

# GULF OF MEXICO FISHERY MANAGEMENT COUNCIL STATEMENT OF ORGANIZATION PRACTICES AND PROCEDURES

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## STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

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# GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

## STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

Pursuant to Section 302 (f) (6) of the Magnuson-Stevens Fishery Conservation and Management Act (hereinafter referred to as the Act) (Public Law 94-265, as amended) each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization practices, and procedures. As required by the Act, the Gulf of Mexico Fishery Management Council (Council) has prepared and is hereby publishing its revised Statement of Organization, Practices, and Procedures, originally published September 13, 1977 (42 FR, No. 177). The revised document is available at the Council Headquarters: 2203 North Lois Avenue, Suite 1100, Tampa, Florida, 33607.

- I. **NAME OF COUNCIL:** Gulf of Mexico Fishery Management Council (Council).
- II. **LOCATION OF OFFICES:** 2203 North Lois Avenue, Suite 1100, Tampa, Florida, 33607.
- III. **LEGAL AUTHORITY:**

Legal authority for the Council is found in the Act (Public Law 94-265 as amended). The geographical area of authority of the Council includes the federal waters off of the states of Texas, Louisiana, Mississippi, Alabama, and Florida, and the Council has authority over the fisheries in the exclusive economic zone (EEZ) of the Gulf of Mexico seaward of such states.

- IV. **PURPOSE:**

- A. **Prepare/Submit Plans to the Secretary of Commerce (Secretary):**

The Council shall for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary: (A) a fishery management plan (FMP), and (B) amendments for each such FMP that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such FMP was developed).

- B. **Comment on Foreign Fishing Applications:**

The Council, with delegated authority to the Executive Director, shall prepare comments on any application for foreign fishing or transshipment transmitted to it by the Secretary of State and the Secretary of Commerce under or Section 204(b) and (d), respectively.

- C. **Comment on FMPs Prepared by Secretary:**

The Council shall prepare comments on any FMP or amendments thereto prepared by the Secretary or his delegate which are transmitted to it under Section 304(c) (4) of the Act.

D. **Conduct Public Hearing:**

The Council shall conduct public hearings at appropriate times and in appropriate locations in the Council's geographical area so as to allow all interested persons an opportunity to be heard in the development of FMPs and amendments thereto, and with respect to the administration and implementation of the provisions of the Act.

E. **Review FMPs on Continuing Basis:**

The Council shall review on a continuing basis, and revise, as appropriate, the assessments and specifications contained in each FMP for each fishery within its geographical area.

F. **Prepare Reports to the Secretary:**

The Council shall submit to the Secretary or his designee:

1. Such periodic reports as the Council deems appropriate; and
2. Any other relevant report which may be requested by the Secretary or his delegate.

G. **Prepare Proposed Regulations:**

The Council shall prepare any proposed regulations which it deems necessary to carry out any FMP or any amendment to a FMP, which is prepared by it. Such proposed regulations shall be submitted to the Secretary or his delegate, together with such plan or amendment, for action by the Secretary or his delegate, pursuant to Sections 304 and 305 of the Act. The Council delegates the authority to the Chairman of the Council to review any editorial changes to the regulations between now and the time they are submitted to the Secretary and deem those changes as necessary and appropriate.

H. **Determine SOPPs:**

The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions in accordance with such uniform standards as the Secretary or his delegate may prescribe, and shall publish and make available to the public a statement of its organization, practices, and procedures.

I. **Conduct Other Appropriate Activities:**

The Council shall conduct any other which are required by, or provided for in, the Act or which are necessary and appropriate to the foregoing functions.

## V. COUNCIL COMPOSITION:

### A. **Number of Voting/Nonvoting Members:**

The Council shall have a total of 17 voting members, and four nonvoting members, appointed pursuant to provisions of the Act.

