

# **COLLECTIVE BARGAINING AGREEMENT**

**between**

**National Association of Government Employees**

**Local R3-68**

**and**

**National Park Service**

**Delaware Water Gap National Recreation Area**

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## **ARTICLE 1 - BASIC AGREEMENT**

This agreement is made and entered into by the National Park Service, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania, hereinafter referred to as the "Employer" and Local R3-68 of the National Association of Government Employees, hereinafter referred to as the "Union", under the authority of the Civil Service Reform Act of 1978, hereinafter referred to as the "Act", and all implementing regulations and instructions. The parties agree that the provisions of this agreement apply to all bargaining unit employees represented by NAGE Local R3-68.

The parties enter into this agreement with the belief that a constructive labor-management relations program will serve to enhance the effectiveness of Delaware Water Gap National Recreation Area and with the intent and purpose to promote and improve the efficient administration of the Federal Service and the well being of employees represented by NAGE R3-68, their exclusive representative; to establish a basic understanding relative to personnel policies, practices, and procedures and matters affecting working conditions which affect them; and to provide a means for amicable discussion and adjustment of mutual concerns to the end that the public interest and all parties will best be served. The following articles constitute the complete agreement by and between the Employer and the Union.

## **ARTICLE 2 - PRECEDENCE OF LAWS AND REGULATIONS**

### Section 1:

In the administration of all matters covered by the Agreement, officials and employees are governed by existing and future laws and regulations of appropriate authorities including policies set forth in applicable regulations.

### Section 2:

Nothing in this Agreement is intended to be in conflict with laws, pre-existing regulations or published policy noted in Section 1. If there is conflict, the laws, regulations and published policy prevail over the terms of this Agreement.

## ARTICLE 3 - UNIT IDENTIFICATION

### Section 1:

The Employer recognizes the Union as the exclusive representative for all employees of the Unit described in Section 2 of this Article. Upon request the Employer agrees to annually provide a list of the employees' names and grades in the Bargaining Unit to the Union.

### Section 2: Bargaining Unit

**INCLUDED:** All non-professional General Schedule and Wage Grade employees, including all seasonal and temporary employees with appointments of 90 days or more and term employees employed by Delaware Water Gap National Recreation Area, National Park Service, Bushkill, Pennsylvania.

**EXCLUDED:** All professional employees, management officials, supervisors and employees described in 5 U.S.C. § 7112(b)(2), (3), (4), (6) and (7). Management will provide the union with a list of excluded employees, the justification for their exclusion citing the specific law and/or regulation within thirty (30) calendar days of signing this agreement.

## **ARTICLE 4 - AGREEMENT PERIOD AND RENEGOTIATIONS**

This Agreement is effective upon approval by the Department of the Interior and is binding on the parties for four (4) years from the date of approval in accordance with 5 USC 7114(c)(3), except that after 24 months and before 32 months of operation, each party can reopen up to two (2) Articles by submission of a written proposal. Additional articles may be reopened by written mutual consent. Either party may give written notice to the other, not more than 105 days nor less than 60 days prior to the four year expiration date and each subsequent expiration date of its desire to renegotiate this agreement. If neither party wishes to renegotiate at the conclusion of the four-year period, this agreement will continue to be renewed every year until one party notifies the other of its desire to re-negotiate.

## ARTICLE 5 - DISTRIBUTION OF THE AGREEMENT

### Section 1:

- A) The Employer shall be responsible for the printing of this Agreement. The Union will be provided with one hundred five (105) copies of the Agreement and will be responsible for the distribution of this Agreement to current bargaining unit members.
- B) Employer agrees to post this agreement electronically to the park's intranet server.

## ARTICLE 6 - ORIENTATION OF NEW EMPLOYEES

### Section 1:

As part of the new employee orientation the Employer agrees to provide each new employee covered by this agreement with the following:

A copy of this Agreement plus any amendments;

A list of all NAGE officers and stewards;

The location and phone number of the NAGE local Office.

### Section 2:

The Union President or designee will be permitted to address new Unit employees as a part of their orientation for a reasonable period of time. The presentation may not be used for solicitation of membership.

### Section 3:

The Union will be notified when a new Bargaining Unit employee is hired.



## **ARTICLE 7 - PAYROLL WITHHOLDING OF DUES (Pending**

### Section 1:

The Employer agrees that authorization for voluntary allotments of pay by employees for the payment of Union dues will be accepted and processed in accordance with applicable laws and regulations and this Agreement.

### Section 2:

The Union agrees to provide the prescribed allotment form (Standard Form 1187), to distribute the form, and to educate eligible employees on the program for allotments for payment of dues and the uses and availability of the required form.

### Section 3:

The Employer agrees that an allotment authorization may be submitted to the Payroll Office at any time. Allotments will become effective at the beginning of the first pay period after receipt of the form in the Payroll Office.

### Section 4:

The Employer shall automatically terminate an allotment when an employee leaves the unit as a result of any type of separation, transfer, or other personnel action (except details); upon loss of exclusive recognition by the Union; when this Agreement providing for dues withholding is terminated by an appropriate authority outside the Department of Interior; or when the employee has been suspended or expelled from the Union, in which case the Union shall so notify the Payroll Office in writing.

### Section 5:

- A) During the first year of membership the employee may voluntarily terminate his/her allotment any time prior to their anniversary date of his/her membership. The termination of their allotment will be effective on their anniversary date.
- B) Employees who have been a member for more than one year must submit request to terminate an existing dues allotment between 1 February and 28 February. Their termination of dues allotment will occur on March 1.
- C) In either case as stated above the Employer shall notify the Union within five (5) working days after receipt of the revocation by submission to the Union of the duplicated copy of the Standard Form 1188 or of the written request.

## ARTICLE 8 - MANAGEMENT RIGHTS

### Section 1:

In the administration of all matters covered by the Agreement, the Employer and the Union are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in OPM regulations and policies, and by published agency policies and regulations in existence at the time the Agreement was approved.

### Section 2:

- A) In accordance with Title 5, 7106 (a & b), "subject to subsection (b) of this section, nothing in this Section shall affect the authority of any management official of any agency:
- 1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and
  - 2) in accordance with applicable laws-
    - a) to hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
    - b) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
    - c) with respect to filling positions, to make selections for appointments from –
      - i. among properly ranked and certified candidates for promotion; or
      - ii. any other appropriate source; and
    - d) to take whatever actions may be necessary to carry out the agency mission during emergencies
- B) Nothing in this section shall preclude any agency and any labor organization from negotiating:
- 1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

- 2) procedures which management officials of the agency will observe in exercising any authority under this section; or
- 3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials."

Section 3:

- A) All references in this Agreement to the rules or regulations of the National Park Service, Delaware Water Gap National Recreation Area refer to the editions in effect at the time of the execution of this Agreement. In accordance with 5 USC 7116 (a)(7), the employer agrees not to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with this Agreement if the Agreement was in effect before the date the rule or regulation was prescribed.
- B) All references in this Agreement to the policies of the National Park Service, Delaware Water Gap National Recreation Area refer to the editions in effect at the time of the execution of this Agreement. The parties agree to negotiate the impact and implementation of new or substantially changed policies and regulations, and/or changes to conditions of employment prior to implementation.

## ARTICLE 9 - UNION RIGHTS

### Section 1:

The Employer recognizes NAGE Local R3-68 as the exclusive representative of all employees included in the unit for which it holds certification. The Employer further recognizes the duly elected or appointed officers and stewards as representatives of the Union. The Union shall supply the Employer, in writing, and maintain on a current basis, a list of all its representatives.

### Section 2:

The Employer agrees to notify the Union in writing of any formal meetings with unit employees and the topics discussed or to be discussed.

### Section 3:

In accordance with 5 USC 7114(a)(2) and 7114(b)(4):

The Union shall have the opportunity to be represented at any examination of an employee in the unit by a representative of the Employer, in connection with an investigation. Through an annual posting requirement, the Employer agrees to inform employees of their Weingarten rights. The Employer agrees that prior to any conversation with an employee on matters that may lead to disciplinary action, the employee will be advised of his/her right to Union representation.

A representative of the Union shall be given the opportunity to be present at any formal meetings between a representative of the Employer and one or more employees in the Unit concerning any grievance or any personnel policy or practices, or other conditions of employment. The Union will be given prior notification before any formal meeting between a representative of the Employer and one or more bargaining unit members.

The Union is entitled to data and information required to perform its representational duties.

Employer will provide access to all publications and proposed new agency regulations.

### Section 5:

Existing employee/employer past practices as they affect the terms and conditions of employment will not be altered or superceded without negotiations except as specifically provided in this Agreement.

### Section 6:

The Employer agrees that there shall be no restraint, interference, coercion or discrimination against Union officials and stewards in the performance of their representational responsibilities.

Section 7:

The representative of the Union for administration and implementation of this agreement will be the duly elected or appointed President of the Union or the person whom he/she designates in writing to act in his/her place. The Union president or his/her designee is the only Union official who can agree to change or amend to this agreement.

Section 8:

The Union recognizes the responsibility of representing the interests of all employees within the Unit it represents without discrimination and without regard to labor organization membership consistent with this Agreement and the CSRA.

## ARTICLE 10 - EMPLOYEE RIGHTS

### Section 1:

Each employee has the right, freely and without fear of penalty or reprisal, to form, join and assist the Union or to refrain from such activity. The freedom of such employees to assist the Union shall be recognized as extending to participation in the management of the Union and acting for the Union in the capacity of a Union officer or steward.

### Section 2:

The Employer agrees that the employee in the lawful exercise of these rights shall be protected from interference, restraint, coercion or discrimination by any representative of the Employer.

### Section 3:

Nothing in this agreement shall require an employee to become or to remain a member of a labor organization or to pay money to the organization except pursuant to voluntary written authorization by a member for the payment of dues through payroll deduction.

### Section 4:

Nothing in this agreement precludes the employee of the bargaining unit, regardless of Union membership, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulation, or established agency policy or from choosing his/her own representative in a grievance or appelland action.

### Section 5:

An employee shall be given the opportunity to be represented at any examination by a Union representative in connection with an investigation if:

The employee reasonably believes that the examination may result in disciplinary action against the employee; and

The employee requests representation.

### Section 6:

When an employee is questioned in connection with an investigation, the employee will be informed of the purpose of the questioning.

Section 7:

The employee has a right to Union representation at meetings with the employer concerning conditions of employment, including the opportunity to exercise their statutory rights at any meeting concerning disciplinary or adverse actions.

Section 8:

An employee will not be subject to disciplinary action as a result of conflicting orders given by responsible officials as long as he/she immediately advises the last official of the conflict and follows the latest order. If the employee is aware of any problem which may occur because of this conflict, he/she should bring this to the attention of the immediate supervisor.

Section 9:

All personnel actions or practices must be free of discrimination or reprisal.

Section 10:

An employee may request permission to contact a Union representative during duty hours on a representational matter but must first inform and receive permission from his/her supervisor. If the employee wishes to meet with a Union representative the immediate supervisor will be advised of the general purpose of the request (e.g. grievance, appeal, personal matter, etc...) and place of meeting and the estimated time of return. If release is not possible at the time requested due to staffing, or work requirements the employee will be provided with an alternative time when release is possible unless precluded by an emergency. If the employee will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional needed time. The employee will notify the supervisor of his/her return. Delay in release of an employee will serve as a justifiable reason for an extension of any applicable time frame provided for in this agreement.

## ARTICLE 11 - CONSULTATION AND NEGOTIATION

### Section 1:

Matters subject to consultation or negotiation are personnel policies and practices and matters affecting working conditions of unit employees which are within the discretion of the Employer so far as may be proper under applicable laws and regulation. These matters may include, but are not limited to safety, training, labor-management relations, employee services, and implementation of pay regulations, methods of adjusting grievances, leave, promotion procedures, RIF practices, and hours of work. It is further agreed that these matters are related to policy determination within Delaware Water Gap NRA and not day to day operations. The fact that certain subjects are not listed as appropriate for consultation does not restrict either party from meeting with the other to confer on matters which both consider appropriate for such consultation under this Agreement.

### Section 2:

- A) The Employer agrees that it will give prior notice to the Union of implementation of any non-discretionary directive. The rights and responsibilities of the parties are set forth in the Federal Service Labor-Management Relations Statute. These rights and responsibilities include the duty to bargain in good faith, in accordance with the Statute, on matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation, subject to the limitations set forth in 5 USC 7117. The Employer recognizes the right of the Union to allege that no compelling need exists for the Employer to implement a specific Department of the Interior or National Park Service directive and to seek relief by exercising the privileges accorded to it by 5 USC 7117.
- B) The Employer agrees that implementation of any directives will be done equally and equitably park wide.

### Section 3:

In accordance with Federal Labor Management Relations Statute, the Union has the right to negotiate any proposed change that adversely impacts the working conditions of bargaining unit employees.

### Section 4

The Employer will notify and provide the Union with a copy of proposed, new or revised Delaware Water Gap National Recreation Area regulations and policies affecting unit employees. A reasonable amount of time, but not more than ten (10) calendar days after receipt



by the Union, will be permitted for the Union to request negotiation and to submit written counter proposals. This deadline may be adjusted upon the mutual consent of the Union and the Employer. If written proposals are not received within the allocated time frame, it will be considered that the Union is in agreement with the regulation and the regulation will be implemented.

Section 5:

The Union negotiating team will consist of no more than four (4) members. Employees serving on the Union negotiating team shall be authorized official time for negotiations. For purposes of this Article, negotiations are defined as that process beginning with the preliminary meetings on ground rules, and running through all aspects of negotiations, including mediation and impasse resolution processes when needed.

## ARTICLE 12 - OFFICIAL TIME

### Section 1:

- A) The Union President and any steward and/or officer will be authorized the amount of official time necessary to perform representation functions, without charge to leave or loss of pay, if otherwise in a duty status. The Union President may designate an alternative in the absence of either representative or change the official representative as needed. Representational functions include, but are not limited to the following activities:
- 1) Resolving grievances, preparing written grievances and representing employees in grievances and appeals;
  - 2) Negotiating in accordance with the statute over changes in conditions of employment of bargaining unit employees that occur during the term of this agreement;
  - 3) Preparing responses to management initiated changes in working conditions.
  - 4) Attendance at management initiated conferences, seminars or meetings;
  - 5) Participation on committees as agreed upon;
  - 6) Participation in proceedings before the Federal Labor Relations Authority (FLRA) and Merit Systems Protection Board (MSPB) in accordance with FLRA's and MSPB's rules and regulations;
  - 7) Negotiating mid-term proposals, or a new contract. Official time and travel will be granted if necessary and approved.
- B) Issues regarding the use of official time by Union officers to perform their representational functions is an appropriate matter for discussion at the Labor/Management Council in accordance with Section 7131 of the Labor/Management Relations Statute. All final decisions will be captured in the minutes of the council.

### Section 2:

- A) Official time is not authorized for those activities concerned with organizing efforts and the internal management of the labor organization. Such activities include soliciting of memberships, membership meetings, collecting dues or assessments, campaigning for office, and circulating or posting of internal Union business literature and notices. Any activities performed by an employee relating to the internal business of a labor organization (including solicitation of membership, elections of labor organization

officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

- B) Non-duty status will include the employee's lieu days, the time before and after an employee is scheduled to work, work breaks and lunch/dinner periods required by law/regulation.

