

**DEPARTMENT OF
DEFENSE, VETERANS AND EMERGENCY MANAGEMENT**
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Joint Force Headquarters, Maine National Guard
Camp Keyes, Augusta, Maine 04333-0033

HUMAN RESOURCES REGULATION NO. 430

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MAINE NATIONAL GUARD

TECHNICIAN PERFORMANCE APPRAISAL PROGRAM

SUMMARY. This regulation prescribes policies, procedures, responsibilities and guidance for the administration of the Maine National Guard Technician Performance Appraisal Program as required by National Guard Bureau (NGB) Technician Personnel Regulation (TPR) 430, dated 05 November 2009.

APPLICABILITY. This regulation applies to all dual status and non-dual status National Guard Technicians employed under the provisions of 32 U.S.C. 709. Bargaining obligations with representatives of the Pine Tree and MaineACTs Chapters of the Associations of Civilian Technicians (ACT) were completed according to contractual requirements as of 02 March 2010 (original release), and 30 August 2011 (change 1).

IMPACT ON UNIT MANNING SYSTEM. This regulation does not contain policies that affect the Unit Manning System.

INTERIM CHANGES. Interim changes to this regulation are not official unless they are authenticated by the Human Resources Office (HRO). Interim changes will be destroyed on their expiration dates unless superseded or rescinded earlier.

SUGGESTED IMPROVEMENTS. The proponent of this regulation is the Maine National Guard, HRO. Users are invited to e-mail comments and suggested improvements directly to the Human Resources Officer. Bargaining Unit Technicians are requested to forward comments and suggestions to their respective Labor Organization.

This change supersedes MeHRR 430 dated 3 Mar 2010, from which paragraphs 2-2, 3-5 and Table 1 have been deleted. The following paragraphs/tables/terms have been renumbered or changed: 1-1, 1-3b, c, and j, 1-4b, 1-4c(3), (4), and (5), 2-2, 2-2a(2) and (3), 2-2b, 2-3, 2-3a, 2-4, 2-5, 2-6, 2-6a, 2-6b, 2-6b(2) and (4), 2-6c, d, and e, 2-7, 2-7b(1) and (2), 2-7c, 2-8, 2-8a(2), 2-8b and c, 2-9, 2-9d, 2-10, 2-10a and b, 2-11, 2-11a, b, and e, 3-1, 3-2, 3-3, 4-1, 4-1a, 4-1a(1) and (2), 4-1b, 4-1b(1) and (2), 4-2, 4-2b, 4-2b(1) and (2), 4-3, 4-4, 4-5, 4-5b, c, d, and e, Table 1, and Glossary of Terms "*Chain of Command Review, Critical Element Rating, Performance Improvement Plan, Performance Standard, State Review and Appeals Board, Special Purpose Appraisal, and Trial/Probationary Period*". The following paragraphs and terms are new: 2-6e, 2-7c, 2-8f, Table 3 and Glossary of Terms "*Naming Protocol*". The content of all other paragraphs, tables, and glossary terms remain unchanged.

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GLOSSARY OF TERMS

**CHAPTER 1
GENERAL**

1-1. Coverage. This regulation establishes the Technician Performance Appraisal Program and applies to all dual and non-dual status Maine National Guard Technicians including indefinite Technicians.

1-2. Scope. This Performance Appraisal Program will be fair, objective, equitable, valid, reliable, and job related. Where performance is a factor bearing on any personnel action, this regulation shall be the sole appraisal system used.

1-3. Basic Requirements. This regulation requires that:

a. Every eligible Technician shall be issued a *performance plan* containing organizational, occupational, and other agency goals or operating procedures/instructions expressed as *critical elements* and *performance standards*.

b. A new Technician beginning employment with the Maine National Guard (MENG), or a current Technician making a job change or requiring updates to a current plan shall be informed of critical elements and performance standards in writing within 30 days from the start of the *appraisal period*.

c. Technicians will be provided feedback periodically throughout the appraisal period compared to the established performance plan to include the required documented *interim review*, reference paragraph 2-7, and *end-of-year appraisal*, reference paragraph 2-8. All performance monitoring and appraisal sessions will be recorded on forms noted throughout this regulation and the NGB Form 904-1 maintained by the immediate supervisor.

d. The results of the appraisal shall be used as a basis for training, rewarding, reassigning, determining receipt of within grade/step increases, promoting, reducing in grade, removing, and as a basis for assisting Technicians in improving unacceptable performance.

e. Reassignment, reduction in grade, or removal of Technicians who continue to have unacceptable performance will occur only after an opportunity to demonstrate performance at the marginal or above level, and the Technician has been provided a *30-day advance written notice*.

g. A *chain of command review* or *State Review and Appeals Board* will be established to provide impartial reviews of performance appraisal appeals.

h. New Technicians will be carefully observed and appraised during a *trial/probationary period* to determine whether they have the qualities required for permanent government service.

i. The Adjutant General is the final appellate authority on the question of whether a Technician should be demoted or removed rather than reassigned as a result of a performance-based action.

j. Provisions of the Privacy Act of 1974 apply to actions taken with respect to this regulation including all performance appraisals, appeals, performance improvement plans (PIP), and any action to reduce in grade, reassign, or remove a Technician.

