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	U·S·DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: PER-12 Transmittal Number: 314 Date: 01/28/87

Subject: Leave and Absence

Approval: Ted D. Christensen **Title:** Director

1. Purpose. The purpose of this Directive is to set forth Office of Surface Mining Reclamation and Enforcement (OSMRE) leave policies and other instructions based upon basic leave laws, regulations of Office of Personnel Management (OPM), Department of Interior (DOI), and decisions of the Comptroller General.

2. Definitions. None

3. Policy/Procedures

a. Policy. For all employees who are not at their respective worksite, during their tour of duty, or travel status, attending training or officially excused, their absence must be accounted for by being charged to the appropriate leave category. An employee's absence must be officially approved by the supervisor or it is considered absence without leave (AWOL).

b. Responsibilities.

(1) Overall Responsibility. Agencies administer the leave system according to the law and regulations. They are responsible for insuring that a leave account is established and maintained for every employee covered by Chapter 63 of Title 5, United States Code. Agency administrators and supervisors are also responsible for controlling absence and leave so that all employees use leave according to legal requirements and without abuse of leave privileges.

(2) Supervisors are responsible for:

(a) Assuring that leave is administered effectively. This includes approval and disapproval of leave based on judgements of mission requirements.

(b) Scheduling work of organizational elements insofar as practical to assure that employees may use their leave when compatible with mission needs.

(c) Scheduling planned vacations.

(d) Initiating informal and formal disciplinary actions on employees who absent themselves from work without approved leave based on merits of the individual case.

(3) Employees are responsible for:

(a) Regular, dependable presence on the job.

(b) Requesting and obtaining supervisory approval of leave prior to its use.

(c) If an unanticipated problem occurs for which leave cannot be approved in advance, a telephone call shall be placed to the immediate supervisor within one (1) hour of the beginning of the scheduled workday to request leave approval. If the immediate supervisor is not available to consider the leave request, the request shall be made of the acting or next higher level management official.

(d) Planning vacations in advance to assist their supervisor in arranging leave to the best advantage of workload needs.

c. Approval Authority. The approval of leave is usually the responsibility of the immediate supervisor who best knows whether the time off requested is compatible with workload requirements. While the immediate supervisor may be consulted on requests for advanced leave, authority for approval is usually placed at a higher organizational level. Employees earn annual leave as a legal right. Notwithstanding, the time that leave may be granted and the amount taken at any given time are administrative matters based on the discretion of the supervisor.

d. Authority for the Approval of Advance Annual Leave, Advance Sick Leave and Leave Without Pay. The authority for the approval of advance annual leave, advance sick leave, and leave without pay in excess of 15 working days is delegated to the Deputy Directors, Assistant Directors, Chiefs, Administrative Service Centers and Field Office Directors and may not be redelegated. After approval and coordination with the Chief, Division of Personnel, the approved leave is recorded on the Time and Attendance Report. The SF-71 is retained for verfication purposes. The authority for the approval of advance annual leave, advance sick leave, and leave without pay not in excess of 15 working days is delegated to the following: Deputy Directors; Assistant Directors; Chiefs, Administrative Service Center; Field Office Directors; Division Chiefs (Headquarters); and Chiefs of Staff Offices (Headquarters). After approval, the appropriate leave is recorded on the Time and Attendance Report. The SF-71 is retained for verification purposes.

e. Types of Leave

(1) Annual Leave.

(a) General. Leave schedules will be arranged so that each employee has an opportunity to use annual leave with full consideration for his/her wishes, providing the work program does not suffer unduly. Except in emergencies, employees will be required to obtain prior approval of annual leave.

(b) Accrual and Credit of Annual Leave.

1 Annual leave is credited at the end of each pay period for those employees who are in a pay status or a combination of pay and leave without pay (LWOP) status unless an aggregate of 80 hours LWOP is reached during the pay period. Annual leave is not available for use during the pay period in which it is earned unless advanced annual leave has been approved in accordance with Section 3.d. of this Directive.

2 Full-time Employees earn and are credited with annual leave as follows:

a Four hours for each full biweekly pay period if the employee has less than three years of creditable service.

b Six hours for each full biweekly pay period if the employee has three but less than 15 years of creditable service. These employees shll accrue 10 hours for the last full biweekly pay period in the calendar year.

c Eight hours for each full biweekly pay period if the employee has 15 or more years of creditable service.