### Section 3:

- A) Official time for representational purposes shall be scheduled in advance with the representative's supervisor. Union representatives and employees will complete the attached form when requesting official time.
- B) If urgent issues arise a verbal request will be provided to the representative's supervisor or respective divisional supervisor on duty. Reasonable time will be granted depending on the Employer's work needs.
- C) Union representatives will be granted official time to perform representational functions. If time off is denied by any supervisor, the Union will be provided the reason for the denial in writing. Time requested will not be unreasonably denied. The Union President has the authority to elevate the request to the Park Superintendent. The Superintendent or his/her designee will, when possible, respond to the request on the same day it is received but no later than three (3) calendar days after received.

### Section 4:

Before leaving the worksite, the Union representative will first obtain approval from his/her supervisor. The representative needs to tell the supervisor the general nature of the business, e.g., negotiations, grievance meetings, committee meeting, etc. Since the contract indicates that what constitutes reasonable time takes into consideration the amount of time that is necessary to accomplish the specific task for which time is requested, he/she needs to tell the supervisor approximately how long he/she expects the task to take. When the union officials return to their worksite, they need to advise their supervisor of their return. Employees wishing to meet with their representative will follow the same procedures as above.

### Section 5:

- A) Official time will be granted when necessary to bring about prompt disposition of a complaint or grievance. The union is authorized to visit other work areas. Prior to his/her discussion with an employee in another shop, office, or work area, the Union representative will notify the employee's supervisor by telephone or in person. The supervisor will make the employee available at a mutually agreed upon time. In such circumstances, the Union representative will be informed when the employee will be

available for discussion. This activity will be conducted without loss of pay or benefits to the employee and the representative.

- B) All time frames will be held in abeyance when supervisors are unable to grant Union officers and stewards time to meet with employees and managers.

## ARTICLE 13 - LABOR-MANAGEMENT RELATIONS

### Section 1:

The Union as representative of the employees within the unit, shall have the right and responsibility to present its views to the Employer either orally or in writing concerning personnel policies and practices or other matters affecting the conditions of employment of employees in the unit including improvement of working conditions, quality of life, joint programs of benefit to employees of the unit and the Employer, and other areas of mutual interest to the parties.

### Section 2:

- A) As a means of developing maximum communication and cooperation between Labor and Management, a self-organizing committee shall be established to meet not more than once a month, whose meetings may be waived by mutual consent.
- B) The committee shall consist of the Superintendent and Administrative Officer or their designees for the Employer and the President and Vice President or their designees for the Union. Additional members may be appointed on an ad hoc basis when contributions from other than committee members are germane to the issues to be discussed.
- C) The Committee shall record all proceedings and furnish recommendations for improvement in efficiency and employment conditions to the Employer and the Union for information, action or resolution. The purpose of the committee shall be to give consideration to such matters as: The interpretation and application of rules, regulations and policies; the correction of conditions making for grievances and misunderstandings; the encouragement of good human relations in employee-supervisory relationships; the promotion of education and training; the betterment of employee working conditions; the strengthening of employee morale; the implementation of Equal Employment Opportunity, etc. However, it is agreed that individual grievances will not be taken up during Committee meetings. An agenda for the meeting will be provided to all members at least two (2) days prior to the meeting. Meetings shall be held on official time.
- D) The committee shall meet and discuss interpretation of complex articles and issues related to the Collective Bargaining Agreement.

## ARTICLE 14 - COMMITTEES

### Section 1:

- A) If the Employer establishes a committee, task force, or work group concerned with working conditions and which includes bargaining unit employees (e.g. EEO Committee, Safety Committee, etc...) the Employer will give the Union advance notice and allow the Union the opportunity to designate its representative to the Employer.
- B) The Union representative shall be a full participating member of all such committees, and shall receive copies of materials used and a copy of all minutes taken. Confidential information obtained and/or discussed by the committees will be kept confidential.
- C) Union representatives attending committee meetings shall be entitled to attend on official time. Committee meeting times and/or representative's schedules will be set or adjusted to facilitate this.

## ARTICLE 15 – FACILITIES

### Section 1:

The Employer recognizes the value of a constructive labor-management relationship and the need for the Union to have use of adequate office space to carry out their representational obligations under the Civil Service Reform Act. The Union will be provided adequate office space to carry out these duties.

### Section 2:

- A) The Employer agrees to provide the Union with private office space and facilities in order to perform representational duties. Facilities shall include an appropriate number of desks, chairs, tables, locking file cabinets, a telephone, a computer with internet and agency e-mail access and a printer. The computer will have the necessary hardware/software capabilities to efficiently run necessary programs. The Employer will provide Union Officers and Stewards the use of other government computers, copiers, faxes, etc... in order to carryout their representations functions.
- B) If the Employer has a compelling reason to move the Union's office facilities the new facilities will not be smaller than the original agreed upon facilities.
- C) The Union may use the facility telephone service for handling local labor-management activities.
- D) Upon request, the Employer agrees to furnish an appropriate space for Union meetings during off duty hours to meet with unit employees for informational purposes.

### Section 3:

The Employer will provide the Union with bulletin boards at agreed upon locations. The bulletin boards will be used for informational purposes only. No negative or derogatory information about park employees or management officials will be posted on the bulletin boards. The Employer will provide the Union equal access to internal electronic communications.

### Section 4:

The security of the Union office will not be breached in any way by the Employer unless an emergency exists (e.g. a fire) with out the prior notification of the Union. This includes silent monitoring of telephone lines of local union office.

## **ARTICLE 16 - UNFAIR LABOR PRACTICES**

The parties understand and agree that the filing of unfair labor practice (ULP) charges or threatening to file (ULP) charges are serious matters with respect to labor-management relations. The parties recognize that misunderstandings occur which many times can be resolved locally through frank and open discussion. The parties, therefore, agree that seven (7) calendar days prior to the actual filing of a ULP charge by one party against the other party, the parties will meet to discuss the matter in an attempt to resolve the issues.



## ARTICLE 17 - UNACCEPTABLE PERFORMANCE AND CONDUCT

### Section 1:

- A) An action based on unacceptable performance, for the purpose of this article, is defined as reduction in grade or removal of an employee whose performance fails to meet established performance indicators (performance standard) in one or more critical results of the employee's position, or for misconduct.
- B) This article applies only to bargaining unit employees who have completed their probationary or trial period, except to the extent prohibited by law.
- C) No bargaining unit employee will be the subject of an action based on unacceptable performance or conduct unless that employee's performance or conduct fails to meet established performance indicators in one or more critical results of the employee's position or fails to meet standards of conduct.
- D) A meeting between an employee and the Employer in which the principle topic of discussion is action or potential action based on unacceptable performance shall entitle the employee involved to request to be accompanied by the Union representative during such meeting. If such a request is made, the Employer will honor the request.
- E) Any action based on unacceptable performance will be fair, equitable, and administered as timely as possible.

### Section 2:

Prior to issuing a notice of proposed adverse action based on unacceptable performance, the Employer will issue a letter to the employee which contains the following:

An identification of the critical results and performance indicators for which performance is unacceptable;

Advice as to what the employee must do to bring performance up to an acceptable level;

A statement that the employee has a reasonable period of time (specified in calendar days) but never less than 60 calendar days in which to bring performance up to an acceptable level; and

The Employer shall offer assistance to the employee in improving unacceptable performance.

### Section 3:

- A) In all cases of proposed action based on unacceptable performance, the employee shall be given written notice of the reason and specifications of unacceptable performance on which the proposal is based 30 calendar days in advance of the action.
- B) The advance written notice proposing either to remove or downgrade an employee for unacceptable performance will include:
  - 1) Specified instances of unacceptable performance or conduct by the employee on which the proposed action is based;
  - 2) The critical results of the employee's position involved in each specification of unacceptable performance;
  - 3) The performance indicators of the employee's position involved in each specification of unacceptable performance or conduct;
  - 4) A statement of the employee's right to be represented;
  - 5) A statement of the employee's right to answer orally and/or in writing; and
  - 6) A statement of the employee's right to review the material relied upon to support the reasons and specification in the notice.
- C) The employee will be given the opportunity, but will not be obliged, to respond orally and/or in writing prior to a decision on the reason and specification. Any request for an oral/written reply by an employee must be submitted within seven (7) calendar days of the employee's receipt of the letter of proposed action.

#### Section 4:

- A) An official who sustains the proposed reasons against an employee in an action based on unacceptable performance will set forth findings with respect to each reason and specification against the employee in the final decision letter.
- B) The Employer will raise no cases against the employee other than those cited in the notice of proposed action except to the extent necessary to rebut defenses or arguments raised in the employee's behalf.
- C) The final decision to either remove or downgrade an employee based on unacceptable performance or conduct will normally be made no later than 30 calendar days after the expiration of the advance notice period, and will be based only on those instances of unacceptable performance by the employee which occurred during the one (1) year period ending on the date of the advance notice letter.

- D) The final decision regarding a proposed action based on unacceptable performance will be concurred with by an official in a higher position than the official who proposed the action.
- E) In taking an action based on unacceptable performance, the Employer will consider the employee's performance during the advance notice period. If, because of performance or conduct, improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance or conduct continues to be acceptable from one (1) year from the date of the advance written notice letter, any entry or other notification of the unacceptable performance for which the action was proposed shall be removed after a two (2) year period from any agency record relating to the employee.
- F) The Agency will advise the employee of his/her appeal rights.

#### Section 5:

- A) An Employee, will upon request be furnished a copy of that portion of all written documents which contains evidence relied on by the Employer which forms the basis for the reasons and specifications.
- B) Nothing in this section is to be construed as a waiver of the employee's or Union's right to request additional information under other authorities such as the Freedom of Information Act, Privacy Act, or Civil Service Reform Act.

#### Section 6:

- A) If the Employer's final decision is to effect an adverse action based on unacceptable performance against a bargaining unit employee, the employee may appeal the decision to the Merit System Protection Board (MSPB) in accordance with applicable law, or, with consent of the Union, invoke binding arbitration. Under no condition may an employee appeal an action based on unacceptable performance or conduct to both MSPB and arbitration.
- B) If the Union elects to appeal an unacceptable performance or conduct action through arbitration, the Union must give the Employer notice of its decision within twenty-one (21) calendar days of the employee's receipt of the Employer's final decision. If timely notice of appeal is not received by the office of the appropriate deciding official, the action may not be appealed through the arbitration procedure.
- C) The Notice of Appeal must be given by certified mail or by hand delivery to the appropriate deciding official. The Notice of Appeal by certified mail shall be effective when mailed. Notice of Appeal by hand delivery shall be effective when received.

- D) The MSPB Hearing Officer shall have all necessary facts and considerations brought before him or her by the representatives of the parties.

## ARTICLE 18 - DISCIPLINARY & ADVERSE ACTIONS

### Section 1 :

- A) Disciplinary and adverse actions, when considered necessary must be based on just cause and be consistent with laws and regulations governing such actions. The employer agrees that all employees will be treated fairly and equitably. The parties agree that disciplinary and adverse actions shall be in accordance with Department of Interior guidelines.
- B) Charges will be consistent with those defined in law or controlling regulation guidelines. The specifics of the charge(s) will be set forth in the notice of proposed action to the employee. Discipline will be taken for just cause as will promote the efficiency of the service.
- C) Normally, disciplinary and/or adverse actions will be initiated in a timely manner after the offense was committed or made known to the Employer.

### Section 2: Informal Actions

Written warnings, or oral admonishments are informal actions by which minor deficiencies in conduct, work habits, or similar matters may be brought to the attention of the employee. These may be annotated on an attachment to the Employee Record File only if the employees are informed. They shall not remain in the employee's file for more than six (6) months unless there is an additional occurrence in which case it will be removed after one (1) year, and will be expunged from an employee's file prior to transfer to a new supervisor. They cannot be considered as a "first offense" in determining subsequent disciplinary action. As an informal action, they will only be handled up to step 3 of the negotiated grievance procedure and shall not escalate to any higher step.

### Section 3: Formal Actions

- A) A formal disciplinary action can be a written reprimand or a suspension of fourteen (14) days or less.
- B) A formal adverse action can be a suspension of more than fourteen (14) days, reduction in grade and/or pay, or removal, except that it does not apply to the removal of an employee serving a probationary or trial period.
- C) Disciplinary and adverse actions will be consistent with rules and regulations governing such actions.

- D) Decisions on proposed disciplinary actions will be made within thirty (30) calendar days after the allowed response period, or extended response period.

#### Section 4:

Grievances resulting from a formal disciplinary action will begin at Step 2 of the grievance procedure or at the next step higher than the supervisory official who initiated the action.

#### Section 5: Procedures for Reprimands

- A) When the Employer issues a reprimand the following procedures shall apply:
- 1) The written reprimand shall clearly state the nature of the alleged offense(s) and the reason(s) for the action.
  - 2) A letter of reprimand (and any associated documents) will be removed from the employee's Official Personnel Folder no later than two (2) years after the date of the letter.
  - 3) After 12 months, the Employer will review the reason for the reprimand and make a decision regarding early withdrawal of the letter. A decision not to withdraw a written reprimand before the expiration of the two-year retention period is not grievable.
- B) A written reprimand may be grieved under the negotiated grievance procedure.

#### Section 6: Procedures for Suspensions of 14 Calendar Days or Less

- A) The Employer will give the employee written notice for a proposed suspension.
- 1) Written notice of proposed suspension shall clearly state the nature of the alleged offense(s) and the reason(s) for the proposed action.
  - 2) The notice will allow the employee at least fourteen (14) calendar days to respond to the proposed action. It will state that the reply may be made orally, in writing, or both.
  - 3) The notice will clearly state that the employee is a member of the NAGE bargaining unit and is entitled to representation by the Union in preparing and presenting his/her reply. Upon request a copy of the notice will be provided to the employee's designated Union representative.

- 4) The Employer agrees to furnish the employee and/or his/her designated Union representative, with requested documents and materials needed to reply to the proposed action. Documents or materials not disclosable to the employee shall not be used in support of any disciplinary action against the employee.
  - 5) The employee has the right to consult with a member of the Servicing Personnel Office regarding procedural adequacy of the proposed action and of the employee's right to reply.
  - 6) The employee may request an extension of the time to reply but any such request must be submitted in writing prior to the expiration of the original time period stated in the notice. Electronic mail will suffice as an acceptable written request.
- B) Upon expiration of the period for reply (and any extensions), the Employer will issue a written final decision to the employee within thirty (30) calendar days, and to the designated Union representative. The notice of decision shall:
- 1) State whether the proposed disciplinary action will be taken as proposed, modified, withdrawn, or will be held in abeyance. In no instance shall the disciplinary action exceed that in the notice of proposed action.
  - 2) State the findings with respect to the charge(s) stated in the notice of proposed action; and,
  - 3) inform the employee that he/she may grieve the action in accordance with the negotiated grievance procedure.

#### Section 7: Procedures for Suspension of More than 14 Calendar Days, Reduction in Grade and/or Pay, And Removal

When the Employer proposes to suspend an employee for more than 14 calendar days, reduce the employee in grade and/or pay, or remove the employee, the following procedures shall apply:

- A) The Employer will give the employee thirty (30) calendar days advance written notice of the proposed disciplinary action.
  - 1) Written notices of proposal shall clearly state the nature of the alleged offense(s) and the reason(s) for the proposed action.
  - 2) The notice will allow the employee at least fourteen (14) calendar days to respond to the proposed action. It will state that the reply may be made orally, in writing, or both.
  - 3) The notice will clearly state that the employee is a member of the NAGE bargaining unit and is entitled to representation by the Union in preparing and

presenting his/her reply. Upon request a copy of the notice will be provided to the employee's designated Union representative.

