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	U·S· DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: PER- 34 Transmittal Number: 603 Date: MAR 16 1990

Subject: Voluntary Leave Transfer Program

Approval: [signature] Title: Director

1. Purpose. As a result of Public Law 100-566, and interim regulations published by OPM in the Federal Register dated January 31, 1989, this Directive establishes procedures for implementing the Voluntary Leave Transfer Program. The statutory implementation date of this program was April 30, 1989. These procedures supersede those found in Temporary Directive 88-11, Subject: Temporary Leave Sharing Program, dated June 8, 1988 and Temporary Directive 89-02 dated October 26, 1988 which extended the program.

2. Summary. This Directive reflects the following changes to OSMRE Temporary Directive 88-11, dated June 8, 1988.

a. The definition of personal emergency was deleted and a new definition for medical emergency was added.

b. A definition of family member was added.

c. An adjustment was made to the retroactive substitution of transferred leave to begin at the start of a medical emergency.

d. A new clause was added which indicates that potential leave recipients are not required to pay for the cost of more than one source of medical or other certification.

e. Criteria is expanded for accepting the transfer of leave from donors from other agencies.

f. A limitation is imposed on the accrual of annual and sick leave while in a leave transfer status.

g. Although the same limitations are imposed on the amount of leave that can be contributed, a waiver for these limitations is allowed in unusual circumstances.

h. A new section is added which gives leave donors an option of what they may do with any unused transferred leave which is restored to them.

3. Definitions.

a. "Employee" has the meaning given that term in 5 U.S.C. 6301(2), excluding an employee of the D.C. Government.

b. "Family member" means the following relatives of the employee:

(1) Spouse, and parents thereof;

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

(3) Parents;

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

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

c. "Leave donor" means an employee whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient is approved by his of her servicing personnel officer (SPO).

d. "Leave recipient" means a current employee for whom the SPO has approved an application to receive annual leave from the annual leave accounts of one or more leave donors.

e. "Medical emergency" means a medical condition of an employee, or a family member of such employee, that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

f. "Paid leave status" means the administrative status of an employee while the employee is using annual or sick leave. This includes advanced annual or sick leave.

g. "Representative rate" has the meaning given that term in 5 CFR Section 536.102.

h. "Servicing Personnel Office (SPO)" means the office responsible for providing personnel services to the leave recipient's work unit.

i. "Transferred leave status" means the administrative status of an employee while the employee is using transferred leave.

4. Policy/Procedures.

a. General. It shall be the policy of the Office of Surface Mining Reclamation and Enforcement to actively support the Voluntary Leave Transfer Program and encourage employees to share their leave with those employees whose personal emergencies may cause them to incur a substantial loss of income because of the unavailability of paid leave.

b. Responsibilities. It shall be the responsibility of each Servicing Personnel Office (SPO), to establish procedures for assuring that all requests from leave recipients are promptly processed in accordance with instructions contained in this Directive.

c. Procedures.

(1) Application to become a leave recipient.

(a) An employee who has been affected by a medical emergency, may make a written request to his or her SPO through supervisory channels to become a leave recipient. If such an employee is not capable of making a request on his or her own behalf, a third party may make written application on his or her behalf.

(b) Each request shall be accompanied by the following information concerning each potential leave recipient;

1. The name, position title, and grade or pay level of the potential leave recipient;

2. The reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency, and if it is a recurring one, the approximate frequency of the medical emergency affecting the potential leave recipient.

3. Any additional information that may be pertinent, including certification from one or more licensed physicians, or practitioners, with respect to the medical emergency, if the SPO deems it necessary. If more than one certification is required by the SPO, the potential leave recipient is not required to pay for the expenses associated with obtaining certification from more than one source. The SPO will ensure payment either by direct payment to the expert involved or by reimbursement. However, SPO's are cautioned that requests for second opinions should occur only rarely.

4. Authorization to release information to appropriate officials regarding the basis for the request;

5. Employees leave status, including the date available leave credit is expected to expire or has expired;

6. A statement from the supervisor concerning any employees who have made known their intention to voluntarily donate leave to the applicant, if approved; and

7. Copy of approved SF-71 or other written approval of absence by the supervisor or other official who has authority to approve leave for the applicant.

