

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
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Technician Personnel
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REDUCTION IN FORCE PROCEDURES

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CHAPTER 1 - MANAGEMENT ASPECTS OF REDUCTION IN FORCE

1-1. Scope of this Chapter. The Provisions of FPM Chapter 351, Reduction in Force, are not applicable to National Guard technicians. This regulation supplements and implements TPM 351 and in conjunction with it, governs the release of technicians by reduction in force and contains policy and instructions necessary to conduct a reduction in force. The Adjutant General will not initiate a RIF unless approved/directed by the National Guard Bureau. The word "he" in this publication is intended to include both the masculine and the feminine genders.

a. Reduction In Force Determination. The decisions on whether a reduction is necessary and when the reduction is made, are management decisions of the National Guard Bureau and/or the State. The National Guard Bureau determines what positions must be abolished. The State must apply these instructions in determining what technicians are affected.

b. Cause. Reduction in force may be necessary because of conditions inside or outside the State. Reductions in force may be required because of lack of work or funds, changes in positions resulting from reorganizations, except those changes identified in paragraph 1-6 of TPM 753.1, Demotions Based on Classification or Job-Grading Determinations, or the need to make room for a technician with reemployment or restoration rights if the position was not properly obligated. Management may reduce certain phases of work as the workload changes. Funds may be reduced or cut off entirely, or the State may be allowed to use only part of its funds. These and other factors occurring singly or in combination may make it necessary for the State to have a reduction in force. The State has a reduction in force when it releases a technician from his competitive level by separation, change to lower grade, or reassignment involving displacement.

c. State Responsibility. Planning the work program and organizing the work force to accomplish assigned objectives within available resources and management responsibilities.

1-2. Use of Reduction in Force.

a. Circumstances Constituting Reduction in Force.

(1) The State may find it necessary to have a reduction in force due to a lack of funds, reorganization, transfer of function or the need to make a place for a person exercising reemployment or restoration rights.

(2) The action taken for technicians released from their competitive levels must comply with the reduction in force procedures, and technician rights and privileges incident to reduction in force must be observed.

(3) The release of a technician from a competitive level in which he is serving under a specifically limited temporary promotion or appointment does not constitute a reduction in force. Therefore, the reduction in force procedures are not used to return a temporarily promoted

technician to his regular position or to place him in a position as good as or better than his regular position. The State may, however, determine the order of return by retention standing when not all technicians serving under temporary promotion have to be returned at the same time.

(4) The release of a re-employed annuitant from his competitive level does not constitute a reduction in force. (See section 3323(b) of title 5, United States Code.)

b. Mandatory Application of Reduction In Force Procedures. The reduction in force procedures must be followed when the state takes any reduction in force action, even when no separation occurs. It is the release of a technician from his competitive level by any of the actions and for any of the reasons listed in paragraph a (1) that requires the State to follow this regulation.

1-3. Management Considerations. Several important considerations should be emphasized where reductions in force are concerned. This is a highly sensitive area of technician management relations and will be viewed as part of the overall management concern to this State. Mere literal adherence to the regulatory and procedural requirements of reduction in force alone is insufficient. It is important to remember that in reduction in force some technicians will be adversely affected. This factor automatically increases the degree of emotional involvement, anxiety, and potential for adverse effects on morale. Unless reduction in force is given top management attention in this light, its repercussions in the future effectiveness of an organization can be harmful.

1-4. Responsibilities of The Adjutant General of Wisconsin:

- a. Insure that reduction in force procedures are properly administered.
- b. Appraise all valid appeals from technicians in respect to reduction in force.

1-5. Responsibilities of the Technician Personnel Officer:

- a. Plan and administer reduction in force in accordance with these regulations.
- b. Communicate with technicians affected, providing guidance, assistance, meeting individually if necessary, to explain various options and benefits.
- c. Provide maximum outplacement assistance in finding employment for dislocated technicians, to include Civil Service employment in other states or areas, or employment in civilian agencies.
- d. Insure that reduction in force procedures are properly followed and that such procedures are free of discriminatory elements as contained in TPR 713-1.

e. Administer the DOD program for stability of civilian employment for those technicians who previously held competitive appointments in other Federal installations and have career status.

1-6. Responsibilities of Technician Managers and Supervisors.

a. Be thoroughly familiar with reduction in force procedures.

b. Keep technicians informed of how they are being affected throughout the reduction in force.

c. Insure that details over 30 days or short term assignments of new sets of duties are officially recorded and permanent personnel actions have been taken where it is clear that details cannot be properly extended.

d. Assist in outplacement when possible.

e. Insure that RIF procedures are not distorted by using the procedures to eliminate certain "unacceptable" technicians.

CHAPTER 2 - GENERAL PROVISIONS

2-1. Administrative Use of Reduction in Force.

a. Meaning of Administrative Use. The term "administrative use" refers to those personnel actions the State may take, at its own discretion, that are consistent with regulations but go beyond them. Below are some examples of this administrative use of reduction in force.

b. Illustration of Administrative Use. If the State elects to reassign a technician whose position is being abolished to a vacancy in the same competitive level, it must not use the reduction in force procedures. When the technician whose position is abolished is not in reach for release from the competitive level, it is improper to issue him a reduction in force notice of reassignment within the competitive level. When he is in reach for release from his competitive level, his reassignment to a vacant position outside the competitive level will be processed as a reduction in force action.

2-2. Coverage. All National Guard technicians employed under the provisions of 32 U.S.C. 709 are covered by the provisions of this chapter. However, technicians who hold excepted appointments will not be placed in the same competitive levels as technicians who hold appointments in the competitive service, or vice versa.

2-3. Definitions.

a. The terms competitive service, excepted service, and obligated positions have the same meaning in this chapter as shown in FPM chapters 212,213, and 300, respectively. The following terms have the meaning shown:

(1) Competing technician means a technician in tenure group I or II within each competitive level.

(2) Days means calendar days.

(3) Performance rating means the current official performance rating.

(4) Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

(5) The military appraisal means the current performance appraisal of the technician by the immediate military supervisor or the military supervisor who normally performs the military rating.

2-4. Reorganization.

a. For reduction in force purposes, a reorganization occurs when management adds to, takes from, or redistributes the functions or duties of one or more positions or when ARNG Manning Documents and Air Technician Manning Documents (ATMDs) are changed by the National Guard Bureau. When a reorganization is the cause of separation, reduction in force procedures must be followed. Reduction in force procedures also apply when the downward reclassification of a position is due to duties gradually drifting away from a position by a slow erosion process. Reduction in force procedures do not apply when a position is downgraded without change in duties to correct an erroneous classification or to comply with a new classification standard and when downgrading actions resulting from changes in military reorganizations brought about by, for example, such things as weapons systems conversions or the combining or realignment of units. In these cases the downward reclassification of certain positions may be required because of the loss or reduction in supervisory duties or the lesser complexity of equipment or systems serviced; these actions will be accomplished in accordance with TPM 753.

b. The State must follow the reduction in force procedures in each of the following situations:

(1) When management deliberately changes duties assigned a technician, and

(2) When a gradual change results in classification of the duties at a lower grade.

c. Reassignments made during a reorganization represent a special situation and deserve particular comment, since, depending on the circumstances, they may be reduction in force actions, adverse actions, or neither.

(1) If the reassignment is to a position in the same competitive level, it is neither a reduction in force action nor an adverse action because (a) reduction in force regulations apply

only when there is a release from a competitive level and (b) positions within a properly constructed competitive level are so similar in duties and responsibilities that the interchange of personnel is feasible; they are, therefore, necessarily of the same rank in the organization.

(2) If the reassignment is to a vacant position in a different competitive level, and if a reduction in rank is involved, it may be governed by the regulations in TPM 753, Adverse Action, or by this regulation. The following considerations apply:

(a) The State may select the technician who stands lowest on the retention register and reassign him to the vacant position in the different competitive level as a reduction in force action. This chapter permits the State to use the reduction in force procedure to fill a vacant position by reassignment. Given a reorganization that has created a surplus in a competitive level, the state's election to use the reduction in force procedure to relieve the surplus requires the issuance of a reduction in force notice to the technician within reach on the retention register. The notice tells him that he has been reached for release from the competitive level and that, as an alternative to separation, he is offered reassignment to a specified other position (i.e., the vacant position).

(b) In summary, the State will make every effort to fill vacant positions in a reduction in force situation, and the existence of such a situation does not suspend the State's authority to take such other actions as may be administratively desirable.

