COLLECTIVE BARGAINING AGREEMENT

between

U.S. ENVIRONMENTAL PROTECTION AGENCY

and

THE NATIONAL TREASURY EMPLOYEES UNION

The effective date of this agreement is August 6, 2003

TABLE OF CONTENTS

TABLE OF CONTENTS, cont.

ARTICLE 1
COVERAGE

Section 1. Exclusive Recognition

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

Headquarters

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

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

Region IX

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

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

Cincinnati, Ohio

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

Excluded: Management officials, supervisors, intermittent employees, temporary employees of 90 days or less, Commissioned Corps employees, employees on Intergovernmental Personnel Act (IPA) assignment, co-op and student employees, employees of the following components:

Office of Prevention, Pesticides and Toxic Substances; Office of Science Policy; Emergency Response Team; Office of Civil Rights; Office of the General Counsel; and employees described in 5 U.S.C §7112(b)(2), (3), (4), (6) and (7).

Edison, New Jersey

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

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

Region VII

Included: All professional employees of Region VII, EPA, Kansas City, Kansas

Excluded: All nonprofessional employees; Commissioned Officers; management officials; supervisors; and employees described in 5 USC 7112 (b)(2), (3), (4), (6) and (7).

Section 2. Other Units

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

Section 3. Not Covered

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

ARTICLE 2
EFFECT OF LAW AND REGULATION

Section 1.

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

Section 2.

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

Section 3.

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

ARTICLE 3
EMPLOYEE RIGHTS

Section 1.

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

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

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

Section 2.

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

1. To act for a labor organization in the capacity of a representative and the right in that capacity to present the views of the labor organization to the Employer, the heads of agencies, and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and

2. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this agreement.

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

Section 3.

A. The initiation of a grievance in good faith by an employee does not affect the employee's standing with the Agency. Employees who have relevant information concerning any matter for which remedial relief is available under this agreement will, in seeking resolution of such matter, be assured freedom from restraint, interference, coercion, discrimination, intimidation or reprisal.

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

Section 4.

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

Section 5.

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

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

C. If an employee requests Union representation under this Article and a Union representative is not available, the examination will be rescheduled as soon as practicable, but not to exceed two (2) workdays in order to secure a Union representative. If the examination will be in a field office/place based office outside of a regional or district office, or in a headquarters office located

in the field where no union representative is co-located, the examination may be rescheduled as soon as practicable, but no longer than (5) five workdays in order for the employee to secure a representative.

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

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

1. To inform the employee in advance of the meeting, of the general subject of the interview, including whether or not it is criminal in nature; and

2. That the interview will be scheduled to allow the employee an opportunity to seek the counsel of a Union representative and to prepare for the investigatory interview.

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

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

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

1. Requesting that the interviewer clarify questions;

2. Clarifying responses provided by the employee;

3. Assisting the employee in providing favorable extenuating facts;

4. Suggesting other employees who may have knowledge of relevant facts; and

5. Advising and/or conferring privately with the employee during the course of the meeting.

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

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

Section 6.

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

Section 7.

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

Section 8.

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

Section 9.

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

Section 10.

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

Section 11.

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

Section 12.

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

Section 13.

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

Section 14.

Unit employees' access to existing EPA-sponsored health/fitness centers will continue into the new agreement. Any changes within management's discretion (e.g., availability to unit employees, fees charged, etc.) will be handled at the local level pursuant to Article 33. The decision to support unit employees' access to exercise facilities will be based on the number of employees who are using or can reasonably be expected to use such facility, the availability of

funding for such purpose, the availability of other facilities in the office area, etc. Any change in unit employees' access to such facilities will be handled pursuant to Article 33.

Section 15.

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

ARTICLE 4
RIGHTS OF THE EMPLOYER

Section 1. Authority of the Employer

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

1. To determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

2. In accordance with applicable laws;

   (a) To hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

      (1) To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the agency operations shall be conducted;

      (2) With respect to filling positions, to make selections for appointments from:

         a Among properly ranked and certified candidates for promotion; or

         b Any other appropriate source; and

3. To take whatever actions may be necessary to carry out the Agency's mission during emergencies.

ARTICLE 5
UNION RIGHTS

Section 1.

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

Section 2. Formal Discussion

The Union shall be given the opportunity to be represented at formal discussions between the Employer and employees concerning grievances, changes in personnel policies and practices, or other matters that affect working conditions of employees in the unit. The Union President or designee will be notified at the earliest practicable date in advance of any formal meetings; but no less than three (3) workdays, unless extenuating circumstances exist.

Prior to convening the meeting the union representative will introduce him/herself to the organizer of the meeting so that they will be introduced. The Union representative may participate in such discussions in an orderly fashion, may ask questions, and may outline the Union's position concerning the issue(s) being discussed.

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

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

Section 4. Bargaining Unit Status Report

At no cost, the Employer will provide each Union Chapter semi-annually, an electronic list that will contain the name, grade and step, position title, organizational element/unit, location and

bargaining unit status of its employees. This request will be answered within five (5) days of receipt of the request.

Section 5. Orientation of New Bargaining Unit Employees

A representative of the local Chapter will be allowed to participate in the orientation for new bargaining unit employees, in order to inform them of the Union's exclusive recognition status and to provide the employee(s) with literature as determined by the local Chapter. The representative will be given up to 30 minutes at the end of the orientation session to engage in the aforementioned activities with new bargaining unit employees. Procedures for participation will be handled at the local level.

Section 6. Briefing on Term Agreement

Each local Chapter shall be granted up to two (2) hours of official time to brief bargaining unit employees on the contents of the term agreement. One briefing will be held at each location, except HQ which will have four separate briefings. The briefing should occur within three weeks after the effective date of this agreement, or at such time the printed contracts become available.

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

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

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

Section 8. Bargaining Unit Surveys

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

ARTICLE 6
UNION REPRESENTATION AND OFFICIAL TIME

General

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

Section 1. Official Time & Union Representatives

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

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

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

D. The Chapters will continue with the current number of full time representatives. Additionally, all full time representatives will track use of official time using the attached form (Appendix B). Region 7/Chapter 294 and Region 9/Chapter 295, as well as any new regions after the effective date of this agreement, will meet within ninety (90) days of the effective date of this Agreement to negotiate the issue of a full-time/half-time representative(s). This provision regarding full-time union representatives will remain in full force and effect for the term of this agreement and will not be subject to the mid-term re-opener, Article 45, unless mutually agreed to by the parties.

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

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

1. Present and prepare for grievances at any step of the Negotiated Grievance Procedure;

2. Represent an employee or the Union at an arbitration hearing, including necessary preparation time;

3. Appear as a witness at any step of a grievance;

4. Appear as a witness at an arbitration hearing;

5. Meet and confer with management;

6. Prepare for and represent an employee (e.g., EEOC, MSPB) or the Union (e.g., FLRA) in appeal hearings covered by regulatory or statutory procedures;

7. Attend meetings or committees on which Union representatives have authorized membership;

8. Represent the Union in formal discussions, grievances or any personnel policy or practice or other general condition of employment of employees, or any other matters covered by 5 USC 7114 (a)(2)(A);

9. Represent employees in investigatory interviews if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests representation;

10. Prepare for meetings scheduled by management to which the union has been invited;

11. Assist employees when designated as their representatives in preparing and presenting a response to a proposed disciplinary, adverse or unacceptable performance action;

12. Prepare responses to management-initiated correspondence to the union;

13. Assist a probationary employee in order to prepare replies in response to a proposed termination;

14. Prepare and negotiate with the Employer, including mediation and impasse proceedings;

15. Confer with employees with respect to matters for which remedial relief may be sought pursuant to terms of this Agreement;

16. Meet with national or field staff representatives of the Union in connection with a grievance, negotiations, arbitration or ULP charge;

17. Prepare reconsideration statements and attend meetings in connection with the denial of within grade increases, when designated as the employee's representative;

18. Contact members of Congress and their staffs to discuss legislative and related matters affecting the Employer and its employees;

19. Participate in ADR activities on behalf of unit employees;

20. Attend Employer-sponsored activities to which the Union has been invited;

21. Present information and attend formal employee orientation sessions;

22. Prepare and maintain records and reports required of the Union by 5 USC 7120;

23. Respond to parties, including journalistic media and members of the general public, who make inquiries of the Union regarding issues affecting the terms and conditions of employment of the bargaining unit (any request for an Agency position on such matters is to be referred to the Office of Media Relations); and

24. Communicate with bargaining unit employees on issues involving terms and conditions of employment.

Section 3. Internal Union Business Precluding Granting Official Time

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

Section 4. Official Time for Employees

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

1. Present and prepare for grievances at any step of the negotiated grievance procedure, including arbitration;

2. Appear as a witness at any step of the grievance process, including arbitration;

3. Prepare and attend appeal hearings covered by regulatory or statutory procedures when their attendance is necessary;

4. Confer with the Union with respect to matters for which remedial relief may be sought pursuant to the terms of this Agreement;

5. Meet with national or field staff representatives of the Union in connection with a grievance, negotiations, arbitration or ULP charge;

6. Prepare reconsideration statements and attend meetings in connection with the denial of within grade increases;

7. Participate in ADR; and

8. Communicate with the Union on issues involving terms and conditions of employment.

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

Section 5. Procedure for Use of Official Time

The following procedures apply for the use of official time:

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

Section 6. Official Time for Union Sponsored Training

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

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

Section 7. Use of Official Time and Performance Assessment

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

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

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

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

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

Section 8. Official Time to Participate in Third Party Proceedings

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

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

Section 9. Official Time for Authorized Travel

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

Section 10. Travel & Per Diem for Union Representational Activities & Union Sponsored Training

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

ARTICLE 7
USE OF OFFICIAL FACILITIES

Section 1. Meeting Space

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

Section 2. Office Space and Furniture

The Employer will continue to provide offices, equipment and furniture to the Union in the current locations. Changes to the size or location of these offices, and/or changes to the equipment/furniture currently provided are subject to local negotiations by the parties. For those Chapters that do not have a private office space, equipment and/or furniture, EPA and NTEU will engage in local negotiations within 90 days from the effective date of this Agreement.

Section 3. Union Access to Government Equipment

The Union will be granted reasonable access, at no cost, to LAN and email for union representational activities, and TV/VCR if available. The National Office of the Union will be granted access to the Employer's electronic email system for the purpose of communicating with Chapter representatives and/or bargaining unit employees.

Section 4. Union Use of Email

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

A. Use by the union will be restricted to representational purposes pursuant to 5 USC Section 7101 et. Seq.;

B. Email attachments will be limited to one page, except that lengthier attachments can be transmitted to union officers/stewards recognized under article 6, section 1 or to individual grievants, as necessary;

C. The Union will ensure that no email will violate law or security of the employer, or contain scurrilous or libelous material or material maligning the integrity of any individual, the employer or the federal government;

D. The union will designate one individual responsible for adherence to this section for mass mailings (i.e., emails sent to all bargaining unit members). The Chapter President will inform the local HR office of the designee;

E. The Union is subject to the same standards that apply to all users as established by EPA policy;

F. The Agency will make available a web site for each local chapter on the intranet. The Union will be responsible for all content posted at its website, including items (A), (C), and (E) above.

Section 5. Bulletin Boards

A. The Employer will provide to the Union, at a minimum one bulletin board per building containing bargaining unit employees. Any additional bulletin boards will be negotiated locally. It is agreed that the Union may title the designated bulletin board space as, "NTEU Chapter ____."

B. The Union will ensure that no posting will violate law or security of the Employer, or contain scurrilous or libelous material or material maligning the integrity or motive of any individual, the Employer, or the Federal Government.

Section 6. Mail Distribution

A. The Union may use the Employer's internal mail system to distribute mail for official representational purposes. The Union shall have the right to receive U.S. Postal Service mail or private express mail services addressed to the Union. The Employer will not, under any circumstances, open such mail addressed specifically to the Union.

B. The Union shall be permitted to perform desk drops to bargaining unit employees subject to the following constraints:

1. Reasonable notice of a planned desk drop must be given to the appropriate Labor Relations Specialist. Such notice will be given either verbally or in writing far enough in advance so that one (1) full workday elapses between receipt of the notice and execution of the desk drop.

2. The employee performing the desk drop will do so on his or her own time (e.g. lunch periods, before/after work, on annual leave or LWOP). When desk drops are performed after work hours, they will be completed by the time the building normally closes.

3. The following area will be considered "restricted areas" and desk drops will not be performed in them: Labor Relations Offices, management areas, or offices in which no bargaining unit employees are located.

4. Employees will not read the material during work time.

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

The name of the Chapter President and union office telephone number of the Union Chapter President shall be listed in the Employer's telephone directory. Appropriate changes will be made when the directory is updated.

Section 8. Use of Other Non-Work Areas

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

Section 9. Distribution of Contract

A. A hard copy of this Agreement, all other Union-Management agreements will be printed at the Employer's expense and given to each current and new employee in the unit.

B. The Employer will provide each local Chapter one (1) copy of this Agreement in electronic format. The Employer will post an electronic version of this Agreement on the EPA Intranet.

C. The Employer will provide NTEU's National Office with fifty (50) copies, and an electronic version of the Agreement.

D. If requested by a visually impaired employee who does not have access to this Agreement, the Employer will be responsible for providing a copy in an alternative format, e.g. Braille.

Section 10. Access to EPA Webpage

The Employer agrees to provide at no cost to the Union, space on each of the local Intranet sites for the posting of Chapter material, such as general announcements, listing of local officials, any supplemental agreements, meeting notices, etc. The Chapter is responsible for the posting of material and the maintenance of the site. The Chapter will not post material that is scurrilous,

libelous, or material that maligns the integrity of any individual, the employer or the federal government or materials that violate provisions of the Hatch Act. The Chapter will maintain its site in accordance with the same standards applicable to all other users. The Parties at the local level will have to agree on operational issues such as size limits, use of standard software, frequency updates, and adherence to security controls. The Chapter will provide the Human Resource Office point of contact with a list of the employees that are authorized to post information to the Intranet site.

ARTICLE 8
POSITION CLASSIFICATION AND POSITION DESCRIPTION

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

1. Request a desk audit at the local level (i.e., the HR office serving that region, lab or headquarters component). This step must happen before selecting any other options provided in this section, since an "appeal" is an appeal of the decision made at the local level.

2. File an appeal at the agency level to the Director, Office of Human Resources and Organizational Services, who is the Agency Appellate Authority; or

3. If dissatisfied with the agency's decision, the employee may file a subsequent appeal with the Office of Personnel Management; or

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

5. File an appeal directly with the Office of Personnel Management.

Section 5.

