

**U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)**

<b>MD 10.62</b>	<b>LEAVE ADMINISTRATION</b>	<b>DT-16-17</b>
<i>Volume 10,</i> <i>Part 2:</i>	Personnel Management Position Evaluation and Management, Pay Administration and Leave	
<i>Approved by:</i>	Miriam L. Cohen Chief Human Capital Officer	
<i>Issue Date:</i>	May 16, 2016	
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<i>Issuing Office:</i>	Office of Chief Human Capital Officer Policy, Labor and Employee Relations Branch	
<i>Contact Name:</i>	Bi Smith 301-287-0553	Servicing Human Resources Specialist (names and phone numbers are listed <a href="#">here</a> )

**EXECUTIVE SUMMARY**

Management Directive 10.62, “Leave Administration,” is revised to—

- Update policy and program guidance to reflect changes to law and regulations;
- Remove detailed information about the laws and regulations, except where it is needed (for example, to provide context for policy and program guidance);
- Remove procedural guidance, particularly where available on the Intranet;
- Update guidance on leave requests and approvals consistent with NRC’s current time and attendance system; and
- Update Office of the Chief Human Capital Officer organizational information and titles.

**TABLE OF CONTENTS**

<b>I. POLICY</b> .....	<b>2</b>
<b>II. OBJECTIVES</b> .....	<b>2</b>
<b>III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY</b> .....	<b>2</b>
A. Executive Director for Operations (EDO) .....	2
B. Inspector General (IG).....	2
C. Chief Human Capital Officer (CHCO) .....	3
D. Office Directors.....	3
E. Regional Administrators.....	4

For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

F. Controller, Office of the Chief Financial Officer (OCFO).....	4
G. Supervisors .....	4
H. Employees.....	5
<b>IV. APPLICABILITY .....</b>	<b>5</b>
<b>V. DIRECTIVE HANDBOOK .....</b>	<b>6</b>
<b>VI. LIMITATION ON APPROVAL OF LEAVE .....</b>	<b>6</b>
<b>VII. REFERENCES.....</b>	<b>6</b>

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## **I. POLICY**

It is the policy of the U.S. Nuclear Regulatory Commission to implement a leave system consistent with applicable laws and regulations and that strikes an appropriate balance between agency and employee needs and interests. It is also the policy of the NRC to excuse employees without charge to leave under some circumstances.

## **II. OBJECTIVES**

To administer and authorize leave and excused absence that are consistent with legal requirements, and that balance NRC work requirements with employee needs.

## **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

### **A. Executive Director for Operations (EDO)**

1. Determines when and how NRC employees will be released during an emergency situation. In conjunction with these determinations, authorizes excused absence, as appropriate, for employees who are not designated as “emergency employees.”
2. Authorizes and approves excused absences in excess of 5 consecutive workdays for all employees (except for Office of the Inspector General (OIG) employees) for any reason, including those specified in Handbook 10.62, Section V.
3. Authorizes and approves requests to be excused from jury duty in cases of serious operational necessity for all employees (except OIG employees).

### **B. Inspector General (IG)**

1. Makes determinations for restoration of forfeited annual leave and grants extensions to the time limit for using restored annual leave for employees of the OIG (see also Handbook 10.62, Section I.F). This authority may only be delegated to the Deputy Inspector General.

2. Authorizes and approves requests to be excused from jury duty in cases of serious operational necessity for all OIG employees. This authority may only be delegated to the Deputy Inspector General.
3. Authorizes and approves excused absences for all OIG employees for any reason, including those specified in Handbook 10.62, Section V. These authorities may be redelegated within the OIG as deemed appropriate by the IG.

**C. Chief Human Capital Officer (CHCO)**

1. Issues administrative orders for headquarters due to an emergency situation and, in conjunction with such orders, authorizes excused absence for those second and third night shift employees only (up to two consecutive shifts) who are not needed to perform emergency services. Normally, this responsibility will be precipitated by EDO dismissal of employees working during official hours of operation. This authority may not be redelegated.
2. Authorizes and approves excused absences up to and including 5 consecutive workdays for all employees (except for OIG employees) in all cases not covered by specific authorities.
3. Makes determinations for purposes of restoration of forfeited annual leave, as provided in Handbook 10.62, Section I.F.
4. Makes final determination concerning the agency's position on leave administration policies and procedures.
5. Maintains a list of headquarters employees designated as providing critical services during emergency office closings (see Handbook 10.62, Section V.O.4.
6. Initiates instructions and advises on policies of leave and excused absence.
7. Approves excused absence, when warranted, before the agency affects disciplinary action against an employee.
8. Annually issues a notice reminding employees of the policies and procedures governing duty status due to emergency situations and identifying the most up-to-date sources of information for operating status.
9. Makes determinations for purposes of the Voluntary Leave Transfer Program, as provided in Handbook 10.62, Section IX.

**D. Office Directors**

1. Authorize and approve leave and leave without pay (LWOP) for employees under their jurisdiction. These authorities may be redelegated.
2. Authorize excused absence up to 1 day for any reason, including but not limited to those reasons specified in Handbook 10.62, Section V. This authority may not be redelegated.

3. Designate emergency employees or positions in accordance with Handbook 10.62, Section V.O.4, and annually provide a list to the CHCO.
4. Endorse requests for extensions to the time limit for using restored leave.

#### **E. Regional Administrators**

1. Authorize and approve leave and LWOP for employees under their jurisdiction. These authorities may be redelegated.
2. Authorize excused absence up to 1 day for any reason, including but not limited to those reasons specified in Handbook 10.62, Section V. This authority may not be redelegated.
3. Designate emergency employees or positions in accordance with Handbook 10.62, Section V.O.4, and annually provide a list to the CHCO.
4. Endorse requests for extensions to the time limit for using restored leave.
5. Issue administrative orders to close all or part of their offices during an emergency situation or issues orders authorizing excused absence for employees who are not designated as “emergency employees” and immediately notify the EDO (see Handbook 10.62, Section V.O.5).
6. Annually issue a notice reminding their employees of the policies and procedures governing duty status due to emergency situations and identifying the most up-to-date sources of information for operating status.

#### **F. Controller, Office of the Chief Financial Officer (OCFO)**

1. Maintains the Human Resources Management System (HRMS) for all employees leave requests and leave accounts and prescribes procedures and methods for maintaining leave accounts.
2. Determines employee indebtedness; approves options for settlement.
3. Receives all fees and allowances collected by employees for witness service or jury duty and credits against amounts payable to employees, as required.

#### **G. Supervisors**

1. Authorize and approve up to 1 hour of excused absence during the workday and up to 2 hours of excused absence at the beginning of the workday for any reason, including but not limited to, those reasons specified in Handbook 10.62, Section V.
2. As delegated, authorize and approve leave; excused absence, as specified in Handbook 10.62, Section V; and LWOP for employees under their jurisdiction. This authority should normally be redelegated to the lowest practicable supervisory level unless otherwise provided herein. Delegations may be contained in position descriptions.

3. Monitor leave used by employees under their jurisdiction to ensure that purposes are consistent with laws and regulations, and to ensure that limits outlined in Handbook 10.62 are not exceeded.
4. Notify OCHCO when they become aware that the an emergency, as described in Handbook 10.62, Sections IX and X, ends for employees under their jurisdiction.
5. Work with employees to schedule annual leave throughout the year.
6. Strive to meet work and employee needs when managing leave.

#### **H. Employees**

1. Schedule annual leave throughout the year to avoid forfeiture of annual leave that is in excess of the maximum allowable accumulation.
2. Submit leave requests in HRMS or other methods as required within the prescribed timelines and inform the leave approving official of emergency or unplanned leave requirements in a timely manner.
3. Properly record all leave usage in HRMS on the timesheet.
4. Ensure that the limits outlined in Handbook 10.62 are not exceeded.
5. Notify supervisors when engaged in outside employment when on one or more days of sick leave.
6. Notify OCHCO when the emergency, as described in Handbook 10.62, Sections IX and X, ends.

### **IV. APPLICABILITY**

- A.** The policy and guidance in this management directive (MD) apply to all NRC employees except the following:
  1. The Commissioners and the IG, as presidential appointees confirmed by the U.S. Senate.
  2. Employees for whom a regular tour of duty during each administrative workweek has not been established, including consultants, members of advisory committees, and others who are paid on an intermittent basis.
  3. For annual leave only, employees whose appointments are limited to less than 90 days and who are not employed for a continuous period of 90 days or more.
- B.** Where provisions of the Collective Bargaining Agreement (CBA) Between the U.S. Nuclear Regulatory Commission and the National Treasury Employees Union are in conflict with this MD, provisions of the CBA shall govern bargaining unit employees.

## V. DIRECTIVE HANDBOOK

Handbook 10.62 contains NRC policy based on Federal leave guidelines.

## VI. LIMITATION ON APPROVAL OF LEAVE

No NRC employee to whom this MD applies may approve his or her own leave or excused absence. Also, only individuals with delegated authority may approve leave.

## VII. REFERENCES

### *Code of Federal Regulations*

5 CFR Part 630, "Absence and Leave."

### *Comptroller General (Comp. Gen.) Decisions*

31 Comp. Gen. 173, dated November 7, 1951, at <http://www.gao.gov/products/B-106049>.

58 Comp. Gen. 661, dated July 19, 1979, at <http://www.gao.gov/products/424598>.

70 Comp. Gen. 263, dated February 15, 1991, at <http://www.gao.gov/products/437227>.

Department of Defense Instruction Number 1215.06, "Uniform Reserve, Training and Retirement Categories," dated March 11, 2014, at <http://www.dtic.mil/whs/directives/corres/pdf/121506p.pdf>.

Department of Labor forms, at <http://www.dol.gov/whd/forms/>.

### *District of Columbia Code*

Title 49, "Military."

### *Nuclear Regulatory Commission Documents*

Collective Bargaining Agreement Between U.S. Nuclear Regulatory Commission and National Treasury Employees Union, November 9, 2015, at <http://www.internal.nrc.gov/HR/pdf/cba.pdf>.

Management Directives—

4.5, "Contingency Plan for Periods of Lapsed Appropriations."

10.1, "Recruitment, Appointments, and Merit Staffing."

10.100, "Appeals from Adverse Actions."

10.101, "Employee Grievances."

10.103, "Reduction in Force for Non-SES Employees."

10.138, "Reduction in Force in the Senior Executive Service."

10.161, "Civil Rights Program and Affirmative Employment and Diversity Management Program."

14.1, "Official Temporary Duty Travel."

"Restoration of Annual Leave," Comparison Chart between Sick Leave and FMLA, and Information Regarding the Leave Transfer Program, at <http://www.internal.nrc.gov/HR/leave.html>.

"Status of NRC Headquarters Operations in the Washington, DC Area," at <http://www.internal.nrc.gov/HR/headquarters-status.html>.

### ***Office of Personnel Management Documents***

"The Guide to Processing Personnel Actions," at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/#url=Processing-Personnel-Actions>.

"Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care," at <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>.

### ***United States Code***

5 U.S.C., "Government Organization and Employees."

5 U.S.C. 55, "Pay Administration."

5 U.S.C. 63, "Leave."

5 U.S.C. 81, "Compensation for Work Injuries."

Inspector General Act of 1978, as amended (5 U.S.C. App. 3).

14 U.S.C., "Coast Guard."

10 U.S.C., "Armed Forces."

Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.).

Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C., Chapter 43, "Employment and Reemployment Rights of Members of the Uniformed Services").

