

FSIS NOTICE

54-21

11/2/21

RESTORATION OF FORFEITED ANNUAL LEAVE

I. PURPOSE

This notice provides the annual instruction for employees and supervisors regarding their mutual responsibility to plan and schedule annual leave throughout the leave year. This notice also provides the conditions under which forfeited annual leave may be restored, procedures to request a declaration of an exigency of the public business (e.g., operational emergency), procedures to request restoration of forfeited annual leave, a listing of the documents required to request restoration of forfeited annual leave, and the timeframes for scheduling annual leave, compensatory time, travel compensatory time, and credit hours.

II. SPECIAL PROVISIONS FOR THE 2021 LEAVE YEAR

A. This notice provides pertinent information from the Office of Personnel Management (OPM) regarding restoration of forfeited leave. The President declared a national emergency due to the Novel Coronavirus Disease (COVID-19), and OPM established regulations that deem excess annual leave to have been scheduled in advance and eligible to be restored if forfeited at the end of the leave year. Regulations have been updated and this now applies to national emergencies that are declared in the future.

B. The Department has granted FSIS the authority to determine which employees are automatically covered by the OPM guidance. Covered employees include in-plant food inspectors, consumer safety inspectors, public health veterinarians, and laboratory employees performing bench work. Program Areas with employees who volunteered for this work and were directed to perform on-line or bench work or were otherwise deemed to be essential due to COVID-19 and want to be covered by this guidance are to document the performed work in a brief memorandum signed by the Assistant Administrator and provide it to the Chief Human Capital Officer by January 3, 2022. Hours of forfeited leave that result from employees who voluntarily cancel scheduled/approved annual leave are not eligible to be restored.

III. SCHEDULING ANNUAL LEAVE

A. Employees are responsible for requesting and using leave to avoid forfeiture at the end of the leave year. Employees, and especially those on alternative work schedules, are to monitor the "Projected Use or Lose" block on Form AD-334, Statement of Earnings and Leave. Leave balances are available on the Employee Personal Page of the National Finance Center's web site and in WebTA. The annual leave balance cannot exceed the maximum carryover (i.e., 240 hours for GS employees, 360 hours for overseas employees, and 720 hours for SES/SL employees).

DISTRIBUTION: Electronic; All Field Employees

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OPI: OPPD

B. Non-SES employees are expected to use compensatory time and credit hours before using annual leave unless doing so results in the forfeiture of excess annual leave that is not eligible for restoration. Therefore, employees may request to use annual leave before using compensatory time or credit hours if they would otherwise forfeit annual leave.

C. Supervisors and employees are responsible for ensuring use-or-lose annual leave is scheduled and approved prior to the end of the third biweekly pay period prior to the end of the leave year (November 20, 2021). This scheduling requirement is established in regulation ([5 CFR 630.308](#)) and cannot be waived under any circumstances. Leave that is scheduled and approved by the scheduling requirement establishes eligibility to request restoration if any annual leave is forfeited. If supervisors are unable to approve the leave for the date(s) requested, they, and the employees are to make every effort to reschedule the leave for another time during the current leave year.

D. Non-Bargaining Unit employees must request annual leave using WebTA. Bargaining Unit employees with access to WebTA are to utilize WebTA or follow methods acceptable to their supervisor. Bargaining Unit employees without WebTA access are to use Office of Personnel Management OPM-71, Request for Leave or Approved Absence, or other written means such as leave rosters, calendars, or memoranda as instructed by their supervisors.

E. Employees are to ensure that the following information is contained in their written request for leave (such as WebTA leave request or OPM-71):

1. Their organizational unit.
2. The specific dates and clock hours within the assigned tour of duty for which leave is being requested;
3. The total number of hours requested; and
4. Their signature and date.

F. Supervisors are to state whether the leave requests are approved or denied in a timely manner and sign and date the written requests for leave and are to provide a reason if leave requests are denied.

G. Employees beginning the leave year with a balance of 240 hours of annual leave are to use all annual leave earned in the new leave year by the end of the leave year, January 1, 2022, to avoid forfeiture.

IV. MEETING CONDITIONS FOR RESTORATION

A. Forfeited annual leave can be restored for the following reasons:

1. Administrative error that caused the forfeiture of annual leave to be more than the carryover amount of 240 hours;

NOTE: Math errors (e.g., employees in the 6-hour leave earning category who fail to account for the extra 4 hours of leave earned in pay period 25) made by employees and timekeepers are not a basis to restore forfeited annual leave.

2. Unjustified or unwarranted personnel action that caused the forfeiture of annual leave;
3. Illness of employees, occurring so late in the year, or of such duration that the annual leave approved prior to November 20, 2021, could not have been rescheduled for use before the end of the leave year. When sick leave extends during a period when annual leave was scheduled, and the annual leave is subsequently forfeited because of the use of sick leave, supervisors and employees are responsible for rescheduling the annual leave in writing as described above in subparagraph III.E. of this notice. Also, before forfeited annual leave can be restored because of illness, the employee's leave restoration is to be supported by a medical certification for the period of incapacitation; or
4. Exigency of the public business (see [FSIS Directive 4630.2, Leave](#)) when the annual leave was approved by appropriate officials in writing on or before November 20, 2021. Only a genuine operational emergency of such importance that FSIS cannot effectively conduct its public business will support canceling employees' approved annual leave. Heavy workload, such as a year-end report, is not a condition under which forfeited annual leave can be restored. A furlough because of a lack of funds or work (which results in the cancelation of scheduled leave) could constitute an exigency of the public business *if* employees made every effort to reschedule the use or lose annual leave and were prevented from actually taking the leave because there was insufficient time left in the leave year in which to take the leave (see [5 CFR 630.308](#)).
5. Employees who would forfeit annual leave in excess of the maximum annual leave allowable carryover because of their work to support the Nation during a national emergency will have their excess annual leave deemed to have been scheduled in advance and subject to leave restoration (see attachment 1 for the national emergency flowchart).

