

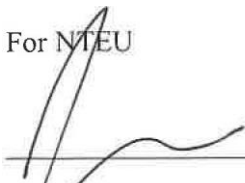
Memorandum of Understanding (MOU) between US EPA and National Treasury Employees Union: US EPA Telework and Remote Work Article

This agreement is entered into between the United States Environmental Protection Agency ("EPA") and National Treasury Employees Union ("NTEU" or "the Union"), regarding implementation of the EPA's Telework and Remote Work Policies. The Telework and the Remote Work Policies dated March 8, 2022, (and attached as Appendix A), were developed in part from employee listening sessions and pre-decisional involvement with the Union.

Terms of this MOU including existing agreements that the Parties agree to modify are as follows:

1. **Telework Policy.** The Parties agree the Telework Policy referenced above is adopted in its entirety and in conjunction with the Remote Work Policy referenced above, supersedes Article 54 of NTEU's October 8, 2015, Collective Bargaining Agreement with EPA ("the Union's CBA").
2. **Remote Work Policy.** The Parties agree the Remote Work Policy referenced above also is adopted in its entirety, and in conjunction with the Telework Policy referenced above, supersedes Article 54 of the Union's CBA.
3. Agency Head Review has already occurred for the Telework Policy and Remote Work Policy, and EPA approved each policy. The Parties reiterate their agreement signed on March 31, 2022, regarding the staged physical return to office.
4. The Agency will promptly review and update any telework and remote work forms, as may be necessary to ensure they reflect terms contained in Appendix A and this MOU.
5. Employees on remote work who wish to come to the office periodically for work-related reasons may do so with supervisory approval.
6. The Agency will meet with NTEU, upon request, to discuss issues or concerns with the telework and/or remote work policies.
7. The Parties will continue negotiating over work schedules with the goal of expediting those negotiations to reach agreement for a new article in the Union's CBA addressing such matters.
8. This MOU will be in effect concurrent with the Union's CBA, unless otherwise agreed to.

For NTEU



Name

4/12/22

Date

For the Agency:

DENISE CASTRO
Digitally signed by DENISE CASTRO
Date: 202204 11 17:43:04-04'00'

Name

Date

Appendix A



Telework Policy

I. PURPOSE

The Telework Enhancement Act of 2010 requires the head of each executive agency to establish a telework policy for eligible employees. A successful telework program can yield many benefits, including cost savings, increased productivity and performance, enhanced recruitment and retention, heightened employee morale, improved emergency preparedness and reduced energy use.

II. SCOPE

This policy addresses regular, situational, and medical telework. It also addresses telework when used to accommodate employees with disabilities under the agency's reasonable accommodation process. Generally, employees covered by this policy are expected to report to the agency worksite at least twice in a biweekly pay period. This policy covers U.S. Environmental Protection Agency employees, supervisors, and managers in the competitive, excepted, and Senior Executive Service. This policy also covers Public Health Service Officers, Schedule C, Administratively Determined employees and non-EPA employees serving on Intergovernmental Personnel Act assignments to the EPA. This policy does not cover employees of the Office of Inspector General or agency employees on details or Intergovernmental Personnel Agreements (IPA) to other agencies, departments, or organizations.

Portions of this policy may allow for full-time telework on a temporary basis (except in the case of telework as a reasonable accommodation when a determination is made full-time telework without time limits is appropriate under the EPA's separate reasonable accommodation process). For telework arrangements where the employee is not expected to report to the agency worksite on a regular and recurring basis (i.e., does not meet the two times per biweekly pay period requirement nor a temporary full-time telework arrangement) please refer to the agency's remote work policy.

When this policy and a collective bargaining agreement conflict, the Collective Bargaining Agreement (CBA) shall govern unless the parties mutually agree otherwise.

III. POLICY

The EPA supports the use of telework. The eligibility of employees to participate in telework is based on: 1) the extent they have sufficient portable work to support the requested telework schedule; and 2) the employee meeting the eligibility requirements outlined in this policy. Since telework requires collaboration between management and employees, both parties have responsibilities in its successful implementation and operation. An employee's participation in telework is voluntary. Teleworkers will receive the same treatment and opportunities as non-teleworkers (e.g., work assignments, awards and recognition, development opportunities, promotions, etc.) and are expected to perform and accomplish all assignments and tasks associated with their position, whether in the office or on an approved telework agreement.

IV. DEFINITIONS

Telework – An arrangement where eligible employees perform the duties and responsibilities of their position during regular, paid hours from an approved worksite other than the official worksite (e.g., home or telework center).

Alternative Work Location or Alternative Worksite (AWL) – The AWL is an approved work location other than the employee’s official worksite. An AWL will generally be an employee’s residence or other approved worksite and will generally be within the local commuting area, such as a facility established by state, local, or county government or private organization for use by teleworkers. Employee requests to work at an AWL outside of the local commuting area may be approved by the appropriate approving official as noted in section VI.

Local Commuting Area – The geographic area usually constituting one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities where people live and can reasonably be expected to travel back and forth daily to their official worksite.

