



POLICY ISSUE

(Notation Vote)

August 22, 2023

SECY-23-0072

FOR: The Commissioners

FROM: Daniel H. Dorman
Executive Director for Operations

SUBJECT: FINAL AGENCY DECISION TO IMPLEMENT THE FLEXIBLE WORK MODEL

PURPOSE:

The purpose of this paper is to inform the Commission of the staff's final decision to implement the Flexible Work Model for the U.S. Nuclear Regulatory Commission (NRC), in response to the Commission's Staff Requirements Memorandum (SRM)-COMAXC-23-0001, "Enabling the Mission – A Measured Approach to the Future of Work," dated June 9, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. [ML23160A274](#)). The staff intends to move forward with the Flexible Work Model 11 business days (i.e., September 7, 2023) after the date of this Information Paper consistent with the Internal Strategic Communication Plan in Enclosure 1. This allows sufficient time for training, collaboration, and communication before full implementation. This paper does not address any new commitments or resource implications.

SUMMARY:

This Information Paper provides the final agency decision on the flexible work model, which focuses on the "Presence with Purpose" philosophy and delegating authority to first-line supervisors to approve telework arrangements with at least two in-person days per pay period.¹

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Enclosures 1 - 4 transmitted herewith contain Official Use Only - Sensitive Internal Information. When separated from Enclosures 1 – 4 this transmittal document is decontrolled.

¹ See Article 7, Section 7.4, of the Collective Bargaining Agreement, dated November 15, 2021, for the telework arrangement eligibility requirements.

Specifically, this paper includes an overview of the Flexible Work Model and the internal controls in place to mitigate potential risks; evidence and data used for decisionmaking; a summary of the feedback received from the Office of Management and Budget (OMB); a summary of established organizational performance measures; a narrative of how the Flexible Work Model compares to other Federal agencies of similar size and function; and an overview of the guidance documents and internal strategic communication plan.

BACKGROUND:

As a result of the COVID-19 Public Health Emergency (PHE), OMB issued guidance for agencies on March 17, 2020, to “immediately adjust operations and services to minimize face-to-face interaction” and possibly “postpone or significantly curtail non-mission critical functions” that required on-site or in-person interactions. In response, on March 19, 2020, the Executive Director for Operations (EDO) issued mandatory telework for all non-mission-critical functions effective immediately, with NRC’s offices and regions, as well as the Technical Training Center (TTC), remaining open to allow critical functions performed in an NRC facility to continue. On November 7, 2021, the NRC fully re-entered the workplace and transitioned from a maximum telework status to a hybrid status. Upon full re-entry, first-line supervisors were delegated the authority to approve up to six telework days per pay period, which requires four in-person days per pay period.

Following re-entry, the EDO tasked staff and senior leadership to study various telework options through the Hybrid Environment Assessment and Review Team (HEART) ([ML22111A048](#)) and the Telework Policy and Implementation Working Group (TPIWG) ([ML22194A933](#)). These two groups issued reports that contained in-depth assessments and benchmarking into the use of telework. Following the issuance of the HEART final report dated September 30, 2022 ([ML22271A894](#)), and the TPIWG final report dated October 27, 2022 ([ML22300A206](#)), the staff began to develop the Flexible Work Model based on recommendations from these reports. The recommendations in both the HEART and TPIWG reports should not be construed as a plan or a given path forward; they simply contain recommendations that the EDO considered when setting the vision for the Flexible Work Model described below.

During the development of the Flexible Work Model and associated guidance documents, the staff took several factors into consideration, including staff feedback and guidance in OMB Memorandum M-23-15, “Measuring, Monitoring, and Improving Organizational Health and Organizational Performance in the Context of Evolving Agency Work Environments,” dated April 13, 2023.² OMB M-23-15 outlines steps agencies will take to ensure that agency decisions regarding work environments continue to improve organizational health and organizational performance. Further, the NRC engaged in pre-decisional involvement discussions with the National Treasury Employees Union (NTEU), Chapter 208, and shared drafts of the Flexible Work Model Guidance, which includes a discussion on the Presence with Purpose philosophy (Enclosure 2), and the Internal Strategic Communication Plan, for their review and comment. The staff incorporated elements of OMB M-23-15 and NTEU’s feedback into the Flexible Work Model as appropriate.

