

**NORTH AMERICAN AGREEMENT
ON ENVIRONMENTAL COOPERATION**

COMMISSION FOR ENVIRONMENTAL COOPERATION

RULES OF EMPLOYMENT

SECTION I: GENERAL PROVISIONS

Rule 1:Definitions

In these Rules:

"**Agreement**" means the North American Agreement on Environmental Cooperation between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America, which entered into force on 1 January 1994;

"**Commission**" means the Commission for Environmental Cooperation established under Article 8 of the Agreement;

"**Council**" means the Council of the Commission established under Article 9 of the Agreement;

"**employees**" means the staff and the Executive Director of the Secretariat of the Commission;

"**Parties**" means the Parties to the Agreement;

"**Secretariat**" means the Secretariat of the Commission established under Article 11 of the Agreement; and

"**staff**" means the professional staff and the support staff of the Secretariat, but does not include the Executive Director.

Rule 2:Scope

- 2.1 These Rules set out terms and conditions of employment, working relationships and rights and responsibilities of the employees in the service of the Commission.

- 2.2 These Rules apply to the Executive Director, unless they vary from her or his terms and conditions of employment as established by the Council, in which case the terms and conditions established by the Council shall prevail.

SECTION II: DUTIES, OBLIGATIONS AND PRIVILEGES

Rule 3: Conduct in the Interest of the Commission

The responsibilities of employees are international in character. Employees shall carry out their duties and regulate their conduct bearing in mind the interests of the Commission.

Rule 4: Authority of the Executive Director

- 4.1 Staff shall be supervised by and accountable to, and have their powers and duties regulated by, the Executive Director.
- 4.2 The Executive Director shall designate a member of the staff to act on his or her behalf when necessary.
- 4.3 In the event the position of Executive Director is vacant, or the Executive Director is unable to appoint a member of staff to serve on his or her behalf pursuant to Rule 4.2, the Council shall designate a member of staff to serve as Acting Executive Director.

Rule 5: Accountability of Executive Director

The Executive Director shall be accountable only to the Council.

Rule 6: Standards of Conduct

- 6.1 Employees shall at all times conduct themselves in a manner befitting the international nature of their responsibilities. They shall exercise loyalty, discretion and tact in the performance of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which may adversely reflect on the Commission or their status as employees, or on the integrity, independence and impartiality required by that status.
- 6.2 Employees shall not seek or receive instructions from any government or any other authority external to the Council.
- 6.3 The Secretariat shall provide all employees with an equal opportunity working environment free of discrimination and harassment. Complaints by staff in such matters shall be resolved in accordance with Section XI of these Rules.

Rule 7: Prohibition Against Soliciting or Accepting Gifts

In connection with their employment, employees shall not directly or indirectly solicit or accept:

- (a) any money; or
- (b) any gift, honorarium, commission, reward, advantage or benefit, not including those accepted or offered occasionally of a value of less than 25 U.S. dollars or its equivalent in Canadian dollars or Mexican pesos.

Gifts, honoraria, commissions, rewards, advantages or benefits include goods or services, alcohol, reduced prices for goods or services, work done gratuitously with respect to personal property, preferred treatment of any sort in a business enterprise and loans of money, material or equipment of any kind.

Rule 8: Outside Employment

- 8.1 Employees shall have no employment other than with the Commission during their term of employment, except as provided under this Rule.
- 8.2 When duly authorized by the Executive Director in the case of the staff, and by the Council in the case of the Executive Director, an employee may undertake other employment or work, provided that it shall not interfere or conflict with the work of the Commission or the employee's duties and responsibilities.

Rule 9: Outside Interest Prohibited

- 9.1 Employees shall not engage in any activity of any business, governmental entity, labour union, environmental or conservation or other nongovernmental organization or other entity that presents a conflict of interest with respect to their duties and responsibilities.
- 9.2 Employees shall not be associated in the management of, have a financial interest in, or seek employment with, any entity if, by virtue of their employment with the Commission, they may benefit from such association or interest.
- 9.3 Members of the staff shall advise the Executive Director in writing of any real or potential conflict between their official duties and any outside activity, association or interest. The Executive Director shall advise the Council in writing of any real or potential conflict between his or her official duties and any outside activity, association or interest. Failure to do so may constitute grounds for disciplinary action, including dismissal.
- 9.4 Where an employee has a real or potential conflict related to such activity, association or interest, the employee shall discontinue the activity or association, and shall dispose of the interest, unless the Council decides otherwise.

Rule 10: Intellectual Property of the Commission

All rights, including title, copyright and patent rights, in any work produced by employees in the course of their employment shall be vested in or assigned to the Commission. Such rights may be waived by the Executive Director in the case of a staff member and by the Council in the case of the Executive Director.