**U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)**

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**TABLE OF CONTENTS**

<b>I. ANNUAL LEAVE .....</b>	<b>4</b>
A. Accrual Rates .....	4
B. Determining Creditable Service .....	5
C. Advanced Annual Leave .....	7
D. Scheduling and Granting Annual Leave.....	8
E. Annual Leave Ceilings .....	10
F. Restoration of Forfeited Annual Leave.....	11
G. Liquidation of Excess Annual Leave Credited Through Administrative Error .....	12

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<b>II. SICK LEAVE.....</b>	<b>13</b>
A. Accrual Rates and Maximum Accumulation.....	13
B. Sick Leave Purposes.....	13
C. Scheduling and Granting Sick Leave.....	16
D. Advancing Sick Leave.....	18
E. Outside Employment While on Sick Leave.....	20
<b>III. DISPOSITION OF LEAVE UPON TRANSFER, SEPARATION, AND REEMPLOYMENT.....</b>	<b>21</b>
A. Transfer to Another Federal Agency.....	21
B. Separation.....	21
C. Reemployment.....	22
<b>IV. OTHER ABSENCES FROM DUTY.....</b>	<b>23</b>
A. Military Leave.....	23
B. Court Leave.....	25
C. Bone Marrow and Organ Donation.....	29
<b>V. EXCUSED ABSENCE.....</b>	<b>30</b>
A. Tardiness and Brief Absences During the Workday.....	30
B. Medical-Related Absences.....	30
C. Blood Donation.....	31
D. Voter Registration and Voting.....	31
E. Armed Forces or Federal Law Enforcement Officer Funerals.....	32
F. Examinations for Professional Certification.....	32
G. Credit Union Activities.....	33
H. Before Effecting Discipline.....	33
I. Grievance, Appeal, and Complaint Hearings.....	33
J. Volunteer Activities.....	33
K. Job Placement Interviews and Examinations.....	34
L. Travel to Seek Permanent Residence Quarters.....	35
M. Absences Associated With a Move.....	35
N. Employees Returning from Active Military Duty.....	35
O. Office Closings and Designation of Emergency Employees.....	36
<b>VI. LEAVE WITHOUT PAY.....</b>	<b>39</b>
A. Short Absences.....	39
B. Extended Absences (Exceeding Thirty Days).....	39
C. Requesting and Recording LWOP.....	40

---

D. Cases Requiring the Granting of Leave Without Pay .....	41
E. Family and Medical Leave Act (FMLA) .....	41
F. Effect on Federal Benefits and Programs .....	45
<b>VII. LEAVE FOR CHILDBIRTH, ADOPTION, AND FOSTER CARE.....</b>	<b>45</b>
A. Requesting Leave Related to Childbirth, Adoption, and Foster Care .....	45
B. Reasonable Accommodations .....	45
<b>VIII. INVOLUNTARY LEAVE, LEAVE ABUSE, AND ABSENCE WITHOUT LEAVE     (AWOL).....</b>	<b>46</b>
A. Leave Abuse .....	46
B. Absence Without Leave (AWOL) .....	46
C. Involuntary Leave .....	47
<b>IX. VOLUNTARY LEAVE TRANSFER PROGRAM.....</b>	<b>47</b>
A. Application To Become a Leave Recipient.....	48
B. Notice to Donors.....	48
C. Potential Donors .....	49
D. Leave Donation Limitations .....	49
E. Use of Donated Leave .....	50
F. Termination of Personal Emergency.....	50
G. Prohibition of Coercion .....	51
<b>X. EMERGENCY LEAVE TRANSFER PROGRAM.....</b>	<b>51</b>
A. Establishment of an Emergency Leave Transfer Program .....	51
B. Leave Donation Limitations .....	51
C. Use of Donated Leave .....	51
D. Termination of Disaster or Emergency.....	52
E. Prohibition of Coercion .....	52
<b>XI. GLOSSARY .....</b>	<b>52</b>

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## **I. ANNUAL LEAVE**

Annual leave accrues automatically to all eligible employees and may be used for any purpose such as vacations, rest and relaxation, and personal business or emergencies. General policy and regulations are explained below but 5 CFR Part 630, "Absence and Leave," Subpart C should be referenced for more information.

### **A. Accrual Rates**

1. Full-Time Employees
  - (a) 4 hours for each pay period for employees with less than 3 years of service.
  - (b) 6 hours for each pay period for employees with 3 years but less than 15 years of service, except for the last full pay period of the year when they earn 10 hours.
  - (c) 8 hours for each pay period for employees with 15 or more years of service.
2. Part-Time Employees
  - (a) 1 hour for each 20 hours in a pay status for employees with less than 3 years of service.
  - (b) 1 hour for each 13 hours in a pay status for employees with 3 years but less than 15 years of service.
  - (c) 1 hour for each 10 hours in a pay status for employees with 15 or more years of service.
  - (d) Any hours in a pay status in excess of 80 hours in a biweekly pay period will be disregarded in computing annual leave credit.
3. Senior Executive Service (SES) and Senior Level System (SLS) employees earn 8 hours for each pay period, regardless of years of service.
4. A temporary employee with an appointment of less than 90 days is entitled to accrue annual leave only after being currently employed for a continuous period of 90 days under successive appointments without a break in service (1 workday or more when the employee is not on the Government's employment rolls).
  - (a) If the employee is initially appointed for less than 90 days and subsequently the appointment is converted to one for more than 90 days, the individual is entitled to leave credit from the beginning date of the initial appointment and may begin using the leave immediately upon the appointment conversion.
  - (b) Employees may use any annual leave earned under previous appointments that has been credited to their account.

## 5. Change in Earning Rates

Any change in the rate of accrual is effective at the beginning of the pay period following the date on which an employee becomes eligible for the change to a higher leave earning category.

## B. Determining Creditable Service

### 1. Civilian and Uniformed Service

In general, any service that may be used in computing an annuity under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) is creditable for setting leave earning rates. See the Office of Personnel Management (OPM) Operating Manual, "The Guide to Processing Personnel Actions," (available at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/#url=Processing-Personnel-Actions>) for a detailed discussion and listing of creditable service, noting in particular the special limitations on crediting military service for employees who are retired members of the uniformed services.

### 2. Non-Federal or Non-Creditable Uniformed Service

A newly-appointed or reappointed employee (after a break in service of 90 calendar days) at the full performance level (FPL) may receive service credit for prior non-Federal work experience (or otherwise non-creditable uniformed service) for annual leave accrual. In rare instances, exceptions to employees below the FPL may be considered on a case-by-case basis.

#### (a) Criteria for Granting Service Credit

Service credit may be granted toward annual leave accrual rates if application of the service credit is necessary to achieve an important NRC mission or performance goal, and the non-Federal or non-creditable uniformed service provided skills and experience that—

- (i) Were acquired through performance in a position having duties directly related to the duties of the NRC position to which the individual is being appointed,
- (ii) Are essential to the new position, and
- (iii) Are necessary to achieve an important NRC mission or performance goal.

#### (b) Factors that May Be Considered When Determining What Experience to Credit

- (i) The value of the non-Federal or non-creditable uniformed experience to the NRC,
- (ii) Whether crediting the experience would enable the NRC to recruit the quality of candidate needed,

- (iii) The candidate's current leave benefits or whether the service credit is needed to allow the NRC to make a competitive offer (e.g., whether it would offset a loss to the employee by accepting NRC employment),
  - (iv) The likely additional productivity of the appointee, and
  - (v) Consistency.
- (c) Amount to Credit
- (i) The NRC must decide before the effective date of the employee's appointment whether to grant a new employee or reappointed employee service credit and how much, if any, to grant. There is no entitlement to service credit under this policy. Approval must be on a case-by-case basis depending on the U.S. Nuclear Regulatory Commission's needs, mission, and performance goals.
  - (ii) The NRC determines how much of an appointee's prior non-Federal and/or non-creditable uniformed service to credit based on verified experience, to the extent feasible.
    - The amount of service credited may not exceed the period of service during which the employee performed duties directly related to the NRC position and must be pro-rated, if appropriate.
    - Service will be credited in terms of years and months, up to a maximum of 15 years.
    - Verification of service may be performed by the selecting official or the Office of the Chief Human Capital Officer (OCHCO) while obtaining reference checks.
  - (iii) To receive service credit for leave accrual rates, a selectee must provide acceptable written documentation to the NRC of his or her non-Federal and/or non-creditable uniformed service that would not otherwise be creditable prior to the effective date of employment with the NRC. Acceptable written documentation must consist, at a minimum, of both of the following:
    - A description of the nature and quality of the experience in sufficient detail to enable the NRC to determine whether the experience provided skills and experience directly related to and essential for the position to which the individual will be appointed.
    - Documentation of the dates of such service. This may include such documentation as a DD-214 for military service or employment paperwork, a performance appraisal specifying the actual dates covered, or other comparable documents confirming dates of non-Federal employment.

(d) Nature of Service Credit

- (i) Service credit granted under this provision for non-Federal service or non-creditable uniformed service that would not otherwise be creditable is used to determine an employee's annual leave accrual rate. For example, a new full-time appointee who received 11 years of service credit for non-Federal service would begin employment earning 6 rather than 4 hours of annual leave per pay period and would be placed in the 8-hour leave earning category after only 4 years of Federal service.
- (ii) Service granted under this provision is not creditable for any purpose other than determining annual leave accrual rates.
- (iii) Service credit is granted upon the effective date of the appointment or reappointment and is permanently credited to the employee unless the employee fails to complete 1 full year of current continuous service with the NRC.
- (iv) If the employee transfers to another agency or separates from Federal service before completing 1 year of continuous service with the NRC, then the NRC must withdraw the service credit granted under this provision and establish a revised service computation date for leave.
  - Any annual leave accrued or accumulated by the employee remains to his or her credit.
  - The NRC will provide the employee with a lump-sum for accumulated and accrued leave or transfer it to the new agency, as appropriate.

**C. Advanced Annual Leave**

1. The NRC will normally make available annual leave that will accrue during the leave year at the beginning of the leave year for use during the year. Annual leave may not be advanced beyond an employee's projected accrual for the current year.
  - (a) For part-time employees, the number of hours of annual leave advanced will be prorated according to the number of hours in the employees' regularly scheduled administrative work week.
  - (b) Employees who are on temporary appointments will be advanced annual leave up to the amount of leave that will be earned before the appointment expires or by the end of the leave year, whichever comes first.
  - (c) Employees who enter on duty during the leave year will be credited with the annual leave that will be earned during the pay periods remaining in the leave year.
2. When an employee's leave rate changes (i.e., 4 to 6 hours per pay period or 6 to 8 hours per pay period) during the leave year, the additional annual leave accrual will be credited after the time-in-service requirements are met.

3. The supervisor should deny advanced annual leave when it is unlikely that the employee will accrue such leave during the leave year, based on the employee's nonpay status, information provided by the employee, or a pending action to terminate his or her employment.

#### **D. Scheduling and Granting Annual Leave**

##### **1. Scheduling and Recording Annual Leave**

- (a) An employee has a right to take annual leave, subject to the right of the supervisor to decide when leave may be taken. Generally, this decision will be made in light of the needs of the agency rather than solely on the basis of an employee's desire.
- (b) Supervisors and employees are mutually responsible for scheduling the use of annual leave throughout the leave year to minimize disruptions and to avoid forfeiture of annual leave.
- (c) Leave schedules should be developed early in each leave year and adjustments made from time to time as may be necessary to accommodate workload requirements and employees' wishes for leave.
- (d) Annual leave requests in excess of 3 consecutive work days must normally be documented using the "Leave/Additional Hours Request" function in the Human Resources Management System (HRMS) (see Section VI.E for guidance on the Family and Medical Leave Act (FMLA). Supervisors have the sole discretion to require requests for 3 consecutive work days or less to be input into HRMS or to accept requests by other methods (e.g., verbal approval).
- (e) The following are general scheduling and recording guidelines for an employee with deviations to the originally approved annual leave:
  - (i) To the extent practicable, the employee must obtain the supervisor's approval before taking any additional annual leave. Supervisors have the sole discretion to require the request for additional time to be input into HRMS or to accept the request by other methods (e.g., verbal approval) unless (iii) below applies.
  - (ii) If an employee takes less annual leave than originally approved and a request was submitted in HRMS, a supervisor has the sole discretion to require the employee to document the change in the original HRMS request.
  - (iii) If the original annual leave request was approved outside of HRMS because it was 3 consecutive work days or less and, the additional days of annual leave subsequently approved causes the total amount of annual leave to exceed 3 consecutive work days, a request for the total amount of annual leave approved will need to be documented using the "Leave/Additional Hours Request" function in HRMS.

- (f) As a general rule, employees may not be placed on annual leave without their consent (i.e., annual leave must be requested). Supervisors shall consult OCHCO before placing any employees on annual leave without consent.
- (g) Annual leave is charged in 15-minute increments and recorded as “ANN” on the timesheet.

## 2. Approval Requirements

- (a) Except in cases of emergency or unforeseen circumstances, approval of annual leave must be obtained in advance. If the request was not made in advance, the employee should notify the supervisor as soon as possible and request approval of the leave for each day he or she is on leave unless a specific date of return is given.
- (b) The supervisor should promptly grant or deny requests to use annual leave. Once an employee’s request for annual leave has been approved, the approval may not be revoked unless, because of changed circumstances, the employee’s absence would cause a severe workload problem. Denial of a leave request or cancelation of approved leave normally needs to be based on the necessity for the employee’s services.
- (c) When two or more employees’ requests for annual leave create a workload problem, the employees will be asked to resolve the problem among themselves. If they are unable to do so, then the requests will normally be granted in the order in which they are received.

## 3. Annual Leave in Lieu of Sick Leave

An approved absence that would otherwise be chargeable to sick leave may be charged to annual leave if requested by the employee and approved. However, the retroactive substitution of annual leave for sick leave previously granted is not authorized except to—

- (a) Liquidate advanced sick leave, and then only when the substitution is made before the time the annual leave would have been otherwise forfeited.
- (b) Correct a leave record when an employee erroneously used more sick leave than authorized, and then only when the substitution is made before the time the annual leave would have been otherwise forfeited.

## 4. Special Provisions for Disabled Veterans

Disabled veterans shall be granted annual leave for the purpose of receiving medical treatment, and for examinations and absences connected with the disability. This leave must be granted upon the employee’s request, provided appropriate evidence of necessity for treatment is presented and provided the veteran gives advance notice of absence required for treatment.

#### 5. Terminal Leave

An employee may not be granted terminal annual leave immediately before separation from Federal service when it is known in advance that the individual will not return to duty.

- (a) Exceptions may be made to this requirement when there are statutory provisions or regulations that require or permit the granting of annual leave immediately before separation (e.g., advance reduction in force notices or a forced shutdown of an activity is occurring at the time of separation and the date of separation cannot be set any earlier than planned).
- (b) When an employee who is not known to be separating from the service has been granted annual leave and it then becomes known that he or she is to be separated, the employee may not continue in a leave status beyond the day that the fact of separation becomes known.

### E. Annual Leave Ceilings

Any annual leave in excess of the amounts stated below is forfeited by employees if not used by the final day of the leave year unless restoration of the excess leave is approved under the provision of I.F., below.