² Available at: <https://www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf>.

The staff reached an understanding with NTEU and developed a draft Memorandum of Understanding (MOU). The MOU is intended to provide a mutual understanding that the Flexible Work Model, which includes Presence with Purpose, supplements current telework policies. The intent is to sign the MOU with NTEU 11 days after the date of this Information Paper.

DISCUSSION:

Flexible Work Model

A work model defines an organization's strategy and working arrangements for employees. The NRC's Flexible Work Model uses existing telework policies and adopts the philosophy of Presence with Purpose while empowering first-line supervisors, through the delegation of authority, to approve telework arrangements with at least two in-person³ days per pay period. Under the Flexible Work Model, the number of hours that constitutes an in-person day is equal to a minimum of 4 hours.⁴ Consistent with OMB M-23-15, the intent is to significantly increase meaningful in-person presence by providing staff the flexibility to be in-person on days and times when it is meaningful to be in-person. The expectation is for employees to be in-person, when necessary, to support the agency mission, organizational health, and stakeholder confidence strategic goals.

Presence with Purpose emphasizes intentional meaningful engagement, both in-person and virtually. It requires staff to be deliberate about when to work from in-person locations to accomplish work that either cannot be performed remotely or would benefit from an in-person presence. This philosophy extends trust and requires accountability to facilitate a common understanding of the need for meaningful in-person presence. The change in delegation recognizes that first-line supervisors are in the best position to understand the nature of work within their unit and, accordingly, first-line supervisors and staff must work together to optimize meaningful in-person presence. The Presence with Purpose philosophy and the delegation of authority to first-line supervisors are discussed in detail within the enclosed Flexible Work Model Guidance.

There are no expected changes to policies because of the Flexible Work Model. The NRC's policy documents for the use of telework include Article 7 of the Collective Bargaining Agreement (CBA), dated November 15, 2021,⁵ for bargaining unit employees and Management Directive (MD) 10.166, "Telework,"⁶ dated July 13, 2017, for non-bargaining employees. These documents are hierarchical, meaning, for bargaining unit employees, the provisions of the CBA supersede MD 10.166 if any conflicting policies are identified between the two documents.⁷ While there are no expected changes to these telework policy documents, the NRC's guidelines on the internal Telework Program webpage will be revised to reflect the change in delegation.

³ In-person includes hours spent in an NRC facility as well as hours spent at a temporary duty station (e.g., site visit, public meeting, inspection, training).

⁴ The number of days and hours necessary to maintain a physical workstation within an NRC facility is separate and is currently under bargaining with NTEU.

⁵ NRC and NTEU Collective Bargaining Agreement dated November 15, 2021 ([ML21321A64](#)).

⁶ Management Directive 10.166, "Telework" was approved by Victor M. McCree, Executive Director for Operations on July 13, 2017 ([ML18073A302](#)).

⁷ See Article 1, "Recognition and Coverage," Section 1.6 of the CBA for more information.

Presence with Purpose and the delegation of authority to first-line supervisors may appear to be a shift to less in-person presence. However, first-line supervisors must determine the appropriate level of telework for their employees based on the provisions in Sections 7.2 and 7.4 of the CBA and should not automatically default to the minimum of two in-person days per pay period. Federal regulations require a minimum of two in-person days each pay period on a regular and recurring basis to determine the employee's duty station and to establish locality pay.⁸ Further, telework arrangements with less than two in-person days per pay period, including full-time telework, will continue to require higher management approval.