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

1. Request a desk audit at the local level (i.e., the HR office serving that region, lab or headquarters component). This step must happen before selecting any other options provided in this section, since an "appeal" is an appeal of the decision made at the local level.

2. File an appeal with the Director, Office of Human Resources and Organizational Services who is the Agency Appellate Authority; and

3. Provide the name, address, and business telephone number of the employee's representative, if a representative has been selected; and

4. Provide information on other decided or pending appeals, complaints, or administrative decisions where the classification of the same position is or was an issue; and

5. If dissatisfied with agency's decision the employee may file an appeal with OPM within fifteen (15) calendar days of the date of the receipt of the agency decision.

Section 6.

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

Section 7.

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

Section 8.

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

Section 9.

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

Section 10.

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

ARTICLE 9
EMPLOYEE PERFORMANCE EVALUATION

Section 1. General

A. The performance management system will emphasize:

1. Continuous communication between employees and supervisors;

2. Employee development;

3. Administrative simplicity;

4. Recognition of accomplishments; and

5. Employee input into improving organizational effectiveness.

B. Authorities The administration of all matters covered by this Article shall be governed by 5 U.S.C. Chapter 43; 5 CFR 430, 432, and 531; EPA Order 3151.1, Performance Management; and EPA Order 3110.16, Reduction in Grade and Removal Based On Unacceptable Performance.

Section 2. Definitions.

A. "Acceptable level of competence" means performance of an employee at the successful level, warranting advancement of the employee's rate of basic pay to the next higher step of the grade in accordance with 5 CFR 531.

B. "Additional performance element" means a dimension or aspect of individual, team, or organizational performance that is not a critical element. Such elements will not be used in assigning summary levels.

C. "Appraisal period" means the established period of time for which performance will be reviewed and a rating of record prepared.

D. "Assumptions" means known factors over which an employee has little or no control, but which might exert a significant impact on the employee's performance or ability to achieve an objective. Employees will not be held accountable under critical elements for factors outside their control.

E. "Critical element" means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's

overall performance is unacceptable. Such elements shall be used to measure performance only at the individual level.

F. "Within grade increase" means a periodic increase in an employee's rate of basic pay from one step of the grade of the position to the next higher step of that grade.

G. "Interim rating" means a written rating prepared as input to the rating of record by the former supervisor when a change of supervisor occurs during the appraisal period. An employee must have completed the minimum period of performance to receive an interim rating.

H. "Minimum period of performance" means the minimum amount of time (90 calendar days) under a performance plan that must be completed before a rating of record may be given.

I. "Performance plan (performance agreement)" means all of the written or recorded performance elements setting forth expected performance. A performance plan must include all critical (and additional) elements and their performance standards.

J. "Performance improvement plan (PIP)" means a written document from the employee's immediate supervisor designed to help an employee improve performance that is below the successful level.

K. "Performance standard" means the expressed measure of the level of achievement established by the Employer for the duties and responsibilities of a position or group of positions.

L. "Progress review" means communicating with the employee, normally at the mid-year point, about performance progress in critical and additional elements. A progress review is required, but not limited to, at least once per performance cycle. The review also includes assessing the need to adjust the performance plan, developing a plan of action for improving performance (where appropriate), and discussing individual development.

M. "Rating" means the written appraisal of performance compared to the performance standard(s) for each critical element on which there has been an opportunity to perform for the minimum period.

N. "Rating of record" means the performance rating prepared at the end of the appraisal period for performance over the entire period and the assignment of a summary level. This constitutes the official rating of record as defined in 5 CFR Part 430. Ratings of record are the official documentation for personnel actions such as within-grade increases, career ladder promotions, successful completion of probationary period, reduction in force, and adverse performance based actions, absent acceptable substitutes in accordance with Government wide regulations.

Section 3. Appraisal Period.

The annual appraisal period begins on January 1 and ends on December 31.

Section 4. Minimum Period of Performance.

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

Section 5. Summary Rating Levels.

There are two summary rating levels, "successful" and "unacceptable." No further distinctions may be documented or recorded.

Section 6. Supervisors' Performance Management Responsibilities.

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

Section 7. Content of the Performance Plan. A performance plan must contain the following items:

A. Title. "Performance Plan."

B. Element. Name and/or description of the performance element.

C. Element Type (Critical or Additional). Each element will be designated as either a critical element or an additional element. A performance plan shall contain a maximum of five critical elements and a minimum of one. Additional elements are optional.

D. Performance Standard. The performance requirement(s) or expectation(s) for appraisal at a particular level of performance. At a minimum, standards must be documented at the successful level for critical elements. Standards at the unacceptable level are optional; employees may

request standards at this level. If additional elements are used, standards are described only at the successful level.

E. Measurement Source(s). Identification of sources that may establish a reliable and supportable basis for a rating and may be used to determine if standards are met/not met, such as, but not limited to: personal observations, employee written products, or feedback from team leaders.

F. Element Rating.

1. Successful Performance. Performance meeting a performance requirement(s) or standard(s) at a level of performance above "unacceptable" in the critical element(s) at issue.

2. Unacceptable Performance. Employee performance failing to meet established performance standards in one or more critical elements of the performance plan.

G. Assumptions

H. Employee Signature/Date. The employee's acknowledgment of receiving the performance plan.

I. Supervisor's Signature/Date. Identification of the supervisor and his/her approval of the performance plan.

Section 8. The Performance Plan.

The performance plan is determined by the supervisor in collaboration with the employee. The steps to writing a performance plan include:

1. Identify one to five critical elements, considering the organizational strategic goals, function, responsibilities, priorities, and the position description. Critical elements are for individual performance only and affect the employee's summary rating. Additional elements are optional and may be used to review group performance. They do not affect the summary rating. All elements are rated either "successful" or "unacceptable."

2. Describe one or more written standards for each element at the "successful" level.

3. Keep performance plans current and accurate. If a critical element is added or amended during the appraisal period, any rating of it must be based on the minimum period of performance. The employee will be given the changes in the performance plan in writing and may discuss any of the changes with his/her

supervisor.

Section 9. Communicating Performance Plans.

It is the supervisor's responsibility to communicate the expectations as described in the formal written performance plan to employees within the first 30 days of the appraisal period or within 30 days of the employee's arrival in a new position. The individual employee and supervisor should then agree on the plan by both signing and dating it. However, if the employee and supervisor cannot agree, the plan will still be established. The date the employee signs, or refuses to sign, the plan is the beginning date of the minimum period of performance. If the employee refuses to sign the plan, then the supervisor annotates the disagreement and date in the employee signature block. If the employee disagrees with the plan, the employee may attach a statement of concern to the original performance plan. An employee's initials on a plan, where provided for, indicates only that the plan has been received, not an employee's agreement with the performance plan. The supervisor keeps the original plan and provides the employee a copy.

Section 10. Progress Reviews.

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

Section 11. Interim Ratings.

Interim ratings must be prepared for employees who have been under a performance plan for the minimum period of performance when the employee completes a detail, is reassigned to another EPA organization, or when the employee's supervisor, having supervised the employee for the minimum period, departs from that supervisory position. (If less than the minimum period of performance, only performance highlights or problems will be provided.)

Section 12. Timing of the Appraisal.

Performance appraisals (ratings of record) are scheduled to be performed annually within 30 days of the close of the appraisal period. Under special circumstances, appraisals may deviate from that schedule:

1. If the employee has not completed the minimum period of performance by the end of the performance cycle, then the rating of record is given at the end of the minimum period. (This section does not apply to employees moving into a new position in December.)

2. Whenever an employee leaves EPA after having served the minimum period of performance, the supervisor will prepare a performance rating if so requested by the employee. This will be forwarded to the servicing HRO and placed in the employee's Employee Performance File.

Section 13. Assessing Employee Performance.

The rating process requires the supervisor to assess the employee's performance accomplishments against the standards contained in the performance plan. No later than two weeks after the end of the performance year, the employee may provide the supervisor with a written self assessment and highlights of performance for the supervisor's consideration prior to assignment of a final rating. At the employee's option, upon the finalization of the rating, the employee has the opportunity to comment in writing on the appraisal.

Section 14. Appraising Disabled Veterans.

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

Section 15. Protected Union Activities & Collateral Duties.

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

B. Authorized time spent performing collateral duties will not be considered a negative factor when evaluating critical elements.

Section 16. Sources of Appraisal Input.

The written performance standards and sources of appraisal input will be applied in a fair and understandable manner. The supervisor is responsible for obtaining the performance data required to accurately assess the employee's performance. The feedback will be factual and relevant to the performance plan. If the information may adversely affect the employee's rating, the employee will be made aware of the information in order to facilitate the ability to respond to the information and provide clarification. Supervisors will not knowingly withhold pertinent information necessary to the appraisal of the employee's performance.

Section 17. Rating an Element.

After reviewing the employee's self-assessment and other appraisal input against the performance plan, the supervisor will assign a rating to each performance element. If, on balance, the overall performance for a critical element (with one or more standards) is at a successful level, then the element is rated "successful." If, on balance, the overall performance for a critical element (with one or more standards) is less than successful, then the element is rated "unacceptable."

Section 18. Assigning the Summary Level.

Once all of the performance elements have been rated, the supervisor will assign the summary level (rating) as follows: if any critical element is rated "unacceptable," the summary level is "unacceptable"; otherwise, the summary level is "successful." Additional elements do not affect the summary level.

Section 19. Approving the Rating of Record.

If the summary level is "successful," the supervisor must sign and date the form to approve the rating of record. If the rating of record is "unacceptable," higher-level review and approval is required. If the rating of record is "unacceptable, the employee will be given an opportunity to demonstrate acceptable performance in accordance with law and regulation, unless the rating of record has been assigned at the end of a performance improvement plan.

Section 20. Documenting the Rating.

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

Section 21. Communicating the Rating.

Following approval of the rating of record, the supervisor meets privately with the employee to conduct the appraisal interview. No more than one (1) supervisor will be present during the appraisal interview, unless otherwise agreed to by the employee. At the conclusion of the interview, the employee will initial the cover sheet. An employee's initial on the cover sheet indicate only that the rating has been received, not an employee's agreement with the performance appraisal. The date the employee signs or refuses to sign the cover sheet is considered the date the rating of record was communicated to the employee. The employee will receive a copy of the rating no later than three days following the appraisal interview.

Section 22. Record Keeping.

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

Section 23. Employee Development.

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

Section 24. Performance Assistance.

Continuous, informal feedback between the supervisor and employee is essential to ensure an atmosphere that maintains successful performance. However, if at any time during the appraisal year, the supervisor identifies a significant performance-related problem with an employee that may affect the employee's rating, he or she will meet with the employee in an informal meeting/counseling session to work collaboratively to develop a plan to correct the problem. If the employee believes that additional assistance is needed to develop a plan to correct the problem, and if the supervisor concurs, a union representative may be requested to participate in that session. The counseling session will be documented in writing, with a copy provided to the employee.

1. The plan will provide the employee with an opportunity of at least 45 days to resolve the identified performance related problem. During this period, the employee will be considered to be performing at a successful level for the purpose of any performance-related personnel actions.

2. The plan will be tailored to the employee's specific needs and may include formal training, on-the-job training, counseling, assignment of a journeyman mentor, or other assistance as deemed appropriate.

3. At any time during this assistance period, the supervisor may determine that assistance is no longer necessary. The supervisor will provide the employee with a written notice of this determination.

4. Notwithstanding the above, if at any time during the assistance period the employee's performance is determined to be unacceptable in one or more critical elements, a formal opportunity to demonstrate successful performance shall be initiated under section 25.

Section 25. Performance Improvement Plan (PIP).

If the supervisor determines that the employee is performing assigned job duties unacceptably, the supervisor shall develop a written PIP in consultation with the employee, and if requested by the employee, a union representative.

1. A PIP is a document intended to identify an employee's performance deficiencies, actions the employee must take to improve performance, and provisions for counseling, training or other assistance designed to improve performance to the "successful" level. Placement on a PIP triggers a formal opportunity period as required by 5 USC 4302(b)(6).

2. The employee's performance rating must be based on at least 90 days under an assigned critical element in which performance is deemed "unacceptable." A PIP must be presented to an employee within 15 working days after the employee is notified in writing of unacceptable performance.

3. A PIP should be in the form of a memorandum from the immediate supervisor to the employee. A specified beginning and ending date should designate the length of time the PIP will be in effect (not less than 60 calendar days); the length of the PIP will depend on the nature of the position and the performance deficiencies involved, and the length of time reasonably required to demonstrate "successful" performance. The following information should be included in the PIP:

   (a) The employee's name, position title, series, grade, and organizational location;

   (b) The basis for the PIP, e.g. unacceptable performance on one or more critical

elements;

(c) A restatement of the assigned critical element(s) in which the employee is performing unacceptably and a description of how the performance was determined to be deficient in relation to the performance plan;

(d) References to any previous counseling sessions conducted during the appraisal period;

(e) A specific description of the requirements that must be met, in terms of quality, quantity, timeliness, manner of performance, or other measure of performance for work to be determined "successful." Numerical criteria or bench marks used by the supervisor to interpret a performance standard must also be stated;

(f) A similar explanation of what will constitute "unacceptable" performance;

(g) Examples of ways the employee can improve performance and a description of the various kinds of assistance the employee will receive during the PIP;

(h) A schedule of any periodic performance reviews that will be conducted during the PIP;

(i) A list of assignments with due dates or completion dates, if appropriate;

(j) A statement that the employee is expected to maintain "successful" performance in the remaining critical elements; and

(k) Notification that failure to improve performance to the "successful" level will result in a reassignment, reduction in grade or removal.

4. Implementation of a PIP.

(a) The supervisor dates the PIP and sends it to the next higher level supervisor for approval;

(b) The supervisor will meet and discuss the approved PIP with the employee. The employee signs the PIP and is provided a copy. The employee's signature signifies receipt, not concurrence. If the employee refuses to sign, the supervisor will annotate the PIP and date the annotation;

(c) The supervisor sends the PIP to the servicing HRO along with the original performance agreement and rating package. The PIP will be filed in the

EPF. It will be removed and destroyed if the employee's performance improves to the successful level and remains there for one year from the beginning of the PIP.

5. Terminating or Extending a PIP. A PIP may be terminated or extended in certain situations. In such cases, the action will be documented by a memorandum to the employee and a copy to the servicing HRO for inclusion in the EPF.

   (a) A PIP will be terminated if the employee is reassigned to a different position at the same or different grade. The PIP is not continued in effect in the new position. The PIP will be removed from the EPF and destroyed after one year of successful performance.

   (b) A PIP may be terminated if the employee's performance improves to the "successful" level prior to the expiration of the PIP;

   (c) A PIP will be removed from the EPF and destroyed when the employee leaves the Agency;

   (d) A PIP may be extended at any time with the approval of the higher level supervisor.