1-4. Rights. The following rights apply to Management, the Labor Organizations and Technicians.

a. Management:

- (1) To establish critical elements and performance standards in a performance plan,
- (2) To organize and operate this performance management system.

b. Labor Organization:

With respect to the Negotiated or Collective Bargaining Agreements between The Adjutant General of the State of Maine and the applicable chapters of the Association of Civilian Technicians.

c. Technicians:

- (1) To have a performance plan for the position assigned communicated to them and receive a copy of the same;
- (2) To have their performance reviewed throughout the appraisal period;
- (3) To privacy during performance counseling/review sessions if desired by the Technician.
Note: Any notice given to the Technician because of unacceptable performance will be delivered in two copies. The Technician has the option to provide a copy to the Labor Organization (LO).
- (4) To improve marginal and unacceptable performance in accordance with the provision of Chapter 2 and provide options to appeal an appraisal/*rating of record*, except for probationary appraisals, under Chapter 4 of this regulation.
- (5) To communicate to the supervisor aspects of the job which they feel are not adequately or not correctly addressed in the performance plan.

CHAPTER 2 THE APPRAISAL PROCESS

2-1. *The Annual Appraisal Period.* The annual appraisal period will be established as 1 October through 30 September.

2-2. *Trial/Probationary Period Appraisals.* New Technicians will be carefully observed and appraised during their *trial/probationary period* to determine whether they have the qualities required for permanent government service. During this period, supervisors should provide specific training and

assistance to improve the Technician's work performance if required. *Performance plans* shall be in place and communicated to the Technician normally within 30 days from the date a Technician starts the job and no later than 60 days, reference paragraph 2-6.

a. For retention beyond the trial/probationary period, the Technician's work performance must be rated as a minimum at the Fully Successful, Level 3 rating, for all *critical elements* in the Technician's performance plan. During this period, supervisors will:

(1) Monitor the Technician's work performance and provide specific training and assistance to improve their performance, if needed, prior to the 9th month.

(2) During the 9th and 10th months of employment, the supervisor must recommend retention or non-retention. An e-mail notice generated by Department of Defense Civilian Personnel Data System (DCPDS) will be sent to the first and second level supervisor of the Technician providing specific instruction how to certify a Technician has met the requirement for retention, or to recommend non-retention.

(3) An official appraisal will not be given until the Technician has completed the required period of service, reference paragraph 2-8a(2).

b. If retention is not recommended during the 9th or 10th month of employment (as noted above) or at any time during the probationary period, the supervisor will initiate a Probationary appraisal and contact the HRO. The Supervisor Narrative block on MENG Form 430-1 must include a narrative citing the reason for non-retention. The HRO will take the necessary steps to remove the Technician. This evaluation is not considered an official performance appraisal for the purpose of appeal rights. No portion of this paragraph is to be interpreted as preventing or discouraging the initiation of a removal action at any time during the trial/probationary period.

2-3. Procedures for Technicians on a Temporary Assignment or Detail. When a Technician is to be temporarily assigned, promoted, or detailed to another position, either with the same or different supervisor for a period covering 120 calendar days or more, a written *performance plan* will be established within 30 days from the start of the assignment or detail.

a. When assigned, the Technician, gaining supervisor, and supervisor of the permanent position, shall jointly review the performance plan of the Technician's temporary position.

b. Both supervisors will cooperate to ensure the Technician is provided meaningful feedback during the temporary assignment, promotion, or detail, and is issued at least one documented *interim review*.

c. The temporary supervisor shall complete a *closeout appraisal* for Technicians who have been assigned to them, reference paragraph 2-8b. This appraisal will have no affect on the overall end-of year appraisal of the Technician's regularly assigned position.

2-4. Postponement of Interim Review and End-of-Year Performance Appraisals. The *interim review* and *end-of-year appraisal* may be postponed when there has been insufficient time to observe the Technician's performance in their present assignment. Reasons include:

- a. The supervisor or the Technician is newly assigned (less than 120 calendar days) or, under a probationary review period;
- b. The Technician has not been performing regularly assigned work because of extended absence;
- c. The Technician has been deployed for a long period of time, in which case the Technician's last rating of record will be used for all official purposes until the Technician returns and is observed for at least 120 calendar days under an approved *performance plan*.

The postponement should not be extended any longer than necessary to permit a 120 calendar day evaluation under the performance plan. Eligible Technicians who are still on agency rolls at the end of the appraisal period but who are absent due to a work-related injury will be appraised based on the work performed during the appraisal period, provided they have satisfied the minimum 120 day performance period. Documentation of all circumstances related to the postponement will be noted on form MENG 430-1 when delivered to the Technician, or on a memorandum attached with form MENG 430-1. HRO should be consulted for situations that may qualify for postponement of EOY appraisal.

2-5. Employee Development. An Individual Development Plan (IDP) will be established for Technicians hired at an intervening grade, or less than full performance level of the particular position, e.g. hired at GS-7, but full performance level is GS-9. The IDP and other employee development opportunities may include classroom training, on-the-job training, mentoring, special assignments, details/reassignments, group performance meetings, process improvement teams, and self-development activities. Reference NGB-TPR 400 for more information on IDPs.