(2) Approval of application to become a leave recipient.

(a) The potential leave recipient's SPO shall review a request

to determine that the applicant qualifies for receipt of donated leave. This review will include:

1. purpose and reasons for the leave requested;

2. whether these reasons constitute a medical emergency;

3. for full-time employees, whether the absence from duty without available paid leave because of the medical emergency will last or is expected to last at least 80 hours. In the case of part-time employees with an uncommon tour of duty, the absence from duty without available paid leave must be at least the average number of hours of work in the employees' biweekly scheduled tour of duty. No other factors may be considered in determining whether the medical emergency will result in a substantial loss of income;

4. whether the supervisor has approved the absence.

(b) The SPO may utilize an ad hoc panel to assist in making a determination on the application.

(c) If the application is approved, the SPO shall notify the leave recipient (or whoever made application on behalf of the leave recipient), within 10 work days after the date the application was received that--

1. The application has been approved; and

2. Other employees of the Department may request the transfer of annual leave to the account of the leave recipient.

(d) The SPO shall notify prospective leave donors that the recipient is eligible to receive leave transfers upon written requests as specified under (5)(a) below.

(e) If the application is not approved, the SPO shall notify the applicant (or whoever made the application on behalf of the potential leave recipient), within 10 work days after the date the application was received;

1. The application has been not approved; and

2. Of the reasons for its disapproval; and

3. Opportunity for reconsideration.

(3) Reconsideration. When an employee fails to informally resolve a concern regarding leave sharing approval he/she may request a single reconsideration by the official above the SPO within 15 work days of notification that the request was denied. The reconsideration process and decision will be the final administrative grievance procedure. The following criteria which coincide with those of 370 DM 771,3 will apply:

(a) The reconsideration decision will be made by a person who has not directly participated in the donated process and, who does not occupy a position subordinate to any official who recommended, advised, or is involved in, made a decision on, or was consulted substantively about the matter concerned.

(b) Employees in bargaining units exclusively represented by unions may have pertinent rights through negotiated grievance procedures. Applicable collective bargaining agreements should be checked in such cases for possible coverage.

(c) Equal employment opportunity and prohibited personnel practice complaint procedures apply in the same manner as they apply to other matters.

(4) Accrual of annual and sick leave. While an employee is in a transferred leave status, annual and sick leave will accrue to the credit of the employee at the same rate as if the employee were then in a paid leave status. However, the maximum amount of annual and sick leave that may be accrued by an employee while in a transferred leave status in connection with any particular medical emergency may not exceed 40 hours of annual leave and 40 hours of sick leave. (In the case of part-time employees, the maximum accrual will be the average number of hours of work in the employee's weekly scheduled tour of duty.)

Any annual or sick leave accrued while the employee is in a transferred leave status will be credited to a separate account from the employee's regular annual and sick leave account. This separated annual and sick leave will not be available for the employee's use until after the medical emergency has been terminated. This separated annual and sick leave will be transferred to the employee's regular leave account effective as of the beginning of the first pay period after the date on which the employee's medical emergency terminates. No leave can be credited if the employee's Federal service terminates.

(5) Donation of annual leave.

(a) An employee may submit a voluntary written request to his or her SPO (i) stating that a specified number of hours of his or her accrued annual leave be transferred from his or her account to the annual leave account of a specified leave recipient, or (ii) stating a wish to be contacted when a specific case for leave donation arises. Leave donors should include their position title, grade and pay level, organization and duty station, and the name of their supervisor.

(b) Except as provided in paragraph (c) of this section and subject to the limitations on the amount of annual leave that may be donated by a leave donor, all or any portion of the annual leave requested under paragraph (a) of this section may be transferred to the annual leave account of the specified leave recipient by authorization of the SPO.

(c) The SPO shall not transfer annual leave to a leave donor's immediate supervisor.

(d) Annual leave transferred under this section may be substituted retroactively for periods of leave without pay (LWOP) or used to liquidate an indebtedness for advanced annual or sick leave granted on or after the date established by the SPO as the beginning of the medical emergency for which LWOP or advanced annual or sick leave was granted.