### B. Members:

#### 1. **Voting Members:**

Eleven of the voting members (at least one of whom shall be appointed from each state) shall be appointed by the Secretary, or his delegate, from a list of qualified individuals submitted by the governor of each applicable constituent state. Each member appointed to the Council must take an oath of office.

#### **Insert Oath of Office**

These eleven voting members shall be appointed for a term of three years. Vacancy appointments shall be for the remainder of the unexpired term of the vacancy. No member may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

#### a. **Council Compensation**

Effective September 1, 1991, all Council members whose eligibility for compensation has been established in accordance with NOAA guidelines as indicated in Section V.B.1. will be paid on a contract basis without deductions being made for Social Security or Federal and State income taxes. The level of compensation for authorized Council members shall be as established in accordance with federal rule (50 CFR 600.245).

Compensation will be paid to eligible Council members for time spent in the performance of official duties for the Council and as authorized by the Council or the Council Chairman. Payment will be made for a full day's pay whether the duties performed are in excess of or less than eight hours a day. The time is compensable where the individual member is required to expend a significant private effort which substantially disrupts the daily routine to the extent that a work day is lost to the member. "Homework" time in preparation for formal Council meetings is not compensable. Non-government Council members receive compensation for:

- (1) Days spent in actual attendance at a meeting of the Council or jointly with another Council.

- (2) Travel on the day preceding or following a scheduled meeting that precluded the member from conducting his normal business on the day in question.
- (3) Meetings of standing committees of the Council if approved in advance by the Chairman.
- (4) Individual member meeting with scientific and technical advisors when approved in advance by the Chairman and a substantial portion of any day is needed.
- (5) Conducting or attending hearings when authorized in advance by the Chairman.
- (6) Other meetings involving Council business when approved in advance by the Chairman.

The remaining six voting Council members shall be:

- a. The principal state official, who must be a full-time employee of the state agency, with marine fishery management responsibility and expertise in each of the five constituent states, as designated by the governors of the states or the designee of such official; and
- b. The Regional Administrator, Southeast Region, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), for the Council's geographical area, or his designee.

2. **Nonvoting Members:**

Nonvoting members shall be:

- a. The Regional Director of the United States Fish and Wildlife Service (USFWS) for the Council's geographical area or his designee;
- b. The Commander or designee of the Coast Guard Districts as designated by the Commandant of the Coast Guard;
- c. The Executive Director of the Gulf States Marine Fisheries Commission (GSMFC) or his designee;
- d. One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

VI. **OFFICERS AND TERMS OF OFFICE:**

The Council elects during the first meeting each year, after the date (usually August 11) upon which Council members are appointed from among the voting members, by majority vote of the voting members present and voting, a Council Chairman who shall serve a

term not to exceed one year unless sooner replaced, and a Council Vice Chairman who shall serve for a one year term ending when a successor has been duly elected, unless sooner replaced. Such election shall usually be the last order of business at said meeting. The Chairman and the Vice Chairman can serve no more than two consecutive terms.

It shall be the policy that in the absence of the Council Chairman or chairman of any of its committees, the Council Vice Chairman will preside and exercise the duties of that office as herein provided. Individuals are elected or appointed to the offices of the Council Chairman and Council Vice Chairman even though they may be state officials. Alternate representatives (designee or principal) do not assume these offices, but may participate as members of the committees.

VII. **DESIGNEES:**

The Act authorizes only the principal state officials, the Regional Administrator, and the nonvoting members to designate individuals to attend Council meetings in their absence. The Chairman of the Council and NMFS Regional Administrator must be notified in writing who will serve as designee at least 48 hours before the individual may vote on any issue before the Council. The written appointment must include, the name, address, and position of the individual designated. A designee may not name another designee. However, such officials may submit to the Chairman, in advance, a list of several individuals who may act as designee, provided that the list designates who would serve if more than one designee is in attendance. Such designees must be a resident of the state, and be knowledgeable and experienced in the fishery resources of the geographic area of concern to the Council.

