



U · S · DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
DIRECTIVES SYSTEM

Subject Number:

PER- 6

Transmittal Number:

622

Date: 7/10/90

Subject: Alternative Work Schedule (AWS)

Approval: *[Signature]*

Title: Director

1. **Purpose:** This Directive provides policy guidance in administering Alternative Work Schedules, i.e., Flexitour, the Four-Day Workweek and the 5-4/9 Schedule. On December 23, 1985, the President signed Public Law 99-196 to provide permanent authority for Federal employees to use Alternative Work Schedules under Chapter 61 of Title 5, United States Code.

2. **Summary:** This Directive reflects the following changes to OSM Temporary Directives 88-5 dated April 15, 1988, and 89-17 dated March 23, 1989.

- a. Employees can now earn credit hours if they are on approved flexitours. (Paragraph 3.f.)
- b. Personnel who remain eligible for AWS are reminded that supervisors and managers have wide discretion in granting AWS options or making changes as needed to ensure that adequate office coverage is maintained. (Paragraph 5.c.)
- c. Deputy Directors, Assistant Directors, other SES, Field Office Directors, Schedule C's, Headquarters Staff Office Heads (in Director's Office): Applicant Violator System, Budget, Congressional Liaison, Equal Opportunity, Public Affairs, Regulatory Development and Issues Management and Operations Evaluation Staff are excluded from participation in the AWS program. (Paragraph 5.e.)
- d. Employees can no longer work a first 40 hour workweek. These employees will be eligible to participate in any AWS option. Directive No. PER-1, First 40 Hour Workweek Schedule dated 8/28/86 is rescinded effective 07/01/90.

3. **Definitions:**

a. **Alternative Work Schedule Plan.** An alternative work schedule plan is a written description, or statement of policy, concerning the types of alternative schedules which are considered appropriate for the particular organization covered by the plan.

b. **Ten-Hour Schedules (Compressed).** This is a fixed, nonflexible schedule, which means that it does not vary from day to day. The arrival and departure times are according to a set, written schedule requested by the employee and approved by the supervisor in advance. The schedule includes eight (8) workdays in each pay period. Each workday is ten (10) hours in length excluding any scheduled lunch period. A lunch period of at least thirty (30) minutes must be scheduled mid-day or mid-shift. Once the schedule is requested and approved, the length of the lunch period is fixed and may not

vary from day to day. The pay period will also include six (6) nonworkdays, (including Saturdays and Sundays). A ten-hour schedule may not include any combination of half-days or workdays of less than ten hours.

c. Five-Four-Nine Schedule (5-4/9) (Compressed). This is a fixed, nonflexible schedule, which means that it does not vary from day to day. The arrival and departure times are according to a set schedule requested by the employee and approved by the supervisor in advance. The schedule includes nine (9) workdays in each pay period. Eight (8) of the workdays are nine (9) hours in length and one (1) workday is eight (8) hours long. A lunch period must be scheduled mid-day, or mid-shift, and be at least thirty (30) minutes in length. Once the schedule has been approved, the length of the lunch period is fixed and must be the same length each workday. The pay period will also include five (5) nonworkdays, (including Saturdays and Sundays). A 5-4/9 schedule may not include any combination of half-days or workdays of less than eight hours.

d. Flexitour (Flexible Eight-Hour Schedule). This is a flexible schedule which includes an eight-hour day, forty-hour week. The schedule includes ten (10) workdays in each pay period. The employee's arrival time should remain the same for at least ninety (90) days, after which he/she may propose a change to the supervisor. Each day will include set core hours during which all employees scheduled to work that day must be on the job. A lunch period must be taken mid-day or mid-shift.

e. Premium Pay. This is additional pay authorized in instances such as overtime, nightwork between the hours of 6 p.m. and 6 a.m., holiday or Sunday work.

f. Credit Hours. Employees on an approved flexitour work schedule may earn credit hours for work in excess of their basic work requirement. Although credit hours and overtime hours both require the supervisor's advance approval, credit hours are employee-initiated and voluntary, whereas overtime hours are management-initiated and involuntary. Employees ordered to work overtime are entitled to overtime pay or compensatory time, subject to the provisions of the Fair Labor Standards Act (FLSA) and Title 5, U. S. Code. An employee may not be ordered to work overtime and be compensated with credit hours. However, since credit hours do not constitute overtime hours, employees requesting credit hours are not entitled to convert these hours to overtime or compensatory time.

