authority, on all requests, the HRO will also conduct an annual review of the EDP Plan and locally established categories.

b. Managers and Supervisors.

(1) Keep employees informed of the EDP Plan.

(2) Continually review the work environment for work situations that present a hazard or unusually severe working conditions. Document such situations and submit to HRO office in accordance with appendix, Subject: Request for Approval of Environmental Differential Pay Situation, OTAGNC Pam 690-1, format.

(3) Assure that pay entitlements to EDP are recorded on time and attendance reports with NGB Form 104, when authorized and performed.

(4) Ensure that EDP is authorized only when exposure is necessary and actually takes place.

SECTION 13-5 - EDP Pay for (FWS) Employees:

a. Pay is authorized for exposure to a hazard of an unusual nature which could result in significant injury, illness or death, or exposure to a physical hardship of an annual nature under circumstances which cause significant physical discomfort or distress not practically eliminated by protective devices. Pay is authorized for exposure to a working condition of an unusual nature under circumstances involving exposure to fumes, dust, or noise which causes significant distress or discomfort in the form of nausea, skin eye, ear, or nose irritation, or conditions which cause abnormal soil of body and clothing, etc., and where such distress or discomfort is not practically eliminated.

b. Environmental differentials are stated as percentage amounts and are authorized for the categories of exposures as described in OTAGNC Pam 690-1. The amount of the environmental differential which is payable is determined by multiplying the percentage rate authorized for the described exposure by the second rate for Wage Grade 10 on the current non-supervisory wage schedule for the area. The resulting cent-an-hour amount is paid uniformly to each wage employee in the area who qualified for the authorized environmental differential, regardless of the grade level of the wage employee or the Federal Wage System wage schedule (WG, WL, or WS) on which the employee is paid.

c. When an employee is entitled to an environmental differential which is paid on an actual exposure basis the employee shall be paid a minimum of one hour's differential pay for the exposure. For exposure beyond one hour, the employee shall be paid in increments of one quarter hour for each 15 minutes or portion thereof in excess of 15 minutes.

d. When an employee is exposed at intermittent times during the day to a hazard, physical hardship, or working condition for which the environmental differential is paid on actual exposure basis each exposure is considered separately and the amount of time exposed is not added together before payment is made for exposure beyond one hour's duration, except that pay for environmental differential may not exceed the number of hours of pay by the employee on the day of exposure.

e. When an employee is exposed to a hazard, physical hardship, or working condition for which an environmental differential pay is payable on a shift basis and on the same day he is exposed to a hazard, physical hardship or working condition for which an environmental differential payable on an actual exposure basis at a higher rate is authorized, he shall be paid the environmental differential on the basis of actual exposure for that exposure and the environmental differential on the basis of the shift for the remaining hours in the pay status that day. The determining factor for entitlement is that a technician must be in a pay status to be eligible for payment of environmental differential pay.

f. When an employee is exposed to more than one category listed in this schedule for which the environmental differential is payable on an actual exposure basis, each category is considered separately in computing the amount of environmental differential payable.

g. When exposure to the situation occurs during a continuous period extending over two days, it shall be considered to have occurred on the day on which the exposure began and the allowance differential shall be charged to that day.

h. When an employee is entitled to an environmental differential which is paid on the basis of hours in a pay status the differential will be paid for the hours in a paid status, EXAMPLE: Exposure 0800-100; work status 1100-1200 with no exposure; annual leave 1300-1700, equals 8 hours EDP entitlement.

SECTION 13-6 - Administration:

a. Request for approval of EDP situations will be initiated in three (3) copies by first line supervisor using memorandum format as indicated in appendix, Subject: Request for Approval of Environmental Differential Pay Situation, OTAGNC Pam 690-1. Request should be submitted through supervisory channels for comments, to the HRO office. One copy should be held in suspense file by requester and original and one (1) copy forwarded to the HRO office.

b. All requests for the establishment of a locally identified payable EDP category will contain at a minimum, the following information: A description of the work situation; the location(s) of identical work situations; classification and grade levels of technicians performing the work; appropriate technical instructions; all applicable safety directives covering the work situation; safety and/or environmental health report on the work situation; a description of the unusually severe hazard, physical hardship, or working condition; and why it cannot be overcome or eliminated. If the work situation involves an explosive or incendiary device, hazard classification information must also be included. Accident records must be submitted if the EDP category is only payable when the hazard, physical hardship, or working condition of an unusually severe nature has not been practically eliminated by protective devices and/or safety procedures.

c. EDP will be administered and certified in accordance with NGB Pam 37-105-1, Technician Time and Attendance Procedures. Supervisors are responsible for submitting certification.

d. Environmental duty performed by technicians will be reported on appropriate, Time and Attendance Report and must be accompanied by a NGB Form 104, Certificate of Authorization for Environmental Differential Pay (Appendix B and C). Time and Attendance Reports must be forwarded to arrive in Technician Pay Branch as required, to cause timely pay action.

(1) Time and Attendance Report must be annotated to inform the payroll office that EDP entitlement has accrued:

(a) "EDP Accrued" is entered in the "Remarks" section.

(b) Total EDP hours for the pay period, and total EDP hours per day are entered in hour and quarter-hour increments. The following codes will be used to record quarters of hours:

1/4 hour is equal to .2

1/2 hour is equal to .5

3/4 hour is equal to .7

(c) Entries are referenced to entries on NGB Form 104, the form on which payroll section environmental pay calculations are based. (See Appendix A and B)

(2) NGB Form 104 (ARNG) - Category of Exposure column must reflect the locally approved category of exposure and differential rate.

(a) The letter code, NGB Form 104 "Summary of Environmental Differential Pay Hours" section will be used; code letters are keyed to Section 3 Part I and Part II categories and differentials.

(b) Exposure must be shown as it occurs each workday, even though the same exposure may occur on consecutive workdays.

(c) Exposure is entered by date, inclusive clock time, and actual elapsed time in hours for each exposure category shown.

(d) EDP is paid under OTAGNC Pam 690-1, either the basis of actual exposure (Part I) or on basis of hours in a pay status (Part II).

(e) EDP is payable only when safety and health procedures have not practically eliminated the hazard.

SECTION 13-7 - Appeals:

An appeal of a denial of an EDP/HDP situation will be initiated as Step-4 grievance in accordance with the LMRA. A grievance of this nature will only be initiated after the EDP/HDP committee has reviewed the situation and issued its findings.

ARTICLE XIV - HAZARD DIFFERENTIAL PAY (HDP)

SECTION 14-1 - References:

- a. NGB Pam 37-105-1. (ARNG)
- b. 5 CFR 550, Subpart I, Section 550-901

SECTION 14-2 - Objective:

The primary objective of this plan is to provide the basis for orderly and efficient management of the state EDP program. An EDP/HDP Committee will be established to aid in the management of this plan. This committee will assist the Human Resources Office (HRO) by reviewing request for EDP entitlements, request for the establishment of a locally required category and recommendation for changes to EDP plan. The committee will consist of personnel from the NCARNG of which will include safety and/or environmental health personnel. The Position Classification Specialist will be an advisor to supervisors, management, HRO and the committee, on as needed basis. One voting member of the EDP/HDP committee will be a Labor Organization Representative.

SECTION 14-3 - General:

a. North Carolina Army Guard technicians occupying General Schedule (GS) positions are authorized pay for irregular and intermittent duty involving physical hardship of hazard as indicated in appendix, Subject: Schedule of Differentials Pay, of OTAGNC Pam 690-1, commonly called Hazard Differential Pay (HDP).

b. Documentation for authorizing and substantiating entitlement to HDP will be in accordance with regulations referenced in paragraph 9-6, Chapter 9, OTAGNC Pam 690-1.

c. Payment of hazard differential pay shall be computed on the basis of the total number of hours a technician is in a pay status on the day on which hazardous duty is performed. Note: Hazard pay is computed on the basis of hours in a pay status. If, in an 8-hour day, the technician performs hazardous duty during the first duty hour and then is in a paid leave status for the remaining seven duty hour, his/her hazard pay will be computed on the basis of the eight hours. On the other hand, if the technician was in a non-paid leave status for the remaining seven duty hours, the hazard pay would be computed on the basis of one hour.

d. Hazard differential pay may be paid to employees (GS) who are assigned to and perform any irregular or intermittent duty specified in appendix, Subject: Schedule of Differentials Pay, OTAGNC Pam 690-1, when that duty is not usually involved in carrying out the duties of the position. Hazard differential pay may not be paid an employee when the hazardous duty has been taken into account in the classification of their technician position unless the hazard has significantly changed since position was classified and employee personally can't reduce the hazard.

e. Hazard differential pay shall not be paid to a volunteer, that is, an employee who undertakes to perform a hazardous duty on their own without proper authorization either expressed or implied.

f. Each supervisor and authorizing official shall have as their objective the elimination or reduction to the lowest level possible of all hazards and working conditions of an unusual nature. The existence of hazard differentials is not intended to condone work practices, which circumvent Federal and State safety laws, rules and regulations.

g. It is recognized that identification of hazards, or working conditions, of an unusual nature will be on a continuing basis. When local situations or circumstances arise which are identified as potentially authorizing entitlement to appropriate HDP, a request must be submitted to the HRO for review, in accordance with OTAGNC Pam 690-1.

SECTION 14-4 - Responsibilities:

a. Human Resources Office.

(1) Insure compliance with directives.

(2) Publish the State HDP Program

(3) Provide advice and assistance to supervisors, managers and technicians.

(4) Act on request and recommendations relative to HDP situations.

(5) Appoint an HDP committee consisting of management and a Labor Organization Representative.

b. Management/Supervisors.

(1) Designate authorizing officials for certifying payment of HDP on T&A forms/reports.

(2) Keep employees informed of the HDP Plan.

(3) Continually review the work environment for work situations that present a hazard or unusually severe working conditions. Document such situations and submit to HRO office in accordance with appendix, Subject: Request for Approval of HDP Situations, OTAGNC Pam 690-1, format.

(4) Assure that pay entitlements to HDP are recorded on time and attendance reports, when authorized and performed.

(5) Ensure that HDP is authorized only when exposure is necessary and actually takes place.

