DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
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ARLINGTON, VA 22202-3231

NGB-TN-J1 23 February 2005

MEMORANDUM FOR THE HUMAN RESOURCES OFFICERS OF ALL STATES PUERTO RICO, U.S. VIRGIN ISLAND AND THE DISTRICT OF COLUMBIA

SUBJECT: 44 Days of Military Leave (TN-05-12)

1. The following provides current guidance on the criteria and conditions for use of the 44 days leave authorized by 6323(d) of Title 5 United States Code (U.S.C.). This guidance includes the amendments in the FY 2005 Authorization Act, (Pub. L. 108-375 (October 28, 2004)) which amends subsection (d)(1) to permit military reserve technicians to use 44 workdays of military leave under 5 U.S.C. 6323(d)(1) during a war or national emergency.

a. 5 U.S.C. 6323(d) applies to "a military reserve technician dual status described in Section 8401(30)" of Title 5. This includes the National Guard military technicians as well as those in the Army and Air Force Reserve. Technicians are entitled to use the 44 day military leave without loss of, or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance efficiency rating for days in which serving on active duty without pay.

b. The military reserve technician must be on active duty without pay under section 12301(b) or 12301(d) of Title 10 for participation in operations outside the United States, its territories and possessions.

c. The 44 day leave is converted into hours (352) and charged in units of hours on the same basis as annual and sick leave. Holidays and non-workdays are not charged. Technicians may also use annual leave, compensatory time, or leave without pay in conjunction with the 44 day leave.

d. The entitlement is on a calendar year basis and not a fiscal year basis. Also, there is no entitlement to carry over any unused leave into a subsequent calendar year.

e. While on 44 day military leave, technicians receive their technician pay for time they would otherwise be in a paid technician status.

f. Per Diem is paid while utilizing this type of leave based on military rates.

g. There is no entitlement to compensatory time earned for overtime hours worked, night differential, or hazardous duty pay because the technician is in a technician leave status. However, if night differential and hazardous duty pay are part of a technician regular basic civilian pay, this would continue.

2. TNB point of contact for the 44 day military leave is John Christie at (703) 607-1458 or DSN 327-1458.

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