Credit hours may be carried over to the next pay period and may be used in the same manner as annual leave. A full-time employee may carry-over no more than ten (10) credit hours from one biweekly pay period to the next. A part-time employee may accumulate and carry-over no more than one-eighth of the hours in his/her basic biweekly work requirement. Credit hours earned and not used in excess of the carry-over limitation are forfeited without compensation or right to restoration at the end of each pay period. Credit hours can not be carried over into the next leave year.

4. Policy/Procedures:

a. The Deputy Director, Administration and Finance, the Chief, Division of Financial Management, the Regional Audit Managers, the Assistant Directors, Eastern and Western Field Operations and the Field Office Directors are

delegated authority to establish office hours of duty. Field officials must notify in writing both the Assistant Director, Eastern/ Western Field Operations and the Assistant Director, Budget and Administration prior to any change in established office hours.

b. Starting times for AWS should be no earlier than 7:00 a.m.; however, earlier times may be established if the supervisor is reasonably sure that the employee has sufficient meaningful work to accomplish prior to the supervisor's arrival. All approved employee alternative work schedules must be in full compliance with laws, rules, regulations and OSM policy contained in this Directive and related issuances.

c. If there are compelling business reasons for a supervisor to deny office participation in one of the alternative work schedule options, the office director must request in writing the concurrence of the OSM Deputy Director.

5. Responsibilities.

a. The Director or Deputy Director will make the final decision on the Office's participation in the AWS program.

b. The Assistant Director, Budget and Administration will oversee the implementation of the program.

c. Supervisors and Managers are responsible for assuring that any approved schedules do not interfere with the mission of the organization which he or she supervises. The supervisor should carefully review each request for an alternative schedule and approve those schedules which are appropriate to the work situation. In making these determinations, managers and supervisors should be flexible and sensitive to the work schedule preference of employees to the extent that adequate backup is maintained. If the supervisor approves an employee's request for a schedule and then later determines that the schedule is having an adverse impact on the mission of the organization, the supervisor is required to take immediate action to either cancel or alter the schedule. The supervisor should advise the employee of the reasons for changing or cancelling a schedule and provide the employee with reasonable advance notice of the change or cancellation. If a starting time before 7:00 a.m. is approved, the supervisor should assure that the employee has adequate work to accomplish prior to the supervisor's arrival.

(1) A supervisor may assign any employee to an alternative schedule if the needs of the organization are better served by the change. This type of change may also require bargaining with a union over the impact of the change, if the employees involved are in a bargaining unit.

(2) The supervisor may cancel an employee's approved schedule at anytime because of the employee's abuse of the procedures or to meet the needs of the organization. The employee may grieve the cancellation or disapproval of his/her alternative schedule through the Agency's administrative grievance procedure, or appropriate negotiated grievance procedure if he/she is in a bargaining unit. It is important to remember that an employee in a bargaining unit must use the negotiated grievance procedure. Models of AWS and questions and answers addressing some areas of AWS are attached as Appendix A.

d. Employee's Responsibilities. An employee may request to be placed on any of the alternative schedules which have been approved for the employee's organization. An employee may only participate in an alternative work schedule plan with the approval of his or her supervisor. An employee's request for approval of an alternative schedule must be in writing on the "Alternative Work Schedule Request and Approval" form and submitted to the employee's immediate supervisor. An employee's participation in alternative work schedules may be cancelled at any time because of the employee's abuse of the procedures or to meet the needs of the organization. Employees on a flexitour may voluntarily request in advance that extra hours worked be compensated with credit hours.

e. Employees Excluded. Deputy Directors, Assistant Directors, other SES, Field Office Directors, Schedule C's, Headquarters Staff Office Heads (in Director's office): Applicant Violator System, Budget, Congressional Liaison, Equal Opportunity, Public Affairs, Regulatory Development and Issues Management and Operations Evaluation Staff are excluded from participation in the AWS program.

6. Procedures.

a. Time Recording.

(1) Because employees working alternative schedules will arrive and depart at varying times, it is important that a system exist within each organization to provide accountability for hours worked and to ensure the credibility of the program from the perspective of employees, management, and the public. Officials with delegated authority cited in paragraph 4a are responsible for determining the most appropriate time recording system for their particular organization.

(2) For employees on Flexitour, one recommended procedure is sign-in/sign-out logs (sample attached, Appendix B), to be retained in each branch/office. With these logs, each employee records his or her time of arrival and time of departure. This procedure is a simple, inexpensive method of assuring accountability for those employees who work under alternative schedules. Sign-in/sign-out procedures, at the beginning and end of the workday, are recommended for employees on flexible schedules.

b. Time and Attendance (T&A) Reports.