- 4) The Employer agrees to furnish the employee and/or the designated Union representative with requested documents and materials needed to reply to the proposed action. Documents or materials that cannot be disclosed to the employee shall not be used in support of any disciplinary action against the employee.
  - 5) An employee has the right to consult with a member of the Servicing Personnel Office regarding procedural adequacy of the proposed action and of the employee's right to reply.
  - 6) The employee may request an extension of the time to reply but any such request must be submitted in writing prior to the expiration of the original time period stated in the notice. Electronic mail shall suffice as an acceptable written request.
- B) After expiration of the period for reply (and any extensions), the Employer will issue a written final decision to the employee, with a copy to his/her designated Union representative within thirty (30) calendar days. The notice of decision shall:
- 1) state whether the proposed disciplinary action will be taken as proposed, modified, withdrawn, or will be held in abeyance. In no instance shall the disciplinary action exceed the proposed action;
  - 2) state the findings with respect to the charge(s) stated in the notice of proposed action;
  - 3) inform the employee of his/her grievance rights under the negotiated grievance procedure and appeal rights under the Merit Systems Protection Board (MSPB). The decision letter shall state that the employee may appeal or grieve, but may not do both; and,
- C) The Employer will provide the employee with the address and phone number of the Merit Systems Protection Board (MSPB) office, the appropriate appeal form(s) and the procedures for MSPB appeals.



## ARTICLE 19 - GRIEVANCE PROCEDURE

### Section 1: Purpose

The purpose of this Article is to provide a mutually acceptable method for prompt and equitable settlement of grievances.

### Section 2: Scope

A) A grievance means any complaint:

- 1) by any employee concerning any matter relating to the employment of the employee;
- 2) by the Union concerning any matter relating to the employment of the employee;
- 3) by the Union or the Employer concerning:
  - a) the effect of interpretation of a claim of breach of the Collective Bargaining Agreement;
  - b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;
- 4) except that it shall not include a grievance concerning:
  - a) any claimed violation relating to prohibited political activities;
  - b) retirement, life insurance, or health insurance;
  - c) a suspension or removal for National Security reasons, Sec. 7532;
  - d) any examination, certification, or appointment including the termination of a probationary/trial period employee;
  - e) the classification of any position which does not result in the reduction in grade or pay of any employee;
  - f) termination of a temporary promotion or time limited appointment; or,
  - g) reassignment or demotion of an employee to a non-supervisory position during the probationary period required for new supervisors.

- h) any matter based solely on allegations of discrimination because of race, color, sex, religion, national origin, or disability.

### Section 3:

This negotiated procedure shall be the exclusive procedure available to the Union, the employees in the Bargaining Unit and the Employer for resolving such grievances except as provided in Section 2.a.4. of this Article.

### Section 4:

In the case of any grievance which the Union may have against the Employer, or which the Employer may have against the Union, the procedure for such grievance shall be in accordance with Section 9 of this article.

### Section 5: Appeal and/or Grievance

An aggrieved employee affected by discrimination, (other than as described in Section 2. a. 4.) a removal or reduction in grade based on unacceptable performance, or adverse action may at his/her option raise the matter under a statutory procedure, appellate procedure or the negotiated grievance procedure, but only one. For the purpose of this section, and pursuant to Section 7121 subsections (d) and (e) of the Act, an employee shall be deemed to have exercised his/her option under this section only when the employee files a timely notice of appeal under the appellate procedure, files a timely grievance in writing under the negotiated grievance procedure, or files an Administrative EEO complaint. The selection of these procedures in no manner prejudices the right of an aggrieved employee to request the MSPB, FLRA, or EEOC, in accordance with law, to review a final decision of an arbitrator.

### Section 6:

In the event either party should declare a grievance non-arbitrable under this Article, the original grievance shall be considered amended to include this issue. The Employer and the Union agree to raise the question of arbitrability as a threshold issue when the grievance reaches arbitration.

### Section 7:

Most grievances arise from misunderstandings or disputes that can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. The Employer and the Union agree that every effort will be made by management and the aggrieved party (ies) to settle grievances at the lowest possible level. Inasmuch as dissatisfactions and disagreements arise occasionally among people in any work situation, the filing of a grievance shall not be construed

as reflecting unfavorably on an employee's good standing, his/her performance, or his/her loyalty or desirability to the organization.

#### Section 8: Union Representation

- A) The Employer recognizes that an aggrieved employee may be represented by the Union, or he/she may represent himself/herself, in filing a grievance under this procedure. Union representation is assumed unless the employee states that he/she does not want representation. The Union has the right to request the employee to put his/her wishes in writing. In the event the employee chooses self-representation, the Union, as the exclusive representative, will be given the opportunity to be represented at all steps of the procedure held between the Employer and the employee concerning the grievance, and any resulting resolution of the grievance will be consistent with the terms of this Agreement. In processing a grievance under this procedure, the employee who desires to be represented must use a representative approved by the Union.
- B) All parties will mutually agree to a time that the parties will be able to meet during normal working hours. If a mutually agreeable time cannot be reached the representative's schedule will be adjusted or overtime will be authorized.

#### Section 9: Grievance Process

- Step 1:** Normally, any grievance shall be presented orally by the concerned employee or Union representative with the first line supervisor in an attempt to settle the matter. Grievances must be presented within fourteen (14) calendar days from the date of the incident or the date the employee becomes aware of the incident. The first line supervisor will render his/her decision in writing in fourteen (14) calendar days after meeting with the employee or Union representative.
- Step 2:** If the matter is not satisfactorily settled at the Step 1 Grievance Level, the Union representative may, within fourteen (14) calendar days, submit the matter in writing, to the appropriate division chief or his/her designee. It is understood that a grievance, once reduced to writing, cannot be altered or amended without the mutual consent of both parties. The division chief or his/her designee will meet with the Union representative and aggrieved employee within fourteen (14) calendar days after receipt of the grievance. The division chief or his/her designee shall give his/her written answer within fourteen (14) calendar days after the meeting. The written grievance will include the following:
1. The name, title, series and grade of the grievant(s);
  2. The exact nature of the grievance;
  3. The specific remedy or adjustment that will be accepted to settle the grievance;

4. Dates, times, places, names of participants and witnesses relative to the event grieved, if known at the time;
5. Reference to regulations, and/or sections of this agreement alleged to have been violated. References to regulations may be in clear language in lieu of specific citations;
6. Identification of the Union point of contact if applicable.

**Step 3:** If the matter is not satisfactorily settled following the initial discussion, the Union representative or employee may, within fourteen (14) calendar days, submit the matter in writing, to the Superintendent or his/her designee. It is understood that a grievance, once reduced to writing, cannot be altered or amended without the mutual consent of both parties. The Superintendent or his/her designee will meet with the Union representative and aggrieved employee within fourteen (14) calendar days after receipt of the grievance. The Superintendent or his/her designee will give his/her written answer within fourteen (14) calendar days after the meeting. The written grievance will include the following:

1. The name, title, series and grade of the grievant(s);
2. The exact nature of the grievance;
3. The specific remedy or adjustment that will be accepted to settle the grievance;
4. Dates, times, places, names of participants and witnesses relative to the event grieved, if known at the time;
5. Reference to regulations, and/or sections of this agreement alleged to have been violated. References to regulations may be in clear language in lieu of specific citations;

**Step 4:** If the grievance is not satisfactorily settled at Step 3, the Union or the Employer may refer the matter to Arbitration in accordance with Article 21.

#### Section 10: Alternative Dispute Resolutions

The Parties mutually agree that either party at any point in the first three steps of this grievance process may propose the use of Alternative Dispute Resolution (ADR) in accordance with the Alternative Dispute Resolution Article of this agreement.

### Section 11: Failure to Meet Requirements

If the prescribed or extended time limits for the second or any succeeding step are not met by the Employer, the employee could be granted the remedial action sought provided it is not excessive nor inconsistent with law, rule, or regulation. The Employer will review the remedial action sought within twenty (20) calendar days of the expiration or extended expiration of the relevant time limits. The Employer will notify the employee in writing of the results of the review, and offer a settlement. If the review determines that the remedial actions sought is excessive or inconsistent with law, rule or regulation, then an explanation will be given, citing law, rule, regulation or other authority where applicable. The employee may accept or reject the offer of settlement. If he/she rejects the settlement, he/she may ask the Union to take the case to arbitration in accordance with this agreement. Failure of the employee or the Union to meet the time limits prescribed shall constitute termination of the grievance. All time limits in this article may be extended by mutual consent.

### Section 12: Extension of Time Limits

All time limits in this article may be extended by mutual consent of the parties.

### Section 13: Special Circumstances

If an employee resigns, dies, or is separated by any action other than removal before a decision is reached on a grievance being processed under the terms of this Agreement, and no compensation issue is involved, action will be stopped and all interested parties will be notified that because of the separation, the case is being closed without a decision. A copy of this notification will be made a part of the case record and provided to the Union by the Employer.

### Section 14: Witnesses

Any witnesses requested by the employee who are under the jurisdiction of the Employer may be called to present testimony. If, because of distance or similar factors, it is impractical for a witness to be present, necessary information may be obtained by a sworn, written statement. Each witness will be advised they are expected to provide full and complete information and that they will not be subjected to any restraint, coercion, discrimination, or reprisal as a result of participation. Employees participating in grievance meetings shall be in a duty status.

### Section 15: Information and Documentation from Official Records

The Employer will, upon request of the employee or his/her steward and/or representative, if any, provide information and documentation from official records, and extracts or copies of such records as may have a bearing on the grievance in accordance with the Statute [7114 (b)(4)].

Section 16: Group or Class Grievances

It is agreed that when a group has an identical grievance it will be considered in the same manner as an individual complaint of one employee and the decision will be binding on all identical cases.

## ARTICLE 20 – ALTERNATIVE DISPUTE RESOLUTION

### Section 1:

The Parties recognize that ADR is an important element of successful labor relations and will jointly support the growth of this concept.

### Section 2:

The goal of ADR is to resolve problems promptly in a WIN/WIN manner. No fault settlements may be appropriate to craft effective solutions, without allocating blame, which will contribute to improved relations between the Parties.

### Section 3:

The Parties agree to use the FMCS Alternative Dispute Resolution services to try to resolve issues such as grievances or discrimination complaints through neutral mediation.

### Section 4:

It is understood by the Parties that copies of all no fault settlement agreements involving bargaining unit employees will be provided to the Union by the Employer.

### Section 5:

The time limits of the negotiated grievance procedure will be held in abeyance when the Parties elect to use ADR. Either Party may withdraw from ADR at any time.

## ARTICLE 21 – ARBITRATION

### Section 1:

If the parties fail to satisfactorily settle a grievance, either party may invoke binding arbitration. The request to invoke arbitration must be in writing and must be received by the Park Superintendent or the Union President within 30 calendar days of the date of receipt of the final decision. Only the parties to this agreement may invoke arbitration.

### Section 2:

Within ten (10) calendar days after the Park Superintendent or the Union President or designee receives the arbitration request, the Employer and the Union will jointly request that the Federal Mediation and Conciliation Service (FMCS) submit a list of seven (7) impartial persons qualified to act as arbitrators. Representatives of the Union and the Employer will confer within seven (7) calendar days after receipt of such list. A representative of the Union and a representative of the Employer will each strike one arbitrator's name from the list of seven (7); they will then repeat this procedure. The remaining name will be the duly selected arbitrator. A flip of the coin will decide which party strikes first.

### Section 3:

The Federal Mediation and Conciliation Service shall be empowered to make a direct designation of an arbitrator to hear the case in the event:

Either party refuses to participate in the selection of an arbitrator or;

Upon inaction or undue delay on the part of either party.

### Section 4:

The parties will in good faith attempt to define the issue. If complete agreement cannot be reached on the issue prior to arbitration, the parties will present their respective issue to the arbitrator at the hearing. The Arbitrator will then determine the issue to be heard.

### Section 5:

The cost of the arbitrator and his/her expenses, and the FMCS, will be borne equally by both parties. Transcripts of arbitration proceedings are not required. If both parties desire a transcript, the cost will be shared equally. Absent mutual agreement, the declining party waives any and all rights to services and materials obtained at the expense of the other party.

### Section 6:



The arbitration hearing will be on the Employer's premises during the Employer's regular working hours. Each person authorized to attend the arbitration hearing who is employed by the Employer shall be on official time.

Section 7:

The arbitrator will be requested to render his/her decision not later than 30 calendar days after the conclusion of the hearing. Either party may file an exception to the arbitrator's award with the FLRA in accordance with the authority's regulation.

Section 8:

Questions of grievability or arbitrability will be referred to the arbitrator as a threshold issue.

Section 9:

The arbitrator will not change, modify, alter, delete, or add to the provisions of this agreement; this right is the prerogative of the Union and the Employer only.

## ARTICLE 22 - SUPERVISION

### Section 1:

Each employee is entitled to know who his/her supervisor is, and shall normally be advised by the Employer who has been designated as acting supervisor in the absence of the supervisor of record because of leave or TDY. Upon request of an employee, supervisors will arrange to meet individually with the employee to discuss work related concerns at a mutually convenient time.

### Section 2:

Individuals assigned to Wage Leader (WL) positions are non-supervisory members of the bargaining unit. As such, WL employees do not perform such supervisory duties as approving leave, proposing discipline, granting awards, assigning employees to training courses, and rating employees on work performance.

### Section 3:

In the event that an employee receives conflicting orders from the Employer, he or she will notify that supervisor that his/her directive or order is in conflict with the directions provided by their immediate supervisor or policies or procedures. If the employee's immediate supervisor is not readily available, the employee will follow the directive or order of the on-scene supervisor. The on-scene supervisor will contact the employee's supervisor to answer questions or resolve issues that may have arisen.

### Section 4:

Disciplinary or performance records maintained by supervisors must conform to the retention requirements for officially approved systems of records. Supervisors may keep personal notes as a reminder in carrying out supervisory responsibilities. Any notes which are used to support an official agency action must have been discussed with an employee at the time they were made. Failure to discuss or provide notes at the time they were taken does not preclude management from taking disciplinary or adverse action. Supervisors will provide employees a copy of such notes when requested.

## **ARTICLE 23 - PERFORMANCE APPRAISAL**

### Section 1:

The parties agree that the performance appraisal system shall conform with the requirements of applicable laws, regulations, and the provisions of this Article. The National Park Service Performance Appraisal System annual rating period applicable to bargaining unit employees is October 01 through September 30 of each year. The Employer and the Union agree that employee participation in the establishment of the performance plan is desirable and will be encouraged. It is agreed by both parties that Departmental changes in the performance appraisal system are not subject to negotiation and that both parties will cooperate in the implementation of any changes.

### Section 2:

The performance plan will be job-related, and will be consistent with the position description and organizational goals. Employees and supervisors shall meet annually to discuss the performance plan to be applicable for the coming rating period. Changes made by the Employer during the rating period will be initialed by the employee and supervisor.