As established within the CBA, telework is not an employee entitlement.⁹ Management must exercise their discretion when approving or denying a telework arrangement request by determining whether an employee's work is consistent with the provisions in Section 7.2 and 7.4 of the CBA. Section 7.2 of the CBA states in part, "[a]pproval or denial of an employee's request to telework will be based on telework not diminishing the employee's performance or agency operations, applicable law, regulation, and the provisions of this Article [Article 7]." Section 7.4 of the CBA includes telework eligibility requirements, subject to Section 7.2, which in summary include: portability of work; the employee's absence from the work site does not unduly interfere with the efficient operation of the organization; that the employee does not require frequent face-to-face interaction with supervisors, coworkers, or others; use of specialized equipment; and employee performance.¹⁰

It is expected that opportunities to engage in meaningful in-person presence may fluctuate during a pay period given the nature of the work performed across the agency. Consistent with Section 7.8 of the CBA, management has the authority to modify a telework arrangement, for a short duration, with advanced written notice when practicable (e.g., HCM Cloud work schedule request, email, Teams chat) to accommodate meaningful in-person activities. Management can modify a telework arrangement to increase the amount of in-person presence as well as to accommodate additional telework when there are no meaningful in-person activities or when productivity would benefit from additional telework.¹¹ Telework arrangements are expected to be modified to accommodate meaningful in-person events such as public meetings when staff is expected to engage with external stakeholders, meetings with licensees that have been requested to be held in-person, site visits, and on-boarding new or transferring staff. These modifications must be short in duration and not result in extended periods of telework greater than two pay periods. Management and employees are expected to work together when modifying telework arrangements to accommodate in-person activities. Furthermore, first-line supervisors have the authority and responsibility to enforce work expectations related to conduct and performance as discussed in the CBA and MD 10.99, "Discipline and Adverse Action," if meaningful in-person work is not being fulfilled when required.

The NRC will continue monitoring the agency's performance using established performance indicators and survey results to assess organizational performance, organizational health, and stakeholder confidence. Work environment data (e.g., attrition, hiring, time and attendance, building occupancy) will also be monitored to provide additional context when interpreting performance indicator results. The agency's performance management process discussed in

⁸ Additional information is available at: <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/official-worksite-for-location-based-pay-purposes/>.

⁹ See Article 7, Section 7.2, of the Collective Bargaining Agreement for the full and exact language.

¹⁰ See Article 7, Section 7.4, of the Collective Bargaining Agreement for the full and exact language.

¹¹ The lack of activities necessitating an in-office presence cannot be used to informally amend a fixed telework schedule that is approved for two or more in-person days on a consistent or regular basis.

MD 6.9, "Performance Management," dated August 15, 2016,¹² inherently includes conditions that would result in senior leadership taking appropriate actions when performance indicators show a decline in performance at the agency, business line, product line, or office level. These appropriate actions require senior leadership to be held accountable and would include addressing organizational performance issues that may result from the Flexible Work Model. The agency's performance indicators use targets to establish performance thresholds that trigger appropriate action if the target is not met, or results begin to decline toward the target over time. The NRC's Quarterly Performance Reviews, as well as the Strategic Alignment Meetings, which are used to discuss performance toward organizational health and stakeholder confidence, provide a formal mechanism for senior leadership to remain focused on agency priorities and actions, diagnose problems and opportunities through analysis, learn from experience, and determine next steps to increase performance and productivity. The Annual Performance Plan and Report for Fiscal Year (FY) 2024 ([ML23038A113](#)) includes the agency performance indicators that will continue to be used to measure agency performance. The Annual Performance Plan and Report also includes historical data for performance indicators. In addition, the NRC is required by OMB M-23-15¹³ to review and analyze existing organizational health and organizational performance indicators, data, and processes by September 11, 2023. The staff will identify gaps in the current performance indicators and work environment data as part of this analysis currently underway.¹⁴

Employee performance can be one of many potential factors that contribute to performance indicators not being met. If employee performance is identified as a contributing factor, and it is found that there is a relationship between a specific employee's telework arrangement and their poor performance, management can either modify or terminate telework flexibilities for that specific employee, per Articles 7.8 and 7.9 of the CBA. Management is responsible for monitoring workforce productivity based on meeting milestones and deadlines. Management also performs individual performance reviews in addition to the tracking of labor hours through the agency time and attendance system. Management will continue to provide an important role in ensuring the agency's workforce is successful in achieving our safety and security mission, organizational health, and stakeholder confidence strategic goals. In addition, MD 10.67, "General Grade Performance Management System," dated September 19, 2019,¹⁵ establishes management responsibilities to promote excellence and accountability through a focus on results; strengthening the link with strategic planning; clearly and directly linking organizational mission and program goals to individual performance and results; and forms the basis for other personnel actions.