(1) Regardless of which type of schedule an employee may be working, the T&A Reports must accurately show the actual hours worked on each day of the pay period. Not only should the hours total eighty (80) each pay period for a full-time employee, they must reflect the actual number of hours worked each day. It is the supervisor's responsibility when certifying (signing) each T&A Report to verify that the hours reported are absolutely correct. Supervisors may not delegate that responsibility to their time and attendance clerk, and supervisors may not allow employees to maintain their own time and attendance records.

(2) Time and Attendance Clerks may assist a supervisor in maintaining the records, but the supervisor, and only the supervisor, is accountable for the accuracy of the reports certified with his/her signature. Supervisors who have questions concerning time and attendance reporting requirements should consult the PAY/PERS System Manual, Time and Attendance Instructions.

(3) Credit hours should be requested and signed by the employee on the OF-10 format attached to this Directive and should specifically state that the employee voluntarily requests that the extra time worked be applied to credit hours. The supervisor must approve the employee's credit hour request on the OF-10 in advance of it being earned. The OF-10 reflecting credit hours earned should be retained with the T&A report for verification purposes. When earned, credit hours should be recorded as code 230 on the T&A reports. When used, it should be coded as 231. Credit hours will appear on the bottom of pay statements in the "other" block, and should be requested as "other" on the SF-171, Application for Leave.

c. Lunch Periods. Employees must schedule and take a minimum thirty-minute (30) lunch period at mid-day, or approximately mid-way through their daily schedule. The lunch period may not be taken at the beginning or end of the daily schedule. The purpose of a lunch period is to give employees an opportunity to eat or rest in the middle of their tours of duty so that they can perform their duties effectively throughout the day. The lunch period may be waived only for employees working less than a full shift (six (6) hours or less).

d. Premium Pay.

(1) Premium pay shall be paid in the same manner as paid to an employee working under existing schedules, except that overtime pay and compensatory time shall be earned only for work assigned and worked (or permitted for FLSA nonexempt employees) outside the employee's approved alternative schedule (daily work requirement) or in excess of eighty (80) hours in a biweekly pay period. Employees on compressed schedules are entitled to Sunday premium pay or holiday premium pay for the number of hours they are scheduled to work on a Sunday or holiday. An employee on a ten-hour (10) schedule who works on a holiday is entitled to ten (10) hours of holiday premium pay. An employee on a 5-4/9 schedule who works nine (9) hours on a holiday is entitled to nine (9) hours of holiday premium pay.

(2) Employees on flexible schedules are entitled to eight (8) hours of holiday premium pay if they work eight (8) or more hours on a holiday. Hours worked in excess of the eight (8) hours are compensated at regular overtime premium pay rates and should be worked only if specifically ordered by a supervisor.

(3) Statutory and regulatory requirements constrain OSM from establishing work hours between 6:00 p.m. and 6:00 a.m. without paying a night differential. (5 CFR 532.505 and Section 5343(f) of Title 5, United States Code).

e. Holidays.

(1) Employees on alternative schedules observe official holidays in the same manner as other employees, with two exceptions. First, employees on compressed schedules receive the number of hours off on a holiday equivalent to whatever number of hours they are normally scheduled to work on that day. An employee on a ten-hour (10) schedule is credited with ten hours for the holiday. An employee on a 5-4/9 schedule receives credit for either 8 or 9 hours for the holiday, dependent upon the number of hours he/she is normally scheduled to work on that day. (A 5-4/9 employee does not automatically receive credit for 9 hours on a holiday.) If that employee's

eight-hour (8) day falls on the holiday, he/she receives an eight-hour (8) credit for the holiday. The employee cannot adjust his/her schedule during a holiday pay period in order to receive a nine-hour (9) credit. Second, if a Federal holiday falls on an employee's nonworkday, the employee may be entitled to an alternate day off "in lieu of" the holiday. If the employee's nonworkday is in the middle of the week, the employee's "lieu day" off for the holiday will be either the day immediately preceding or following the holiday, at the discretion of the supervisor.

(2) Lieu Days. The term "lieu day" as used in Federal regulations refers to a day of approved absence from work granted to an employee instead of, or "in lieu of," a holiday. For example, if a Federal holiday falls on an employee's nonworkday, the employee may be granted another day off "in lieu of" the holiday.