2-6. Developing and Communicating Performance Plans. A *performance plan* consists of at least two, generally three to five, and up to a maximum of ten *critical elements*. Each critical element will have a minimum performance standard, and together they provide a method of meaningful evaluation of the Technician's performance. Performance plans shall be in place and communicated to the Technician at the start of the appraisal period after a new Technician reports for duty, or following a Technician job change. The supervisory chain-of-command should plan ahead when lengthy absences or change of supervisor might impact or delay the issuance of any appraisal.

- a. The performance plan is subject to review by the *approving official* to ensure consistency and fairness. The performance plan is considered to be approved after the *higher level review* is complete and the supervisor has communicated the plan to the Technician in writing. The supervisor shall record the Technician's receipt of the performance plan and the manner in which it was provided to the Technician on NGB Form 904-1. An approved performance plan need not be reissued (signed by all parties) annually unless changes are made. The plan only needs to be communicated by the supervisor and reviewed by the Technician following the applicable performance review/appraisal with a notation made on the NGB Form 904-1 and initialed by both parties.

b. Critical elements should be developed primarily from the Position Description (PD) to which the Technician is assigned. Other sources for critical element development include agency or organizational goals, and occupational and operating procedures and instructions. General behavioral expectations, even if not stated as a critical element, apply to all Technicians as stated in the DoD Joint Ethics Regulations. Supervisors are encouraged to involve Technicians in the development of their critical elements. Consult the appropriate Labor-Management Agreement for specific requirements. Normally, this process will include at least one face-to-face discussion between supervisors and Technicians. Final decisions regarding the development of critical elements and *performance standards* are within the sole and exclusive discretion of supervision/management.

(1) Critical elements and performance standards shall be documented on the automated form MENG 430.

(2) Critical elements may be weighted to reflect relative priority. No critical element may be weighted less than 10 percent. Weighted critical elements must total 100 percent. If critical elements are weighted, the applicable percentage must be reflected in the work assignment description on form MENG 430. Reference paragraph 2-9a(1) for method of calculating a rating of record with weighted critical elements.

(3) If critical elements are not weighted they are considered all equal, reference para 2-9a(2).

(4) The following leadership objectives for all managers and supervisors are mandatory. They may be grouped and written as one or more critical elements/performance standards on a performance plan, and will include accountability and effective administration of:

- (a) Equal Employment Opportunity (EEO) program;
- (b) Occupational and Environmental Safety, Fire protection, and Health;
- (c) Communicating a performance plan and holding the Technician responsible for the requirements stated within, fostering and rewarding excellence, addressing poor performance, and completing appraisals required by this program in a timely manner;
- (d) Adherence to laws and regulations concerning 5 USC, Sections 2301 and 2302, Merit System Principles, and Prohibited Personnel Practices;
- (e) Management Controls IAW AR 11-2 (ARNG only)

(5) When new critical elements are assigned (e.g., due to a job change, additional duties, promotion, etc.), critical elements must communicate performance expectation that can be accomplished within the time remaining in the appraisal period. Critical elements may not be changed 120 days prior to the end of the appraisal period.

c. A performance standard is a management-approved expression of the performance threshold or expectations that must be met to be appraised at a particular level of performance. A minimum of one standard shall be written for each critical element and clearly establish a threshold or expectation to the fully successful level, critical element rating (CER)-3, reference Table 1. The fully-successful, CER-3 standard is the standard from which a rating of record is established. Additional standards to a critical element above or below fully successful may be added provided a clear threshold/expectation is

included with the critical element rating. The threshold or expectation for each performance standard may include, but is not limited to, quality, quantity, timeliness, or manner of performance. When applicable to the position, performance standards should be established to measure organizational accomplishments of supervisors and managers as well as individual performance.

d. Critical elements may be added, deleted, or changed at any time except within 120 days of the appraisal due date. Significant duties that are inconsistent with the PD may require an amendment to the PD. When adjusting performance plans, supervisors and Technicians must follow the requirements for planning, communicating, monitoring, reviewing, and assessing critical elements and standards established in this regulation. Adjustments made to a performance plan shall be in writing and communicated to the Technician within 30 days and submitted to HRO as soon as practical.

e. After all actions to prepare or update a performance plan are complete on form MENG 430 and signature/date (digital or ink) of the rating official, Technician, and approving official have been affixed, save the form to your computer using a *naming protocol*-see example in Glossary of Terms.

2-7. Monitoring Performance. Monitoring performance properly and timely enables supervisors to reinforce effective behavior and to identify, address, and resolve performance deficiencies during the annual appraisal cycle. Reference paragraphs 2-10, Performance Deficiencies, and 2-11, Performance Improvement Plans, as appropriate.

a. Dialogue and Feedback.

(1) Supervisors will provide ongoing feedback with Technicians regarding their performance. Although supervisors have the primary responsibility for providing Technicians feedback, Technicians share the responsibility of identifying and communicating successes and difficulties relative to their assigned *performance plan*.

(2) Technicians may request periodic feedback regarding their own performance. To the extent practicable, supervisors will accommodate such requests.

b. While ongoing informal dialogue and feedback are essential throughout the appraisal period, a minimum of one formal written *interim review* shall be conducted between supervisors and Technicians. The formal interim review will be prepared at the midpoint of the appraisal period (1 April) and documented on the automated form MENG 430-1. The interim review may be postponed to a later date to accommodate out-of-cycle performance appraisals (see paragraph. 2-4).