While the policies in place for telework will not be revised with implementation of the Flexible Work Model, the agency's risk tolerance for telework has evolved. Risk tolerance is the amount of risk acceptable for a decision.¹⁶ The level of risk is related to the acceptance of the outcomes should they occur and having the right internal controls in place to absorb or "tolerate" the given risk. The staff will continue to analyze organizational performance and organizational health data, including work environment data, to monitor and identify potential risks associated with the Flexible Work Model, as appropriate, consistent with the enterprise risk management process described in MD 4.4, "Enterprise Risk Management and Internal Control," dated April 3, 2023.¹⁷

¹² Available at <https://www.nrc.gov/docs/ML1807/ML18073A261.pdf>.

¹³ Available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf>.

¹⁴ This action is currently being tracked by the Office of the Secretary.

¹⁵ Available at <https://www.nrc.gov/docs/ML1911/ML19119A071.pdf>.

¹⁶ NUREG/KM-0016, "Be riskSMART: Guidance for Integrating Risk Insights into NRC Decisions" ([ML21071A238](#)).

¹⁷ MD 4.4, "Enterprise Risk Management and Internal Control," dated April 3, 2023, ([ML23073A073](#)).

The TPIWG recommended conducting a one-year pilot for delegating to first-line supervisors the authority to approve telework plans involving at least two in-person days per pay period. The decision to implement the Flexible Work Model without a one-year pilot was made after careful consideration of the established internal controls included within agency policy and practices, as discussed above. In-person presence will be driven by meaningful engagement with internal and external stakeholders. Management has the authority to increase and decrease in-person presence to ensure the appropriate balance is achieved between in-person and virtual work.

Work Environment

A work environment refers to the elements that comprise the setting, social features, and physical conditions in which employees work. A work environment, therefore, is influenced by the work model. While there is sufficient evidence and data to analyze and monitor the NRC's organizational performance and organizational health, unequivocally proving that telework either works or does not work should not be the expectation. Telework is one of many complex factors that can affect organizational performance and organizational health.

Many NRC employees reported dissatisfaction with the work environment after re-entry and expressed that in-office activities were no different than those routinely performed virtually. Employees also pointed out that they had limited face-to-face interactions while in the office. These limited interactions created a work environment where employees in the office attended many meetings virtually. The Flexible Work Model incorporates the Presence with Purpose philosophy (HEART Recommendation 1) and the delegation of authority to first-line supervisors (TPIWG Recommendation 2) based on the efforts to collect evidence and data by HEART and TPIWG, as documented in the final reports.

As a result of the current work model, which is generally six telework days or four in-person days per pay period, employees are teleworking approximately 45% of the time in comparison to the total amount of hours reported, which includes all leave hours. This is based on time and labor data collected between October 1, 2022, and June 3, 2023 (Figure 1).

Figure 1 - Percent Telework Based on Total Hours – October 1, 2022 – June 3, 2023¹⁸

Telework Hours	Non-Telework Hours	Leave Hours	Total Hours	Percent Telework
1,747,490	1,408,114	694,530	3,850,134	45%

Figure 2 below distributes the NRC employees across five 20% intervals. The data follows a normal distribution and shows that approximately 65% of employees telework between 40% and 79% of the time. As a conservative projected estimate, if the 65% of employees currently teleworking between 40% and 79% of the time shifted to 80% telework, then the average telework percentage would increase from 45% to 60% of the time. However, the actual percentage of telework performed will depend on the amount of meaningful in-person presence, facilitated by management and staff, based on the Presence with Purpose philosophy.

¹⁸ Percentage of telework is based on the number of telework hours divided by the total hours reported, which includes leave hours. The number of employees excludes Commission staff, Office of the Inspector General, contractors, student interns, student co-ops, and employees with less than 160 total hours reported. The number of employees is a moving target and includes new hires and employees that left the agency during October 2022 through June 2023.