(e) The SPO may accept the transfer of annual leave from leave donors employed by one or more other agencies when, (1) a family member of a leave recipient is employed by another agency and requests the transfer of annual leave to the leave recipient; (2) in the judgement of the SPO, the amount of annual leave transferred from leave donors employed by the leave recipient's employing agency may not be sufficient to meet the needs of the leave recipient; or (3) in the judgement of the SPO, acceptance of leave transferred from another agency would further the purpose of the voluntary leave transfer program.

Before accepting the transfer of annual leave from a leave donor of another agency, the Division of Payroll Operations will be provided with a written statement of the amount of annual leave credited.

(6) Transfers of donated leave to other agencies. The SPO of a leave donor who wishes to donate annual leave to a leave recipient in another agency shall verify the availability of annual leave in the leave donor's account, determine that the amount of annual leave to be donated does not exceed the limitations under this program, and ascertain that the leave recipient's employing agency has made any determination that may be required by paragraph 7(a) and (b) of this issuance. Upon satisfying these requirements, the SPO shall notify the Division of Payroll Operations in writing to have the leave donor's annual leave account reduced by the amount of annual leave to be donated. The Division of Payroll Operations shall notify the leave recipient's employing agency in writing via SF-1150 of the amount of annual leave to be credited to the leave recipient's annual leave account.

(7) Limitations on donation of annual leave.

(a) In any one leave year, a leave donor may donate no more than a total of one-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made.

(b) In the case of a leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under 5 U.S.C. 6304(a) the maximum amount of annual leave that may be donated during the leave year shall be the lesser of:

1. One-half of the amount of annual leave he or she would be entitled to accrue during the leave year in which the donation is made; or

2. The number of hours remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

(c) Written criteria for a bureau to waive the requirements of (a) and (b) above in unusual circumstances shall be as follows:

1. No other donor is available, and

2. Donor will still have a projected annual leave balance of no less than 40 hours by the end of the current leave year.

(8) Use of transferred leave.

(a) A leave recipient may use annual leave transferred to his or her annual leave account for the medical emergency as if he or she had accrued the annual leave under 5 U.S.C. 6303. However, annual leave that accrues was approved (prior to the date of application to become a leave recipient) to the account of the leave recipient shall be exhausted before any transferred annual leave may be used. A leave recipient is not required to use advanced leave procedures prior to use of transferred annual leave.

(b) The approval and use of transferred annual leave shall be subject to all of the conditions and requirements imposed by chapter 63, title 5, United States code, and the Department on the approval and use of annual leave accrued under 5 U.S.C. 6303. The exception to this is that transferred annual leave may accumulate without regard to the limitation imposed by 5 U.S.C. 6304 (a).

(c) Transferred annual leave may not be--

1. Transferred to another leave recipient under this subpart except as provided by (e)(3.);

2. Included in a lump-sum payment under 5 U.S.C. 5551 or 5552; or

3. Made available for recredit under 5 U.S.C 6306 upon reemployment by a Federal agency.

(9) Termination of medical emergency.

(a) The medical emergency affecting a leave recipient shall terminate--

1. When the leave recipient's Federal employment is terminated; or

2. At the end of the biweekly pay period in which the leave recipient's SPO receives written notice from the leave recipient or from a

personal representative of the leave recipient that the leave recipient is no longer affected by a medical emergency; or

3. At the end of the biweekly pay period in which the leave recipient's SPO determines, after written notice and opportunity for the leave recipient (or personal representative) to answer orally or in writing, that the leave recipient is no longer affected by a medical emergency; or

4. At the end of the biweekly pay period in which the leave recipient's SPO receives notice that the Office of Personnel Management has approved an application for disability retirement for the leave recipient under the Civil Service Retirement or the Federal Employees Retirement System.

(b) In consultation with the supervisor, the leave recipient's SPO shall monitor the status of the medical emergency affecting the leave recipient to ensure that the leave recipient continues to be affected by a medical emergency.

(c) The leave recipient or his or her representative is responsible for notifying the SPO when the medical emergency terminates.

(d) When the medical emergency affecting a leave recipient terminates, no further requests for transfer of annual leave to the leave recipient may be granted, and any unused transferred annual leave remaining to the credit of the leave recipient shall be restored to the leave donors according to the following provisions.

(10) Restoration of transferred leave.

