

## TOBACCO USE

**SECTION 1. PURPOSE:** The Agency and the Union agree that tobacco use is a legitimate health hazard and is in the joint interest of both Parties to encourage voluntary cessation of tobacco use. In accordance with applicable law, the Agency's Tobacco Use procedures for bargaining unit employees will be as set forth in the Memorandum "Tobacco Use within the National Capital Region Medical Directorate", except as modified by the provisions set forth below.

### SECTION 2. DEFINITIONS:

1. **Tobacco Products:** any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. Tobacco products include the use of smoking (e.g. cigarettes, cigars, and pipes) and smokeless tobacco (e.g. spit, plug, leaf, snuff, dip, and chew).
2. **Nicotine Delivery Device:** any FDA approved device that delivers a dose of nicotine, including such as nicotine inhalation therapeutic devices (e.g. Nicotrol).
3. **Electronic Cigarettes (e-cigarettes):** battery-operated devices designed to deliver vaporized nicotine and other chemicals when inhaled.

### SECTION 3. DESIGNATED TOBACCO AREAS

**A. Indoor Area:** Smoking or use of tobacco products is prohibited in all interior spaces. Only FDA approved Nicotine Delivery Devices used for nicotine replacement therapy are authorized for indoor use in non-public areas.

**B. Outdoor Area:** Designated tobacco areas (DTA) may be established at any building, parking area, or property owned, leased, or controlled by NCR-MD at a distance of not less than 50-feet away from of air intake ducts and common points of entry/egress that are routinely used by patients, residents, employees or staff.

**C. Access to DTA:** The Agency will continue to provide reasonable access to all currently designated tobacco areas at all worksites. The Agency will bargain over any changes to the location of existing DTA that are within its control.

**D. Vehicles:** The use of tobacco products in government vehicles is strictly prohibited. The use of tobacco products is not prohibited in personally owned vehicles during arrival or departure from the parking garages or while parked in authorized outdoor parking locations.

**E. Ashtrays and Receptacles:** The Agency will provide adequate ashtrays or receptacles, where appropriate, in which tobacco products can be safely discarded.

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**F. Signage:** Appropriate signage will be installed to clarify where the use of tobacco products is not permitted by terms of this Article.

**SECTION 4. TOBACCO BREAKS:** Time spent for tobacco use shall only occur during approved break periods as outlined in the "Hours of Work" Article of this CBA.

**SECTION 5. TOBACCO USE CESSATION AND SUPPORT SERVICES:**

**A. Voluntary Basis:** For all employees who wish assistance in eliminating their dependence on the use of tobacco products, the Parties will encourage enrollment on a voluntary basis in authorized Tobacco Cessation Programs (TCP), with TCP applying to all tobacco products.

**B. Federal Employee Health Benefit Option:** Tobacco cessation resources are available to all Federal employees through Federal Employees Health Benefits (FEHB) plans which are required to provide comprehensive, barrier free coverage including counseling and medication. These benefits are provided with no copayments or coinsurance and are not subject to deductibles, annual or life time dollars. Employee participation in TCP services obtained through their health benefits plan will be considered as an authorized (i.e., approved) program by the Agency.

**C. Agency Sponsored Tobacco Cessation Program:** The Agency will provide TCP services, at no cost to the employee, in accordance with 5 U.S.C. § 7901(c)(4), under the following conditions:

1. The employee chooses not to or cannot obtain no-cost TCP services through their health benefits plan (e.g., FEHB).
2. The employee shall be allowed to attend classes on duty time, workload permitting, that are scheduled during their work time.
3. The Agency shall offer tobacco cessation medications, available in the DoD formulary, for employees who make a written request indicating that they wish to quit using tobacco to a health unit physician, nurse, Employee Assistance Program counselor or other designated person. Such therapy shall be available regardless of whether the employee is participating in an on-site classroom program or in a self-initiated process. Employees requesting nicotine replacement therapy in such circumstances shall be considered as participating in the Agency's TCP. Prescriptions for nicotine replacement therapy may be filled at the Agency pharmacy.
4. The Agency will offer employees on-site or telephone counseling services. Use by bargaining unit employees of such counseling services shall not be mandatory or required.

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**SECTION 6: ENFORCEMENT:** Every effort will be made to resolve tobacco use issues in a fair and equitable manner without the need to resort to disciplinary action.

**A. Corrective Action:** The supervisor may require the employee to take reasonable corrective action, depending upon the nature of the use of tobacco (other than that which occurs inside of a privately owned vehicle as set forth in Section 3D above).

1. *First Instance:* The employee shall be given verbal corrective counseling by the supervisor.
2. *Second Instance:* For any second instance of similar nature, the employee may be subject to disciplinary action in accordance with the Disciplinary Article of this CBA.

**B. Union Representation:** Upon request, the employee will have the right to representation in any meeting regarding actual or alleged infraction of this Article.

**SECTION 7: NOTIFICATION:** Upon implementation, Town Hall meetings or joint training sessions shall be conducted to explain to employees of these requirements. The Union shall be provided the opportunity to explain these standards during New Employee Orientation.

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Union: 

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