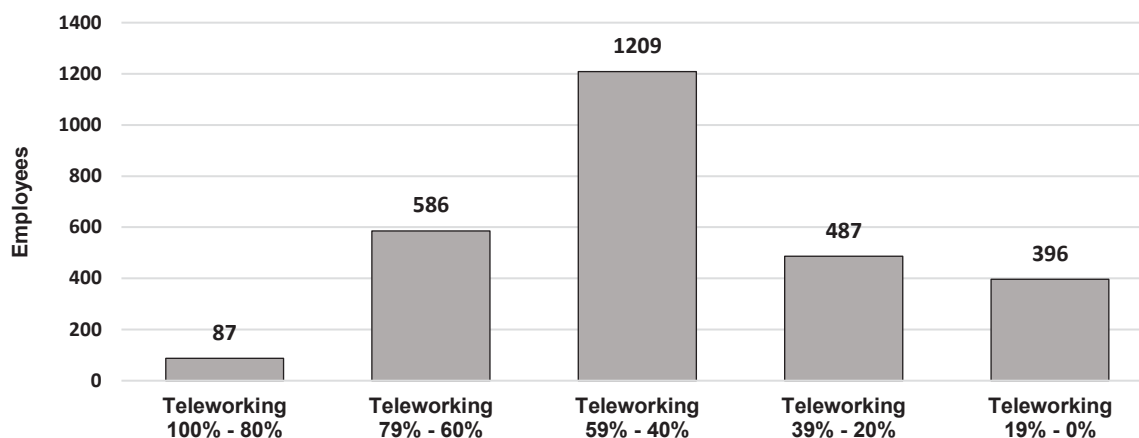
Figure 2 - Percentage of Telework Hours Reported by NRC Employees (October 2022 - June 2023)

Figure 3 below provides the average and peak occupancy data for headquarters, the regions, and the technical training center between February 2023 and May 2023. The average percentage of telework cannot be used as a direct comparison to occupancy data because the percentage of telework includes leave and in-person hours. In-person hours includes time spent in-office or working from a temporary duty station (e.g., site visit, public meeting, inspection).

Figure 3 - Daily Average and Peak Occupancy¹⁹ (February 2023 - May 2023)

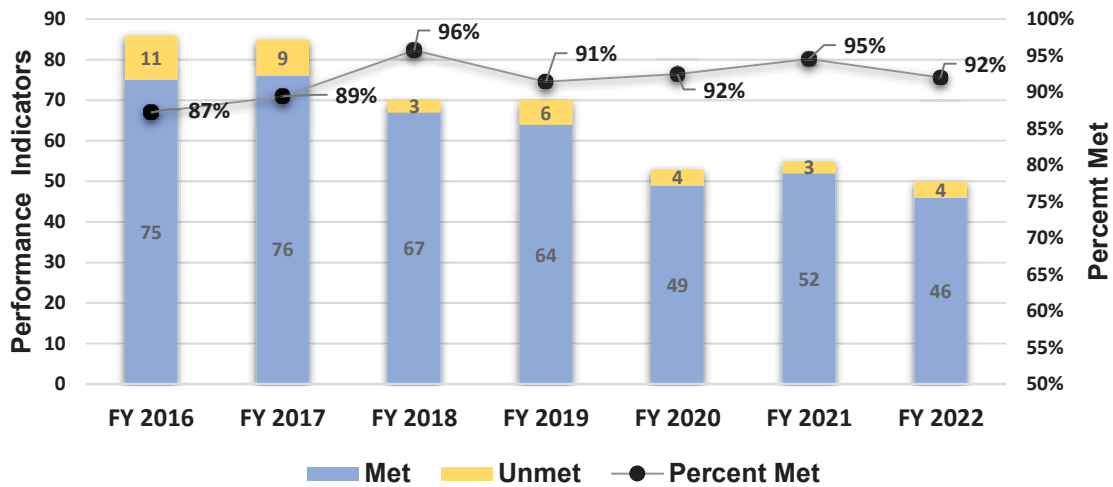
	Monday	Tuesday	Wednesday	Thursday	Friday
Headquarters Average	442	799	698	573	228
Headquarters Peak	576	883	748	646	266
Regional Average	148	279	202	155	54
Regional Peak	210	367	358	257	85
Technical Training Center Average	38	35	26	27	20
TTC Peak²⁰	64	44	51	44	33
Total Combined Average	628	1113	926	755	302