1. For SES and SLS employees, the maximum amount of annual leave that may be carried forward from one leave year to another is 720 hours. SES employees who, as of October 16, 1994, had accumulated annual leave in excess of 720 hours were entitled to retain that leave as a personal leave ceiling as indicated in I.F.3, below.

#### (a) Moving out of SES/SLS

If an employee moves out of the SES or SLS and has a leave balance higher than 240 hours, the leave balance on that date will become the new personal leave ceiling as indicated in I.E.3, below.

#### (b) Moving into SES/SLS

If on the date an employee is entering the SES or SLS, his or her leave balance is above 240 hours, any amount above 240 hours will be subject to forfeiture if not used by the end of the leave year. This applies only to the first leave year when an employee becomes SES or SLS.

2. For a non-SES employee, the maximum amount of annual leave that may be carried forward from one leave year to another is 240 hours.
3. An employee may have a personal leave ceiling larger than the limits described in I.E.1 and I.E.2, above, if the personal leave ceiling has not been reduced through use. Generally, when an employee's personal leave ceiling exceeds the limits described in I.E.1 and I.E.2 above, the personal ceiling remains to the employee's credit until used. Whenever an employee uses more annual leave in a leave year than is earned, the balance carried forward becomes a new leave ceiling, if it is still

above the normal maximums. It may not be increased thereafter by leave earned in subsequent years.

4. Certain Federal employees who are assigned overseas may accumulate up to 360 hours of annual leave. In the event of employment by the NRC, they are entitled to retain the higher accumulation in accordance with 5 CFR 630.302.

#### **F. Restoration of Forfeited Annual Leave**

Unused annual leave in excess of the maximum leave ceilings mentioned above may be restored in certain cases upon approval of the Chief Human Capital Officer (CHCO). For an employee of the Office of the Inspector General (OIG), the Inspector General (IG) makes all determinations relative to the restoration of forfeited annual leave. Further guidance on requesting restoration may be found on OCHCO's Web page at <http://www.internal.nrc.gov/HR/leave.html>.

##### **1. Restoration of Annual Leave**

Unused annual leave in excess of the maximum leave ceilings mentioned above may be restored in the following cases:

- (a) Administrative error;
- (b) Exigency of the public business - If the NRC determines that an "exigency" or operational demand is of such importance that the excess annual leave cannot be used. This annual leave must have been scheduled and approved in writing before the start of the third biweekly pay period before the end of the leave year and the annual leave must have been subsequently denied in writing because of the exigency or operational demand; and
- (c) Sickness - If the annual leave was forfeited due to an employee's illness that occurred so late in the leave year or was of such duration that the excess annual leave could not be rescheduled for use before the end of the leave year. This annual leave must have been scheduled in writing before the start of the third biweekly pay period, before the end of the leave year.

##### **2. Establishment of Separate Leave Account for Restored Annual Leave**

A separate leave account will be established by the Payroll and Payments Branch, Office of the Chief Financial Officer (OCFO), for restored annual leave. A request for restored annual leave will be done in the same manner as an annual leave request but will be recorded as "RESLV" on the timesheet.

##### **3. Time Limit for Using Restored Annual Leave**

- (a) Restored annual leave must be scheduled and used not later than the end of the leave year ending 2 years after the date—
  - (i) Annual leave was restored to correct an administrative error;

- (ii) Fixed by the CHCO as the termination date of an exigency that resulted in the forfeiture of the annual leave; or
  - (iii) The employee is determined to be recovered and able to return to duty if the annual leave was forfeited because of sickness.
- (b) Any restored leave that is unused at the expiration of the 2-year limit is forfeited with no further right to restoration unless it is determined that it qualifies as an extended exigency as defined in 5 CFR 630.309. A request for such an extension must be fully justified in writing using the criteria listed above, endorsed by the office director or regional administrator, and submitted to the CHCO for approval.
4. National Emergency by Reason of Certain Terrorist Attacks

An employee who forfeits annual leave because the NRC has determined the employee's services were required in response to the national emergency is generally entitled to have his or her excess annual leave restored without the administrative burden of scheduling and canceling such leave. In addition, the time limitations for using restored annual leave are suspended for the entire period during which the employee's services are determined to be essential for activities associated with the national emergency. At the end of the national emergency or when the services of the employee are no longer deemed to be necessary, a time limit will be established in accordance with 5 CFR 630.311.

#### **G. Liquidation of Excess Annual Leave Credited Through Administrative Error**

1. An employee is required to refund the full amount of any annual leave that may have been credited and/or used in excess of entitlement because of administrative error. Under certain circumstances, repayment may be waived under 5 U.S.C. 5584.
2. If repayment is not waived, the employee may refund the excess annual leave under one or more of the following options:
  - (a) Lump-sum payment in dollars equivalent to the dollar value of the leave at the time it was used,
  - (b) Lump-sum payment in an equivalent amount of accrued annual leave;
  - (c) Installment payments in dollars equivalent to the dollar value of the leave at the time it was used, or
  - (d) Installment payments in annual leave (i.e., as a charge against later-accruing annual leave).
3. The OCFO is responsible for determining indebtedness and approving options for settlement of an employee's indebtedness agreed to with the employee, or deemed reasonable. In selecting an option or options to apply in a particular case, consideration should be given to providing repayment as promptly as possible but without imposing a significant financial hardship on an employee or requiring the use of all accrued annual leave.

## II. SICK LEAVE

Sick leave accrues automatically to all eligible employees and may be used for the purposes described in II.B of this handbook. General policy and regulations are explained below, but 5 CFR Part 630, Subpart D, should be referenced for more information.

### A. Accrual Rates and Maximum Accumulation

#### 1. Accrual Rates

Full-time employees earn sick leave at the rate of 4 hours for each full biweekly pay period. Employees who work on a part-time basis with an established tour of duty earn sick leave at the rate of 1 hour for each 20 hours of duty (not to exceed 4 hours of sick leave in any pay period).

#### 2. Maximum Accumulation

There is no limitation on the amount of sick leave that can be accumulated. Sick leave that is not used by an employee during the year in which it accrues shall accumulate and be available for use in succeeding years.

### B. Sick Leave Purposes

#### 1. An employee may use sick leave under the following conditions:

##### (a) Personal Medical Needs

- (i) To receive medical, dental, or optical examination or treatment;
- (ii) When incapacitated for the performance of duties due to physical or mental illness, injury, pregnancy, or childbirth; or
- (iii) When, as determined by the health authorities having jurisdiction or by a health care provider, he or she would jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.

##### (b) Family Care or Bereavement Purposes

- (i) Provide care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth;
- (ii) Attend to a family member receiving medical, dental, or optical examination or treatment;
- (iii) Provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or
- (iv) Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

(c) Provide care for a family member with a serious health condition

The term “serious health condition” has the same meaning as used in OPM’s regulations for FMLA and may include cancer, heart disease and heart attack, stroke, severe injury, kidney dialysis, emphysema, Alzheimer’s disease, and pregnancy and childbirth (this list is not intended to be all-inclusive). The term “serious health condition” does not cover short-term conditions for which treatment and recovery are brief (e.g., cold, flu, earache, upset stomach, headache other than migraines, routine dental or orthodontia problem) unless complications arise. See the detailed definition of serious health condition in 5 CFR 630.1202.

(d) Adoption-related purposes

When an employee must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

2. Sick Leave for Family Members Definitions

For purposes related to sick leave and Section II, the following definitions apply:

(a) A “family member” covers a wide range of relationships and is defined as:

- (i) Spouse and parents of spouse;
- (ii) Children, including adopted children, and their spouses;
- (iii) Parents and their spouses;
- (iv) Brothers and sisters and their spouses;
- (v) Grandparents and grandchildren and their spouses;
- (vi) Domestic partner, and their parents, including domestic partners of any individuals in (i) through (v) above; and
- (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(b) A “parent” is defined as:

- (i) A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the employee was a minor;
- (ii) A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;
- (iii) A person who stands in *loco parentis* (defined as the legal doctrine under which an individual assumes parental rights, duties, and obligations without going through the formalities of legal adoption) to the employee or stood in

*loco parentis* to the employee when the employee was a minor or required someone to stand in *loco parentis*; or

- (iv) A parent, as described in (i) through (iii) above, of an employee's spouse or domestic partner.
- (c) A "son or daughter" is defined as:
- (i) A biological, adopted, step, or foster son or daughter of the employee;
  - (ii) A person who is a legal ward or was a legal ward of the employee when individual was a minor or required a legal guardian;
  - (iii) A person for whom the employee stands in *loco parentis* or stood in *loco parentis* when that individual was a minor or required someone to stand in *loco parentis*; or
  - (iv) A son or daughter, as described above in (i) through (iii), of an employee's spouse or domestic partner.
- (d) A "domestic partner" is defined as an adult in a committed relationship with another adult, including both same-sex and opposite-sex relationships. A "committed relationship" is defined as a relationship in which the employee, and the domestic partner of the employee, are each other's sole domestic partner (and are not married to or domestic partners with anyone else); and share responsibility for a significant measure of each other's common welfare and financial obligations.

### 3. Sick Leave Usage Limits per Leave Year

Assuming the employee has sick leave available, the supervisor may grant leave up to the following limits in any leave year:

- (a) There are no limits on the amount of sick leave that can be used for an employee's personal medical needs or for adoption-related purposes (Section B.1(a) and B.1(d) above).
- (b) Generally, up to 104 hours of sick leave may be used for general family care and bereavement purposes (Section B.1(b) above).
- (c) Generally, up to 480 hours of sick leave may be used to care for a family member with a serious health condition (Section B.1(c) above).
  - (i) An employee is entitled to use a maximum of 480 hours of sick leave each leave year for all family care purposes. If an employee has already used 480 hours of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 104 hours in the same leave year for general family care purposes. If an employee previously has used any portion of the 104 hours of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 480 hours entitlement.

- (ii) See the exception to this limit in VI.E.3 of this handbook when FMLA is invoked to care for a covered servicemember.

### **C. Scheduling and Granting Sick Leave**

1. Supervisors have the authority and responsibility to determine, where applicable, that the nature of an employee's illness incapacitated the individual for the performance of duties and whether other circumstances of the absence justify the approval of a sick leave request. A request for sick leave for nonemergency medical, dental, or optical examination or treatment shall be requested and approved in accordance with Section I.D of this handbook.
  - (a) A request for sick leave for nonemergency medical, dental, or optical examination or treatment shall be made as far in advance as practical. When possible, the request will be made no less than 3 workdays before the intended absence.
  - (b) An employee absent for any other sick leave purpose should notify the supervisor before the time for reporting to work on the first day of the absence, or as soon thereafter as possible. Failure to give timely notice or request leave properly may result in disciplinary action based on failure to follow leave procedures even when the reason for leave is valid and the sick leave is approved.
  - (c) When leave is not requested in advance, the employee should notify the supervisor and request approval each day he or she is on leave unless a specific period of absence has been granted.
  - (d) As a general rule, an employee may not be placed on sick leave without his or her consent (i.e., sick leave must be requested). A supervisor shall consult OCHCO before placing an employee on sick leave without consent.
  - (e) Sick leave requests in excess of 3 consecutive work days must normally be documented using the "Leave/Additional Hours Request" function in HRMS (except when invoking FMLA). A supervisor has the sole discretion to require a request for 3 consecutive work days or less to be input into HRMS or to accept the request by other methods (e.g., verbal approval).
  - (f) The following are general scheduling and recording guidelines for an employee with deviations to the originally approved sick leave:
    - (i) To the extent practicable, the employee must obtain the supervisor's approval before taking any additional sick leave. A supervisor has the sole discretion to require the request for additional time to be input into HRMS or to accept the request by other methods (e.g., verbal approval) unless (f)(iii), below, applies.
    - (ii) If an employee takes less sick leave than originally approved and a request was submitted in HRMS, a supervisor has the sole discretion to require the employee to document the change in the original HRMS request.

- (iii) If the original sick leave request was approved outside of HRMS and the additional days of sick leave subsequently approved causes the total amount of sick leave to exceed 3 consecutive work days, a request for the total amount of sick leave approved will need to be documented using the "Leave/Additional Hours Request" function in HRMS.
2. Medical documentation
    - (a) Ordinarily, a medical certificate is not required for an absence of 3 consecutive workdays or less.
    - (b) A supervisor may require an employee to furnish either a medical certificate or other evidence acceptable to a reasonable person (which may include employee self-certification) to substantiate a request for approval if the sick leave exceeds 3 consecutive workdays.
    - (c) In the case of an extended illness, medical certification may be required periodically to establish the employee's continued incapacity to return to work.
    - (d) When requested to submit administratively acceptable evidence or medical certification, the employee must submit it within 15 calendar days. If not practicable, in spite of the employee's diligent efforts, the employee must submit the documentation within a reasonable time period, but no later than 30 calendar days.
    - (e) When required, the medical certification should be completed by the health care provider as defined in 5 CFR 630.1202. An employee should provide the completed form to his or her supervisor, and the supervisor should keep the completed form until at least the end of the leave year during which the condition ends.
  3. Unless it is uncertain how much sick leave will be earned, sick leave accrual is generally available for use at the beginning of the pay period in which it is earned.
  4. Sick leave is charged in 15-minute increments and recorded on the timesheet as follows:
    - (a) "SL" for sick leave for personal use or adoption;
    - (b) "SLFam" for sick leave for general family care and bereavement purposes; and
    - (c) "SLSHC" for sick leave for a family member with a serious health condition.
  5. Supervisors, employees, and timekeepers share a joint responsibility to keep track of all leave used under this program each year and ensure that leave does not exceed limits described above. If these limits are exceeded, appropriate adjustments must be made to correct the error.