3 Part-time Employees who have tours of duty--established in advance--on one or more days during each administrative workweek earn and are credited with leave as follows, (hours worked in excess of 80 hours in a pay period shall be excluded in the computations):

a One hour of annual leave for each 20 hours in a pay status if the employee has less than three years of creditable service.

b One hour of annual leave for each 13 hours in a pay status if the employee has more than three but less than 15 years of creditable service.

c One hour of annual leave for each 10 hours in a pay status if the employee has 15 or more years of creditable service.

(c) Granting and Advancing Annual Leave

1 Annual leave may be granted as of the first day of employment to employees whose appointments are for 90 days or longer.

2 Standard Annual Leave Charge. The initial annual leave charge or annual leave credit for compensatory time in lieu of overtime is 15 minutes. Additional charges and credits are also recorded in 15 minute increments. Exceptions are made for (a) AWOL which shall be recorded for actual time absent and (b) any collective bargaining agreements providing different requirements. Establishment of a standard charge for leave does not affect supervisors' capacity to waive charges by excusing short periods of tardiness or absence when circumstances warrant.

3 If an initial appointment is less than 90 days, the employee is not entitled to annual leave. However, if employment continues without a break in service under successive appointments for a period of 90 days or more, the employee will earn annual leave retroactively for the 90 days and may be granted annual leave.

4 An employee may be permitted to take the annual leave to his credit plus the leave that will accrue during current leave year at any time that year. Annual leave may be advanced only when there are no reasons known to the approving official why the employee will not be able to earn the leave advanced.

(d) Restoration of Annual Leave.

1 Annual leave may be restored when it is forfeited because of either administrative error, illness or exigencies of the public business, or unjustified or unwarranted personnel action. The following action is applicable:

a In order to qualify under illness or exigencies of public business provisions, the annual leave must have been scheduled (approved - use of SF-71) in advance, no later than the start of the third biweekly pay period prior to the end of the leave year.

b Authority to determine whether an exigency of the public business is sufficient to warrant leave disruption is reserved to the Director.

2 The requirement for prior scheduling of annual leave focuses special attention on the mutual responsibility of employees and management to plan and schedule the use of annual leave throughout the year. Managers and supervisors should develop necessary procedures to assure the effective scheduling and use of annual leave by and for all of their employees. The advance sheduling of leave must be documented on form (SF-71).

3 Restored annual leave must be used with two years unless the employee has been separated prior to restoration or is separated prior to expiration of the two years in which case the unused restored leave shall be liquidated by payment of a lump sum.

(e) Maximum Accumulation.

1 Empoyees Other Than Those in the Senior Executive Service (SES).

a The maximum amount of annual leave an employee may carry over into a succeeding leave year is 240 hours. If the employee had accumulated annual leave in excess of 240 hours immediately following the end of the last biweekly leave period in 1952 or has acquired a higher leave ceiling because of application of 5 U.S.C. 6306(b) pertaining to overseas employment, such maximum accumulation may be carried into succeeding years until used. Annual leave in excess of these amounts must be forfeited, unless the criteria for leave restoration is met.

b An employee who leaves a post that authorized an annual leave accumulation of 360 hours (45 days) may carry either 360 hours or the personal ceiling whichever is higher, into the next leave year and succeeding years. The amount to be carried forward is determined at the end of the pay period that includes the date the employee leaves the post of duty; if required to perform duty enroute from the post, it will be the date the employee stops performing duty.

(f) Senior Executive Service Employees. Members of SES no longer are required to forfeit unused annual leave. Their annual leave may be accumulated without limit. This will be paid as a lump sum when they leave Government Service.

(2) Sick Leave

(a) Documentation. A medical certificate or other administratively acceptable evidence will be obtained for the use of sick leave in excess of three consecutive working days. Administratively acceptable evidence as to the reason for an absence may be considered

regardless of the duration of the absence. However, an approving offier may require additional evidence on certain requests for sick leave when in their considered judgment the individual's leave record justifies it. Employees may be required to submit for approval SF-71 for any period of sick leave. The employee involved should have advanced notice of this requirement.

(b) Advance Sick Leave. Advance sick leave may be granted in cases of serious disability or illness and when required by the exigiencies of the situation. An advance of sick leave shall be for not more than 30 days. A certificate of a physician or practitioner or other appropriate written evidence will be obtained for all periods of advance sick leave. Sick leave will not be advanced when a separation date has been established which would preclude an employee from earning leave to cover the advance. Sick leave will also not be advanced when an employee has filed for disability retirement or when there is evidence that a return to duty is not contemplated. An employee with a limited appointment may be advanced sick leave which will be earned in the remaining period of the appointment.