A review of the agency's performance indicators shows that organizational performance has improved between FY 2016 through FY 2022 (Figure 4). While the agency's performance indicators provide keen insights into the health of the NRC's programs and functions, they should not be used as a measure to determine the success or failure of the Flexible Work Model. Monitoring timeliness and impacts to milestones and schedules at the activity level would provide better insight into productivity. The number of performance indicators in Figure 4 shows a marked decline after FY 2017. The decline in the number of performance indicators was the result of an agencywide effort to remove insubstantial performance indicators. Many performance indicators removed did not provide insight into program or function health (e.g., count of licensing actions completed) or were continuously met without challenge, year after year (e.g., annually met with a result of 100%).

¹⁹ Only includes Federal employees.

²⁰ Includes TTC employees and employees attending training.

Figure 4 - Agencywide Performance for Fiscal Years 2016 - 2022



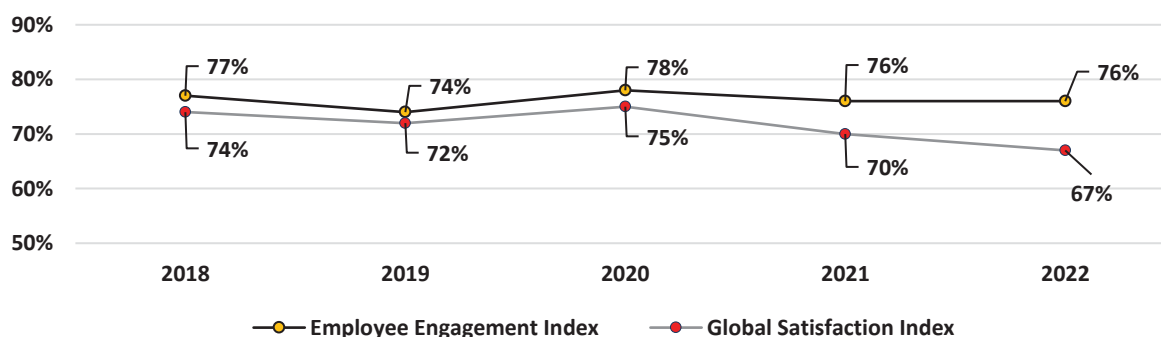
The 2022 Federal Employee Viewpoint Survey (FEVS) results show that the NRC had strong performance across all four of the measured indexes shown in Figure 5. The NRC outperformed the government-wide average in all four indexes. The NRC also compared well to other midsize agencies on average. The NRC’s Global Satisfaction Index shows a decline in Figure 6 between 2020 to 2022. The decline likely reflects employee’s dissatisfaction toward re-entry after the COVID-19 PHE as previously discussed. The staff is monitoring the FEVS results within the performance indicators established for the agency’s organizational health strategic goal. The intent of these performance indicators is to establish actions that the agency will take to influence and improve associated measures, such as FEVS results, to positively impact organizational health.²¹ The actions and their effect on the associated measures are analyzed on an annual basis to determine whether the actions are moving the agency in the desired direction. The NRC historically established performance indicators based solely on specific FEVS indexes or questions. These performance indicators were removed as part of the agencywide effort to reduce insubstantial performance indicators previously mentioned. Simply monitoring the results did not provide the necessary insights to take actions that influenced change in a beneficial and sustainable way. Fostering organizational health, including focusing on stakeholder confidence, requires dedication and time to make the necessary organizational changes where appropriate.

²¹ Outcome based performance indicators have been established for Strategic Goal 2, organizational health and Strategic Goal 3, stakeholder confidence are included in the Annual Performance Plan and Report for FY 2024 ([ML23038A113](#)).