Rule 11: Privileges and Immunities

- 11.1 Employees shall enjoy the privileges and immunities to which they are entitled by virtue of any agreement between the Parties or between the Commission and a Party, or pursuant to domestic legislation.
- 11.2 Privileges and immunities are granted to employees in the interest of the Commission and not for the personal benefit of the individuals concerned. In particular, they shall not excuse employees from the performance of their private obligations or from the due observance of the law applying to them at the place where they are carrying out their duties. In any case where the question of claiming immunity from legal suit or process may arise, the staff member involved shall immediately report to the Executive Director, who shall decide whether the immunity shall be waived. In any case involving the privileges and immunities of the Executive Director, the Council shall decide whether the privileges and immunities shall be waived.

SECTION III: CONFIDENTIALITY

Rule 12: Confidentiality

- 12.1 Employees shall act at all times in accordance with Articles 11(8) and 39(2) of the Agreement.
- 12.2 Employees shall not disclose or use for personal gain, either during their period of employment or at any time thereafter, directly or indirectly, unless duly authorized, information acquired in the course of their employment unless such information is in the public domain at the time of such disclosure or use. Such authorization shall be granted by the Executive Director in the case of the staff and by the Council in the case of the Executive Director.
- 12.3 Employees shall comply with such rules and procedures as the Council may adopt regarding the disclosure and use of information and materials of the Commission.
- 12.4 Employees shall sign a declaration regarding disclosure and use of information prior to the commencement of employment with the Commission.

SECTION IV: RECRUITMENT AND APPOINTMENT

Rule 13: Executive Director

The Council shall appoint an Executive Director for a three-year term, which may be renewed for one additional three-year term. The position of Executive Director shall rotate consecutively between nationals of each Party. The Council may remove the Executive Director solely for cause.

Rule 14: Staff

Subject to Rule 15, the Executive Director shall appoint and supervise the staff and regulate their powers and duties in accordance with the following general standards:

- (a) staff shall be appointed and retained, and their conditions of employment shall be determined, strictly on the basis of efficiency, competence and integrity;
- (b) in appointing staff, the Executive Director shall take into account lists of candidates prepared by the Parties and the Joint Public Advisory Committee; and
- (c) due regard shall be paid to the importance of recruiting an equitable proportion of the professional staff from among the nationals of each Party;

and any further general standards established by the Council.

Rule 15: Council Oversight of Staff Appointments

The Executive Director shall inform the Council of all appointments three weeks prior to making a formal offer of employment. The Council may decide, by a two-thirds vote, to reject any appointment that does not meet the general standards set out in Rule 14. Any such decision shall be made and held in confidence.

Rule 16: Offer of Employment

Each prospective staff member shall receive an offer of employment stating:

- (a) the nature of the appointment, including the duties of the position and its title;
- (b) the date of appointment;
- (c) the duration of appointment, either on a fixed term or a continuing basis;

- (d) the relevant category, level, initial salary, scale of increments, any allowances and provision for relocation expenses, if applicable;
- (e) any special terms and conditions;
- (f) that appointment and employment are subject to these Rules as amended from time to time; and
- (g) that the appointment shall only be valid if accepted within a specified period.

Rule 17: Rules to be Issued to the Staff

With the offer of employment, prospective staff members shall receive a copy of these Rules. On acceptance of the offer, they shall indicate in writing to the Executive Director that they are familiar with, and agree to abide by, these Rules.

Rule 18: Temporary Staff

The Executive Director may hire temporary staff as necessary, provided the number of temporary and regular staff, excluding those on leave, shall not exceed the number of staff positions established by the Council. Temporary staff will be subject to the terms and conditions of their employment contract in accordance with these Rules, as applicable.

SECTION V: HOURS OF WORK

Rule 19: Work Week

The normal work week for staff will be 37 1/2 hours Monday through Friday and the normal work day will be 7 1/2 hours, exclusive of a lunch period. The Executive Director may grant a compressed or flexible work schedule when compatible with the operational requirements of the Secretariat.

Rule 20: Overtime and Compensatory Leave

Compensatory leave for staff may be approved if the Executive Director determines that a significant amount of time beyond the normal work week is required to carry out their duties. In unusual circumstances, the Executive Director may approve overtime pay for support staff in lieu of compensatory leave for time beyond the normal work week at a rate of 150% of regular pay for the first ten hours, and at a rate of 200% of regular pay thereafter.

SECTION VI: SALARIES AND REMUNERATION

Rule 21: Salary Scale and Remuneration

The Executive Director shall fix the remuneration of the staff in accordance with the general standards set out in Rule 14, the salary scale approved by the Council and the budget. The remuneration of the staff shall be in Canadian dollars.

Rule 22: Adjustments and Increments

In the annual budgeting process, the Council may, on its own initiative or on the recommendation of the Executive Director, approve an adjusted salary scale. Increments within the salary scale for a position may be awarded only on the basis of satisfactory annual performance, and no more than once a year.