Portable Work – Work normally performed at the employee’s official worksite but can be performed at another location with equal effectiveness with respect to quality, quantity, timeliness, customer service, and other aspects of accomplishing the EPA’s mission. Such work is part of the employee’s regular assignments and does not involve a significant change in duties or the way the assignments are performed without supervisory approval.

Official Worksite – The official location of an employee’s position of record as determined under 5 CFR 531.605. Official worksite is the “official duty station” as the term is used in Title 5, United States Code, Section 5305(i).

Position of Record – An employee’s official position defined by grade, occupational series, employing agency, law enforcement officer status and any other conditions determining coverage under a pay schedule (other than official worksite), as documented on the employee’s most recent Notification of Personnel Action (Standard Form 50 or equivalent) and current position description, excluding any position where the employee is temporarily detailed.

Official Agency Worksite – The office (program, region, lab, HR Shared Service Center) where the employee reports on a regular and recurring basis, receives direction, or returns to if the supervisor recalls the employee or terminates the telework agreement.

Telework-Ready Employee – Any employee who has a telework agreement currently in effect, authorizing any type of telework.

V. ROLES AND RESPONSIBILITIES

EPA Telework Managing Officer (TMO): The Assistant Administrator for the Office of Mission Support (or designated representative) shall serve as the TMO. The TMO serves as the primary telework point of contact between the agency and the Office of Personnel Management. The TMO is responsible for overall policy development and implementation of the agency’s telework policy and programs and serves as an advisor for agency leadership on the full range of telework issues as well as a resource for managers and employees.

Agency Telework Coordinator: The Office of Human Resources in the Office of Mission Support

executes the duties of the agency telework coordinator, who is responsible for overseeing the agency telework program, identifying issues as necessary and ensuring any necessary training is provided as required.

Program/Regional Office Telework Coordinators: Are responsible for ensuring all participants are aware of their responsibilities, have taken appropriate training, and have agreements in place. Upon request, these telework coordinators are required to provide participation data including documented approvals and disapprovals to allow monitoring of the program.

Assistant Administrators, the Chief Financial Officer, the Chief of Staff to the Administrator, the General Counsel, and Regional Administrators or their equivalents or designated representatives:

These executives are responsible for selecting program/regional office telework coordinators and may assign and locate telework coordinator duties anywhere in their respective organizations. However, if a manager does not designate a telework program coordinator, they must ensure the telework program coordinator's responsibilities are appropriately delegated to and performed by one person who will serve as a point of contact for the agency's telework coordinator.

EPA Human Resources Shared Service Centers: HR SSCs are responsible for ensuring all position descriptions are checked for telework eligibility prior to initiating recruitment and reassignment actions and are so noted in job advertisements.

Supervisors and Managers: Supervisors and managers are responsible for the overall management of teleworking within their work units, including:

- Working with their regional human resources officer, HR SSC, and program management officer to identify positions eligible for telework and ensuring such designations are identified on position descriptions and in job announcements;
- Approving or disapproving new or revised requests to telework in accordance with this policy and within a reasonable timeframe (i.e., normally within 5 work days). In cases of disapproval, providing the rationale to the employee in writing;
- Reviewing and recertifying employee telework agreements when revisions are necessary.
- Overseeing day-to-day telework operations, modifying individual telework agreements to meet mission needs, accomplish workload, or changing circumstances, and maintaining records and information necessary for evaluation of the program;
- Ensuring teleworkers agree to comply with all existing security policies and procedures, regarding IT security, personally identifiable information and confidential business information;
- Ensuring proper use of appropriate telework time reporting codes to document hours teleworked; and
- Monitoring performance by ensuring appropriate management controls are in place before employees begin telework assignments. Teleworkers and non-teleworkers are treated identically for the purposes of monitoring and assessing job performance; however, supervisors and managers may need to utilize different mechanisms for communicating with teleworking employees.
- Supervisors should complete the appropriate process for performance or conduct issues prior to considering revoking an employee's telework agreement in accordance with this policy.

Employees: Employees are responsible for the following:

- Completing a telework agreement and waiting for approval from their supervisor prior to

- teleworking;
- Performing an assessment of the AWL and answering the required questions on the Self-Certification Safety Checklist;
- Adhering to the telework policy, procedures, terms and conditions of the approved telework agreement;
- Complying with EPA policies for information technology security and use of government equipment/materials;
- Notifying their supervisor if modifications are necessary or potentially necessary to their telework agreement;
- Working with their supervisor to recertify the telework agreement when revisions are necessary.
- Being available during scheduled work hours by telephone, email, and other applicable agency-approved technology and communication methods (e.g., Teams, etc.) in order to communicate with their supervisor, to be accessible to co-workers and customers, and overcome problems or obstacles as they occur.
- Complying with all existing agency security policies and procedures, including those relating to personally identifiable information and confidential business information;
- Being prepared to telework in the event OPM or the agency announces changes to its operating status, including changes to dismissal and closure procedures;
- In coordination with supervisors, planning ahead, including taking any necessary equipment (e.g., laptops) home prior to a forecasted weather event; and
- Make reasonable efforts to arrange dependent or elder care, if dependent care or elder care would otherwise interrupt or interfere with the employee's work duties during the time the employee is working at an AWL, and/or requesting leave or work schedule adjustments for periods when the employee is not able to work due to dependent or elder care responsibilities.