Responsibilities/objectives shall be in writing and communicated to the employee. Performance expectations will be properly documented in accordance with applicable regulations and a copy will be provided to the employee. If there is no agreement on the performance expectations, the Employer will decide and will so advise the employee. A notation of the disagreement will be made on the Employee Performance Plan and Results Report, Form DI2002.

### Section 3:

The minimum rating period for an annual performance appraisal is 90 calendar days. Special appraisals, where appropriate (i.e. Detail assignments), will be considered when preparing an annual performance appraisal, and will be provided to the Rating Official. Supervisors who leave their positions should issue special appraisals for all employees under their supervision who have been under approved performance plans for at least 90 calendar days. Supervisors leaving their positions should issue annual appraisals for those employees who have 90 calendar days or less remaining in their current rating periods.

### Section 4:

Performance ratings are effective as of the date approved by the Reviewing official and remain the employee's current, official rating of record until replaced by another official rating.

### Section 5:

- A) Supervisors shall be objective in the preparation of appraisals given employees, and the performance plans should document expectations based on organizational mission and goals. If the employee believes the criteria stated in this section have not been met, he/she must grieve through the grievance procedure of this agreement with the assistance of a Union representative. All appraisals for bargaining unit employees will be prepared in accordance with applicable regulations and the following:
- 1) Supervisors will discuss performance expectations with the employee within the first sixty (60) calendar days of each rating period, conduct a minimum of two (2) Progress Reviews with the employees regarding his/her job performance, and discuss the employee's annual appraisal upon completion of the rating period. More frequent Progress Reviews may occur as required. All such Progress Reviews shall be conducted in private surroundings, and kept confidential.
  - 2) Identified shortcomings in the employee's performance shall be communicated to the employee. The supervisor will suggest ways for the employee to improve his/her performance in a written Performance Improvement Plan (PIP) in order to satisfactorily perform duties at expected levels. Employees are responsible for performing the job expected of them, asking questions or pointing out problems hindering performance as the need arises and for performing to the best of their ability. Supervisory actions to assist employees in improving their performance may include remedial training, progress reviews as needed or more direct supervision. Since there is no single solution to all identified performance problems, each supervisor shall determine what assistance is applicable to a particular situation for each employee.
  - 3) The annual performance appraisal will be in written form. All appraisals will be reviewed/approved in accordance with applicable regulations.
  - 4) A follow up discussion between the employee and the Reviewing Official may be held after final approval of the appraisal.

## **ARTICLE 24 - OFFICIAL PERSONNEL FOLDERS**

### Section 1:

The Official Personnel Folder prescribed by the Office of Personnel Management is an official repository for records affecting an employee's status and service during his entire Government employment. The folder provides the basic source of factual data about the employee's employment history and is used in screening qualifications, determining status, computing length of service, and gathering other information needed for providing personnel services. In addition, folders may be reviewed by, or used to furnish information to supervisors, managers, and other officials whose duties require access to such folders.

### Section 2:

It is agreed that, to the extent it is not contrary to Office of Personnel Management policy or regulations, each employee, and/or designated representative who has been authorized in writing by the employee, shall upon request and by appointment be permitted to review any document appearing in his Official Personnel Folder. An employee will be provided an initial copy of a document at no cost if he requests. Costs may be assessed for additional copies in accordance with the Privacy Act. It is understood that such review shall take place in the presence of an Employer representative having custody of the file.

### Section 3:

Only those documents authorized by office of Personnel Management regulations or other appropriate Federal Regulations are to be maintained in the employee Official Personnel Folder.

### Section 4:

The Official Personnel Folders (OPFs) of Delaware Water Gap National Recreation Area are maintained by the Servicing Personnel Office in the park. Nevertheless, except as provided by the Office of Personnel Management regulations, no material of a derogatory nature which might reflect adversely upon the employee's character or Government career will be placed in the Official Personnel Folder without the employee's knowledge. It is agreed that any record in the Official Personnel Folder which has not been disclosed to the employee will not be used as a basis for a disciplinary action.

## **ARTICLE 25 - BASIC WORK WEEK AND HOURS OF WORK**

### Section 1:

- A) It is recognized that DEWA is open seven days a week, 24 hours a day. The basic work-week will normally consist of five eight hour days. Management will make every reasonable effort to give employees two (2) consecutive days off. The employer will consider requests from employees for other than consecutive days off. Schedules will be established in accordance with government wide regulations.
- B) Management will normally only schedule an employee two different tours of duty in an administrative work week. The employee will normally have at least 24 hours off between tours of duty.
- C) It is recognized that some alternate work schedules may be appropriate for some employees and not appropriate for others depending on their jobs and functions.
  - 1) The parties recognize the use of alternate work arrangements enables employees to better balance their work and family responsibilities and increase employee effectiveness and job satisfaction, while decreasing turnover rates and absenteeism.
  - 2) This Article gives unit employees choice and flexibility in their hours of work consistent with the Executive Order for a "family friendly workplace" and compatible with the schedules in accordance with NPS directives and policy, unless operational needs would be adversely impacted.
  - 3) Management will provide employees written justification if management denies an employee's request for an alternative work schedule.

### Section 2: The Following Work Schedules are Available

- A) Most employees work a fixed eight-hour schedule, with at least a 30-minute lunch period. Law enforcement rangers work a fixed eight hour schedule and do not have a designated lunch period as they are on call.
- B) Alternative schedules can be arranged at the request of the employee and approved by the supervisor. Management will provide an employee written justification if management denies and employee's request for an alternative work schedule.

### Section 3: Schedule Posting

- A) Management will be encouraged to post schedules one month in advance but in all instances schedules will be posted at least two (2) weeks in advance. Posting this notice

does not preclude the agency from making schedule changes after seven (7) days notice and allows changes within the seven (7) days if the agency would otherwise be seriously handicapped in its mission or if costs would be substantially increased.

- B) Schedules for the law enforcement division change more frequently after they are first posted. When these schedules change the revision date will be clearly posted on the updated schedule and supervisors will develop a system, which ensures that the revised schedules are received by all employees. That system should include some sort of documentation of receipt.

#### Section 4: Notification of Workweek Schedule Changes

- A) The union recognizes the right of the Employer to establish and change workweek schedules (hours, days and duty station) to meet the best operating needs with prior consultation with the Union.
- B) The employer agrees to advise the Union whenever a change to established workweeks, with respect to hours or to days, is contemplated by the Employer.

#### Section 5: Management Scheduled Meetings

- A) Employees will be entitled to appropriate compensation if attending meetings outside their scheduled hours of work.
- B) Management will not coerce employees to take compensatory time in lieu of overtime or not attending the meeting.

#### Section 6: Rest Periods and Clean Up Time

The Employer agrees that employees will receive two breaks per day at the work site of 15 minutes, one in the morning and one in the afternoon. In addition, supervisors will authorize maintenance employees to leave the work site 5 minutes before the beginning of the lunch period and to have 15 minutes before the end of the work shift to clean up. The Union agrees to support the Employer in enforcement of this section.

## **ARTICLE 26 - TELECOMMUTING / FLEXIBLE WORK PLACE PROGRAM**

### Section 1:

The Employer will provide copies of Telecommuting / Flexible Work Place Program policies and procedures to an employee upon request.

### Section 2:

The Employer will provide the Union, upon request, the names of all bargaining unit employees who have been accepted to work under the Telecommuting / Flexible Work Place Program.



## ARTICLE 27 - OVERTIME

### Section 1: General

- A) Employees will receive payment for overtime worked in accordance with the Fair Labor Standards Act (FLSA) or Title 5, as appropriate. Employees will receive overtime compensation in increments of 15 minutes. Overtime shall be fairly and equitably distributed among qualified employees who perform the duties on a regular basis first, except in the cases of an emergencies.
- B) No employee shall be involuntarily placed in a non-duty status during any regular scheduled shift hours in his/her basic workweek in order to compensate for or offset overtime hours worked outside of his/her regular work shift or scheduled workweek.
- C) The Parties agree that advance notice is desirable when scheduling routine overtime. The Employer will attempt to provide employees with advance notice of overtime needs including number of hours anticipated, date, time, and job specifics. The objective for an advance notice will be at least eight (8) hours for routine overtime, unless emergencies exist.

### Section 2: Scheduling

- A) Overtime work assignments shall be distributed in a fair and equitable manner among bargaining unit employees possessing the qualifications for the job for which overtime has been authorized. First consideration will be given to those employees who are currently assigned to and performing those duties on a regular basis.
- B) Overtime work normally performed by bargaining unit employees will be assigned to employees of the bargaining unit when overtime is required. Overtime must first be offered to all qualified bargaining unit employees. If after offering overtime to bargaining unit employees there is still available overtime it may be offered to non-bargaining unit employees.
- C) In the event of an emergency law enforcement, search and rescue, emergency medical or other life safety situation the closest available employee who is qualified to perform the duties required will be authorized to work the required overtime.
- D) General Schedule employees whose basic rate of pay does not exceed the maximum rate for GS-10 may request compensatory time off in lieu of overtime pay but are not required to take compensatory time off and will not be coerced to do so.
- E) Wage Grade employees may request compensatory time off in lieu of overtime pay but are not required to take compensatory time off and will not be coerced to do so.

### Section 3: Tracking / Records of Overtime

- A) Records of overtime worked will be maintained by supervisors. If equity of overtime is considered questionable by an employee and/or union representative(s) records of overtime for the employees concerned will be made available within three (3) working days from the date of the request.
- B) To ensure fair and equitable distribution of overtime, records will be kept and overtime tracked in the following manner:
- 1) Planned / Programmed Overtime (including backfill):
    - a) Planned / Programmed Overtime will be distributed in a fair and equitable manner amongst those bargaining unit employees possessing the qualifications for the job for which overtime has been authorized. First consideration will be given to those employees who are currently assigned to and performing those duties on a regular basis.
    - b) Planned / Programmed Overtime will be tracked and recorded separate from other overtime.
    - c) Planned / Programmed Overtime will be tracked and recorded by work group or district as appropriate to ensure fair and equitable distribution.
  - 2) Incident Driven Overtime:

Incident Driven Overtime will not be counted toward an employees overtime total when determining fair and equitable distribution of overtime.
  - 3) Overtime due to out-of-park details:

Overtime due to out-of-park details will not be counted toward an employees overtime total when determining fair and equitable distribution of overtime. However, opportunities for out-of-park details will be provided on a fair and equitable basis (see Section 7 of this Article).
  - 4) Overtime due to acting assignments, membership on special teams or special duties such as: DEWA High Angle Rescue Team, DEWA Dive Team, DARE, or any other special team that may be established at DEWA.
    - a) Any non-incident driven (planned/programmed) overtime earned due to an acting assignment or membership on special teams will be counted toward an employee's total overtime for purposes of determining fair and equitable distribution of overtime.
    - b) Planned/programmed overtime for acting assignments would include overtime occurring in order to carry out the regularly assigned duties of that position (i.e.: meetings, court, etc...)

- c) Planned/programmed overtime due to membership on a special team or special duties would include overtime occurring in order to carryout maintenance / installation tasks, programs, training, etc...
- 5) Overtime As Extension of the Workday:
- a) In cases of unforeseen work requirements as determined by the Employer, where bargaining unit employees are expected to work more than two (2) hours beyond the end of their daily tour of duty an opportunity to obtain food will be provided.
  - b) The Callback Overtime list will be used to ensure a fair and equitable distribution of overtime with the exception of when continuity of work is an issue.
- 6) Callback Overtime:
- a) For callback overtime each supervisor will maintain a list of employees by service computation date (SCD/Leave). Overtime will be offered/assigned to qualified bargaining unit employees from this list on a rotational basis. New and seasonal employees will be placed at the bottom of the list.
  - b) When callback overtime is necessary the supervisor will offer the overtime the next available employee(s) on the list.
  - c) Employees who work overtime will be moved to the bottom of the list. Employees who decline overtime or the supervisor is unable to reach will be moved to the bottom of the list.
  - d) For overtime record keeping and tracking purposes callback overtime will be treated as planned / programmed overtime and counted toward an employees total overtime for determining fair and equitable distribution of overtime.
  - e) Employees designated for possible call back overtime may be issued electronic devices by the Employer for the purpose of reaching the employee. Employees who have not been provided an electronic device by the Employer may be asked to provide a telephone number at which they may be contacted.
  - f) When it is necessary for employees to return (be called back) to work, outside of their regularly scheduled work hours, they shall be paid a minimum of two (2) hours overtime even though their services may not be required for the two hours.
- 7) Turned Down Overtime:

When planned / programmed or callback overtime is offered to an employee and the employee turns down the overtime hours those hours will be counted in the employee's total of overtime hours to ensure a fair and equitable distribution of overtime.

#### Section 4: Continuity of Work

Whenever specific work requirement is not completed by the end of a shift and such work requires continuity, overtime work will be first offered to those employees currently assigned to the work and then in accordance with Section 2.

#### Section 5: Refusal of Overtime Work

An employee has the right to refuse an overtime assignment provided he/she has a legitimate reason acceptable to the Employer. However, the employee if directed to work will work.

#### Section 6: Notification of Families

Employees required to work overtime on short notice will be allowed to use the Park telephone, at government expense, to notify their families that they will not be home at the regular hour. When it is not practical or possible for the employee to notify his/her family personally the Employer agrees that supervisors or the communications center will endeavor to do so on behalf of the employee upon their request.

#### Section 7: Out-of-Park Details

- A) Out-of-park details will be provided to employees in a fair equitable manner among employees possessing the qualifications for the job for which the detail has been authorized.
- B) Management will make details available for employees to maintain current certifications or provide written notification why they are denying the detail.
- C) For out-of-park detail opportunities each supervisor will maintain a list of employees by service computation date (SCD/Leave). Details will be offered/assigned to qualified employees from this list on a rotational basis. This list will rollover from year to year. New employees will be placed at the bottom of the list.
- D) If after the list has been gone through and there are no "volunteers," the list will be reversed (least senior to most senior) and the next available person on the list will be assigned to go.

- E) If a person has already “volunteered” to go one or more times that person will not be assigned to go until all others on the list have equaled the number of times that the person had volunteered to go.
- F) Any overtime earned on an out-of-park detail will not be counted toward an employee’s total of overtime for purposes of ensuring fair and equitable distribution of overtime.
- G) Exceptions to this procedure may be made for employees who for no fault of their own but due to their assigned duties at the park limit their availability to go on out-of-park details (e.g.: DARE Officers, FTO’s, instructor duties, etc...).

#### Section 8: Standby Status

Employees who are placed on standby status will be compensated in accordance with applicable laws, regulations and agency policies (i.e.: Fair Labor Standards Act and/or Title 5). In no cases will an employee who may be subject to callback overtime be made to feel that they have to follow the policies for an employee in standby status without being officially placed into and compensated for being on standby.