VIII. **STAFF/COUNCIL MEMBERS:**

A. **Staff Position Requirements:**

The Council will determine needs, recruit, hire, compensate, and dismiss staff deemed necessary to carrying out the decisions and desires of the Council. Each position must be justified during the budget process described in 15 CFR Part 14, or prior to filling a new position established during the course of the cooperative agreement year. The Council Executive Director has the responsibility to prepare lists of eligible candidates, as appropriate, for each position and to make recommendations accordingly to the Council. In the absence of the Executive Director, routine daily activities will be handled by the Deputy Executive Director, and in the absence of both the Executive Director and the Deputy Executive Director, routine daily activities will be handled by the Administrative Officer. The Council has authorized the Executive Director to recruit, hire, compensate, and dismiss all permanent, probationary, and temporary personnel. The Council, when it deems appropriate and after notification to NOAA Office of General Counsel, may employ on a temporary basis a legal counsel to advise it on matters of importance to the Council consistent with 50 CFR Section 600.120.

B. **Staff Functions:**

1. Staff positions and functions are reported in Appendix B. Other positions may be authorized as deemed necessary by the Council. Experts, consultants, and

temporary personnel may be employed to provide additional Council staff support as required.

2. Temporary transfer of government employees. Authority is provided for temporary transfer of state, local, and federal government employees to the Council staff. The Council may authorize requests for such personnel.
- C. **Employment Practices:**

1. **Nondiscrimination:**

All activities supported in whole or in part by federal funds shall be operated under a policy of equal employment opportunity. Council staff positions shall be filled solely on the basis of merit, fitness, competence, and qualifications. All employment actions will be free from discrimination based on race, religion, color, national origin, sex, age, disability, sexual orientation, status as a parent, and reprisal, or any additional basis protected by applicable federal, state, or local law.

Except for complaints alleging sexual orientation and status as a parent, complaints by employees alleging that they have been discriminated against on the basis listed above should be processed in accordance with 29 CFR '1614. Employees must contact an EEO Counselor at NOAA's Office of Civil Rights within 45 days of the date of the alleged discrimination. Employees alleging discrimination on the basis of sexual orientation will have their complaints processed in accordance with Department Administrative Order (DAO) 215-11. Employees must contact an EEO Counselor at NOAA's Office of Civil Rights within 45 days of the date of the alleged discrimination.

2. **Employment of Relatives:**

Employment of relatives is discouraged and will be approved only on a case-by-case basis at the discretion of the Executive Director provided that such employment does not fall under the line of supervision of an incumbent employee.

3. **Personnel Actions:**

Subject to these practices and procedures and according to personnel authority provided by the Secretary, the Council may establish positions, recruit, hire, compensate, and dismiss personnel. Dismissal for permanent employees will be made for misconduct, unsatisfactory performance, and/or lack of funds. Dismissal for probationary employees may be for any cause. In the event of dismissal for lack of funds, a reasonable notice will be given to the permanent employee. New employees shall be subject to a probationary period of a minimum of six months, which may be extended up to 12 (twelve) months, during which the individual's fitness for continued employment shall be evaluated. Annual pay rates for staff position shall be based on 5 U.S.C. 5332.

a. **Close-Out Process for Termination of Employment:**

- (1) Executive Director (ED) ensures that security measures are undertaken to prevent a terminated employee from having access to or being able to damage Council property, including but not limited to equipment, records, network data, and intellectual property.
- (2) (ED) notifies Administrative Officer (AO) that an individual's employment has been or will be terminated;
- (3) AO or ED advises supervisor or employee directly of a meeting time;
- (4) AO or ED reviews list of items in employee custody based on the check list in the Clearance of Employee Accountability form;
- (5) AO or ED issues benefit declaration form to employee for execution;
- (6) AO or ED distributes advisory memo to employee regarding options;
- (7) AO or ED meets with employee and reviews list specified in Clearance of Employee Accountability form;
- (8) Employee relinquishes all items in possession, and/or;
- (9) Supervisor/Executive Directors are notified if issues remain outstanding;
- (10) AO, supervisor, or other management personnel and the Executive Director sign off on certification along with employee;
- (11) AO or ED and travel coordinator cancels all forms of charge cards (car rental, phone).