VI. TYPES OF TELEWORK

Supervisors and managers may authorize the following types of telework based on their work-related needs:

Regular/Routine Telework: Under this type of telework, employees may request approval to perform their duties at an AWL on a regular and recurring basis, on predetermined days each pay period. Regular telework will typically be on the same days each pay period. However, managers may authorize adjustments when requested, as long as the schedule provides for reporting to the office at least 2 days per pay period.

As noted in section IV, AWLs are typically located within the LCA. However, supervisors or managers can approve regular telework for employees outside the LCA if it will not hinder the employee's ability to report to the official worksite at least two (2) days per period. Supervisors and managers should use good judgment but should remember employees may be recalled to the official worksite with at least 48 hours' notice based on mission needs. There are exceptions for approving AWLs outside the LCA. Please see the section on situational telework for guidance.

Situational Telework: This type of telework is limited in duration on a non-routine, occasional, emergency, or ad hoc basis, as opposed to a regular telework schedule as defined above. Situational telework cannot be used in a routine manner to extend an employee's regular telework schedule. An employee must have an approved situational telework agreement in place and notify their supervisor in advance, if feasible, each time they wish to telework. An employee may be approved for both situational

and regular telework.

Supervisors or managers may approve temporary situational telework arrangements at an AWL outside of the local commuting area even if the employee isn't able to report 2 times a pay period. This determination will be made by the supervisor on a case-by-case basis, provided the employee meets all eligibility requirements contained in this policy or any applicable CBAs.

The temporary exception should generally be used in cases where: (1) the employee is expected to return to work at the official worksite in the near future; or (2), the employee is expected to continue teleworking but will be able to report to the regular worksite at least 2 times per biweekly pay period. Examples of appropriate temporary situations include:

- Recovery from an injury or medical condition.
- Emergency situations preventing the employee from regularly commuting to the official worksite, such as a severe weather emergency or a pandemic health crisis.
- An extended period of approved absence from work (e.g., paid leave).
- When the employee is in temporary duty travel status away from the official worksite.
- When an employee is temporarily detailed to work at a location other than a location covered by a telework agreement.
- As a flexibility to facilitate a work/life balance for employees.

Unscheduled Telework: This type of telework is not scheduled in advance but is performed when the agency announces changes to its operating status, including changes to dismissal and closure procedures pursuant to OPM or local management operating status announcements. Any telework-ready employee must perform unscheduled telework to the extent possible or take appropriate leave. In unique situations such as lack of electricity, infrastructure disruptions, or connectivity issues at the AWL, the employee should contact their supervisor as soon as possible to request weather and safety leave.

Medical Telework: Allows for the continued accomplishment of agency work while an employee has a medical condition certified by an appropriate medical provider not affecting the employee's ability to perform their regular work assignment at an AWL. The initial telework arrangement is valid for up to 90 calendar days (depending on the medical documentation) and may be extended in 90-calendar day increments if the medical certification justifies such at each extension (i.e., medical documentation must be submitted every 90 calendar days if warranted). This type of telework may be the equivalent of full-time, but it is a temporary telework arrangement and. Medical documentation justifying the need for medical telework must be provided to the supervisor. Also, a telework agreement and a safety checklist must be submitted and approved by the supervisor prior to the arrangement.

Please note, medical telework is not the same as telework as a reasonable accommodation. Medical telework is a temporary arrangement whereas telework as a reasonable accommodation is not subject to time limits if the condition justifying the arrangement persists. Please see the section on reasonable accommodation below.

In limited circumstances for medical telework, supervisors may approve employees to work at an AWL outside the local commuting area. This determination will be made by the supervisor on a case-by-case basis, provided the employee meets all eligibility requirements contained in this policy or any applicable CBAs.

Official Worksite for Pay Purposes: Generally, if the employee does not physically report to the official worksite at least twice each biweekly pay period, their duty station will change to the AWL

and locality pay may be impacted. (5 CFR 531.605). An exception to this requirement is not appropriate in all time-limited situations as addressed above. If a supervisor has questions about the designation of the official worksite, they should consult their local telework coordinator or the national telework coordinator in the Office of Human Resources.

Dependent and Elder Care: Telework may be used as a flexibility to help employees with dependent or elder care responsibilities meet their family obligations and work responsibilities. However, it is not appropriate to use telework if the employee is unable to work due to dependent or elder care responsibilities. If dependent care or elder care would otherwise interrupt or interfere with the employee's work duties during the time the employee is working at an AWL, they must arrange for dependent or elder care. The employee must request leave or work schedule adjustments for periods when the employee is not able to work due to dependent or elder care responsibilities. If appropriate and an option, employees may also consider requesting an Alternative Work Schedule (i.e. flexible work schedule or a compressed work schedule) to provide additional assistance with meeting their biweekly work requirement. Work Schedules is addressed in a separate policy from telework, so employees should consult the agency's work schedules policy or applicable CBAs for more information.