6. Sick Leave During or Following Leave Without Pay

Consistent with 58 Comp. Gen. 661, supervisors may not approve sick leave retroactively to cover any period of absence on leave without pay (LWOP) that was applied for and approved in advance except for LWOP granted to an employee pending action on an employee's compensation claim that was disallowed. When an employee is unable to return to duty because of illness following a period of LWOP, sick leave may be granted.

7. Substitution of Sick Leave for Annual Leave

When sickness occurs within a period of annual leave, the period of illness may be charged as sick leave and the charge against annual leave reduced accordingly. Application for such substitution should be made as soon as possible after return to duty.

8. Special Provisions for Disabled Veterans

Disabled veterans shall be granted available sick leave for the purpose of receiving medical treatment, and for examinations and absences connected with the disability. This leave must be granted upon the employee's request, provided appropriate evidence of the necessity for treatment is presented, and provided the veteran gives advance notice of absence required for treatment.

**D. Advancing Sick Leave**

1. Sick leave may be advanced solely at the discretion of the agency. In addition to ensuring that the reason and the amount are authorized by regulation, a supervisor should consider such matters as, but not limited to—
  - (a) The likelihood that the employee will return to duty,
  - (b) The need for the employee's services,
  - (c) The employee's past leave record and the amount of annual leave available to the employee,
  - (d) The reasons for the request (for example, to the extent practical, supervisors grant advanced sick leave for medical examinations and incapacitation related to pregnancy, childbirth, and recovery; a supervisor may give stronger consideration to a request resulting from a severe condition than a request for brief absence for a routine examination or illness), and
  - (e) The benefits to the agency of retaining the employee.
2. The request for advanced sick leave must be denied if it does not meet the regulatory criteria, or it is known in advance that the employee does not intend to return to duty. Advanced sick leave should only be granted when it is likely that the employee will continue their employment with the NRC. An employee may not be

- advanced sick leave when it is known or expected that the employee will not return to duty (e.g., when the employee has applied for disability retirement.)
3. Sick leave may be advanced at the discretion of the NRC irrespective of whether the employee has annual leave to his or her credit.
  4. An employee with no sick leave to his or her credit may be granted advanced sick leave at the discretion of his or her supervisor, subject to the following limitations:
    - (a) Up to 240 hours of sick leave may be advanced to an employee who—
      - (i) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
      - (ii) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
      - (iii) Provides care for a family member with a serious health condition;
      - (iv) Needs the leave for adoption-related purposes; or
      - (v) Is caring for a covered servicemember with a serious injury or illness, provided the employee is invoking FMLA leave to care for a covered servicemember.
    - (b) Up to 104 hours of sick leave may be advanced to an employee to—
      - (i) Receive medical, dental, or optical examination or treatment;
      - (ii) Provide care for a family member who is incapacitated as the result of physical or mental condition or to attend to a family member receiving medical, dental, or optical examination or treatment;
      - (iii) Provide care for a family member who would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease; or
      - (iv) Make arrangements necessitated by the death of a family member or attend the funeral of a family member.
    - (c) The maximum amount of advanced sick leave that a full-time employee may have at any one time is 240 hours.
      - (i) This amount is prorated for a part-time employee.
      - (ii) A temporary employee or an employee with an appointment with a definite time limit may not be advanced sick leave in excess of the total amount of sick leave credits he or she will earn during the remaining period of the appointment.

5. Advancing Sick Leave Retroactively

Advanced sick leave may be granted retroactively except where specifically not authorized (see II.C.6 in this handbook).

6. Liquidation of Advanced Sick Leave

Advanced sick leave may be liquidated by any of the following:

- (a) Against sick leave credits subsequently earned;
- (b) Upon an employee's request, by a charge against an equivalent amount of annual leave, provided the supervisor would have otherwise granted such leave and that this action is completed before the time the leave would be forfeited and the annual leave would have been granted; or
- (c) By repayment upon separation.

7. Requesting Advanced Sick Leave

When practical, at least 1 week before the time the leave will be used, an employee will request advanced sick leave (except when invoking FMLA) over 3 consecutive work days in HRMS using the "Leave/Additional Hours Request" function in HRMS, along with an explanation of the reason for the request. A supervisor has the sole discretion to require the request for a period of 3 consecutive work days or less to be input into HRMS or to accept the request by other methods (e.g., verbal approval). Any medical documentation in support of the request should be provided to the employee's supervisor outside of HRMS.

**E. Outside Employment While on Sick Leave**

If an employee is unable to perform the duties of the job because of illness or injury, the individual is generally too ill or injured to work elsewhere. There are, however, rare situations (usually involving extended periods of illness or confinement) in which there may be acceptable justification for outside employment. One example might be an employee confined at home because of pregnancy or recuperating from illness or injury who is unable to perform NRC work by telework and engages in telephone solicitation work or writing. An employee of the NRC is required to notify his or her supervisor whenever he or she engages in outside employment (for themselves or others) on 1 or more days for which sick leave has been requested. As circumstances may warrant, the employee may be required to secure prior approval before engaging in any outside employment during a period of sick leave.

### **III. DISPOSITION OF LEAVE UPON TRANSFER, SEPARATION, AND REEMPLOYMENT**

#### **A. Transfer to Another Federal Agency**

When an employee transfers between positions under 5 U.S.C 63 "Leave," Subchapter 1, without a break in service, the annual and sick leave balances will transfer to the new agency. When the employee transfers with a negative sick or annual leave balance, a negative balance will be transferred. An employee will not be required to repay leave to transfer with a zero balance.

#### **B. Separation**

##### **1. Annual Leave**

- (a) Generally, an employee who is separated from service is entitled to be paid in a lump-sum for accumulated, accrued, and restored annual leave. The lump-sum payment will typically equal the pay the employee would have received had he or she remained employed until expiration of the period covered by the annual leave.
- (b) Employee Separating to Enter Military Service
  - (i) When an employee leaves his or her civilian position for the purpose of entering military service, the employee is given the option of using annual leave while on active duty, being paid in a lump-sum for the accumulated and accrued annual leave, or having the annual leave remain as a credit until return from active duty. An employee may not receive a partial payment of the accumulated and accrued annual leave. Any restored leave must be liquidated by a lump-sum payment and may not be recredited upon return.
  - (ii) Should restoration rights not be exercised or authorized and the employee not return to a Federal civilian position, any remaining annual leave will be liquidated by a lump-sum payment.
- (c) Employee Separating to Transfer to an International Organization
  - (i) When an employee transfers to a public international organization, the employee is given the option of being paid in a lump-sum for the accumulated and accrued annual leave or to have the annual leave remain as a credit. An employee may not receive a partial payment of the accumulated and accrued annual leave. Any restored leave must be liquidated by a lump-sum payment and may not be recredited upon return.
  - (ii) Should the employee not return to a Federal civilian position, any remaining annual leave will be liquidated by a lump-sum payment.

## 2. Sick Leave

Unused sick leave is not eligible to be paid out in a lump-sum payment. If the employee is retiring or dies, unused sick leave as of the date of retirement or death will be used in the calculation of the employee's or the survivor's annuity and reported to OPM.

## 3. Liquidation of Indebtedness for Advanced Leave

(a) Refund for any advanced annual and sick leave upon separation is required in all cases, except those provided below:

(i) When the employee is separated by death,

(ii) When the employee retires because of disability, or

(iii) When an employee resigns, retires, or is separated because of a disability that prevents return to duty or continuing in the service and that is the basis for the separation action (as determined by OCHCO).

(b) When an employee is separated for the purpose of entering the Armed Forces with restoration rights, the employee is not deemed to be separated. In this case, advanced leave will remain on the records as a charge against the employee until restoration and subsequent separation.

## C. Reemployment

If a former employee covered under 5 U.S.C. 63, Subchapter I, returns to Federal employment and is now subject to leave provisions, the following general guidelines apply.

### 1. Annual Leave

2. If an employee received a lump-sum payment and is reemployed with the NRC before the expiration of the lump-sum period, the employee must refund the NRC an amount equal to the pay included in the lump-sum payment that covers the period between the date of reemployment and the expiration of the lump-sum leave period. Restored annual leave may not be refunded. The NRC will then recredit that amount of annual leave to the employee's leave account.

### 3. Sick Leave

#### (a) Separation

An employee who has had a break in service is entitled to a recredit of sick leave, regardless of the length of the break in service. However, sick leave may not be recredited if the employee was reemployed by the Federal Government before December 2, 1994, after a break in service of more than 3 years, and the employee's sick leave was forfeited under the former regulation in effect at the time.

(b) Re-employed annuitant

Any sick leave used in the calculation of the employee's annuity is considered as having been used.

- (i) Employees who retired under CSRS and employees who retired under FERS after January 1, 2014, will start with a zero balance for sick leave.
- (ii) FERS employees who retired before October 28, 2009, will be reccredited their sick leave balance before retirement, unless it was forfeited as described in III.C.2(a), above.
- (iii) FERS employees who retired between October 28, 2009, and December 31, 2013, shall be reccredited half of their sick leave balance as of the date they retired.

4. Reemployment Following Military Service or a Transfer to an International Organization

Upon return to a civilian position, the employee's leave account, both sick and annual leave, if any, will be reestablished. The amount of sick leave reccredited follows III.C.2(a), above.

#### **IV. OTHER ABSENCES FROM DUTY**

In certain situations, employees are entitled to separate categories of paid leave in addition to annual and sick leave.

##### **A. Military Leave**

Military leave is absence from duty without charge to other forms of leave or loss of pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces in accordance with 5 U.S.C. 6323. General policy and regulations are explained below.

1. Eligibility

- (a) All employees whose appointments are not limited to 1 year or less are entitled to military leave.
- (b) Generally, a pay status either immediately before the beginning of military duty or a return to a pay status immediately afterwards is a requisite to entitlement to military leave with pay because otherwise no civilian pay would have been lost. However, the test of whether an employee may be granted military leave should not be merely the leave or pay status immediately before or after military duty without regard to other facts. The test should be whether, but for the active duty, the employee would have been in a civilian pay status.

## 2. Military Duty Covered and Conditions for Granting Leave

### (a) 15 Days of Military Leave (5 U.S.C. 6323(a))

- (i) Up to 15 days (120 hours) of military leave per fiscal year is provided for active duty, active duty training, and inactive duty training for full-time employees. Inactive duty training is defined as authorized training performed by members of a Reserve component not on active duty and performed in connection with the prescribed activities of the Reserve component. It consists of regularly scheduled unit training periods, additional training periods, and equivalent training. (See Department of Defense Instruction Number 1215.06, "Uniform Reserve, Training and Retirement Categories," dated March 11, 2014, for more information.) This leave is prorated for part-time employees.
- (ii) Up to 120 hours (15 days) of unused military leave at the beginning of the succeeding fiscal year is carried over to the following year for use.
  - This accrual gives a full-time employee the potential of 30 days military leave during a fiscal year.
  - An employee is entitled to use the 15 days earned at the beginning of a fiscal year if active duty continues into the new fiscal year. Thus, employee reservists have the potential for using up to a maximum of 45 days of military leave during an extended period of military duty that crosses fiscal years. (See 70 Comp. Gen. 263.)

### (b) Twenty-Two Days of Military Leave for Emergency Duty (5 U.S.C. 6323(b))

- (i) Up to twenty-two days (176 hours) of military leave per calendar year is provided for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation.
- (ii) Unused military leave for emergency duty may not be carried over into the following calendar year.

### (c) Unlimited Military Leave (5 U.S.C. 6323(c))

Unlimited military leave is provided to members of the National Guard of the District of Columbia for certain types of duty ordered or authorized under Title 49 of the District of Columbia Code, "Military."

## 3. Military Leave Payments

- (a) For the 15 days of military leave, employees will receive the same civilian pay they would have received if not on military leave. This allows employees to receive both their full Federal civilian and military salary payments.

- (b) For the 22 days of military leave for emergency duty and for the unlimited military leave, employees will only receive the difference between their military pay and Federal civilian pay for the time period that corresponds to the 22 days of military leave or to the unlimited military leave.
  - (c) An employee's civilian pay includes any premium pay (except Sunday premium pay) that the employee would have received if not on military leave. For example, when an employee's tour of duty permits payment of night differential pay, he or she is entitled to night differential pay during the period of military leave. (Note: An employee who is on military leave is not eligible for holiday premium pay for holidays worked during the time of military leave.)
4. Requesting and Recording Military Leave
- (a) Employees will request military leave using the "Employee Leave/Additional Hours Request" function in HRMS and attach a copy of their military leave orders or a form documenting the notice of active duty, active duty training, or inactive duty training. If the documents are not available when the leave is requested, they must be furnished as soon as possible.
  - (b) Military leave is credited on the basis of an 8-hour workday and is charged in 1-hour increments. Employees and their supervisors are strongly urged to arrange for employees to be placed on a regular 8-hour per day work schedule rather than an alternate work schedule (such as NEWFlex or a Compressed Work Schedule) before the beginning of any pay period in which military leave will be used. The employee may return to the alternate work schedule at the beginning of the first pay period following his or her return from military duty.
  - (c) The fifteen days (120 hours) of military leave (described in IV.A.2(a), above) should be recorded as "MIL" and the 22 days (176 hours) of military leave for emergency duty (described in IV.A.2(b), above) should be recorded as "MIL22" on the timesheet. Before recording unlimited military leave (described in IV.A.2(c) above), an employee should consult with OCHCO. An employee will be charged military leave only for hours that the employee would have worked and received pay.
5. Use of Other Types of Leave for Military Duty or Training
- If an employee is not entitled to, does not request, or has exhausted his or her military leave, he or she shall be granted appropriate paid leave or placed in LWOP (including Absent-Uniformed Service), as requested, for performance of active or inactive duty described in IV.A.2, above.