6. Expiration of a PIP. If a PIP is not extended or terminated by the designated expiration date, the supervisor must notify the employee of the status of his/her performance. If the employee's performance has improved to the successful level, the supervisor must prepare a new rating of record if the opportunity period was triggered by an annual rating of unacceptable. The new rating will be sent to the servicing HRO , with the employee and supervisor each retaining a copy. The servicing HRO will substitute the new rating of record for the previous one, and destroy the previous rating of record.

Section 26.

Within the first year of the contract, the Agency will hire a contractor to evaluate PERFORMS in evaluating employee performance. The Union will be allowed to participate as a member of the focus group and will have an opportunity to comment on alternatives that are identified before a decision is made to modify or replace PERFORMS. The Union will then have an opportunity to engage in bargaining before PERFORMS is modified or replaced as applicable to unit employees.

Section 27.

As a means of fostering communications and employee development, formal programs for

obtaining input from multiple sources and/or instruments (e.g., 360 degree feedback), generally on an anonymous basis, may be developed. Either management or the union may propose such programs at the national level in accordance with Article 33. Such formal programs (e.g., 360 degree feedback) may be used only for developmental purposes. Employee participation, including providing information or being the subject of any such program, will be completely voluntary, and any employee may decline to participate without fear of penalty or reprisal.

ARTICLE 10
ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

Section 1.

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

1. Deny a within-grade increase under 5 CFR 531;

2. Reassign the employee to a vacant position at the same grade, in accordance with 5 CFR 430, if the supervisor believes the noted performance deficiencies in the current position would not prevent successful performance in the vacant position;

3. Propose the employee's demotion to a lower grade, in accordance with 5 CFR 432; or

4. Propose the employee's removal in accordance with 5 CFR 432.

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

Section 2.

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

Section 3.

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

1. The action being proposed and the fact that a determination will not be made until after the expiration of the notice period;

2. The critical element(s) and performance standard(s) of the position in which performance is deemed unacceptable;

3. The specific instances of unacceptable performance on which the present action is based;

4. The employee's right to representation and right to present an oral and/or written reply within 15 work days;

5. The right to review the information relied upon by management to support the proposed action;

6. The opportunity to use a reasonable amount of official time to prepare a reply; and

7. The name of the individual to whom the response shall be made.

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

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

Section 4.

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

Section 5. Right to Appeal

A. Employees may appeal actions taken pursuant to the Article in accordance with established laws, rules and regulations by going to arbitration or filing an appeal with the Merit Systems Protection Board.. It is the Union's decision to determine whether the case will proceed to arbitration. The employee may not utilize both procedures but must elect one or the other in writing within the established time limits. If the Union decides to proceed directly to arbitration in the case, then if the Union wishes to raise new issues not raised before the deciding official, it should, as practical, identify any additional issues in its written invocation of arbitration. However, this shall not preclude the Union from raising any new or additional issues prior to the

pre-hearing conference. In no event may the Union raise new issues before the arbitrator that have not been identified at the prehearing conference that shall occur no later than 14 days prior to the scheduled hearing date.

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

Section 6.

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

ARTICLE 11
CAREER LADDER PROMOTIONS

Section 1.

A. Career ladders are usually established at a trainee level and progress to the journeyman level. The grade of the journeyman level will be determined by the organization's needs, consistent with the work to be performed. Assuming available work exists at the next higher grade level to support the promotion, promotions will occur when:

1. The employee's performance demonstrates the ability to perform the duties of the next higher grade level;

2. The current rating of record is at the "successful" level; and

3. The employee has completed the minimum waiting period in the lower-graded position and meets the qualification requirements.

B. However, in the event work is not available at the next higher grade level that results in a delay in the career ladder promotion, management will notify the employee when the unavailability of work becomes known and will explain the determination to the employee and will provide any available documentation if requested to support the determination of unavailability of work. Notice will be provided to the employee as soon as the Employer becomes of aware of the situation. When an employee is otherwise eligible for promotion and the work subsequently becomes available, management will promote the employee.

Section 2.

For employees in career ladder positions, the progress review under Article 9 shall include an assessment of the employee's demonstrated ability to perform the duties of the next higher-graded position. The supervisor and employee should focus on the duties and level of performance expected at the higher-grade position and how the employee can demonstrate the ability to perform those duties while in the current position. Employees may check with their supervisors at any time during the rating year to determine if their current level of performance will be sufficient to warrant a career ladder promotion when they meet the time-in-grade requirement.

ARTICLE 12
PROMOTIONS

Section 1. Purpose

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

Section 2. Merit Promotion Program

A. General.

Merit promotion is one means of filling vacancies. In the exercise of this responsibility, and through the assessment of the organization's needs, managers may elect to fill vacancies by recruitment alternatives other than merit promotion. Such alternatives include obtaining eligible candidates via reassignment; change to lower grade; transfers from other agencies; reinstatement; OPM registers; EPA delegated examining registers; student appointments, appointment of persons with disabilities, veterans readjustment appointments, disabled veterans who have compensable service connected disability of 30% or more, and other excepted service appointments as appropriate; employees granted priority consideration for placement; and re-employment priority list registrants, etc. When fully-qualified candidates for a position can be found via other means of recruitment, these methods may be used in lieu of or in addition to the merit promotion process. In all cases, selection should be based on management's needs and the goals and objectives of the organization, as well as in accordance with all applicable law, rules, and regulations.

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

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

1. Promotion or transfer to a higher grade;

2. Temporary promotion for more than 120 days, except as provided in Section 2.D.4. Any prior details to higher-graded positions or temporary promotions during the preceding 12 months (whether competitive or non-competitive) must be included when calculating the number of days;

3. Selection for detail for more than 120 days to a higher-graded-position or to a position with known promotion potential;

4. Selection for training which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for a promotion;

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

6. Reinstatement to a permanent or temporary position at a higher grade than any grade held in a permanent position in the competitive service.

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

1. Career Ladder Promotions. Career ladder promotions are permitted when an employee is appointed or assigned to any grade level below the established full performance level of the position (i.e., the position has a documented career ladder and promotion potential). These promotions may be made noncompetitively for any employee who entered the career ladder by:

(a) Competitive promotion procedures;

(b) Competitive appointment from a certificate of eligibles (through OPM or delegated examining authority); or

(c) Non-competitive appointment under a special authority, e.g., conversion of a Student Career Experience Program student or Federal Career Intern, appointment of former ACTION Volunteers or Peace Corps personnel (must clear ICTAP through an announcement), conversion of a Veterans Readjustment Act (VRA) appointee and Presidential Management Intern.

2. Promotion Based on Reclassification When:

(a) No significant change occurs in the duties or responsibilities and the position is upgraded due to issuance of a new classification standard, an updated Agency-wide classification policy or the correction of a classification error; or

(b) The position is upgraded due to accretion of additional duties and responsibilities and all of the following provisions are met:

(1) The employee continues to perform the same basic functions in the same organization, working for the same supervisor (the duties of the former position are administratively absorbed into the new position, and the former position is abolished);

(2) The new position has no promotion potential;

(3) The additional duties and responsibilities assigned or accrued by the incumbent do not adversely affect or impact the grade-controlling duties and responsibilities of other positions in the unit; and

(4) The accretion is supported by a written analysis of the position (which may involve an audit with the employee and/or employee's supervisor, or other fact-gathering method).

3. Permanent Promotion to a position held under a temporary promotion when:

(a) The assignment was originally made under competitive procedures; and

(b) It was known to all competitors at the time that the assignment may lead to a permanent promotion.

4. Temporary Promotion of an employee for less than 120 days, or for more than 120 days to a grade level held previously on a permanent basis in the competitive service.

5. Placement as the Result of Priority Consideration when the referral is a remedy for candidates not given proper consideration in a competitive promotion action.

6. Reduction in Force Placements which result in an employee receiving a position with higher promotion potential.

7. Promotion to a Grade Previously Held on a permanent basis in the competitive service, from which an employee was separated or demoted for other than performance or conduct reasons.

8. Promotion, Reassignment, Demotion, Transfer, Reinstatement, or Detail to a Position Having No Greater Promotion Potential than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.

9. Promotion Resulting From Successful Completion of a Training Program for which the employee was competitively selected.

10. Selection from the Re-employment Priority List at the same or lower grade level than the position from which selected.

11. Reinstatement to any Position of a career or career-conditional employee who served under a career SES appointment consistent with 5 CFR 335.103(c)(3).

12. Promotion as a Legal Remedy as ordered or agreed upon in a legal or administrative proceeding.

13. Details for one hundred and twenty (120) days or less to a higher grade position or to a position with known promotion potential.

E. Area of Consideration (AOC)

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

2. The minimum AOC will be an organizational unit, no less than a division, which is considered sufficient to attract more than one qualified candidate for promotional consideration. The local appointing authority has the option of establishing an AOC larger than the minimum prescribed above, especially if experience shows that those minimum areas fail to provide enough qualified candidates.

3. An AOC will be established for each vacancy.

4. OPM will be notified of vacancies in the competitive service for which the Agency will consider applicants from outside the Agency in accordance with 5 USC 3327.

F. Time Limits for Posting Vacancy Announcements

1. The Employer will post a vacancy announcement to cover all vacancies that must be filled in accordance with the procedures of this Article. The HR Office will post the announcement on the Agency's Intranet for a minimum of ten (10) days.

2. Applications post marked or submitted electronically on or before the closing date will be accepted.

3. As a minimum, the vacancy announcement will contain the same type of information as contained in the OPM announcement template, for example:

(a) Title, series and grade(s) of the vacancy announcement and announcement number;

(b) Geographic and organizational locations;

(c) Summary statement of the principal work assignments;

(d) Minimum OPM qualification requirements plus any mandatory (selective placement) factors;

(e) Knowledge, skills and abilities and/or competencies and/or task statements required;

(f) Who to contact for additional information;

(g) Where and/or how applications should be sent and what they should include;

(h) Opening and closing dates;

(i) If the vacancy has known promotion potential or is a career ladder position;

(j) A statement of EEO;

(k) Area of consideration; and

(l) Number of positions expected to be filled at the time if more than one.

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

1. Vacancy Listings - A brief summary of multiple positions open to competition under the merit promotion procedures.

2. Individual Vacancy Announcements - Posted notices that advertise one or more positions open to competition under the merit promotion procedures. They will contain the same type of information as found in the OPM announcement template. Individual vacancy announcements will be open for a minimum of 10 calendar days.

3. Open Continuous Announcements - Posted notices through which applications may be accepted and referred to selecting officials on a continuing basis. They may be used when there is a continuous need for candidates in a particular occupation or group of occupations. They will contain the same type of information as found in the OPM template.

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

1. Repromotion Consideration Eligibles. Employees demoted in the Agency without personal cause and on grade/pay retention are entitled to priority consideration for any vacancies for which they qualify in their local commuting area. Repromotion eligibles are entitled to priority consideration for 2 years unless they are repromoted to their former grade or decline a position of equal grade, whichever occurs first. Candidates may receive consideration only at the grade level in which consideration was lost and having no higher promotion potential than the position previously held.

2. Candidates Who Did Not Receive Proper Consideration In A Previous Merit Promotion Action Due To A Procedural, Regulatory Or Program Violation. These candidates will receive priority consideration for the next appropriate vacancy in the geographic location where proper consideration was denied. The following conditions must be met before priority consideration under this provision may be granted:

   (a) It is a similar type position in the same pay system as the position for which the employee failed to receive proper consideration;

   (b) The employee is qualified for and would have been in the best qualified group; and

   (c) The vacancy is at the same grade level with no higher potential than the position for which consideration was lost.

3. Employees Who Receive Priority Consideration Based on An EEO Complaint. These employees must be given priority consideration if it is either the agreed upon resolution to settle the complaint or the remedial action ordered in the final decision of a discrimination complaint.

4. Displaced Applicants. The Agency will provide special selection priority to eligible displaced applicants who are determined to be well-qualified, in accordance with

the regulatory requirements (e.g., under the Career Transition Assistance Plan or the Interagency Career Assistance Program).

I. Application Procedures.

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

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

2. Accepting Applications.

   (a) When the HR Office Uses a Manual Recruitment System. Generally, the manual system will be used in such situations as identification of systematic problems with the automated staffing system, system failure, and/or loss of the vendor contract. Unless otherwise specified, applications will be accepted from all promotion-eligible candidates whose applications are received in the servicing HRO or postmarked by the closing date. Applications from noncompetitive eligibles, qualified persons with disabilities, 30% or more compensable disabled veterans, VRA eligibles, and Public Health Service officers may be accepted up until the time that the certificate of eligibles is sent to the selecting official. Employees within the AOC who are absent for legitimate reasons, such as approved leave, official travel, detail, Intergovernmental Personnel Act assignment, training or military service, may furnish copies of their application to other employees or their supervisor and request in writing that they be submitted for vacancies. Applications from outside the AOC will not be accepted.

   (b) When the HR Office Uses an Automated Staffing System. Unless otherwise specified, applications must be submitted on-line by all candidates by the closing date and time specified in the vacancy announcement. For assistance in applying for a vacancy, applicants may contact the human resources representative listed on the vacancy announcement who will assist applicants to submit their applications online

by the closing date of the vacancy announcement. If applying online poses a hardship, applicants must call the human resources representative before the closing date of the announcement to request assistance. In addition, applicants who have a hardship must respond to the same questions as applicants applying online and submit a signed copy of their responses to be received by the servicing HR Office prior to the closing date of the vacancy announcement. The HR Office will input the data into the system on the applicant's behalf for the specific job for which the applicant is applying only. An example of hardship would be where an applicant lives in or is temporarily assigned to a remote location where it would pose a hardship for the employee to get to a computer and/or access the automated staffing system.

J. Eligibility Requirements.

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

2. Minimum Qualification Requirements. Minimum qualification requirements will be those described or approved by OPM for the particular position involved, plus any mandatory (selective placement) factors. Qualification requirements are found in the OPM Operating Manual for Qualification Standards for GS positions.

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

1. Promotion Eligibles - those applicants who must compete in order to be placed in the position (applicants in the promotion eligible category will be evaluated in accordance with the provisions below); and

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

L. Evaluation of Candidates

1. Applications may be evaluated by a subject matter expert, a rating panel or a human resources representative. Regardless of the evaluator, ratings must be based solely on the application material submitted by the applicant. If an automated staffing system is used to qualify, rate and/or rank applicants, then a human resources representative will conduct a quality review before the rating is finalized. When a quality review is conducted for an automated rating, an adjustment will only be made in the event that an applicant's answer(s) to the automated question(s) are not consistent with the applicant's resume or other documentation provided in the promotion package.