Example 1: An employee has children in the home on a regular or situational telework day due to a school closure. Other than general oversight and occasional brief breaks to tend to family matters, the employee is able to complete work assignments during the daily tour of duty. Leave or work schedule adjustments aren't necessary.

Example 2: An employee has children in the home on a regular or situational telework day due to a school closure. One child needs more than minimal assistance with a school assignment during the employee's tour of duty. The employee will need to take leave or adjust their work schedule for the time they were unable to work.

Example 3: An employee requested a temporary AWL at their parent's residence so they can help their father provide assistance to their mother post-surgery. The employee may telework when not providing care for their mother and must take leave or adjust their work schedule when taking her to doctor appointments or caring for her when the father must run errands or needs a break during the employee's tour of duty.

Reasonable Accommodation under the Telework Program: Telework is an available way to accommodate qualified employees with disabilities under the agency's reasonable accommodation process. Employees seeking to telework as a reasonable accommodation should contact their immediate supervisor or the national or local reasonable accommodation coordinator. Employees teleworking as a reasonable accommodation will follow the general requirements contained in this policy to the extent such requirements are consistent with the reasonable accommodation. Employees must, at a minimum, submit a telework application, training certificate, and safety checklist. Employees approved to telework as a reasonable accommodation are required to have a valid, signed telework agreement.

EPA Continuity of Operations Plan: Telework is an important part of the agency's COOP. It enables employees to work from AWLs during emergencies such as a natural disaster, a terrorist attack, disruption to facilities or a pandemic health crisis. It is a key tool in continuing the agency's vital role in the federal government in the face of an emergency. In such an emergency, any employee—with or without a telework agreement—may be required to telework. (Note: during any period the EPA is operating under a COOP, the COOP shall supersede this policy.)

VII. PORTABLE WORK: DESIGNATING AND NOTIFYING EMPLOYEES

Although most positions may be suitable for telework, not all aspects of all jobs can be performed effectively at an AWL and therefore, be considered portable. Also, the portability of an employee's work can change over time due to project or mission needs. Each supervisor must identify the positions within their organization eligible for telework based on this policy and those not eligible, and notify each employee, including newemployees, of their eligibility to telework based on the portability of their work. Supervisors must use the notification memorandum (Appendix E) to notify employees of their ineligibility, if applicable. No notification is required if the employee is eligible to participate in telework. Supervisors are also responsible for working with their HR SSC to identify new positions or portions of positions eligible for telework and ensuring such designations are identified on position descriptions and in job announcements.

Work Suitable for Telework: Portable work performed at another location with equal effectiveness with respect to quality, quantity, timeliness, customer service, and other aspects of accomplishing the EPA's mission. Work suitable for telework depends on job content, rather than job series or title, type of appointment, or work schedule.

Employees may have some duties suitable for telework and others not suitable. For these employees, supervisors will need to determine how many days per pay period an employee is eligible to work at an AWL as part of regular telework.

Duties Not Suitable for Telework: Work that isn't portable can't be performed at another location with equal effectiveness. Examples of duties not suitable to be performed away from the agency worksite include, but are not limited to, the following:

- Requiring frequent in-person contact with the supervisor, colleagues, clients, or the general public in order to perform their job effectively. These duties cannot otherwise be achieved by e-mail, telephone, video calls, collaboration technology, or other electronic means;
- Accessing classified information or a classified installation [including those materials subject to a written policy, at the government, agency or organizational level, restricting use/access outside of a specific government installation or area within a government installation];
- Involving the construction, installation, maintenance, or repair of EPA facilities;
- Involving the physical protection of EPA facilities or employees; or
- Involving other physical presence/site-dependent activity (e.g., emissions testing, laboratory trials).

VIII. EMPLOYEE ELIGIBILITY REQUIREMENTS

Basic Eligibility Requirements: An EPA employee may be authorized to telework if:

- The employee has sufficient portable work for the amount of telework requested;
- The telework arrangement does not create any impediment to the effective accomplishment of the employee's and their organization's work;
- The employee agrees to return to the agency worksite on a telework day if required to do so by their supervisor with at least 48 hours' notice;
- The employee continues to comply with the terms of their written and approved telework agreement; and
- Arrangements are in place for dependent/elder care, if dependent care or elder care would otherwise interrupt or interfere with the employee's work duties during the time the employee is working at an AWL.

Employees may not telework work if:

- The employee has been officially disciplined (i.e. a disciplinary action that results in the placement of a document in an employee's official personnel file) for being absent without permission for more than five days in any calendar year;
- The employee has any documented performance or conduct deficiencies related to telework within the preceding 12 months, such as letters of reprimand, or leave restrictions;
- The employee has been officially disciplined for viewing, downloading, or exchanging pornography, including child pornography, on a federal government computer or while performing official federal government duties; or
- The employee has been officially disciplined for misuse of a government computer in the preceding 12 months.

XIX. TELEWORK TRAINING

Standardized training sessions for supervisors and employees will be jointly developed by the unions and management on the basics of telework to ensure a common understanding of its requirements.

Participating employees must complete the agency-approved training and obtain a certificate of training before participation. The employee's record of the required training must be attached to the telework agreement. Supervisors or managers must also complete agency-approved telework training and obtain a certificate of training.