SECTION 14-5 - Additions to HDP Schedule:

a. All requests for the establishment of a locally identified payable HDP category will contain at a minimum, the following information: A description of the work situation; the location(s) of identical work situations; classification and grade levels of technicians performing the work; appropriate technical instructions; all applicable safety directives covering the work situation; safety and/or environmental health report on the work situation; a description of the unusually severe hazard, physical hardship, or working condition; and why it cannot be overcome or eliminated. If the work situation involves an explosive or incendiary device, hazard classification information must also be included. Accident records must be submitted if the HDP category is only payable when the hazard, physical hardship, or working condition of an unusually severe nature has not been practically eliminated by protective devices and/or safety procedures.

b. The following format will be used to request additions to the HDP schedule.

(1) Category of hazard or working condition.

(2) Nature of exposure to show clearly that the hazard or working condition, which results from the exposure, is of an unusual nature.

(3) Degree to which the employee is exposed to the hazard or working condition.

(4) Period of time during which the exposure will continue to exist.

(5) Degree to which control may be exercised over the hazard or working condition.

(6) Rate of HDP recommended to be established.

(7) Job title and job number of personnel involved.

SECTION 14-6 - Administration:

a. HDP will be administered in accordance with NGB Pam 37-105-1, Technician Time and Attendance procedures.

b. Request for approval of HDP situations must be initiated in three (3) copies by first line supervisor using memorandum format as indicated in appendix, Subject: Request for Approval of HDP Situations, OTAGNC Pam 690-1. Request should be submitted through supervisory channels for comments, to the HRO office. One copy should be held in suspense file by requester and original and one (1) copy forwarded to the HRO office.

c. Performance of HDP will be reported on the appropriate individual Time and Attendance Report and submitted to Technician Pay Branch as required so as to cause pay action in a timely manner.

SECTION 14-7 - Appeals:

An appeal of a denial of an EDP/HDP situation will be initiated as Step-4 grievance in accordance with the LMRA. A grievance of this nature will only be initiated after the EDP/HDP committee has reviewed the situation and issued its findings.

ARTICLE XV - POSITION DESCRIPTIONS AND CLASSIFICATION

SECTION 15-1 - Scope of Employment:

Upon appointment, a technician will be assigned to duties in accordance with the technician position description. Each technician will be provided with a copy of the position description for the position to which assigned. The technician position description prescribes the principal duties. Technicians may be required to perform duties other than these reflected as principal duties of the position description. Consequently, each position description contains the statement, "Performs other duties as assigned." Generally, other duties as assigned are related to the technician position requirements and qualifications and are of an incidental nature. Technicians may be required to perform other duties, which might not be reasonably related to a technician's position. As an example, these duties may include, but are not necessarily limited to, work during emergency situations, work to support the unit mission, work when temporarily assigned to a remote duty site, or when work specified in the position description is not available. These duties should be kept to a minimum and rotated among employees.

SECTION 15-2 - Changes in Position Description:

It is agreed that technicians will be encouraged to discuss any changes or inaccuracies with their supervisors. Technicians who believe that their position is improperly classified are encouraged to first discuss the matter with their immediate supervisor. Arrangements may also be made for technicians and their supervisors to confer with representatives of the Human Resources Office and the local Labor Organization in an effort to informally resolve such matters.

SECTION 15-3 - Appeals:

If the matter cannot be informally resolved, technicians shall be furnished with information concerning their appeal rights and procedures set forth for classification matters. The Human Resources Office (HRO) shall advise and assist technicians on procedural aspects of filing classification appeals. The right to appeal classification without fear of restraint, prejudice, or reprisal is retained by all employees.

SECTION 15-4 - Review of Position Description:

a. The Employer and the Labor Organization will encourage technicians to periodically review their position description for the position they occupy and to report significant changes in responsibilities and duties to their supervisor. Changes to an official position description may be initiated by the technician in coordination with the supervisor or by the supervisor. The proposed changes must be forwarded to the HRO for review and approval. The HRO will respond in writing to all requests for local changes in position descriptions. Situations, which cannot be resolved at the local level, will be forwarded to NGB for settlement. The Labor Organization will be informed by the HRO of all classification appeals.

b. The Employer agrees to conduct negotiations with the Labor Organization when there are changes in the organization structure, which affects the working conditions of the technician workforce. The Labor Organization will be provided the opportunity to review the procedures followed by the Agency and will also be provided an opportunity to review the revised position description.

c. OPM or NGB grading standards, as appropriate, will be provided to the Labor Organization upon request.

ARTICLE XVI - PERFORMANCE APPRAISAL SYSTEM

SECTION 16-1 - General:

- a. This article addresses the technician performance appraisal system as it applies to bargaining unit members.
- b. Responsibilities and procedures for seeking adjustment to a performance appraisal and performance standards will be accomplished in accordance with OTAGNC REG 690-430 and the provisions of this agreement. The provisions of this article will take precedence over the OTAGNC REG 690-430, where conflicts exist.

SECTION 16-2 - Responsibilities:

- a. Supervisors.
 - (1) Meet with each subordinate technician to receive their views in establishing performance standards and critical elements of their position. Performance standards will be developed from the official position description for the position in question and will be based upon organizational requirements pertinent to the incumbent's normal technician duties and responsibilities. The supervisor retains the right to establish the actual performance standards and critical elements for the position and will ensure that the written standards are measurable and documented in terms of quality, quantity, and timeliness.
 - (2) Meet periodically (at a minimum semi-annually) with their subordinates to provide an evaluation of their performance as compared to the established performance standards for their position. All performance counseling sessions will be recorded on the technician's Supervisor's Brief. All performance counseling sessions will be conducted in accordance with Article IX of this agreement.
 - (3) Use only the established performance standards to appraise technician performance.
 - (4) A technician who is in extended light duty status will have their performance appraisal held in abeyance until one hundred twenty (120) days after return to normal duties.
 - (5) See Article XVIII merit promotion and placement opportunities under detail and temporary assignment.
 - (6) The evaluation of a technician's performance of assigned duties is paramount in the evaluation process. Items of a disciplinary nature will not be used as part of that measurement.

b. Technicians.

(1) Participate in and agree in the writing of performance standards and critical job elements for their position.

(2) Advise their supervisor when there is a need to revise performance standards and critical elements at any time during the appraisal period.

(3) Technicians may request to meet with their supervisor during the rating period to review their performance as compared to the established performance standards.

(4) If work requirements change after the performance standards have been established or if for any other reason it is determined that modifications need to be made to the employee's performance plan, such changes should be accomplished in accordance with Section 16.2a(1), above.

SECTION 16-3 - Levels of Performance:

The Employer has established a performance evaluation system comprised of three rating levels. As long as the Employer continues to use a three-tier rating system, the ratings as defined below shall be used to determine the overall rating of record score:

Exceeds

Meets

Does not Meet

SECTION 16-4 - Personnel Actions Based upon Performance:

a. Within-grade increase. To be eligible for a within-grade or a step increase, overall performance must be at the Meets level or higher.

b. Awards. Technicians demonstrating an overall level of performance that exceeds the performance standards will be considered by their immediate supervisor for recommendation for an award under the technician incentive awards program.

c. Training. It is recognized that training is a valuable means of assisting the technician in improving performance. Counseling sessions between supervisor and technicians may result in the identification of specific training needs. Recommendations for training should not be limited to less than the Meets level of performance, but will be made available to assist a technician to achieve a higher level of job performance and proficiency. Thus, training may be remedial or developmental and may be applicable to developmental and journeyman level positions.

SECTION 16-5 - Sub-standard Performance/Performance Improvement Plan (PIP):

The Performance Improvement Plan is an action that will be implemented by the supervisor when it becomes apparent that the employee is performing his/her duties less than Meets (sub-standard) on one (1) or more critical elements of their performance standards.

a. The supervisor is responsible to provide an opportunity for the employee to improve the substandard performance by establishing a formal PIP. The PIP serves to notify an employee of the need to improve performance, to identify specific performance deficiencies, and to identify what must be done to improve performance.

b. The supervisor will develop a PIP for Does Not Meet ratings that address specifically the deficiencies of the employee. The PIP will outline the methods, if appropriate, and the subject area element needing improvement. Employees will be assisted in improving areas of sub-standard performance by proactive counseling, increased supervisory assistance, additional training, etc. An employee, not in a probationary period, cannot receive a "does not meet" rating unless a PIP is implemented not less than 3 months prior to appraisal period ending. The PIP will not run less than thirty (30) days or more than ninety (90) days.

c. When the PIP is issued, consideration should also be given to referring his/her employee to the Employee Assistance Program (EAP) Coordinator.

d. If the employee's performance in any critical element continues to be sub-standard despite the efforts by the supervisor or manager to improve performance, the employee and his representative will be advised that the employee may be reassigned, reduced in grade or removed from employment. Before initiating a reduction in grade or removing an employee from sub-standard performance, consideration may be given to reassignment to another position for which the employee is qualified.

e. No action based on sub-standard performance may be taken until critical job elements and performance standards have been identified in writing; the employee has been given a copy of these standards, and the employee has been given an opportunity to improve his/her performance.

f. Upon the completion of the PIP, the appropriate supervisor shall inform the employee of either sufficient improvement or failure to improve.

g. Should a determination be made to reduce in grade or remove from employment following the formal PIP, an employee is entitled to:

(1) A minimum thirty (30) day advance written notice of the action to be taken (reduction in grade or removal), which identifies the critical job element(s) and documented instances of sub-standard performance on which the action is based. This advance notice must be concurred by an official who is in a higher level position than the immediate supervisor. This is not a

proposed notice, but is to be considered as the final notice of action to be taken because before this step, the employee would have been given adequate assistance and time to improve performance.

(2) If an employee submits a request to his/her supervisor to change an Does Not Meet performance appraisal, the supervisor will carefully review this information and advise the employee in writing whether the Does Not Meet performance appraisal was sustained or will be changed. The employee has the right to appeal or grieve the Does Not Meet performance appraisal.

SECTION 16-6 - Development of Performance Standards:

NGB TPR 430, dated 1 Oct 97 will be used as a guide in the development of performance standards and identification of critical elements.

a. The supervisor, with technician participation, will establish performance standards and critical element, and then sign and date the form, OTAGNC Form 690-26. Performance standards and critical elements should be an accurate reflection of duties to be performed.

b. When a supervisor and technician cannot agree on critical job elements and performance standards, the supervisor, with concurrence of the reviewing official, will make the final determination.

c. The technician has the right to grieve at any time the content of performance standards that fail to incorporate law, rule, regulation, or official position description.

d. A completed copy of the performance standard will be provided to the technician at the beginning of the appraisal period and whenever a revision occurs.

e. It is encouraged that performance standards be established to meet or exceed Excellent appraisal levels that can clearly be distinguished from fully acceptable performance.