(3) Specific criteria which entitle an employee to "lieu days" are contained in 5 USC 6103 and Executive Order 111582. When an employee has Sunday and Monday as nonworkdays and a holiday falls on either Sunday or Monday, Tuesday is the employee's holiday (lieu day). When the employee has Friday and Saturday as nonworkdays and a holiday falls on either Friday or Saturday, Thursday is the employee's holiday (lieu day). If the employee has three consecutive nonworkdays and a holiday falls on the first or second nonworkday, the last workday immediately preceding the three nonworkdays is the employee's holiday. If the employee has three consecutive nonworkdays and a holiday falls on the third nonworkday, the first workday following the three nonworkdays is the employee's holiday or "lieu day."

f. Part-time Employees. Part-time employees may participate in any of the forms of alternative work schedules provided they complete their biweekly basic work requirements in each pay period. This means that a part-time employee on a 32-hour appointment can work more than 32 hours in a week so long as the total scheduled hours for each biweekly pay period do not exceed 64 hours.

g. Temporary Duty/Training. When an employee is away from his/her official duty station on temporary duty or training, the employee should assume the official work schedule of that activity. Upon return to his/her official duty station, the employee should resume his/her approved alternative work schedule, provided that a total of eighty (80) hours will be worked during the pay period he/she returns. Necessary adjustments should be made to the employee's alternative work schedule to achieve the eighty (80) hours total for the pay period. (See paragraph 6.e., if a holiday occurs during that period).

7. Reporting Requirements. All Assistant Directors and Office Heads shall report in writing to the Assistant Director, Budget and Administration any changes in office hours under their jurisdiction.

8. References.

(a) Federal Personnel Manual Chapter 620

(b) Directive No. PER-02, Compensation for Overtime.

(c) Application of Fair Labor Standards Act (FLSA) to Positions in OSM, PER-4.

(d) Directive No. PER-12, Leave and Absence.

(e) Directive No. PER-28, OSMRE Payroll Coordination.

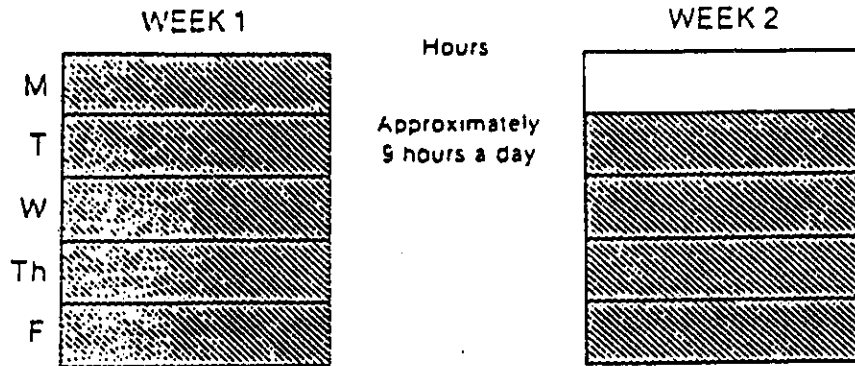
(f) Delegation of Authority Directive, OSMRE OPM-5 and OPM-5-1.

9. Contact. Branch of Employment and Classification, Division of Personnel, on (202) 208-2953 or FTS 268-2953.

B. 5-4/9 Plan

Employees will work nine days, rather than the traditional 10 during the scheduled tour of duty. This is accomplished by the employee working 5 days in one of the weeks of the pay period and 4 days in the other week. Employees will work 9-hours for 8 days and 8-hours on 1 day. The 8-hour day may be any day during the two-week pay period, but it must be specifically designated. The day off may also be any day during the two week pay period but it also must be specifically designated.

Model of 5-4/9 Plan



The following questions and answers are to be used as guidance. More detailed information can be obtained from the Branch of Employment and Classification, Division of Personnel (202) 208-2953 or FTS 268-2953.