XX. ESTABLISHING THE TELEWORK AGREEMENT

Regular and Situational Telework: The following actions are to be taken when establishing a regular or situational telework agreement:

- The employee submits a completed application to their immediate supervisor;
- The employee and supervisor discuss the proposed telework agreement and the type of work to be completed by the employee at an AWL;
- If a suitable arrangement is reached, the employee completes the application/agreement, safety checklist and the required training. Once all requirements are completed, the telework agreement is signed and dated by the employee and supervisor;
 - A separate agreement for each telework episode is not necessary if the employee has signed an agreement to telework;
- Employees may request more than one AWL. Employees requesting to work at an alternate work location not previously approved must submit a telework agreement and checklist for the new location to the supervisor for approval.
- Employees are to obtain information and implement all procedures for accessing the secured operations of the agency worksite; and
- If the AWL is a telework center, arrangements must be made by the employee's organization to cover costs of using the center and to reserve a workstation for the employee.

Medical Telework: Medical telework may be authorized for up to 80 hours per pay period for up to 90 calendar days. After 90 calendar days, a medical telework agreement may be extended for additional 90-calendar day periods if the additional medical certification justifies such at each extension (i.e., every 90 calendar days).

The following actions are to be taken when establishing a medical telework agreement:

- The employee must submit a written statement from a licensed physician or other licensed healthcare practitioner:
 - Providing a description of the medical condition necessitating the telework arrangement;
 - Summarizing the prognosis, including the expected return-to-work date, and, as appropriate, discussing medical management—including how the temporary medical condition might interrupt the employee's work schedule;
 - Listing restrictions necessary for work performed at the AWL, if applicable;
 - Stating the employee is able to perform the duties of the position at an AWL; and
 - Describing the benefit to the employee's medical condition from working at an AWL, or the reduction of health risks to other employees, if any, derived from this arrangement.
 - Generally, the information provided will be sufficient for the supervisor to make a decision on the request for medical telework; however, management reserves the right to seek additional information if needed per 5 CFR § 339.102–104.
- Based on the employee's condition, the supervisor may grant the employee sick leave or approve a combination of sick leave and telework to cover the situation.
- Medical telework is appropriate for employees with non-work-compensable injuries. Employees with work compensable injuries will be managed under applicable workers' compensation regulations.

XXI. TELEWORK AGREEMENTS

The telework agreement covers the terms and conditions of the telework arrangement. It also constitutes an agreement by the employee to adhere to applicable guidelines and policies. The telework agreement includes items such as the voluntary nature of the arrangement; duration of the telework agreement; hours and days of duty at each work location; leave approval and requests for overtime and compensatory time; performance requirements; and proper use and safeguards of government property and records. When any significant aspect of the work agreement changes (e.g., position, work assignment, alternate work location, etc.), the employee and supervisor will reassess the employee's work in accordance with this policy to determine telework suitability and continued approval.

Employees may have a telework agreement that allows them to telework from an AWL part of their day and work in an official agency worksite part of their day (split-day) as long as they comply with relevant authorities on work schedules and leave.

Employees designated for COOP purposes may be required to telework, irrespective of telework status/agreement.

The supervisor must retain a copy of the signed telework agreement and a copy must be provided to the employee. A copy of the signed telework agreement must also be provided to the appropriate telework coordinator who is responsible for maintaining telework records in the organization.

XXII. TIME, ATTENDANCE AND OTHER MISCELLANEOUS ISSUES

Recording Telework Hours and Control of Time and Attendance: Proper recording, monitoring and certification of employee work time are critical to the success of the program. Employees are responsible for recording all telework time into the time and attendance system using the appropriate telework time reporting codes.

Telework Time Reporting Codes: The time reporting codes all teleworking employees must

use to document and certify their work hours are provided below. There are separate TRCs for regular, situational/episodic, medical and unscheduled telework as well as for overtime telework and telework as a reasonable accommodation. EPA's approved TRCs are as follows:

- a. **TMREG:** Telework Medical Regular;
- b. **TOHRW:** Telework Overtime Hours;
- c. **TWRAC:** Telework for Reasonable Accommodation;
- d. **TREGW:** Telework Regular Hours;
- e. **TWCTU:** Telework Comp Time Used;
- f. **TWCTE:** Telework Comp Time Earned;
- g. **TWEHR:** Telework Episodic Hours (for situational/episodic); and
- h. **TWUSH:** Telework – Unscheduled.

Hours of Duty and Work Schedules: Employees who telework will maintain a single type of schedule (e.g., compressed, flexible work schedule) whether at the Official Agency Worksite or the AWL. Unstructured arrangements where employees work at the AWL without prior supervisory approval are not permitted. Employees should refer to the agency's work schedules policy or applicable CBA for more information.

Overtime during Telework - Eligibility Requirements: Just as at the Official Agency Worksite, overtime work conducted at an AWL must be approved in advance; overtime work not ordered and approved in advance by the supervisor, in writing, will not be compensated. Detailed information on overtime can be found in the *EPA Pay Administration Manual* (EPA Order 3155) and applicable CBAs.