SECTION 16-7 - Definitions:

a. Appraisal period. The period of time, normally one (1) year but not less than one hundred-twenty (120) days, for which a technician's performance will be appraised.

b. Appraiser. The individual most responsible for the technician's performance, establishing performance standards, counseling the technician on the critical and major job elements, and appraising the technician based on pre-established, mutually understood performance standards.

c. The individual will be given a copy of his/her performance appraisal from the rater prior to forwarding to the reviewer for signature.

- d. Reviewer. Normally, the second level supervisor in the supervisory chain.
- e. Approving Official. A management official in the supervisory chain at a level higher than the reviewing official.
- f. Performance standard. A description of the level of achievement, including quality, quantity, and timeliness, necessary to achieve Meets standards of the duties and responsibilities of the position.

SECTION 16-8 - Trial/Probationary Periods:

The first year of continuous employment constitutes the trial/probationary period. New employees are to be carefully observed and counseled during the trial/probationary period, to determine whether they have the qualities needed for permanent government services. During this period, supervisors should provide specific training and assistance to improve the employee's work performance if needed. For retention beyond the trial/probationary period, the employee's work performance must minimally be at the 'Meets or Exceeds criteria' level.

- a. The Employer agrees to advise a probationary employee of his progress prior to the end of the ninth (9) month of their probationary/trial period, unless removal actions have been taken prior to the end of the ninth (9) month.
- b. An employee serving a trial/probationary period is not to be given an official performance appraisal until after completing the required twelve (12) months of Federal service. After completing the twelve (12) months of service, he will be given an official performance rating in accordance with the established performance period.
- c. If retention is not recommended, supporting documentation will be forwarded to the HRO who will then advise the supervisors and managers on taking the appropriate action to remove the employee from Federal service, such decision to terminate the technician can not be appealed, using the provisions of TPR 430, nor can it be grieved utilizing the negotiated grievance procedures of this Labor Agreement.

SECTION 16-9 - Appraisal of Union Officials:

The time spent away from the assigned job by union representatives in the performance of their representational duties will not be taken into account when accomplishing a performance appraisal. The performance appraisal will be based solely on the performance of their officially assigned work.

SECTION 16-10 - Appeals:

- a. Technician performance appeals will be submitted in accordance with the provisions of TPR 430.

- b. Grievances will be processed in accordance with Article 5 of this contract.
- c. The employee has the right to grieve at any time the content of a performance standard:
 - (1) Which fails to incorporate law, rule or regulation.
 - (2) Which does not accurately reflect the actual duties performed.

ARTICLE XVII - INCENTIVE AWARDS

SECTION 17-1 - General:

The Labor Organization and the Employer agree that a well managed Incentive Awards Program can greatly benefit the technician program and be of real significance in improving the morale and well-being of the work force. The Employer will continuously publicize all aspects of the program and the Labor Organization will undertake to encourage technician participation. The Incentive Awards Program will be centralized into one committee with representative from each major command. Each major command or activity listed below will be responsible for appointing a representative to serve on the committee. A representative will be appointed from each MACOM, and the JFHQ-NC Staff.

SECTION 17-2 - Program Objectives:

Incentive awards are an effective means to achieve greater efficiency, economy, and improvement of operations in the technician program by encouraging active participation of technicians. The program recognizes and rewards technicians, individually or collectively, for achievements and suggestions contributing to the efficiency, economy, or other improvements, as well as those who perform outstanding special acts or services in the public interest in connection with official employment.

SECTION 17-3 - Program Scope:

The Incentive Awards Program addresses awards or recognition in the following areas:

- a. Suggestions;
- b. Inventions;
- c. Sustained superior performance (SSP) (special achievement awards);
- d. Special acts or services (special achievement awards);
- e. Length of service recognition;
- f. Honorary awards and other methods of recognition;
- g. Letters of commendation or appreciation;
- h. Quality salary increases (QSI);
- i. On-the-spot cash awards;

j. Time Off awards.

k. Medals as appropriate.

SECTION 17-4 - Program Administration:

The parties agree that the details outlining the purpose, scope, and administrative procedures relating to the Incentive Awards Program are published in OTAGNC Pam 690-1, and further defined in this article.

SECTION 17-5 - Incentive Awards Committee:

Incentive award committees will be established by the Employer and will serve all technicians in the North Carolina Army National Guard.

SECTION 17-6 - Program Promotion:

The Employer agrees to provide for maximum publicity of the technician Incentive Awards Program. This publicity shall be in an appropriate format, e.g., posters or articles in material published by the Human Resources Office so as to attract broad and continued attention to the program at various work locations.

SECTION 17-7 - Minutes of Meetings:

Copies of committee minutes will be provided quarterly to the Labor Organization President or Executive Vice-President for review.

ARTICLE XVIII - MERIT PLACEMENT PROGRAM FOR THE NORTH CAROLINA ARMY NATIONAL GUARD

SECTION 18-1 - Purpose:

This Article establishes procedures and provides information on the Technician Merit Placement Program for excepted and competitive positions in the North Carolina Army National Guard. It will be used in filling positions in the excepted and competitive service through initial appointment, promotion, reassignment, reinstatement, demotion, transfer and;

- a. To provide an incentive for technicians to improve their performance, to develop knowledge, skills, and abilities (KSA).
- b. To provide attractive career opportunities and upward mobility for technicians. Management officials have a special responsibility for seeing that violations do not occur either by error or design.

SECTION 18-2 - Policy:

It is the policy of the North Carolina Army National Guard that all technician positions be filled by the best qualified individuals available and to ensure that all technicians have an opportunity to develop and advance to their full potential and be provided consideration for positions in which they apply and qualify. All technician vacancies will be filled on the basis of merit and job-related factors. For purposes of this plan, military requirements are considered as job-related qualifying factors for positions in the excepted service. All actions under this plan will be made without discrimination for non-merit reasons such as race, color, religion, gender, national origin, marital status, membership or nonmembership in an employee organization, and age or nondisqualifying physical handicap (except for military requirements for excepted technicians).

- a. This article will be used for filling all bargaining unit vacancies in the excepted and competitive services of the Employer's work force and will be used for all competitive actions.
- b. To present for the employer's consideration qualified applicants.
- c. To give applicants an opportunity to receive fair and appropriate consideration for higher level jobs.
- d. To provide an incentive for employees to improve their performance and develop skills, knowledge, and abilities.
- e. To provide attractive career opportunities.

SECTION 18-3 - Definitions:

a. Interviewing Panel. Normally, the interviewing panel will consist of the firstline supervisor; a subject matter expert, from the employing facility if available; and one member from outside the employing facility.

b. Reviewing Official. The HRO is the reviewing official for all recommendations prior to approval by The Adjutant General. If the position has applicants that are female or minority, a female or minority representative, as appropriate, if available and qualified, will serve on the interviewing panel.

c. Final Approving Authority. The Adjutant General is the final approving authority on all technician selections.

d. Entry Level Positions. Those positions that are normally the lowest paid positions with that technician's career field.

SECTION 18-4 - Responsibilities:

a. The Adjutant General is the appointing authority for the North Carolina National Guard Technician Program, and is the highest level of authority concerning the overall application of the Merit Placement Program.

b. The HRO is responsible to The Adjutant General for insuring that the requirements of this Merit Placement Program are carried out. The HRO will:

(1) Develop, maintain, evaluate, and revise the program as necessary.

(2) Assure compliance with the program.

(3) Provide guidance and assistance to commanders, managers, and supervisors concerning their responsibility under this program.

(4) Assure that candidates are properly evaluated and certified for placement.

(5) Maintain necessary records.

c. Managers and supervisors will:

(1) Assure that technicians under their supervision are aware of this program.

(2) Assure that actions effected within their area of responsibility are based on merit without discrimination.

(3) Encourage technicians under their supervision to participate in developmental opportunities and to apply for positions for which qualified.

(4) Recommend changes to this program to the HRO.

d. Individual technicians are responsible for:

(1) Pursuing developmental opportunities in preparing to assume higher level duties.

(2) Familiarizing themselves with the provisions of this program.

(3) Assuring that application forms contain accurate and current information concerning qualifications and self-development activities.

(4) Arranging with the HRO to submit applications for vacancies in which they are interested when temporarily absent from their jobs.

SECTION 18-5 - Management's Rights:

Recognizing that it is essential to the mission of the North Carolina National Guard that technician positions be filled with the best-qualified individuals available, management retains the right to:

a. Select or not select from among a group of certified individuals.

b. Select candidates from any appropriate source most likely to best meet the mission objectives of the North Carolina Army National Guard.

SECTION 18-6 - Actions Exempt from Competition:

a. Promotion due to issuance of new classification standards or the correction of a classification error.

b. Placement of technicians entitled to grade retention for a period of two (2) years as a result of RIF, reclassification, or management requested change to lower grade.

(1) Technicians will be afforded priority placement in positions for which they meet the qualifications. This placement action will precede normal placement actions.

(2) If there is more than one eligible technician in grade retention status, the recommending official will be given a list of eligible technicians from which to make a recommendation.

c. Promotion when competition was held earlier, i.e., position advertised with known promotion potential.

d. Re-promotion to grade or an intervening grade or position from which a technician was demoted without personal cause and not at his or her request. Technicians who believe they are entitled to such consideration should forward their request to the HRO.

e. Promotion resulting from a technician's position being reclassified at a higher grade because of additional duties and responsibilities.

f. Management or voluntary reassignment of technicians to positions in the same grade and pay plan and having no higher promotion potential. Consideration will be given to the impact such action may have on the potential upward mobility for other technicians.

g. Position change required by RIF regulations.

h. Temporary promotion of one hundred twenty (120) days or less.

i. Detail to a higher graded position or to a position with known promotion potential for one hundred twenty (120) days or less.

j. Selection of a former technician from Reemployment Priority List for a position at the same or lower grade than the one last held.

k. Prior permanent DOD employees (excepted and competitive) who:

(1) Were in tenure 1 at time of separation may be reemployed to a position at the same or lower grade as the position from which separated.

(2) Were in tenure 2 may be reemployed without competition within three (3) years of separation to a position at the same or lower grade as the position from which separated.

(3) Placement as a result of priority consideration when a candidate was not previously given proper consideration in a competitive action.

