STATE OF MARYLAND
MILITARY DEPARTMENT
FIFTH REGIMENT ARMORY
BALTIMORE, MARYLAND 21201-2288

MDNG-AG-HRO (600) 11 July 2000

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Clarification of HRO Policy Guidance Letter #22, "Attendance and Leave, Military Technicians, Maryland National Guard.

Page 2, paragraph 1-2a of subject policy guidance letter is clarified as follows:

Full-time technicians are required to take a 30-minute lunch period as prescribed by supervision. A lunch or other meal period is an approved period of time in a nonpay and nonwork status that interrupts a basic workday or a period of overtime work for the purpose of permitting technicians to eat or engage in permitted personal activities.

Part-time technicians are required to take a 30-minute lunch period on any basic workday they are scheduled to work six (6) hours or more. Supervisors may permit the technician to take a 30-minute lunch period on basic workdays they are scheduled to work less than six (6) hours. It is the supervisor's responsibility to exercise this authority in a fair and equitable manner.

Requests for any change in a formal work schedule must be requested on an SF-52 (Request for Personnel Action) to include (1) hours of work, (2) reason for change and, (3) time on nonpay meal period (if applicable). Hours of work will be scheduled in 1-hour increments with meal periods added as an additional 30-minutes.

The Human Resource Office will carry final approval.

PARRIS N. GLENDENING
GOVERNOR
COMMANDER-IN-CHIEF

STATE OF MARYLAND
MILITARY DEPARTMENT
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BALTIMORE, MARYLAND 21201-2288

JAMES F. FRETTERD
LIEUTENANT GENERAL (MD)
THE ADJUTANT GENERAL

MDNG-AG-HRO

14 January 1997

HRO POLICY/GUIDANCE LETTER #22

SUBJECT: Attendance and Leave, Military Technicians, Maryland National Guard

SEE DISTRIBUTION

## SECTION 1 - SCHEDULED WORKWEEK AND WORKDAY

1-1. GENERAL.

a. The administrative workweek for all Maryland Army/Air National Guard technicians is Tuesday through Friday. Two administrative workweeks constitute one bi-weekly pay period (deviations to this compressed work schedule must be approved by TAG, State of Maryland at least 30 days prior to publishing deviated work schedule).

b. There are 26 bi-weekly pay periods in a year. Inclusive dates of pay periods will be published in a Newsletter annually by the HRO.

c. Normally the scheduled basic 40-hour workweek for all Maryland Army and Air National Guard Technicians is four (4) workdays of ten (10) hours each.

1-2. TECHNICIAN WORKDAY. The normal workday for all Maryland Army and Air National Guard Technicians will be from 0630 to 1700 hours.

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This HRO Policy/Guidance Letter Supersedes SPMO Policy/Guidance Letter #22 dtd 1 Nov 94

a. Technicians must be allowed a minimum 30-minute lunch period. Lunch periods are periods during which technicians are free from duties connected with their jobs, and their whereabouts cannot be restricted to a work site.

b. Rest Periods. Short rest periods during the daily tour may be permitted when such periods are beneficial and/or necessary. Rest periods granted in accordance with these provisions are considered duty time and are included in the daily tour of duty. Rest periods other than those provided herein may not be considered a part of the daily tour of duty; such periods must be charged to the appropriate type of leave.

(1) The rest period may not exceed 15 minutes during each four (4) hours of continuous work.

(2) If the program from the beginning of the daily tour to the lunch period is less than four (4) hours, a rest period should be granted only in unusual circumstances.

(3) The rest period may not be a continuation of the lunch period or used as the last 15 minutes of the workday.

## SECTION 2 - HOLIDAYS

2-1. Federal employees are entitled to the following ten (10) regular holidays each year.

New Year's Day, January 1st
Martin Luther King Jr's Birthday, 3rd Monday in January
President's Day, 3rd Monday in February
Memorial Day, Last Monday in May
Independence Day, July 4th
Labor Day, 1st Monday in September
Columbus Day, 2nd Monday in October
Veterans Day, November 11th
*Thanksgiving Day, 4th Thursday in November
Christmas Day, December 25th

*The Adjutant General will modify the work schedule to conserve energy resources, and to ensure an uninterrupted work week. The non-work day will be moved from Monday to Friday (Monday, Tuesday, & Wednesday - Workdays, Thursday - Holiday, Friday - day off).

