

**NORFOLK SOUTHERN CORPORATION
FAMILY AND MEDICAL LEAVE ACT FACT SHEET
FOR AGREEMENT EMPLOYEES**

The Family and Medical leave act of 1993 (FMLA) was enacted on February 5, 1993. For employees covered by a collective bargaining agreement (CBA), the Act becomes effective on February 5, 1994.

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces FMLA for all private, state and local government employees, and some federal employees.

FMLA entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave each year for specified family and medical reasons. FMLA absences do not count against your absenteeism record. An eligible employee's right to FMLA leave begins on February 5, 1994; any leave taken before that date does not count as FMLA leave. Norfolk Southern Corporation uses a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

The law contains provisions on employer coverage, employee eligibility for the law's benefits; entitlement to leave, maintenance of health benefits during leave, and job restoration after leave; notice and certification of the need for FMLA leave; and, protections for employees who request or take FMLA leave. The law also requires employers to keep certain records.

EMPLOYER COVERAGE

FMLA applies to all:

- public agencies, including state, local and federal employers, local education agencies (schools); and
- private-sector employers who employed 50 or more employees in 20 or more work-weeks in the current or preceding calendar year and who are engaged in commerce or in any industry or activity affecting commerce – including joint employers and successors of covered employers.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, you must:

1. work for Norfolk Southern Corporation or its subsidiary companies (NS);
2. have worked for NS for a total of at least 12 months;
3. have worked at least 1,250 hours over the previous 12 months; and
4. work at a location where at least 50 employees are employed by NS within 75 miles.

LEAVE ENTITLEMENT

NS must grant an eligible employee up to a total of 12 workweeks of unpaid, job-protected leave during any 12 month period for one or more of the following reasons:

- for the birth of a child, to care for your child after birth, or placement of a child for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when you are unable to work because of a serious health condition.

Spouses who are both employed by NS are jointly entitled to a combined total of 12 workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition.

Leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement.

Under some circumstances, you may take FMLA leave intermittently – which means taking leave in blocks of time, or by reducing your normal weekly or daily work schedule:

- If FMLA leave is for birth or placement for adoption or foster care, use of intermittent leave is subject to NS' approval.
- FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because you are seriously ill and unable to work.

Effective August 1, 2004:

- An employee granted FMLA leave on an intermittent basis for his or her own serious health condition will be required to use any available paid sick leave, personal leave or vacation.
- An employee granted FMLA leave, on either a block or intermittent basis as a result of the placement of a child for adoption or foster care, to bond with a newborn, or to care for a family member with a serious health condition, will be required to use any available paid personal leave or vacation.
- An employee granted FMLA leave on block basis as a result of his or her own serious health condition (including pregnancy) may elect whether or not to use available paid sick leave, personal leave or vacation but such use is not mandatory
- An employee who does not elect to designate the order in which he or she chooses to use paid leave by notifying the appropriate supervisor (or Crew Management in the case of train and engine service employees) will have leave paid in the following order; sick days, personal days, single days of vacation, days from scheduled weeks of vacation.
- An employee on intermittent FMLA leave who is entitled to rest days in train and engine service must mark up on such days in order to avoid having such days treated as FMLA and paid leave. .

Questions concerning NS' policy regarding substitution of paid leave should be addressed to the NS FMLA Coordinator.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility;
- any period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

“Health care provider” means:

- doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or
- podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or,
- nurse practitioners and nurse-midwives authorized to practice, and performing within the scope of their practice, as defined under state law; or
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

If an employee requests, obtains, or remains on FMLA leave under false pretenses, disciplinary action appropriate under the circumstances and consistent with the collective bargaining agreement will be taken.

MAINTENANCE OF HEALTH BENEFITS

NS is required to maintain your group health insurance coverage while you are on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if you had continued to work. If applicable, arrangements will be made for employees to pay their share of health insurance premiums while on leave.

In some instances, NS may recover premiums it paid to maintain your health insurance premiums while on leave.

JOB RESTORATION

Upon return from FMLA leave, as governed by the provisions of the applicable collective bargaining agreement, you ordinarily will be restored to your original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

In addition, your use of FMLA leave cannot result in the loss of any employment benefit that you earned or were entitled to before using FMLA leave.

NOTICE AND CERTIFICATION

Employees seeking to use FMLA leave may be required to provide:

- 30-day advance notice of the need to take FMLA leave when the need is foreseeable;
- medical certifications supporting the need for leave due to a serious health condition affecting you or an immediate family member;
- second or third medical opinions and periodic recertification (at NS' expense); and
- periodic reports during FMLA leave regarding your status and intent to return to work.

When leave is needed to care for an immediate family member or your own illness, and is for planned medical treatment, you must try to schedule treatment so as not to unduly disrupt NS' operations.

NS has posted a notice approved by the Secretary of Labor explaining your rights and responsibilities under FMLA. An employer that willfully violates this posting requirement may be subjected to a fine of up to \$100 for each separate offense.

Also, NS must inform you of your rights and responsibilities under FMLA, including giving specific information if you give notice of FMLA leave on what is required of you and what might happen in certain circumstances, such as if you fail to return to work after FMLA leave.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

ENFORCEMENT

FMLA is enforced, including investigation of complaints, by the U.S. Labor Department's Employment Standards Administration, Wage and Hour Division. If violations cannot be satisfactorily resolved, the Department may bring action in court to compel compliance. An eligible employee may also bring a private civil action against an employer for violations.

OTHER PROVISIONS

Employees of a rail carrier are not covered by the overtime provisions of the Fair Labor Standards Act (FLSA). However, salaried executive, administrative, and professional employees of covered employers who do meet the FLSA criteria for exemption from minimum wage and overtime under regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for FLSA’s exemption extends only to “eligible” employees’ use of leave required by FMLA.

The FMLA does not affect any other federal or state law which prohibits discrimination, nor supersede any state or local law which provides greater family or medical leave protection. Nor does it affect an employer’s obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan.

FUTHER INFORMATION

For more information, please contact the nearest office of the Wage and Hour Division listed in most telephone directories under U.S. Government, Department of Labor, Employment Standards Administration.