2-5. Payment of Travel Expenses.

a. Technicians being involuntarily separated (other than for personal cause) or demoted who are in other than a temporary status will have their transportation expenses paid by the releasing activity when transferred or reassigned to a position expected to continue for not less than 1 year at another DOD activity to the maximum extent permitted under the provisions of the Joint Travel Regulations, Volume 2. This shall include technicians who have been or will be affected by a reduction in force, transfer of function or base closure and technicians who have been separated for these reasons and are re-employed in DOD within the period of 1 year from date of separation. Also included are technicians who transfer to a non-DOD Federal activity prior to separation because of reduction in force or transfer of function or have been separated for these reasons and are re-employed within 1 year of date of separation in a non-DOD Federal Agency at a duty station located within the 50 States, District of Columbia, United States territories and possessions, the Virgin Islands, Commonwealth of Puerto Rico or the Canal Zone. The releasing DOD activity, if located within the above listed areas, will endeavor to have the non-DOD activity pay travel and transportation expenses to the new location; however, if this is not possible, the releasing DOD activity will pay the expenses.

b. Within funding availability, technicians may be permitted TDY at Government expense for a specific technician job interview at locations within the State or other States. The potential gaining location must make an official request through the Technician Personnel Office for such an interview. The losing State will issue appropriate travel orders.

CHAPTER 3 - TRANSFER OF FUNCTION

3-1. General

a. **Function Defined.** A function is all or a clearly identifiable segment of a State's mission (including all the integral parts of that mission), regardless of how it is performed. Many factors must be considered in deciding if a set of circumstances is a transfer of function. The reference to "a clearly identifiable segment of a State' mission" might be the overhaul and maintenance of a jet aircraft; however, the job of one of many aircraft mechanics engaged on that function is not, in itself, a function. The reference to "all the integral parts of that mission" emphasizes that any activity that can be identified as a recognizable segment of its responsibility may be a function. Thus, administrative services such as budgetary planning, personnel management, and functions that can be identified as integral parts of a mission.

b. **Transfer of Function Defined.** A transfer of function is the Transfer of the performance of a continuing function from one location (commuting or competitive area) and its addition to one or more other locations (commuting or competitive areas). A function being transferred purely for liquidation is not a continuing function. A function is transferred when it disappears or is discontinued at one location and appears in identifiable form at another location. In contrast, a discontinued function that does not appear at another location is abolished.

c. **Movement of Function Within a Commuting Area.** Movements of activities or assignments entirely within a commuting area are not transfers of function; they are reorganizations. Reorganizations, however, that shift functions out of one commuting area or competitive area and into another commuting area or competitive area transfers of function.

3-2. **Tracing Functions.** In a transfer of function, the operation of the function must cease in one geographic area and be carried on in another geographic area. When two different offices perform identical functions and one has a decrease in workload calling for a reduction in force, while the second in a different geographical location has an increase in workload calling for new hiring, there is no transfer of function. When, however, the second office takes over an activity it did not have before and that formerly was performed in the first office, a transfer of function occurs. An important determination in situations of this kind is whether the functions in the different locations are really identical, although the manner of performance may be different. In the first two of the following examples, a function ceases in one geographic area, and the identical function thereupon is carried on in another:

- Office A, located at Madison, Wisconsin, handles personnel actions for technicians assigned to an ANG installation while Office B, located at Milwaukee, Wisconsin, handles the same kind of actions for the ARNG. When Office A is abolished and Office B handles all personnel actions, there is a transfer of function. Warehouse A in Wisconsin handles all property and supply pick-up and deliveries for all units in Wisconsin and Warehouse B in Illinois handles all property and supply pick-up and deliveries in Illinois. When Warehouse A is abolished and Warehouse B takes over all pick-up and deliveries, a transfer of function occurs.

- Warehouse A and B in different geographic areas both make pick-up and deliveries of the same type of property and supplies without geographical or jurisdictional assignment of requisitions. When Warehouse A is abolished, there is no transfer of function to Warehouse B, even though Warehouse B receives some additional workload after Warehouse A is abolished.

3-3. Identifying Technicians with the Function. It is important to determine which technicians are identified with a transferring function because identification determines their entitlements. A transfer of function does not suspend management's inherent authority to assign its work force to meet its needs. A State may move technicians regardless of a transfer of function to different jobs and different duty stations where needed as long as their regulatory rights to protection against improper adverse actions are not violated.

3-4. Management's Options in a Transfer of Function.

a. The technicians identified with a transferring function who will be needed by the gaining State or activity within a State to carry on the function without interruption should be encouraged to move with the function. When the function transfers from one State jurisdiction to another, the losing and gaining State adjutants general should initiate an agreement to have the gaining State accept all technicians indicating willingness to move with the function. Technicians who find it impossible to move with the function may be discharged by the losing State or activity within a State for not accepting an offer of transfer.

b. On the other hand, when a transfer of function occurs during a reduction in force in the losing State, that State may determine through negotiation with the gaining State that the movement of technicians with the function is not essential to the continuity and efficiency of the function. In this situation, the losing State may prefer to use the reduction in force procedures to release from the competitive levels the technicians who decline to move with the function, thus treating any separations and displacements as part of the concurrent reduction in force. A similar arrangement is permissible when a function is to be transferred from one part to another of the same State or activity and there is a resulting or concurrent reduction in force in either the gaining or losing activity within a State. Use of the reduction in force procedures in the losing State or activity within a State may be considered preferable for several reasons under these circumstances, for example:

(1) To give career, career-conditional and permanent technicians better opportunities to realize their expectations for continued Federal employment.

(2) To give the State an opportunity to retain the technicians in other functions through reduction in force reassignments.

(3) To enable the Federal Government and the National Guard to retain the skills of trained workers and to foster the concept of a Government-wide career service.

c. The use of the reduction in force procedures would be improper, however, when there is no need for reduction in force. Instead, the adverse action procedures would be used by the losing State where applicable to separate those technicians who decline to move with their function.

3-5. Preparing Technicians for Transfer of Function.

a. General. The National Guard Bureau urges States to undertake a variety of responsibilities in preparing for the transfer of technicians along with the function. Many States have found that a transfer involving geographical relocation is effected more smoothly, that technician morale and the efficiency of operations are maintained at a higher pitch, and that potential technician relations problems and adverse community relations are more easily averted when the State keeps technicians and their representative labor organizations fully informed, mobilizes community resources at both the losing and gaining locations, utilizes the preventive planning techniques outlined in chapter 1, and conducts aggressive outplacement programs for technicians who will not accept transfer or who will be separated in a reduction in force resulting from the transfer.

b. Informing Technicians. States should make a transfer as understandable and meaningful as possible to technicians who are identified with the function. This is done by sharing all appropriate available information with the technicians and their representative labor organizations as an expression of their continuing interest in them to decide whether they will accompany the function.

(1) As a preliminary step, States will ask technicians whether they would consider moving to a new geographical location (annotate on NGB Form 351-3). In conjunction with the inquiries, States will furnish as much information as possible about how and why technicians are identified for transfer and about the gaining location, such as the availability and cost of housing, both to rent and buy; the location and nature of schools, religious facilities, libraries, and shopping facilities; recreational facilities; payment of travel and transportation expenses; timing of the transfer; and any other matters that the technicians may be interested in and that may help them decide whether to accompany the activity. Solicit the help of the gaining organization and representative of the gaining community when necessary in compiling and presenting this information.

(2) Before a technician is asked to give a decision on whether he will transfer with the function, he must be given specific information, if available, or if not, as much as can be determined about his contemplated assignment, and as much as is known about the organization and the probable duties. The technician must be told on what assumptions this information is based and to what degree it is subject to change.

(3) When the State asks the technician for a decision on whether he will transfer with the function, it must allow him sufficient time to consider everything that is involved and to give a responsible answer. The State should not demand an answer in less time that it can reasonably allow and still have adequate time to plan and prepare for the transfer. For example, when announcing the transfer of function 60 days in advance, it would appear to be unreasonable to ask for a decision from the technician in less than 30 days.

(4) In asking for a decision from the technician, the State will explain what is involved in the acceptance or declination of the offer to move with the activity.

(a) Unless the technician is certain that he will not move with the activity, then acceptance should be made to the offer. Acceptance assures the individual a job in the new location, but does not prevent one from seeking a job in the home location. The technician, may, of course, decline to move if he changes his mind later, as the initial decision to accept the position is not binding. If a subsequent declination is made, the technician then becomes eligible for priority placement assistance.