2-2. Determining holidays under alternative work schedules.

a. When the holiday falls on a day that an employee is regularly scheduled to work under a compressed work schedule, the scheduled workday is the employee's holiday.

(1) If the employee is covered by a compressed work schedule, the employee's holiday will comprise the number of hours the employee is regularly scheduled to work that day.

(2) An employee who is required to work on a regularly scheduled workday that is a holiday receives holiday premium pay for working on the holiday and is not entitled to an "in lieu of" holiday.

(3) If the employee is covered by a compressed work schedule, the employee is entitled to holiday premium pay for the number of hours he or she is regularly scheduled to work that day.

b. ARMY. When a holiday falls on a non-workday for an employee covered by a compressed work schedule and:

(1) The holiday falls on Sunday, the first regularly scheduled workday following the Sunday-holiday is the employee's "in lieu of" holiday.

(2) The holiday is not a Sunday, the last regularly scheduled workday preceding the holiday is the employee's "in lieu of" holiday.

c. AIR. When a holiday falls on a non-workday for an employee covered by a compressed work schedule the FIRST REGULAR scheduled workday following the holiday is the employee's "in Lieu of" holiday. (PL 104-208, The Omnibus Consolidated Appropriation Act 1997.)

## SECTION 3 - EXCUSED ABSENCE

3-1. GENERAL. An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. Authority to approve excused absence remains with the Adjutant General for the following reasons:

a. Participation in Funerals. Excused absence may be granted to technicians, including temporary technicians for up to four (4) hours in any one day while performing in State Active Duty Status as pallbearers or as members of firing squads in funeral ceremonies for members or former members of the Armed Forces, including the National Guard. Requests must be forwarded, in writing, to HRO for approval.

b. Civil Activities. Technicians may be granted excused absence for short periods to participate in civil activities the federal government is interested in encouraging. Before approval by the Adjutant General, it will be determined that such participation is in the best interest of the National Guard. Periods will be limited to no more than a combined total of three (3) workdays during a calendar year. Official civil activities may include but are not limited to inaugurals, dedication of public buildings and projects, ceremonies for officially inter-governmental visitors, and the convening of legislative bodies.

3-2. ABSENCE WITHOUT CHARGE TO LEAVE. Authority is delegated to the Air Commander, Command Administrative Officer, USP&FO-MD, State Maintenance Officer, AASF Activity Supervisor, Senior Administrative Officer at Avn Bde, DISCOM, 3rd Bde and 58th Troop Command, to administratively dismiss technicians and/or authorize excused absence without charge to leave for the following reasons:

a. To donate blood.

b. To vote or to register to vote. Generally an employee may be excused to vote so as to permit him or her to report to work up to three (3) hours after the polls open or to leave work up to 3 hours before the polls close whichever results in the lesser amount of time off. Additionally, such time off should not result in a serious interference with operations.

c. For local emergency or rescue work where National Guard participation is not involved.

d. For physical examinations when required for continued employment or for military membership.

e. To participate as an official observer in a union election or participate in management-employee meetings as a union representative.

## SECTION 4 - ABSENCE AND LEAVE

4-1. COURT LEAVE. Court Leave is the authorized absence (without loss of pay or leave) for Jury Duty, or for attending judicial proceedings in a non-official capacity (not connected or related to continue the technician's employment) as a witness on behalf of a state or local government. Time and attendance (T&A) cards are coded administrative leave for the purpose of performing jury or witness duty and should be accompanied by an attendance certificate from the court when possible.

a. Charges to administrative leave which are not substantiated by a certificate of attendance will be charged to annual leave, compensatory time off, or leave without pay, as applicable. All fees received for the performance of jury duty or witness fees when on court leave must be forwarded to the appropriate technician pay office. Reimbursements for mileage or per diem expenses should not be forwarded. Checks or money orders for the amount of fees received should be made payable to "Treasurer of the United States."

b. Exemption from State or Local Government Jury Duty. Article 51, Section 8 of the annotated code of Maryland states "There shall be no exemptions from jury service except that members of the organized Militia Duty certified as such by the Military Department shall be so exempt...". Therefore, individuals who have received notification of proposed state or local jury duty should

immediately submit such proposal to the HRO. Upon receipt, the HRO will prepare a letter stating membership and requesting exemption. It will then be submitted to the court clerk for his/her action.