## ARTICLE 28 - HAZARDOUS DUTY PAY

### Section 1:

- A) Hazardous Duty Pay (HDP) is additional payment to a bargaining unit employee who is exposed while performing assigned work to a hazard, physical hardship, or working condition as described by the Office of Personnel Management (OPM) in Title 5, Code of Federal Regulations, Part 550. OPM has authorized HDP for:
- 1) Exposure to an unusually severe hazard which could result in significant injury, illness, death, such as working on a high structure or an open structure when adverse conditions such as darkness, lightning, steady rain, snow, sleet, ice, or high wind velocity exist;
  - 2) Exposure to an unusually severe physical hardship under circumstances which caused significant physical discomfort or distress; or
  - 3) Exposure to an unusually severe working condition under circumstances involving exposure to fumes, dust, or noise which cause significant distress or discomfort in the form of nausea, or skin, eye, ear or nose irritation or conditions which cause abnormal soil of body and clothing. In certain HDP categories, the differential is payable whenever the criteria in the OPM category definition are met. Other HDP categories are payable only if protective facilities, devices, or clothing have not practically eliminated the hazard, physical hardship, or working condition. The Employer and the Union agree that when warranted, Hazardous Duty Pay will be paid in accordance with applicable regulations.

### Section 2:

HDP is paid in one-quarter hour increments with a minimum payment of one (1) hour HDP.

### Section 3:

If the Employer determines that HDP for a specific work situation within the bargaining unit should be discontinued, written notice will be provided to the Union which identifies the names, job titles, and work locations of the affected employees and the reasons for exclusion from HDP coverage. The Union may request impact and implementation bargaining on this issue.

### Section 4:

If the Union believes that an additional work situation not previously approved warrants HDP under one of the categories authorized by OPM, it will notify the Employer in writing of the

names, job titles, and work locations of the employees believed to be entitled to HDP. The written notice will describe the nature and circumstances of the exposure to show that the hazard, physical hardship, or working condition resulting from the exposure is of an unusually severe nature and is eliminated or brought to within safe exposure limits according to OSHA regulations and standards. Within thirty (30) days of receipt of the request, the Employer will inform the Union, in writing, of its decision.

#### Section 5:

If the Union determines that there is a need to establish a new OPM category warranting HDP in order to address a unique work situation in the bargaining unit, the Union will notify the Employer in writing, of this intent. The written notice will include information showing (a) the nature of the exposure and how it results in a hazard, physical hardship, or working condition of an unusually severe nature; (b) the degree to which the employees are exposed; (c) the period of time during which the exposure is likely to continue to exist; (d) the degree to which control may be exercised over the hardship, hazard, or working condition; and (e) the percentage rate of HDP recommended to be established. Within thirty (30) days of receipt of the request, the Employer will inform the union, in writing, of its decision.

#### Section 6:

Employees have a right to grieve any concerns as it relates to HDP in accordance with the negotiated Grievance Procedures.

## ARTICLE 29 - HOLIDAYS

### Section 1:

As determined by the Employer, employees not required for essential duties shall be excused from work on holidays as prescribed by appropriate law, regulations, or executive order. The Employer retains the right to require the services of employees for the performance of work essentially required, but recognizes the entitlement of such employees to receive compensation in accordance with the provisions of such law, regulations, or executive order.

### Section 2:

In situations when the employee wants to be excused from holiday work assignments, the Employer will try to accommodate the employee provided another qualified employee is available.



## **ARTICLE 30 - TRAVEL**

### Section 1:

All official travel will adhere to established rules and regulations under the applicable Federal Travel Regulations and Code of Federal Regulations and other agency guidance.

### Section 2:

All employees will be issued a travel authorization prior to leaving the park on official travel.

### Section 3:

The Employer may authorize travel and/or per diem to employees who serve as Union representatives whenever travel is required for the performance of the following representation functions: arbitrations and appeals; negotiating and consulting with management; and, attendance at management sponsored conferences, meetings and training.

## ARTICLE 31 - LEAVE

### Section 1: Annual Leave

- A) Employees earn and shall be granted annual leave in accordance with applicable laws and regulations governing annual leave.
- B) Employees shall request annual leave for the new calendar year from January 1 through January 15. Employees will provide their supervisors with three requests by order of preference. Supervisors will use seniority based on Service Computation Date (SCD) as a basis for selection of annual leave. Supervisors shall provide a reply to the employee's request by January 30.
- C) After January 15<sup>th</sup> employees may request leave throughout the year and it will be approved by the supervisor on a first come first served basis. Except in cases of emergency, annual leave will be requested and approved in advance. Employees may request annual leave throughout the leave year with the approval of the supervisor. These general requests for annual leave may be approved by the supervisor as soon as possible but no later than seven (7) calendar days from the date of the request. Changes will not be made to leave requests with out the employees approval. Employees will receive copies of all approved or disapproved leave slips.
- D) Requests for annual leave for emergency reasons shall be made as soon as possible. The call will be placed to the employee's immediate supervisor or other designee. It is understood that the granting of leave is subject to supervisory approval. However, the employee will satisfy the notification required for the emergency request provided the employee makes a good faith effort, including:
  - 1) calling his/her supervisor during a time when the supervisor is normally available;
  - 2) when not available, attempting to reach an on duty supervisor for the applicable division.
  - 3) when, not available leaving a message with park dispatch.
  - 4) It is the employee's responsibility to follow up with their supervisor to ensure that they received notification.
- E) When leave has been requested and approved, the Employer will not rescind approval except to meet situations of emergency. When previously approved leave must be rescheduled, the employee will normally be advised of the change in writing in advance with the explanation as to why the action was taken. Every effort shall be made to accommodate the employee to reschedule his/her leave. The Employer will make an

effort not to cancel previously approved leave where the employee has expended non-refundable funds.

- F) The Employer agrees that annual leave will be approved in accordance with the CFR so that employees will not lose annual leave at the end of the leave year. Employees may carry over annual leave at the end of the leave year when the annual leave was approved and scheduled in advance and the employee was prevented from using the leave due to a business exigency and/or illness. An employee may also carry over annual leave due to administrative error that results in annual leave being forfeited through no fault of the employee.
- G) Annual leave will be granted in increments of 15 minutes.

## Section 2: Sick Leave

- A) Employees earn and shall be granted sick leave in accordance with applicable laws and regulations when the employee:
  - 1) receives medical, dental or optical examination or treatment;
  - 2) is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
  - 3) provides care for a family member as a result of physical or mental illness, injury, pregnancy, childbirth or medical, dental or optical examination or treatment;
  - 4) makes arrangements necessitated by the death of a family member or attends the funeral of a family member;
  - 5) would, as determined by the health authorities having jurisdiction or by a health provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;
  - 6) must be absent from duty for purposes relating to the adoption of a child.
- B) Except in cases of emergency, sick leave will be requested and approved in advance.
- C) The amount of sick leave granted to an employee during any leave year for a.3 and a.4 above will be consistent with the Family Medical Leave Act (FMLA) and the Family Friendly Leave Act.
- D) Sick leave for medical, dental or optical treatment and examination will normally be requested in advance. Sick leave will be granted in 15 minute increments.

- E) In the event of illness, injury, or contagion, the employee or his/her designee will make a good faith effort to speak personally to his or her supervisor prior to or within the first hour of their scheduled tour of duty. If they are not available, they will make a good faith effort to contact an on duty supervisor for the applicable division. If no supervisor is available they will contact park dispatch. It is the employee's responsibility to follow up with their supervisor to ensure that they received notification.
- F) Except as provided for in paragraph 2g, employees will normally not be required to furnish a medical certificate to substantiate absences due to illness of three consecutive workdays or less. However, periods of absence on sick leave, in excess of three (3) consecutive workdays, must ordinarily be supported by a medical certificate submitted to the supervisor upon return to duty. A medical certificate may also be required prior to an employee's return to duty if the employee has been exposed to a communicable disease or has been on an extended absence due to a serious medical condition.
- G) It is agreed that employees who go home sick, shall normally not be required to furnish a doctor's certificate to substantiate such sick leave, unless it exceeds three (3) consecutive workdays. Procedures in paragraph e. above will apply. An employee who goes home or to a hospital or clinic may be furnished transportation by the Employer when determined necessary by the Employer.
- H) In the case of an employee suspected of abusing sick leave, the Employer may require submission of a medical certificate to substantiate each absence due to a claimed illness regardless of duration. The supervisor will furnish the employee notice of the requirement for future absences. Such notification must be in writing and will be reviewed within 120 days. Written notification concerning the results of the review will be furnished to the employee by the supervisor. If there is a re-occurrence of the problem within 1 year the letter will be reinstated. The next review will occur 1 year from the reinstatement of the letter.
- I) If an employee's sick leave balance is insufficient to cover an absence for which sick leave would be authorized, the employee may request substituting annual leave, compensatory time, and/or leave without pay.
- J) In cases of serious disability, surgery, or other ailments, employees may request advanced sick leave not to exceed 240 hours, provided:
  - 1) The employee's appointment is not limited (temporary job employment) and that he/she has established a minimum of one year of government service;
  - 2) he/she does not have a pending disability retirement;
  - 3) such leave will not be advanced when there is reason to believe the employee will not remain on the rolls long enough to pay back the advanced leave;
  - 4) he/she has not established a pattern of sick leave abuse.

- K) The employee will submit a request in writing for advanced sick leave to his/her immediate supervisor. The number of requested hours and medical documentation will be included in the request. The supervisor will review and forward the request to the appropriate approving authority. The approving official will forward approval or disapproval to the supervisor and to the employee. All such documentation shall be considered information subject to the Privacy Act.
- L) Assignment to “light duty” work:
- 1) When an employee is temporarily not able to fully perform the normal duties of his/her job as determined by a certified medical practitioner, but is deemed by the practitioner to be able to perform light duty, the supervisor may endeavor to find productive light duty assignment for the employee. The employee may be required to be examined by an agency-designated medical official. The meaning of light duty in individual cases is that available work (not necessarily an established job within the employee’s section) which is commensurate with the physical limitations established by the medical examiner.
  - 2) Assignment to “light duty” will be done fairly and equitably.
  - 3) In the event that no light duty can be found, the employee will be placed on appropriate leave the employee has available for use.

### Section 3: Family Medical Leave

- A) Entitlement under the Family Medical Leave Act (FMLA):
- 1) Subject to 5 CFR Parts 630 and 890, employees are entitled to 12 workweeks of unpaid leave during any 12-month period for the following purposes:
    - a) the birth of a child of the employee and the care of such child;
    - b) the placement of a child with the employee for adoption or foster care;
    - c) the care of a spouse, son, daughter, or parent of the employee if such spouse, son, daughter, or parent has a serious health condition; or
    - d) a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.
- B) Under certain conditions, FMLA leave may be taken intermittently, or the employee may work under a work schedule that is reduced by the number of hours of leave taken as family and medical leave. An employee may elect to substitute other paid time off, consistent with current laws and regulations, for any unpaid leave under the FMLA.

- C) Job Benefits and Protection:
- 1) Upon return from FMLA leave, an employee must be returned to the same position or to an equivalent position in accordance with the provision of the FMLA.
  - 2) An employee who takes FMLA leave is entitled to maintain benefits in accordance with the FMLA.
- D) The employee must provide notice of his or her intent to take family and medical leave not less than 30 days before leave is to begin or as soon as practicable. The Employer may request medical certification for FMLA leave taken to care for an employee's spouse, son, daughter, parent who has a serious health condition or for the serious health condition of the employee.

#### Section 4: Military Leave

Military leave will be granted in accordance with the Code of Federal Regulations.

#### Section 5: Court Leave

Court leave will be granted in accordance with the Code of Federal Regulations. It is agreed that a permanent employee will be granted Court Leave as provided by laws governing Court Leave when serving as a juror in a State or Federal Court or when serving as a witness for the Government of the United States or the District of Columbia. When absent on Court Leave the employee shall furnish the notification from the Clerk of the Court showing that he/she is required to appear for the day(s) involved and will turn in to the NPS the fees received for such service and receive his/her regular compensation. It is mutually agreed that when an employee is excused from jury service for one or more days he/she shall return to work for those days or in cases where Annual Leave has been requested and approved in advance be charged annual leave.

#### Section 6: Voting and Voter Registration

Voting and Voter Registration - A limited amount of excused absence may be granted where the polls are not open at least 3 hours either before or after an employee's regular work hours so as to permit the employee to report to work 3 hours after the polls open or leave from work 3 hours before the polls close, whichever requires the lesser amount of time off. Where an employee's voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the employee may be granted sufficient time off (not to exceed one day) in order to vote. If an employee is required to register in person, he/she may be granted time off on substantially the same basis as for voting. However, an excused absence will not be granted if the employee can register on a non-workday and round-trip travel can reasonably be accomplished in one day.

## Section 7 - Leave for Other Purposes

- A) An employee may be excused without charge to leave or loss of pay for up to four hours contiguous to blood donation.
- B) An employee whose religious beliefs require that he/she be absent from work during scheduled work periods may, with the approval of the supervisor, elect to engage in compensatory work of an equivalent amount, for the time lost as a result of meeting those religious requirements.
- C) In the event that employees are not allowed access to the park and an alternate duty location is not specified, Employees will be granted administrative leave (e.g.: fire, flood and/or disaster).
- D) The Employer recognizes the retention rights as prescribed in the CFR of an employee on an approved leave of absence in situations where the employee is affected by a reduction-in-force action during his/her leave of absence.
- E) When an employee is released from his/her normal tour of duty by the Employer because of interruption or suspension of operations administrative leave will be granted as follows:
  - 1) In cases of early dismissal:
    - a) Employees on duty not deemed essential at the time of the dismissal will be granted administrative leave for the remainder of their workday.
    - b) If an employee was on duty and departed on leave after the official decision was made to suspend operations, but before the time set for the dismissal, annual leave will be charged only for the time between the employee's departure and the time set for the dismissal, and administrative leave granted from the time set for the dismissal for the remainder of the work day. If an employee was on duty and departed for the day on leave prior to an official decision being made to suspend operations, or the employee was not on duty for the day, no administrative leave is granted.
    - c) If an employee was not on duty for the day, no administrative leave is granted.
    - d) If the employee was scheduled to report for duty after a leave period, e.g., the employee had requested and received approval of leave in the morning, and dismissal is given before the employee can report, leave will be charged only up to the time set for dismissal.
  - 2) In cases of delayed openings, administrative leave is granted only to those employees who normally report for duty during the time of the delay. Reporting time may vary for essential and non-essential employees.

- 3) When a facility is closed for the entire workday, administrative leave is granted to all employees not deemed essential.
- F) Medical fitness or other examinations required by the Employer will be furnished to the employee at no cost including transportation, and with no charge to leave.
- G) Employees with 80 hours or less of sick leave will be granted up to four (4) hours of paid leave per year for health screening tests such as mammography, pap smears, blood pressure, cholesterol checks and other medical screenings.
- H) Federal law enforcement officers or firefighters are entitled to be excused from duty to attend the funeral of a fellow law enforcement officer or firefighter, under Section 642 of Public Law 103-329, which added a second new section 6327 to Title 5, U.S.C. Under these rules, a law officer's or firefighter's attendance at such a service is to be considered official duty, and the agency may pay the employee's travel, transportation and subsistence expenses (as provided under 30 U.S.C. 1345).

#### Section 5 - Leave Without Pay

- A) Employees may request and may be granted leave without pay provided the provisions of applicable law and regulations are met. Leave without pay absences shall not exceed one year for each application.
- B) Employees in an approved leave without pay status shall accrue all rights and privileges in respect to retirement status and coverage under the Group Life Insurance and Federal Employee's Health Benefits Programs to which they may be entitled in accordance with appropriate regulations.