(c) Restrictions on Outside Employment During Periods of Sick Leave. Supervisors should require notification by employee whenever they engage in outside employment on one or more days for which they have requested sick leave. If circumstances warrant, based on Standards of Conduct Regulations for example, supervisors may require employees to obtain prior approval before engaging in outside employment during a period of sick leave. A decision on the justification for outside employment during a period of sick leave should be based upon the same criteria used in judging the performance of work during disability retirement. One example of acceptable outside employment would be an employee confined at home because of pregnancy or recuperation from illness or injury, who engages in telephone soliciting or writing.

(d) Accrual and Credit of Sick Leave.

1 Full-time employees earn four hours of sick leave for each full biweekly pay period they are in a pay status or a combination pay and leave without pay (LWOP) status unless a aggregate of 80 hours LWOP is reached during the pay period. The accrual shall be credited at the beginning of each pay period.

2 Part-time employees earn sick leave at the rate of one hour for each 20 hours in a pay status. Any hours in excess of 40 in an administrative workweek are disregarded.

(e) Accumulation. Sick leave, which is not used during the year in which it is earned, may accumulate without limitation and is available for use in succeeding years. Upon retirement, unused sick leave is converted to additional length of service credit for retirement annuity computation purposes.

(f) Standard Sick Leave Charge. The initial sick leave charge or sick leave credit for compensatory time in lieu of overtime is 15 minutes. Additional charges and credits are also recorded in 15 minute increments. Exceptions are made for (a) AWOL which shall be recorded for actual time absent and (b) any collective bargaining agreements providing different requirements. Establishment of a standard charge for leave does not affect supervisors' capacity to waive charges by excusing short periods of tardiness or absence when circumstances warrant.

(3) Leave Without Pay (LWOP).

(a) General. Leave laws and OPM regulations do not limit or specify the exact situation under which agencies may grant or deny leave without pay. It is the policy of OSMRE to grant leave without pay (LWOP) only when it will be of mutual benefit and interest to OSMRE and to the employee. Leave without pay shall be granted only when there is a reasonable expectation that the employee will return to his/her position upon expiration of the leave (except when action is pending the employee's claim for disability retirement or disability compensation). Such leave is at the request of the employee. Leave without pay shall not be granted for purposes of private employment.

(b) Maximum Time Standards. The following maximum time standards are established for use in approving requests for leave without pay:

1 One year for illness or disability.

2 One year for educational purposes for any employee who wishes to undertake career-related education when it is in the interest of OSMRE and the employee expects to return to OSMRE at the end of the period of leave.

3 One year for an employee elected or appointed to a union office that occupies all or part of his/her work time to transact union business that is directly concerned with the functions of OSMRE.

4 Six months for service with non-Federal public or quasi-public organization.

5 Three months, depending on the merits of the case, for care of members of the family during illness.

(c) Extension Beyond One Year. Requests for extentions of leave without pay may be approved by the Deputy Director, Administration and Finance, when justified.

(d) Effect of LWOP on Life Insurance. Employees granted leave without pay for more than one year should be notified that their Federal Employees' Group Life Insurance is effective only 12 months plus a 31-day grace period, except when the employee is receiving benefits under the Federal Employee Compensation Act because of disease or injury. In these circumstances their life insurance only may be continued during the period he/she received such benefits, without cost. (5 U.S.C. 8706(c)).

(e) Nonpay Status.

1 Regulation. For a full-time employee, and a nonfull-time employee with a prearranged regularly scheduled tour of duty, time in a nonpay status, except as provided in OPM regulation Section 531.405(b), is creditable service in the computation of a waiting period when it does not exceed, in the aggregate:

a Two workweeks in the waiting period for steps 2, 3, 4;

b Four workweeks in the waiting period for steps 5, 6, 7,; and

c Six workweeks in the waiting period for steps 8, 9, and 10.

2 When a employee has time in a nonpay status in excess thereof, he/she shall make it up with creditable service before the next within-grade increase is effected. In other words, nonpay status in excess of that permitted by the regulation in any one waiting period operates to extend the waiting period by the amount of the excess time in a nonpay status. There must be sufficient creditable service to complete the waiting period.