(1) The supervisor (or rating official) will provide the interim review of the Technician's performance with narrative information for each critical element in the performance plan. A *rating of record* (reference paragraph 2-9) is not required. The interim review shall acknowledge the achievements; any critical elements of concern; suggestions for improvement; and the means and methods of development, as appropriate, reference paragraph 2-10a.

(2) The supervisor and Technician will sign/date completion of an interim review on form MENG 430-1. A copy will be provided to the Technician and one copy retained in the

Supervisor's Work Folder. Supervisors shall record the Technician's receipt of the interim review on the NGB Form 904-1. Electronic and/or paper copies of the form maintained by the supervisor should be destroyed after three years or when the Technicians' employment with the supervisor ceases.

(3) If the immediate supervisor is unable to accomplish the interim review, they shall provide meaningful input to the person responsible for accomplishing the review.

c. After all actions for an interim review are complete on form MENG 430-1 and the signatures/date (digital or ink) of the rating official and Technician have been affixed, save the form to your computer using a *naming protocol*-see example in Glossary of Terms.

2-8. Performance Appraisals. This regulation uses the *end-of-year* (EOY), *closeout*, *probationary*, and *special purpose appraisals*, as required. They capture in narrative form with a *rating of record* (reference paragraph 2-9) the Technician's performance during the appraisal period relative to the *critical elements* and *performance standards* outlined in the *performance plan*. Appraisals should be complete within 30-days of the date due or circumstance necessitating the appraisal. Appraisal sessions with the Technician shall be conducted in conjunction with delivery of actual appraisal.

a. An EOY or probationary appraisal must be prepared for eligible Technicians defined in paragraphs 2-1, 2-2, and 2-3, by the supervisor, or *rating official*. The appraisal period of 1 October-30 September, or, applicable probationary period will be reflected in the appraisal period block of form MENG 430-1. A narrative appraisal addressing each critical element in the performance plan will be provided describing the Technician's accomplishments or lack thereof, contributions to the organization, and areas or methods to be improved, reference paragraph 2-9d. All appraisals shall be recorded on the automated form MENG 430-1. If additional space is required for Technician comments, a memorandum may be attached to form MENG 430-1. Additional space for the supervisory narrative is available on form MENG 430-1, page 3-4.

(1) If direct knowledge of the Technician's performance is limited, care should be taken to gather applicable facts (e.g., work products, closeout appraisals, productivity metrics from team or wage leaders, customer feedback, etc.) to substantiate the rating of record.

(2) A Technician successfully completing a 12-month probationary period of Federal service, reference paragraph 2-2a, will be given an official probationary appraisal on form MENG 430-1 within 30 calendar days of completion of the probationary period. When a probationary period of service is completed prior to 31 May of a given year, an EOY appraisal is required as of 30 September in the same calendar year. Completion of a probationary period of service between 1 June and 30 September of a given year will require the EOY appraisal to be postponed until the Technician has been evaluated under the performance plan for a minimum of 120 calendar days, reference paragraph 2-4.

b. A closeout appraisal will be prepared by the supervisor or rating official on form MENG 430-1 when they cease to supervise the Technician. This may be as a result in a change of job assignment on the part of the Technician or supervisor, temporary assignments/promotion, change in position

description (PD), detail, or retirement for such Technicians. This appraisal will include a narrative description of Technician's performance, achievements, and contributions relating to elements in the performance plan.

(1) In the case of a temporary assignment/promotion or detail, a closeout appraisal is only required if a Technician has been assigned to a specific supervisor and has been on an approved performance plan for more than 120 calendar days, reference paragraph 2-3.

(2) All other closeout appraisals will normally be accomplished within 10 calendar days after the supervisor ceases to exercise duties related to monitoring the Technician's performance. The appraisal shall be available for review by the Technician, the Technician's supervisor (or rater if applicable), and *approving official*.

c. A *special purpose appraisal* is issued to Technicians when performance is found to be unacceptable, *critical element rating* (CER)-1, in one or more critical elements during the appraisal period. A special purpose appraisal is also issued to reflect the improved level of performance; reference paragraphs 2-9c, 2-10 and 2-11b.

d. While entirely voluntary, Technicians are encouraged to maintain a personal record of their accomplishments, achievements, and performance relative to critical elements in their performance plan throughout the appraisal period and provide comments on form MENG 430-1. Such perspective will assist the rating official in evaluating more fully the Technician's performance when any of the appraisals described in this section are provided.

f. After all actions for any of the performance appraisals listed in this paragraph are complete on form MENG 430-1 to include the assignment of a rating of record, reference paragraph 2-9, and the signature/date (digital or ink) of the rating official, Technician, and approving official have been affixed, save the form to your computer using a *naming protocol*-see example in Glossary of Terms. A copy of MENG Form 430-1 will be provided to the Technician and one copy retained in the Supervisor's Work Folder. Electronic and/or paper copies of the form maintained by the supervisor should be destroyed after three years or when the Technicians' employment with the supervisor ceases.

