



NFFE Update on Coronavirus

March 24, 2020

It's been a little over a week since the Union's last update, and my, what a difference a week makes! As communities and states have begun to issue various stay-at-home orders, USDA was finally forced to relax restrictions on telework. And on Thursday, OPM provided guidance on mandating telework.

Yet, the apparent gag the USDA has on Forest Service communication has left many Forest Service managers and employees without clear guidance on how to respond. The Union has reviewed the various direction, and below we provide information on key questions from employees.

I. The Union's Approach

The Union's goal is to ensure that employees are kept safe and able to care for their families, while also accomplishing as much Forest Service work that we can *while keeping our safety goal in mind*. This is not a time to game the system to see how much time off we can get; it is a time to evaluate how we can keep everyone safe *physically, emotionally, and financially*.

II. General Direction for Employees

USDA is only permitting Weather and Safety Leave in very limited situations, so it is important that you perform work to the extent that you are able, even as more locations issue Stay Home, Stay Safe or Shelter-in-Place orders.

1. Telework if you have the type of work to do so. However, if you do not have adequate equipment (at a minimum a government laptop and home internet), discuss this with your supervisor. We are prohibited from using personal equipment for government work (remember all that security training!), so **do not use your personal computer or phone**. See *EVACUATION PAYMENTS* section below.
2. If you cannot telework, perform assigned work at your duty station or other appropriate location, observing adequate social distancing procedures.
3. If your regular work cannot be done by telework or while social distancing, ask your supervisor for work assignments that can be done while complying with social distancing. **Even if it feels like busy work, performing assigned work will keep you from having to use leave**. See *EVACUATION PAYMENTS* section below.
4. If your supervisor does not have work that you can do that complies with stay-at-home orders from your local or state authorities, you should be granted Weather and Safety Leave, rather than having to use your own annual leave. Be sure you document that you asked for work and were told there was none.
5. If you are assigned **non-mission critical work** that cannot be done while keeping adequate social distancing, you may want to use your Safety Empowerment Card to call attention to the situation.
6. **Mission-critical work** has been defined by USDA in the [USDA Shelter In Place Template](#) as “Law enforcement, wildland firefighting, and other functions supporting protection of public safety at National Forests.” Employees performing this work will need adequate PPE and take other measures to ensure that they, their coworkers, *and their families* are not unnecessarily exposed to the coronavirus. Again, if you feel that adequate protections are not being taken, consider using the Safety Card.



III. At risk Employees

Employees who are at higher risk of serious illness due to coronavirus may telework to increase social distancing. Employees who cannot telework or otherwise perform work safely may be granted Weather and Safety (W&S) Leave (formerly referred to as Admin Leave). See top of page 5 in the [USDA Expanded Telework Guidance](#) and the [OPM Fact Sheet on Evacuation Payments](#).

IV. Medical Certification for Illness

I hope this is not coming up, but especially as people are being told NOT to go to the doctor unless they are seriously ill, here is a reminder that the [Master Agreement](#), Article 20.2.b states, “An explanatory note and/or oral report by the employee when a physician’s services were not required will be accepted unless the employee is under valid sick leave restriction or there is a reasonable suspicion of abuse.” Although [5 CFR 630.405](#) allows a supervisor to request a medical certificate, they are not required to request one, and your contract has put limits on when they may.

V. Evacuation Payments

See [OPM Fact Sheet on Evacuation Payments](#) and [OPM FAQs on Evacuation Payments](#) guidance, based on [5 CFR 550, Subpart D](#), specifically Section 550.409. Key items include:

1. Employees may be directed to work at home (or an alternative location agreeable to the employee and the agency) even if they don’t have a telework agreement in place.
2. Employees may be assigned to perform any work considered necessary without regard to the employee’s grade, level, or title during the evacuation pay period.
 - a. If the employee is performing work, the employee is in work status and is entitled to his or her regular pay for those hours.
 - b. If an employee requests to be excused from performing assigned work, the employee must take personal leave (e.g., annual leave, sick leave, or leave without pay).
 - c. If an agency does not have work to assign to an evacuated employee, the agency would provide weather and safety leave to that employee.
3. The Agency has authority to make payments to employees to offset the expenses of performing work from home or alternate location. This could be especially helpful for employees who do not have equipment or internet for working at home.