SECTION 18-7 - Vacancy Announcements:

a. If a position description (PD) indicates that it can be filled excepted and/or competitive, the position may be advertised excepted, competitive, or both if the mix of the force codes allow.

b. As a minimum, the vacancy announcement will contain the following information:

(1) Title, position description control number, series, grade, and salary range of the position.

(2) Type of appointment - excepted or competitive.

(3) Military requirements (officer, warrant officer, enlisted) and compatibility requirements.

(4) Organizational and geographical location of the position.

(5) Summary of duties, minimum general and specialized qualification requirements, and knowledge, skills and ability factors (KSA). A minimum of three to eight KSA factors will be used.

(6) Information regarding known promotion potential, if applicable.

(7) Opening and closing dates and how to apply.

(8) Equal Employment Opportunity statement.

(9) Designated security clearance, if required.

(10) Special conditions of employment or developmental training, if applicable.

(11) Area of consideration.

(12) Freedom of Information and Privacy Act.

(13) Announcement Number.

SECTION 18-8 - Posting of Announcements:

Vacancy announcements will normally be advertised for a minimum of fifteen (15) calendar days for technician positions and 30 days for statewide advertisements. To insure that all interested persons are aware of the vacancy, announcements will be posted conspicuously throughout the area of consideration in those areas most accessible to all members of the North Carolina Army National Guard. Supervisors of Labor Organization Officers will provide one copy of vacancy announcements to that officer for internal Labor Organization use.

SECTION 18-9 - Areas of Consideration:

The area of consideration for each specific position vacancy announcement will be that deemed most appropriate by the HRO to insure the receipt of sufficient highly qualified candidates. The type of position, availability of candidates, position qualifications, budgetary limitations, and compatibility requirements will be considered in determining the area of consideration. Management can extend the established area of consideration for a particular placement action when it has been determined that the initial area may not or did not provide a sufficient number of highly qualified candidates. The following is a list of those established areas of consideration:

a. Category I - Qualified, currently full time technicians working at the location specified in the job announcement at which the vacancy exists.

b. Category II - Qualified, currently full time technicians of the North Carolina Army National Guard.

c. Category III -

(1) Excepted - Qualified members of the North Carolina Army National Guard.

(2) Competitive - Qualified non-technician individuals who have transfer, career/career-conditional appointment or reinstatement eligibility, veterans and disabled individuals eligible for special appointment authorities.

d. Category IV - Qualified individuals applying for Excepted service positions who are eligible for membership in the North Carolina Army National Guard.

SECTION 18-10 - Application Procedures:

The application is the basic document by which the individual's qualification for the position is determined. It must, therefore, reflect the applicant's current and past employment data as well as military duty assignments, qualifications, and training. Complete and accurate data is essential to insure proper evaluation of applicants. In fairness to all applicants, only information contained on the application will be used. Applications will be submitted as follows:

a. Applicants should compare their personal qualifications with the qualification requirements as stated in the Position Vacancy Announcement. Applicants who do not possess the basic qualifications required for the position may not be considered.

b. Applications will be postmarked no later than the closing date specified on the vacancy announcement, unless it falls on a holiday, which will make it due the following work day.

c. The vacancy announcement will specify the forms to be used.

d. Individuals applying for positions requiring commissioned officer or warrant officer status, who do not possess the required status, may be considered if the application contains a signed statement of eligibility by the appropriate Military Personnel Officer. An individual selected for an officer or officer/warrant officer position may not be appointed, promoted, reassigned, or detailed into the new position until receipt of Federal recognition. Assignment must be in a military position compatible with the technician position unless an approved waiver is received from the National Guard Bureau.

e. Technicians whose absence may preclude them applying for a vacancy, may have a current application on file and request in advance that their applications be submitted for them by the HRO in a particular career field.

SECTION 18-11 - Processing Applications:

a. **Basic Eligibility.** Candidates must meet the basic qualifications established for the position including any selective placement factors. Applicants who meet the minimum qualifications will be considered basically eligible. OTAGNC Form 690-4 will be used to document the basic eligibility by summarizing the contents of the application.

b. **Selective Placement Factors.** Selective placement factors are the knowledge, skills, abilities, or other personal characteristics absolutely essential for satisfactory performance of the job. They will be determined in advance of advertising a position and will be stated in the vacancy announcement. When required, they are part of the basic eligibility requirements for the position.

c. **Certification.** The Personnel Staffing Specialist will review all applications to determine basic eligibility. A Subject Matter Specialist may be used if desired. All qualified applicants will be forwarded for consideration.

d. **Notification to Individuals Not Certified.** Individuals, not meeting the minimum qualifications for the position, will be notified by the HRO Staffing Specialist. The notification will include a statement as to what basic qualifications were lacking. Applications will be maintained in the vacancy announcement file for a period of two years and then destroyed.

e. **Appeal Rights:** Individuals may appeal non-certification by immediate notification to the HRO. The HRO will furnish guidelines as to requirements for filing a formal appeal. This appeal must be filed in writing no later than five (5) working days from receipt of notification of non-certification. The appeal should be specific as to which areas the individual thinks should be reconsidered.

SECTION 18-12 - Interview Applicants:

Those certified for interview will be listed on the OTAGNC Form 690-4 by category. If any individual is interviewed out of a particular category, all individuals in that category must be interviewed. However, there is no need to interview personnel in categories II, III, and IV if the applicant is selected from category I. A telephone interview may be used if requested by or agreed to by the applicant. All applicants must be interviewed by the same interviewing panel.

SECTION 18-13 - Human Resources Office Action:

a. The Human Resource Office will notify the individuals on the certificate (OTAGNC Form 690-4) of the selection.

b. The HRO will notify the candidates as to any reason for the delay of fill (e.g., lack of funding).

SECTION 18-14 - Release of Selectee:

After selection for promotion/placement, employees will be released promptly from their present position. Release will normally be within two (2) weeks after the selection.

SECTION 18-15 - Placement/Promotion Records:

a. Purpose. Complete promotion records will be maintained by the HRO to:

- (1) Provide a clear record of the action taken.
- (2) Evaluate the merit placement program.
- (3) Provide proof that merit placement actions are being made on a fair and equitable.

b. Records Required. Sufficient records are required to allow reconstruction of the placement action. As a minimum, the following information and forms will be retained in the records:

- (1) A copy of the vacancy announcement.
- (2) The certification of eligibles.
- (3) A NGB Form 300-2, "Evaluation of Applicant's Qualifications," for each applicant.
- (4) All forms used in evaluation and rating process.
- (5) All endorsements relating to recommendation or non-recommendation and approval.

c. Duration. Merit Promotion records will be maintained for a minimum of two years. If a grievance or other action is pending, records will be maintained until resolution.

d. Privacy Protection. Information relating to individual placement action or to the candidate will not be discussed with or shown to unauthorized individuals. Supervisors and personnel specialists participating in merit placement actions will not disclose the details of their work to unauthorized persons.

SECTION 18-16 - Competitive Vacancies:

a. Types of Competitive Vacancies. Management in conjunction with the HRO will determine which of the following methods to use in filling competitive positions:

- (1) Career-Conditional
- (2) Career

SECTION 18-17 - Grievances and Complaints:

a. Grievance. An applicant who believes that proper procedures were not followed in a particular action for which they were an applicant may present a grievance under the agency or negotiated procedures, as appropriate. A grievance will not be considered when it is based solely on non-selection; however, an individual's qualifications and/or experience may be grieved. If an individual does not choose to file a grievance, the Labor Organization may file a grievance for any procedural violation of a particular action.

b. Other. Other complaints or inquiries including those made by non-technician candidates should be directed to the HRO. All such inquiries will be considered and every effort made to resolve such complaints.

SECTION 18-18– Temporary Promotion:

Temporary Promotion- a way to meet a situation requiring the temporary service of a technician in a higher graded position. Promoting a technician recognizes the increased responsibility and properly compensates them for the work being performed. Procedures for temporary promotion are outlined in OTAGNC Pam 690-1, Para 3-3.

ARTICLE XIX - REDUCTION IN FORCE

SECTION 19-1 - General:

a. A reduction in force (RIF) occurs when a technician is released from his or her competitive level by separation, change to lower grade, furlough for more than thirty (30) days, or reassignment involving displacement of another technician. Such action may be due to a lack of work or funds, reorganization, transfer of functions, or the need to place a technician exercising restoration rights.

b. The following actions do not constitute a RIF.

(1) Separation of technicians who fail to accompany a transfer of function.

(2) Management reassignment of a technician to a vacancy at the same grade or representative rate.

(3) Termination of temporary Technicians.

(4) Downgrades as a result of reclassification.

(5) Termination of temporary promotions.

(6) Elimination of technicians through disciplinary/adverse action procedures.

(7) Furlough of thirty (30) days or less.

SECTION 19-2 - Policy:

a. A RIF will be accomplished in accordance with the procedures outline in TPR 351 and the specific terms of this article.

b. The Employer will designate the specific area for RIF after consultation with the Labor Organization.

c. The Employer agrees to consider all reasonable actions to avoid or minimize the impact of a RIF. Consideration will be given to curtailing recruitment or promotion in the geographical or specialty area affected by the RIF. Existing vacancies will be considered to retain qualified technicians who would otherwise be separated. Every effort will be made, within budgetary restraints, to retain technicians affected by a RIF to prevent separation.

SECTION 19-3 - Employer Responsibilities:

The employer agrees to:

- a. Notify the Labor Organization of an impending RIF action within sixty (60) work days of receipt of NGB's notice in the HRO. The Employer further agrees to provide a detailed explanation of the procedure, which will be used, for implementation of the RIF.
- b. Allow the Labor Organization a reasonable opportunity to review the implications of the RIF and respond not later than ten (10) work days with suggestions.
- c. Meet with the Labor Organization to explain the need for a RIF and the procedures to be used for implementation.
- d. Provide briefings, as appropriate, to keep the technician work force informed.
- e. Assure that applicable regulations are available for review by the Employer, the Labor Organization, and technicians concerned.
- f. Review criteria to determine the need for a major RIF and provide applicable counseling.
- g. Develop an aggressive placement program for adversely effected technicians.

SECTION 19-4 - Competitive Area:

A competitive area is the area designated by the Employer within which technicians compete during a RIF and is described geographically, organizationally, or a combination of both. The competitive area must be large enough to permit adequate competition among technicians, and yet be limited to the point of being administratively manageable.