NOTE: Although the Code appears to favor exemption of excepted technicians, there is conjecture within the local Government as to its applicability. Therefore early submission of the Notice is of the essence as once the individual has been selected for duty, little can be done to reverse the mechanics.

4-2. MILITARY LEAVE. Permanent and indefinite technicians receive fifteen (15) days military leave per fiscal year. Eligible technicians are granted any military leave available to them whenever they are ordered to active duty/active duty for training. Military leave is chargeable on a calendar-day basis. No charge is made for non-workdays at the beginning and end of a period of absence on active military duty. However, all intervening non-workdays falling within the period of military duty must be charged to military leave. If other leave (such as during the tour of duty workdays intervening between the beginning and ending of the leave of absence for military duty. If you are not sure of the effect of commingling leave, check with the HRO.

a. A period of technician duty and a period of Military Training/Special workdays will not be scheduled on the same calendar day. This means that when a technician is scheduled for training on a given calendar day, he/she will not work as a technician on that day and must be in a appropriate leave status (annual leave, military leave, compensatory leave, leave without pay, etc.) for that entire calendar day. Only in emergency situations, where advance notice is precluded, can a technician revert to a military status after beginning the technician duty day.

b. If a technician is placed on military orders after starting or has completed his/her normal duty day, the supervisor must ensure that such a dual status was due to an emergency situation before certifying the time and attendance record. Letter of circumstances in regards to the emergency situation will be approved by the Personnel Officer, HRO. The letter of request and approval will be attached to the T&A.

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4-3. MILITARY LEAVE FOR OVERSEAS NONCOMBAT OPERATIONS. 44 days available under 5 USC 6323(a), (b) and (c), Section 1039. This authorized 44 additional work days military leave on a calendar year basis, (codified in 5 USC 6323(d). This is a leave status for military reserve technicians only as defined in 5 USC 8401(30) as being entitled to.

a. Active duty under section 12301(b) or 12301(d) of Title 10 (other than active duty during a war or national emergency declared by the President or Congress) for participation in noncombat operations outside the U.S., its territories and possessions.

b. Nonworkdays and holidays are not charged to leave.

c. Leave is charged in hourly increments.

d. Technicians must elect prior to deployment the periods during which they will use the new 44 day military leave and or other appropriate leave.

e. The Army and Air Directorates of the NGB have determined that technicians who elect to use the new leave will be converted to a military pay status from a non pay status on technician non-workdays (Saturday and Sunday). This policy is retroactive to 12 February 1996.

f. Technicians electing to use the 44 day military leave must provide a copy of their military orders documenting that the tour of duty meets eligibility criteria. Leave can only be used for certain OCONUS travel/duty in noncombat operations.

g. Use of other leave (annual, compensatory, LWOP, Military leave) is authorized. The policy on charging all intervening non-workdays and holidays when the 15 day category of military leave is used has not changed. Therefore any technician utilizing one or more days of military leave during the period of military duty will be charged all intervening non-workdays to that category of leave.

h. Technician is in Title 10 status and therefore, regardless of leave status, if injured benefits derive from military entitlement program, NOT eligible for OWCP (Worker's Compensation) from DOL.

i. Because the technician is in the Title 10 military status there is no eligibility for compensatory time.

j. For the duration of the period of eligible military duty military technicians on alternative work schedules will be administratively converted to an eight (8) hour work day, five (5) days a week Monday through Friday.

4-4. FAMILY AND MEDICAL LEAVE ACT. The Family and Medical Leave Act allows eligible employees to take up to 12 workweeks of unpaid leave in a 12 month period for:

a. Birth, adoption, or foster care placement of a child.

b. A serious health condition that prevents the employee from doing essential functions of his or her job.

c. Caring for a child, spouse, or parent with a serious health condition.