Figure 5 - 2022 Federal Employee Viewpoint Survey Results Comparison

Index Measures	Governmentwide	Medium Size Agencies	NRC
Employee Engagement Index (EEI)	71%	76%	76%
Global Satisfaction Index (GSI)	62%	69%	67%
Performance Confidence	84%	89%	89%
Diversity, Equity, Inclusion, and Accessibility	69%	75%	76%
POSITIVE responses averaging 65%, or higher, are considered strengths. Responses are conditionally formatted as follows:	50% or Lower	60%	65% or Higher

Figure 6 - 2018 - 2022 Federal Employee Viewpoint Survey Results²²



While significant efforts and actions must be taken for the NRC to return its ranking as one of the best places to work in the Federal government, the lack of opportunity and flexibility in implementing the NRC’s current telework guidance may be a negative factor based on staff feedback and the recent FEVS results which shows that approximately 28% of NRC employees are considering leaving the agency based on current telework or remote work options.²³ The staff plans to conduct pulse surveys for monitoring the effects of the Flexible Work Model on areas that include employee engagement and global satisfaction.

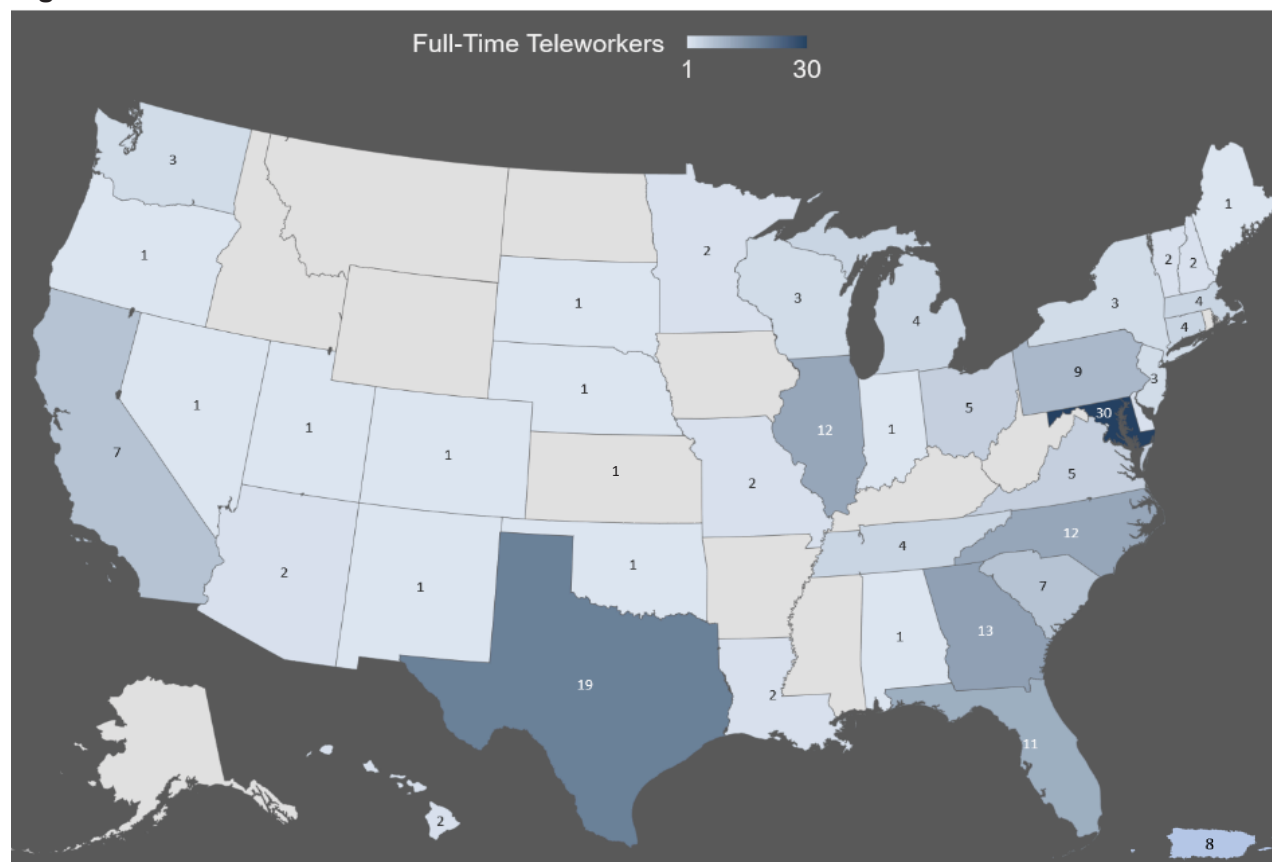
The delegation of authority to first-line supervisors to approve telework arrangements with at least two in-person days per pay period will not impact travel costs. Employees approved for two in-person days per pay period would still maintain a duty station consistent with the appropriate NRC facility. The NRC currently has approximately 200 full-time teleworkers who work across the country and U.S. territories as shown in Figure 7. The Flexible Work Model, specifically the adaptation of the Presence with Purpose philosophy, also applies to full-time teleworkers. The Flexible Work Model intends to increase meaningful in-person presence for staff because it will be important that staff, including full-time teleworkers, participate in meaningful in-person activities as appropriate. Attendance at in-person activities will continue to