#### 4. Personnel Files:

A file for each employee containing appointment papers, security reports, biographical data and other official papers will be maintained in the Executive Director's office under security and safeguard conditions required of files subject to the Privacy Act. Except as otherwise provided for by law, each employee may have access to his/her individual file; but files are otherwise available to others only pursuant to the Privacy Act and Freedom of Information Act in consultation with NOAA legal counsel.

#### 5. **Salary/Wage Administration:**

In setting rates of pay for Council staff, the principle of equal pay for equal work shall be followed. Variations in basic rates or pay shall be in proportion to substantial differences in the difficulty and responsibilities of the work performed. The duties of any new position shall be contained in a brief description. The Council will approve a salary range appropriate for the position. The position may be filled at any salary level within that range. Locality may be considered in

establishing pay rates for Council staff. The annual pay for any staff position may not exceed the equivalent of the top step of GS-15 as adjusted by the applicable percent of salary for locality pay available to federal employees in the same geographic area. All personnel vacancies should be filled on a competitive basis unless unusual circumstances dictate otherwise. After a position has been filled, the employee may receive salary increases by step raises comparable to the federal pay scale for superior performance within the specific salary ranges of the position. Such raises and salaries shall be subject to approval by the Executive Director consistent with the amount budgeted annually by the Council for that purpose. The Executive Director shall keep the Budget/Personnel Committee apprised of all personnel actions including raises granted. If in the opinion of the Executive Director circumstances related to a personnel action warrant consideration by the Council, that action will be referred to the Budget/Personnel Committee, with the concurrence of the Committee.

a. Step Raises:

Staff employees may be considered for step increases in pay upon completing the required waiting period and if an acceptable level of competence has been attained. The waiting period begins upon the appointment of a permanent employee or upon the effective date of a step raise or promotion. The waiting period for within-grade increase eligibility is as follows:

- 52 calendar weeks to be advanced to steps 2, 3, and 4;
- 104 calendar weeks to be advanced to steps 5, 6, and 7;
- 156 calendar weeks to be advanced to steps 8, 9, and 10.

The Council may deviate from the waiting periods on a case-by-case basis considering the employee's initial hire step and performance evaluation.

b. Grade Change:

Positions may be considered for grade changes based on a change in duties.

c. Cost of Living Raises:

Staff employees may be granted cost of living raises by the Executive Director comparable with the annual cost of living raises granted federal employees and within the amount budgeted annually by the Council for that purpose. If any cost of living raise is granted, all staff will be awarded across the board.

d. Cash or Honorary Awards:

Within budgetary constraints, the Council may award an employee a cash award/bonus for exemplary performance or for assuming additional responsibilities at the request of the Council.

e. Performance Evaluations:

The rating period for performance evaluations made of staff employees is September 1 through August 31 of each year. Ratings of employees are recommended by appropriate supervisors and approved by the Executive Director and will be discussed with the employee. Rating of the Executive Director is performed by the Chairman and Vice Chairman of the Council, and reported to the Council in a closed session.

All performance ratings are made on Council approved performance rating forms and in conformance with rating procedures established by the Executive Director; copies of which will be provided to the rated employee and filed in the official personnel folder.

If an incumbent employee receives an unsatisfactory performance evaluation in any major aspect of his/her job description, the employee will be counseled on the deficient area(s) and given, in writing, a detailed list of the area(s) in which performance is unsatisfactory. An incumbent employee will be given 90 days from the date of his/her performance review to correct all the written deficiencies and become completely competent in the job. If after 90 days there are still areas that are not rated as satisfactory, the incumbent employee may be terminated.