(b) There is no advantage - and there may be some disadvantage - to the technicians in saying that they will move with the activity when in fact it is known that they will not. The date of release cannot be put off by stating initially that he will move. If the technician agrees to move, consideration will not be given for any positions that may become available at the home location. Additionally, help will not be provided in locating another job. On the other hand, if he says he will not move, he will not be released from duty at the home station any sooner than technicians who say that they will move; however, in this case entitlement to priority placement assistance is immediate.

c. Technicians who do not Transfer. Depending on the nature of the transfer, it is not unusual for a significant number of technicians to prefer to seek placement opportunities at the losing activity or elsewhere in the community, rather than accompany the function. Further when the transfer involves a concurrent reorganization at the gaining location, it is not unusual for some technicians to be separated by reduction in force from the gaining State or activity on the effective date of the transfer without the actual physical relocation. The National Guard Bureau strongly encourages States to go beyond the minimum requirements of these regulations and instructions in lessening the impact of the transfer on these technicians.

a. For Technicians. If the losing State of activity in a transfer or function elects not to separate or down grade any technicians as a result of the loss of the function, the transfer of function regulation has no effect on the technicians. Similarly, if the losing State of activity elects to retain in grade one or more of the technicians identified with a transferring function, the transfer of function regulation has no effect on the technicians who can be retained in grade. A technician has no right to transfer with his function, regardless of his personal preference, unless the alternative is separation or downgrading. The significance of the transfer of function would require the losing State or activity to have a reduction in force, the competing technicians must be given an opportunity to transfer with the function instead of being separated or downgraded by reduction in force in the losing State or activity.

b. For the Losing State or Activity. If the losing State or activity would otherwise be obliged to separate or downgrade competing technicians as a result of a transfer of function, the transfer of function regulation makes it possible for the losing State or activity to seal off the affected function and the technicians identified with it and thus minimize any resulting disruption of the remaining work of the losing State or activity. The technicians identified with the function may be required to transfer, be separated or placed in any other position on which he and the losing State or activity can agree. The losing State or activity is not obliged to have a reduction in force in order to accommodate the technicians who refuse to transfer with their function. Under some circumstances, however, it may be permitted to do so, as explained in paragraph 3-5c.

c. For the Gaining State or Activity. If the transfer of a function requires no reduction in force in the gaining State or activity, the transfer of function regulation may result in the transfer of a completely staffed organization carrying on the transferred function without any real disruption of the function or of the gaining State or activity. It may also happen, however, that the gaining State or activity is obliged to carry on the function with fewer technicians than the losing State or activity had identified with the function. If this will result in the transfer of unneeded technicians with the function, the gaining State or activity may be required to have a reduction in force. In a reduction in force in this situation, the technicians coming in with the function have a right not only to compete among themselves for retention in the function, but also to compete with technicians already in the gaining State or activity for other positions in the activity. In other words, the provision of the transfer of function regulation for the transfer of competing technicians before any necessary reduction in force means the gaining State or activity must treat the incoming technicians as its own reduction in force.

(1) A determination of the rights of the incoming technicians does not require either a physical relocation or a paper transfer to the gaining State or activity. Their rights can be

determined from a mingling of the retention registers of the segment being transferred with the competitive area receiving the function. If it then becomes necessary to determine the positions to which they may have a right of assignment, the Official Personnel Folders or summaries of experience and training can be sent to the gaining State or activity for review. If any of the incoming technicians compete unsuccessfully for placement in the gaining State or activity, they still need not be transferred in order to be separated, but may be separated by reduction in force from the losing State or activity acting as agent for the gaining State or activity if the necessary arrangements for lump-sum leave and severance payments can be worked out.

(2) The technicians separated by the losing State or activity in this situation do not have assignment rights in the losing State or activity and they go on the reemployment priority list of the gaining State or activity. Technicians whose positions are transferred solely for liquidation, and who are not identified with operating functions specifically authorized at the time of transfer to continue in operation more than 60 days, are not competing technicians for other positions in the gaining State or activity.

CHAPTER 4 - SCOPE OF COMPETITION

4-1. General. Competition during reduction in force depends on several factors which, when combined, determine which employees compete for retention and under what circumstances, except that veterans' preference points are not applicable to technicians. These factors include, but are not necessarily limited to, competitive area, competitive level, tenure group, technician service date, military grade in the excepted service, and performance appraisal.

4-2. Competitive Areas. Based on a complete review/comparison/merging of manpower voucher ATMD's, etc.,. The Adjutant General, State of Wisconsin, will establish competitive areas in which technicians compete in a RIF. The competitive area will be established to insure that it is large enough to permit adequate competition among the technicians, yet is limited enough to be administratively manageable. When it is determined that a reduction in force is necessary, the activity(ies) or functions to be affected are known, the competitive areas will be established either by organization, manning document number, functional code, geographically, or combinations thereof, and separately by Army and Air National Guard.

4-3. Competitive Levels: The Technician Personnel Officer will establish competitive levels in which technicians compete in a RIF. It is important to remember that competitive levels are established based on positions, not on qualifications of individual technicians. Separate competitive levels will be established for excepted and competitive positions.

4-4. Establishing Competitive Levels: Positions in the same competitive level: Those positions in the same competitive levels consist of all positions in the competitive area in the same grade, occupational code series, and tenure group, which are sufficiently alike in qualification requirements, duties, responsibilities, pay schedules, working conditions, and ARNG or ANG

membership, as to permit the assignment of an incumbent from one position to another without unduly interrupting the work program.

4-5. Sex. A State may not assign positions to competitive levels on the basis of sex of the incumbents unless the jobs involve combat units where a woman could not be assigned militarily.

4-6. Local Commuting Area. A local commuting area is a geographic area that usually constitutes one area for employment. It includes a population center (or two or more neighboring ones) and the surrounding localities in which people live and reasonably can be expected to travel back and forth daily from home to work in their usual employment. There is no rule arbitrarily and universally applied to the maximum limit of the commuting area. If a State conducts a survey of 50 technicians with a central duty station in a metropolitan area and finds that 15 travel less than 10 miles; 5 travel from 11 to 20 miles; 18 travel between 21 and 35 miles, it would be logical to establish the commuting area at 35 miles since the majority travel 35 miles or less.

4-7. Competing Technicians. Competing technicians means technicians in tenure group I, II, or III who must be listed on the retention register in the order of their retention standing. Competing technicians compete for retention in their own competitive levels. Technicians who must be listed apart from the retention register are not competing technicians; they do not compete for retention, they must be released from the competitive level by appropriate means other than reduction in force and they must be released before any competing technician in the same competitive level is affected by reduction in force. Technicians with unsatisfactory performance ratings are not competing technicians; they are not released by reduction in force. (See paragraph 2-4d(3), TPM 902 and TPM 753 for actions for these technicians. Technicians with temporary promotions are not competing technicians in the competitive levels to which promoted; they are released by termination of their temporary promotions and compete for retention only in the competitive levels of their regular jobs. Technicians with temporary appointments with specific time limits are not competing technicians; they are released by termination of appointment.

4-8. Retention Register.

a. When established. A State must establish a retention register before it releases a competing technician from his competitive level. The register documents the action. One is required in every reduction in force, even when the released technician occupies the only

position in the competitive level and competes with no one else. A retention register must be prepared in a form the State can file for the prescribed period (See Appendix A) as a clear record of the reduction in force. Card registers do not serve this purpose; therefore, only a record that includes a list of all technicians in the competitive level on one document meets this requirement. (NGB Form 351-1.) (Figure A-2).

b. Order on Register. A register containing more than one name lists the technicians by tenure group and then their retention standing in relation to each other. Their relative standing is determined by the results of the technician's last three performance appraisals. Ordinarily, a register starts at the top with the technician with the highest retention standing.

c. Technicians on Register. All competing technicians temporarily promoted from positions in the competitive level to positions in other competitive levels are listed on the register for the level from which temporarily promoted. Technicians who are not competing but who are officially assigned to positions in a competitive level for which a retention register is prepared, are listed apart from the retention register but on the same document because the agency must remove all of them from positions in the level before releasing any competing technician from the level by reduction in force action. Technicians serving under definitely limited temporary promotions do not compete for retention in the competitive level to which temporarily promoted and are listed apart from the register along with others who are not competing. When irregularities are discovered, they must be corrected in order to make certain that each technician will be listed on the proper retention register. Although all technical requirements described here may have complied with, the State Adjutant General may, upon adjudication of an appeal or through internal evaluation processes, require corrective action when he finds that equities of technicians have been violated. The State must list on the retention register every competing technician officially assigned to or temporarily promoted from a position in the competitive level except technicians on military duty with restoration rights. A technician's official position is the position in which the State carries him on the rolls and pays him. All competing technicians officially assigned to positions in the competitive level are listed on the register for that level whether they are on a paid duty status, on detail to positions in other levels, or paid or unpaid leave.

d. Separate Registers. A State prepares a separate register for each different competitive level. In the first round of competition, technicians in a competitive level compete only among themselves.