2. All candidates who meet the minimum (basic) qualification requirements must be evaluated on job-related criteria (i.e., work experience, education and training) and the selecting official or interview panel will consider applicant awards and appraisals in the selection process, if they are required by the vacancy announcement.

3. Evaluation methods must include an analysis of the job to determine pertinent knowledge, skills and abilities (KSA's) or competencies that are important for successful job performance. Based on the job analysis, the KSA's/competencies to be used as Mandatory KSA's/competencies and rating factors for the vacancy announcement will be identified and weighted. In an automated staffing system, the identified KSA's/competencies will be elicited in the form of questions or requests for information that the applicant must answer.

4. A rating plan must be developed by the subject matter expert or human resources representative. Only the criteria and established point values given in the rating plan for the vacant position will be applied in this process. The automated staffing system or promotion panel/ranking official will provide an objective assessment of each applicant's potential to perform in the vacant position.

5. All candidates meeting the minimum qualifications for the position will be rated and ranked, regardless of the number of applicants.

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

M. Ranking and Referral of Candidates.

1. Determining Best-Qualified. Promotion eligible candidates will be rated against the KSA's/competencies set forth in the rating plan. Candidates will be identified as either "best-qualified" or "qualified" based on the scores received in the evaluation process. When more than 10 candidates are rated as eligible, best-qualified candidates will be determined by using all of the rating factors listed in the vacancy announcements in the evaluation process. Candidates will be ranked according to their rating scores assigned by the automatic staffing system or promotion panel/ranking official.

2. Referral When There Are More Than Ten Qualified Competitive Candidates. The Best Qualified threshold score will be set prior to the close of the vacancy (90). The Union will be notified if this number changes. The Best Qualified candidates who will be referred for consideration will be determined based on the most logical (natural) break in scores, i.e., two or more points. However, in the event the natural break method results in more than 9 Best Qualified candidates, then the HR Official will resort to identifying only the top 10 numerically ranked candidates who will then be forwarded to the selecting official/panel in alphabetical order. All tied scores (at number 10) will be forwarded to the selecting official. Candidates will be ranked according to the rating score assigned by the automated staffing system or panel/SME and referred in alphabetical order.

3. If a best qualified certificate is to be used for more than one vacancy, an additional best-qualified candidate (if available) may be added for each additional vacancy.

4. If there are fewer than 10 best-qualified candidates, only the best-qualified candidates will be referred.

5. If there are no best-qualified candidates and the selecting official, with the concurrence of the human resources representative, determines that it is impractical to expand the AOC, then the qualified candidates may be referred in alphabetical order. If the human resources representative makes such a decision, the reason(s) why the further expansion of the AOC is impractical must be fully documented in writing and included in the Merit Promotion case file.

6. Duration of Merit Promotion Certificate. Normally, certificates are issued with a 60 calendar day time limit. In extenuating circumstances, certificates may be extended for an additional 60 days with a written request from the selecting official to the servicing HRO. A copy of the written request for extension will be sent to NTEU.

7. Use of Certificates for Additional Positions. Certificates may be used to fill additional vacancies for similar positions up to 120 days. A similar position is one that is located in the same division or office, has the same title, series and grade (and promotion potential, if applicable,) and requires the same KSA's or competencies.

N. Interviews and Selections

1. Interviews may be conducted at the discretion of the selecting official or interview panel, subject to the following; if one EPA internal candidate is interviewed from the best qualified list, all NTEU EPA bargaining unit employee candidates will be given the opportunity to be interviewed.

2. The selection process is a management prerogative involving the exercise of informed judgment coupled with responsibility. Each selecting official should choose the person(s) who will best fulfill their requirements and the objectives of the organization. Selecting officials may select or non-select any candidate on a certificate of eligibles.

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

P. Disclosure of Information

1. All candidates must have equal access to information on the merit promotion process and procedures.

2. Applicants will be notified of:

(a) Whether they were found eligible;

(b) Whether they were referred to the selecting official/grouped on the best qualified list; and

(c) Who was selected.

3. In addition, applicants may request and receive information concerning:

(a) Whether the vacancy announcement was canceled;

(b) Areas, if any, in which they should improve to increase their chance for future promotion; and

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

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

1. In the processing of grievances related to merit promotion actions taken under the terms of this Article, the employee's representative will, upon request to the appropriate servicing HRO, be furnished the relevant and necessary evaluative material (e.g., the application package, interview notes, quality review results) used in the ranking process and/or by the Selecting Official that is contained in the Merit Promotion file used in the selection action, subject to the following:

a. Evaluative material will be confined to the applicants appearing on the Best Qualified List;

b. No information will be released that includes identifying information, in order to protect privacy rights;

c. If a crediting plan is to be reviewed by a union representative, he/she will perform the review in the presence of an authorized HRO official. A hard copy of the crediting plan will not be provided. The union representative may not release the contents of that crediting plan to any other EPA employee.

R. Priority Consideration.

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

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

S. Miscellaneous.

1. The fact that an employee is the subject of a conduct investigation will not prevent or delay his/her proper consideration for promotion, unless the Agency determines that such is necessary to protect the integrity of the Agency.

2. Upon request from the Union, the following information will be provided within areasonable period of time, and in accordance with the Privacy Act to protect the privacy of the eligible candidates and panel members:

   (a) Announcement number;

   (b) Number of vacancies;
   (c) Panel scores of the candidates referred, before and after a quality review;

   (d) The series, grade of the employees referred, if the candidate was an employee within the unit;

   (e) If the candidate was not a unit employee, this will be so designated;

   (f) Selection action;

(g) Date of selection action.

3. The Employer will maintain promotion and selection information for two (2) years or after an OPM evaluation, whichever comes first, in accordance with governing laws, rules and regulations.

ARTICLE 13
DETAILS AND TEMPORARY PROMOTIONS

Section 1. Definition

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

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

Section 2. General

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

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

Section 3. Detail to Higher Graded Positions

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

B. Selection for details to higher graded positions and temporary promotions will be accomplished in accordance with Article 12, Merit Promotion, of this Agreement, when it is

reasonable to expect that the assignment to the higher graded position is to last longer than one hundred twenty (120) calendar days. Prior service during the preceding 12 months under noncompetitive details to higher graded positions and noncompetitive temporary promotion counts towards the 120-day total.

C. It is agreed that when an employee is detailed to a higher graded position for more than thirty (30) consecutive calendar days, but is not eligible for a temporary promotion, the employee's performance at an acceptable level of competence in a higher graded position will be cause for consideration for issuing a special achievement/or special act award, whichever applicable to that employee.

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

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

ARTICLE 14
REASSIGNMENTS

Section 1.

A. Consistent with the Employer's right to assign work and determine the skills and qualifications necessary to perform a particular work assignment, is the right to reassign employees. The provisions of this Article apply solely to reassignments within the bargaining unit. A reassignment is a permanent change from one position to another without promotion, demotion, or break in service.

B. The decision to reassign employees between positions or work units will be based on objective management considerations. The Employer will give reasonable consideration to documented assertions by an employee that a reassignment will cause undue personal hardship.

Section 2.

Workload and time permitting, the Employer will provide an employee with advance written notice of a reassignment as far in advance as practical, but not less than one pay period. The employee will receive a Standard Form 50 documenting the reassignment and a copy of the position description for the new job. An employee who is reassigned will be given a reasonable period of time to learn and satisfactorily perform the functions of his/her new position, in accordance with Article 9 (PERFORMS).

Section 3.

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

Section 4.

Management may directly reassign without first soliciting for volunteers in order to expeditiously reassign an employee because of mission or management related needs. When practicable, the Agency may advise the appropriate NTEU Chapter whenever it needs to act expeditiously to fill a reassignment based on mission or management related need. Prior to directing a reassignment, however, management will consider soliciting qualified volunteers for the reassignment when the reassignment opportunity is available to more than one employee. When seeking qualified volunteers to address a mission or management-related need,

and merit promotion competition does not apply, the Employer will follow the following procedure:

1. The Employer will identify areas from which the reassignment will come;

2. The Employer will then identify those employees who are qualified to fill the vacant position(s). In determining who is qualified to fill the positions, the Employer will consider the following factors:

   (a) Qualifications needed for an employee to satisfactorily perform in the positions; and

   (b) The skills and knowledge needed to effectively and efficiently accomplish the work.

3. The Employer will then solicit volunteers from among these employees to determine if anyone wishes to be voluntarily reassigned.

4. When reassigning an employee, the Employer will consider factors such as employee knowledge, skills, abilities, experience, attitudes and interpersonal competencies, organizational workload, mission, goals and deadlines, developmental needs and other relevant job qualifications in determining who will be reassigned. The Employer will also consider an employee's personal hardship that may result from the reassignment.

Section 5.

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

Section 6.

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

ARTICLE 15
WITHIN-GRADE INCREASES

Section 1. Criteria for Granting a Within-Grade Increase

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

1. One year to move to steps 2, 3, and 4

2. Two years to move to steps 5, 6, and 7

3. Three years to move to steps 8, 9, and 10

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

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

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

Section 2. Denial of Within-Grade Increase

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

B. An employee not under written performance elements and standards will have performance elements and standards established. A determination shall then be made upon completion of the minimum appraisal period of 90 days and shall be based on the employee's appraisal period of 90 days and shall be based on the employee's rating of record completed at that time. In certain circumstances, the supervisor may postpone the acceptable level of competence determination, e.g., the employee did not receive performance standards at least ninety (90) days before the end of the waiting period and he or she is not performing at an acceptable level of competence. In such cases, the period of postponement shall not be less than ninety (90) days.

Section 3. Notification of Withholding of Within-Grade Increase

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

1. Set forth the reasons for the negative determination;

2. Set forth the manner in which the employee must improve his/her performance in order to be granted a within-grade increase; and

3. Notify the employee of his or her right to request reconsideration of the negative determination and file a written response within fifteen (15) calendar days of receipt of the notice pursuant to section 5 of this Article.

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

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

Section 4. Reinstatement of Within-Grade Increase

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

Section 5. Appeal of Denial of Within-Grade Increase

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

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

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

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

ARTICLE 16
TRAINING

Section 1. General

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

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

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

Section 2. Selection for Conferences/Courses not Specifically Related

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

Section 3. Access to Training

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

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

Section 4. Approval for Training

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

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

1. The training will contribute to an increased ability to perform his/her current job or a job he/she has been assigned to fill or to the mission of the Agency;

2. Comparable training is not available through EPA developed courses, and it would be too costly for EPA to develop a suitable program;

3. Reasonable inquiry has failed to disclose suitable, adequate, and timely programs being offered without cost by other government agencies within the local area;

4. The course meets the needs of the employee and the Employer as well as or better than other courses of its nature which may also be available at that time;

5. The course is not being taken primarily for the purpose of obtaining a degree;

6. The employee agrees in writing to meet any continuing service agreement established pursuant to 5 CFR 410.

C. Employees who fail to satisfactorily complete training for which the costs have been

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

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

Section 5. Duty Time

Duty time will be granted to take authorized directed training. Additionally, duty time may be granted to take authorized non-directed training provided that the employee's absence would not create a workload or staffing problem, the course offering is unavailable during non-duty hours/the employee is unable to attend during non-duty hours, and it is impracticable for the employee to use annual leave, leave without pay, credit hours, compensatory time or to change the regularly scheduled hours of work.

Section 6. Career Development

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

Section 7. Merit Promotion Principles

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

Section 8. Information Concerning Training Allocations
At the mid-point of the fiscal year, and upon request, the Agency will provide the local NTEU Chapter with the amount of money spent on training.

ARTICLE 17
HOURS OF WORK

Section 1. General.

The use of alternative work schedules has the potential to improve employee productivity and morale, and accomplish the agency's mission and goals in an efficient fashion. All AWS may not be appropriate or feasible for all work situations, given that staffing, cost, work accomplishment, supervisor/employee ratios, and customer service are the type of factors that determine the appropriateness of AWS. All schedules must be consistent with organizational needs, provide for adequate, continuous office coverage, and result in no diminution of work performed. All work schedules must be approved by the supervisor in advance, based upon the supervisor's assessment of objective criteria. If an employee's request for a specific AWS is denied, the supervisor will provide a written explanation to the employee, upon request. Once AWS are approved for employees under the same first-level supervisor, any conflicts in scheduling (e.g., the regular day off for an employee working a 5-4/9) will be resolved in favor of the most senior employee (EOD EPA).

Section 2. Definitions.

A. Administrative workweek. A period of 7 consecutive calendar days designated in advance by the head of an agency. For EPA employees, the administrative workweek begins on Sunday.

B. Alternative work schedules or AWS. Flexible (flexitour) and compressed work schedules (5-4/9 and 4-10).

C. Regularly scheduled administrative workweek. For a full-time employee, the period within an administrative workweek within which the employee is regularly scheduled to work. For a part-time employee, the officially prescribed days and hours within an administrative workweek during which the employee is scheduled to work.

D. Tour of duty. The hours of a day (daily tour of duty) and the days of an administrative workweek (weekly tour of duty) that constitute an employee's regularly scheduled basic workweek.

E. Credit hours. Hours in excess of the employee's daily tour of duty which are performed at the employee's option with prior supervisory approval so as to vary the length of a succeeding workday or workweek. Credit hours are available only to an employee working a flexible schedule.

F. Core hours. Those designated times and days during the biweekly pay period which an employee must be present for duty.

G. Work day. The period of time, including the unpaid lunch break, during which an employee is normally scheduled to be at work.

Section 3. Work Schedules in Regions 7 and 9.

Alternate work schedules in effect in Regions 7 and 9 prior to the date of this agreement will remain in effect. Any changes to the procedures in those regions will be handled locally, pursuant to section 7 of this article.

Section 4. Available Work Schedules.

A. **Regular Work Schedule**

1. The basic 40 hour workweek is scheduled on 5 days, normally Monday through Friday, and the working hours are the same each day.

B. **Compressed Work Schedule (5-4/9)**

1. This is a fixed schedule within a pay period of 10 workdays, normally Monday through Friday, which includes 8 nine hour days, 1 eight hour day and 1 compressed day off.

2. Employees must work core hours with pre-established fixed hours each work day.

3. Supervisors shall use objective criteria in determining whether to approve an employee's request to work a 5-4/9 work schedule. Such criteria include the following: adequate office coverage, anticipated emergency situations, additional cost to the Agency, criticality of the employee's position, and customer service. In addition, employees wishing to work a 5-4/9 must have a fully successful performance rating of record, not be under a PAP or a PIP, and not have received any formal discipline related to attendance problems or leave restriction letter for a one year period from the date of their request.