## **B. Court Leave**

An employee will be given court leave for service as a juror or witness. The provisions for granting court leave for jury or witness service (and the designation of certain witness service as official duty status), crediting amounts received and the restrictions on receiving fees for this service, and the basic instructions governing travel expenses of

witnesses are contained in 5 U.S.C. Sections 6322, 5515, 5537, and 5751, respectively, and are outlined below.

#### 1. Jury Duty

An employee who is summoned to serve as a juror in a judicial proceeding (defined as any action, suit, or other proceeding of a court of law but does not include an administrative proceeding) may be eligible for court leave.

##### (a) Requests to be Excused from Jury Duty

In view of the importance of trial by jury as a feature of the American system of justice, the NRC follows the policy of not requesting that NRC employees be excused from jury duty except in cases of serious operational necessity. All such cases must be approved by the Executive Director for Operations (EDO) or the IG, as appropriate. Any employee may, of course, request court exemption for compelling personal reasons on his or her own initiative.

##### (b) Coverage

An employee who is under proper summons from a court to serve on a jury shall be granted court leave for the entire period (except as noted in Section .B.1.(c) below) from the date stated in the summons to report to the court until the time discharged by the court, regardless of the number of hours per day or days per week the individual actually serves on the jury during the period.

##### (c) Being Excused From Jury Duty for an Interim Period

When no hardship would result, the NRC requires an employee entitled to court leave because of jury service to return to duty if excused from jury service for 1 day or a substantial part of a day. The employee may not, however, be required to return to duty if it would be a hardship on the person (e.g., an employee engaged on night duty or one who lives or works a long way from the place where the court is held).

##### (d) Jury Fees

- (i) Federal Jury Service - An employee called to jury service in a court and who is placed on court leave shall be paid his or her regular Government salary and is not entitled to reimbursement by the court except to the extent that travel expenses are paid to the employee for his or her appearance by the court. If a Federal court should pay an employee for his or her jury service the employee is obligated to turn these jury fees over to the Division of the Controller, OCFO.
- (ii) Collection from State or Local Court - An employee called to jury service in a State or local court should collect all fees and allowances payable as a result of the jury service and turn them over to the Division of the Controller, OCFO. However, any amounts that are clearly designated by the court as expense money may be retained by the employee.

- (iii) Nonworkdays – An employee who performs jury service on a non-work day for which no Federal salary is paid is entitled to retain the fee for such service and does not need to turn it over to the Division of the Controller, OCFO, as described above.
- (iv) Nonwork hours - An employee with a regularly scheduled tour-of-duty who performs jury service that does not conflict with the hours of employment may retain the usual fee for jury service. However, if the employee performs jury service in a court of the United States during any of the hours in which he or she is in a pay status, the employee may not be paid any jury fee for that day.
- (v) Holidays – A fee received for jury service on a holiday falling within an employee's basic tour of duty may be retained by the employee, provided that had he or she not been on jury duty, the employee would have been excused from regular duties on the holiday.

## 2. Witness in Official Capacity

When an employee is summoned (or is assigned by the NRC) to testify in an official capacity or to produce official records at a judicial proceeding, he or she is in a paid official duty status. An employee is considered to be a witness in an official capacity when serving in his or her current position or when called as a witness in the official capacity of a former position he or she held in the Federal service. An employee required to appear as a party or witness in the prosecution of Federal employees' compensation cases is in a regular duty status while so engaged (5 U.S.C. 8131(a), "Subrogation of the United States").

- (a) An employee-plaintiff who prevails against a Federal agency in a civil action related to, or caused by, a violation of the Civil Rights Act, should also be "made whole" under the objective of the act. A determination that the absence is to be treated as official hours of work and leave restored accordingly can be made only upon conclusion of the court action. If the employee-plaintiff does not prevail in such a civil rights action, the original leave charge must stand.
- (b) An employee is entitled to travel expenses in connection with any judicial or agency proceeding to which the employee has been summoned (and is authorized by the NRC to respond to such summons), or is assigned by the NRC to testify or produce official records on behalf of the United States, or to testify in an official capacity or produce records on behalf of a party other than the United States.
- (c) An employee who performs witness service in an official duty status on days for which he or she would have been entitled to receive overtime compensation had duty been performed is entitled to the overtime compensation otherwise payable for those days.
- (d) Although overtime pay or compensatory time for time in travel status normally is not authorized, should an employee who performs witness service in an official duty status on a nonworkday outside his or her basic 40-hour workweek first be

required to report to an NRC office to pick up evidence to be produced in court, there would be an entitlement to call back overtime.

### 3. Witness Service in Nonofficial Capacity

#### (a) Judicial Proceeding in Which the Federal, State, or Local Government is a Party.

An employee summoned in a nonofficial capacity as a witness in a judicial proceeding (defined as any action, suit, or other proceeding of a court of law but does not include an administrative proceeding) in which the Federal, State, or local government is a party, is eligible for court leave.

(i) An employee granted court leave to testify as a witness in a nonofficial capacity in any judicial proceeding in which the United States, District of Columbia, State, or local government is a party, as well as any employee testifying while in an official duty status, is not entitled to retain witness fees.

(ii) The employee is required to collect all fees and allowances payable for such services and to forward them to the Division of the Controller, OCFO, to be credited against amounts payable to the employee by the NRC with respect to the period of his or her absence, except that the employee may retain travel and subsistence expenses (not to exceed actual expenses).

#### (b) Judicial Proceeding in Which the Federal, State, or Local Government is **not** a Party

When an employee appears as a witness in a nonofficial capacity on behalf of a private party where the United States, District of Columbia, State, or local government is not a party, the employee is not granted court leave. The employee will be in an LWOP status or another form of appropriate leave (e.g., annual leave or compensatory time off). In this situation, the employee may retain the usual fees and expenses related to such service.

#### (c) Coverage

(i) All stages (preliminary hearing, inquest, trial, or deposition taking) of the proceeding would be covered, including hearings and conferences before a committing court, magistrate, or commission, grand jury proceedings, and coroners' inquests, and hearings and conferences conducted by a prosecuting attorney for the purpose of determining whether an information request or charge should be made in a particular case.

(ii) The word "summoned" does not connote any necessity for a subpoena but does intend that the summons be an official request, invitation, or call, evidenced by an official writing from the court or authority responsible for the conduct of the proceeding, thus ruling out strictly voluntary appearances from court leave coverage.

- (iii) If the summons itself is not specific, or is unclear, about the parties for whom the witness service is to be rendered, the employee's supervisor must contact the authority issuing the summons and should annotate agency records appropriately.

#### 4. Requesting Court Leave and Recording Time

Employees will request court leave using the "Employee Leave/Additional Hours Request" function in HRMS and attach a copy of their summons, subpoena, or other judicial proceedings document. Absences for these purposes should be recorded as "COURT" on the timesheet.

- (a) If an employee is eligible for court leave but is on annual leave, court leave may be substituted. Note that court leave is not a basis for restoring annual leave that would otherwise be forfeited. An employee on annual leave under advance notice of separation as a result of a reduction in force is entitled to have otherwise proper court leave substituted for annual leave but not to extend beyond the date administratively fixed for separation.
- (b) An employee on LWOP, although otherwise eligible, may not be granted court leave since court leave is available only to employees who, except for jury/witness service, would be in a paid duty status. The employee may, however, retain jury fees and receive the per diem allowance for each day's attendance in court and for the time necessarily occupied in traveling to and from court.
- (c) A night shift employee who performs jury service during the day is granted court leave for a regularly scheduled night tour of duty and is entitled to the night differential. 31 Comp. Gen. 173 provides that compensation shall not be diminished by reason of jury service; therefore, the employee is entitled to night differential for the periods otherwise properly excused from the performance of duty while serving as a juror.

#### C. Bone Marrow and Organ Donation

1. Employees may use up to 7 days of paid leave each calendar year to serve as a bone-marrow donor. An employee may also use up to 30 days of paid leave each calendar year to serve as an organ donor. This paid leave is separate from and not charged to sick or annual leave.
2. Requests for bone marrow and organ donation leave will be submitted using the "Leave/Additional Hours Request" function in HRMS. Absences for these purposes should be recorded as "BMOD" on the timesheet and may be recorded in 15-minute increments.
3. Leave-approving officials should implement internal procedures to monitor these maximums. For purposes of monitoring this leave, a day is the number of hours the employee is scheduled to work on the day absent. For example, a day is 8 hours for

employees who are scheduled to work 8 hours, and 9 hours for employees who are scheduled to work 9 hours. Absences for partial days will be accounted for on the basis of 8 hours of absence equaling a whole day.

## **V. EXCUSED ABSENCE**

Excused absence, also referred to as administrative leave, is an employee's time away from official duties, for which no leave of any kind is charged and for which there is no loss of compensation. Excused absence may be recorded in 15-minute increments and is recorded on the timesheet as "EXCUS." Ordinarily, excused absences are authorized on an individual basis, except where an installation is closed or a group of employees is excused from work for various purposes. Supervisors normally have the authority to approve excused absence as specified below and as delegated, unless otherwise stated. Situations in which an employee may receive excused absence include, but are not limited to—

### **A. Tardiness and Brief Absences During the Workday**

1. Absence from work at the beginning of the workday not to exceed 2 hours may be excused at the discretion of the supervisor, provided the reasons are adequate and concern unanticipated matters over which the employee has little or no control.
2. Up to 1 hour absence from duty after the employee reports for work may be excused at the discretion of the supervisor for adequate reasons.

### **B. Medical-Related Absences**

#### **1. Medical Attention**

An employee may be authorized excused absence for the time necessary to visit an NRC medical facility for medical attention, including necessary travel time. If the employee is sent home following such a visit because of illness, sick leave or other appropriate leave will be charged from the time of departure for home. (See Section B.6 below for job-related injuries.)

#### **2. Preventive Health Screenings and Programs**

An employee who participates in a voluntary medical examination program established by the NRC or under NRC auspices, including mass screening examinations and immunizations, may be authorized excused absence for the time necessary to accomplish the examination or immunization, including necessary travel time.

#### **3. Armed Forces Medical Examinations**

- (a) Time spent reporting for and undergoing a physical examination to determine an employee's eligibility for enlistment in the Armed Forces may be excused, provided the request for absence is supported by official notification from the appropriate military authority.

(b) If the absence exceeds 1 workday, the employee is required to submit a statement from the examining station indicating the necessity for the additional absence to the CHCO or the IG, as appropriate for approval. A copy of the approval should be added into HRMS with the request.

#### 4. Fitness-for-Duty Medical Examinations

An employee may be authorized excused absence during the time necessary to take an NRC-required medical examination to determine fitness for duty. The time used during duty hours for physical examinations or hospitalization, or both, that is not required by the NRC, not related to the employee's duty assignment, and not excused as described in V.B.3, above, will be charged to appropriate leave.

#### 5. Vaccinations or Immunizations

An employee may be authorized excused absence for the time used for administratively required vaccinations or immunizations, in connection with employment.

#### 6. Injury in the Line of Duty

(a) An employee injured in the line of duty may be authorized excused absence for the time spent in examination or outpatient treatment immediately following the injury.

(b) An employee who sustains a disabling, job-related injury is entitled to continuation of regular pay for a period not to exceed 45 days per injury.

### **C. Blood Donation**

An employee who volunteers as a donor to a blood bank or to an individual may be authorized up to 4 hours of excused absence for the time necessary to travel, to and from, to accomplish and to recover from this purpose.

### **D. Voter Registration and Voting**

An employee who votes or registers in any election, or in referenda on a civic matter in the community on Election Day or who wishes to participate in early voting, may be authorized excused absence for a reasonable time for that purpose. Early voting is the process by which voters can cast their vote in person at designated polling places on a single day or a series of days before Election Day. The National Conference of State Legislatures [Web site](#) provides information and links about early and absentee voting and the deadlines and requirements for voter registration in your state.

1. As a general rule, where polls are not open at least 3 hours either before or after an employee's regular hours of work, the employee may be authorized an amount of excused absence that will permit him or her to report for work 3 hours after the polls open or leave work 3 hours before the polls close, whichever requires the lesser amount of time off.

2. Under exceptional circumstances for which V.D.1, above, does not permit sufficient time, an employee may be excused for such additional time to vote, depending upon the circumstances of an individual case. Excused absence may not exceed a full day.
3. If an employee's voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the employee may be granted sufficient time off, not to exceed 1 day, in order to be able to make the trip to the voting place to vote. Additional time off must be charged to another appropriate form of leave (e.g., annual leave or LWOP).
4. For an employee who votes in a jurisdiction that requires registration in person, time off to register may be granted on substantially the same basis as for voting, except that no such time may be granted if registration can be accomplished on a nonworkday and the place of registration is within a reasonable 1-day, round-trip travel distance of the employee's place of residence.