CHAPTER 5 - RETENTION STANDING

5-1. General. The decision on which technician remains and which is released in reduction in force depends on several factors. The competitive area and the competitive level are explained in Chapter 4. This chapter explains the other factors, which determine a technician's retention standing in his competitive level. Together, these factors determine to what degree a technician

may compete with other technicians for retention and, if so, with whom and with what success. In other words, between two technicians, only one of whom can be retained, these factors show who must be released and who is retained. A rating by the military supervisor, discussed later in this regulation, is required for excepted technicians.

5-2. Tenure Groups.

a. Competing Technicians. Those technicians serving with satisfactory or better performance ratings under appointments not limited to 1 year or less are classed in groups on the basis of tenure of employment as shown in item 6 of the SF 50. The descending order of retention standing by groups is: group I, group II, and group III, or Arabic numerals 1, 2, 3.

b. Non-competing Technicians. Technicians with unsatisfactory performance ratings and technicians with appointments limited to 1 year or less are excluded from this step in the reduction in force system. They are not assigned to groups, and they do not compete for retention. They must be moved out of the competitive level by appropriate means before any technician in group I, II, or III is released from the competitive level by reduction in force. Technicians serving in positions in a competitive level under definitely limited temporary promotions are not competing technicians in that level. Their temporary promotions must be terminated before any competing technician is released from the competitive level by reduction in force.

c. Groups.

(1) Group I includes technicians under career/permanent appointments who are not serving probation or trial periods. A career/permanent technician in an obligated position is in group I only when he competes for other positions at or below the grade of his last non-obligated position, if any.

(2) Group II includes technicians serving probation or trial periods, career-conditional technicians, and career/permanent technicians in obligated positions.

(3) Group III includes indefinite technicians, technicians under temporary appointments pending establishment of registers, technicians serving under term appointment, technicians in status quo, and technicians under any other non-status non-temporary appointments.

d. Tenure.

(1) Advancement to group I. Normally a technician's tenure group depends upon his present tenure. It is necessary; however, to consider a technician as if he were in a different tenure group when it is known his tenure will change by the effective date of reduction in force. Specifically, a career/career-conditional/excepted conditional technician serving probation or a trial period must be treated as a group 1 technician when he will complete probation or a trial

period on or before the effective date of reduction in force. Similarly, a career-conditional technician not serving probation who will complete the service requirement for career tenure by the effective date of reduction in force must be treated as a group I technician.

(2) Advancement from group III. When a technician is currently eligible to acquire a status that would permit advancement to the higher retention group, the State does not wait for the acquisition of the new status. As soon as the State acts to have him acquire status, as by recommendation to the Commission, it treats him as if he already had status. This applies whether or not he acquires status before the effective date of reduction in force.

5-3. Factors Affecting Retention.

a. Probation and Trial Period. A significant factor in assignment to group I is the probation/trial period. Regardless of a technician's status or length of service, he goes not in group I but in group II while he serves the official probation/trial period.

b. Obligated Position. A second significant factor is the occupancy of an obligated position; that is, a position to which another technician has a statutory restoration right after military duty or reemployment rights under part 352B of the U.S. Civil Service Commission regulations. A career/permanent technician in an obligated position remains in group II, rather than group I, for retention in his competitive level. A career or permanent technician promoted to an obligated position remains in group I at and below the grade from which promoted when there is a RIF in his competitive level. He is in group II for grades above the grade he last held permanently if this competitive level is involved in a RIF. A career or permanent technician reassigned or demoted to an obligated position remains in group I at the grade of the obligated position.

c. Special Placement in Group I. Competitive technicians in the following special classes are in group I as soon as they complete any required probation:

(1) Technicians in whose cases there is prima facie evidence of eligibility for current acquisition of status and career tenure and whose cases are pending final resolution by the Commission.

(2) Technicians in positions brought into the competitive service who acquire competitive status and satisfy the service requirement for career tenure.

d. Special placement in Group II. A technician is in group II when his case shows prima facie evidence of eligibility for acquisition of status and career-conditional tenure or acquisition of permanent status and his case is pending final resolution by the Commission.

e. Relative Retention Standing. The relative retention standing of competing technicians in a competitive level is determined by the descending order of retention standing from the highest group (I) down to the lowest group (III) and within each group down from the highest performance appraisal rating total to the lower. When the performance rating totals of two or

more technicians are equal, the service computation date will be used to determine their relative standing within the equal totals. The retention rating is determined by the combined cumulative totals of the annual Technician Performance Rating NGB Form 2, prepared in accordance with TPP 902 and the Appraisal By Immediate Military Supervisor – Reduction In Force, NGB Form 351-2, prepared at the same time and in accordance with the instructions on the NGB Form 351-2 (Figure A-2). Military appraisals will be completed at the time of a RIF only for those technicians who do not have a current military appraisal in their official personnel folders. The weighted value of the annual Technician Performance Rating will be as follows: satisfactory, 25 points; excellent, 50 points; outstanding, 75 points.

5.4 Performance Rating.

a. Value of Performance Ratings. In addition to the numerical value of the annual performance rating, technicians with ratings above satisfactory are credited with supplemental years of service as outlined herein. Four years are subtracted from the service date for a technician with a current outstanding rating, and 2 years for technicians with a current excellent rating.

b. Ratings Frozen on Date of Notice.

(1) A technician's current official performance rating on the date of issuance of specific reduction in force notice is the rating used with the current military performance appraisal to determine the numerical rating that goes on the NGB Form 351-1. A technician's rating is not changed after the date of issuance of specific notice either by the assignment of an outstanding/excellent rating or by the expiration of an outstanding/excellent rating. The same procedure will be applied to the value of the service date additive. Further, performance ratings that were due on or before the date of issuance of notice but were not officially approved, do not affect the technician's retention standing.

(2) If a performance rating is appealed in accordance with TPP 902 and the decision on the appeal raises the rating, the new rating governs if the decision is issued prior to the effective date of the reduction in force. A decision issued after the effective date does not require cancellation of reduction in force actions that were proper when they were effected.

(3) Technicians who have not been rated at the time of a RIF will be considered to have a satisfactory performance rating. However, every effort will be made to rate all technicians in order to avoid the possibility that the technician might be denied a rating of outstanding.

5-5. Retention Standing – Effective Date.

a. Correction of Error. When an error is discovered in a technician's retention standing prior to the effective date, the State is required to correct it and make all reduction in force actions consistent with the technician's true retention standing.

b. Anticipation of Changes. The factors, other than performance ratings, that determine a technician's retention standing may change after the date of issuance of notice. Any changes that may occur in these factors during the period of advance notice must be anticipated in

determining the technician's retention standing. Normally, the determining of retention standing on the basis of these factors is as of the date of release from the competitive level.

5-6. Responsibilities of Military Supervisors. Each military supervisor is responsible for rendering a fair and accurate appraisal (NGB Form 351-2) on their military subordinates when notified by the Technician Personnel Officer that such an appraisal is required. The instructions for completing the NGB Form 351-2 are contained on the reverse side of the form. Those military supervisors who have little difficulty in arriving at a fair numerical rating within the guidelines established. Upon completion of the appraisal, the military supervisor will discuss the results and rationale with the technician concerned. Every possible effort will be made to resolve any differences within military supervisory channels. If the issues are not resolved prior to reaching the supervisor who reports directly to The Adjutant General, that supervisor will review the rating and will decide the issue. The Adjutant General will decide issues on those ratings made by him, plus those who are rated by those immediately subordinate to him. In all cases, the technician will be rated by the lowest level immediate military supervisor.

CHAPTER 6 – RELEASE FROM COMPETITIVE LEVEL

6-1. General.

a. Restrictions on Order of Release. A State may not release a competitive technician from a competitive level while retaining in that level any technician whom is not a competing technician. Similarly, it may not release a competing technician while retaining in the level one with lower retention standing. There are four exceptions to this general rule: two mandatory, two permissive.

b. Normal Order of Release. Ordinarily, after all technicians who are not competing are eliminated, the State selects competing technicians for release from the level in the inverse order of their retention standing beginning with the lowest. It is, therefore, completely improper to retain a lower-standing technician while releasing a higher standing technician except when the State makes an exception to the order of selection. However, for this chapter, the release of one technician by separation at the end of one day and the release of another by assignment to another position at the beginning of the next day are considered simultaneous.

6-2. Release from Competitive Level

a. Regular Release. When reduction in force requires release of one or more competing technicians from a competitive level, all technicians in group III are selected for release before any in group I or II; all in group II before any in group I. In each group, technicians are selected in the order of their point total beginning with the lowest total.

b. Ties. A tie occurs when two or more technicians in the same group have the same point total and service computation date. When one or more, but not all tied technicians must be

released from the competitive level, the State will break the tie by determining which technician has the most service in the National Guard Technician Program.