4-5. LEAVE WITHOUT PAY. It is a management prerogative, requested by the individual and approved by the supervisor. Leave without pay for periods over 30 days must be requested on an SF 52, "Request for Personnel Action" and approved by the HRO. HRO will issue an SF 50, "Notification of Personnel Action."

Nominating Activity Managers may approve LWOP for periods not to exceed 30 days. Supervisors should keep a record of all LWOP granted throughout each year and provide such information to the HRO upon request.

4-6. ANNUAL LEAVE. Supervisors will schedule the use of annual leave of technicians to allow for adequate yearly vacation periods. Use of annual leave during slack periods should be encouraged. If requested annual leave is disapproved, the supervisor must state the reason on the SF 71 and initiate action to reschedule the leave.

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a. Annual leave for Army and Air National Guard technicians is credited by pay period. Technicians may retain a maximum balance of 240 hours of annual leave at the end of the leave year. Requests for advance annual leave for Air technicians will be submitted to the Air Commander for approval, utilizing MDNG-AG-HRO Form 690-1 dated 1 Nov 94 (Encl 1). Request for advance annual leave for Army technicians will be submitted to the HRO for approval, utilizing MDNG-AG-HRO Form 690-1 dated 1 Nov 94 (Encl 1).

b. Annual leave accumulated in excess of the maximum allowed (240 hours) must be used before the end of the leave year or it will be forfeited by the employee. It is incumbent upon the supervisor to ensure employee's projected leave is scheduled and used. Extenuating circumstances may arise not permitting the employee to use projected excess annual leave by the end of the leave year. In order to restore excess annual leave, the supervisor must submit to the HRO, for the Adjutant General's approval, the following:

(1) Evidence that employee requested use of annual leave (SF 71, Application for Leave),

(2) disapproval of leave request along with specific reasons for disapproval, and

(3) date when reinstated leave would be used. The reason for reinstatement must reach the HRO at least five (5) working days prior to a situation arising in which the employee would be forced to forfeit the leave if restoration is disapproved or by 15 December, whichever is sooner.

4-7. SICK LEAVE. The use of sick leave for purposes of prescheduled dental or optical examinations, or other prescheduled medical treatment will be requested in advance and approved by the appropriate supervisor. Supervisors may request medical certificates for periods of absence in excess of three (3) days of consecutive duration. Medical certificates must be filed as soon as possible after return to duty, but not later than 8 working days thereafter.

a. Absences for short periods at frequent intervals whenever there is a reason to believe that the sick leave privilege

is being abused, the technician will be advised in writing that a medical certificate will be required to support any future use of sick leave regardless of duration.

b. Advance sick leave not to exceed 300 duty days (240 hours, 8 hours work day or 300 hours, 10 hour work day) may be requested by submission of Request for Advance of Leave, MDNG-AG-HRO Form 690-1 (Encl 1), by the nominating supervisor, recommending approval/disapproval and forwarded to HRO for approval of advanced sick leave will be based on past years service, as indicated below, nature of illness/injury, prior sick leave history and if there is reasonable assurance that the technician will return to duty to earn and repay advance credits. A doctor's statement must accompany each request stating the technician is under care and must include an estimated date of return to a working status.

| FEDERAL CIVILIAN SERVICE | MAXIMUM ADVANCE SICK LEAVE ALLOWED | |
|---|---|---|
| | 8 hour days | 10 hour days |
| 90 days or less | No advance | No advance |
| Less than 1 year | 40 hours | 50 hours |
| 1 to 3 years | 80 hours | 100 hours |
| 3 to 5 years | 160 hours | 200 hours |
| Over 5 years | 240 hours | 300 hours |

4-8. FEDERAL EMPLOYEES FAMILY FRIENDLY LEAVE ACT.

1. The Maryland National Guard may grant sick leave to an employee when the employee:

(a) Receives medical, dental, or optical examination treatment.

(b) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.

(c) Provides care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental, or optical examination or treatment.

(d) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member.

(e) Their presence on the job because of exposure to a communicable disease would jeopardize the health of others. This must be determined by health authorities having jurisdiction or by a health care provider.