VI. Caring for Dependents

This is one of the large areas of inequity, and we are working to get legislation introduced into Congress on this. The State of Minnesota has already created [Minnesota COVID-19 leave](#) that their employees who are unable to work can use while caring for children. *We believe that the Forest Service could use Administrative Leave the same way, but USDA is telling them they cannot.* Which leaves us with the following situations for people who have children, elders, or others who depend on them for care, but whose care services or schools have been shut down.

- 1. Telework** – Employees who have work that can be done by telework are able to telework, even if there are dependents in the home. This has always been the case under the [USDA Telework Directive](#). The Directive states, “... a dependent may be permitted in the home, provided they do not require constant supervision or care (i.e., older child or adolescent) and their presence does not disrupt the ability to telework effectively.” Obviously, you cannot record time that you must step away from teleworking as work time on your timesheet.
- 2. Unable to telework** – Employees who are not eligible to telework, aren’t able to telework with their dependents around, or aren’t equipped to telework are currently required to take annual or other leave. As usual, if they are caring for family members who are ill, they may use sick leave. Additionally, the [Families First Coronavirus Response Act](#) allows Federal employees to use up to 80 hours of a new COVID-19 Sick Leave category to care for dependents who do not have school or daycare (we have no agency guidance on this one yet).

VII. Impact the Families First Coronavirus Response Act

Because permanent federal employees already have a paid sick leave benefit the impacts of the new law for Federal employees are limited. The main item is that 80 hours of COVID-19 Sick Leave will be available for all PFT employees to be used when employees:

- Are subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- Have been advised by a health care provider to self-quarantine due to concerns related to COVID-19
- Are experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- Are caring for an individual who is subject to a quarantine or isolation order or has been advised by a health care provider to self-quarantine.
- Are caring for their son(s) or daughter(s) if the children's school or place of care has been closed, or the children's child care provider is unavailable due to COVID-19 precautions.
- Are experiencing any other substantially similar condition specified by the secretary of HHS

VIII. Fire-related Issues

The question of how to handle fire situations looms large, and we are engaging with management about how best to keep our fire workforce safe. [Area Command Teams](#) were activated last week and [Fire Management Board issued guidance on March 23, 2020](#) regarding fire preparedness adjustments. More info will surely be coming.

These are very difficult and uncertain times, and we are all muddling through this the best that we can. We hope that the information in this communication has been helpful to sort through so many daily communications and find the answers to address your work situation. If you have further questions, you can address them to SM.FS.NFFEFSC-Pres@usda.gov.

I know that some of you do not wish to receive communications from the Union. It is not feasible nor appropriate that we not send important information to all BUEs. If it is not of interest to you, just delete.

Key Guidance Documents

With the situation changing as rapidly as it currently is, the best bet in using these documents is to start with the newest ones and work backward to find the answers to your questions. Note that the Forest Service has put out no guidance, and we know that Forest Service employees and supervisors are really struggling with not having clear guidance that applies to our work and our small, rural offices and homes.

- [OPM Questions and Answers about COVID-19](#) (March 7, 2020) – These are getting a bit dated, but they still include some key answers that aren't elsewhere.
- [USDA Telework Readiness, School Closures, Reasonable Accommodation Guidance](#) (March 11, 2020). Some of this guidance may be out of date, but the Reasonable Accommodation information may be helpful.
- [USDA Expanded Telework Guidance](#) (March 15, 2020). This direction radically changed the USDA stance on telework, although the USDA focus is appears still to be to be “mission first, employee safety second.”
- [OMB Operational Alignment Guidance](#) (March 17, 2020). This memorandum (3/17) that signals a shift to taking actions to reduce spread of coronavirus; focus primarily on mission-critical functions; and reduce those non-mission-critical functions that cannot be performed remotely without person interactions.
- [Families First Coronavirus Response Act](#) (March 18, 2020).
- **Evacuation Payments:**
 - [5 CFR 550.409](#)
 - [OPM Fact Sheet on Evacuation Payments](#) (March 19, 2020)
 - [OPM FAQs on Evacuation Payments](#) (March 19, 2020)
- [USDA Shelter In Place Template](#) (March 20, 2020). This includes the definition of Mission Critical for Forest Service.
- [USDA Updated Playbook](#) (March 20, 2020). Guidance on what to do if someone (employee, visitor, facility) is exposed or sick with COVID-19.
- [Fire Management Board issued guidance on March 23, 2020](#) Fire Preparedness information

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