SECTION 19-5 - Competitive Level:

- a. A competitive level consists of all positions within a competitive area which are in the same grade, same type of service (excepted or competitive), and are so alike in qualification requirements, duties, and responsibilities that the incumbent can be moved from one position to another without undue interruption to the work program. The establishment of competitive levels is the responsibility of the HRO.
- b. Separate competitive levels are required within the same series and grade and within the same trade or occupation when differences exist. Areas to be considered are recruitment, training, or areas of assignment.
- c. A competitive level may consist of only one position when that position is not interchangeable with or similar to other positions.

d. Excepted technicians (those who require military membership) will not be placed in the same competitive level as competitive technicians (those who do not require military membership).

e. Supervisory positions will not be placed in same competitive level as non-supervisory position.

f. A non-bargaining unit technician will not compete with a bargaining unit technician for a bargaining unit position when the former was the appraiser for the latter and both would subsequently appear on the same retention register.

SECTION 19-6 - Establishment of Retention Registers:

a. The Employer will establish a retention register before releasing technicians from their competitive level. The register will show competing technicians in descending order starting with the highest score first. The retention register documents any action being taken and is maintained for every RIF action, even when the released technician occupies the only position in the competitive level.

b. When a retention register is established, it will list all competing technicians in descending order by tenure group I, II, and III. The technician's correct tenure group is shown in Item 7, SF 50. Tenure groups are defined as follows:

TENURE GROUP I

EXCEPTED SERVICE

Includes permanent technicians whose appointments carry no restriction or condition such as conditional, indefinite, or special time limitation, or trial period.

COMPETITIVE SERVICE

Includes technicians serving under career appointments who either have completed initial appointment probation or not required to serve initial appointment probation.

TENURE GROUP II

EXCEPTED SERVICE

Includes technicians who are serving trial periods, or whose tenure is equivalent to career conditional tenure in the competitive service in agencies that use that type of appointment system.

COMPETITIVE SERVICE

Includes technicians serving under career conditional appointments, and career employees serving initial appointment probation.

TENURE GROUP III

EXCEPTED SERVICE

Includes technicians whose tenure is indefinite; that is, without specific time limitations, but not actually or potentially permanent, or with a specific time limitation of more than one year; also, technicians who, though currently under appointments limited to one (1) year or less, complete one year of current continuous employment.

COMPETITIVE SERVICE

Includes indefinite technicians, technicians under temporary appointments pending establishment of registers, technicians under term appointments, technicians in status quo, and technicians under any other nonstatus/nontemporary appointments.

c. Retention standing within each tenure group is established by using the following criteria:

(1) Employees are listed in descending order, within their competitive levels, starting with the employee with the most points. They shall be classified on a retention register on the basis of their performance, tenure of technician employment, length of service, in descending order as follows:

(a) By tenure group I, group II, group III, and

(b) Within each group by performance, tenure of technician service beginning with the earliest Technician Service Date.

(2) An employee's performance rating score shall be based on the employee's three most recent annual performance ratings. Performance rating scores are as follows:

Exceeds	10 points
Meets	8 points
Does Not Meet	0 points

(3) The North Carolina National Guard Technician Service date will be used as a tiebreaker if two or more technicians in the same tenure group have the same retention score.

(4) Technician Service Date (TSD) will only be used as a second tie-breaker in the event that two or more technicians have the same retention standing and service computation date.

(5) If needed as a third tiebreaker the Service Computation Date will be used. This date is the total length of federal service credited for retirement purposes.

d. The Labor Organization will be given the opportunity to review the retention register(s) established in conjunction with the RIF.

SECTION 19-7 - Performance Appraisals:

The Employer will establish a single, official date of issuance of all specific RIF notices for each RIF in each separate competitive area. The date will be the same for all competing technicians.

SECTION 19-8 - Release from Competitive Levels:

a. When a RIF requires the release of one or more competing technicians from a competitive level, all technicians in group III are selected for release before any in groups I or II, and all in group II before any in group I. In each group, technicians are selected for release in the order of their retention score, beginning with the lowest score.

b. When a major RIF is declared, technicians who work in the area affected by the RIF may qualify for and accept voluntary retirement.

The Employer will tender replacement offers to those technicians affected by RIF IAW TPR 300 (351), dated 22 November 1993.

SECTION 19-9 - Minimizing the Effects of RIF through Early Retirement:

A technician may request early retirement under the following conditions:

a. When OPM has determined that such action is a major RIF, major reorganization, or a major transfer of function is about to occur.

b. During the limited time set by TPR 300 (351), dated 22 November 1993.

c. The technician must have served for at least one year under the Federal Retirement System within the two (2) years period immediately preceding the separation upon which the annuity is based.

d. The technician must have been on the Agency rolls thirty (30) calendar days before the date of the Adjutant General's request to OPM/NGB for the Major RIF determination.

e. The technician must meet appropriate guidelines.

SECTION 19-10 - Reduction In Force Notice:

a. General Notice. When it cannot be determined what specific personnel actions will take place during a RIF, general notices may be issued. A general notice must be supplemented by a specific notice before a technician can be released from his competitive level.

b. Specific Notice. Before releasing a technician from his competitive level, he must be given a specific notice that states clearly what action will be taken and the effective date of such action. The technician must receive the notice at least sixty (60) calendar days before the date of release. A Saturday, Sunday, or legal holiday may not be counted as the last day of the period. Likewise, specific notices may not be issued or made effective during the period 15 December through 3 January.

c. Specific Notice Information. The following information, as applicable, is to be included when preparing a specific notice of reduction in force.

- (1) Reason for the reduction in force.
- (2) Specific action to take place (e.g., separation, furlough, offer of change to lower grade, etc.)
- (3) Title, grade, and salary of current position.
- (4) Competitive area and competitive level designated.
- (5) Service computation date, technician service date, and retention rating.
- (6) The position title, grade, salary and location of any position offer or the reason why no offer can be made. Also, include the military grade requirements.
- (7) Reasons for any exceptions to retention order.
- (8) Effective date of proposed RIF (other than 15 December through 3 January).
- (9) Where the technician may review retention registers and RIF regulations and the HRO personnel specialist to contact for information.
- (10) Appeal rights, how to file them, and any time limits imposed.
- (11) A clear explanation of the technician's grade and/or pay retention entitlement.
- (12) Severance pay eligibility.
- (13) Placement information and eligibility for reemployment priority list.

(14) Discontinued service retirement eligibility.

(15) A request for the technician to acknowledge receipt of the notice and to accept or decline any offer.

SECTION 19-11 - Placement Action:

a. The Employer will take positive action to assist technicians affected by RIF or transfer of function when they previously held competitive appointments and have career status.

b. The positions to be offered will be within North Carolina.

c. The technician is qualified for the position or can meet the prerequisites necessary to qualify for a minimum of training and has the capacity, adaptability, and basic skills needed for the position.

d. It has a representative rate no higher than the rate of the position from which the technicians is being released.

e. Reemployment Priority List. A reemployment priority list must be maintained for tenure groups I and II technicians separated in a RIF. Upon receipt of a specific notice of separation, technicians will be placed on this list, but only if they have not declined an offer that preserves a non-temporary, full-time position in their present grade, step, or equivalent salary. Technicians will remain on this list for two (2) years, unless they decline in writing, accept a full-time position, or decline the offer of a full-time position in the Federal Government.

f. Priority Placement. All technicians entitled to grade retention as a result of RIF will be afforded priority placement for vacant positions. Such placement action will be in accordance with the procedures listed in Part III – National Guard Placement Plan for Technicians under Grade Retention (TPR 300 (351), dated 22 November 1993).

SECTION 19-12 - Appeals:

a. A competing technician may appeal to the Adjutant General when he has received a specific notice of reduction in force, and he believes that the Employer incorrectly applied the provisions of this Article.

(1) An appeal may be submitted upon receipt of a specific notice, but no later than thirty (30) calendar days before the effective date of the action.

(2) The appeal must be in writing and must include the following information:

Name.

SSAN.

Position title, series and grade, and position description control number (PDCN).

Place of employment.

(3) The appeal must clearly state the reason the technician believes the action affecting him is inappropriate, and must show that the Employer failed to comply with the RIF procedures outlined in this Article; e.g., insufficient notice, improper tenure grouping, and errors in service computation date.

b. Extension of Time Limit. The Adjutant General may extend the appeal time limit when the technician indicates that he was not notified of a time limit and otherwise was not aware of it, or that circumstances beyond his control prevented him from appealing within the time limit.

c. Decision on Appeal. The Adjutant General will issue a written decision and, where applicable, direct the HRO to take any necessary corrective action. A copy of the decision stating what corrective action will be taken is then forwarded to the technician. The decision of the Adjutant General is final, and there is no further right of appeal. A copy of the decision issued by the Adjutant General will be furnished to the Labor Organization.

d. Corrective Action. The decision of the Adjutant General may require the HRO to take corrective action as follows:

(1) Correct the retention register.

(2) Correct the technician's specific notice.

(3) Restore the technician to his former grade or pay level or one of like seniority, status, and pay when the technician was reduced or separated improperly.

(4) Reimburse the technician for all pay lost as a result of any improper RIF action.

e. When a technician's appeal uncovers an error that does not change the outcome of the RIF the Adjutant General will correct the error without requiring restoration or recall of the technician or technicians involved.

ARTICLE XX - TECHNICIAN TRAINING AND DEVELOPMENT

SECTION 20-1 - General:

The Parties agree that the development and improvement of technician skills through the exercise of training programs are of paramount importance in attaining and maintaining high standards of work performance, progressive work practices, the well-being of our technician workforce, and mission accomplishment. In the furtherance of this recognition, Management will plan, program and budget for training needs, consistent with available assets and program demands. Furthermore, the Labor Organization joins Management in encouraging active support of and participation in self-development training programs by members of the technician workforce.

SECTION 20-2 - Selection for Training:

Selection for a training course established as a condition of promotion eligibility shall be in accordance with Merit Placement Principles.

SECTION 20-3 - Technician Responsibilities:

Individual technicians are responsible for applying effort and initiative necessary to keep abreast of changing technology for their respective occupations. The Labor Organization agrees to stress the benefits derived by the technician in making use of community facilities available for such purposes.

SECTION 20-4 - Consideration of Training Qualifications:

Management agrees that full consideration will be given to a technician's qualifications resulting from training within an accredited institution when such qualifications are presented and are pertinent to the position applied for in accordance with qualification standards.