Workers' Compensation: Employees who telework are covered by the Federal Tort Claims Act or the Federal Employees Compensation Act and qualify for continuation of pay for workers' compensation for injuries sustained while performing their official duties. For this reason, it is vital a specific AWL be approved in advance and adhered to by the employee.

The supervisor's signature on the request for compensation attests only to what the supervisor can reasonably know, specifically whether the event occurred at the agency worksite or at an AWL during official duty. Typically, supervisors or managers are not present when an employee sustains an injury. Employees, in all situations, bear responsibility for informing their immediate supervisor of an injury at the earliest time possible, seeking appropriate medical attention and filing the appropriate workers' compensation claim form.

Telework arrangements can also result in employees who are currently receiving continuation of pay or worker's compensation returning to work, thus taking them off the workers' compensation rolls. Supervisors may be able to find work such employees are able to perform at home or restructure existing work so some of it may be completed at home.

Requirement to Return to the Agency Worksite on a Scheduled Telework Day: Teleworking employees working at an AWL may be recalled to the Official Agency Worksite as a last resort to meet time-critical mission, staffing, and workload requirements that cannot be performed at the AWL and cannot be re-scheduled. Under these rare circumstances, the supervisor shall notify the employee as early as possible, but not less than 48 hours in advance, if they are subject to a recall to the Official Agency Worksite in an effort to provide the employee sufficient time to make necessary arrangements.

A supervisor may, on rare occasions, recall an employee to their Official Agency Worksite with fewer than 48 hours notice when the purpose of the recall is unforeseeable and essential for the agency to meet

its mission.

If an employee is required to be at the Official Agency Worksite on a regularly scheduled telework day, the employee may request, and the supervisor may approve, a situational telework day in the pay period.

Monitoring Performance: GAO guidelines require agencies to establish a method providing the supervisor with reasonable assurance employees are working when scheduled. Appropriate management controls and reporting procedures must be in place before employees begin teleworking. Teleworkers and non-teleworkers shall be treated identically for the purposes of monitoring and assessing job performance by the following methods:

- i. Supervisory telephone calls, video calls, or e-mail messages to an employee during times the employee is scheduled to be on duty; and
- ii. Use of performance management systems, including regular workload/accomplishments reports for teleworking and non-teleworking employees, to determine reasonableness of work output for time spent, project schedules, key milestones, quality of the work performed, and team reviews.

Routine performance monitoring will not include use of video or audio recording of employee activities at their work stations, keystroke counting, or monitoring of “availability” status on Teams.

XXIII. EMERGENCIES: UNSCHEDULED TELEWORK/DISMISSALS/CLOSURES

Unscheduled Telework/Closures: In the event of an unexpected office closure, telework-ready employees already scheduled to telework on the closure day are required to do so. Telework-ready employees not scheduled to telework on the closure day but scheduled to work at the official duty location are required, in coordination with their supervisor, to utilize unscheduled telework to the maximum extent possible. If necessary, (e.g., there is insufficient portable work) the employee’s supervisor may grant an appropriate category of administrative leave (e.g., weather and safety) to cover all or a portion of the scheduled workday.

Employees who are required to work during their regular tour of duty on a day when federal offices are closed to the public (or during delayed arrivals or early dismissals) are not entitled to overtime pay, credit hours, or compensatory time off for performing work during their regularly scheduled hours. Employees reporting to an AWL other than the employee’s primary residence during the workweek will follow the closure or dismissal procedures of the AWL.

Late Arrivals/Early Dismissals at the Agency Worksite: When the agency announces early closure of or late arrival to the agency worksite, telework-ready employees already scheduled to telework on the early closure or late arrival day are required to telework their regularly scheduled non-overtime hours to the maximum extent possible. Telework-ready employees not scheduled to telework on the early closure or late arrival day will be required to utilize unscheduled telework to the maximum extent possible. If necessary (e.g., there is insufficient portable work), the employee’s supervisor may grant an appropriate category of administrative leave (e.g., weather and safety) for their regularly scheduled non-overtime hours when the agency worksite is closed. Early release for the holidays must be granted to those on telework to the same extent as granted to those employees working at the agency worksite.

Unscheduled Telework Announced: In the event the regular office/worksite is open, but there is an announcement of the option for unscheduled telework, telework-ready employees not otherwise scheduled to telework may telework, come into the regular office/worksite or use annual leave,

credit hours, or other appropriate leave.

Other Emergencies or Disruptions to the Agency Worksite: In the event of a disruption to normal office operations (e.g., national or local emergency, emergency event involving inclement weather, or any situation with the potential to disrupt normal office operations), employees approved for regular and situational telework are expected to telework to the extent possible if instructed by the supervisor to do so. InCOOP situations, telework may be required.

General Provisions: It is recommended supervisors and employees coordinate in advance if there is an anticipated event with the potential to disrupt normal office operations to ensure employees have portable work and the necessary equipment to telework during a agency worksite closure to the extent possible.

As with scheduled telework, an employee performing unscheduled telework must have portable work to perform throughout the workday when teleworking. An employee who does not have enough portable work may report to the agency worksite if it is open; may contact their supervisor for additional work; may request annual leave, credit hours, or other appropriate leave; or may adjust their work schedule (if applicable).