B. Supervisors and appropriate management officials are to take the following steps to document approval or disapproval of the exigency in writing ***prior*** to canceling employees' scheduled and approved annual leave:

1. Prepare the documentation to include the beginning and ending dates of the exigency, if applicable (see attachment 2 for a sample letter requesting a declaration of exigency);
2. Submit documentation to the appropriate higher-level management official for approval (see attachment 3 for an exigency flowchart); and
3. Notify employees after receiving the decision on the exigency that the approved annual leave has been canceled because of the operational emergency, and then take action to reschedule the leave for the current leave year, if possible.

C. Supervisors and appropriate management officials are to:

1. Document the approval or disapproval of the exigency in writing;
2. Notify supervisors of the decision; and
3. Maintain the paperwork documenting the exigency.

V. REQUESTS FOR RESTORATION OF FORFEITED ANNUAL LEAVE

A. Employees are to submit requests for restoration of forfeited annual leave by the end of pay period 5, March 12, 2022.

B. Supervisory officials or employees initiate the memorandum seeking restoration. All requests are routed through supervisory channels to FSISHR1@usda.gov (subject: Leave Restoration Request) for review by the Chief, Human Capital Planning and Accountability Branch (HCPAB), Human Resources Business Systems Division (HRBSD), Office of Human Resources (OHR), Office of Management (OM), and are to include the supervisor's recommendation on the merits of the request and the information listed in subparagraph D.

C. The Chief, HCPAB, is authorized to approve or deny restoration requests. Form AD-582, Authorization for Restored Annual Leave, serves as notification to employees, timekeepers, HRBSD, and the Financial Services Center on restored leave amounts and time limits for use.

D. Restoration requests, as described in [FSIS Directive 4630.2](#), are to include the following information:

1. The employee's name, title, grade, organizational unit, and location.
2. A leave audit covering the leave year in question that includes accurate hours of leave balances and leave forfeited. The timekeeper is to identify and take the necessary steps to correct all leave discrepancies before the leave audit is submitted to HCPAB.
3. The details of the specific circumstances that caused the forfeiture of annual leave because of one or more of the following:
 - a. Administrative error that caused the forfeiture of annual leave;
 - b. Unjustified or unwarranted personnel action that caused the forfeiture of annual leave;
 - c. Nature of employee's illness that resulted in cancelation of scheduled annual leave, including the medical certification, date the illness began, and the date the employee returned to duty; and
 - d. Exigency that resulted in cancelation of the scheduled leave, including the beginning and ending dates.
4. Copies of forms or documents used to schedule or reschedule forfeited annual leave (e.g., approved leave request, leave rosters or memorandums) are to include:
 - a. The date the supervisors approved the leave;
 - b. The specific dates of scheduled leave and the total number of hours;
 - c. Copies of the employees' time and attendance records for the last pay period of the leave year for which leave was forfeited and the first pay period of the following leave year;

- d. The specific dates annual leave was canceled, and the total number of hours forfeited;
- e. An explanation of why annual leave could not be rescheduled and used during the leave year;
- f. An explanation of options other than cancellation of leave that were considered and rejected (e.g., reschedule leave, reassign work to other employees, and request extension of a project deadline);
- g. In cases where restoration is requested because of an exigency of public business, a copy of the paperwork documenting the exigency, and its approval by appropriate management officials. Documentation is to be approved at the time the exigency is known or expected, and before canceling the employee's leave; and
- h. The date the leave was rescheduled.

VI. ADDITIONAL OPTION FOR USE-OR-LOSE ANNUAL LEAVE

A. Another option for employees who may be forfeiting use-or-lose annual leave is to consider donating to an approved leave recipient under the Voluntary Leave Transfer Program (VLTP) or donating to the Leave Bank Program (LBP). The VLTP and LBP allow Federal employees to donate annual leave for use by other Federal employees who need it because of personal or family medical emergencies. Under the VLTP and LBP, Federal employees can voluntarily donate unused, accrued, or restored annual leave to other Federal employees or the leave bank at any time during the leave year.

B. Detailed information on the VLTP can be found in [FSIS Directive 4630.2](#). Information for donating leave and applying to become a recipient can be found on InsideFSIS: [Personnel](#) (Level 2 eAuthentication is needed to access this information on InsideFSIS). ([Current list of approved recipients](#).)

C. Detailed information on donating leave, becoming a member, or applying to become an approved recipient under the LBP can be found in [FSIS Directive 4630.5](#), *Leave Bank Program*.

VII. QUESTIONS

Refer questions regarding this notice to FSISHR1@usda.gov with the subject "Restored Leave" or call 877-FSIS-HR1 (877-347-7471) and select option 4.



Assistant Administrator
Office of Policy and Program Development