2-9. The Rating of Record

a. Each of the appraisals identified in paragraph 2-8 will have a *rating of record*. The rating of record can be determined by calculating either a *weighted rating* (WR) of the *critical elements* in a *performance plan*, reference paragraph 2-6b(2), or the *average rating* (AR), reference paragraph 2-6b(3), of the critical elements in the performance plan. If critical elements are:

(1) Weighted, the *critical element rating* (CER), reference **Table 1**, assigned to each critical element on the Summary Level Rating Decision Table of form MENG 430-1, is multiplied by the percent value assigned to the critical element to obtain a weighted score. Each of the weighted scores is added together to obtain the WR.

(2) Not weighted, the AR shall be determined by averaging all CERs on the Summary Level Rating Decision Table on form MENG 430-1.

Table 1. Critical Element Ratings

CRITICAL ELEMENT RATING (CER)	DESCRIPTORS: <i>The following definitions apply to a summary level of performance for the critical element ratings (CER) listed:</i>
5 – Outstanding	Employee performance <u>greatly exceeded</u> the performance standard for the critical element established at the CER-3.
4 – Excellent	Employee performance <u>exceeds</u> the performance standard for this critical element established at the CER-3.
3 – Fully Successful	Employee performance <u>meets</u> the performance standard for this critical element established at the CER-3.
2 – Marginal	Employee performance for this critical element is at a level <u>below</u> the CER-3 performance standard, but not sufficiently deficient to warrant an unacceptable.
1 – Unacceptable	Employee performance for this critical element <u>failed to meet</u> the CER-3 performance standard, and <u>is deficient</u> enough that a marginal cannot be assigned.
0 – Not Rated	Technician did not perform the critical element because it became obsolete or could not be accomplished due to extenuating circumstances.

Table 2. Rating of Record

WEIGHTED RATING (WR) or AVERAGE RATING (AR)	RATING OF RECORD	RATING OF RECORD DESCRIPTOR
4.51 to 5.00	5	Outstanding
3.51 to 4.50	4	Excellent
2.51 to 3.50	3	Fully Successful
2.00 to 2.50	2	Marginal
1 on any critical element	1	Unacceptable

b. The WR or AR is aligned to a corresponding range of scores on form MENG 430-1 to obtain the rating of record, reference **Table 2**. However, if a CER- 1 (unacceptable) has been assigned to any critical element, the WR or AR, and overall rating of record shall be “1” regardless of the CER on any other critical element.

c. Any critical element not rated (as in the case of *special purpose appraisal*) will have a value of “0” (zero) applied to the Summary Level Rating Decision Table under the Not Rated column. Elements rated as such will not be factored in to the rating of record.

d. CERs of marginal and above (levels 2-5) must be supported with written justification in the Supervisor Narrative block of form MENG 430-1, page 1-4, as required. **Special note:** Reference paragraph 3-2.

e. A rating of record may not be lowered based solely on an approved Technician absence from work, including the absence of a disabled veteran to seek medical treatment. The rating of record is subject to *higher level review* by the *approving official* or a higher level management official.

2-10. Performance Deficiencies. This program provides for reassignment, change to lower grade, or the removal of Technicians who continue to have Unacceptable, critical element rating (CER)-1 (reference Table 1), **but only after the opportunity to demonstrate performance at the Marginal, CER-2, or above.**

a. Managers and supervisors are required to provide proactive assistance to non-probationary Technicians who are performing at the Marginal, CER-2 (reference Table 1), in one or more *critical elements* or as a result of a Marginal *rating of record*. Supervisors will assist Technicians in improving performance to the Fully Successful, CER-3, by such proactive actions as counseling, increased supervisory assistance, additional training, etc., reference paragraph 2-7(b). If a Marginal rating of record was issued and improvement to the fully successful, CER-3, or higher is realized for a period determined by the supervisor, a special purpose or EOY appraisal, as applicable, will be issued (see glossary). **Special note:** Reference paragraph 3-2.

b. Technicians will be advised in writing and placed on a formal performance improvement plan if, despite reasonable informal efforts by the supervisor, their performance drops below the marginal level in any critical element, reference paragraph 2-11.

2-11. The Performance Improvement Plan (PIP). If a reasonable effort has been made through the informal process to obtain performance at the marginal level or above, reference paragraph 2-10a, the supervisor will consult with the HRO on the issuance of the PIP. The supervisor should not wait until the end of the appraisal period to initiate actions for unacceptable performance; however, they must supervise the Technician for a reasonable period of time, normally 120 days. **No action based on unacceptable performance may be taken until all of the following have been completed:**

a. Unacceptable performance is initiated through either the EOY or special purpose appraisal as applicable, reference paragraphs 2-8a and 2-8c. Any critical element deemed unacceptable by the supervisor must be supported with written justification in the Supervisor Narrative block of form MENG 430-1, page 1-4, and documented on NGB Form 904-1. The *approving official* or higher level management official (if applicable) in the Technician's chain of command will review and approve or disapprove the unacceptable rating by the supervisor.