4. Receipt of a leave restriction letter, disciplinary action related to attendance problems or PAP or PIP will require an employee to revert to a regular work schedule until the problem has been corrected. Employees working a 5-4/9 as of the date of the agreement will not revert to a regular work schedule based on receipt of such notices prior to the effective date of the agreement.

C. **Compressed Work Schedule (4-10)**

1. This is a fixed schedule that includes 4 ten hour days and one compressed day off each workweek, normally on a Monday through Friday.

2. A 4-10 schedule is available only for full-time employees.

3. Employees must work core hours with pre-established fixed hours each work day.

4. Supervisors shall use the same criteria as identified above when determining whether to approve an employee's request to work a 4-10 schedule. Receipt of a leave restriction letter, disciplinary action related to attendance problems or PAP or PIP will require an employee to revert to a regular work schedule until the problem has been corrected. Employees working a 4-10 as of the date of the agreement will not revert to a regular work schedule based on receipt of such notices prior to the effective date of the agreement.

5. Employees on an approved 4-10 AWS must use a centrally located sequential sign-in/sign-out sheet for timekeeping and accountability. Employees will log their time upon arrival and departure. Employees working at an alternate work location will log their times via a message to their supervisor. Failure to do so may result in removal from the 4-10 schedule.

6. Employees on a 4-10 AWS who participate in a regular flexiplace arrangement will be scheduled to work no more than one day per week at the alternate work location.

D. **Flexitour with Credit Hours**

1. The basic work requirement is 10 eight hour days during the bi-weekly pay period. This is a flexitour work schedule in which an employee is allowed to select starting and stopping times within the flexible bands. Once selected, the hours are fixed until the Employer authorizes the employee to change the scheduled starting and stopping times. The flexitour work schedule will run as a 1 year pilot program, whereupon the local parties will determine whether to move to a flexible work band schedule.

2. The employee must work established core hours.

3. Part-time employees who have been approved for participation in the Flexitour Work Schedule are covered by its provisions only on those days that they work an 8-hour tour.

4. Employees with accrued credit hours may not change to a fixed work schedule until all credit hours have been used.

5. Credit hours must be worked before or after the fixed starting and stopping times. This section is subject to renegotiation in conjunction with item d.1 above.

6. Employees wishing to work credit hours must receive advance approval. In limited circumstances supervisors may grant a standing request to work credit hours for known or anticipated workload issues. Procedures for requesting and approving credit hours will be determined at the local level.

7. Credit hours must be earned in advance of their use and may be used and earned only in increments of one hour.

8. Use of earned credit hours will be requested on OPM-71 or equivalent. Approval of such usage will be based on the same criteria used to grant annual leave.

9. When an employee uses credit hours, they constitute part of the basic work requirement to which they are applied. An employee is entitled to the basic rate of pay for credit hours and credit hours may not be used to create or increase entitlement to overtime pay.

10. Under normal circumstances, an employee may earn a maximum of two credit hours per workday, and no more than 10 hours per pay period.

11. Full-time employees may not accrue a balance of credit hours in excess of 24 hours. Part-time employees may not accrue a balance in excess of one-fourth of their regularly scheduled administrative workweek.

12. Subject to law, regulation, agency policy and this agreement, credit hours may be used alone or in combination with annual, sick, leave without pay or compensatory time off. When an employee is in a use-or-lose annual leave status, annual leave must be used prior to the use of credit hours.

13. Union officials on official time may not accrue credit hours.

14. Supervisors will use the same criteria for approving/disapproving requests to work a Flexitour schedule as they use for reviewing requests to work a 4-10 schedule.

15. Employees working a flexitour must use a centrally located sequential sign in/out sheet for time keeping and accountability, including time spent working credit hours. Employees working at an alternate work location will log their times via a message, or other acceptable electronic equivalent, to their supervisor. Failure to

mark arrival and departure times may result in removal from the Flexitour schedule.

Section 5. General Work Schedule Provisions

A. Employee participation in an AWS is voluntary; the Employer will accommodate any employee's request to work a regular work schedule.

B. All schedules will include at least a 30 minute unpaid lunch break. Employees may not use the unpaid lunch break at the beginning or end of the scheduled work day in order to shorten the length of the day. Absent an overtime requirement, no schedule may exceed 10 and ½ hours.

C. The Agency may reopen the Agreement at any time at the local level, under 5 USC 6131(c)(3)(A), to seek termination of the flexitour or compressed work schedule in all or a portion of a covered bargaining unit, if it determines that the schedule has had an adverse impact. Should the Agency determine to modify or terminate such a program, it will notify the local NTEU Chapter and include in the notification the reason(s) for its wish to terminate or modify an existing schedule:

1. A reduction of productivity;

2. A diminished level of services furnished to the public; or

3. An increase in the cost of operations (other than an administrative processing cost in the establishment of an AWS.

D. The Employer may restrict participation in AWS for positions it determines are of a critical nature.

E. If an employee's work schedule must be temporarily changed based on items 1 through 4 below, the supervisor will inform the employee in writing at the earliest opportunity.

1. A work schedule may be changed when the employee is attending training and the training hours conflict with the work schedule.

2. A work schedule may be changed when the employee is in a travel status if the hours at the temporary duty station differ from those of the employee.

3. Supervisors may make temporary changes in employee's work schedules due to work load changes, emergency or time-sensitive assignments, changes in staffing levels, work assignments involving team efforts, etc.

4. Work schedules may be changed to accommodate employee assignments involving team efforts.

F. Employees may request to change their work schedules no more than once per quarter.

G. Overtime hours in a compressed schedule are any hours of work, approved in advance, in excess of those specified hours that constitute the compressed schedule.

Section 6. Holiday Pay for Employees on Compressed Work Schedules

A. If a federal holiday falls on an employee's 8 hour work day, it will be recorded as 8 hours. If the holiday falls on a 9 or 10 hour work day, it will be recorded as 9 or 10 hours respectively.

B. If the holiday falls on an employee's scheduled compressed day off, the holiday will be charged as follows:

1. If the holiday falls on a Sunday, the employee will get the next regularly scheduled workday off (e.g., if the employee's compressed day off is Monday, Tuesday will be observed as the "in-lieu-of holiday").

2. If the holiday falls on any other day, the employee will get the preceding regularly scheduled workday off (e.g., if the employee's compressed day off is a Monday and the holiday falls on Monday, the preceding Friday would be the "in-lieu-of" holiday).

Section 7. Local Establishment of Procedures.

Within 90 days of the effective date of this agreement, the parties at the local level will commence any negotiations necessary to implement the provisions of this article. To the extent a new work schedule is allowable under this agreement, the new schedule may not be implemented until local negotiations have established the controlling policies.

ARTICLE 18
OVERTIME/COMPENSATORY TIME

Section 1. Definitions.

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

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

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

Compensation for overtime work will be made in accordance with applicable laws and regulations. Overtime work shall not be performed unless authorized by a supervisor. However, this section shall not be a waiver of the union's or an employee's right to challenge "suffered or permitted" overtime worked by non-exempt employees or for FLSA exempt employees to file an appropriate challenge. When allowable under controlling laws, regulations, and agency policies, employees may request compensatory time in lieu of overtime pay. FLSA exempt employees whose basic rate of pay exceeds the GS-10, step 10 rate shall normally be compensated for irregular or occasional overtime work with an equivalent amount of time off.

Section 6.

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

Section 7.

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

Section 8.

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

Section 9.

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

ARTICLE 19
ANNUAL LEAVE

Section 1. Request for Annual Leave

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

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

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

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

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

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

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

Section 2. Change to Sick Leave

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

Section 3. Annual Notice of Use or Lose Leave

Each year, the Employer will timely issue a notice advising and reminding employees of the regulations concerning use or lose annual leave and the need to request annual leave to avoid unintended forfeiture. When canceled use or lose leave is forfeited because of workload exigencies or limited time precludes it from being rescheduled during the remainder of the leave year, management will undertake to restore the forfeited leave the following year, in accordance with applicable law and regulation, upon a request from the employee to restore the forfeited leave.

Section 4. Cancellation

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

ARTICLE 20
SICK LEAVE

Section 1. Sick Leave Use

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

1. Incapacitated for the performance of their duties by sickness, injury, pregnancy, or childbirth;

2. Receiving medical, dental or optical examination or treatment, including time spent traveling to and from the medical appointment;

3. Providing care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth, or who is receiving medical, dental, or optical examinations or treatment (subject to the limitations set forth in 5 CFR 630.401);

4. Making arrangements necessitated by the death of a family member or attending the funeral of a family member subject to the limitations set forth in 5 CFR 630.401;

5. Certified by the health authorities having jurisdiction or by a health care provider, as jeopardizing the health of others by his or her presence on the job because of exposure to a communicable disease; or

6. Absent for duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys, or travel, court proceedings, and any other activities associated with the adoption process.

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

Section 2. Providing Care for Family Members

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

1. Provide care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment; or

2. Make arrangements or attend the funeral of a family member.

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

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

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

1. Spouse, and parents thereof;

2. Children including adopted children and spouse thereof;

3. Parents;

4. Brothers and sisters and spouse thereof; or

5. Any individual related by blood or affinity whose close association with the employee is equivalent to a family member (a domestic/life partner relationship meeting this definition qualifies for the use of sick leave as detailed above).

Section 3. Procedures for Requesting Sick Leave

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

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

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

employee would be notified as soon as possible, so that other appointments can be made.

Section 4. Medical Documentation

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

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

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

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

Section 5. Attend Health Unit

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

Section 6. Alternative to Sick Leave Usage

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

ARTICLE 21
ADVANCED ANNUAL/SICK LEAVE

Section 1. Criteria for Advancing Annual Leave

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

1. They are eligible to earn annual leave;

2. They have served more than ninety (90) days in their current appointment;

3. Their request does not exceed the amount of annual leave they would earn during the remainder of the year; and

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

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

Section 2. Criteria for Advancing Sick Leave

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

1. The employee is eligible to earn sick leave;

2. Their request does not exceed the maximum allowable advancement of 240 hours;

3. There is a reasonable belief that the employee will return to a duty status after having used the leave;

4. The employee has enough in his/her retirement account to reimburse the Employer for the advance, should he/she not return;

5. A written request with acceptable medical documentation as defined in 5 CFR 339 has been properly submitted; and

6. Generally, employees on leave restriction should not receive advanced sick leave.

ARTICLE 22
LEAVE WITHOUT PAY

Section 1. Criteria for Approving Leave Without Pay

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

1. Attending school, if the course of study will increase skills on the job;

2. Maternity leave, if the employee expects to return to duty;

3. For employees whose applications for disability compensation are pending;

4. For illness or injury documented by medical evidence, if the employee is expected to return to duty;

5. While being paid disability compensation unless permanently disabled;

6. To teach at colleges and universities.

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

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

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

1. Approval of LWOP is subject to staffing and workload requirements;

2. If the employee's return to duty is required due to workload needs or the possession of scarce skills, the Employer will cancel the LWOP and direct the employee to return to duty;

3. When the employee returns to a duty status, the Employer will place the employee in the same title, series and grade position held at the time LWOP commenced, to the extent practicable;

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

Section 3. Insurance Coverage

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

ARTICLE 23
ADMINISTRATIVE LEAVE

Section 1. Definition

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

Section 2. Voting

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

Section 3. Adverse Working Conditions and other Emergency Situations

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

1. Employees should check the public media, i.e., radio, television, and/or other established means known to the employee to determine if a decision is made prior to the beginning of the workday to close all or part of the day.

2. If the decision to close the workplace occurs during the workday, the notice of specific release will be communicated through supervisory channels. Treatment of leave requests depends upon whether the office is closed (employees are not allowed to report to work or remain at work) or employees are allowed to report for duty on a delayed basis or leave work early, at their discretion. Workdays on which a federal activity is closed are considered nonworkdays for leave purposes.

3. When hazardous conditions result in the office being closed at the beginning of the shift, with a later scheduled opening, employees will be excused from work for the

period of closure without charge to leave, including those who otherwise would have been on approved leave. This does not apply to employees on LWOP, military leave, suspension or otherwise in a non-pay status.

4. When hazardous conditions result in an adjusted home departure/unscheduled leave policy for non-emergency employees, employees who report for work in accordance with the adjusted home departure announcement will not be charged leave for the period of absence. Employees who do not report for work will be charged leave for the entire shift.

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

Section 4. Agency Sponsored Blood Donation/Medical Screenings

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

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

Section 5. Tardiness

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

1. The employee is not on a leave restriction letter, and

2. The employee's lateness is due to an understandable cause that is outside an

employee's normal ability to control.

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

Section 6. Volunteer Work

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

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

2. The absence is officially sponsored or sanctioned by EPA; and

3. The absence is brief and is determined to be in the interest of the Employer.

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

Section 7. Adverse Working Conditions

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

Section 8. Organ and Bone Marrow Donation

In accordance with 5 USC 6327, employees will receive up to 30 days administrative leave per calendar year when they undergo a medical procedure for organ donation. Additionally, employees will receive up to seven (7) days per calendar year for bone marrow donation. The employee is entitled to use of this leave without loss or reduction in pay, leave to which entitled, credit for time or service, or performance or efficiency rating. The length of absence will vary depending upon the medical circumstance of each case. For medical procedures and recuperation requiring longer than the paid leave authorized by statute, the Employer will continue to

accommodate employees by granting additional time off in the form of accrued sick and/or annual leave, and considering requests for leave without pay or advanced sick or annual leave. Leave requested under this section must be supported by a medical certificate submitted by the Employee.

ARTICLE 24
OTHER LEAVE PROVISIONS

Section 1. Religious Holiday

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

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

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

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

Section 2. Military Leave

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

Section 3. Court Leave

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

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

2. An employee called for court service will present the court order, subpoena, or summons to the supervisor. The employee must provide to the supervisor any documentation provided by the court confirming the employee's presence in court. The Agency will not request that an employee be released from jury duty unless unusual situations exist where the public interest would be better served by the employee staying in a duty status.

3. Fees for jury duty or witness service by an employee receiving court leave must be submitted to the appropriate finance office. The employee may retain reimbursements for travel, parking and other out-of-pocket expenses.

4. Employees will not be granted court leave for appearances as witnesses that are private, non-official, and non-governmental in nature.

ARTICLE 25
AWARDS

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

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

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

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

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

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

Section 5. Awards Information

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

Section 6.

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

ARTICLE 26
HEALTH AND SAFETY

Section 1. General

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

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

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

Section 2. Unsafe or Unhealthy Conditions

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

1. In the event of imminent danger situations, employees will make reports to the Employer by the most expeditious means available. The employee has the right to decline to perform his/her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. However, in these instances, the employee must report the situation to his/her

supervisor, another supervisor who is immediately available, and/or local safety and health personnel.