## **ARTICLE 32 - SAFETY, HEALTH AND WORKING CONDITIONS**

### Section 1:

Both parties recognize that the safety and health of employees in their working environment is a shared responsibility of the Employer, the Union, and employees. The parties further recognize that observing safe-working practices including the wearing of all protection equipment is required to maintain a safe working environment.

### Section 2:

It is agreed that membership on the Safety Committee will include the Union Safety Officer. The Safety Committee shall meet in accordance with policy and when necessary to study trends, continuing unsafe practices, recent accidents and corrective procedures and other matters of safety in all areas where DEWA employees are required to work. Minutes of meetings from the Safety Committee will be maintained and provided to the Superintendent or his/her designee for review and distribution to employees. Minutes will be published in "Filling the Gap."

### Section 3:

When special licenses are required to operate heavy vehicles or equipment only qualified and properly graded personnel holding the appropriate licenses and/or endorsements will operate those vehicles. All regulations and laws governing the operation and licenses will be followed.

### Section 4:

- A) In accordance with OSHA regulations (29 CFR 1960.46(a)) and EPA regulations, an employee has a right to decline to perform his/her assigned task alone or with others because of a reasonable belief, under the circumstances the task poses imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through the normal hazard reporting and abatement procedures established in accordance with 29 CFR.
- B) It is understood that imminent danger conditions relates to physical and/or environmental hazards not inherent in the employees assigned duties. An employee should report such conditions to his/her supervisor or, if unavailable the next higher level supervisor by the most expeditious means available. The supervisor may consult with the park safety officer, if necessary, in determining whether or not the condition is safe. In all cases, pertinent OSHA/EPA regulations will govern determination of safe working conditions.

### Section 5: Occupational Health Maintenance Monitoring

The Employer agrees to place eligible employees in an Occupational Health Maintenance Monitoring program in accordance with OSHA regulations and current NPS Instructions. The Employer agrees to maintain medical program files in accordance with regulations and the Privacy Act.

#### Section 6: Personal Protective Equipment (PPE)

- A) The Employer will provide employees with safety and protective equipment necessary to perform the tasks of their position according to NPS Reference Manual 43.
- B) The employer agrees to replace PPE in accordance with the manufacturer recommendations or sooner if currently issued PPE is determined to be unserviceable. The Park Safety Officer will determine serviceability of PPE.
- C) The employer agrees to reimburse eligible employees for safety toed shoes/boots that meet current NIOSH standards. Reimbursement will be equal to the cost of the work boots in the current NPS catalog. Eligible employees will be determined by the Park Safety Officer.
- D) When employees are assigned to work requiring the use of safety glasses, the Employer agrees to furnish glasses.
- E) Routine maintenance of glasses is the employee's responsibility. Prescription and non-prescription safety glasses will be replaced when management agrees that current issued glasses are no longer serviceable or when required by new prescription.

#### Section 7: Drinking Water

To the extent law allows, the Employer will ensure that an adequate supply of drinking water is made available to all employees. This may include the provision of alternative bottled water when local water supplies are found to be undrinkable based on the standard set forth by the local municipality or state as applicable.

#### Section 8: Tools

Employees are not required to provide their own tools.

#### Section 9: First Aid Kits

The Employer agrees to maintain adequate first aid kits and training to employees. Adequate kits and training will be defined in the park's emergency medical services plan.

#### Section 10: Uniforms and Other Required Clothing

It is agreed that the Employer will furnish Park employees, in accordance with NPS policy, all uniforms required for the performance of their duties. This includes but is not limited to, pants, slacks, shorts, shirts, skirts, vest, sweaters, hats, caps and coats.

#### Section 11: Special / Seasonal Clothing

Alternative uniform items may be authorized under DO-43 and RM-43 Uniform Guidelines.

## ARTICLE 33 - ON THE JOB INJURY OR ILLNESS

### Section 1:

Employees will personally report to their employer as soon as possible regarding all injuries or illnesses which occur on the job. If the employee is physically unable to do so, this may be accomplished by a Union representative or a personal representative.

### Section 2:

In case of serious on-the-job injury or illness or death of an employee, the Employer will notify the appropriate Union representative as soon as possible.

### Section 3:

- A) Upon becoming aware that an employee under his/her supervision has suffered an on-the-job injury, the employer will insure that the employee receives prompt medical treatment as required. The Employer will inform the employee of the procedures for filing claims for benefits with the Office of Workers' Compensation Program (OWCP). A Union representative may be in attendance at this meeting when requested by the employee.
- B) When an employee sustains an on-the-job injury, no matter how slight, the injured employee or someone acting on his/her behalf, must fill out a Form CA-1 (Notice of Injury) as soon as possible, but not later than 30 calendar days following the occurrence. Additional information will be provided by the agency to the employee or his/her representative if the employee desires to make an appointment for this purpose.
- C) Employees who develop an occupational disease resulting from their employment must give notice by completion of a Form CA-2 (Notice of Occupational Disease). Employees will be furnished copies of the Form CA-1 or CA-2 as applicable. The Employer will insure to the extent possible the forms are properly completed.

### Section 4:

On the day of an on-the-job injury which occurs during the employee's regular tour of duty, time spent related to evaluation and treatment of injury will be considered duty time for pay purposes. No overtime will be authorized for time spent in medical evaluation and treatment which occurs after normal duty hours. If the employee is already working in an approved overtime status when the on-the-job injury occurs, he/she will continue in overtime status until the previously scheduled end of the overtime assignment.

#### Section 5:

The Employer and the Union agree that bargaining unit employees and their supervisors should cooperate in promptly and correctly completing appropriate claim forms and any other necessary documents, and will forward them to the Servicing Personnel Office. When an employee designates in writing a Union representative by name to assist in applying for workers' compensation benefits, the representative, consistent with the Privacy Act, will be authorized to review all documentation relating to the claim which the employee is entitled to review. The Employer shall process and promptly forward to the Office of Workers' Compensation Programs (OWCP) employee and Employer documentation required when an employee sustains an on-the-job injury or contracts an occupational disease and elects to file a claim.

#### Section 6:

When an injured employee is released by his/her physician to return to light duty temporarily while recovering from his/her on-the-job injury or illness, and the Employer's medical authority concurs, maximum effort will be made by the Employer to assign the employee to light duty consistent with his/her medical limitations. The medical certificate provided to the Employer will clearly set forth the specific physical limitations required and the expected duration of the light duty period. The Employer agrees that where differences of medical opinion occur, necessary consultation between the Employer's and employee's physicians will be undertaken.

#### Section 7:

An employee who is injured on the job and subsequently is found to be permanently disabled for his assigned position, will be afforded reasonable consideration for placement by the Employer in existing job vacancies at the same or lower grade which are consistent with the employee's job qualifications and physical limitations. If such placement is not possible, the employee will be made aware of applicable options such as disability retirement, workers' compensation, and separation disability.

#### Section 8:

Employees who become ill because of exposure to conditions produced in the work environment over a period longer than one (1) workday, such as exposure to poisons or fumes or other continuing hazards should give notice of occupational disease by completing Form CA-2.

#### Section 9:

Approved sick or annual leave taken due to exposure to a hazardous condition in the work environment may be repurchased in accordance with OWCP procedures when the claim has been approved. When the Employer determines that imminent danger exists due to unsafe or

unhealthful condition in the work environment, the Employer shall undertake abatement procedures and the withdrawal of exposed employees who are not necessary for abatement, as described in the Safety and Health article.

## **ARTICLE 34 - EMPLOYEES WITH DISABILITIES**

### Section 1:

The Employer will make efforts consistent with law to assist employees with disabilities to gain access to their workplace. For terms and conditions relating to employees with disabilities, information can be found in the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

### Section 2:

The Employer will provide reasonable accommodations to employees with disabilities on official travel. For example, the individual may require a larger rental car, direct flights to travel locations, wheel chairs, etc. to accommodate his/her disability.

### Section 3:

The Employer will post information that addresses the rights of employees with disabilities and the responsibilities of the Employer with regard to those employees as required by law and Department of Interior regulations.

### Section 4:

The Union may be permitted to send representatives to employer-sponsored seminars, workshops, conferences and/or training designated to acquaint supervisors, managers and/or employees with the Disability Program and its operation at the option of the employer.

### Section 5:

The Employer shall not discriminate against disabled employees in job assignment or promotion due to disability. The Employer and Union will continue to work to eliminate prejudice or discrimination from personnel policies and working conditions.

### Section 6:

The employer will inform an employee of the employee's rights and any National Park Service or government wide policies or programs to assist an employee who becomes disabled and is no longer able to perform their current duties.

### Section 7:

- A) An employee who becomes disabled due to injury or illness on the job and subsequently is found to be permanently disabled for his assigned position, will be afforded reasonable consideration for placement by the Employer in existing job vacancies. If such placement is not possible, the employee will be made aware of applicable options such as disability retirement and workers' compensation.
  
- B) An employee who becomes disabled due to injury or illness off the job and subsequently is found to be permanently disabled for his assigned position, may be considered for placement by the Employer in existing job vacancies. If such placement is not possible, the employee will be made aware of applicable options such as disability retirement.



## **ARTICLE 35 - EQUAL EMPLOYMENT OPPORTUNITY**

### Section 1:

The Employer and the Union agree that there must be equal employment opportunity for all persons in accordance with applicable laws. The parties recognize the responsibility to comply with EEO laws and regulations that employees will not be discriminated against on the basis of race, color, sex, religion, national origin, age or disability. In addition, discrimination on the basis of marital status, sexual orientation or political affiliation is also prohibited under other laws and regulations.

### Section 2:

Employees who make complaints of alleged discrimination or who participate in the presentation of such complaints shall be free from restraint, interference, coercion, discrimination or reprisal.

### Section 3:

The Employer shall provide to the Local President a copy of the yearly Affirmative Employment Plan and parity statistics.

### Section 4:

The Employer and the Union acknowledge that employees may file grievances in lieu of EEO complaints in matters of discrimination when such complaints relate to working conditions as described in Article 19. It is also agreed that the Union should have a working knowledge of EEO laws and Employer policies and procedures in order to properly represent employees in these types of grievances. Union representatives will be invited to attend Employer sponsored EEO training and programs on official time (i.e. national, regional and park).

### Section 5:

The Employer agrees to consult with the Union regarding any new procedures being implemented by EEO so that the Union may assess the impact on working conditions.

### Section 6:

Employer will provide EEO training and updates annually to all employees in accordance with Federal, DOI, and NPS EEO guidelines and regulations.

## **ARTICLE 36 - SEX DISCRIMINATION**

### Section 1:

Sexual harassment is a form of sex discrimination which undermines the integrity of the employment relationship. The Employer is committed to a work environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes with the productivity of the organization.

### Section 2:

Sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as taking or refusing to take a personnel action such as a promotion depending upon the employee's submission to or rejection of such behavior.

### Section 3:

Sexual harassment involves deliberate or repeated unsolicited comments, gestures, or physical contact of a sexual nature which are unwelcome, or create a hostile work environment.

### Section 4:

The Employer's policy on the prevention of sexual harassment will be issued and posted on official bulletin boards.

## ARTICLE 37 - REFERRALS, SELECTION AND PROMOTIONS

### Section 1: Purpose and Scope

This article is applicable to all promotions, referrals and selections to positions within the bargaining unit.

### Section 2: Policy

- A) Management has the right to fill positions through competitive promotion procedures or from any other appropriate source including but not limited to reinstatement, transfer, reassignment, etc. The right to select also includes the right to non-select unless promotion program violations have occurred. The Employer agrees to adhere to published OPM and National Park Service Merit Promotion procedures when positions are to be filled by promotion from within the Unit. The Union and the Employer recognize that discrimination, favoritism and/or pre-selection in the Merit Promotion procedure is detrimental to the unit and shall not occur.
- B) The Employer agrees that all competitive actions to positions within the bargaining unit will be based on merit and will be made in accordance with the applicable law and regulations in order to ensure selection from among the best qualified candidates. The Employer will give equal consideration to bargaining unit employees.
- C) A promotion is the action taken when an employee is changed to a higher grade level within the same job class system and pay schedule, or to a position with a higher representative rate of basic pay in a different job classification system and pay schedule.
- D) Bargaining unit employees may also obtain consideration for a reassignment or a change to a lower grade by applying for specific positions described in competitive job vacancy announcements. The employee must agree in writing that accepting this position may result in a lower pay status.
- E) A career-ladder promotion is a promotion without current competition when the employee competed earlier for an assignment intended to prepare the employee from the position being filled, and the intent was made a matter of record and made known to all potential candidates (e.g. through a vacancy announcement).
- F) A promotion resulting from an employee's position being reclassified at a higher grade (with no further promotion potential) because of additional duties and responsibilities, commonly know as accretion of duties. The noncompetitive upgrade requires the employee to continue to perform the same basic function in the new position that is a clear successor to and absorbs the duties of the old position, In addition, there are no other employees within the organizational unit to whom the additional duties and responsibilities could have been assigned.

### Section 3:

- A) All vacancies which are subject to competitive promotion procedures shall be publicized by means of posting job vacancy announcements on OPM's government-wide jobs posting website and park bulletin boards.
- B) The Union shall be furnished a copy of each DEWA job vacancy announcement concurrent with the posting. When a position within the bargaining unit is to be filled under competitive promotion procedures, the job vacancy announcement shall identify the job title, occupation series, grade, organizational and geographical location, area of consideration, job duties and responsibilities, qualification requirements, selective placement factors, and evaluation methods to be used.
- C) If a position within the bargaining unit is announced as temporary and the announcement does not state that it may become permanent, the position will be reannounced if it does become permanent.
- D) If the Employer requires a test to be taken to qualify for a position (within DEWA) announced under the Merit Promotion program, the qualifying requirement will be published in the job vacancy announcement. Employees will not be required to take leave for the purpose of taking such tests.

### Section 4:

- A) Unit positions to be filled by promotion shall be publicized by means of a written Vacancy Announcement prepared by the servicing Servicing Personnel Office (SPO) and will provide for a period of at least fourteen (14) calendar days within which applications may be filed.
- B) Employees who are on approved leave or temporary duty (TDY) when a DEWA job vacancy announcement is distributed, and who are not scheduled to report to duty during the time the announcement is open, will receive consideration provided they have previously specified in writing to the Servicing Personnel Office the jobs and grades for which they desire consideration, and provide the appropriate application materials within seven (7) calendar days after their return to duty.

### Section 5.

When a position in the bargaining unit is to be filled using competitive merit promotion procedures, the area of consideration must be sufficiently broad to ensure the availability of high quality candidates, taking into account the type and grade level of the position to be filled. The minimum area of consideration is the area in which the Employer should reasonably expect to

locate highly qualified employees to fill a vacant position. The minimum area of consideration will be no smaller than bargaining unit-wide.

#### Section 6:

Nothing in this Article shall affect the authority of the Employer, with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion, or any other appropriate source. Normally, the order of consideration for filling vacancies which are announced under competitive Merit Promotion procedures in the absence of individuals with priority placement rights, will be as follows:

Eligibles entitled to priority consideration or repromotion consideration;

Qualified applicants filing under the job vacancy announcement and candidates from any other appropriate source, receiving concurrent consideration such as reinstatement or transfer eligibles, OPM Certificate of Eligibles, and Veterans Readjustment Act (VRA) eligibles.

