

**APEC Minutes  
21 August 2008  
HRO Classroom**

Attendees: MG Feucht, BG Botchie, Col Bartman, Col Roberts, Col Stephens, LtCol Schnulo, Mr Tanner, Mr Shafer, Mr Dohrmann, Mr. Wayble, LtCol Herder, 2LT Scott

Mission: To transform labor-management relations from confrontation over rights to collaboration on achieving improved Military Readiness, Public Service, and Individual Quality of Life

<u>Item</u>	<u>Purpose</u>	<u>Status</u>
1. <i>Review of APEC Minutes &amp; Metric</i>	<i>Presentation</i>	<i>Ongoing</i>
The LRS reviewed the minutes of the last APEC. The minutes were approved with no questions or comments.		
2. <i>Energy Conservation</i>	<i>Updates</i>	<i>Ongoing</i>
The Air National Guard is projecting a 3% reduction in energy consumption for the year. Col Bartman described a project underway at the 180 <sup>th</sup> FW to convert unused land into a solar energy collection site. When complete the site will have 10 acres of solar panels and potentially capable of producing 1 Megawatt of energy. This project is in line with the Adjutant General's strategic plan to turn this agency into an energy producer.		
3. <i>Performance Appraisals</i>	<i>Update</i>	<i>Ongoing</i>
The list of employees with overdue appraisals was reviewed. HRO identified that current appraisal reports are inaccurate. HRO is in the process of automating the appraisal reports and is training new employees to accomplish the task. Members were asked to bear with the change until the reporting system is completely renovated.		
3. <i>Tobacco use at 178<sup>th</sup> FW</i>	<i>Discussion</i>	<i>New Issue</i>
The 178 <sup>th</sup> FW LPC forwarded the issue of tobacco use to the Air PEC. The LPC agreed to temporarily resolve the issue locally until the unit completes an upcoming inspection. Labor and management are aware that the State of Ohio has issued a smoking policy. Both parties noted that the state policy does not address smokeless tobacco. At some point in time an airman discarded chewing tobacco on the flight-line which was followed by management telling the employee he would be sent home without pay for the day. Management wants to have a policy on chewing tobacco and labor does not. Management suggested using AFI/ANGI 40-201 which prohibits the use of chewing tobacco. Labor and management agreed to reconvene and attempt to resolve the issue after the ORI. Both parties agreed that during the ORI the use of chewing tobacco is prohibited.		
3. <i>Assignment of Technician Duties</i>	<i>Discussion</i>	<i>New Issue</i>
The issue was brought up that technicians at the 178 <sup>th</sup> FW were not being allowed to perform certain duties that are listed in their position descriptions. The group discussed the MOC and		

Expediter positions and how the employee assigned to the Expediter position is required to have Red X and engine run certifications, etc. The applicable AFI and NGI has a table that states the employee must be a 7-level or have an equivalent civilian certification. It was noted that the NGB functional manager determined that the civilian equivalent applies to a contract employee and not a National Guard technician. Members from other air wings stated that when technicians are trained to perform certain duties on the fulltime side the military record is updated to reflect the experience and certification. Mike Dohrmann shared a story about a Texas National Guard technician that came under scrutiny for performing duties requiring a 7-level while she was only a SSgt. Investigating officers reviewed her work performance and deemed that she was capable of and qualified to perform the duties in question without having a 7-level AFSC. MG Feucht concluded by saying that commanders need to consider allowing technicians to perform these duties and update records accordingly.

7. *Alcohol Usage during Duty Day*                      *Update*                      *Open*  
This issue is closely tied with the issue of whether a technician can receive a military counseling letter for something he or she did in technician status or while on technician leave. The group was addressed by the State JAG, LTC Duncan Aukland. In response to some questions he gave the following answers:

**Q.** Can technicians drink during lunch?

**A.** Yes, but they cannot become intoxicated.

**Q.** What status are technicians in during a lunch break? (Duty or non-duty status)

**A.** I have no idea.

**Q.** What can supervisors do if they suspect an employee has been drinking?

**A.** The Army can conduct a fitness for duty test which can include taking an oral swab. There is no specific blood alcohol content level established to determine fitness for duty.

**Q.** What constitutes being out of the line of duty due to drinking alcohol during lunch?

**A.** A couple beers would make someone out of the line of duty.

LTC Aukland described the court case of Wright vs. Park which ultimately concluded that the military and technician statuses are joined like, "Chang and Eng," the famed Chinese conjoined twins. The relationship between the two statuses is inextricably intertwined and in matters of law one cannot favor one status and exclude another.

**Q.** If a military counseling is levied on a technician for actions taken while in a technician leave status, would the employee be entitled to union representation?

**A.** If the counseling was in fact military, then no, a union representative would not be allowed.

**Q.** Is the counseling given to Mark Close an end-run around the Collective Bargaining Agreement?

**A.** No. Mark Close's counseling is legal.

The group continued to discuss options between military and technician discipline. It was noted that an Area Defense Counsel will not represent an employee while he or she is in technician status.

Next Meetings:

APEC 1300 13 November 2008, HRO Classroom  
JPEC 1300 25 September 2008, HRO Classroom

For Management

For Labor

HARRY W. FEUCHT, JR.  
Major General  
Asst Adj Gen for Air

JEFFERY L. TANNER  
President  
AFGE Local 3970

Date: 29 August 2008  
POC: 2LT Daryl Scott DSN 346-7049