2. The term "imminent danger" means any conditions or practices in any workplace which are such that a danger exists which could reasonably be expected to cause death or serious/physical harm immediately or before the imminence of such danger can be eliminated through normal procedures (29 CFR 1960.2(u)). An employee who abuses these procedures may be subject to disciplinary action.

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

Section 3. Inspection

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

Section 4. Annual Review

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

Section 5. Miscellaneous

A. Employees will be informed of the procedures to use to contact the local emergency management system (e.g., paramedics, fire departments, police departments, ambulance services, etc.).

B. The Employer will offer first aid, cardiopulmonary resuscitation (CPR) training, and defibrillation training to interested employees as can reasonably be scheduled. The training will be offered at least annually on duty time, as resources, interest and recertification requirements allow. The Union will encourage its members to take the course.

C. The Employer will furnish the Union with the name and location of the Safety and Health Program Director, Director, SHEMD, and other officials having responsibilities in their respective Safety Program.

D. The Employer agrees to continue to provide periodic health and safety information on the EPA Intranet. Health and safety program information will be disseminated and posted in accordance with 29 CFR 1960.12(e).

Section 6. Air Quality/Fumes

A. The parties recognize that EPA employees work at different types of facilities serving many different purposes. These may include but not be limited to commercial office space, laboratories, animal housing, warehouses, equipment storage, and hazardous waste units. The general use, purpose and indoor air considerations in such spaces is quite different and the indoor air issues relative to such spaces will be different as well.

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

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

programs to educate, inform, advise and update on indoor air quality. Additional assessments such as air monitoring, surface sampling, microbial analysis, etc., should be considered only as indicated and supported by the initial profile.

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

Section 7. Equipment

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

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

Section 8. Safety and Health Committee

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

Section 9. Union Designated Representatives

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

ARTICLE 27
DUES WITHHOLDING

Section 1. Purpose and Coverage

A. This article is for the purpose of authorizing eligible bargaining unit employees who are members of the union to pay dues through voluntary allotments from their compensation.

B. This agreement is based on exclusive recognition granted to the Union by eligible employees in the bargaining unit who (1) are represented under this recognition, (2) are members in good standing in the Union, (3) voluntarily complete or have previously completed Standard Form 1187, and (4) receive compensation sufficient to cover the total amount of the allotment.

Section 2.

The Union agrees to assume responsibility for:

1. Informing and educating its members on the voluntary nature of the system for allotment of Union dues, including the conditions under which the allotment may be revoked.

2. Forwarding properly executed and certified Standard Form 1187 to the servicing Human Resources office on a timely basis.

3. Forwarding an employee's revocation (Standard Form 1188) to the Human Resources Office when such revocation is submitted to the Union.

4. Providing the Human Resources Office with written notification of the name of any participating employee who has been expelled or ceases to be a member in good standing in the Union within ten (10) days of the date of such final determination; and changes in the formula of dues amount.

5. Informing the Director of Human Resources of any change in the amount of membership dues.

6. Purchasing and providing the SF-1187 forms to unit employees.

7. Forwarding properly executed and certified SF-1187s and keeping the local Employer's Designated Official (EDO) informed of any changes in the certification and remittance procedures. The Union will promptly submit the SF-1187 to the

EDO after it is signed by the employee and the authorized union official. The Union will ensure that the employee completes sections 1, 2 and 5 of the form.

8. Advising the Employer of the names and complete mailing addresses, including changes, for officials who are authorized to receive remittances, printouts, and other dues withholding data.

Section 3. Certification and Remittance Procedures

The Employer agrees to do the following:

1. Deduct and process voluntary allotments and change in dues upon certification from the NTEU National President in accordance with this Agreement.

2. Withhold authorized dues on a biweekly basis at no cost to the Union or the employee.

3. Upon receipt of a properly certified SF-1187, prepare the relevant EPA form for transmission within one (1) full pay period of its receipt. The SF-1187 should be entered into the payroll system, and dues withholding started, no later than the full pay period following receipt of the SF-1187 by the Employer's Designated Official.

4. Return the SF-1187 to the Union when an employee, who has submitted a SF-1187, is not eligible to enroll in the automatic dues withholding program because he/she is not included under the recognition in the appropriate, exclusively recognized unit on which the Agreement is based.

5. Have remittance checks transmitted biweekly to the Union or deposited electronically biweekly in an account designated by the Union with an alphabetical listing of employees for whom deductions were made. Transmit to the Union the total amount deducted for all employees and providing the following information via encrypted file:

   (a) SSN
   (b) Chapter ID
   (c) First Name
   (d) Middle Initial
   (e) Last Name
   (f) Dues Amount
   (g) Seasonal Member (WAEID)
   (h) DW (Always "D")
   (i) Agency ID (Always "EPA")

(j) Duty Location
(k) Grade
(l) Step
(m) Pay Plan
(n) Nat Loc Amount (All zeroes)
(o) Adjustable Base Pay

6. When the Payroll system is updated, the Employer will establish a program that will allow the dues withheld from a Union member to be increased during the year when the employee receives a promotion or step increase, in accordance with the current union dues withholding arrangement. The Employer will have such a program in place no later than January of 2004. In the event this date is not met, the Employer will make such changes manually within two pay periods of the effective date of the promotion or step increase.

Section 4. Termination

Allotments will be terminated when:

1. An employee ceases to be a member in good standing of the Union. In accordance with section 2.4., the Union is responsible for notifying the agency of the employee's loss of union membership and requesting that withholding be terminated.

2. The Union loses exclusive recognition for the covered unit.

3. When the employee is detailed, reassigned or promoted outside of the unit for which the Union has been accorded exclusive recognition.

4. When the employee is separated from the Federal service.

5. Death of the employee.

Section 5. Effective Dates

ACTION	**EFFECTIVE DATE**
A. Starting dues withholding	No later than one full pay period following receipt of the SF-1187 by the Payroll Office for HQ and the HRO/FMO for the regions as applicable.

B. Change in amount of dues	This dues change will be made as soon as possible, but not later than sixty (60) days after notification. Such changes in dues amounts will be limited to one (1) change each twelve (12) months.
C. Termination due to loss of membership in good standing	Beginning the first full pay period after the date of notification into the Employer's automated personnel and pay system.
D. Termination due to loss of recognition	Beginning of first full pay period following the loss of exclusive recognition upon which the allotment was based.
E. Termination due to separation or movement out of the exclusive unit	Beginning of first full pay period after the date of receipt of notification into the Employer's automated personnel and payroll system unit.
F. Revocation by employee	Per 5 USC 7115(a), employees may not revoke their dues withholding for at least one year after the first deduction. To revoke an allotment, an employee must submit an SF-1188 (Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee organization Dues) or equivalent to the EDO during the one month period before the anniversary date of the initial SF-1187 and closing on the anniversary date. A revocation shall be effective as of the first full pay period after the anniversary date. If the employee does not submit the SF-1188/equivalent during the one month period, his/her allotment may not be revoked. A revocation will not be accepted until the next open period prior to the employee's anniversary date for dues withholding. Revocations will be effected by submission of a completed SF-1188 that has been initialed by the Chapter President or the Chapter President's designee and that lists the

employee's dues withholding anniversary date. If the SF-1188 is not initialed, the Employer will return the SF-1188 to the employee and direct the employee to the union for initialing. Once received, the SF-1188 will be processed in a timely manner.

Section 6. Erroneous Payments

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

ARTICLE 28
LABOR-MANAGEMENT RELATIONS

Section 1. General

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

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

Section 2. Purpose

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

ARTICLE 29
REDUCTION IN FORCE

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5. Timing of a Specific RIF Notice.

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

Section 6.

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

Section 7.

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

Section 8. Contents of Specific Notices.

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

1. What reduction in force action is being taken (e.g., separation, demotion, furlough for more than 30 days, etc.); the reason for the reduction in force; and the effective date of the action

2. The employee's competitive area, competitive level, retention subgroup, service date, and the three most recent ratings of record received during the last 4 years.

3. The place where the employee may inspect the regulations and records pertinent to his/her case;

4. If applicable, the reasons for retaining a lower standing employee in the same competitive level;

5. As applicable, the employee's right to appeal the reduction in force action to the Merit Systems Protection Board under the provisions of the Board's regulations;

6. For employees in tenure groups I and II, but not tenure group III, information on re-employment rights, the Re-employment Priority List and Career Transition Assistance Programs and all other information required by Reduction in Force regulations. Along with the RIF notice of separation, the Agency will give the employee information concerning how to apply for unemployment insurance through his/her appropriate State office. The employee also will be given a release to authorize, at his or her option, the release of his/her resume and other relevant employment information for employment referral to State dislocated worker units.

Section 9.

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

Section 10.

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

Section 11.

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

Section 12. Factors Considered in Establishing Competitive Levels.

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

Section 13. Undue Interruption.

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

Section 14.

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

Section 15.

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

Section 16.

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

Section 17.

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

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

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

Section 18.

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

Section 19.

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

Section 20.

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

Section 21.

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

Section 22.

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

find new housing.

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

Section 24.

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

Section 25.

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

Section 26.

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

Section 27.

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

Section 28. RIF Competitive Areas

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

Section 29.

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

Section 30. RIF Involving Excepted Service Employees.

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

Section 31.

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

ARTICLE 30
EQUAL EMPLOYMENT OPPORTUNITY

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

Section 6.

Upon request, employees shall be entitled to Union representation and granted duty time in all meetings with an EEO Counselor subject to the provisions of Article 6 of this agreement.

Section 7.

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

ARTICLE 31
TEMPORARILY DISABLED EMPLOYEES

Section 1. Light Duty Assignments

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

ARTICLE 32
PART-TIME EMPLOYMENT

Section 1. Definition

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

Section 2. Criteria for Approval

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

Section 3. Coverage

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

1. Older employees seeking gradual transition into retirement;

2. Handicapped individuals or others who require a reduced work week;

3. Parents who must balance family responsibilities with the need for additional income; and

4. Students who must finance their own education and vocational training.

Section 4. Holidays

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

Section 5. Change in Employment Status

A. In accordance with 5 USC 3403, the Employer will not abolish any position occupied by an employee in order to make the duties of such a position available to be performed on a part-time

basis.

B. Subsection 5(A) above does not preclude the Employer from permitting a full-time employee from voluntarily changing to a part-time schedule in accordance with Section 2 of this Article.

C. Any person who is employed on a full-time basis shall not be required to accept part-time employment as a condition of continued employment.

Section 6. Request to Return to Full-Time Status

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

Section 7. Job-Sharing Program

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

ARTICLE 33
MID-TERM NEGOTIATIONS

Section 1. Coverage

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

Section 2.

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

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

2. When the Employer notifies the Union of changes that are national in scope, notice shall be provided to the President of NTEU or her/his designee in the NTEU national office.

Section 3.

With Employer initiated changes, the following procedures will apply:

1. The Employer will provide the authorized agent of the Union, subject to Section 2 above, with advance notice of the proposed change. Notice shall be provided within a reasonable period of time prior to the desired implementation date of the proposed change, taking into account the nature and scope of the proposed change and the need for timely implementation.

2. Service may be by hand, by e-mail, certified U.S. mail (return receipt), or facsimile. Once delivered the time frames below begin on the day after actual receipt of the notice. The Party receiving the notice will immediately confirm the receipt by sending an e-mail, fax, mail or making a phone call.

3. The Union may request a briefing on the proposed change by submitting a written request for such. A briefing request will be made within seven (7) work days of

the actual receipt of the notice. If the Union does request a briefing, it will have seven (7) workdays from the date of the briefing in which to invoke its right to negotiate over the requested changes. If the Union wishes to forego a briefing, it will have fifteen (15) workdays in which to invoke its right to negotiate over the requested changes. In either event, the Union will have fifteen (15) additional workdays at the end of the event in which to submit its proposals.

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

Section 4.

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

1. The Union will notify the designated management official (servicing HR office) at the appropriate level of its intent to initiate negotiations by submitting its written proposals or written interests that it wishes to bargain over.

2. Service and time frames will be as outlined in Section 3.2 and 3.3 above.

Section 5.

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

Section 6.

The notice of the proposed change will include the following:

1. A description of the desired change;

2. The contact point for the submitting organization; and

3. Any necessary attachments.

Section 7.

Where the Union wishes to negotiate over the requested change, the Employer will delay the implementation of such change until that time when the Parties have reached agreement

on the proposed change unless required by law to implement prior to reaching agreement, or unless the agency is faced with an overriding exigency in accordance with law.

Section 8.

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

1. At all stages of the process, the Parties will communicate and bargain in a good faith effort to reach agreement in an expeditious fashion.

2. The Employer will provide a site for negotiations.

3. Negotiations shall take place during the regular administrative workday of the office where negotiations are taking place.

4. The Union may have the same number of unit employees serve as negotiators in an official time status as the number of individuals representing the Agency for such purpose. In addition, the Union bargaining team may include an NTEU staff member. Midterm negotiations may be expanded to include advisors for each Party.

5. At the beginning of the bargaining, the party requesting negotiations shall notify the appropriate office of the Federal Mediation and Conciliation Service (FMCS) of the pendency of the negotiations.

6. Either party has the right to request the assistance of an FMCS mediator at the appropriate FMCS office. A requesting party will provide notice to the other party of its intent to seek such assistance.

7. The parties will cooperate with the mediator to schedule mediation sessions as soon as possible.

8. If the parties do not reach agreement following mediation efforts, they will jointly submit the dispute to the Federal Service Impasses Panel (FSIP) for final resolution. The parties may agree to file a joint request to the FSIP requesting that it direct the parties to resolve the dispute in a particular fashion.

9. The parties will jointly share any expenses or fees involved in the resolution of a bargaining impasse by the FMCS, FSIP, or a procedure directed or approved by the FSIP.

10. Nothing in this section will preclude the parties from mutually agreeing to resorting to private mediation-arbitration for impasse resolution.

Section 9. Midterm Agreements—Memoranda of Understanding and Amendments

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

Section 10.

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

ARTICLE 34
NEGOTIATED GRIEVANCE PROCEDURE

Section 1.

A. The grievance procedures contained in this Article shall be the exclusive procedures available to the Parties and the employees for resolving a grievance, except as provided in Sections 1(B) and (C) of this Article; provided, however, that if an alleged grievance also constitutes an alleged unfair labor practice, the aggrieved Party has the option to seek redress under this Article or under the unfair labor practice procedure, but not both.