QUESTIONS AND ANSWERS

1. Q. Can an employee start work before 7:00 a.m.?
A. An employee may start work earlier than 7:00 a.m., but not earlier than 6:00 a.m., with approval of the supervisor and provided he/she has adequate work to do before the supervisor's arrival.
2. Q. Can the head of an office require all employees to be on the same AWS schedule?
A. The head of an office must request approval for such a schedule from the officials listed in that directive, paragraph 4.a.
3. Q. Can any employee participate in alternative work schedules? (See employees excluded paragraph 5.e.)
A. Once an office has established an alternative work schedule plan, any employee within the activity should be able to request to participate, as long as they are not already on a special work schedule. (See exclusions 5.e.). The employee's request should be in writing and submitted to the employee's immediate supervisor. An employee's request may be denied only for reasons which are work related. An employee should be given the reason for the denial.
4. Q. What is an alternative work schedule plan?
A. An alternative work schedule plan is a written policy adopted by an individual office which sets the parameters of the types of alternative work schedules which are approved for employees of the office. Before approving any employee participation in AWS, a written alternative work schedule plan should be adopted by the office. Guidance concerning the development of these plans may be obtained from the servicing personnel office.
5. Q. Who approves alternative work schedule plans?
A. Officials cited in paragraph 5.c. of the AWS Directive are delegated authority to approve all alternative work schedule plans within their respective organizations. Such approval must comply with statutes, governmentwide rules and regulations, and OSM policies.

6. Q. What is the role of the union in the development of AWS plans?
- A. If the employees of an activity are represented by a union, a proposed AWS plan must be submitted to the union in advance and is subject to collective bargaining. If the union represents any portion of the activity's employee population, the union would have the right to negotiate the plan as it would apply to the bargaining unit employees. This could result in two separate AWS plans, one covering the bargaining unit employees and one covering all others. If the activity has no union recognitions, management may develop and implement an AWS plan. Management should seek the advice and assistance of their servicing personnel office prior to proposing an AWS plan.
7. Q. Is employee participation in an AWS program voluntary?
- A. Employee participation should be voluntary. Management may, in some situations, require an employee to convert to an alternative schedule for work related reasons.
8. Q. What is the impact of AWS on leave accrual and usage?
- A. Employees on alternative schedules continue to earn leave at the same rate per pay period as they have in the past. Leave used will be charged according to the number of hours that the employee was scheduled to work on the day of leave. An employee on a ten-hour schedule will be charged 10 hours of leave for each leave day. An employee on a five-four-nine schedule will in most instances be charged 9 hours of leave for each leave day unless the leave is taken on the one eight-hour day of the pay period. An employee on a flexible schedule will be charged eight (8) hours of leave for each leave day.
9. Q. How does an AWS schedule affect official holidays?
- A. Employees on alternative schedules observe official holidays in the same manner as other employees, except that employees on ten-hour schedules are off ten hours for the holiday, employees on five-four-nine schedules are off either eight or nine hours (whichever number of hours they are scheduled to work on the holiday), and employees on flexible schedules are off eight hours. Employees who are not scheduled to work on an official holiday receive another day off in lieu of the holiday. When an employee has Sunday and Monday as nonworkdays and a holiday falls on either Sunday or Monday, Tuesday is the employee's holiday (lieu day). When an employee has Friday and Saturday as nonworkdays and a holiday falls on either Friday or Saturday, Thursday is the employee's holiday (lieu day).
10. Q. Can a supervisor direct an employee to work on the employee's day off?
- A. For those employees on either ten-hour or five-four-nine schedules, scheduled nonworkdays should be treated no differently than

traditional nonworkdays (Saturday and Sunday). The supervisor, however, retains the right to assign overtime whenever necessary. If an employee's services are needed on a scheduled nonworkday, the supervisor should direct the employee to work overtime on the nonworkday and compensate the employee with overtime pay or compensatory time off, subject to the provisions of the FLSA and/or Title 5, U.S.C. An employee's scheduled nonworkdays for an administrative workweek should not be changed by the supervisor during the administrative workweek for the sole purpose of avoiding overtime in that administrative workweek.

Additionally, an employee's days off in a pay period should not be changed at the request of the employee for the sole purpose of avoiding the use of leave. As stated previously, a ten-hour, a 5/4/9, or flexitour schedule, if approved, is intended to be a fixed schedule, meaning that it should not be changed from week to week.

11. Q. What hours does an employee work when on travel or training?
A. The employee should temporarily assume the schedule of the activity to which the employee is visiting or the hours of the training session. The employee should resume his/her approved alternative schedule upon return to his/her official duty station, provided that a total of eighty (80) hours will be worked during the pay period. Necessary adjustments should be made to the employee's alternative work schedule to achieve the eighty (80) hours total for the pay period.