When severe weather or other circumstances prevent work at the AWL (e.g., loss of electricity, employee must evacuate, infrastructure/connectivity and child/elder care issues) or there is a lack of portable work as determined by the supervisor, and the agency worksite is closed to employees, a telework-ready employee may be granted an appropriate category of administrative leave (e.g., weather and safety) by their supervisor.

XIV. MODIFICATION AND TERMINATION OF THE TELEWORK AGREEMENT

Telework is a voluntary program and not an employee entitlement. Employees who telework do not have an automatic right to continue teleworking. Telework agreements may be modified, adjusted or terminated at any time by management based upon an employee's failure to adhere to telework requirements or based upon any other consideration affecting employee eligibility under this policy. Telework agreements may also be modified, adjusted or terminated at any time when requested by the employee. Participation in telework will be terminated if the employee no longer meets the eligibility criteria. Before removing an employee from telework for performance or conduct issues, supervisors will complete the necessary processes to address the issues and consult their servicing labor and employee relations office for guidance.

Management shall provide sufficient notice (typically at least one full pay period when feasible) before terminating a telework agreement to allow the affected employee to make necessary arrangements. The reason for termination will be documented, signed by the supervisor, manager and/or approving official, and furnished to the affected employee and the servicing labor and employee relations office. The servicing labor and employee relations office will notify the president of any applicable union of the name of the employee and the reason(s) for the termination. Consent or acknowledgement via signature by the affected employee is not required for the termination of telework to take effect. An employee whose telework agreement was terminated may re-apply for telework.

When any significant aspect of an employee's work changes (e.g., position, work assigned, AWL), the supervisor will reassess the portability and suitability of employee's work for continued telework approval.

An employee may withdraw an application for telework, or terminate an approved telework agreement, at any time without prejudice, and return to the agency worksite. The employee must

notify the supervisor in writing, and the supervisor should in turn acknowledge the employee's notice in writing, to prevent misunderstandings about work location.

XV. REPORTING

As OPM and other federal organizations seek telework reports, the agency's TMO and agency telework coordinator will serve as the primary liaisons between EPA, OPM and other federal organizations. EPA's telework coordinator will serve as the agency's central coordinating point and will work with telework coordinators across the agency to prepare comprehensive telework information.

XVI. FACILITIES AND EQUIPMENT

Alternative Work Location Office Space: Requirements will vary depending on the nature of the work and the equipment needed to perform the work. At a minimum, employees should have adequate internet speed and be able to easily access the intranet, agency systems, communicate by telephone, email and established collaboration tools (currently Microsoft O365 suite) with the supervisor, coworkers and serviced clients when working from their AWL. In addition, employees are responsible for verifying and ensuring their work areas comply with health and safety requirements (see the "*Employee Self-Certification Safety Checklist*"). Home work areas must be clean and free of obstructions, and free of hazardous materials. An employee's request to telework may be disapproved or rescinded based on documented safety problems or the presence of hazardous materials.

A supervisor or designated safety official may inspect the AWL for compliance with health and safety requirements in the very rare circumstance that this may be deemed appropriate. The need for a scheduled site visit by the supervisor or designated safety official to the employee's AWL during work hours may occur only in very rare circumstances where an employee's compliance with health and safety requirements raises reasonable concerns substantiating the need, and only after the supervisor receives concurrence from the servicing LER specialist or other human resources official and provides notice to the employee's representative union, if applicable.

Agency Worksite Space Sharing: If management seeks to implement any space-saving initiatives, they will notify the unions and bargain to the extent required by CBAs, local agreements, applicable law, rule and regulation. Such space-saving options will be based on space availability and may include shared workstations, smaller workstations or unassigned touchdown/hoteling situations.

If an employee ceases to telework, the employee will be assigned to an office space similar or equivalent to the office they had before any space-saving initiatives were implemented.

Government-Furnished Equipment: The agency is under no obligation to provide GFE to its employees solely for the purpose of teleworking, but most employees will receive a government-issued laptop at a minimum. Supervisors may authorize the purchase and distribution of additional equipment or supplies (e.g. printers, printer cartridges, monitor, etc.) for the individual teleworker where legally permissible, as necessary, and if budget permits.

Employees who have an agency-issued laptop or mobile phone assigned to them may use such equipment while teleworking and shall take reasonable safeguards against theft and damage when they do so.

All agency-issued equipment and supplies remain the property of the agency and the EPA remains responsible for service and maintenance of the equipment. The EPA is also under no obligation to service or maintain equipment belonging to the employee, even if the employee uses it for agency work.

If an employee furnishes their own equipment/workstation at the AWL, the government will not reimburse the employee for the purchasing costs of the equipment/workstation. In addition, the employee is responsible for the maintenance, repair and replacement of privately-owned equipment. The agency will not reimburse the employee for such costs, including broadband.