(4) Absence Without Leave (AWOL).

(a) Absence from duty without prior approval should be carefully scrutinized. The employee must give the supervisor an explanation for not having requested such absence. If the explanation is unsatisfactory, the time lost will be charged AWOL, and the employee will not be paid for such period.

Charging AWOL in these situations provides documentation of irregular attendance and such charges may be used as a basis for further disciplinary action. These actions should be coordinated with the appropriate personnel servicing office.

(5) Other Types of Leave/Absence.

(a) Home Leave. Home leave is applicable for those employees serving overseas who may accumulate 45 days annual leave under Title 5 U.S.C. 6304(b). Employees serving in Alaska and Hawaii are not subject to home leave regulations (38 CG 261).

(b) Funeral Leave. Excused leave not in excess of three days may be granted to allow an employee to make arrangements for or attend the funeral or memorial service for an immediate relative who dies as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in combat zone. (See FPM 630, 8-4 for definition of immediate relative.)

(c) Military Leave.

1 General. Military leave is limited by law to 15 calendar days in a calendar year, except for the District of Columbia National Guard and those subject to 5 U.S.C. 6323(c)(2)(B). Each application for military leave will indicate the armed forces reserve organization of which the employee is a member. Upon returning to duty, the employee will furnish two copies of their orders certified as to accuracy by an appropriate military officer, showing the days on which he/she was on active duty. Where the orders do not show the actual days of service, an additional certificate in duplicate from an appropriate military authority must also be obtained showing the acutual days served on active duty. One copy of this will be retained by the time and attendance clerk for verification purposes. The appropriate information from document(s) will be recorded on the Time and Attendance Report. The other copy will be forwarded to the Personnel Office, for inclusion in the Official Personnel Folder.

2 District of Columbia National Guard. Employees who are called to serve in the District of Columbia National Guard when it is Federalized are subject to the same rules which are applicable to National Guard members or units of the various states; i.e., 15 days of military leave under the provisions of 5 U.S.C. 6323 (a). Employees who are called to serve in the District of Columbia National Guard when it is not Federalized are subject to the provisions of 5 U.S.C. 623(c), which entitles them to leave for each day (no limit) of service the District of Columbia National Guard is ordered to perform by the commanding general.

3 Reserve or National Guard. Military leave not to exceed 22 work days in a calendar year is authorized by 5 U.S.C. 6323(c)(2)(B) for employees who are members of Reserve components of the Armed Forces or National Guard and who perform for the purpose of providing military aid to enforce the law, Federal service or full-time military service for their State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, or a territory of the United States. This does not reduce leave to which otherwise qualified.

(d) Court Leave.

1 Granting of Court Leave. Career, career-conditional, temporary-indefinite, and indefinite employees will be granted court leave under the following circumstances:

a Jury Duty. As a general rule, OSMRE will not request that its employees be excused from jury duty.

b Witness in an Official Capacity. This includes service as witness for the United States Government or the Government of the District of Columbia.

c Witness in an Unofficial Capacity. This includes service as a witness for the United States Government, or a State or local government, if not covered by assignment on official business.

(e) Excused Absence (Administrative Leave).

1 Absence Not Chargeable to Leave. Absence from duty without charge to leave or without loss of compensation, except for groups of employees in the Washington, D.C. Metropolitan Area, may be granted by those officials authorized by the OSMRE Delegation of Authority, under the conditions outlined below. Extreme caution and judgement must be used in the exercise of this authority. Excused absence of groups of employees in Washington, D.C. will be granted only after notification by the Department.

a Groups of employees may be excused from duty when normal operations are interrupted by events or emergencies beyond the control of management or employees, such as extreme weather conditions, serious interruption to public transportation services, disaster such as fire, flood, earthquake, or other conditions, preventing employees from working or reporting to work. Individuals authorized to exercise this authority are identified in the OSMRE Delegations of Authority Directive.

b Individual employees may be excused from duty for a number of reasons. Some of the more common situations in which an employee may be given an excused absence are as follows:

After obtaining treatment for an injury sustained in the performance of duty, the employee shall be excused for the balance of the day on which the injury occurred if circumstances warrant.

Up to four hours for donating blood to the American Red Cross or, in emergencies, to individuals providing that the employee does not receive pay for the blood.

Taking a physical examination required by OSMRE, the Department or other Federal agency; employees shall be given administrative leave for the time necessary to complete the examination.