2. A family member is defined as a spouse and parents thereof; children, including adopted children and spouses thereof; parents; brothers and sisters, and spouses thereof; any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

3. This is NOT sick leave in addition to the 104 hours earned annually. This revision in the law changed only the situations that qualify for the use of sick leave. To be granted sick leave for purposes described in para 4-5(c) 1 (c) & (d) during any leave year in an amount exceeding a total of 40 hours (or, in the case of a part-time employee, the average number of hours worked in the employee's scheduled tour of duty each week) the employee shall retain in their sick leave account a balance of at least 80 hours (or, in the case of a part-time employee, an amount equal to twice the average number of hours of work in the employee's scheduled tour of duty each week). The total amount of sick leave granted to an employee during any leave year for purposes described in para 4-5 (c) 1 (c) & (d) may not exceed 104 hours (or, in the case of a part-time employee, the number of hours of sick leave normally accrued by that employee during the leave year).

4. MDNG-AG-HRO must report the number of instances and number of hours of sick leave granted for this purpose to OPM on an annual basis. Supervisors should provide written notification to MDNG-AG-HRO, ATTN; ERS as leave is granted.

4-9. LAW ENFORCEMENT LEAVE. This additional leave is authorized without loss or reduction of leave to which otherwise entitled for the purpose of providing aid to enforce the law (5 USC 6323(c)).

* Member can use Admin Lv, but cannot [illegible]

Take Annual Lv plus Receive State Check.

LWOP plus state check

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a. Based on congressional intent, the statute also includes situations where the MDNG does not actually perform "law enforcement" duties while assisting civil authorities. For example:

(1) Participation in rescue or protective work in connection with fires, floods, or other natural phenomena.

(2) National Guard drug interdiction and enforcement support.

(3) Providing support services during a strike.

b. Coverage. This paragraph covers Maryland National Guard technicians who, for the purpose of providing military aid to enforce the law or assisting civil authorities performing:

(1) Federal Service under sections 331, 332, 333, 3500 or 8000 of Title 10 or other provisions of law, or

(2) Full-time military service for the State of Maryland.

c. Each Maryland National Guard technician serving under a permanent or indefinite status appointment who is a member of the Maryland National Guard is entitled to law enforcement leave for not more than 22 workdays in a calendar year for the reasons stated in paragraph 4-9a. Excused absence may not be granted for performing such duty.

d. Pay for military service under the provisions 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 allowances) should 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.

4-10. COMPENSATORY TIME. National Guard Technicians permanent and temporary are not entitled to overtime pay for overtime worked; they may however earn compensatory time.

a. Compensatory time must be approved in writing in advance utilizing (Army NGB Form 46-14, dated 24 February 1986 see enclosure 2) or (Air AF Form 428 see enclosure 3). The approving official must be at least one level higher than the first level supervisor requesting compensatory time.

(1) Compensatory time is not authorized in conjunction with military duty performed during additional flying training periods (AFTP). An AFTP is a minimum of four (4) hours and crew activities related to an AFTP may not be accrued as compensatory time.

(2) Compensatory time may not be accrued for overtime performed while in a training status such as service school, PEC courses, or OPM courses.

(3) Compensatory time may be authorized when travel is required on an off duty day for purposes of attending a training course, the travel hours that cut across the normal duty hours are considered to be hours of work and, as such, are credited as compensatory time worked. For example: a technician's normal work schedule is Tuesday through Friday, 0630-1700 hours. Technician travels on Sunday from 1130-1430 hours for a training course that starts on Monday. Technician would be credited with 3 hours compensatory time for travel. Any travel before 0630 hours or after 1700 hours is not creditable in any instance. If travel occurred on Monday which is a holiday during the same hours of 1130-1430 hours, holiday premium pay is payable. Travel on a holiday is not considered overtime, i.e. compensatory time.

(Remember - Training sites such as PEC are not utilizing the compressed work schedule).

(4) Supervisors are responsible for ensuring that compensatory time is recorded on Time and Attendance records in accordance with current directives (NGB Form 46-14 for Army and AF Form 428 for Air) will accompany the time and attendance cards for backup for finance and accounting).

b. Compensatory time off. Time limits on the use of compensatory time. Compensatory time must be taken within thirteen (13) pay periods after the pay period in which it was earned or it will be forfeited.