Rule 23: Performance Appraisal

The Executive Director is responsible for ensuring that all staff receive annual performance appraisals.

Rule 24: Promotions

Subject to Rules 14 and 22, the Executive Director may authorize the promotion of staff on the basis of a significantly increased level of responsibility and annual performance appraisals.

Rule 25: Hospitality and Representation

25.1 The Executive Director, and professional staff members authorized by the Executive Director, may authorize other employees to engage in hospitality and representational activities within prescribed limitations.

- 25.2 The employees shall promptly submit fully documented claims for expenses incurred in the course of such activities. The annual total of such claims shall not exceed the current allotment for hospitality and representation in the annual budget of the Commission.

SECTION VII: LEAVE

Rule 26: Vacation Leave

- 26.1 Employees will earn vacation leave at the rate of 20 days per year of employment, accruing monthly.
- 26.2 Vacation leave is to be taken in the financial year in which it is earned. In exceptional circumstances and with the prior approval of the Executive Director, earned but unused vacation leave may be carried over from one year to another by staff. Vacation leave for home leave purposes may be accumulated in an amount not to exceed that allowed for two financial years.

Rule 27: Scheduling of Leave

- 27.1 The Executive Director will authorize vacation leave so as to minimize disruption of normal staff operations and the functioning of the Secretariat.
- 27.2 In authorizing leave, the Executive Director will take into account the personal circumstances, needs and preferences of the staff.
- 27.3 Vacation leave may be taken in one or more periods.

Rule 28: Special Leave

The Executive Director may approve paid special leave up to five days per financial year for purposes such as bereavement or emergency situations, and unpaid special leave at his or her discretion.

Rule 29: Home Leave

- 29.1 Home leave for the Executive Director and all professional staff will be granted once for each full term of appointment, provided the term is for at least 24 months and that more than half of the full term has been served.
- 29.2 The schedule for home leave for professional staff will be subject to the approval of the Executive Director.

- 29.3 Transportation expenses will be paid for the Executive Director, professional staff, and their spouses and dependents at rates not to exceed full fare economy class.
- 29.4 Travel time will be allowed but not in excess of the time required for direct air travel.
- 29.5 For the purpose of this Rule, "home" means the place within Canada, the United Mexican States or the United States of America where the incumbent was resident before being appointed, unless otherwise decided by the Executive Director in the case of professional staff or by the Council in the case of the Executive Director.

Rule 30: Sick Leave

- 30.1 Employees shall earn sick leave credits at the rate of 1 1/4 days per calendar month during the period of employment and shall be granted paid sick leave not exceeding their sick leave credits. Unused sick leave credits shall accumulate from year to year.
- 30.2 Staff shall submit medical certificates for any period of sick leave in excess of three consecutive working days.

Rule 31: Maternity Leave

The Executive Director shall approve maternity leave for every staff member who has completed six consecutive months of continuous employment in accordance with the following:

- (a) Every staff member who becomes pregnant shall notify the Executive Director at least four weeks before taking leave and at least four weeks prior to the expected date of the birth of her child and, subject to the provisions of this Rule, shall be granted paid leave of 12 weeks for a period beginning before the expected, or on or after the actual, date of delivery and ending not later than 12 weeks after the date of delivery.
- (b) The staff member can use earned vacation, compensatory or sick leave credits up to and beyond the date of delivery.

Rule 32: Family Responsibility Leave

The Executive Director shall approve unpaid family responsibility leave of up to six weeks for all staff who have completed at least six months of continuous employment.

Rule 33: Paternity and Adoption Leave

A staff member shall be granted three days of paid leave for a period beginning before, on or after the date of the birth of his child, or his or her adoption of a child.

Rule 34: Holidays

The Executive Director shall designate 11 days in a financial year as paid holidays.

Rule 35: Benefits During Leave

35.1 Paid leave shall not interrupt continuity of service for the purpose of calculating vacation leave and severance pay. Time spent on such leave will be counted for pay increment purposes. During such leave, the Commission and the staff member will continue to pay their respective shares of pension and benefit plans.

35.2 The Commission and the employee may continue their respective contributions to employee benefit plans as appropriate during periods of unpaid leave. Staff members may accrue other credits or benefits during periods of unpaid leave at the discretion of the Executive Director and in the case of the Executive Director at the discretion of the Council.

SECTION VIII: SOCIAL SECURITY

Rule 36: Medical and Hospital Expenses

The Executive Director shall make arrangements for medical, dental and hospital insurance for all employees, their spouses and dependents. The Executive Director shall ensure that provision is made in the budget for the payment of the Commission's share of the costs of such insurance. Employees shall pay their share and any additional costs for extra benefits.

Rule 37: Retirement and Insurance Benefits

The Executive Director shall make arrangements to ensure that eligible employees are covered by appropriate retirement savings, life insurance and long-term disability plans.