6-3. Exceptions to Retention Order.

a. Mandatory Exceptions. A State must give special retention priority in his competitive level to a technician restored after military duty. The priority, in effect, floats the technician to the top of his group. The retention priorities are:

(1) Technicians in group I or II who are entitled to be retained for six months or one year after restoration under Chapter 353 are retained over all other technicians in their groups until the end of the one year period. The reasons for this deviation from the regular order of selection are recorded on the retention register and are available for inspection by all technicians.

(2) The State must also go out of order when it gives a technician a new 60-day notice because it intends to take action more severe than specified in the original notice.

a. Permissive Exception.

(1) The State may retain a technician for release from his competitive level when none of the higher-standing technicians who are reached can take over his duties within 90 days and without undue interruption to the activity. In this case the State may make an exception to the normal order of reduction in force described in Para. 6-2. When the State uses this authority, it must report in writing the exception and the reasons for it to each higher-standing technician reached for release. Any higher standing technician who believes he can take over the duties within 90 days and without undue interruption to the activity may appeal to The State Adjutant General for review of the State's reasons for the exception. This exception is justified only on a clearly established and compelling factual showing that the circumstances warrant its use and will be exercised only in extremely rare cases. Since incumbents of all jobs in a competitive level ordinarily are interchangeable, it is difficult to show that one readily cannot replace another without undue interruption. However, a State might show undue interruption. For example, when at the time of reduction in force some special project or assignment has reached a stage so critical that replacement of the technician would delay its completion more than 3 months.

(2) Management Obligation. This exception is designed also for use in very unusual situations where temporary retention for less than 90 days is necessary in the interest of compelling administrative factors; for example, when temporary retention out of normal order of reduction in force is the only way the State can satisfy a management's obligation to the retained technician. This temporary exception is only a temporary postponement of the normally required action, and that action must be taken when the temporary exception ends. Examples of management obligations are:

- Delaying the effective date of the technician's release long enough to allow him a full 60-day notice, as when he is absent from his regular duty station on official business, annual, or sick leave, and cannot receive his notice the same day as higher ranking technicians:

- In an area outside the continental United States, delaying the effective date of the technician's release because his return travel cannot be provided as soon as for a higher ranking technician or because he is incapacitated and cannot travel.

(3) Rights Not Affected. When a State has agreed to extend the notice period for a uniform additional period for all technicians who are to be separated and who request the extension, the temporary retention in a non-duty status of a lower standing technician who requests the extension does not adversely affect the rights of a higher standing technician who was released from the competitive level by demotion at the end of the uniform notice period. Similarly, when a technician is on approved sick leave on the scheduled effective date of his separation by reduction in force, it does not adversely affect the rights of higher standing technicians who have been released to keep him on sick leave until it is exhausted or until he has recovered sufficiently to be no longer entitled to sick leave.

(4) Notice of Exception. When a State temporarily retains a technician under this paragraph, it has an obligation to the higher ranking technicians released from the competitive level. Each is entitled to an individual notice when the lower standing technician is retained beyond the 60 day notice period. The notice must tell him why the exception is made and when it will end; that is, when the technician retained out of order will be released from the competitive level.

(5) Retention Standing. The retention standing of a technician retained under this paragraph is fixed as of the date he would have been released from his competitive level had a temporary exception not been granted. His retention standing remains so fixed until the completion of the reduction in force action that resulted in his temporary retention.

6-4. Provisions on Liquidation. When an entire competitive area or activity is being liquidated and no job in the area will last longer than 3 months, adherence to the normal order of reduction in force benefits technicians relatively little and might cause serious administrative problems. Hence, the regulations relax the usual requirements when this condition exists. However, the essential requirements of release must still be applied; that is a group I technician must not be released until all group II technicians are released. Within the group, technicians may be released as their jobs are abolished, without regard to retention standing. States have three options that they may consider when confronted with a liquidation; careful review of the States current manning and future reorganizations/conversions would play an important role in coming to a decision.

a. This option would be to RIF all technicians in the competitive area or activity and make them job offers to funded vacancies for which they are qualified.

b. Fill only funded vacant positions, which would allow the technician to be reassigned to vacant positions at the same or lower grade. The effects of this option could result in technicians being placed in positions for which they are not qualified but not allowed to compete.

c. Announce all funded vacant positions outside the affected area under the State merit promotion procedures (limiting competition to all on-board technicians) and afford the opportunity for all technicians in the State to compete. The effects of this option may provide for the filling of the maximum number of vacancies in the State with the least affect on the readiness of an entire competitive area or activity being liquidated, States will select the option that will benefit the majority of their technicians and provide the least disruption to the work force.

CHAPTER 7 – ASSIGNMENT RIGHTS

7-1. General.

a. State Responsibility. When a State selects a competing technician for release from his competitive level, it must do one of two things: assign him with his consent to a position he qualifies for and which will last at least three months, or separate him. His entitlement to another position depends on:

(1) his tenure group

(2) his qualifications

(3) the existence of vacant positions that have been identified and funded for use in the RIF.

When offering assignments to technicians, the State must comply with the provisions of this chapter. A technician may refuse any offer the State may make. When he refuses an offer that is in accord with this chapter, the State may separate him by reduction in force.

b. Technician's Right to Assignment. The right of a released group I or II technician to assignment to a position in another competitive level depends on:

(1) the existence of vacant or displaced positions identified and funded for use in the RIF and

(2) his qualifications for the position.

The State must then offer him that position or a position with the same representative rate. When the State can satisfy the technician's right to assignment by offering him any of two or more positions with the same representative rate, it may offer whichever one it chooses. The technician has no right to choose his assignment.

7-2. Representative Rate. How Established. Representative rate is the fourth step of the grade for a position under the General Schedule, the second step for a position under the Coordinated Federal Wage System or other wage-determining procedure, and for all other positions, the rate designated by the agency as representative of the position. Representative rate is a convenient, equitable, and uniform way to compare positions under different pay schedules or in the same un-graded schedule. It need not be used when direct comparison of grades or levels is possible, as in comparing one General Schedule position with another. Pay schedule means any one set of pay rates identified by statute or by an agency as applying to a group of occupations. For example, the General Schedule is one pay schedule, regardless of special rates or premium rates. For General Schedule positions and other positions with a per annum salary, the hourly equivalent of the representative rate is obtained by dividing the annual rate by 2087 and rounding to the next higher cent.

7-3. Assignment of Released Technicians.

a. General. When a State releases a group I or II technician from his competitive level, it will offer him a position in another competitive level if a position is available, rather than separate him.

b. Available Position. An available position is a position that has all of these characteristics: It is in the same State, it will last at least 3 months, it is a position that the technician being released is qualified for, and it has a representative rate no higher than the representative rate of the from which the group I or II technician is being released. For purposes of this paragraph, the representative rates to be compared are those in effect on the official date of issuance of specific notice, except when it has been announced before the date of notice that new pay rates have been approved and will be put into effect by the effective date of the reduction in force. In

this case, the new pay scales must be used. The State must establish a single, official date of issuance of all specific notices in each reduction in force in each separate competitive area. The date must be the same for all competing technicians even when circumstances require the State to issue some individual notices after the uniform official date.

(See Paragraph 8)

c. Level of Offer. When a State cannot retain a group I or II technician in his competitive level but has one or more available vacant positions, the technician is entitled to the available position with the highest representative rate. In each of the following illustrations of this principle, each position is available because it has all of the characteristics listed in paragraph b.

- (1) When there is only one position, the State has no choice but to offer it to him.

(2) When there are two or more positions, one with a representative rate higher than the others, but no higher than that of his current position, the State has no choice but to offer him the position with the higher representative rate.

(3) When there are two or more positions, all with the same representative rate, the State may offer one of them, but which one is left is entirely to State discretion. Among positions with the same representative rate, the technician has no right to a choice; any one of them satisfies his right to assignment.

(4) When there are two or more positions with the highest available representative rate, and one or more positions with lower representative rates, the state cannot meet its obligation by offering a position with a lower rate, but it may offer any of the positions with the highest available rate. Here again, the technician has no choice among positions with the same representative rate.

d. Limits on Right of Assignment. A technician has no right to assignment to a position with a representative rate higher than his own. A technician is entitled to only one proper offer when:

(1) He accepts the offer.

(2) He rejects the offer. (The rejection does not permit the State to separate him by reduction in force before the date specified in the notice.)

(3) He fails to reply to the offer within 10 working days.

e. Competition Across Competitive Lines for Occupied Positions.