SECTION 20-5 - Training Documentation:

Management agrees that upon satisfactory completion of formal training the original copy of the DD Form 1556 will be maintained in the office of the Human Resources Development Specialist in the technician training file. The Labor Organization agrees to stress retention of all training documentation to all members of the Unit.

SECTION 20-6 - Quarters:

- a. Before technicians attend military service schools, in a technician status, they will be advised of the school's requirements to the extent possible.
- b. Government quarters must be used, if available, in accordance with Volume II, Joint Travel Regulations (JTR).

c. Technicians will not be required to perform incidental military duties such as charge-of-quarters, barracks chief, officer-of-the day, etc., but will be expected to perform additional duties required of any civilian class member.

d. The employer will expedite as quickly as possible any problems arising due to substandard housing or other conditions not consistent with technician authorizations for quality of civilian TDY accommodations.

ARTICLE XXI - TRAVEL AND TEMPORARY DUTY

SECTION 21-1 - Travel/Per Diem:

a. Travel and per diem will be authorized in accordance with Department of Defense (DOD) Joint Travel Regulations (JTR) Volume II. Technicians will not be directed to perform official travel at their own expense or at rates of allowance or reimbursement inconsistent with the provisions contained in volume II of the JTR.

b. Technician travel orders will be issued when technicians are given work assignments at locations where the combination of actual hours of work and travel time exceedstwelve (12) hours.

c. The government-sponsored charge card shall be used to pay for costs incident to official business travel. The travel card program is intended to facilitate and standardize a safe, effective convenient method to pay for expenses incident to official travel. Unless otherwise exempt, all North Carolina National Guard personnel are required to use the government-sponsored travel card for expenses arising from official travel. Personnel who are exempt from using the card include but are not limited to infrequent travelers, new or temporary employees, whose supervisor determines that the duration of employment doesn't justify issuance of a travel card, technicians who are denied charge cards or whose travel cards have been canceled or suspended. On a case-by-case basis, those technicians who are exempt from using the government-sponsored travel card, may be issued a travel advance, as per OTAGNC 37-1, dated Apr 95. Technicians must use the "Split Disbursement" method of payment for all charges to the government-sponsored travel card

d. In the event advance per diem cannot be paid to a technician assigned to a TDY location and such duty would cause financial hardship, the technician's assignment will be reevaluated and consideration of the circumstances will be given to the effected technician. Removal from such TDY may be appropriate and may be accomplished at the supervisor's discretion.

e. Advance per diem will not be provided for an amount less than fifty dollars (\$50.00).

SECTION 21-2 - Technician Briefing:

Prior to a planned mission in a technician status, affected personnel will be briefed by appropriate management representatives normally not later than five (5) days prior to the technician's departure: The briefing will include, but not limited to, areas concerning pay, allowances, types of travel, types of quarters, use of credit cards and acceptance of them at the TDY location, and the names of supervisors in charge of all aspects of the mission. Under conditions of an operational emergency requiring TDY, whenever possible, technicians will be afforded a seventy-two (72) hour advance notice. Qualified volunteers will be requested and used in such operations. Reference Article 1-7f.

SECTION 21-3 - Quarters:

a. Quarters for technicians on TDY will be based upon the installation's published standards. The actual assignment of quarters is at the discretion of the installation billeting office. If the installation billeting office determines that quarters are not available, a certificate of nonavailability will be provided. Where adequate government quarters are not available, the Employer is responsible to provide transportation between the duty station and quarters when required for accomplishment of the mission. Per diem may be authorized and will be provided consistent with the JTR.

b. Upon return to home station, after completion of a TDY tour, if a technician alleges that quarters were severely inadequate and not in accordance with established regulations, the supervisor will investigate the complaint. The results of this investigation/inquiry will be given to the technician and the Labor Organization, as required. If the Labor Organization finds it necessary, a complaint letter will be forwarded to HRO for future consideration for reimbursement for quarters at that facility.

SECTION 21-4 - Work Performance:

At least two (2) technicians will be assigned to travel together when tasks or travel to be performed cannot reasonably and safely be accomplished by a single technician.

SECTION 21-5 - Credit Cards (Government Charge Card Program):

The issuance of credit cards to bargaining unit members will be consistent with the provision of applicable regulations. The Employer will maintain the ability to provide an alternate method.

SECTION 21-6 - Orders:

a. TDY/travel orders will be issued for duty performed away from the individual's normal duty station when the duty day is expected to exceed twelve (12) hours.

b. When reimbursement for miscellaneous expenses is required, SF 1164 may be utilized in lieu of DD Form 1610 or computer generated orders.

c. Routine travel orders will normally be generated and given to the individuals a minimum of five (5) working days prior to departure date.

d. Verbal orders will be utilized in unusual situations. Technicians should have a copy of orders prior to departure for TDY location.

SECTION 21-7 - Travel Options:

a. Technicians have the option of selecting their mode of transportation for Employer directed travel. If travel is scheduled by common carrier and the technician elects to provide his/her own transportation, reimbursement will be made in accordance with Volume II, JTR. If travel is furnished by government vehicle, aircraft, auto, bus, etc., the technician is not entitled to reimbursement. Official travel time for technicians providing their own transportation will be required time of the scheduled common carrier or the government furnished transportation whichever is less.

b. Compensatory time may be granted when a technician(s) is traveling from a TDY station to permanent duty station and government transportation breakdown occurs causing arrival at home station after normal duty hours.

c. When directed by management to travel outside normal duty hours, compensatory time will be granted to a technician in accordance with applicable regulations.

ARTICLE XXII - DUES AUTHORIZATION & REVOCATION PROCEDURES

SECTION 22-1 - Purpose:

The purpose of this article is to provide a procedure for the authorization and revocation of voluntary allotments from the pay of technician members of the Labor Organization (bargaining unit) for the payment of labor organization dues. This procedure is entered into under provisions of 7115, Public Law 95-454.

SECTION 22-2 - Technician Eligibility:

This article is applicable to all technicians of the bargaining unit who are members in good standing of the Labor Organization, as defined in Public Law 95-454 and who:

- a. Have voluntarily authorized payroll deductions for payment of dues to the Labor Organization with full knowledge of the method of revocation of the authorization;
- b. Receive an established normal amount of pay on regularly scheduled pay days and that such net salary, after other legal and authorized deductions, is sufficient to cover the full amount of the authorized allotment for dues; and
- c. Are covered by the bargaining unit for which exclusive recognition has been granted.

SECTION 22-3 - Dues Allotment:

- a. Dues in the amount of .7% (seven tenths of one percent) of the member's base rate of pay will be deducted from the biweekly pay of any eligible technician of the unit who is a member of the Labor Organization and who has voluntarily authorized such deduction on a properly executed Standard Form (SF) 1187. The base rate of pay shall be exclusive of any hazardous duty, overtime, shift differential, premium, or other related pay outside the technician's basic rate of pay.
- b. A technician may have only one allotment per pay period payable to the Labor Organization.
- c. If the amount or rate of regular dues is changed, the Labor Organization will notify the Human Resources Office (HRO), in writing, of the change. This section would then be amended to reflect the revised amount (percentage) in accordance with regulations. Only one such change will be made in any period of twelve (12) consecutive months.

SECTION 22-4 - Allotment Authorization Procedures:

a. The Labor Organization will inform each of its members of the voluntary nature of the authorization for payment of labor organization dues and of the prescribed procedure for revoking same.

b. The Labor Organization agrees to purchase and distribute to its members in good standing the prescribed authorization form, SF 1187, Request for Payroll Deductions for Labor Organization Dues. The Labor Organization President, Secretary, or Treasurer will be designated to receive properly executed forms, certify the labor organization portion of the forms, and submit the forms to the HRO.

c. Allotments authorized on properly completed and certified forms, which are received in the HRO, will be processed to the servicing technician payroll office. The authorized amount shall be withheld from the technician's pay and will continue until the allotment is terminated under one of the conditions stated in Section 22.5 below.

SECTION 22-5 - Terminating Allotments:

The HRO will take action to terminate an allotment:

a. Within fifteen (15) days, after the Labor Organization loses exclusive recognition under any of the conditions specified in PL 95-454 or other pertinent regulations, provided that during the fifteen (15) day period the Labor Organization has not reacquired its exclusive recognition.

b. At the end of the pay period when, or during which a technician separated from the bargaining unit or moves to a position not serviced by the appropriate technician payroll office.

c. When the HRO receives written notice from the Labor Organization that the technician is no longer a member in good standing of the Labor Organization.

d. Upon receipt of a properly executed SF 1188, Cancellation of Payroll Deductions for Labor Organization Dues, providing such allotment was withheld from the technician's pay for a period of at least one (1) year. Any request for revocation of an authorization submitted after the expiration of this initial year will be effective as of the first full pay period in September following the receipt of the revocation request by the Comptroller.

e. When the technician who authorized the allotment dies, retires, or separates from technician employment.

SECTION 22-6 - Responsibilities:

a. Labor Organization - The Labor Organization will:

(1) Comply with the terms of the article.

(2) Purchase SF 1187's and distribute said forms to its members.

(3) Assure that allotments on the part of its members are voluntary.

(4) Certify as to the amount of rate of its regular dues.

(5) Forward completed SF 1187's to the HRO for information and processing to the servicing technician payroll office.

(6) Educate its members on the overall program for payroll allotment for payment of labor organization dues, its voluntary nature, and the availability of SF 1187's.

(7) Inform its members of the conditions governing revocation of allotments and the availability of SF 1188's.

(8) Notify the HRO in writing within five (5) workdays when a member of the Labor Organization is expelled or for any reason ceases to be a member in good standing.

(9) Promptly notify the HRO in the event of a change in dues structure or other change requiring an amendment to this article.

b. Human Resources Office - The HRO will:

(1) Comply with the terms of this article.

(2) Upon receipt of a SF 1187 from the Labor Organization, insure the named technician meets the requirements for dues withholding and promptly forward the request to the servicing payroll office.

(3) Insure a supply of SF 1188's are available for use in revocation of allotments and make the forms available to technician on request.

(4) Provide the Labor Organization with a copy of the SF 1188 (or written letter or revocation, if applicable) when a technician voluntarily terminates labor organization dues.

(5) Notify the Labor Organization, in writing, when a technician's dues allotment is being terminated as a result of promotion to a position not covered by the bargaining unit, retirement, resignation, death, or for other appropriate reasons.