b. Following the issuance of the appraisal, the PIP will identify the specific *critical element(s)* and *performance standard(s)* that require improvement. The supervisor will take into account all the circumstances that may have contributed to the unacceptable performance. The PIP will address the corrective actions to include but are not limited to, remedial training and a defined improvement period. The PIP must state specifically what must be accomplished to improve performance to a Marginal critical element rating (CER)-2, or above. The supervisor should continue to assist the Technician to improve their performance to the Fully Successful, CER-3, reference paragraph 2-10a. If an Unacceptable *rating of record* was issued and improvement to the Marginal, CER-2, or higher is

realized for a period determined by the supervisor in the PIP, a special purpose appraisal will be issued (see glossary). **Special note:** Reference paragraph 3-2.

c. Technicians will be advised in writing and placed on a formal PIP for a period of time no less than 30 days, and up to a maximum 120 calendar days. The Technician will be provided a written summary of performance under a PIP at 30 day intervals. Notification to Labor Organization officials may be necessary in the case of Technicians in bargaining unit positions. Consult the Labor Relations Specialist in HRO to determine if applicable. Technicians will be provided a copy of the appraisal/PIP.

d. When a PIP is issued, the Technician should be referred to the Employee Assistance Program (EAP). Participation in the EAP is voluntary.

e. A reassignment action may be accomplished anytime during the PIP. If at the conclusion of the PIP, the Technician's performance in any of the critical elements identified in the PIP continues to be unacceptable, CER-1, a reassignment, a reduction in grade, or removal from employment will result. A reassignment to other vacant positions for which the Technician is qualified may be considered prior to initiating an action to reduce in grade or remove a Technician.

f. Should a determination be made to reduce in grade or remove the Technician from employment following the formal PIP, a Technician is entitled to a minimum *30-day advance written notice* of the action to be taken (reduction in grade or removal), which documents instances of unacceptable performance in detail, on which the action is based. The approving official must concur with this advance written notice. This requirement does not apply when the action is being taken by The Adjutant General. This 30-day advance written notice is not a proposed notice, but is considered a final notice of the action to be taken and will not be extended.

g. When a personnel action based on unacceptable performance is taken against a Technician, all relevant documentation will be placed in an envelope and filed in the Technician's Employee Performance File (EPF) in HRO.

h. When a personnel action is not taken, all documentation relating to the unacceptable performance appraisal will be assembled and placed in an envelope and filed in the Technician's EPF. If the Technician's performance continues to be at the marginal level and above for a period of one year from the date the original action was initiated, the contents of the envelope will be destroyed and any entries or notations of unacceptable performance will be removed from all records.

CHAPTER 3 PERSONNEL DECISIONS BASED ON PERFORMANCE APPRAISALS

3-1. General. Appropriate consideration must be given with respect to Technician performance appraisals when making certain personnel decisions. During the appraisal period, the supervisor will recommend personnel actions or decisions based on the latest *rating of record*. The recommendations are subject to a *higher level review*.

3-2. *Within Grade and Step Increases.* This appraisal program will be the only factor used in granting or denying within grade or step increases. A within grade increase (GS Technicians) or a step increase (FWS Technicians) will be granted whenever overall performance is at the fully successful or higher level providing longevity requirements are met. A marginal or unsatisfactory rating of record will result in withholding any within grade or step increase until such time performance is at the fully successful or higher level. Reference paragraphs 2-10a and 2-11b.

3-3. *Awards.* Technicians demonstrating an overall level of performance commensurate with the requirements established in the Technician Incentive Awards Program Policy may be recommended for monetary or honorary awards.

3-4. *Training.* The performance management process, including ongoing discussions between the supervisor and the Technician, may result in the identification of specific training needs. Recommendations for training should not be limited to the less than fully successful performers, but to help any Technician achieve a higher level of job performance and proficiency. Recommended training may be remedial or developmental in nature.

3-5. *Personnel actions.* When performance is a factor bearing on any personnel action, this regulation shall be the sole system used. Personnel actions that interface with this regulation include those in NGB-TPR 715 (reassignments), NGB-TPR 752 (reductions-in-grade or removals), and NGB-TPR 300-351, (reduction-in-force).

CHAPTER 4 APPEALS

4-1. *Filing an appeal.* There are two separate and distinct appeal processes a Technician may use for an appraisal/rating of record issued according to this regulation, reference **Table 3, Appeal Type, Process & Timeline.** Current State of Maine negotiated and administrative grievance procedures specifically exclude grievances concerning an appraisal rating of record. Where a disagreement exists with a rating of record, the Technician is encouraged to address the matter with the supervisor informally prior to filing a formal appeal as noted in this chapter.

a. A *chain of command review* is an appeal to a higher level official in the supervisory chain not previously involved in the issuance of an appraisal listed in this regulation, except probationary, with a rating of record equaling excellent, fully successful, or marginal.

(1) This type of appeal and must be received by the Human Resources Officer no later than 30 calendar days from the date the Technician signs the appraisal. Refer to paragraph 4-3, 4-4, and Table 3 for appeal submission criteria and review procedures.

(2) A Technician may initiate an appeal to the *State Review and Appeals Board* following the issuance of the written decision if disagreement still exists, reference paragraph 4-1b(1).

b. The State Review and Appeals Board (hereinafter, board) provides an impartial review of a rating of record for an appraisal defined in this regulation, except probationary, by a board of Technicians. Refer to paragraph 4-3, 4-5, and Table 3 for appeal submission criteria and review procedures.