²² The Performance Confidence and Diversity, Equity, Inclusion, and Accessibility Indexes are new for FY 2022.

²³ Result reported in the 2022 FEVS for question number 93. Question 93 included 1,837 employee responses.

be expected for full-time teleworkers as was the case previously (e.g., public meetings, site visits).²⁴

Figure 7- Distribution of NRC Full-Time Teleworkers



The current work environment resulted in an increase in the number of vacant or underutilized workspaces, which is expected to continue once the Flexible Work Model is implemented. This provides an opportunity to optimize workspace utilization and reassess housing requirements providing the potential to return additional space back to General Services Administration, which would result in long-term cost reductions. Staff continues to work with NTEU on office space and the use of hoteling. Resources to support space reductions and renovations for FY 2025 and beyond will be addressed through the NRC budget planning process.

Office of Management and Budget Feedback

As required by OMB M-23-15, the NRC submitted a Work Environment Plan for OMB review on March 15, 2023. The Work Environment Plan provided a summary of the NRC’s plans to implement the Flexible Work Model as discussed above and within the enclosures. OMB provided positive feedback on the Work Environment Plan on May 30, 2023, and indicated that the NRC should move forward with communicating the Flexible Work Model to employees and planning for implementation. OMB also noted that their feedback was for NRC consideration and that a review by OMB of NRC’s final plan was unnecessary. The staff dispositioned OMB’s

²⁴ In FY 2022, full-time teleworkers traveled to over 650 destinations that included NRC facilities or other temporary duty stations (e.g., licensee facilities) to accommodate in-person presence.

feedback which is included in Enclosure 3. The staff also benchmarked with other Federal agency's Work Environment Plans as discussed in Enclosure 4.

CONCLUSION:

The Flexible Work Model uses existing telework policies and adopts the philosophy of Presence with Purpose while further empowering first-line supervisors through the delegation of authority. Sufficient internal controls are in place to ensure that the appropriate balance of meaningful in-person and virtual engagement will occur. In-person presence will be driven by meaningful engagement with internal and external stakeholders. The Flexible Work Model requires trust and accountability to facilitate a common understanding of the need for meaningful in-person presence. The staff continue to review, analyze, and improve existing organizational health and organizational performance indicators, data, and processes to monitor the resulting work environment and make course corrections as needed.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection. The Office of the Chief Financial Officer reviewed this package and determined that it has no financial impact.

Daniel H.
Dorman

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Daniel H. Dorman
Executive Director
for Operations

Enclosures:

1. Internal Strategic Comm. Plan
2. Flexible Work Model Guidance
3. Disposition of OMB WEP Feedback
4. Benchmarking of Agencies

SUBJECT: FINAL AGENCY DECISION TO IMPLEMENT THE FLEXIBLE WORK MODEL
DATED: AUGUST 22, 2023

ADAMS Accession No.: PKG: ML23172A159, SECY: ML23172A161, Encl 1: ML23178A013,
Encl 2: ML23178A018, Encl 3: ML 23178A019, Encl 4: ML23178A022

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