6. Discipline:

a. Purpose:

(1) The purpose of this section is to state the policy of the Gulf of Mexico Fishery Management Council with respect to discipline, and to provide guidance in the application of appropriate and progressive discipline in individual cases.

b. General Provisions:

(1) This policy supplements the basic provisions of law and regulations governing disciplinary action.

c. Discipline Policy:

(1) General Policy

(a) As used in this policy, "discipline" means corrective measures intended to maintain the efficiency of the service and encourage employee performance and conduct compatible with the appropriate and lawful goals, practices, policies and procedures of the organization.

(b) It is the policy of the Council that disciplinary action is taken whenever it is warranted by the employee's conduct or performance; and that discipline be administered in a constructive, progressive, consistent and timely manner.

- (c) Any official or supervisor who is considering taking a disciplinary action shall consult with an appropriate staff attorney of NOAA General Counsel regarding any issues of law that may be involved. In any case where an employee's conduct may involve violations or criminal law, no disciplinary action shall be taken until after consultation with legal counsel.

## (2) Selection of Appropriate Disciplinary Action

- (a) To aid in the selection of an appropriate disciplinary action, consideration shall be given to the table of selected offenses and suggested penalties which is appended as Table B. The penalties suggested there are guidelines only and are not mandatory. Each situation shall be considered on its own merits. Table A provides additional guidance on the selection of a penalty.

## (3) Use of Enforced Leave

- (a) In general, an employee may be placed on enforced leave (i.e., required to absent him or herself from duty) when:

1. The employee is not ready, willing, or able to work; or
2. An emergency situation exists, i.e., the employee's conduct or mental or physical condition is such that his/her presence on the job constitutes an immediate threat to Government property or to the well-being of the employee, co-workers, or the public.

### (b) Emergency situations

1. In an emergency situation as described in paragraph J.3.c.(1)(b) of this section, in which a responsible official has not had an opportunity to appraise the situation and decide whether to initiate disciplinary action, an employee may be placed on enforced leave during the pendency of the emergency.
2. A period of enforced leave that began in an emergency situation shall not be continued indefinitely. Thus, if the employee presents him/herself for duty after the immediate emergency has ceased and it is determined by the responsible official that the employee is ready, willing and able to perform duty, continued use of enforced leave is not appropriate. However, the employee may be placed in a non-duty status, with pay and without charge to leave (administrative leave) for up to ten calendar days to allow time to effect a suspension and for other disciplinary action.

### (c) Disciplinary situations

1. Except as provided in paragraph J.3.c. (2) (a), use of enforced leave in a disciplinary situation (i.e., an incident or set of

circumstances which will or may result in a disciplinary action being proposed or taken against an employee) constitutes a suspension.

(d) Non-disciplinary situations

1. In a non-disciplinary situation, where no emergency exists, an employee who is not "ready, willing and able" to work may be placed on enforced leave (annual, sick or leave without pay) and this action will not be considered a suspension.

(e) Alternatives to enforced leave

1. In situations where it is not in the interest of the Council for an employee to remain in his/her position in an active duty and pay status, a number of options are available depending on the circumstances, in addition to or in lieu of enforced leave:

(a) the employee may be assigned to other suitable duties,

(b) the employee may be placed on excused absence (administrative leave),

(c) the employee may be placed on voluntary leave (i.e., annual leave, sick leave, or leave without pay as appropriate in accordance with applicable regulations and policies), or

(d) the employee may be considered absent without leave (AWOL).

d. Specific Disciplinary Situations:

(1) Absence Without Leave (AWOL).

(a) General. If an employee (1) has failed to obtain advance approval for absence on any type of leave (except in instances of emergency where it is impracticable for the employee to obtain advance leave), or (2) has been denied a request for leave, or (3) has obtained approval of leave by fraud or deception, or (4) has failed to submit a required physician's statement upon return to duty showing that the employee was incapacitated for duty (when previously advised that a medical certificate would be required) or (5) has failed to follow prescribed leave procedures, the employee shall be considered absent without leave (AWOL) for the period of absence unless an authorized official finds special justification exists to approve the absence as leave after consideration of the circumstances.