#### **E. Armed Forces or Federal Law Enforcement Officer Funerals**

1. Up to 3 workdays of funeral leave shall be granted to allow an employee to make arrangements for, or to attend, the funeral or memorial service for an immediate relative who died as the result of wound, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone. If the employee provides satisfactory reasons to the leave approving official, the 3 workdays do not need to be consecutive. (See 5 CFR Part 630, Subpart H for additional details.)
2. A Federal law enforcement officer may be granted excused absence to attend the funeral of a fellow Federal law enforcement officer who was killed in the line of duty.
3. A veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, may be granted excused absence for up to 4 hours to serve as a pallbearer, member of a firing squad, or guard of honor in a funeral ceremony for a member of the Armed Forces whose remains are returned from abroad.

#### **F. Examinations for Professional Certification**

An employee may be authorized up to 3 days of excused absence for the actual time required to take an examination for a professional or technical certification that would be in the NRC's interest. An employee also may be authorized excused absence to attend to matters that are prerequisite to receiving such a professional or technical certification (e.g., swearing-in ceremonies or personal interviews before a professional licensing committee). For excused absences that exceed 1 day, the employee is required to submit a memorandum to the CHCO or the IG, as appropriate, requesting approval for the additional days. A copy of the approval should be added into HRMS with the request. Examples of such examinations include, but are not limited to, the Certified Public Accountant examinations and the State and Federal bar examinations.

**G. Credit Union Activities**

When an employee is engaged in activities associated with managing a Federal credit union, notwithstanding other provisions of this MD, the employee's supervisor may grant excused absence for such time.

**H. Before Effecting Discipline**

When disciplinary action is pending or is being prepared against an employee and the employee's continued presence in the workplace may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee may be granted leave at his or her request or be placed on excused absence for such time as is necessary to effect the action. Before placing an employee on excused absence, the supervisor should consult OCHCO.

**I. Grievance, Appeal, and Complaint Hearings**

An employee may be authorized excused absence in connection with a grievance, appeal, or complaint (see MD 10.100, "Appeals From Adverse Actions"; MD 10.101, "Employee Grievances"; and MD 10.161, "Civil Rights Program and Affirmative Employment and Diversity Management Program"; and the Collective Bargaining Agreement Between U.S. Nuclear Regulatory Commission and National Treasury Employees Union, November 9, 2015, available at <http://www.internal.nrc.gov/HR/pdf/cba.pdf>).

**J. Volunteer Activities****1. General Volunteer Activities**

- (a) For volunteer activities directly related to the NRC's mission or in the NRC's interest (such as explaining NRC's functions to a school group), supervisors may consider granting a limited amount of excused absence for occasional, brief periods of time to participate in the volunteer activity.
- (b) An employee must use his or her own time to participate in volunteer activities that are not directly related to the NRC's mission (such as tutoring or school events).
- (c) To the extent practical and consistent with the efficient and effective accomplishment of work requirements and agency operations, supervisors are encouraged to use currently available workplace flexibilities to facilitate employees' participation in volunteer activities such as work schedule adjustments under compressed or NEWFlex work schedules, or grant leave requests, including annual leave, LWOP, the use of earned credit hours, or the use of compensatory time off or special compensatory time off for travel that the employee has earned.

## 2. Participation in Civil Defense Activities

- (a) An employee participating in activities in connection with civil defense program responsibilities of an NRC office may be authorized excused absence for the time required.
- (b) A full-time employee who volunteers and is selected for a civil defense assignment may be made available for participation in pre-emergency training and test exercises conducted in connection with State or local civil defense programs. An employee who participates in these activities during the regularly scheduled tour of duty may be authorized excused absence of not more than 40 hours in any calendar year. An employee may be designated as available for assignment to civil defense activities subject to all of the following determinations:
  - (i) Employee's participation has been requested by the State or local civil defense authorities;
  - (ii) Employee can be spared from regular duties for the required periods of participation; and
  - (iii) Employee can reasonably be expected to be available for assignment to civil defense activities in the event of an emergency.
- (c) Upon return to duty, the employee is required to submit a copy of the written statement from the State or local civil defense authorities showing the days or hours of participation with the request in HRMS.

## K. Job Placement Interviews and Examinations

- 1. An employee taking a job placement interview or written examination, including applying for NRC positions under the NRC Merit Promotion System may be authorized a reasonable amount of excused absence for such period of time as is necessary to accomplish the purpose.
- 2. An employee who receives a reduction-in-force notice and is identified for placement action in accordance with MD 10.103, "Reduction in Force for Non-SES Employees," and MD 10.138, "Reduction in Force in the Senior Executive Service," or who has been identified for reassignment or out-placement under MD 10.1, "Recruitment, Appointments, and Merit Staffing," may be authorized excused absence for such period of time as is necessary to receive career counseling, prepare resumes, be interviewed or tested, or both, for job placement opportunities outside the NRC, provided the period of time is arranged for by the NRC or the employee presents acceptable evidence that a bona fide placement opportunity exists. The absence may not be excessive and will not include a total of travel time in excess of 1 workday for any one interview, test, or both.

**L. Travel to Seek Permanent Residence Quarters**

An employee authorized to travel between old and new official duty stations to seek permanent residence quarters may be authorized excused absence during the round-trip period of absence (see MD 14.1, "Official Temporary Duty Travel").

**M. Absences Associated With a Move**

1. An employee may be granted up to 40 hours of excused absence to prepare for and attend to business or arrangements directly related to a permanent change of duty station move outside the commuting area from one position in the NRC to another, provided that such business or arrangements cannot be transacted outside the employee's regular working hours. These activities may include, but are not limited to, packing or unpacking household goods, meeting the moving van during pickup and delivery, selling or buying a home or renting an apartment, obtaining a driver's license or automobile tags in a new State, making arrangements for utility hookups, and making arrangements with new schools. To be eligible for these absences, the move must have been determined to be for the benefit of the Federal Government.
2. The 40 hours may be split in any manner between the old and new duty stations, depending on the circumstances of the move and the needs of the employee. The losing office should keep track of the hours used at that end and inform the gaining office of the number of hours remaining for use. Although it is the policy of the NRC to provide employees with this time, the employee's supervisors are the final authorities on how much or when such absences are granted. Such decisions are not grievable (see MD 10.101).
3. An employee who transfers to the NRC from another Federal agency, and who moves outside of his or her commuting area to do so, may be granted up to 20 hours of excused absence to attend to such matters. Similarly, an NRC employee who transfers to a position in another Federal agency outside of his or her commuting area may be granted up to 20 hours of excused absence to attend to such matters.
4. An individual who is not a Federal employee and who accepts a position with the NRC may not be granted such an absence. Similarly, an NRC employee who accepts a position outside the Federal Government may not be granted such an absence.

**N. Employees Returning from Active Military Duty**

1. An NRC employee is entitled to 5 consecutive days of excused absence after returning from active military duty each time he or she returns from a deployment upon notice of the intent to return to Federal civilian employment within a 12-month period. This time will be pro-rated for a part-time employee or an employee on an uncommon tour of duty.

2. To be eligible for this time the following conditions must apply:
  - (a) The employee was called to active duty in support of the Overseas Contingency Operations (deployed either overseas or stateside);
  - (b) The employee returns from at least 42 consecutive days of active military service; and
  - (c) Excused absence must be granted as soon as an eligible employee reports back for Federal civilian duty or notifies the NRC of his or her intent to return to civilian duty. If, for any reason, the employee was not granted the 5 days of excused absence upon return, he or she should be granted the 5 days of excused absence at a time mutually agreeable to the employee and the agency.
  - (d) At the end of the 5 days of excused absence, the employee is obligated to report to work.

#### **O. Office Closings and Designation of Emergency Employees**

##### **1. Closing Offices for a Local Holiday**

Offices may be closed on a local holiday when Federal work may not properly be performed. Employees of the office may be authorized excused absence in the same manner as described in Section V.O.5, below, if they are prevented from working by one of the following circumstances:

- (a) The building or office in which the employees work is physically closed or building services essential to proper performance of work are not operating.
- (b) Local transportation services are discontinued or interrupted to the point that employees are prevented from reporting to their work location.
- (c) The duties of the employees consist largely or entirely of dealing directly with employees and officials of business or industrial establishments or local Government offices, and all such establishments are closed in observance of the holiday and there are no other duties (consistent with normal duties) to which the employees can be assigned on the holiday.

##### **2. Closing Offices for Managerial Reasons**

Managerial reasons that require the closing of an office, in whole or in part, may include, but are not limited to, failure of automation systems or of essential services or facilities, unanticipated delays in the flow of work or in the receipt of materials, power or water failure, or the temporary suspension of production at private plants where NRC employees may be assigned. Employees will be authorized excused absence in the same manner as described in V.O.5, below.

### 3. Closing Offices for Emergency Reasons

- (a) An emergency situation is one that may prevent significant numbers of NRC employees from reporting for work or may require the closing of an NRC office in whole or in part.
- (b) An emergency situation requiring the closing of an office may result from such developments as heavy snow, severe icing conditions, flooding, hurricane, or other natural disasters; a major fire or civil disorder; or serious interruptions to public transportation caused by such incidents as a strike by local transit employees or mass demonstrations. It also covers mechanical troubles, such as water supply or electric power failure, or trouble with heating or air conditioning systems. The EDO or the IG, as appropriate, and the applicable regional administrator may authorize excused absence for employees at such locations as described in Section V.O.5, below.
- (c) Dismissals due to excessive heat or cold in most NRC workplaces are rare. When working conditions in hot or cold weather become unusually bad or hazardous, the EDO or the IG, as appropriate, and the applicable regional administrator may authorize excused absence for employees from such locations. Instead of group dismissal, supervisors should be liberal in permitting telework or granting annual leave to employees who are suffering from the heat or cold.

### 4. Designation of Emergency Employees

- (a) During hazardous weather or other emergency closings, certain NRC operations cannot be suspended, even though it may be necessary to excuse a large number of employees from duty for all or part of the day. It is important that office directors and regional administrators identify, in advance, those employees whose services are vital and who are required to be at work regardless of the emergency situation or any general dismissal authorization. The employees so identified, preferably by job title, should be advised in writing of the special requirement placed on them for reporting to, or remaining at, their work sites during emergency situations. Emergency employees designated for this purpose should not be confused with essential employees cited in MD 4.5, "Contingency Plan for Periods of Lapsed Appropriations."
- (b) Office directors and regional administrators shall provide each year a list of emergency service employees to the CHCO who will maintain a consolidated list of these headquarters employees. Employees performing emergency services may be designated through their official position descriptions or may be designated on an ad hoc basis. This list will only include the category of emergency employees who are critical to agency operations in dismissal or closure situations and who are expected to report to work on time and continue working during any form of emergency, unless excused by their supervisors. Although the agency also identifies the following categories of emergency

employees, the office director or regional administrator does not include them in the yearly lists.

- (i) Emergency Response Team Employees are critical to incidents and emergencies involving the NRC or Agreement State licensees. Incidents or emergencies might range from radiological emergencies to a potential or actual terrorist incident. Responsibilities include ensuring that the NRC's response is consistent with the NRC mission, assessing licensee response, and coordinating with appropriate Federal, State, and local agencies. The Office of Nuclear Security and Incident Response (NSIR) works with offices and regions to designate and train team members in a wide array of disciplines in advance. Team members are activated as needed for specific incidents. NSIR will continue to update Incident Response Call Lists and confirm this designation to team members.
- (ii) Situational Emergency Employees are employees who are not normally or consistently emergency employees but who are critical to operations during a specific emergency situation. These employees are **not** designated in advance; the NRC may determine that any employee's services are needed during a given emergency. For example, if the NRC's water service was interrupted, employees who deal with contractors and utilities to restore service would be emergency employees during the particular closure. Many employees who would be expected to perform priority functions during a pandemic would fall in this category.

#### 5. Notification and Duty Status During Emergency Situations

- (a) Annually during the fall, OCHCO for headquarters and the regional administrators for the regional offices will issue a notice reminding employees of the policies and procedures governing duty status due to emergency situations and the most up-to-date sources of information for operating status.
- (b) Although the EDO or the IG, as appropriate, generally follows the guidance provided by OPM, he or she has the ultimate responsibility for determining when and how NRC headquarters employees will be released in emergency situations.
- (c) The applicable regional administrator should contact the local Federal Executive Board, if any, and other local Federal agencies similarly affected by the emergency to determine what action they are taking. Upon reaching a decision to release employees in an NRC regional office, the regional administrator should immediately notify the EDO.
- (d) Depending on the particular circumstances of each employee, supervisors may permit employees to telework or grant excused absence.
  - (i) Non-emergency employees, who participate in the Telework Program (either project based or fixed), will generally be expected to telework on a day that the office/region is closed.

- (ii) On a day when the office is closed, non-emergency employees on pre-approved leave will generally remain on leave. However, if an employee is scheduled to use sick leave for a medical appointment and that medical appointment is canceled, the legal basis for the sick leave has been eliminated and the sick leave must be canceled. In these situations, excused absence may be appropriate if the non-emergency employee does not participate in the Telework Program.
- (iii) Guidance for headquarters employees can be found at: <http://www.internal.nrc.gov/HR/headquarters-status.html>.

## VI. LEAVE WITHOUT PAY

Leave without pay (LWOP) is a temporary nonpay status and absence from duty that, in most cases, is granted at the discretion of the supervisor. Employees have an entitlement to LWOP in the situations outlined in Section D, below.