(a) Any transferred annual leave remaining to the credit of a leave recipient when the medical emergency terminates shall be restored, to the extent adminsitratively feasible (as determined by the SPO), by transfer to the annual leave accounts of leave donors currently employed by a Federal agency and subject to chapter 63 of title 5, United States Code, on the date the medical emergency terminates, as provided in paragraphs (b) and (c) below.

(b) The amount of unused transferred annual leave to be restored to each leave donor shall be determined as follows:

1. Divide the number of hours of unused transferred annual leave by the total number of hours of annual leave transferred to the leave recipient;

2. Multiply the ratio obtained in paragraph (b)(1.) of this section by the number of hours of annual leave transferred by each donor eligible for restoration under paragraph (a) of this section; and

3. Round the result obtained in paragraph (b)(2.) of this section to the nearest 15 minute increment.

(c) If the total number of eligible leave donors exceeds the total number of hours of annual leave to be restored, no unused transferred annual leave shall be restored. In no case shall the amount of annual leave restored to a leave donor exceed the amount transferred to the leave recipient by the leave donor.

(d) If the leave donor retires from Federal service, dies or is otherwise separated from Federal service before the date unused transferred annual leave can be restored, the employing agency of the leave recipient shall not restore the unused transferred annual leave.

(e) At the election of the leave donor, unused transferred annual leave restored to the leave donor under (a) above may be restored by:

1. Crediting the restored annual leave to the leave donor's annual leave account in the current leave year;

2. Crediting the restored annual leave to the leave donor's annual leave account effective as of the first day of the first leave year beginning after the date of election; or

3. Donating such leave in whole or part to another leave recipient.

(f) If a leave donor elects to donate only part of his or her restored leave to another leave recipient, the donor may elect to have the remaining leave credited to his or her annual leave account.

(g) Transferred annual leave restored to the account of a leave donor under this section shall be subject to the limitation imposed by 5 U.S.C. 6304(a) at the end of the leave year in which the restored leave is credited to the leave donor's annual leave account.

(11) Prohibition of coercion.

(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using annual leave under this program.

(b) For the purpose of paragraph (a) of this section, the term "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

5. Reporting Requirements.

a. Reporting Leave Transfers.

(1) SPOs are to provide a memorandum to the leave recipient's Payroll

Operations Section certifying approval of the donation of leave to the leave recipient. The following information must be included:

(a) Leave recipients: name, social security number, employing office, amount of leave to be credited, immediate supervisor.

(b) Leave Donor: name, social security number, employing office, amount of annual leave to be donated.

(2) SPOs are to notify the leave recipient's supervisor of the approval of the request for transferred leave so that the leave recipient's time and attendance records reflect approved annual leave.

b. Recordkeeping Requirements.

The following records must be maintained on the Voluntary Leave Transfer Program:

(1) A description of any supplementary SPO procedures established to implement the program, including date of implementation.

(2) The number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member;

(3) The grade or pay level of each leave recipient and leave donor;

(4) The total amount of annual leave transferred to each leave recipient's annual leave account;

(5) The total amount of transferred annual leave used by each leave recipient;

(6) The estimated direct and indirect costs of processing leave transfer requests, transferring leave between the accounts of leave donors and leave recipients, monitoring the use of transferred leave, restoring unused leave to the accounts of leave donors, and other activities related to administering the program.

6. Effect on other Documents.

This Directive supersedes procedures found in Temporary Directive 88-11, Subject: Leave Sharing Program, dated June 8, 1988, and Temporary Directive 89-02 dated October 26, 1988.

7. References. OPM, chapter 630 and Department of the Interior, Personnel Management Letter No, 89-1 (630) dated May 2, 1989.

8. Effective date.

a. This Voluntary Leave Transfer Program is now in effect, and will

terminate on October 31, 1993.

b. If the Voluntary Leave Transfer Program terminates before the termination of the medical emergency affecting a leave recipient, any annual leave transferred to the leave recipient before the termination of the Voluntary Leave Transfer Program shall remain available for use by the leave recipient until the termination of the medical emergency.

9. Contact.

Division of Personnel, Branch of Employment and Classification
(202) 343-4154.

10. Keywords.

Personnel, Voluntary, Leave, Transfer