(b) Prolonged Absence and Failure to Return from Leave or Furlough.

1. When the Executive Director is unable to ascertain that an absent employee intends to return to duty, and the employee is entitled to adverse action procedures, the separation should ordinarily be processed as an adverse action for absence without leave rather than as an abandonment of position.

(2) Unacceptable Performance

- (a) In accordance with Chapter 43 of Title 5, U.S. Code, an employee whose performance continues to be unacceptable may be removed or demoted only after an opportunity to demonstrate acceptable performance.
- (b) As a matter of sound personnel management, when an employee's performance is less than satisfactory, a timely warning should normally be given to afford the employee the opportunity to improve before any disciplinary action is effected (see Section VIII.C.5.e.).

## TABLE A

### A. SELECTING A PENALTY

1. A preliminary judgment should be made as to an appropriate penalty without regard to any considerations other than the nature of the offense, its seriousness and consequences, the nature of the employee's position, and the disciplinary effect of the penalty. On the basis of these considerations, "everything else being equal," select the penalty appropriate for the offense in ordinary circumstances.
2. Then consider any aspects of the situation that would tend to suggest a greater or lesser penalty than would ordinarily be imposed. Possible considerations include:
  - a. Situation:
    - (1) Possibility of genuine misunderstanding.
    - (2) Enticements or provocations.
    - (3) Culpabilities of others.
    - (4) Other mitigating or extenuating circumstances.
  - b. Employee:
    - (1) Length of service.
    - (2) Quality of work history.
    - (3) Personal reputation.
    - (4) Past contribution.
    - (5) Record of cooperativeness.
    - (6) Record of achievements.
    - (7) Past disciplinary record (nature, frequency and recentness of past offenses).
3. On the basis of all of the above, select the appropriate disciplinary action.
4. For adverse actions and other disciplinary actions for which the employee receives notice and the opportunity to reply in advance, there are actually two separate penalty considerations: the first, on the basis of available evidence when the action is proposed; and the second, in consideration of the employee's reply and all other evidence, when the final decision to take action is made.

## B. TABLE OF OFFENSES AND PENALTIES

1. The purpose of this table is to assist supervisors and managers in selecting appropriate penalties and to provide a framework for constructive discipline. In selecting an appropriate disciplinary action, it should be remembered that discipline has a constructive purpose, and is intended to:
  - a. Correct the unacceptable conduct, attitude or work habits;
  - b. Help maintain morale and the efficiency of the service; and
  - c. Be fair and reasonable in its degree of severity.
2. This table does not cover every possible offense but it describes the more common types of offenses and the range of penalties normally assessed for those offenses.
3. The range of penalties described in the table is intended to serve as a guide only, and greater or lesser penalties than suggested may be imposed as circumstances warrant. For example, removal on the first offense may be warranted for extended periods of absence without leave.

**TABLE B**

TABLE OF OFFENSES AND PENALTIES

OFFENSES	PENALTIES		
	First Offense	Second Offense	Subsequent Offense
<u>Relationships with Public</u>			
1. Failure to obtain any required clearance of official speech or article.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
<u>Security Regulations</u>			
2. Violation of a security measure.	Oral admonishment to removal	5 days suspension to removal	30 days suspension to removal
<u>Outside Employment &amp; Interests</u>			
3. Engaging in private business activities of a prohibited or unethical nature.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
4. Acceptance of improper dual employment or dual compensation by U.S. Government.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
5. Acceptance by an employee of gratuity, which might reasonably be interpreted as tending to affect the performance of official duties.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
6. Acceptance of foreign employment without prior authorization.	5 days suspension to removal	30 days suspension to removal	Removal
<u>Political Activity</u>			
7. Improper political activities.	Suspension or removal		
<u>Conduct on the Job</u>			
8. Unauthorized absence from the job during working hours or on any scheduled day of work.	Oral admonishment to 3 days suspension	Written reprimand to 5 days suspension	5 days suspension to removal
9. Tardiness.	Oral admonishment to 1 day suspension.	Written reprimand to 5 days suspension	5 days suspension to removal
10. Improper use of sick leave	Written reprimand to 10 days suspension.	5 days suspension to removal	30 days suspension to removal
11. Intoxication caused by alcohol or other drugs:			
a. Intoxication while on duty which impairs the ability to perform duties properly.	5 days suspension to removal	30 suspension to removal	Removal