#### Section 7:

All applications for positions announced in the bargaining unit which are submitted in accordance with applicable procedures and which meet minimum qualifications for the position are rated as qualified. Each qualified applicant's knowledge, skills, and abilities (KSAs) will be further evaluated against the job elements required by the position to identify those best qualified candidates. Evaluation procedures will be based on multiple assessment measures such as experience, education, training, awards, and annual performance appraisal to the extent relevant to the position being filled. Rating criteria shall not be tailored to fit a certain employee or applicant. No candidate may be eliminated from consideration on the basis of qualifications criteria not specified in the job vacancy announcement. No employee shall be denied the right to apply for and be evaluated for a position in the bargaining unit which has been announced competitively as long as that employee is within the announced area of consideration and applies by the closing date of announcement.

#### Section 8:

Under Merit Promotion procedures:

Qualifications of bargaining unit applicants will be evaluated against the requirements of the position, and each qualified applicant will be placed and evaluated against the requirements of the position, and each qualified applicant will be placed in one of the following groups: Merit Promotion Eligible or Other Eligible, and then referred for selection consideration. Candidates referred to the selection official for consideration will be listed in alphabetical order on the Selection Register.

When the Employer elects to use a panel to evaluate the qualification of applicants for a position within the bargaining unit, every practical effort will be made to ensure that no less than three (3) panel members are appointed. The number of panel members should always be odd to facilitate the breaking of ties. No supervisor or other employee shall in any way attempt to improperly or unfairly influence the panel in the administration of their duties and responsibilities. Selection of employees for promotion shall be in accordance with merit system principles. The Employer will use special care to prevent nepotism or prohibited personnel practices from entering into the selection of employees for promotion.

#### Section 9:

Notices of non-selection will be sent to unsuccessful applicants following the selection of an employee. Unsuccessful applicants who believe that their qualifications were not properly evaluated in determining eligibility for promotion consideration may request representation by the Union. The following information about specific promotion actions within the bargaining unit shall be available to the employee and his/her designated Union representative upon written request:

Whether the employee was qualified and referred for selection;

Who was selected for the promotion.

Unsuccessful candidates who desire to know in what areas, if any, they should improve themselves to increase their chances of future promotion to the specific position announced should meet with the selecting official or staffing specialist, as appropriate, to obtain such information. The employee may request Union representation at this meeting.

#### Section 10:

Bargaining Unit employees demoted through no fault of their own, such as by Reduction-In-Force (RIF), while serving under a career or career-conditional appointment are entitled to special consideration for repromotion to positions for which they qualify. Bargaining unit employees must apply through the merit promotion procedures using the prescribed form and identify themselves as repromotion candidates. However, it is understood by the parties that:

Careful and serious consideration will be given to such employees; and

There is no absolute guarantee of repromotion as a result of this special consideration.

#### Section 11:

The Union President, or his/her designated representative, upon the request of an unsuccessful candidate, will be permitted to review the rating and ranking action taken for the particular promotion. Information regarding promotion records released to the Union will be sanitized in accordance with the Privacy Act and the Agency Merit Promotion Plan. To facilitate this review, the Employer agrees to make available the following data:

A copy of the vacancy announcement.

Experience and education of the unsuccessful applicant to the extent used by the panel.

The reason the unsuccessful candidate was declared not qualified.

The name(s) of candidate(s) selected.

A copy of the Referral and Selection Register.

#### Section 12:

It is understood by the parties that a bargaining unit employee cannot grieve non-selection for promotion from a properly constituted referral list. However, an employee can file a grievance if he/she believes that a referral list was not properly constituted and he/she was erroneously excluded from the referral list. The grievance must be filed in accordance with the Negotiated Grievance Procedure article.

#### Section 13:

Reassignment is the non-competitive movement of an employee to another position for which he/she qualifies at the same grade level and with an equivalent target grade. Reassignments can be management directed. These actions are initiated by the Employer to laterally move an employee to another position within the park.

## ARTICLE 38 - DETAILS AND TEMPORARY PROMOTIONS

### Section 1: Details

- A) A "detail" is a temporary assignment, without change in pay, to a different position or set of duties for a specified period of time with the employee returning to regular duties at the end of the detail.
- B) Employees selected for details will be informed of the reason, duties and estimated duration.
- C) When the employer decides to make a detail on a rotational basis, the employer shall select employees for the detail who are at least qualified.
- D) Details of fourteen (14) calendar days or more will be documented by a SF-50. The SF-50 will be filed in the employee's Official Personnel Folder. A copy of the SF-50 will be furnished to the employee. Details of less than 14 calendar days will be documented in writing and signed by the supervisor, with a copy provided to the employee.

### Section 2: Temporary Promotions

- A) A "temporary promotion" is a temporary assignment, with change in pay, to a different position for a specified period of time with the employee returning to regular duties at the end of the temporary assignment.
- B) Employees assigned to a higher grade position for a period of more than 30 days will be temporarily promoted provided that the employee otherwise meets the requirements for promotion. Employees initially detailed without increase in pay to a higher grade position for 30 days or less will be temporarily promoted retroactive to the beginning of the detail, if the assignment is later extended to more than 30 days.
- C) A temporary promotion of more than 120 days will be made through competitive procedures, except those temporary promotions governed by Career Transitions Assistance Plan (CTAP) or the Interagency Career Transition Assistance Plan (ICTAP).



## ARTICLE 39 - EMPLOYEE DEVELOPMENT AND TRAINING

### Section 1:

The Employer and the Union fully recognize that training and employee development is an asset to efficient operation and optimum utilization of the employee's skills or abilities. The Employer will continue to support the training and career development of employees in the unit as provided in the regulations. In addition, the Employer will strive to provide employees with opportunity to improve their capabilities and further their career development in their respective occupational and career fields through a variety of training and educational resources as the budget permits. It is understood that it is the Employers discretion to approve/disapprove training based on importance, urgency or other criteria.

### Section 2: Educational Information

- A) Available information will be provided by the Employer on educational resources upon request by the Union of identified training opportunities for employees in their respective fields and on funding available for job related training.
- B) The Employer will create and foster an environment that promotes employees participation in training and educational opportunities. Particular emphasis shall be placed on training designed to:
  - 1. Meet mandatory training requirements.
  - 2. Meet critical Park needs.
  - 3. Improve and broaden current job knowledge, skills and abilities;
  - 4. Acquire knowledge in safety and occupational health matters.
  - 5. Acquire skills, knowledge or abilities to enhance professional development.

### Section 3: Expenses

The Employer shall pay for all required job related training and associated travel expenses. Additionally, the Employer may pay for other approved training.

### Section 4: Training Programs

- A) Employer training programs may include, but are not limited to, the following:
  - 1) Job related government courses;
  - 2) Courses developed in conjunction with local institutions or other training sources.

- B) Employees participating in Employer required job-related training conducted during duty hours, whether at an area institution, or a Government facility, shall in accordance with law, be carried in a pay status, without charge to leave while attending classes.

#### Section 5: Other Training

- A) A joint Employer and Union team shall provide training to supervisors and bargaining unit employees on the terms and conditions of this agreement within six months of its execution. Such training shall be conducted during duty hours on a mutually agreeable agenda.
- B) Where courses are available only during duty hours at an area institution, employees may request a special tour of duty to allow class participation.
- C) Employees eligible for retirement, or eligible to retire within five (5) years, will be afforded the opportunity prior to retirement to participate in a Government sponsored local seminar, workshop, conference or training session designed to address the many facets of retirement.
- D) The Union will be allowed to participate in any agency sponsored safety / OSHA training in accordance with 29 CFR 1960.59
- E) The Union will be allowed to participate in any agency sponsored OWCP Training.
- F) Employer will provide EEO training and updates annually to all employees in accordance with federal EEO guidelines and regulations.

#### Section 6:

- A) Union officers and stewards will be granted reasonable amounts of official time to attend NAGE sponsored training of mutual benefit to the parties, available at no cost to the Employer, either for tuition or for travel and per diem, subject to operational requirements. Union officers and stewards will be granted official time to attend other labor-management training of mutual benefit to the parties, available at no cost to the Employer either for tuition or for travel and per diem. Such training may take the form of seminars, conferences, college sponsored courses and other state and local government offerings.
- B) In addition to the above Union officers and stewards will receive 16 hours of official time for training within the first year of the signing of a new contract. Union officers and stewards will then receive 8 hours of official time for training during each of the next three years of the contract. New Union officers or stewards will receive 16 hours of official time for training within the first year of taking office.

- C) The Employer will provide travel and per diem for the training of employees who are officials or representatives of the Union to attend NPS sponsored training, which relates to the improvement of Union and Management relations. The Employer and the Union may undertake joint labor management training.
  
- D) The Employer agrees to authorize two (2) days official time to one (1) Union Representative once every year to attend the Union convention. The Employer and the Union recognize that training is provided at such events that are in the interest of both parties. The Union will provide management a copy of the training agenda prior to the approval of official time.

## ARTICLE 40 - POSITION DESCRIPTIONS

### Section 1:

The Employer will maintain a current position description for each employee which accurately describes the major duties assigned to the employee's official position in sufficient detail for classification purposes. Position Descriptions will be prepared in accordance with OPM and DOI Regulations. Each employee will be provided a copy of his/her position description. Position Descriptions shall be reviewed periodically to determine whether any changes are needed. The supervisor will take action to amend position descriptions when necessary.

### Section 2:

An employee may request that his/her supervisor review the position description for accuracy of content. If the supervisor determines that the position description is not accurate, he/she, with the employee's input, will prepare a draft of the required changes and submit a Request for Personnel Action to the Servicing Personnel Office, or withdraw the major duties not described. If the Supervisor believes that the position description is accurate, but the employee disagrees, the employee may request, in writing, an audit of the position. The request must be submitted to the Servicing Personnel Office within 90 calendar days. An audit will be completed within 90 calendar days after request is received by the Servicing Personnel Office. Either party may request an extension of time.

### Section 3:

If the employee is dissatisfied with the results of the audit, the employee may file a written classification appeal. The employee may appeal in writing directly to the office of Personnel Management (OPM), or by forwarding the appeal through the Servicing Personnel Office within 60 calendar days.

### Section 4:

Duties assigned normally will reflect the major duties described in the position description. However, the parties recognize that assignment of duties is not limited by the content of the position description. The phrase "Performs Other Duties As Assigned" will not be construed to mean that work of a higher or lower graded level will be assigned to an employee for a significant amount of time on a regular and recurring basis. Every effort will be made to assign work appropriate to the classification. Employees assigned to perform duties outside of their classification will be compensated in accordance with OPM regulations. If an employee questions the propriety of a particular job assignment, he/she is required to first perform the task(s) assigned by the Employer and then determine whether or not to grieve the matter.

Section 5:

If there are significant changes in an employee's position description the Employer will notify the Union.

## ARTICLE 41 - WAGE SURVEYS

### Section 1:

The Union shall be notified by the Employer when a full scale wage change or specific wage survey date has been firmly established for this wage area by communication from the Department of Defense Wage Fixing Authority.

### Section 2:

Upon notification of the local wage survey committee hearings, if the Union desires to present data and testimony, they will, concurrent with notification to the wage committee chairman, notify the Employer of its intent to attend the hearing and the nature of the information to be presented. Upon notification of the time and date schedule, the Union will notify the Employer. The Union will be allowed two representatives to make its presentation. Time per employee (not to exceed eight hours) will not be charged to leave.

## **ARTICLE 42 - WITHIN-GRADE INCREASES (WGIs)**

### Section 1:

Within-grade Increases (WGIs) are granted automatically when an employee is eligible for a Within-grade Increase and the last assigned performance rating is results achieved.

### Section 2:

When an employee's performance has declined from Results Achieved to Results Not Achieved, the employee will be provided a notice as required by applicable law, rules, and regulations.

### Section 3:

The supervisor has an obligation to give reasonable assistance to an employee to improve his/her work performance during the warning period so that the within-grade increase may be granted if sufficient improvement is evident.

## ARTICLE 43 - CONTRACTING OUT

### Section 1:

The Employer retains the right to make determinations with respect to contracting-out as provided in 5 USC 7106. It is also understood that the Employer is responsible for accomplishing the mission of the agency and the methods and means by which such operations are to be conducted.

### Section 2:

Decisions regarding the contracting-out of bargaining unit work are areas of retained management rights of the Employer and higher authority. However, the Employer agrees to notify the Union when a function has been scheduled for review or when solicitation of bids is sought in accordance with OMB Circular A76 or when a review is not sought if less than ten (10) full time equivalent (FTE). At that time, for functions where a review is scheduled, the Union may submit its views and recommendations on achieving the most efficient and effective organization during the management study time frame. The Employer agrees to give due consideration to the views and recommendations of the Union. These views will be advisory in nature and will not constitute a request to negotiate on the decision to contract-out. The Union may not be involved in conducting cost studies, or as part of the Employer review team.

### Section 3:

The Employer will, upon request, provide the Union with the performance work statement at the time it is sent out for bids or requests for proposals. Once a specific award is made, and after bid opening and resolution of any appeals under the administrative appeals procedure established in OMB Circular A76, the Union will be provided appropriate data upon request. The Union will not be provided any advance information that the Employer believes will compromise the confidentiality of the bidding process or adversely affect management's decision-making authority.

### Section 4:

The Employer and the Union shall meet as soon as practical after the notification of award of contract above to discuss the impact and implementation of a contracting-out decision. If the Union wishes to negotiate on the impact and implementation of a contracting-out decision, written proposals must be submitted to the Employer within three (3) calendar days after notification. Requests for negotiations must involve a substantial adverse impact on employees. The Union agrees that negotiations and third-party actions will not delay the implementation of a contracting-out action if not completed by its effective date. Failure to follow the procedures,



and meet the time frames above will waive the right of the Union to negotiate with regard to contracting-out.

Section 5:

The parties agree that any negotiations concerning any changes from either contracting-out or internal changes to reduce costs should be expedited and done as quickly as possible to maximize time and flexibility to assist employees. Therefore, nothing in this Article or Agreement shall be construed as precluding or delaying the Employer from proceeding with a contracting award particularly when bound by the terms of an agreement with a contractor.

Section 6:

All meetings, preparations for meetings and/or negotiations concerning this Article will be done while the involved Union members are in a pay and duty status.

## **ARTICLE 44 - REDUCTION IN FORCE**

### Section 1:

RIF will be conducted in accordance with 5 CFR 351 and all other applicable laws and regulations. RIF exists when an agency releases an employee from his/her competitive level by a separation, demotion, furlough for more than thirty (30) days, or reassignment requiring placement; lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising re-employment, or restoration rights requires the agency to release the employee.

### Section 2:

Prior to initiating a RIF or transfer of function involving unit employees at the park, management at the park will notify the local president in writing. Such notification will be provided at the earliest opportunity after a determination is made to conduct a RIF or transfer of function, and will include specific information concerning the action to be taken. Two members of the union will be allowed to attend, on official time, any training provided when a RIF is contemplated or put into effect.

### Section 3:

Each competing employee selected for release from a competitive level under this part is entitled to a written notice at least sixty (60) administrative days before the effective date of release. When a general notice is supplemented by specific notice, the park may not release an employee from his or her competitive level until at least ten (10) administrative days after the employee's receipt of the specific notice.

### Section 4:

In the event a reduction-in-force is implemented, employees affected and his/her designated Union representative may review the appropriate retention register if requested.