Under this method of competition, technicians released from their competitive levels will then compete with technicians in other competitive levels at the same or lower grades for an occupied position and could conceivably cause a chain reaction within the competitive area. An example of allowing technicians to compete for occupied positions could occur in the following situation: A retention register has been established for the WS-8852-09 Aircraft Mechanic Foreman and under the old ARNG Manning Documents there were 5 authorized. Under the new ARNG Manning Document, only 4 are authorized. The unsuccessful technician would then be placed on the retention register for the WG-8852-11, Aircraft Mechanic Crew Chief, and would be in competition for placement in that position. The same would be true for competition in the WG-8852-11, Aircraft Mechanic position. In using this method, the following principles must be kept in mind:

(1) Technician qualifications.

- (2) Military qualifications for excepted positions.
- (3) Technician and/or military performance.
- (4) Compatible military positions for excepted technicians.

In using these procedures, States must assure that information furnished technicians is complete and concise, i.e., retention registers that are to be established and the rights technicians have to compete across competitive lines. The procedures of allowing for additional competition at the same or lower grades in other competitive levels does not guarantee retention, but it does provide for another method of competition for those technicians who have been released from their competitive levels and who might otherwise be separated.

f. Order of Placement.

(1) Essentially, there are four rounds, or attempts, of placement efforts. However, prior to placement efforts, any of the vacant positions must be identified and withheld from all other placement actions. At this point, utilizing the retention register, place (or match) the technician with the highest retention total in a position for which he is qualified and with the same classification or representative rate as the grade he holds; next, place each succeeding technician as above until placements can no longer be made. If there are no vacant positions, the same action will be taken by competition across competitive lines against occupied positions of the same grade or representative rate.

(2) The second round follows the same mechanics and order as above, except that the technicians to compete or to be placed are those who do not meet the qualifications for the position, but those qualifications can be waived (see Para 7-5) and the technician does not need formal training.

(3) The third round again follows the same order as above but is concerned with the competition and placing of those technicians whose qualifications can be waived (see Para 7-5) but who need formal training.

(4) The fourth round, prior to separation, follows the same order of placement or competition of technicians in jobs of a lower grade for which he qualifies or for which his qualifications can be waived, but he does not require formal training.

g. Separation. Those technicians who cannot be placed will be separated at the expiration of their 60 day notice.

7-4. Qualifications for Assignment.

a. Requirements. Except as in Para 7-5, to be entitled to assignment to a position in another competitive level a technician must be qualified for that position. He must meet the National Guard or Commission's standards and requirements, including any minimum education

requirement, must be qualified physically for the position's duties, and must have the capacity, adaptability, and any special skills required for satisfactory performance of the duties and responsibilities of the position without undue interruption to the activity. Significant additional factors may be considered in determining a technician's qualifications for assignment to a position formally designated as a developmental position. In order for these additional factors to be considered, the developmental position:

- (1) Must have been designed to meet a real management need for development of skilled manpower.
- (2) Must have been formally designated with its provisions announced to technicians and supervisors.
- (3) Must be developmental by design, offering planned growth in duties and responsibilities and providing advancement in recognized lines of career progressions.
- (4) Must be fully implemented, with the participants having been chosen through standard selection procedures.

To be considered qualified for reassignment into a developmental position, a technician must meet all of the conditions required for selection and entry into the developmental position.

b. Qualification Determination. When a technician is released from his competitive level the State must determine whether he is qualified in the sense of this section. In this determination, the State must carefully review his education, training, and experience.

When the State finds him qualified in these respects, that is, in terms of the National Guard and/or Commission's standards and requirements, it must review even more carefully to determine if he has any special skills and knowledge the position requires, as well as any less tangible attributes, such as adaptability and ability to meet and deal with others when these are required by the job. To be considered qualified, and thus entitled to be placed, the technician should not need a significant amount of training in the actual duties of the position, although some instruction may be necessary to familiarize him with the organizational structure and with the office policies and routines he will have to apply. In other words, he ought to be as well qualified for the position as if he had already performed successfully in a similar position, because he must be able to keep the work moving without serious interruption. It is not fair, either to the State or to the technician, to assign him to a position when there is good reason to doubt his qualifications to perform all the duties and carry out all the responsibilities. However, the determination of the qualifications of a technician must not be based on the sex of the technician unless the position in question is one for which the restriction has been justified by proper authority, such as positions restricted to military combatants.

c. Physical Qualifications. Whether the technician is physically qualified for a position is also for the State to determine. Ordinarily, the determination may be made without medical examination. A medical examination, however, must be given when the technician is considered for a position with arduous duties or with duties of such a nature that a physical deficiency might endanger human life or seriously damage property. While States need not obtain prior approval of a decision that a technician is not qualified physically, they are urged to use the medical advisory service of the appropriate military department or U.S.C.S.C., for by doing so they may forestall some appeals or grievances.

d. Compensable Injury. A technician who is carried on leave of absence because of a compensable injury and is released from his competitive level, may not be denied an assignment right solely because the technician is not physically qualified for the duties of the position when the physical disqualification resulted from the compensable injury. Such a technician must be afforded appropriate assignment rights subject to his recovery as provided by 5 U.S.C. 8151 and FPM Chapter 353.

e. Assignment to Sensitive Position. When a technician's right to assignment can be satisfied only by assignment to a sensitive position, his assignment may not be delayed or denied because he has no security clearance. As soon as the State knows a technician who has no clearance is entitled to assignment to a sensitive position, it should arrange for any necessary investigation and determination on issuance of the clearance as soon as possible. However, records on hand possibly may serve as a basis for issuance of clearance pending completion of investigation. Whether a final clearance is issued or not, the technician whose rights are not satisfied in any other way must be assigned to the sensitive position on the date required by the reduction in force. When the State cannot give the technician access to classified material, it may treat him in one of the following ways:

(1) Assign him to perform any non-sensitive duties of the position.

(2) Detail him to a non-sensitive position set of duties in accordance with the instructions on details in Chapter 300.

(3) Grant him with leave upon his request.

(4) Suspend him under Executive Order 10450, when appropriate.

(5) Terminate employment under the provision TPM 753.

7-5. Exception of Qualifications.

a. Waiver Of Qualifications

(1) A State may assign a technician to a vacancy by waiving the qualifications requirements when it determines the technician has the capacity, adaptability, and special skills

required by the position. In either event, when the technician is entitled to assignment in all respects other than qualifications and the State is satisfied he is able to do the work without undue interruption to the work program, the State shall waive the National Guard or Commission's qualification standards and requirements for the position. A State, however, may not waive a minimum education or military membership requirement prescribed by the National Guard Bureau or Commission.

(2) It is important that a State exercising this authority to waive qualifications standards determines what specific training or patterns of assignments, if any, would be needed to compensate for the technician's qualifications deficiencies and to bring him up to a fully satisfactory level of performance. To the maximum extent feasible, the State should see that upon reassignment the technician is provided the training or assignments needed.

b. Discretionary Authority. The exception authority of this section is made only at the discretion of the State concerned.

CHAPTER 8 – NOTICE TO TECHNICIAN

a. Requirement. The State Adjutant General must give written notice to a competing technician reached for release from his competitive level under this chapter. A reduction in force notice is an official, personal communication addressed to the technician and issued by the Human Resource Office. It is not a general information leaflet or a notice on the bulletin board. Officially recognized labor organizations will be kept informed on the progress of the RIF by means of frequent meetings. The technician must receive the notice at least 60 full days before the date of his release. The technician should not ordinarily receive the notice more than 90 days before the date of release unless the State determines that a longer notice will protect the technician's rights or avoid administrative hardship. In the event of a major reduction, the notice should be made at least 6 months in advance. Reduction in force and

other termination notices will not be issued that provide an effective date for separation during the period December 15 through January 3, nor will such notices be issued for delivery to technicians during this period. If, in specific situations, available resources absolutely preclude the delays caused by this policy, exceptions may be authorized by specific approval of the Assistant Secretaries (Manpower and Reserve Affairs) of the Military Departments, as appropriate, through NGB-TN. It is expected that exceptions will be minimal and approved only where the total adverse effect on technicians will be significantly increased if the exceptions are not granted (DOD 1400.20-1-M). In counting the 60 day minimum or 180 day notice period prescribed by this chapter, a State may not count a Saturday, Sunday, or legal holiday as the last day of the period, but must postpone the effective date of the action until the next business day.

b. Extensions. The State will extend the length of the notice period under the following situation: When a mandatory exception has been made, a technician is retained in his competitive level although technicians with higher retention standing in the same group are released. When the circumstances calling for that exception expire for example, when the 1 year retention period following restoration after military duty runs out, the justification for this situation disappears. Hence it may be appropriate under some circumstances to give the

retained technician a longer notice so he will know his retention will not continue after disappearance of the condition that justified it.