(6) Provide the Labor Organization with a copy of any published pay scale memorandums (general schedule and wage system). Furthermore, the HRO will provide twice yearly (30 April, as of 31 March; and 31 October, as of 30 September) a listing in SSAN sequence for bargaining unit members who were granted a promotion, change to lower grade, QSI, WIGI, and change in a wage system area since the previous listing. The listing will show reason for change, name, SSAN,

location, title, series, grade, step, and salary/rate. Situations, which could cause delay or deviation in format, such as automation system malfunctions or unforeseen emergencies, will be coordinated and discussed with the Labor Organization.

(7) Notify the respective Labor Organization Chapter treasurer when an individual applies to buy back leave due to an OWCP case. This will alert the Chapters of the impending action to raise any concerns pertinent to the request.

c. Servicing Payroll Office - The servicing payroll office will:

(1) Insure that properly executed SF 1187's for dues allotments for members of the Labor Organization are submitted to the HRO for verification and processed so as to be effective during the pay period in which received in the servicing payroll office.

(2) Insure that the remittance of dues, to include a dues check-off listing for each payroll for which dues deductions have been made, will be processed within five (5) workdays, providing it does not conflict with the servicing payroll office SOP, as follows:

(a) The listing will contain name and SSAN of technician members of the Labor Organization having current allotment authorizations on file, the amount withheld from each member's pay, and a statement showing the total amount withheld. Also identified will be those members whose pay was not sufficient to cover the full amount of the deduction.

(b) Bargaining unit members entering into an unpaid leave status for more than one pay period will remain on the dues check off listing. The technician's name and SSAN will be provided on the listing.

(c) The Electronic Funds Transfer (EFT) and one copy of the listing will be forwarded to the national office of ACT at:

Treasurer, Association of Civilian Technicians, Inc.
12620 Lake Ridge Drive
Lake Ridge, VA 22192

(d) Three copies of the listing will be forwarded to the HRO. (The HRO will retain one copy and forward two copies to the respective Labor Organization chapter treasurer.)

(e) One copy will be retained for payroll records.

(3) Insure that allotments are discontinued for any reasons specified in Section 22-5, above. SF 1188's will be submitted and verified by the HRO and the discontinuance will be effective during the pay period following in which it is received in the servicing payroll office.

(4) Furnish the Chapter treasurers a copy of the collection voucher of actual amount of Labor Organization dues that will be withdrawn from the ACT account as a result of leave buy-back from an OWCP case.

SECTION 22-7 - Exclusionary Provisions from LMRA:

a. The Labor Organization and the Employer recognize that the expiration of the Labor-Management Relations Agreement (contract) shall not terminate or in any way affect dues withholding under this article. The parties agree that dues withholding shall continue under the procedures set forth in this article during renegotiations of the LMRA or until otherwise changed by mutual written consent of the parties.

b. This article shall be terminated by mutual written consent of the parties.

ARTICLE XXIII - USE OF FACILITIES

SECTION 23-1 - Space for Labor Organization Meetings and Training:

Upon request of the Labor Organization, the Employer may provide space, when available, for the conduct of official Labor Organization meetings or Labor Organization sponsored training sessions. The Labor Organization will normally submit written requests for meeting space thirty days in advance of the date on which the meeting will be held. The Employer will respond in writing indicating concurrence or nonconcurrence.

SECTION 23-2 - Bulletin Boards:

a. The Employer will provide space for a bulletin board in a major functional area of facility for the exclusive use of the Labor Organization. Any material posted, which is deemed by the Employer to be derogatory or scurrilous in nature, will be removed by the Labor Organization. The recommend size of the space will be, as a minimum, 3.5 ft. x 4.0 ft.

b. The Labor Organization is responsible for maintaining bulletin board space in an orderly condition.

c. All costs incident to the preparation and posting of materials will be borne by the Labor Organization.

d. Labor Organization officials or designated representatives are the only personnel authorized to post or remove material from the bulletin boards.

e. Violation of this agreement, concerning the material posted to the Labor Organization bulletin boards, shall be grounds for revocation of the privilege, when the violation was effected by an ACT official or representative.

f. The employer will provide the association a link from the NCARNG Intranet page to Old Hickory Chapter ACT and ACT National Home page.

SECTION 23-3 - Lunch and Sanitation Facilities:

The Employer agrees to maintain existing lunch and sanitation facilities. Upon request from either party, the Employer and the Labor Organization representative will meet at a mutually agreed upon time to discuss improvements to these facilities. If there is a demonstrated need, management agrees to meet to discuss the establishment of such facilities consistent with rules, regulations, and funding constraints.

SECTION 23-4 - Office Space and Equipment:

a. The Employer will provide adequate office space for union officials to conduct representational duties, size and office location will be mutually agreed upon. No changes to office location, services, or size will be made without the Labor Organizations consent. The office space will be environmentally supported in the same manner as the rest of the building. Activity heads will provide adequate space, which is mutually agreed upon, for Labor Organization representatives while conducting union business. The Union will be allowed to post signs on the Union Office door. Where practical, the space will be permanent in nature.

b. Labor Organization officials will be afforded access to telephone and office equipment at the work site for official representational duties. Such telephone and office equipment usage may be private in nature, but will be limited to representational duties. The labor organization is responsible for its own long distance charges. Access to the LAN system will be made available.

c. Management agrees to provide furniture for union operations. The labor organization will be afforded the opportunity to screen excess office equipment and furniture and utilize such available equipment and furniture as needed.

ARTICLE XXIV - LOCAL WAGE SURVEYS

SECTION 24-1 - General:

It is agreed that the Labor Organization will be notified by Management of impending local wage surveys as soon as possible after notification by the applicable Local Wage Survey Lead Agency. Management will advise the Labor Organization when Management is invited by the host agency to participate in local wage surveys that may affect technicians covered by this Agreement. The Labor Organization will nominate Associate Representative(s) for appointment to the Wage Survey data collection team. The number of personnel to be appointed to the data collection team will be determined by the Lead Agency. The employer agrees to appoint at least one representative of the Labor Organization to the data collection team, if invited, to participate by the Lead Agency.

SECTION 24-2 - Miscellaneous:

Participation will be encouraged by both the Labor Organization and Management to present recommendations, requests, and other relative items to the Local Wage Survey Committees at appropriate times.

ARTICLE XXV - PUBLICATIONS

SECTION 25-1 - Availability:

Procurement of pertinent regulations, directives, and publications of applications to the technician program will be the responsibility of the Labor Organization. The Employer agrees to provide Employer published regulations, directives, and publications.

SECTION 25-2 - Manning Document:

Upon request, the Employer will provide the Labor Organization a copy of the current technician manning document showing the positions authorized for a specific installation for the facilities for the Army National Guard.

SECTION 25-3 - NCNG Bulletin:

Electronic copies of weekly NCNG Bulletins are located on AKO accessible to all NCNG members.

SECTION 25-4 - Access to Management Directives:

Technicians/Labor Organization stewards, upon request, will be provided access to management regulations and policies normally maintained as part of the supervisor's manual.

SECTION 25-5 - OTAGNC Pam 690-1:

Before changes are made to OTAGNC Pam 690-1, input will be solicited from Labor Organization representatives. Failure to do so will cause the change or changes to be held in abeyance until such time the Labor Organization President concurs. The Labor Organization will be provided a copy of the proposed change thirty (30) days in advance and in no case will it conflict with this negotiated agreement. Labor Organization President will be provided ten copies of OTAGNC Pam 690-1 and subsequent changes.

ARTICLE XXVI - TOBACCO USE POLICIES

SECTION 26-1 - Tobacco (All Tobacco Products) Policy:

a. The Employer and the Labor Organization agree that tobacco products use limitations are required to ensure that employees are not exposed to harmful effects of another individual's tobacco products use habits.

b. Tobacco products are restricted from use in all NCARNG facilities. All NCARNG facilities will designate adequate covered areas for tobacco product use. Facilities without adequate covered areas will be provided such areas once funds are available.

c. Tobacco use is only authorized during scheduled lunch and rest periods in designated areas. These areas must be maintained in a clean, sanitary manner by the tobacco product users.

ARTICLE XXVII - AGREEMENT ADMINISTRATION

SECTION 27-1 - Effective Date:

The effective date of this agreement shall be after execution by the parties and approval by the Department of Defense (DOD). Both dates will be made part of the agreement prior to its distribution.

SECTION 27-2 - DOD Approval:

a. The head of the Agency shall approve the agreement within thirty (30) days from the date the agreement is executed by the parties if the agreement is in accordance with the provisions of USC 7114 and other applicable law, rule, or regulation.

b. If the head of the Agency does not approve or disapprove the Agreement within the thirty (30) day period, the Agreement shall take effect and shall be binding on the Employer and the Labor Organization subject to the provisions of 5 USC 7114 and applicable law, rule, or regulation.

c. In the event that a particular article or section of the agreement is not approved by the Agency, the remainder of the agreement shall take effect on the date specified in this section. The remainder of this agreement shall go into effect on the date specified, and the items not approved by the Agency shall later be incorporated as negotiations or appropriate direction dictate.

d. A particular article or section not approved by the Agency shall later be incorporated into the agreement, provided subsequent negotiations are warranted by third party decision.

SECTION 27-3 - Agreement Duration:

a. This agreement shall expire three years after both parties sign the current contract. Further, the agreement will be terminated by the Adjutant General upon certification by proper authority that the Labor Organization no longer represents the employees in the bargaining unit.

b. The term of this agreement may be extended beyond the expiration date:

(1) For one (1) year increments based on mutual agreement of the parties;

(2) During a period of declared national or state emergency by the mutual consent of the parties.

c. The provisions of this agreement will remain in effect until the agreement is approved by the Agency, provided those portions of the agreement which have not been settled have been submitted for third party decision.

SECTION 27-4 - Agreement Amendment:

a. This agreement may be subject to modification as a result of a change in or issuance of an appropriate new law, rule, or regulation by proper authority at the DOD or higher level.

b. Any time by mutual consent of the parties.

c. A request for an amendment or modification of this agreement by either party shall be in writing setting forth the need or reason for the proposed change and a summary of the change.

d. Representatives of the Employer and the Labor Organization will meet within thirty (30) days to commence negotiating the proposed amendment or modification, unless a later date is mutually agreed upon. No changes other than those specified in the summary will be considered.

e. Approval of an amendment or modification to the agreement will be accomplished in the same manner as provided for approval of the basic agreement.

f. Both parties reserve the right to negotiate, during mid-term, subjects not contained in this agreement which after negotiations will be incorporated in this agreement.