### Section 5:

RIF actions resulting in separation or reduction in grade or pay are appealable to the Merit System Protection Board. Other RIF actions are grievable pursuant to grievance procedure article of this agreement.

### Section 6:

The Impact and Implementation of a reduction-in-force may be subject to local bargaining. However, this does not prevent the agency from conducting the RIF.

## **ARTICLE 45 - RETIREMENT**

### Section 1:

The Employer will provide information on retirement benefits to employees on an annual basis. Upon request, information will be provided to employees nearing retirement eligibility. That information may include counseling assistance, retirement materials and individual and/or group information sessions.

### Section 2:

Upon request, employees who separate voluntarily or involuntarily will be informed by the Employer of their eligibility for benefits as appropriate, including deferred retirement, discontinued service and disability retirement.

### Section 3:

An employee may withdraw a retirement application at any time prior to its effective date, in accordance with the Code of Federal Regulations and appropriate law, provided the withdrawal is communicated in writing to the Employer.

### Section 4:

The Employer will offer employees the opportunity to attend any Employer provided retirement training held at the park.

## **ARTICLE 46 - AWARDS AND RECOGNITION PROGRAM**

### Section 1:

The Employer will recognize employees through the use of its newsletter, award ceremonies or other means to publicize award recipients. Letters of appreciation and commendation and performance awards will be used by the Employer to reward deserving employees. Supervisors will be urged to use letters of appreciation, letters of commendation and honorary awards to the maximum extent possible in such recognition.

### Section 2:

Quality Step Increases (QSI) and performance awards may be used to recognize high quality performance of assigned responsibilities. Service awards may be considered to recognize individuals or groups for meritorious personal efforts, acts, services, or significant achievements performed within or outside assigned job responsibilities.

### Section 3:

The awards and recognition program will be operated in accordance with appropriate park regulations, policies and instructions.

### Section 4:

The Unions participation in awards and recognition programs is an appropriate matter for negotiations.

## **ARTICLE 47 - SUGGESTION PROGRAM**

### Section 1:

The Employer and the Union support and encourage all employees to participate in the suggestion program. It is agreed that every reasonable effort will be made to process suggestion in an expeditious manner. It is further agreed that an employee who encounters unreasonable delays in receiving a final determination of the adoption or rejection of a suggestion should refer the matter to his/her immediate supervisor who will in turn make a reasonable effort to resolve the problem.

### Section 2:

Normally, suggestion should be processed within sixty (60) days. Exceptions to this time frame may be required due to special situations such as a test period, referral to other outside authorities for approval or review or development of an instruction.

### Section 3:

The Employer and the Union will encourage employees to discuss suggestions with their immediate supervisor, who will aid them in ensuring that the suggestion is sufficiently described for evaluation.

### Section 4:

The Employer agrees to make suggestion forms accessible to all park employees.

### Section 5:

The park's evaluator of employee's suggestion may discuss a suggestion with the employee if he/she believes if doing so will aid him/her in the evaluation process.

### Section 6:

The Employer will provide an employee whose suggestion is not adopted or awarded a copy of the written evaluation.

## **ARTICLE 48 - WHISTLEBLOWER PROTECTION**

Congress has determined that it is a prohibited personnel practice to take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee because of disclosure of information by the employee which he/she reasonably believes evidences (a) violation of any law, rule, or regulation; or (b) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employee disclosures of information meeting the above statutory criteria are referred to as whistleblowing. However, whistleblowing does not include an employee disclosure that is specifically prohibited by law or required by Executive Order to be kept secret in the interest of national defense or foreign affairs unless such information is disclosed to the Special Counsel, the Inspector General of the agency, or an employee designated by the head of the agency to receive it.

## **ARTICLE 49 - EMPLOYEE ASSISTANCE**

### Section 1:

The Union and the Employer recognize alcoholism and drug abuse are illnesses which are treatable. The parties recognize that the earlier an employee's alcoholism or other drug abuse problems can be identified and treatment initiated, the more favorable are the chances for a satisfactory solution. The Employer shall make available an Employee Assistance Program (EAP) to aid employees in the identification of such problems and provide employees referral to sources of treatment.

### Section 2:

The Employer will assure that employees with alcoholism or other drug abuse problems receive a reasonable opportunity for treatment and rehabilitation, are dealt with fairly, and that their right to privacy is maintained.

### Section 3:

An employee who is released from duty to undergo a prescribed program of treatment for alcoholism or other drug abuse as a result of his/her participation in the EAP or other approved program may use accrued sick leave for such purpose.

### Section 4:

Employees shall be notified of the EAP annually including the purpose of the program and the location and telephone number of the EAP coordinator and/or counselors.

### Section 5:

When the Employer through daily job contact suspects an employee's performance and/or conduct problems may be influenced by such factors as alcoholism or other drug abuse the employee will be advised of the EAP and encouraged to participate when counseled/advised of the performance or conduct deficiencies.

### Section 6:

The parties mutually understand the following principles apply to the EAP :



- A) The program is a non-disciplinary procedure aimed at rehabilitation, hopefully before disciplinary action becomes necessary. However, referral of an employee to the EAP for assistance is not a bar to disciplinary action.
- B) The work-related problems of an employee who has been referred but refused to participate in the EAP will be dealt with under appropriate disciplinary or unacceptable performance procedures.
- C) In some instances, it may be necessary to take immediate corrective action, e.g. where the employee is dangerous and/or disruptive to the work setting.
- D) Shielding an employee by tolerating his/her misconduct or unacceptable performance contributes to the progression of the problem by delaying entry into a rehabilitative program.
- E) The work-related problems of an employee who fails to accept the assistance offered through the EAP or to otherwise correct his/her deficiencies should be dealt with under appropriate disciplinary or unacceptable performance procedures.

## **ARTICLE 50 - DRUG TESTING**

### Section 1: Policy Statement:

- A) Employees of the National Park Service must refrain from using illegal drugs, whether on or off duty. Use of illegal drugs is inconsistent with high standards of performance necessary to accomplish the mission. Substance abuse adversely impacts productivity, health and safety, scheduling, morale, and work attitude. Recognizing these effects, Union and the Employer acknowledge the need for creating clear policies and procedures to eliminate substance abuse from the work place and to provide information about rehabilitative assistance to users of illegal substances. However, primary responsibility, or change in behavior and completing rehabilitation rests with the employee.
- B) The Employer recognizes that it is in the best interest of our country and those individuals that serve it, to assist troubled employees suffering from the disease of substance abuse and to ensure that troubled employees receive adequate treatment. For this purpose it is necessary to create fair and equitable procedures for drug testing that will deter or identify active drug abusers while not infringing upon the rights of non-users or be misused as a harassment tool. Education of employees and rehabilitation for substance abusers must be held in highest priority, with additional emphasis placed on helping employees to overcome their dependence and return to productive employment.
- C) The National Park Service and the Union will follow this detailed plan for drug testing. The purpose-of this plan is to set out explicitly additional procedures and clarification policies and practices, in order to provide guidance for employees and supervisors, prevent misunderstanding, minimize invasions of privacy and infringement of individuals' rights, and reduce the fear and other potentially negative impact of drug testing on the work force. The Union and the Employer have agreed to the negotiated provisions out of their mutual concern for safety and the well being of the bargaining unit employees.

### Section 2: Who will be subject to drug testing? Among the bargaining unit, groups of employees will be subject to drug testing:

- A) Those employees who volunteer for testing.
- B) Those employees whose behavior or conduct creates a reasonable suspicion of drug use; a reasonable suspicion must be based upon corroborative evidence (more than rumor or uncorroborated complaint), of on-duty drug-related impairment supported by such observable signs as physical behavior or appearance, observed use of drugs, confirmed tampering of a prior test, conviction for a drug-related offense, or the employees own admission. The Employer must document its basis for reasonable suspicion, and the employee shall have access to such documentation and the right to rebut it, as well as the

right to Union representation if requested. Several levels of supervision must assess the validity of grounds for reasonable suspicion of drug abuse before an employee will be subject to testing on this basis.

- C) Those employees directly involved in certain on-the-job, job related accidents or safety mishaps. The supervisor initiating such testing must determine that the employee to be tested reasonably could have caused or contributed to an accident or mishap resulting in death or permanent disability, serious injury (requiring at least a lost work-day) major destruction to National Park Service equipment, a safety mishap, or property damage that requires reporting.
- D) Those employees who are required to submit to follow-up testing due to counseling or rehabilitation for illegal drug use.
- E) Those employees who encumber mandatory drug-testing positions.

#### Section 3: What Will Be Tested For:

- A) At a minimum, employees will be tested for marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). Additional categories of drugs may be included at the discretion of the Medical Review Officer in accordance with DHHS guidelines.
- B) If other drugs are added to this list for testing, the Agency will give proper notice to the Union, unless directed by EO, DHHS, or other Government-wide Agency.

#### Section 4: Procedures Prior to Testing:

- A) The Employer will conduct drug awareness education for employees and supervisors during the 30-day individualized notice regarding random testing. Employees will receive on-duty awareness training on the hazards of drug abuse, the safe harbor program; consequences of drug use after this safe harbor period; resources available to them and their families for counseling/rehabilitation for substance abuse; procedures involved in the Drug Testing Program; their rights under the program (including their right to appeal and to have Union representation); and the protection in force to safeguard privacy, confidentiality, and maintenance of their dignity. Employees will be able to ask questions and receive responsive, complete, accurate answers to their questions.
- B) Before an employee will be subjected to reasonable suspicion testing, the Agency will satisfy several procedural safeguards. In addition to meeting the standards for "corroborative evidence" for reasonable suspicion described in 2b above, the Employer will document, in writing, any basis for corroboration for such a suspicion. The employee will have access to this documentation and will be allowed to rebut any such evidence or conclusion to testing. The employee will also be entitled to Union

representation upon request. Approval for such testing must also first be secured from the next higher level of supervision.

- C) During the 30-day notice period after the employees receive their individualized notices pertaining to random drug testing, a "safe harbor period" will apply. During this period individuals may (and will be strongly encouraged by the Employer and the Union to do so) come forward voluntarily and admit to drug use. Employees who use the "safe harbor" provision and participate fully in a legitimate treatment program (counseling and rehabilitation), sign a last chance or statement of agreement, and who refrain from subsequent illegal drug use, will not be subject to discipline for their drug use.
- D) The Agency, through the Park's Servicing Personnel Office (with additional assistance from supervisors) will provide information and referral concerning the dangers of drug use, career consequences, available counseling and rehabilitation to any employee who request it. Referral and information are also available for employees' family members. In addition, referral to counseling will be made for any employee who has a verified positive test for illegal drugs.

#### Section 5: Testing Procedures:

- A) Under the Agency's Drug Testing Program, individuals tested under random drug testing procedures will be entitled to privacy while the sample is collected.
- B) Individuals tested as a result of reasonable suspicion testing, accident or safety mishap testing, previous tampering of specimen, or follow-up treatment for drug use will be observed during the collection process, as outlined in the Agency's plan.
- C) All collection procedures will be coordinated, overseen, and controlled by a trained Agency official.
- D) The program will contain detailed, careful procedures pertaining to sample collection, sealing of samples, receipts, and record keeping of samples, chain of custody, and shipping to the contract laboratory. Should an employee (or his/her Union representative) have grounds to believe these procedures have been violated, the employee/Union may file an immediate complaint with the program coordinator. If the program coordinator determines that improper procedures have jeopardized the integrity of the collection sample in any way, that sample will be discarded and a new sample obtained.
- E) In accordance with the Department of Health and Human Services guidelines, the contract laboratory will perform a second confirmation test on any initial positive results. If the confirmation test proves positive, the reserve from the sample will be maintained by the laboratory under appropriate conditions for a minimum of one year.

- F) The laboratory will notify the Agency Medical Review officer (MRO) of the identification number of any sample which has been confirmed positive for drugs.

Section 6: Post-testing procedures:

- A) The Employer will advise the employee's designated Agency Drug Program Coordinator who will then advise the Park Superintendent of a confirmed positive drug test, who will then arrange for the employee to have an on-duty interview. The Superintendent will advise the Union in writing who will be conducting the interview.
- B) The Employer will explain to the employee (who may be represented by a Union representative if he or she indicates, in writing, that it is his/her desire) that the laboratory has confirmed a positive test for drugs, (and which drug). The Employer will attempt to ascertain whether there is a legitimate justification for a positive drug test result (such as a prescription drug which could yield a positive test). If the employee contends that there is or may be a legitimate justification for a positive test, the employee will be granted reasonable on-duty time to document such legitimate use. If sufficient documentation is provided, a negative result will be verified in accordance with the applicable regulations.

Section 7: Accuracy Concerns:

The Employer, upon request, will provide the employee who is subject to drug testing, the address of the responsible testing laboratory to forward a written request relating to his/her drug test and the records relating to certification of the laboratory.

Section 8: Privacy Concerns:

- A) Unless and until a positive test has been verified as positive by the designated MRO, only the Agency PC and the MRO will know the initial positive test (i.e., supervisors will NOT be told why the PC needs an employee to be excused from duty at this time).
- B) Any drug-related information, other than testing notices, (test results, legitimate drug use, rehabilitation information) will be maintained in the employee's medical file, separate from the Official Personnel File.

Section 9: Additional Concerns:

The Union and the Agency agree that a primary goal of this program is to restore employees, who have successfully participated in rehabilitation and remained Drug-free, to productive service, as soon as consistent with safety, the mission of the Agency, and the satisfactory completion of treatment by the employee.

If the Employer acknowledges an error or the employee is successful in challenging the test, or action taken as a result of a positive test, the Employer agrees to remove related information from the employee's record and implement any required personnel actions in accordance with applicable regulations and laws.

## **ARTICLE 51 - GOVERNMENT PROPERTY LIABILITY**

### Section 1:

Employees will exercise reasonable care to safeguard Government property from loss, damage or destruction, will completely and accurately account for property under their control, and will immediately report any missing or damaged property to the Employer.

### Section 2:

The parties acknowledge that when an employee is involved in loss, damage or destruction of Government property, such employee may be liable under applicable regulations.

### Section 3:

Each employee will be provided an opportunity to present his or her views, e.g. through a Board of Survey, before the Employer decides that the employee must reimburse the Government for cost incurred. The employee will be notified that he/she may be represented by the Union when making such a presentation. The employee will be notified 10 calendar days in advance of the scheduled meeting.

### Section 4:

The employee will be notified in writing concerning the decision on liability and, if the employee is found liable, will be advised of his right to initiate a grievance with the Superintendent within 10 calendar days of the notice. The notice to the employee will also advise of the right to Union representation when grieving the decision. The matter subject to grievance shall be whether the employee's negligence or willful misconduct caused or contributed to the loss, damage or destruction of such property. If the grievance is not resolved to the employee's satisfaction, the Union may request arbitration in accordance with the Arbitration Article.

SIGNATURE PAGE

The Superintendent, Delaware Water Gap National Recreation Area (the Employer) and the President, National Association of Government Employees Local R3-68 (the Union) having met and negotiated this labor agreement, do hereby affirm and attest to this agreement on:

\_\_\_\_\_ Date

**For the Employer:**

**For the Union:**

\_\_\_\_\_  
Chief Negotiator

\_\_\_\_\_  
Chief Negotiator

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Approved: \_\_\_\_\_

Date: \_\_\_\_\_

Director of Personnel  
U.S. Department of the Interior