(1) An appeal to the board based on an excellent, fully successful, and marginal rating of record may be submitted by the Technician and must be received by the Human Resources Officer no later than 10 working days of the date the written decision in a chain of command review is delivered to the Technician. The Human Resources Officer will initiate board actions according to paragraph 4-5.

(2) An appeal to the board based on unacceptable performance must be submitted by the Technician and received by the Human Resources Officer no later than 15 calendar days from receipt of the *30-day advance written notice* of action to be taken for unacceptable performance. Reference paragraph 2-11f and Table 3.

Table 3. Appeal Type, Process & Timeline

CHAIN OF COMMAND REVIEW PROCESS						
TYPE APPRAISAL	RATING OF RECORD	TIME TO REQUEST APPEAL WITH HRO	HRO NOTIFIES HIGHER LEVEL OFFICIAL	HIGHER LEVEL OFFICIAL ISSUES DECISION TO TAG		
All, except probationary	excellent, fully successful, & marginal	NLT 30 calendar days from date appraisal is signed by Technician	10 working days	10 working days	-----	-----
STATE REVIEW & APPEALS BOARD PROCESS						
TYPE APPRAISAL	RATING OF RECORD	TIME TO REQUEST APPEAL WITH HRO	HRO ADVISES TAG	BOARD ESTABLISHED	BOARD COMMENCES OPERATION	RECOMMENDED ACTION DUE BY BOARD
All, except probationary	excellent, fully successful, & marginal	NLT 10 working days from delivery date of written decision in chain of comm. review	10 working days	10 working days	10 working days	15 working days from the date hearings close
All, except probationary	Unsatisfactory	NLT 15 calendar days from receipt of 30-day advance written notice	10 working days	10 working days	10 working days	15 working days from the date hearings close

4-2. Representation. A Technician is entitled to representation during either appeal process noted in this regulation. The Technician and the representative are entitled to present any relevant information (evidence) they deem pertinent for a chain of command review reference paragraph 4-4 or to the State Review and Appeals Board during formal hearings, reference paragraph 4-5(d). This may be done orally, by presentation of witnesses, or in writing.

4-3. Submitting Appeals. The Technician submits a written request to the Human Resources Officer to initiate either the chain of command review or the establishment of the State Review and Appeals Board, or both. The request must be received within the timelines established in paragraph 4-1 and contain:

- Name of the Technician

- Full time organization (101ARW; 243EIS, 265CBCS, USPFO, AASF, 52nd TRP CMD)
- Appraisal being appealed (type, date, rating)
- Why the appraisal should be changed
- Performance level requested (rating of record)
- Any information the Technician believes is necessary to support the appeal

When all the necessary information is not available, the Technician should submit what is available, with the opportunity to submit any additional information prior to a chain of command review or State Review and Appeals Board decision.

4-4. Chain of Command Review. Within 10 work days of receipt of a request for a chain of command review, the Human Resources Officer will notify a higher level official in the Technician's chain of command not previously involved in the current appraisal rating of record.

a. The higher level official will complete an impartial review of the appraisal being appealed and any relative oral or written evidence used by the supervisor to support the rating of record within 10 work days of notification from the Human Resources Officer. When The Adjutant General is the next higher level official in the supervisory chain not previously involved in the appraisal being appealed, another management official will be designated by The Adjutant General, in writing, to complete the chain of command review. The Technician is entitled to a copy of this letter. The higher level official provides their written decision to sustain or change the rating of record to The Adjutant General with a copy to the Technician and supervisor or rating official.

b. The Technician and their representative, if desired, and the supervisor and their representative, if desired, (hereinafter the parties) will be given the opportunity to examine and reply to the information submitted by the other party to include an opportunity to question any witnesses used by the other party. The higher level official may not use any information to render their written decision until the parties have been afforded these opportunities. The higher level official may not receive or consider information not directly related to the appeal being considered.

4-5. State Review and Appeals Board. Within 10 work days of receipt of a request for an appeal to the State Review and Appeals Board (hereinafter board), the Human Resources Officer will advise The Adjutant General of the requirement to establish an ad hoc board. The board should be established within 10 work days of this notice.

a. Members serving on an appeals board cannot be in the chain of command of the Technician who is filing an appeal, and in a position at the same grade or higher than the Technician appealing. The board will consist of three permanent Technicians of the Maine National Guard, one of whom must be knowledgeable of the type of work performed by the appellant. The first member of the board is the chairperson and is selected by The Adjutant General. The second member of the board will be selected by the appellant from a list of five names provided by The Adjutant General. The third member is determined as follows: if the appellant is a member of the bargaining unit, the Labor Organization will appoint the member. If the appellant is not a member of the bargaining unit; one non-bargaining unit member will be randomly selected by the Human Resources Officer. All board members will have the same rights.

b. The board will be established to determine the facts and circumstances that resulted in the appraisal/rating of record rendered to a Technician. In reviewing performance appraisal appeals, the board by majority vote will recommend to The Adjutant General to either change the appraisal or sustain the appraisal without change. Board members must serve as impartial judges and review each case objectively. Additionally, they must consider the merits of each case and secure all necessary information. The board will only be concerned with aspects of the performance appraisal and will not review any personnel action taken because of an unacceptable appraisal. All members of the board must be present at all times during the hearings.