c. Major RIF. RIF notices may be issued 1 year in advance at activities being closed. Technicians in receipt of these notices will be eligible to apply for involuntary retirement, if otherwise eligible. They will also, if eligible, be able to apply for CSC displaced employee benefits as soon as the installation makes a determination that they cannot be placed in the competitive area. This determination will follow as a matter of course when all functions in the competitive area are to be eliminated or transferred beyond the commuting area.

d. Content of Notice. Before a State releases a technician from his competitive level under this chapter, it must give him a notice that states specifically what actions the State intends to take, the effective date of that action, salary retention information, tenure group, rating total and service computation date. The notice must describe the technician's competitive area and competitive level, tell him where he may inspect regulations and records pertinent to his case, and tell him why any lower-standing technician is retained in his competitive level beyond the 60 day notice period and his right to appeal to The Adjutant General, the time limit on the appeal, and where to send it. The information the State must give the technician may be accompanied by an attachment.

e. General Notice. When a State cannot determine specifically all individual actions at the start of the notice period, it may issue general notices. A general notice lacks some of the specific information the State must give the technician so it must be supplemented by a specific notice that supplies the required information. The notice periods begin to run the day after the technician receives the general notice.

f. Specific Notice. A specific notice contains all the information the State must give the technician. A specific notice may be a complete single notice, a notice with an attachment, or a general notice supplemented by a specific notice. Whatever the form of the specific notice, the State may not take the action until the technician has had at least 60 days specific notice of what that action is to be.

g. Expiration of Notice. A general notice expires on the date specified in the notice unless, on or before the date, the technician receives a renewal of the general notice or a specific notice. A specific notice expires unless it is followed by (1) the action it specifies, (2) action less severe than it specifies, or (3) action less severe than specified in an amendment made to the notice before the action is taken.

h. New Notice Required. The State can always take action less severe than it specifies in the notice, but must give the technician a new 60 day notice when it intends to take action more severe than originally specified. The new 60 day notice may be provided by an amendment to the original notice or by an entirely new notice.

i. Status During Notice Period. When possible, the State should keep the technician in a duty and pay status throughout the notice period. In any event he should be kept in duty status

as long as possible. With his consent the State may put him on annual leave, leave without pay, approved sick, or military leave.

CHAPTER 9 – APPEALS AND CORRECTIVE ACTION

9-1. Technician Appeal. A competing technician may appeal to The State Adjutant General when he has received a specific notice of a RIF, and he believes that the State incorrectly applied the provisions of the RIF regulations. He may appeal any time after he receives the specific notice, but not more than 15 calendar days after the effective day of the action. The appeal will be in letter form and will contain specific information. As a minimum the appeal will identify the technician by name, SSN, grade position title, job number and place of employment, and will state fully the reason the technician believes the action affecting him is inappropriate.

9-2. Basis for Appeal. A technician may appeal a RIF action based on the following reasons only:

- a. Inadequate reasons or the failure to give reasons for exceptions outlined in the RIF regulations.
- b. Insufficient notice.
- c. Excessive narrowness of competitive area.

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- d. Excessive restriction of competitive level.
- e. Improper tenure groupings.
- f. Improper determination of physical unfitness for position change.
- g. Service computation errors.
- h. Improper placement on leave without pay during notice period.
- i. Failure to permit the technician to review pertinent regulations and the retention register.
- j. Failure to comply with the RIF procedures.

9-3. Extending the Time Limit. The State Adjutant General may extend the appeal time when the appellant indicates that he was not notified of the time limit and otherwise was not aware of it or that circumstances beyond his control prevented him from appealing in the time limit.

9-4. Decision on the Appeal. The State Adjutant General issues a written decision and where applicable, directs the Human Resource Officer to take any necessary corrective action. A copy

of the decision is forwarded to the appellant with a statement of the corrective action to be taken. The decision of The Adjutant General is final, and there is no further right of appeal.

9-5. Corrective Action. The decision of The State Adjutant General may require the Human Resource Officer to take corrective action as follows:

- a. Correct the retention register.
- b. Correct the technician's specific notice.
- c. Restore the technician to his former grade or pay level when the technician was reduced improperly in grade of pay.
- d. Restore to the rolls without loss of tenure or status when the technician was generated improperly. In this case the technician must be:
 - (1) Restored to the position from which separated or one of like seniority, status and pay.
 - (2) Restored to the position he should have been assigned to in lieu of separation or one of like seniority, status and pay.

9-6. Errors not Prejudicial to the Technician. If a technician appeal uncovers error not prejudicial to the technician, in that the RIF action would have occurred in the manner it did regardless of the error, The State Adjutant General may require action to correct the error without requiring restoration or recall of the technician.

9-7. Reimbursement of Back Pay. Pay, allowances or differentials lost to the technician as a result of improper RIF actions will be reimbursed upon correction of the action.

CHAPTER 10 – ESTABLISHMENT AND MAINTENANCE OF REEMPLOYMENT PRIORITY LISTS

10-1. Reemployment Priority Lists Established by the State.

- a. Each State will establish and maintain a reemployment priority list for Tenure Group I and II technicians separated in a RIF.
- b. Upon receipt of a specific notice of separation, technicians will be automatically placed on the reemployment priority list.
- c. Technicians who resign after receipt of a specific notice of separation will be on the list provided the technician has not declined an offer that preserves a non-temporary full time position in his present grade, step and salary, or his salary in a different pay plan.

d. Technicians will be deleted from the list upon:

(1) Technician written request.

(2) Technician's acceptance of a non-temporary position in the Federal Government, regardless of grade or position.

(3) Technician's declination of a non-temporary full time position in the Federal Government, with a representative rate no lower than that of the position from which separated.

10-2. Action Taken. Filling Positions. Upon receipt of a recruit action (SF 52), the HRO should review the Reemployment Priority List and determine if any listed technician qualifies for the position. If so, States should send a written notice to a qualified former technician when he is being considered for a vacancy. If the technician is not interested or there are no personnel listed that qualify for the position, note the SF 52 in Part II, item (Remarks), to reflect the as of date of the review of the Reemployment Priority List and initials of the person making the review. The National Guard Bureau urges all States to make the fullest possible use of all lists and to give the fullest possible consideration to all separated group I and II technicians in their States prior to consideration of other applicants.

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10-3. Technician Eligibility.

a. General. Unless a group I or II technician has declined assignment to a full time, non-temporary position at his same grade or representative rate of pay, he is entered on the list. Provided the technician has received a specific reduction in force notice, resignation prior to separation has no effect on his eligibility. His eligibility is not limited to the last grade he held. His eligibility also extends to all positions at lower grades for which he qualified.

b. Transfer of Function. A technician who declines to accompany his activity in a transfer of function is not entitled to entry on the Reemployment Priority List.

10-4. Duration of Eligibility. General. The name of a group I and II technician remains on the list for 2 years from the date of separation.

10-5. Placement Forms. Technician Placement Inquiry. In order to assist the State in the RIF placement program, each technician should prepare and submit a NGB Form 351-3 (Figure A-1), Technician Placement Inquiry. This is a self-explanatory form that will be used in conjunction with the Reemployment Priority Lists.

**CHAPTER 11 – ESTABLISHMENT OF REEMPLOYMENT PRIORITY LISTS
DURING A MAJOR RIF**

11-1. TPMIS Reemployment Priority List. In the event of a major RIF, the National Guard Bureau will establish and maintain a nation-wide Reemployment Priority List for all groups I and II technicians separated by reduction in force action. Those separated technicians will be automatically placed on the Reemployment Priority List upon receipt of the TPMIS transaction reflecting their separation.

APPENDIX A

RETENTION RECORDS

A-1. RECORDS. State Responsibility. A State must maintain at all times the records necessary to determine the retention standing of its competing technicians. RIF records and files must be preserved intact for at least 2 years from the date of issuance of specific notices to the technicians. They will then be destroyed, or if an appeal or court case is pending, destroyed after such case is resolved. Retention registers and related records must be kept open to technicians who have received reduction in force notices. The records should be open to the technicians to an extent sufficient to settle, as far as possible, all of their questions about reduction in force.

A-2. CREDITABLE SERVICE. General. A record of all creditable Government service (civil, military, and merchant marine service) is needed to use as required when there is a tie in the retention standings. As a rule, all service creditable toward civil service retirement is creditable for us in reduction in force. (See FPM Supplement 296-31, Appendix B, subchapter 210, Creditability of Federal Civilian and Military Service for Leave Accrual Rate and Reduction in Force.)

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Appendix A

NGB Form 351-3, Technician Placement Inquiry

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Figure A-1

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Appendix A

NGB Form 351-2, Appraisal By Military Supervisor Reduction In Force

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Figure A-2

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Appendix A

INSTRUCTIONS TO THE MILITARY SUPERVISOR

In Section I complete the blocks entitled, "Military Grade," etc. etc. etc.