### A. Short Absences

Employees must continue to follow the requirements for requesting approval as stated in Sections I and II of this handbook, even when short periods of absence (30 days or less) are necessary because employees do not have any annual or sick leave to their credit.

### B. Extended Absences (Exceeding Thirty Days)

1. In most cases, the NRC has the discretion to approve or deny an extended LWOP request. A supervisor should consult with OCHCO before granting LWOP in excess of 52 weeks.
2. As a basic condition to approval of extended LWOP, there should be a reasonable expectation that the employee will return at the end of the approved period. In addition, it should be apparent that at least one of the following benefits would result:
  - (a) Increased job ability;
  - (b) Protection or improvement of employee's health; or
  - (c) Retention of a desirable employee.
3. Each request for extended LWOP should be examined closely to ensure that the value to the NRC or serious needs of the employee are sufficient to offset the costs and administrative inconveniences that result from the retention of the employee in an LWOP status. Among these costs and inconveniences are—
  - (a) Loss of services that may be needed in the organization,
  - (b) Obligation to provide employment at the end of the approved period of LWOP,
  - (c) Credit for 6 months of LWOP in a year toward retirement, and

- (d) Eligibility for continued coverage under the Federal Employees' Group Life Insurance program and Federal Employees' Health Benefits program in accordance with OPM regulations.

#### 4. Examples of When Extended Leave Without Pay May Be Appropriate

- (a) For educational purposes, when the course of study or research is in line with a type of work that is being performed by the NRC and completion of which would contribute to the agency's best interest.
- (b) For service with a non-Federal public or private enterprise when the job is of a temporary character and there is reasonable expectation that the employee will return, and when one or both of the following will result:
  - (i) The service to be performed will contribute to the public welfare, and/or
  - (ii) The experience to be gained by the employee will serve the interests of the NRC.
- (c) For the purpose of recovery from illness or incapacity not of a permanent or disqualifying nature, when continued employment or immediate return to duty would threaten the employee's health, or the health of other employees.
- (d) For the purpose of permitting the employee to participate in programs in which the Federal Government participates or encourages (e.g., Peace Corps volunteers service).
- (e) For the purpose of serving, on a temporary basis, as an officer or representative of a union representing Federal employees.
- (f) To avoid a break in the continuity of service for an employee who must relocate because he or she is the dependent of military service personnel or of a Federal employee who is obligated to move on rotational assignments or upon transfer of a function or activity.

### C. Requesting and Recording LWOP

1. All requests for LWOP (except when invoking FMLA) over 3 consecutive work days must generally be entered using the "Leave/Additional Hours Request" function in HRMS, along with an explanation of the reasons for the request. A supervisor has the sole discretion to require a request for a period of 3 consecutive work days or less to be input into HRMS or to accept the request by other methods (e.g., verbal approval). Any medical documentation in support of the request should be provided to the employee's supervisor outside of HRMS and retained as outlined in II.C.2 of this handbook.
2. A request for LWOP invoking FMLA should be done outside of HRMS. Specific requirements for FMLA are discussed in Section E below.

3. LWOP is charged in 15-minute increments and recorded on the timesheet as follows:
  - (a) "LWOPC" for LWOP related to employees receiving workers' compensation payments from the Department of Labor.
  - (b) "LWOPF" for LWOP related to invoking FMLA.
  - (c) "LWOPD" for all other LWOP, including Absent-Uniformed Service.
4. LWOP may be granted whether annual or sick leave remains to the employee's credit. However, an extension of LWOP beyond 52 weeks will not be approved until all annual leave is used.
5. Upon approval by the employee's supervisor of a request for LWOP in excess of 30 calendar days, a "Request for Personnel Action" (SF-52) is prepared. The approved period of LWOP should be shown under "Remarks," together with a statement indicating—
  - (a) Justification for the approval,
  - (b) That the employee intends to return to duty at the completion of the approved period, and
  - (c) Whether a replacement is required.

#### **D. Cases Requiring the Granting of Leave Without Pay**

LWOP must be granted in the following situations:

1. When necessary for a disabled veteran to receive necessary medical treatment.
2. When employment with the NRC is interrupted by a period of service in the uniformed services under the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994.
3. When employees are receiving workers' compensation payments from the Department of Labor and the NRC's review of the case indicates the employee may be able to return to work within 6 months or a year from the date of injury or illness. If review of the case indicates the employee will not or cannot return to work, LWOP should not be extended and appropriate steps should be taken to separate the employee.
4. When covered employees invoke leave under the FMLA described below in Section E.

#### **E. Family and Medical Leave Act (FMLA)**

FMLA protects employees' jobs by ensuring they can take approved leave for specified family and medical purposes. General policy and regulations are explained below but 5 CFR Part 630, Subpart L should be referenced for more information. A comparison

between family sick leave and FMLA can be found on OCHCO's Web site at <http://www.internal.nrc.gov/HR/leave.html>.

1. Applies to a Federal employee who has completed at least 12 months of service (does not need to be 12 recent or consecutive months). Does not apply to an employee serving under a temporary appointment with a time limitation of 1 year or less.
2. Regular FMLA
  - (a) Covered Federal employees will be provided up to a total of 12 administrative workweeks of unpaid leave during any 12-month period for the following reasons:
    - (i) The birth of a child of the employee and the care of the child;
    - (ii) The placement of a child with the employee for adoption or foster care;
    - (iii) The care of a spouse, son, daughter, or parent of the employee who has a serious health condition;
    - (iv) A serious health condition of the employee that makes the employee unable to perform essential functions of his or her position; or
    - (v) Any qualifying exigency arising out of the fact that the employee's "covered military member" is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.
  - (b) A family member for the purposes of V.E.2(a)(i), (ii), and (iii) above is defined as—
    - (i) Spouse (same or opposite sex), including a common law spouse in States where it is recognized.
    - (ii) Son or daughter, including a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing *in loco parentis* (that is, who has day-to-day responsibility for the care and provides financial support of a child) if the child is—
      - Under 18 years of age; or
      - 18 years of age or older and incapable of self-care because of a mental or physical disability.
    - (iii) Parent, including a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child. Does not include parents "in law."
  - (c) Qualified exigencies as mentioned in V.E.2(a)(v), above, and defined in 5 CFR 630.1204 may take the form of one or more of the following categories:
    - (i) Short-notice deployment,
    - (ii) Military events and related activities,
    - (iii) Childcare and school activities,
    - (iv) Financial and legal arrangements,

- (v) Counseling,
  - (vi) Rest and recuperation,
  - (vii) Post-deployment activities, and
  - (viii) Additional activities not encompassed in the other categories provided that the NRC and the employee agree that such leave qualifies as an exigency, and agree to both the timing and duration of such leave.
- (d) A “covered military member” for the purposes of V.E.2(a)(v), above, is defined further as the following:
- (i) Spouse (same or opposite sex), including a common law spouse in States where it is recognized;
  - (ii) Son or daughter, including a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing *in loco parentis* (that is, who has day-to-day responsibility for the care and provides financial support of a child) who is on covered active duty or call to active duty status and who is of any age; and
  - (iii) Parent, including a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child. Does not include parents “in law.”
- (e) An employee may substitute paid leave for LWOP to the extent that the employee has paid leave available and the use of leave is consistent with applicable law and regulation. An employee may use sick leave only for the purposes and in the amounts authorized by law and regulation governing sick leave.
- (f) In many situations, employees may use FMLA on an intermittent rather than a continuous basis.

### 3. FMLA to Care for a Covered Servicemember

- (a) A covered Federal employee will be provided up to a total of 26 administrative workweeks of unpaid leave during a single 12-month period for the care of a covered member of the Armed Forces with a serious injury or illness incurred in the line of duty.
- (b) A family member for the purposes of FMLA to care for a covered servicemember is defined as the spouse, son, daughter, parent, or next of kin (defined as the nearest blood relative).
- (c) An employee may substitute annual or sick leave for LWOP. Normal leave year limitations on the use of sick leave to care for a family member do not apply in these cases; an employee may use up to 26 weeks of family sick leave.
- (d) Employees may use FMLA on an intermittent rather than a continuous basis.

#### 4. Requesting FMLA

- (a) Employees must invoke FMLA. The supervisor may ask whether the employee wishes to invoke FMLA, or, if warranted, indicate that he or she will decline to continue approving LWOP in the absence of a FMLA request. Generally, an employee may not retroactively invoke his or her entitlement to leave under FMLA for a previous absence from work.
- (b) A request should be made at least 30 days in advance, or as soon as practicable.
- (c) An employee is required to submit a request along with any required documentation, such as medical certification completed by the health care provider to document the serious health condition. An employee is encouraged to use the [Department of Labor forms](#) designed to provide appropriate supporting information for different FMLA purposes. Although the Department of Labor regulates non-Federal FMLA, these forms can assist employees in providing needed information.
- (d) When requested to submit administratively acceptable evidence or medical certification, the employee must submit it within 15 calendar days. If not practicable, in spite of the employee's diligent efforts, the employee must submit the documentation within a reasonable time period but no later than 30 calendar days. The medical certification will be retained as outlined in Section II.C.2 of this handbook.
- (e) The NRC may request recertification periodically (normally no more often than every 30 days).
- (f) Upon receipt of an FMLA leave request, a supervisor should contact his or her servicing [Human Resources Specialist](#) for guidance.

#### 5. Recording FMLA When Substituting Paid Leave

When an employee is substituting paid leave (e.g. annual leave, sick leave, or donated leave) for LWOP under FMLA, an employee must mark the appropriate checkbox on the Timesheet for tracking purposes.

- 6. The NRC requires medical certification to return to work from each employee who invokes FMLA leave for his or her own serious health condition. The certification must be from the employee's health care provider and must state that the employee is able to perform the essential functions of his or her position. The information on the medical certification to return to work must relate only to the serious health condition for which FMLA leave was taken. The medical certification will be retained as outlined in Section II.C.2 of this handbook.

**F. Effect on Federal Benefits and Programs**

Employees should be aware that LWOP affects their entitlement to or eligibility for certain Federal benefits. For example, the amount of annual or sick leave accrued can be reduced or the employee's within grade increase can be delayed. Contact your servicing Human Resources Specialist for further details.

**VII. LEAVE FOR CHILDBIRTH, ADOPTION, AND FOSTER CARE**

There is no separate leave category for purposes related to childbirth, adoption, or foster care. However, employees are provided a wide array of leave and workplace flexibilities for these purposes and OPM has developed a Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care to assist them in their planning. The Handbook can be found at: <http://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>.

**A. Requesting Leave Related to Childbirth, Adoption, and Foster Care**

1. There is no prescribed or suggested length of time that an employee may be absent for childbirth, adoption, or foster care.
2. If an employee is planning on being absent for a significant amount of time for childbirth, adoption, or foster care, he or she should provide the supervisor reasonable advance notice. This will allow the supervisor to prepare for any staffing adjustments that may be needed to compensate for the anticipated absence from work.
3. As soon as dates can be fixed more specifically, the employee should formalize leave requests, showing the type(s) of leave requested, approximate dates, anticipated duration of absence, and plans with regard to returning to his or her job following childbirth, adoption, and foster care.
4. A request for leave for purposes related to childbirth, adoption, or foster care must be submitted consistent with the policies and procedures related to the specific type of leave above (e.g., an FMLA request needs to be submitted at least 30 days in advance, or as soon as practicable).
5. Upon an employee's request, an employee generally must be granted advanced sick leave for childbirth, adoption, or foster care purposes to the maximum extent practicable, in accordance with sick leave laws and regulations and consistent with mission needs. See Section II.D above.

**B. Reasonable Accommodations**

1. Employees should make their supervisors aware of any working conditions that could have an adverse effect upon a pregnant employee. If any of these elements could have a harmful effect, either pre- or post-delivery, the NRC may request a medical

certificate from the employee. The NRC will pay the added cost, if any, to the employee's physician for the medical certificate.

2. If, after consulting her physician, the employee requests modification of work duties, telework, or a temporary reassignment, every reasonable effort should be made to accommodate the request. The NRC may request a medical certificate to support this request.

## **VIII. INVOLUNTARY LEAVE, LEAVE ABUSE, AND ABSENCE WITHOUT LEAVE (AWOL)**

### **A. Leave Abuse**

1. "Leave abuse" means using leave improperly (for example, calling in sick to enjoy a day of golf) or failing to follow prescribed procedures for requesting and using leave. In instances in which a problem of leave abuse appears to be developing, a supervisor may issue a non-disciplinary letter commonly referred to as a leave requirements letter. The supervisor, after consulting with OCHCO or the regional HR representative, may provide the employee with the letter explaining the supervisor's expectations regarding leave usage, specific information about leave balances and usage that has prompted concern about potential leave abuse, the leave procedures that the employee is required to follow, the period of restriction, and the consequences of not following the procedures in the future.
2. When there is reason to believe that an employee abuses sick leave, a medical certificate may be required for absences of 3 days or less, unless the employee is using FMLA. In these cases, the NRC may not ask for documentation more often than the FMLA regulations allow.
  - (a) These requirements shall continue in effect for 6 months from the date of issuance unless the leave approving official removes the requirements earlier.
  - (b) The leave approving official may extend these requirements for an additional 6-month period if the abuse continues.