SECTION IX: TRAVEL

Rule 38: Official Travel

38.1 Official travel shall be undertaken only if authorized in advance by the Executive Director.

38.2 Payment for official travel expenses will be based on reasonable and documented expenditures for accommodation, meals, economy class airfares and related expenditures.

SECTION X: SEPARATION FROM SERVICE

Rule 39: Resignation

Employees should provide in writing at least one month's notice of their effective date of resignation. Notice of lesser length may be approved by the Executive Director in the case of staff, and by the Council in the case of the Executive Director.

Rule 40: Severance Pay

40.1 Severance pay in the event of dismissal of staff members other than solely for cause shall not exceed 12 weeks pay and shall be based upon objective factors such as length of service.

40.2 Severance pay in the event of dismissal of staff members solely for cause shall be provided at the discretion of the Executive Director and in any event shall not exceed 12 weeks pay.

Rule 41: Dismissal

41.1 The Executive Director may terminate the employment of a staff member at any time upon written notice solely for cause. In any other case, the Executive Director shall advise the Council not less than two weeks prior to providing the staff member with one month's notice in writing. The Council may decide by a two-thirds vote to reject any such notice of dismissal.

41.2 The Council may remove the Executive Director solely for cause.

41.3 Any Council decision under this Rule shall be made and held in confidence.

SECTION XI: STAFF COMPLAINT PROCEDURES

Rule 42: Composition of Roster

The Executive Director, with the approval of the Council, shall maintain a roster of arbitrators consisting of two nationals from each Party. Arbitrators shall be removed from the list at their own request or that of the Council. In such case, the Executive Director, with the approval of the Council, shall name a replacement

Rule 43: Notification and Response

- 43.1 In the event of a complaint arising out of the interpretation, application or administration of these Rules or of the terms and conditions of employment of a staff member, or any alleged unjust or improper action against that staff member, such staff member may so notify the Executive Director in writing. Such notification shall contain full particulars of the circumstances giving rise to the complaint, including its nature and the Rules or terms and conditions of employment at issue. Such notification shall be made within 90 days of the circumstances described in the complaint.
- 43.2 On notification under Rule 43.1, the Executive Director, or his or her designee, shall meet with the complainant and make every effort to do so within five working days. At such meeting every effort shall be made to reach a satisfactory solution. If the complaint is not resolved, the Executive Director, or her or his designee, shall provide a written response within ten working days after the meeting. In any event, the Executive Director shall provide a written response upon request.
- 43.3 If the dispute is not resolved under Rule 43.2, the Executive Director and the complainant shall discuss the matter with the designees of the Council. Every effort shall be made to reach a satisfactory solution within 15 working days.
- 43.4 If the dispute is not resolved under Rule 43.3, the complainant may request arbitration in writing to the Executive Director within the next ten working days. If the Executive Director does not respond within the time periods in Rule 43.2, and the designees of the Council do not respond within the time period in Rule 43.3, the complainant may request arbitration in writing to the Executive Director within ten working days after the expiration of such periods.

Rule 44: Arbitration

- 44.1 Upon a request referred to in Rule 43.4, an arbitrator shall promptly be selected from the roster by lot and in any event within 15 working days.
- 44.2 The rules of procedure of the arbitration shall be determined by the arbitrator. The arbitrator shall promptly schedule a hearing, at which the parties shall be given the opportunity to present evidence, including documents and witnesses to support their positions. In cases where there are no facts in dispute, the parties may agree to submit the case to the arbitrator on the basis of written submissions and argument, without the necessity of a hearing. On request, the Executive Director shall provide to the complainant all necessary and relevant information taking into account the privacy of others.
- 44.3 The arbitrator shall communicate the decision to the parties to the complaint, the Executive Director and any other individual whose actions are the subject of the complaint within 21 days from the last day of the hearing or, if no hearing is held, within 21 days after receipt of written submissions. The decision shall be in writing and shall be final and binding upon the parties to the complaint.

44.4 The Commission shall bear the expenses of the arbitrator. Complainants shall bear the expenses of their own representation. Complainants shall be given reasonable time during working hours to prepare for and attend any hearing.

Rule 45: Application of Agreement, Rules, Laws and Regulations

The arbitrator shall resolve complaints by reference to the Agreement, these Rules and, to the extent they do not conflict with the Agreement or these Rules, laws and regulations applicable to international governmental organizations.

SECTION XII: FINAL PROVISIONS

Rule 46: Relation to the Agreement

In the event of any inconsistency between these Rules and the Agreement, the Agreement shall prevail to the extent of the inconsistency.

Rule 47: Amendments

The Executive Director may propose amendments to these Rules to the Council. Only the Council may amend these Rules.

Rule 48: Authentic Texts

The English, French, and Spanish texts of these Rules are equally authentic.