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Figure A-3

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Appendix A

NGB Form 351-1, Retention Register

APPENDIX B

CONTENT OF REDUCTION IN FORCE NOTICES

B-1. CONTENT OF RIF NOTICE

a. Required Information. The information that must be given in a reduction in force notice may be given entirely in one notice or in a notice with attachment. However given, the notice must contain those items listed below that are pertinent to the case.

(1) The action to be taken and the effective date. The action is released from the competitive level by one of the following: separation, demotion, reassignment involving displacement; or, at the agency's discretion, reassignment to a vacant position.

(2) Salary retention information. The notice should tell the technician whether he is entitled to salary retention (FPM 531, subchapter 5) and, if so, his rate of pay and how long it will continue. When the State determines that the technician is not entitled to salary retention, it must comply with the provisions of FPM 531 that require the State to give him a statement of the reasons why it considers him not entitled and how he can appeal that determination.

(3) Competitive area. As determined in accordance with paragraph 4-2 of this regulation.

(4) Competitive level. When the level consists only of positions covered by one or two positions titles, the titles and grade should be given. Otherwise, the State must establish a systematic numbering system that, beginning with 001, identifies positively the retention register for the competitive level.

(5) Service computation date. This is written the way the State normally writes dates; for example, 2 August 1945.

(6) Where the technician may inspect retention registers and other records pertinent to his case. This should identify, as far as possible, the exact location of the records and when and how the technician may inspect them. When records are maintained at a distance from the work location so that travel is involved the State should have copies of the retention register and appropriate summaries of other pertinent records at the work location. It is important that all of the records relating to a technician's case be opened fully to him. Although the State may restrict the technician to records that have an actual or potential relationship to the action in his own case and may reject unreasonable requests to see totally unrelated records, States should make every effort to satisfy the technician's desire for information about something as important as the loss of his job.

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(7) Appeal rights. The notice must tell the employee how and where to appeal to the Adjutant General and must give the time limits for appeal.

b. Use of General and Specific Notices.

(1) When a State cannot determine specifically all individual actions at the start of the notice period, it may issue general notices that must be supplemented by specific notices. The combined contents of the general and specific notice must meet the requirements in paragraph a. A State may cancel an un-expired general notice, may renew it for additional periods within the maximum notice period if it is appropriately supplemented by a specific notice, or let it stand for as long as the maximum notice period. Except when specifically approved by the NGB in advance, a notice period may not exceed 90 days.

(2) A general notice is not a routine substitute for a specific notice of reduction in force. It should be used only when the state finds it impossible to determine specifically all individual actions in time to give the required amount of advance notice. A State never may act on the basis of a general notice. A general notice must be supplemented by a specific notice as soon as the individual actions are determined. Together, the two notices must contain all of the required information.

c. Information in General Notice. While a general notice lacks some of the information a technician must have before he is released from his competitive level, it must contain a minimum amount of information. The general notice is characterized by the lack of specific information about what will happen to the individual, but it should leave no doubt that the state finds reduction in force necessary and that he may be separated as a result. The State should quiet the technician's fears as much as possible by telling him in the general notice that he will receive a specific notice of what will happen to him as soon as it becomes known, and that if he does not receive a specific notice or a renewal on or before the stated expiration date, the general notice expires.

d. Expiration of Notices. A general notice expires as specified in paragraph c. A specific notice expires unless it is followed by the action specified, or by an action less severe than that specified in the notice or in an amendment.

e. More Severe Action. New notice required. A new notice of at least 60 days is required when the action to be taken is more severe than that first specified. When the state finds it cannot help taking an action more severe than first specified, it must either issue a new notice or amend the notice already issued. In addition, at least 60 days must elapse between the delivery of the new notice or amendment and the effective date of the revised action.

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B-2. CONTENT OF ADDITIONAL INFORMATION

Required Information. A technician who receives a reduction in force notice must be given specific information about priority consideration for reemployment. This information is in addition to the items relating specifically to reduction in force. If possible, the additional information should be included in or with the reduction in force notice. In any event, the information must be given to the technician as soon as it is definitely determined that he will not be retained in his position or placed in another position within his competitive area. The additional information must give the technician the appropriate part of the information below.

a. Group I employee to be separated by reduction in force. The notice must state:

(1) That the technician will be considered for placement elsewhere in the State in accordance with the State's established merit promotion plan, a description of which will be included unless this information already has been provided; that the employee's name has been or will be entered on the Reemployment Priority List (or the reason(s) why it has not been or will not be entered); that if not placed under the State's placement program he will be considered for placement from the Reemployment Priority List in any position for which he is qualified and available, and that his name will be continued on the list for 2 years from the date of his separation but will be removed earlier from the list upon:

- his written request, or
- his acceptance of a full time, non-temporary appointment in the competitive service, or
- his declination of an offer of a full time, non-temporary appointment to a position in the commuting area from which separated with representative rate no less than the rate of the position held when separated.

(2) That those technicians with status may apply under the Commission's Displaced Employee Program for placement assistance within any one civil service region or within the metropolitan area of Washington, D.C., or both; that he may apply at any time after receipt of notice of reduction in force but no more than 90 days after the date of separation; that he must apply through the State, which will transmit his application to the appropriate commission office as soon as it determines the technician will not be retained in his position or placed in another position within his competitive area.

b. Group II employee to be separated from position by reduction in force. This notice must state:

(1) The information outlined in (a) (1) above.

(2) The same as (a) (2) above.

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Users of this regulation are invited to send comments and suggested improvements on DA Form 2496 to The Adjutant General DMA Wisconsin, ATTN: WING-TN, Madison, WI 53708.

HUGH M. SIMONSON
BG, AGC, WIARNG
The Adjutant General

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STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
POST OFFICE BOX 8111
MADISON, WISCONSIN 53708-8111

WING SPR 351-1
Change No. 1

21 September 1992

Reduction in Force Procedures

1. Change paragraph 1-1 as follows: "TPR (300) 351" vice "TPM 351."
2. Replace paragraph 1-3 with the following:

1-3. Management Considerations. Several important considerations should be emphasized where reductions in force are concerned. This is a highly sensitive area of technician management. In a reduction in force some technicians may be adversely affected. This factor automatically increases the degree of anxiety, and the potential for adverse effects on morale. It is therefore necessary that all technicians receive equal consideration under the provisions of this regulation as well as TPR (300) 351.
3. Following the present text of paragraph 4-3 add "Supervisory positions will not be placed in the same competitive level as non-supervisory positions."
4. Replace Chapter 11 with:

Chapter 11 - Reemployment Priority and DoD Priority Placement Lists

11-1. Priority Placement. All groups I and II technicians separated by a RIF action will be placed on the state Reemployment Priority List and the DoD Priority Placement List.
5. In paragraph 5-3e, replace all following "The retention rating. . . ." with "The Technician Service Date will be the second tie breaker."
6. Delete figures A-2 and A-3.
7. File this change in front of the SPR for reference purposes.

FOR THE ADJUTANT GENERAL:

ROGER L. BRILL
COL, GS, WIARNG
Dir, Support Personnel

DISTRIBUTION:
ARNG: G
128ACS: 10
128FW: 70
128ARG: 70
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ACT, Milwaukee: 1

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
PO BOX 8111
MADISON, WI 53708-8111

WING SPR 351-1
Change No. 2

1 August 1993

REDUCTION-IN-FORCE PROCEDURES

1. In paragraph 4-8b, change second sentence to read "Their relative standing is determined by the results of the technicians' last three performance appraisals."
2. Change paragraph 5-2a to read "Those technicians serving with satisfactory or better average of performance ratings on their last three appraisals . . ."
3. Change paragraph 5-3e to read:

The relative retention standing of competing technicians in a competitive level is determined by the descending order of retention standing from the highest group (I) down to the lowest group (III) and within each group down from the highest performance appraisal rating average to the lowest. Technicians who do not have three appraisals on file will be credited with a minimum fully acceptable rating for any missing appraisal(s). When the performance appraisal rating averages of two or more technicians are equal, the service computation date will be used to determine their relative standing. The Technician Service Date will be the second tie breaker.

4. File this change in front of the SPR for reference purposes.

FOR THE ADJUTANT GENERAL:

ROGER L. BRILL
COL, GS, WIARNG
Dir, Support Personnel

DISTRIBUTION:
ARNG: G
ANG: Air Admin – 2
128th ACS – 10
128th FW – 34
128th ARG – 70
ACT – 1
ACT, Madison – 1
ACT, Milwaukee - 1