12. Q. For what reasons may an employee's previously approved schedule be cancelled or changed?
A. An employee's approved alternative schedule should be altered or cancelled by his or her supervisor whenever the supervisor determines that the schedule interferes with the ability of the organization to efficiently accomplish its assigned mission. The supervisor may also cancel an employee's alternative schedule when the supervisor determines that the employee is abusing the schedule or the AWS plan. It is the supervisor's responsibility to assure that alternative schedules do not produce an adverse impact on the ability of the organization to accomplish its assigned mission.

13. Q. What recourse does an employee have if his or her request for an alternative schedule is not approved or if a previously approved schedule is cancelled?
A. An employee who is not a member of a bargaining unit (not represented by a union), may file a grievance under the agency administered grievance procedure. An employee in a bargaining unit (represented by a union) may file a grievance only under the union's negotiated grievance procedure.

14. Q. May an employee work straight through his or her workday without taking a lunch period?
- A. No, a lunch period of at least thirty minutes must be scheduled mid-day in the workday. Additionally, an employee may not schedule his or her lunch period at the beginning or end of the day. The lunch period may be waived only for employees working less than a full shift (six (6) hours or less).
15. Q. If an employee is late for work may his or her workday be extended an equal amount of time to compensate for the tardiness?
- A. No, a supervisor may, however, excuse infrequent instances of tardiness without charge to leave. If the tardiness becomes more frequent, the employee's schedule may be changed to allow the employee to report to work as scheduled. Nonetheless, the employee is not entitled to changes in the schedule to compensate for tardiness problems. The employee may be charged absence-without-leave for instances of unexcused tardiness whenever they occur.
16. Q. Many employees refer to their days off as "lieu days". Is this use of the term correct and does the adoption of alternative schedules change the meaning of "lieu days"?
- A. Using the term "lieu days" to describe an employee's scheduled days off is a misnomer. The Federal Personnel Manual consistently uses the term "in lieu of" in the context of "in lieu of a holiday" and simply refers to scheduled days off as nonworkdays. In order to be consistent with the Federal Personnel Manual and statute, the term "nonworkday" is correctly used to indicate a scheduled day off and the term "lieu day" is correctly used only to refer to a day off "in lieu of a holiday."
17. Q. May Part-time employees participate in AWS?
- A. Part-time employees may participate in any of the forms of AWS provided they complete their total biweekly work hours in each pay period. This means that a Part-time employee on a 32-hour appointment can work more than 32 hours in a week so long as the total scheduled hours for each biweekly pay period do not exceed 64 hours.
18. Q. If a holiday falls on an employee's regularly scheduled day off which is in the middle of the week, what day will the employee have off "in lieu of" the holiday?
- A. The employee's "lieu day" off for the holiday will be either the day immediately preceding or following the holiday, at the discretion of the supervisor.

19. Q. May an employee change or cancel his/her work schedule with the supervisor's approval?
- A. Yes, but work schedule changes should be kept to a minimum to reduce the administrative burden of the AWS Program. Any changes in the work schedule will be effected at the beginning of the pay period.

FLEXITIME LOG

NAME _____

PAY PERIOD 8

ORGANIZATION: BRANCH OF PERSONNEL

YEAR 1988

DATE	TIME IN	TIME OUT	ANNUAL LEAVE	SICK LEAVE	ADM. LEAVE	OVER-TIME	HOLI-DAY	TOTAL HOURS	COMMENTS/SUGGESTIONS
3/28									
3/29									
3/30									
3/31									
4/1									
4/4									
4/5									
4/6									
4/7									
4/8									

INSTRUCTIONS: Employees participating in the Flexitime Program will record and initial daily the times they begin and end work.

The number of hours absent should be recorded under the appropriate category: Annual, Sick, and/or Administrative (Adm.).

The log should be kept by each branch/office and the file of log sheets must be maintained during the 9-month trial period.

memorandum

DATE:

REPLY TO
ATTN OF:

Employee

SUBJECT: Request to Earn Credit Hours

TO:

Supervisor

I voluntarily request to be permitted to work hours in excess of my basic workday or workweek in order to earn credit hours. Dates and times are specified below:

- Hours: from _____ to _____ on _____ (date)
- Hours: from _____ to _____ on _____ (date)
- Hours: from _____ to _____ on _____ (date)
- Hours: from _____ to _____ on _____ (date)

I understand that credit hours earned may not be converted later to overtime pay or compensatory time. I also understand that any amount of credit hours over the maximum amount I am permitted to carry over from one pay period to the next will be forfeited without any further entitlements.

Requested by: _____
(employee)

Approved by: _____
(supervisor)

(date)

(date)