c. The board chairperson will organize and commence the operation of the board within 10 work days of being established. A schedule of events to be conducted by the board to include formal hearing dates, times, and location will be provided to all parties by the board chairperson. The Chairperson will rule on all points of evidence with the other board members to a majority position. The board will keep adequate notes from which the recommendation will be written.

d. The board will admit relevant oral or written evidence from the Technician or the Technician's immediate supervisor or any other source pertinent to the appeal during formal hearings. The Technician and their representative, if desired, and the supervisor and their representative, if desired, (hereinafter the parties), may submit information, written and/or oral, to support their view of the appraisal/rating of record being appealed. Each of the parties will be given the opportunity to hear, examine, and reply to the information submitted by the other party and opportunity to question any witnesses used by the other party. All parties to the appeal will be afforded the opportunity to be present during the proceedings of all hearings. The board may not use any written information to render a recommendation until the Technician, the representative (if any), the supervisor and representative (if any) have had opportunities to examine and reply to it. The board may not receive or consider information not directly related to the appeal being considered.

e. Within 15 work days of the close of the hearing, the board will review their notes and all relative information submitted by the parties and presents a majority recommendation to The Adjutant General. The recommended action by the board to The Adjutant General will be to sustain the appraisal submitted by the supervisor without change or, to change the appraisal as requested by the Technician. If a unanimous decision is not reached by the board, the dissenting member may forward a minority opinion to The Adjutant General.

f. The Adjutant General will notify the Technician, their representative (if any), and the supervisor promptly, in writing, of the decision concerning the appeal. This decision constitutes the final decision based on the recommendation of the State Review and Appeals Board. Normally, The Adjutant General will sustain the recommendation of the board. If The Adjutant General disagrees with the recommendations of the board, the reasons will be contained in the decision. Nothing in this part shall prohibit the Technician from exercising their rights under the negotiated grievance procedure once the appeals process has been exhausted.

GLOSSARY OF TERMS

Approving Official - The individual in the Technician's Chain of Command who is the rater's immediate supervisor or a higher level official above the rater designated as such.

Average Rating (AR) – An average score of all *critical element ratings* on the Summary Level Rating Decision Table on form MENG 430-1.

Chain of Command Review - The appeal process requested by a Technician for a higher level review of excellent, fully successful, and marginal appraisals.

Closeout Appraisal - An appraisal completed by the *rating official* when they cease to exercise duties related to monitoring, developing, and rating Technician performance.

Critical Element - A work assignment of such importance that unacceptable performance on the element would result in a determination that a Technician's overall performance is unacceptable.

Critical Element Rating (CER) - Any of the five established levels of performance expressed in numerical value with a corresponding written description that may be assigned to an established *critical element* and *performance standard* in an approved *performance plan* for any of the appraisals defined herein.

Higher Level Review - A review conducted by the *approving official* or a designated higher level management official for processes within noted in this regulation. The higher level review is necessary to insure consistent application of procedures.

End-of-Year (EOY) Appraisal - The appraisal completed at the end of the annual appraisal period.

Interim Review - An appraisal describing a Technician's year-to-date progress on *critical elements* and *performance standards* established in the *performance plan*.

Naming Protocol - For consistency, the following naming protocol is established for forms noted in the regulation: **LASTNAME-FIRSTNAME-MIDDLEINITIAL-YYMMDD-FORMNAME**.

Performance Improvement Plan (PIP) - A written plan that identifies specific critical element(s) and performance standard(s) that require improvement, what must be accomplished to elevate performance to a Marginal, CER-2 or above, specialized training, counseling, increased supervisory assistance, and a defined improvement period up to 120-days.

Performance Plan - The written *critical elements* and related *performance standards* that delineate the expected level of performance.

Performance Standard - The management approved expressions of performance threshold(s) that must be met to be appraised at the fully successful level of performance.

Probationary Appraisal - The appraisal completed at the end of the 12-month probationary period when the Technician is retained as a permanent employee.

Rating Official - Usually the immediate supervisor, or the individual designated to evaluate and assess Technician performance; also known as the rater.

Rating of Record - A numerical value and description issued for a specific type appraisal by calculating either a *weighted rating (WR)* or *average rating (AR)*.

State Review and Appeals Board - The panel consisting of three Technicians assembled by The Adjutant General to provide an impartial review of an appeal filed against any appraisal, except probationary, issued under this regulation.

Special Purpose Appraisal - An appraisal used to document unacceptable performance anytime following the issuance of the *EOY* appraisal, or an appraisal to document an improved level of performance following the issuance of a marginal rating of record (para. 2-10), or PIP (para. 2-11).

30-Day Advanced Written Notice - The notice to the Technician that documents the instances of unacceptable performance in detail, the action to be taken (reassignment, reduction in grade, or removal), and period of time (30 calendar days) in which the action becomes effective.

Trial/Probationary Period - Normally, a 12-month period of review of performance and conduct that is used to determine if qualities for permanent government service exist.

Weighted Rating (WR) – A score derived by multiplying each *CER* assigned to a *critical element* by the percentage assigned to the critical element and adding the resultant products.

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The Adjutant General

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