B. A grievance involving an adverse or unacceptable performance action is defined as removal, suspension for more than fourteen (14) calendar days, reduction in grade, reduction in pay, or furlough of thirty (30) calendar days or less. Such a grievance may be raised either under the appropriate appellate procedure or under this negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his or her option at such time as he or she timely files a notice of appeal under the applicable appellate procedure or timely files a grievance in writing in accordance with the provisions of Section 6 of this Article, whichever occurs first.

C. A grievance involving discrimination based upon race, color, national origin, sex, age, religion, sexual orientation, union affiliation, lawful political affiliation, marital status or qualifying disabling condition, may, in the discretion of the aggrieved employee, be raised either under the appropriate statutory appeal procedure or under this negotiated grievance procedure, but not both. Pursuant to 5 U.S.C. Section 7121(d), an employee shall be deemed to have exercised his or her option to raise a matter either under the applicable appellate procedure or under this negotiated grievance procedure at such time as the employee timely files a formal complaint of discrimination or timely files a grievance in writing in accordance with the provisions of this Article, whichever event occurs first.

Section 2.

A. A Grievance means any complaint:

1. By any employee concerning any matter relating to the employment of any employee; or

2. By the Union concerning any matter relating to the employment of any employee; or

3. By any employee, the Union or the Employer concerning:

(a) The effect or interpretation, or claim of breach, of the collective bargaining agreement; or

(b) Any claimed violation, misinterpretation, or misapplication of any law, rules, policy or regulation affecting conditions of employment.

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

Section 3.

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

1. Any claimed violation of prohibited political activities (subchapter III of Chapter 73 of Title 5;

2. Retirement (5 CFR 831); life insurance (5 CFR 870); or health insurance (5 CFR 890);

3. A suspension or removal for national security reasons under 5 USC 7532;

4. Any examination or certification (5 CFR 332 and 337); or appointment (5 CFR 2, 3, and 8);

5. The classification of any position which does not result in the reduction in grade or pay of an employee (5 CFR 511);

6. The termination of a probationary employee;

7. The termination of a term employee serving a trial period;

8. The preliminary warning notice of potential discipline (oral or written);

9. An appeal by an employee of a RIF action;

10. The adoption or non-adoption of a suggestion or the receipt or nonreceipt of an honorary cash award in accordance with the terms of this agreement;

11. Adverse actions affecting (1) preference eligible excepted service employees who have completed less than one year of current continuous service in the same or

similar positions, or (2) non-preference eligible employees who have completed less than two years of current, continuous service in the same or similar positions in an Executive Agency under other than a temporary appointment limited to two years or less.

Section 4.

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

Section 5.

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

Section 6.

Procedure for handling a grievance involving an adverse or unacceptable performance action.
An employee who receives a notice of final action regarding an adverse action has thirty (30) calendar days beginning with the day after the effective date of the action to appeal the action to the Merit Systems Protection Board. If the employee decides to seek recourse through this negotiated grievance procedure and the Union decides to invoke arbitration, without first following the steps of the grievance procedure, notice of a decision to seek arbitration must be served upon the Employer within thirty (30) days beginning with the day after the effective date of the action.

If the Union wishes to raise new issues not raised before the deciding official it should, as practical, identify any additional issues in its written invocation of arbitration. However, this will not preclude either party from raising any additional or new issues prior to the pre-hearing conference. In no event may the Union or Agency raise new issues before the arbitrator that have not been identified at the prehearing conference that shall occur no later than 14 days prior to the scheduled hearing date.

Section 7.

A. All disputes of grievability may be appealed to the next step of the grievance process. In the event the Union invokes arbitration, questions of grievability shall be decided first. If the issue is determined not to be grievable, the grievance will terminate. The Parties agree to make every effort to raise any questions of grievability or arbitrability of a grievance at the lowest level of the negotiated grievance procedure. When the Employer alleges an issue is non-grievable or non-arbitrable, the Union will have 7 workdays to amend and refile the grievance. It will be resubmitted at the level at which the issue was raised and proceed as a normal grievance. Where the grievance is timely filed and the Union or employees alleges a violation of rules or regulations, the Employer will not dismiss the grievance as nongrievable solely because of an incorrect reference or citation.

B. The Employer recognizes its obligations to provide the Union and its representatives with relevant and necessary data pursuant to the standards set forth in 5 USC 7114(b)(4). When a request for information cannot be filled within five (5) working days, the Parties may mutually agree to either postpone or amend any filing or other deadlines related to the information request. If the Agency denies the request, it will provide a written statement giving the reasons why the data will not be provided. The Employer's decision to not provide all or part of the information sought may be joined with the grievance and processed to arbitration in the event the Union invokes arbitration. At arbitration, the arbitrator shall review the Union's information request and the Agency's decision not to provide the information and determine whether or not the information is to be provided to the Union.

Section 8. Employee Grievance Procedure.

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

Step 1

A. An employee will present his/her grievance in writing to the immediate supervisor, unless the immediate supervisor does not have the authority over the matter grieved. In that case, the employee will present his/her grievance to the management official at the level having the

necessary authority. If the employee files with the wrong official, the time limit for responding is automatically extended by the length of time necessary for the receiving official to route it to the proper official. If the employee wishes to meet with responding official to discuss his/her grievance, the request for such a meeting must be included in his/her Step 1 grievance.

B. The employee must state specifically that he/she is presenting a grievance; the remedy or relief sought; the name, organizational unit and location of the aggrieved; a statement of the items, regulations, agreement or law alleged to have been violated, citing specific paragraphs or articles; a description of the circumstances giving rise to the violation; and designation by name of the Union representative or statement of self-representation. The grievance must be signed and dated.

C. If so requested by the employee, the supervisor may schedule a meeting with the employee within 15 days of receipt of the Step 1 grievance. Within 15 days of the meeting, if one is provided, or within 15 days after receipt of the grievance, if no meeting is requested or provided, the 1st level official will issue a written decision. The decision will include, if relief is denied or modified, the reason(s) for such actions, the name and location of the step 2 responding official, and the time limits for filing a Step 2 grievance.

Step 2

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

B. If the employee has requested a meeting with the next level supervisor, the next level supervisor, or designee, will schedule a meeting within 15 days of receipt of the Step 2 grievance. The supervisor shall issue a written decision on the grievance within 15 days of the meeting, if one is provided, or within 15 days of receipt of the grievance, if no meeting is requested or provided.

Step 3

A. If an employee is dissatisfied with the response provided in Step 2, he or she may appeal the grievance to the next level supervisor over the supervisor who heard the grievance at step 2. Such notice of appeal will be timely made within ten (10) days of receipt of the response in Step 2. If an appeal is made, either party may request that a meeting be held to discuss the matter or the parties may agree that no meeting be held. If either party elects a meeting, it shall take place with the third level official or designee within fifteen (15) days of the notice of appeal. Within fifteen (15) days of the meeting, if one is requested, or within 15 days after receipt of the grievance, if no meeting is requested, the third level official will issue a written decision. At Headquarters, the grieving party may request of the official with whom the third step grievance is

filed that an official outside of the AA-ship in which the grievance arose serve as responding official. If the official receiving this request grants it, the time limit for responding to the grievance will be extended by the length of time necessary to find a designated responding official.

B. If the grievance is not satisfactorily settled, the Union may refer the matter to binding arbitration in accordance with the procedures set forth in Article 35 of this Agreement. Issues not raised at step 3 may not be raised in arbitration unless mutually agreed to by the Parties in writing.

Section 9. Grievance of the Parties.

A. Should either Party have a grievance concerning institutional rights granted by law, regulation or this agreement, it shall inform the designated representative of the other Party of the specific nature of the complaint in writing, as well as any provision of law, rule or regulation allegedly violated, and the relief sought, within thirty (30) days of the date of the matter, incident or issue being grieved, or the date the Party reasonably should have been aware of the matter, incident or issue. The grieving party will file the grievance with the designated representative of the other Party at the level of recognition.

B. Within thirty (30) days after receipt of the written grievance, the receiving party will send a written response stating its position regarding the grievance. If the matter is not resolved, the grieving party may refer it to arbitration in accordance with the Arbitration Article.

Section 10.

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

1. The Parties will secure a mediator from the shared neutrals program (or, at HQ, an internal mediator selected by the Workplace Solutions Staff, so long as the HQ Workplace Mediation Program remains in effect) and select a date to meet that is mutually acceptable to all participants. This step should occur within 15 days of th date agreement to pursue ADR is reached.

2 The meeting will include the parties involved in the dispute, the mediator, and other mutually agreed to participants such as union and management representatives, and subject matter experts.

3. The parties will meet to attempt to resolve the issue until/unless the mediator

determines that further progress is unlikely or until any party to the ADR submits a written notice of withdrawal from the process.

4. If a matter is not resolved through ADR, the grievance will continue through the grievance process, beginning at the step at which grievance proceedings were stopped pending ADR efforts or at the first step if the request for ADR was timely made so as to suspend the time for filing a grievance initially, and employing the time remaining under the applicable time limits in effect at that step.

5. If the matter is resolved, the settlement will be reduced to writing and will be signed by the grievant, the Union and the Employer, and the grievance will be withdrawn as settled.

6. Settlement offers or discussions will not be used as evidence or referred to in the remaining steps of the grievance process or at arbitration, if the ADR efforts do not result in agreement.

7. Any expenses associated with the ADR will be shared equally by the Employer and the Union.

ARTICLE 35
ARBITRATION

Section 1.

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

Section 2. Arbitration Panels.

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

1. Arbitrators will be listed alphabetically. Cases will be assigned to the arbitrators in sequential order.

2. Either Party may unilaterally remove an arbitrator from the panel after the arbitrator has rendered an initial decision. Following the removal, the parties shall mutually contact the FMCS to obtain a new list of seven arbitrators to select a replacement. The party removing the prior arbitrator shall strike first, and shall bear any associated FMCS cost.

3. Once an arbitrator is removed from the panel, no further cases may be assigned to him/her.

4. The moving party will notify the selected arbitrator, who will contact the Parties to arrange for the hearing. The hearing with the arbitrator must be scheduled within two months of the moving party's initial contact with the arbitrator (the arbitrator's schedule permitting).

Section 3. Arbitrator fees.

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

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

Section 4.

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

Section 5.

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

Section 6. Pre-Hearing Procedures.

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

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

to the hearing. The arbitrator will determine the issue(s) to be resolved.

Section 7.

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

Section 8. Arbitration procedures.

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

B. All witnesses will testify under oath or affirmation.

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

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

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

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

Section 9.

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

Section 10.

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

Section 11. Arbitration Award

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

Section 12. Expedited Arbitration

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

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

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

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

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

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

Section 13. Procedures for Expedited Arbitration

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

B. The following procedural guidelines will apply:

1. The hearing shall be informal;

2. A verbatim transcript will not be prepared. Upon submission of reasonable proof to the arbitrator that a witness who has personal knowledge of the facts involved cannot be physically present, the arbitrator may accept an affidavit. The arbitrator should accord weight to this type of evidence as the circumstances warrant given the inability of the opposing party to cross-examine. Copies of affidavits will be made available to all parties concerned; and

3. The arbitrator will be requested to issue an expedited decision no later than five days from the closing of the record.

4. All other matters will be governed by sections 1-12.

ARTICLE 36
OUTSIDE ACTIVITIES OR EMPLOYMENT

Section 1. General

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

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

Section 2.

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

Section 3.

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

Section 4.

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

ARTICLE 37
PARKING

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

ARTICLE 38
PERSONNEL RECORDS AND ACCESS TO INFORMATION

Section 1. Official Personnel Records

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

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

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

Section 2. Other Records

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

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

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

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

Section 3.

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

Section 4.

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

Section 5.

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

Section 6.

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

ARTICLE 39
WAIVER OF OVERPAYMENT

Section 1.

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

Section 2.

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

Section 3.

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

ARTICLE 40
TRAVEL AND PER DIEM

Section 1. Travel Outside Established Tour of Duty

A. The Employer agrees to schedule travel during the regular work hours and workweek of the employee, to the maximum extent practicable. Employees may travel on their own time if they so choose. The time spent traveling outside the established workday results in the travel being considered hours of work for non-exempt employees, and is compensable, if it meets the appropriate provisions of Title 29 of the Fair Labor Standards Act, e.g., travel results from an event which cannot be scheduled or controlled administratively.

B. If the meeting is within the control of the Employer, and it is administratively feasible, the EPA has determined that it will reschedule the meeting to avoid required travel on non-workdays. Emergency travel can be required on non-work days.

C. When a supervisor knows in advance that an employee's administrative workweek will differ from the regularly scheduled tour of duty, due to travel, the supervisor will reschedule the employee's administrative workweek to correspond with the specific days and hours the employee is expected to work.

D. Employees traveling on their own time at their option are responsible for any additional costs resulting from travel deviations.

Section 2. Travel During Established Tour of Duty

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

Section 3. Return to Duty Station

A. Employees who are unable to return from temporary duty stations (TDS) during normal duty hours may return that evening or the following day during normal duty hours. An employee electing to travel the next day should return at the earliest practicable opportunity during the regularly scheduled hours of work.

B. If the scheduling of a meeting is not within the control of the Employer, and it is administratively feasible, the Employer will attempt to reschedule the meeting to avoid required travel on non-workdays. Emergency travel can be required on non-workdays.

Section 4. Advance Notice of Travel

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

Section 5. Advance of Travel Funds

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

Section 6. Emergency Travel

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

Section 7. Reimbursement of Business Related Travel Expenses

A. The Employer agrees to reimburse employees when in a travel status for authorized expenses incurred by them in the discharge of their official duties to the extent allowable by law and regulation.

B. Official travel generally begins when the employee leaves home, office or other authorized point of departure and ends when the employee returns home, to the office, or other authorized point at the conclusion of the workday or trip unless, for personal reasons, the traveler is mixing personal leave time and destinations with official travel. A per diem allowance shall not be allowed for travel within the limits of the official duty station or the vicinity of the employee's home.

Section 8. Use of Private Vehicle for Official Business

When use of a privately owned vehicle for official business is advantageous to the Employer, the employee providing such automobile will be reimbursed in accordance with

government travel regulations. In no case may an employee be required to use his/her privately owned vehicle in connection with official business.

Section 9. Voluntary Return for Non-Workdays

A. When an employee in travel status voluntarily returns to his/her official duty station or residence for non-workdays, the maximum reimbursement for the round-trip transportation and per diem en route shall be limited to the per diem allowance and travel expenses which would have been allowed had the employee remained at the temporary duty station or actual travel expenses, whichever is less. The employee shall perform any such voluntary return travel during non-duty hours or periods of authorized leave.

B. Employees who are required to routinely perform extended periods of temporary duty may, at agency discretion and within the limits of appropriations available for payment of travel expenses, be authorized round-trip transportation expenses and per diem en route for periodic return travel to their official duty station or residence for non-workdays.