The EPA may not reimburse employees for the utility costs (e.g., heating, air conditioning, lighting and the operation of government-furnished computers) for AWLs. Utility costs include the monthly service charges for telephone or specific telephone charges. Teleworking employees should use agency meeting and conferencing tools, communication options like EC-500, or government-issued mobile phones to conduct official government business with customers and contacts in other locations. The agency will also not reimburse employees for miscellaneous office supplies. Employees requiring pens, paper, paper clips, notebooks, printer cartridges, etc., may use the supplies provided by the agency; however, there should be no expectation of reimbursement for items purchased or for the agency to ship goods to an employee's AWL.

For employees working at an AWL outside of the LCA, the agency is responsible for service and maintenance of GFE. In cases where GFE needs repair and upgrade, the agency will make all reasonable efforts to initiate repairs and upgrades remotely. However, should on-site assistance be required, employees must either return to their agency worksite or make other arrangements with their supervisor to ensure repairs and upgrades can be made expeditiously. In consultation with the employee, supervisors or managers will make determinations over questions such as the employee's duty status, appropriate work assignments and potential temporary equipment during the interim period between when repairs and upgrades are required and when they are completed.

Note: Consistent with the agency's Records Management Policy, official agency business should first and foremost be done on official EPA information systems. The Federal Records Act prohibits the creation or sending of a federal record using a non-EPA electronic messaging account unless the individual creating or sending the record either: (1) copies their EPA email account at the time of initial creation or transmission of the record, or (2) forwards a complete copy of the record to their EPA email account within 20 days of the original creation or transmission of the record.

XVII. INFORMATION SECURITY

The EPA CIO issues and maintains information security directives for protecting EPA information and information systems to include when users are teleworking and accessing systems remotely. These directives outline the responsibilities of each program office, region or other organization, and users in protecting EPA systems and information. Other pertinent supporting information security directives may be issued by users' program offices, regions or other organizations.

Users agree their responsibilities, described in the agency's information security directives, apply while on telework status. Teleworkers must minimize security risks to all agency information and systems.

The AWL workplace and workstation and other devices used with agency information must be configured to ensure all agency information in any form or format is properly protected at all times and in accordance with all agency directives.

XVIII. RECORDS MANAGEMENT

When working at an AWL, agency employees must continue to comply with the agency's records management policy and any other applicable policies related to using, creating, maintaining and disposing of records. Employees shall also comply with the Federal Records Act, Freedom of

Information Act, the terms of any litigation hold, discovery in litigation and any requests for records by the Office of the Inspector General. Any record removed from the agency worksite for telework assignments remains the property of the agency and any information generated from telework assignments is the property of the agency. Employees are responsible for maintaining the integrity of their records and for producing records on demand.

Disposal of Telework Program Records: EPA Records Schedule 0039, Alternate Worksite Records, authorizes the disposal of records related to requests or applications to participate in an alternate worksite program (i.e., telework). This includes agreements between the agency and an employee, records relating to the safety of the worksite, the installation and use of equipment, hardware and software, and the use of secure, classified information or data subject to the Privacy Act.

XIX. POLICY UPDATING PROVISION

In accordance with the Telework Enhancement Act of 2010, this provision authorizes the assistant administrator of OMS, who has been re-delegated management authority for the agency's directives system, the ability to independently update the agency telework policy as required by other relevant federal organizations, including, but not limited to, the Office of Management and Budget, OPM, the Federal Emergency Management Agency, the National Archives and Records Administration, and the GSA. The AA for OMS may also re-delegate the authority to update the policy to the director of the Office of Human Resources. This authority also may be re-delegated further as appropriate.

XX. WAIVER

Any request to waive the requirements of this policy must be submitted in writing by the AA/RA (or designee) and approved by the OMS AA (or designee).

XXI. MATERIALS SUPERSEDED

- a. EPA Order 3110.32, *Telework Policy* (July 28, 2020).

XXII. REFERENCES

- a. The Telework Enhancement Act of 2010
- b. Public Law 106-346, § 359: Requires all Executive agencies to establish telework policies
- c. Public Law 105-277, Omnibus Appropriation Act, Title IV, § 630: Requires funds be set aside for Executive agency employees to use telework centers
- d. 5 USC 65: Telework
- e. 5 CFR 351.203: Definitions
- f. 5 CFR Part 530: Pay Rates and Systems (General)
- g. 5 CFR Part 531: Pay Under the General Schedule
- h. 5 CFR Part 550: Pay Administration
- i. 5 USC Section 5305(i): Special Pay Authority-New Official Duty Station
- j. 5 USC 5702: Per diem; employees traveling on official business
- k. EPA Delegation 1-17 A (September 13, 2011) *Domestic Travel*.
- l. EPA HR Bulletin number 08-006B (September 30, 2008) *Time Reporting Codes (TRCs) for Certifying Time and Attendance for Employees in EPA's Flexiplace (Telework) Program*
- m. *Guide to Telework in the Federal Government* (April 2011), OPM
- n. *Governmentwide Dismissal and Closure Procedures* (November 2018), OPM
- o. *Additional Guidance on Post-Reentry Personnel Policies and Work Environment* (July 23, 2021),

March 8, 2022

OPM

p. *2021 Guide to Telework and Remote Work in the Federal Government* (November 2021), OPM

XXIII. APPENDICES

- Telework Agreement
- Safety Checklist
- Telework Discontinuation
- Notification of Ineligibility