### **B. Absence Without Leave (AWOL)**

1. AWOL is a non-pay status that covers an absence from duty that is not authorized or approved, including leave that is not approved until required documentation is submitted. FMLA and military leave are normally conditionally granted pending documentation.
2. AWOL may also be charged for brief periods when the employee is not ready, willing, and able to work.
3. If the absence is later approved because the circumstances surrounding it are such that the approving official believes that leave should properly be granted, the charge to AWOL may be changed to a charge to the appropriate leave account.

4. Recording an absence as AWOL is not a disciplinary action. However, AWOL or failure to follow leave procedures may become the basis for initiating a disciplinary action.

### **C. Involuntary Leave**

#### **1. Emergency Situations**

Emergency situations that may constitute an immediate threat to Government property or to the well-being of the employee, fellow workers, or the public sometimes develop before the NRC has had an opportunity to appraise the situation. In these cases, the NRC has the authority to require the employee to be absent from duty. Supervisors should consult with OCHCO or the regional HR representative (who consults OCHCO) before requiring the employee to be absent and for information regarding the appropriate way to charge the absence.

#### **2. Disciplinary Situations**

Sometimes it is in the interest of the NRC to have an employee absent from work before a determination to propose a suspension or removal for reasons such as investigation of alleged misconduct. In these cases, placing an employee on leave (annual or sick) or LWOP without his or her consent may constitute a suspension. Supervisors should consult with OCHCO or the regional HR representative (who consults OCHCO), as appropriate, before any such action.

#### **3. Non-disciplinary, Nonemergency Situations**

When an employee is not “ready, willing, and able to work,” the supervisor may grant appropriate approved leave (such as annual leave, sick leave, or LWOP) at the employee’s request. Alternatively, the supervisor may dismiss the employee from work and charge the employee AWOL. For example, a supervisor might dismiss the employee for the remainder of the work day if the employee appeared to be incapacitated and unable to perform his or her duties, or dismiss an employee long enough to allow an employee who reported to work without his or her safety equipment to report back with proper safety equipment. Such situations should typically be for a short duration. Supervisors should consult OCHCO or the servicing regional HR specialist when dismissing an employee and charging AWOL.

## **IX. VOLUNTARY LEAVE TRANSFER PROGRAM**

The Voluntary Leave Transfer Program (VLTP) allows an employee to donate annual leave directly to another employee who faces financial hardships due to a medical emergency of the employee or family member. General policy and regulations are explained below but 5 CFR Part 630, Subpart I, should be referenced for more information. Additional information on how to apply to become a leave recipient or donor, or to see a list of current eligible recipients can be found on OCHCO’s Leave Transfer Program internal Web page at <http://www.internal.nrc.gov/HR/leave.html>.

**A. Application To Become a Leave Recipient**

1. An employee who has been affected by a medical emergency, must submit a written application to become a leave recipient. If an employee is incapable of applying on his or her own behalf, a personal representative may submit a written application on his or her behalf. If practicable, the application shall contain the signature of the potential recipient or his or her personal representative to authorize the application. If one of the above signatures is not obtained, a signed explanation by the supervisor shall be attached to the application.
2. For purposes of this program, a “medical emergency” means a medical condition of an employee or a family member of an employee that is likely to require the employee’s absence from duty, without available paid leave for at least 24 hours (or in the case of a part-time employee or an employee with an uncommon tour of duty, at least 30 percent of the average number of hours in the employee’s biweekly scheduled tour of duty). (The NRC will consider a pregnancy, childbirth, or recovery even in a “normal” maternity situation, in the same manner as other incapacitating medical conditions of similar duration.)
  - (a) Available paid leave for purposes of eligibility for VLTP includes an employee’s accrued, accumulated, recredited, and restored annual or sick leave. It does not include advanced annual or sick leave, any annual or sick leave in an employee’s reserve, or other forms of paid time off (i.e., credit hours, compensatory time off, special compensatory time off for travel, compensatory time off for religious observances.)
  - (b) An employee is entitled to a total of 12 weeks of sick leave each leave year for care of a family member with a serious health condition (sick leave used for general family care purposes count towards this total). If an employee is applying to the program for a medical emergency of a family member and he or she has already exhausted the sick leave entitlement for the year, any remaining sick leave in the employee’s sick leave account is not considered available paid leave.
3. The CHCO or designee, will normally approve, or disapprove with explanation, the applicant’s request within 10 business days from the receipt of an adequately documented request.

**B. Notice to Donors**

Any publicity or promotion of individual needs for leave donations shall be at the request of and authorized by the recipient or his or her personal representative, with the approval of the recipient’s supervisor and the CHCO. This policy extends to the scope of distribution and to the text of any written material distributed, such as a memorandum to a group of potential donors.

**C. Potential Donors**

1. An employee cannot donate leave to his or her immediate supervisor.
2. Normally, leave is transferred only among NRC employees. However, leave may be accepted from donors employed by other qualifying Federal agencies when the CHCO determines that—
  - (a) A family member of the leave recipient is employed by another agency and requests the transfer of annual leave to the leave recipient.
  - (b) Donations from NRC employees may be insufficient to meet the needs of the recipient.
  - (c) In the judgment of the CHCO, the donation would further the purpose of the VLTP.

**D. Leave Donation Limitations**

1. Earned annual leave may be donated in 15-minute increments (advanced annual leave cannot be donated).
2. In any one leave year, an employee may not donate more than one-half of the total amount of annual leave he or she is entitled to accrue during the leave year in which the donation is made. For example, an employee who earns annual leave at the maximum rate of 8 hours per pay period may not donate more than 104 hours during the leave year.
3. A donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year (see Section I.F) may donate the lesser of—
  - (a) The amount described in Section IX.D.2 above; or
  - (b) The number of hours remaining in the leave year (as of the date of the transfer) for which the donor is scheduled to work and receive pay. For example, an employee scheduled to work 40 hours before forfeiture of 100 hours of annual leave may only donate 40 hours.
4. In unusual circumstances, OCHCO may waive the limitations on the amount of annual leave an employee may donate in any one leave year. The criteria for waiving these limitations are—
  - (a) The leave donor is a family member of the leave recipient;
  - (b) The leave recipient is projected not to have enough donated leave to cover his or her periods of unpaid leave after initial agency solicitation; or
  - (c) Other unusual circumstances arise.

5. Before accepting the transfer of annual leave from a donor employed by another agency, OCHCO will verify that the donor's employing agency has approved the donor's request to transfer annual leave to the NRC recipient. Likewise, before approving the transfer of leave from an NRC employee to an employee of another agency, the NRC will determine that the amount of leave to be donated does not exceed the limitation in 5 CFR 630.908.

#### **E. Use of Donated Leave**

1. A recipient may use leave donated to his or her annual leave account only for the purpose of the medical emergency for which the leave recipient was approved. Annual and sick leave that accrues to the account of the recipient shall be used before any donated annual leave. The employee can earn and accumulate a reserve of 40 hours of annual and 40 hours of sick leave (pro-rated for employees who are not full-time) while in the VLTP, for use only after the medical emergency terminates or if the employee has used up all available donated leave (see 5 CFR 630.907 for more detail).
2. Donated annual leave may be substituted retroactively for periods of leave without pay or used to liquidate an indebtedness for advanced annual or sick leave due to the medical emergency for which leave donations are approved.
3. Donated annual leave may not be included in a lump-sum payment for annual leave upon separation or recredited upon reemployment by a Federal agency.

#### **F. Termination of Personal Emergency**

1. The personal emergency affecting a leave recipient shall terminate at the earliest occurrence of one of the following conditions:
  - (a) When the recipient's employment ends;
  - (b) At the end of the pay period in which the employee, or personal representative notifies OCHCO that the medical emergency no longer exists;
  - (c) At the end of the pay period in which the recipient's supervisor determines that he or she is no longer affected by a medical emergency; or
  - (d) At the end of the pay period in which OCHCO receives notice that OPM has approved disability retirement for the leave recipient.
2. Leave recipients or their supervisors shall promptly advise OCHCO when the medical emergency ends.
3. When the personal emergency ends, no further donations may be made. Although the employee may not be affected currently by the medical emergency, the NRC may deem the emergency to continue solely for the purpose of providing a leave recipient an adequate period of time within which to receive donations of annual leave. OCHCO will restore any unused donations as outlined in 5 CFR 630.911.

**G. Prohibition of Coercion**

Leave donations shall be strictly voluntary. An employee is prohibited from either directly or indirectly intimidating, threatening, or coercing the rights of another employee with respect to donating, receiving, or using annual leave under this program.

**X. EMERGENCY LEAVE TRANSFER PROGRAM**

The Emergency Leave Transfer Program allows an employee to donate annual leave to an employee who has been adversely affected by a major disaster or emergency, as declared by the President and that results in severe adverse effects for a substantial number of employees. General policy and regulations are explained below but 5 CFR Part 630, Subpart K, should be referenced for detailed regulations.

**A. Establishment of an Emergency Leave Transfer Program**

When directed by the President, OPM will establish or delegate to an agency the authority to establish an emergency leave transfer program that permits employees to donate annual leave to employees of the NRC or to other Federal agencies (if solicited by OPM). OCHCO will administer the program and will provide specific instructions on how to donate or become a leave recipient.

**B. Leave Donation Limitations**

1. An emergency leave donor may not contribute less than 1 hour or more than 104 hours of annual leave in a leave year. The NRC has no provisions for a waiver of these limits. An emergency leave donor may not donate annual leave for transfer to a specific emergency leave recipient. Any annual leave donated under this program may not be applied against the limitations on the donation of annual leave under the VLTP.
2. An emergency leave recipient may receive a maximum of 240 hours of donated annual leave at any one time from an emergency leave transfer program for each disaster or emergency. After taking into consideration the amount of donated annual leave available to all approved emergency leave recipients and the needs of individual emergency leave recipients, the NRC may allow an employee to receive additional disbursements of no more than 240 hours at a time based on the employee's continuing need.

**C. Use of Donated Leave**

1. An approved emergency leave recipient is not required to exhaust his or her accrued annual or sick leave before receiving donated annual leave under this program. Any donated annual leave received under this program may only be used for purposes related to the disaster or emergency for which the recipient was approved.

2. Donated annual leave may be substituted retroactively for periods of leave without pay or used to liquidate an indebtedness for advanced annual or sick leave due to the emergency for which leave donations are approved.
3. Donated annual leave may not be included in a lump-sum payment for annual leave upon separation, used to establish initial eligibility for immediate retirement or acquire eligibility to continue health benefits into retirement, or recredited to a former employee who is reemployed by a federal agency.

#### **D. Termination of Disaster or Emergency**

1. The disaster or emergency affecting a leave recipient shall terminate at the earliest occurrence of one of the following conditions:
  - (a) When the NRC determines that the disaster or emergency has terminated;
  - (b) When the recipient's employment ends;
  - (c) At the end of the pay period in which the employee, or personal representative, notifies OCHCO that the emergency no longer exists;
  - (d) At the end of the pay period in which the recipient's supervisor determines that he or she is no longer affected by an emergency; or
  - (e) At the end of the pay period in which OCHCO receives notice that OPM has approved disability retirement for the leave recipient.
2. Leave recipients or their supervisors shall promptly advise OCHCO when the disaster or emergency ends.
3. When the disaster or emergency ends, no further leave donations may be made. OCHCO will restore any unused leave donations as outlined in 5 CFR 630.1117.

#### **E. Prohibition of Coercion**

Leave donations shall be strictly voluntary. An employee is prohibited from either directly or indirectly intimidating, threatening, or coercing the rights of another employee with respect to donating, receiving, or using annual leave under this program.

## **XI. GLOSSARY**

### **Accrued leave**

Leave earned during the current leave year that is unused at any given time in that leave year.

### **Accumulated annual leave**

The unused annual leave remaining to the credit of the employee at the beginning of a leave year.

**Contingency Operation**

A military operation that (a) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (b) results in the call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. Chapter 15, "Armed Forces," sections 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406; 14 U.S.C., "Coast Guard," section 712, or any other provision of law during a war or during a national emergency declared by the President or Congress.

**Emergency employee**

An employee who must report for or remain at work in emergency situations. Dismissal or closure announcements do not apply to emergency employees unless they are instructed otherwise.

**Excused absence**

An absence from duty administratively authorized, usually in advance, that is not charged to leave of any kind and for which there is no loss of compensation.

**Intermittent leave**

Leave taken in separate blocks of time, rather than for one continuous period of time, and which may include periods of 15 minutes to several weeks.

**Judicial proceeding**

Any action, suit, or other proceeding of a court of law but does not include an administrative proceeding.

**Leave year**

The period from the beginning of the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

**Lump-sum payment**

A payment in a single amount of money for the value of any annual leave earned by the employee and remaining to his or her credit upon separation from the Federal service.

**Medical certificate**

A written statement signed by a registered practicing physician or other practitioner certifying to an employee's incapacitation, examination, or treatment. See 5 CFR 630.1202 for the definition of a healthcare provider.

**Night shift**

For purposes of this management directive only, night shift is a regularly scheduled tour of duty any part of which is scheduled between the hours of 6 p.m. and 6 a.m. Note that employees who are on NEWFlex work schedules are not eligible to receive night premium pay for non-overtime work that they voluntarily perform at night (or for time off during these hours) if they have 8 or more work hours available during day hours, i.e., between 6:00 a.m. and 6:00 p.m. of the same day.

**Serious health condition**

An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. See 5 CFR 630.1202 for further details.

**Summons**

An official request, invitation, or call, evidenced by an official writing from the court or authority responsible for the conduct of the proceeding.