ARTICLE XXVIII - TECHNICIAN ATTIRE

28-1 - Wearing of the Military Uniform

Technicians in the excepted service are required to wear the military uniform appropriate to their service and federally recognized grade when performing technician duties.

28-2 - Exchange of Uniform

a. The employer will provide and exchange program for unserviceable clothing, which occur as a result of normal wear and tear. Duty time may be authorized by coordinating with supervisor, for the purpose of exchanging unserviceable uniforms.

b. Technicians in need of replacement uniforms will obtain a request for replacement uniforms from their supervisor at their immediate work area. The technician will complete the request form (Appendix A) and return it to the said supervisor for signature. The technician/supervisor shall forward the signed request to the requesting Technician's NCARNG unit of assignment Unit Supply Sergeant and follow-up on the action. Should the technician not receive the requested uniform within 45 calendar days of submitting it to the Unit Supply Sergeant, the technician's supervisor shall be notified. Upon said notification, the supervisor will request assistance through the technician chain of command to HRO Labor Relations Specialist to assist in obtaining the aforesaid uniform. They will coordinate directly with the J4-SS to obtain action on issuance of the uniform. If the uniform is not issued, the J4-SS will be notified and will take appropriate action to obtain compliance with supply procedures. The technician will be kept fully apprised of all action being taken on their behalf during this process. The supervisor and unit supply sergeant determine if a replacement uniform is acceptable. If a uniform is unacceptable, another uniform will be issued within the time parameters, without extension.

c. Uniforms will be worn as issued by the employer to the technician. To the extent allowed by law and regulation, the employer will allow its resources to be utilized to affix uniform accouterments.

d. Section 28-2a through 28-2c above, does not apply to officer technicians for any period of employment for which the officer is paid a uniform allowance under Title 37 USC, Sections 415 or 416.

ARTICLE XXIX – MANAGEMENT DIRECTED MOVE

SECTION 29-1 - Movement of Personnel:

If a management directed move of a bargaining unit member is anticipated or directed, the affected technician should be briefed on the events that lead to the change. Technician will be afforded an opportunity to discuss the proposed move with management.

ARTICLE XXX- NEGOTIATING A NEW AGREEMENT

SECTION 30-1 - Negotiations:

a. Negotiations for a new agreement will commence no earlier than one hundred eighty (180) calendar days no later than ninety (90) calendar days prior to the termination of this agreement. In the event either party fails to request negotiations of a new agreement within the established time frame, this agreement will automatically extend for a period of one (1) year.

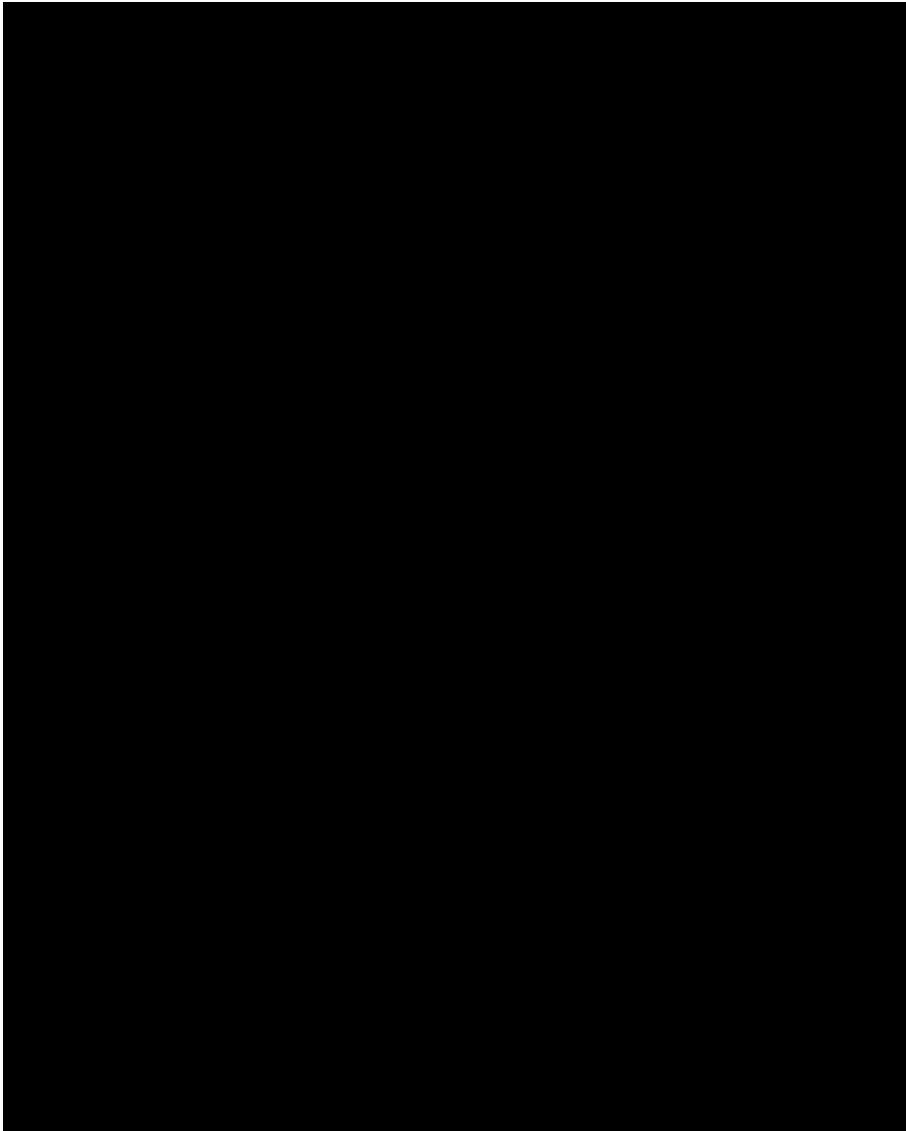
b. Thirty (30) days prior to the start of negotiations of a new agreement three (3) representatives of the Employer and three (3) representatives of the Labor Organization will meet to initiate a memorandum of understanding establishing the ground rules for the conduct of negotiations.

c. Union Preparation/Negotiation Team will be afforded positions in Training on Contract Negotiations sponsored by HRO. The number of slots will be determined by contractor limits, but not less than three (3).

IN WITNESS THEREOF, the Parties hereto affix their signatures in concern with this agreement on this 21 08 05.

FOR MANAGEMENT:

FOR THE LABOR
ORGANIZATION:





DEPARTMENT OF DEFENSE
CIVILIAN PERSONNEL MANAGEMENT SERVICE
1400 KEY BOULEVARD
ARLINGTON, VA 22209-5144

17 Nov 2005

MEMORANDUM FOR THE ADJUTANT GENERAL, NORTH CAROLINA
NATIONAL GUARD, ATTN: HRO-LR (JACQUELINE B.
GILMORE), 4105 REEDY CREEK ROAD, RALEIGH, NC
27607-6410

SUBJECT: Agreement Between The Adjutant General, North Carolina National Guard and the
Association of Civilian Technicians, Old Hickory Chapter (LAIRS No. 080980)

The agreement, executed on October 21, 2005, has been reviewed pursuant to 5 U.S.C. § 7114(c) and is hereby approved with the understandings that Article 5, Section 5-12, and Article 9, Section 9-7 d (3), both of which refer to matters falling under 32 U.S.C. § 709(e) actually refer to 32 U.S.C. § 709(f). The change in the lettering resulted from the implementation of Public Law 106-65.

The approval of this three-year agreement does not constitute a waiver of or exception to any existing law, rule, or regulation. Pursuant to our correspondence, you agreed to the following changes to the Agreement for approval:

1. Page 4, section 1-5-b: "(a) is being deleted"
2. Page 79, section 16-7-b: "the last sentence, 'The appraiser is the technician's immediate supervisor' is being deleted".

This action is taken under authority delegated by DoD 1400.25-M, Civilian Personnel Manual, Subchapter 711, Labor-Management Relations. Please annotate the agreement to indicate: Approved by the Department of Defense on 17 NOV 2005

Copies of the approved agreement should be forwarded as follows:

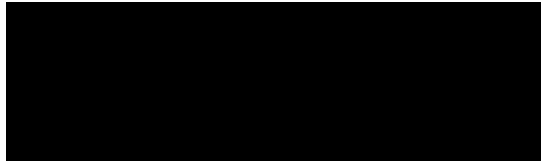
- a. Defense Civilian Personnel Management Service (DCPMS), Field Advisory Services Division, Labor Relations Branch, 1400 Key Boulevard, Suite B-200, Arlington, Virginia 22209-5144- e-mail one copy to labor.relations@cpms.osd.mil and one copy of a completed OPM Form 913-B (attached).
- b. National Guard Bureau, ATTN: NGB-HRL, 1411 Jefferson Davis Highway, Suite 9100, Arlington, VA 22202-3231 - one copy.

Please keep in mind that any amendments or supplements that you add to your agreement are subject to review and approval by this office in the same manner as we have approved this agreement. If you reopen the agreement during its time span in order to change any articles or add any new articles, please send those changes to us as soon as they have been agreed to, so we

may review and approve them in accordance with DoD 1400.25-M, Chapter 711.6.3 and 5 U.S.C. § 7114(c).

If there are any questions concerning the agreement, Mr. Dennis Jones and Mr. Lee Alner can be reached on DSN 426-6301 or commercial (703) 696-6301, extensions 417 and 407 respectively.

A copy of this memo was served on the union by first class mail on 17 NOV 2005



Deputy Director for Labor and Employee Relations

Attachment:

As stated

cc:



Association of Civilian Technicians,
Old Hickory Chapter
19827 U.S. Highway 301 N.
St. Pauls, NC 28384

National Guard Bureau
ATTN: NGB-HRL (Mr. George Demarse)
1411 Jefferson Davis Highway
Suite 9100
Arlington, VA 22202-3231

Technician Uniform Request/Replacement

Technician :				Request Date: _____			
				Fill Date: _____			
Name _____							
Supervisor _____							
Unit of Assignment _____							
Phone _____							
Fax _____							
Supply Information:		Size	Class (A/B/C)				
Shirt							
Pants							
Boots (Shoes)							
T-shirt							
Socks							
Point of Contact for Issuance _____							
<i>(Full Name)</i>							
Phone _____							
Fax _____							

This form is to be used in accordance with the terms agreed to in the Labor-Management Agreement, for bargaining unit members of the NC Army National Guard.