Taking a physical examination required for entry into the armed forces; employees shall be given administrative leave for the time necessary to complete the examination.

An employee who has sustained a disabling, job-related, traumatic injury and who elects the 45 day continuation of pay provision of Public Law 93-416, 1974 Amendments to the Federal Employee's Compensation Act. The final approval of Continuation Pay (COP) is made by the Office of Workers Compensation Programs (OWCP). Although employees can, at his or her request, be granted COP pending a decision by OWCP.

Attending public activities, taking Federal Civil Service examinations under certain circumstances, and tardiness or unavoidable absence of less than an hour.

Visits to employee health units because of illness, receiving injections for allergies, etc., that are considered appropriate and necessary.

2 Excused Absence for Voting and Registering.

a An employee who desires to vote or register in an election or in a referendum on a civic matter in his/her community may be granted time off without charge to annual leave as follows:

Where the polls are not open at least three hours either before or after an employee's regular hours of work he/she may be granted an amount of excused leave which will permit him/her to report for work three hours after the polls open or leave work three hours before the polls close, whichever requires the lesser amount of time off.

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.

If an employee's voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the employee may be granted sufficient time off in order to be able to make the trip to the voting place to cast his/her ballot. Where more than one day is required to make the trip to the voting place, agencies shall observe a liberal policy in granting the necessary leave for this purpose. Time off in excess of one day shall be charged to annual leave or if annual leave is exhausted, then to leave without pay.

For employees who vote in jurisdictions which require registration in person, time off to register may be granted on substantially the same basis as for voting, except that no such time shall be granted if registration can be accomplished on a nonworkday and the place of registration is within reasonable one-day, round trip travel distance of the employee's place of residence.

The Division of Personnel for Headquarters and the Office-in-Charge of each field activity is responsible for assembling necessary information about hours during which polls are open in all political subdivisions in which their employees reside and for making an administrative determination regarding the amount of excused leave that may be granted within the stated limits. Employees should be notified of the determination made and the local procedures to be followed.

3 Religious Holidays. Public Law 95-390 provides Federal employees the right to take time off for religious holidays and observations without charges to annual leave or loss of pay. Employees will be required to work compensatory overtime before or after the compensatory time off. The law does not restrict the kind of religious holiday or observance for which an employee may take time off from work. Any personal religious belief is sufficient to allow time off provided that the time is made up through compensatory overtime.

(g) Absence for Maternity and Paternity Reasons.

1 General. Employees should be encouraged to report pregnancy as soon as practicable in order that the employee's health may be protected and plans made for a replacement during the period of leave granted. If there is any question as to physical ability to perform work, the employee may be required to furnish a medical certificate. This would be in addition to the normal medical statement relative to

incapacity for duty for maternity reasons. If the employee's duties require activity which may be injurious to her health, an effort should be made to reassign her temporarily to other work for which she is qualified. The same policy which is applicable for advancing sick leave in other types of situations will apply to advancing sick leave for pregnancies.

2 Employee Not Planning to Return to Work. An employee who is not planning to return to work should submit her resignation at the expiration of her period of incapacitation. This does not prohibit OSMRE from separating such an employee at an earlier date for other reasons that are not related to the maternity absence (expiration of appointment, reduction-in-force, separation for cause, etc.).

3 Absence for Paternity Reasons. A male employee may request annual leave, compensatory leave, or leave without pay to assist or care for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons. Approval of leave for this reason must be in accordance with the granting of leave in other situations (leave shedules of other staff, etc.), and each leave request will be considered on its own merits. Under no circumstances may sick leave be approved for paternity reasons.

(h) Nonduty Situations. When an employee is present but not considered ready, willing and able to work, the employee may be placed on annual or sick leave or in a nonduty nonpay status as the circumstances and leave account require. This will not be considered a suspension in a nondisciplinary situation.

4. Reporting Requirements.

   a. Application for Leave SF-71.

   b. Time and Attendance Report, Form DI-502 G.

5. References. Federal Personnel Manual - OPM Chapter 630, Department of the Interior Departmental Manual, Part 370, DM 630, and Negotiated Agreement - Headquarters OSMRE and Local 1993, National Federation of Federal Employees.

6. Effect on Other Documents. This document supersedes Directive PER-12, dated July 20, 1984.

7. Effective Dates. Upon Issuance.

8. Contact. Division of Personnel, Branch of Personnel Policy and Evaluation, (202) 343-4656.