Section 10. Illness During Travel

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

Section 11. Denial of Claim for Reimbursement of Travel Expenses

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

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

Section 12. Access to Travel Regulations

A copy of official EPA travel regulations and/or guidelines will be made accessible to employees on EPA's Intranet site, and the GSA travel regulations can be accessed via the Internet. These guidelines will include the appropriate use of government credit cards. All such regulations and guidelines will be explained to the employees upon request. The Employer agrees to provide the Union notice of changes to government travel regulations in accordance with Article 33.

Section 13. Travel Voucher

A. Employees are to submit a completed travel claim normally within 5 days after the end of the travel. If the employee is in a continuous travel status, the employee is to complete and submit a travel claim at least once every 30 days when practicable.

B. The Agency must reimburse the employee within 30 calendar days from the date the voucher is received from the traveler. If the voucher is returned to the traveler because of questionable claims or because it is incomplete, the 30 day time limit will resume when the voucher is resubmitted.

C. If the Agency fails to meet the 30 calendar day limit following submission of a complete and proper travel voucher, the Agency will reimburse the employee with a late payment fee per the provisions of the FTR and the agency's policy. When an employee's late payment was due solely to administrative problems not within the employee's control, the travel voucher approving official or the servicing finance office (wherever the administrative delay occurred) will, at the employee's request, explain to the credit card company that the late payment was not due to the employee submitting a late or incomplete voucher.

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

Section 14. Time in Travel Status Defined

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

1. An employee is required to travel during regular working hours;

2. An employee is required to drive a vehicle or perform other work while traveling;

3. An employee is required to travel as a passenger on a one-day assignment away from the official duty station; or

4. An employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.

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

1. It is within his/her regularly scheduled administrative workweek, including regular overtime work; or

2. The travel:

   (a) Involves the performance of work while traveling (such as driving a truck containing materials necessary for a project);

   (b) Is incident to travel that involves the performance of work while traveling (such as deadhead travel in order to drive an empty truck back to the point of origin);

3. The travel is carried out under arduous conditions (such as traveling by foot, on horseback, or over rugged terrain in the back of a vehicle); or

4. The travel results from an event that could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of such employee from such an event to his or her official duty station (such as training scheduled solely by a private firm or job-related court appearance required by a court subpoena).

ARTICLE 41
PROHIBITED PERSONNEL PRACTICES

Section 1. Definitions

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

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

1. An appointment;

2. A promotion;

3. An action under title 5 USC chapter 75 or other disciplinary or corrective action;

4. A detail, transfer, or reassignment;

5. A reinstatement;

6. A restoration;

7. A re-employment;

8. A performance evaluation under title 5 USC chapter 43;

9. A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this section;

10. A decision to order psychiatric testing or examination; and

11. Any other significant change in duties, responsibilities, or working conditions.

Section 2. Prohibited Practices

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

1. Discriminate for or against any employee or applicant for employment on the basis of:

(a) Race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964;

(b) Age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967;

(c) Sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938;

(d) Handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973;

(e) Marital status or political affiliation, as prohibited under any law, rule or regulation;

2. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action except as provided under title 5 USC 3303(f);

3. Coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in any such political activity;

4. Deceive or willfully obstruct any person with respect to such person's right to compete for employment;

5. Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

6. Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

7. Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in title 5 USC 3110(a)(3)) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in title 5 USC 3110(a)(2)) or over which such employee exercises jurisdiction or control as such an official;

8. Take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of -

(a) Any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences -

(1) A violation of any law, rule or regulation, or

(2) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(b) Any disclosure to the Special Counsel, or to the Inspector General of the agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences -

(1) A violation of any law, rule, or regulation, or

(2) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

9. Take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of -

(a) The exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(b) Testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (a);

(c) Cooperating with or disclosing information to the Inspector General, or the Special Counsel, in accordance with applicable provisions of law; or

(d) For refusing to obey an order that would require the individual to violate a law; .

10. Discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or the performance of others; except that nothing in this paragraph shall prohibit an

agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;

11. Knowingly take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement, or knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or

12. Take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in title 5 USC 2301.

ARTICLE 42
RETIREMENT/RESIGNATION

Section 1. Withdrawal of Resignation/Retirement Application

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

Section 2. Access to Union Retirement Information

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

Section 3. Counseling

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

ARTICLE 43
PROBATIONARY EMPLOYEES

Section 1. General

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

Section 2. Performance

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

Section 3. Termination of Probationers for Unsatisfactory Performance or Conduct

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

Section 4. Termination for Pre-Appointment Reasons

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

1. Written notice stating the reasons, specifically and in detail, for the proposed action.

2. A reasonable time for filing a written answer to the notice of proposed adverse action and for furnishing affidavits in support of his/her answer. If the employee answers, the agency shall consider the answer in reaching its decision.

3. Delivery of the decision at or before the time the action will be made effective. The notice shall be in writing, inform the employee of the reasons for the action, inform

the employee of any right to appeal to the Merit Systems Protection Board (MSPB), and inform him or her of the time limit within which the appeal must be submitted as provided in 5 CFR 315.806(d).

Section 5. Right to Appeal to EEOC

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

Section 6. Voluntary Resignation in Lieu of Termination

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

ARTICLE 44
UNFAIR LABOR PRACTICE

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

ARTICLE 45
DURATION AND TERMINATION

Section 1. Duration

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

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

Section 2. Mid-Term Reopener

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

Section 3.

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

1. The written notice may be accompanied by proposed ground rules.

2. Once the request to renegotiate the Agreement is served, the Parties will set up a meeting to negotiate ground rules within 45 days of the service of the notice.

ARTICLE 46
CONTRACTING OUT

Section 1. General

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

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

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

Section 2. Information

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

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

ARTICLE 47
ASSIGNMENT OF WORK

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

ARTICLE 48
ADVERSE ACTIONS

Section 1. Coverage.

This article applies to the following bargaining unit employees:

1. Employees in the competitive service who have completed a trial or probationary period;

2. Employees in the competitive service serving in an appointment not requiring a trial or probationary period and who have completed one year of current, continuous service in the same or similar positions under other than a temporary appointment limited to one year or less;

3. Preference eligible employees in the excepted service who have completed one year of current, continuous service in the same or similar positions; and

4. Non-preference eligible employees who have completed two years of current, continuous service in the same or similar positions under other than a temporary appointment limited to two years or less.

Section 2.

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

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

Section 3.

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

Section 4.

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

1. The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;

2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;

3. The employee's past disciplinary record;

4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;

5. The effect of the offense upon the employee's ability to perform at a fully satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;

6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;

7. Consistency of the penalty with any applicable Agency table of penalties;

8. The notoriety of the offense or its impact upon the reputation of the Agency;

9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;

10. Potential for the employee's rehabilitation;

11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation on the part of others involved in the matter; and

12. The adequacy and effectiveness of alternative sanctions to deter such conduct in

the future by the employee or others.

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

Section 5.

A. In all cases of proposed adverse action, except as stated in Section 8 of this Article or when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, an employee will be given at least thirty (30) calendar days advance written notice of the proposed action. This notice will state specifically and in detail the reasons for the action. It is understood that the proposal notice is not grievable upon receipt. However, disputes regarding the advance notice of proposed action may be merged in a grievance concerning the final decision of the Employer, after that final decision is issued.
An advance written notice and opportunity to respond are not necessary for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.

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

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

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

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

F. In making a reply, the employee may set forth mitigating circumstances, refute aggravating

circumstances, and give reasons as to why the proposed action should not be effected.

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

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

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

Section 6.

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

Section 7.

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

1. Under this Agreement and only with the Union's concurrence, by appealing directly to binding arbitration (which may include an allegation of discrimination), within the time set forth in Article 35;

   (a) If the Union wishes to raise new issues not raised before the deciding official it should, as practical, identify any additional issues in its written invocation of arbitration. However, this will not preclude either party from raising any additional or new issues prior to the pre-hearing conference. In no event may the union or agency raise new issues before the arbitrator that have not been identified at the prehearing conference that shall occur no later than 14 days prior to the scheduled hearing date.

2. By filing an appeal with the MSPB in accordance with applicable law and regulation (currently thirty (30) calendar days); or

3. By filing a formal complaint of discrimination under the administrative EEO process.

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

Section 8.

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

1. Assigning the employee to duties where he/she is no longer a threat to safety, the Agency mission, or to Government property;

2. Placing the employee on leave with his/her consent;

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

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

Section 9.

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

Section 10.

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

Section 11.

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

Section 12.

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

ARTICLE 49
DISCIPLINARY ACTIONS

Section 1.

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

Section 2.

A. For purposes of this Article, disciplinary actions include suspensions for 14 calendar day or less, reprimands, and reprimands reduced to writing.

B. Disciplinary actions exclude counseling/warnings, whether oral or in writing. When an employee is counseled/warned/admonished, in writing, the employee may respond in writing and have the writing attached to the counseling document.

C. Supervisors and managers will take appropriate and timely action once they become aware of a potential problem.

Section 3.

A. When proposing and effecting disciplinary actions, management will consider each case on its own merits. The Employer will be guided by the principle of progressive discipline. The Employer will use the agency Table of Penalties as a guide in determining the appropriate action to take.

B. When determining the appropriateness of a disciplinary action, the Employer agrees to consider the following factors, as relevant:

1. The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;

2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;

3. The employee's past disciplinary record;

4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;

5. The effect of the offense upon the employee's ability to perform at a fully satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;

6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;

7. Consistency of the penalty with any applicable Agency table of penalties;

8. The notoriety of the offense or its impact upon the reputation of the Agency;

9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;

10. Potential for the employee's rehabilitation;

11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation on the part of others involved in the matter; and

12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

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

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

1. Conscientiously perform assigned duties;

2. Comply with Government-wide and EPA standards of conduct;

3. Cooperate and strive to maintain good working relations with their supervisors and fellow employees; and

4. Maintain satisfactory attendance records.

Section 4.

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

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

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

Section 5.

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

1. The written proposal will be delivered in no less than 14 calendar days prior to taking the disciplinary action and will contain the specific reasons for the proposed action, stated in detail. It is understood that a proposed notice is not grievable upon receipt. However, grievances regarding the proposal may be merged into a grievance concerning the final decision of the Employer, after that final decision is issued.

2. The employee will be given not more than 10 calendar days from the date he/she receives the notice of proposed disciplinary action, in which to deliver an oral and/or written reply. Reasonable requests for extension will be granted. The proposal notice will specify who will hear/receive the oral and/or written reply. This official will be the person who will be making the final decision on the matter, or his/her designee.

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

4. Where management has relied upon witnesses to support the reason for the proposed action, the Employer will make available, as part of the material relied

upon, the identity of those witnesses and any written statements taken from them. The Employer reserves the right to sanitize any material which is provided to the employee or the employee's represented, when required by law. If requested by the employee or his/her representative, the Employer will furnish a copy of such material prior to the oral reply.

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

6. If an employee chooses to make an oral reply, the reply will be made either at the work site of the employee or the Employer may arrange to hear the reply by phone if the employee's representative agrees to such an arrangement. If the oral reply is to be made at a location outside of the employee's local commuting area, the Employer will pay, in accordance with law, rule and regulation, the travel and per diem expenses of the employee.

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

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

Section 6.

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

Section 7.

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

Section 8.

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

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

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

Section 9.

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

ARTICLE 50
VOLUNTARY LEAVE TRANSFER PROGRAM

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

ARTICLE 51
TRANSFER OF FUNCTION

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

ARTICLE 52
MEDICAL QUALIFICATIONS DETERMINATIONS

Section 1.

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

ARTICLE 53
WORKERS COMPENSATION

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

Section 6.

The Employer will counsel a disabled employee, on all aspects of disability retirement, if appropriate, while a compensation claim is pending. When an employee has been on Workers' Compensation benefits (LWOP) for over one year, with no anticipated return to full duty, the

Employer will provide him/her with possible job options, such as disability retirement, resignation or removal from Federal service.

ARTICLE 54
FLEXIPLACE

The flexiplace agreements at the local level will remain in effect following approval of this Agreement. Within 90 days of the effective date of this Agreement, either party at the local level may reopen or seek to establish a local Flexiplace agreement. Should either party take this action, the local parties will meet for the purpose of negotiating the changes proposed by both parties.

ARTICLE 55
EMPLOYEE COUNSELING AND ASSISTANCE

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

ARTICLE 56
CHILD CARE SUBSIDIES & FACILITIES

Section 1.

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

Section 2.

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

ARTICLE 57
TRANSIT SUBSIDY

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

ARTICLE 58
STUDENT LOAN REPAYMENT

The Agency will provide for a Student Loan Repayment Plan, subject to the availability of funds, in order to attract highly qualified individuals or to retain highly qualified employees who otherwise likely will leave the Agency for employment outside of the Federal Service. The Plan will provide local management with flexibility balanced with mechanisms for consistent treatment of employees. Management will submit plan procedures to the union for negotiation in accordance with the mid-term negotiations article. Under the Plan, the maximum any employee can receive will be $6,000 annually, up to a total of $40,000. Employees on whose behalf a repayment is made to the loan holder must sign a service agreement of no less than 3 years.

APPENDIX A

OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

WARNING AND ASSURANCE TO A FEDERAL EMPLOYEE REQUIRED TO PROVIDE INFORMATION

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

This inquiry pertains to _____

_____

(State the general nature of the inquiry)

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

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

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

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

ACKNOWLEDGMENT

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

Date | Time | Employee's Signature

Witnessed by | Title

Witnessed by | Title

Place

Case Number

APPENDIX B

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

Pay Period Ending Date:_____

Name of Union Official/Steward/
Designated Representative: _____

Name of Supervisor:_____

Union Local/Location: _____

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

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

SignatureDate

_____

Union Representative

Negotiations includes:

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

Representational Duties include:

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

Training includes:

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

Partnership Activities include:

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

Certification:

The effective date of this Collective Bargaining Agreement between the National Treasury Employees Union and the Environmental Protection Agency is August 6, 2003.

FOR THE AGENCY:

Deborah A. Wachter
Labor Relations, HQ

William Henderson
Director, OARM, Cincinnati

Nora McGee
CIO, Region 9

Barbara Pabotoy
Staff Director, OAR/IO, HQ

Thomas Phillips
Personnel Officer, Region 7

FOR THE UNION:

Colleen M. Kelley
National President, NTEU

Michael B. Filler
Director of Negotiations

Rosezella Canty-Letsome
Chief Steward, Chapter 280

Larry Penley
President, Chapter 279

Patrick Chan
President, Chapter 295