b. Selling intoxicants on government premises.	Removal		
c. Unauthorized possession or use of intoxicants on premises of the Council.	3 days suspension to 30 days suspension	10 days suspension to removal	30 days suspension to removal
12. Promotion of gambling or lotteries on Council premises or while in duty status.	5 days suspension to removal	30 days suspension to removal	Removal
13. Gambling on Council premises or while in duty status.	Written reprimand to 10 days suspension	5 days suspension to removal	30 days suspension to removal
14. Lending and borrowing:			
a. Borrowing money or obtaining co-signature from subordinates.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
b. Lending of money to other employees at usurious rates.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
15. Creating a disturbance in the work place or on premises of the Council.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
16. Fighting.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
17. Conduct that violates common decency or morality including use of improper or obscene language.	Written reprimand to 10 days suspension	5 days suspension to removal	30 days suspension to removal
18. Making vicious, malicious or knowingly false statements concerning a member or employee of the Council.	Written reprimand to 10 days suspension	5 days suspension to removal	30 days suspension to removal
19. Negligent or intentional injury to person or property of other employees.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
20. Safety (non-motor Vehicle): Violation of safety practices, instructions, or prescribed safe practices, including failure to report accident or injury.	Oral admonishment to 3 days suspension	Written reprimand to 5 days suspension	5 days suspension to removal
21. Safety (Government Motor Vehicle Operation): Violation of traffic laws, safety regulations or instructions, or safe driving practices, including failure to report accident or injury.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
22. Council Property:			
a. Willful or negligent damage or defacement.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
b. Use of or allowing the use of Council rental motor vehicles, aircraft or water craft for other than official purposes.	30 days suspension (mandatory) to removal	Removal	
23. Act of negligence or careless workmanship in performance of duty resulting in waste of public funds or inefficiency.	Oral admonishment to 3 days suspension	Written reprimand to 5 days suspension	5 days suspension to removal

24. Use of or allowing use of Council funds, property, personnel, or other resources for unauthorized purposes.	5 days suspension to removal	30 days suspension to removal	Removal
25. Conducting personal affairs while in duty status.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
26. Loafing, willful idleness, wasting time.	Oral admonishment to 3 days suspension	Written reprimand to 5 days suspension	5 days suspension to removal
27. Sleeping on duty:			
a. Where safety or persons or property is not endangered.	Written reprimand to 10 days suspension	5 days suspension to removal	30 days suspension to removal
b. Where safety of persons or property is endangered.	5 days suspension to removal	30 days suspension to removal	Removal
28. Failure or excessive delay in carrying out orders of assignments.	Written reprimand to 10 days suspension	5 days suspension to removal	30 days suspension to removal
29. Insubordination	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
30. Improper use of official credential card.	3 days suspension to 30 days suspension	10 days suspension to removal	30 days suspension to removal
31. Unethical use of official authority or information.	30 days suspension to removal	Removal	
32. Acceptance of voluntary services for the Government contrary to statute.	Removal (required by statute) (31U.S.C. 665)		
33. Attempted use of influence or pressure to secure favor in the appointment, transfer, advancement or retention of a relative.	5 days suspension to removal	30 days suspension to removal	Removal
34. Violation of "no strike" affidavit.	Removal		
35. Unauthorized canvassing, soliciting or peddling on Council premises.	oral admonishment to 3 days suspension	Written reprimand to 5 days suspension	5 days suspension to removal
36. Deliberate or grossly negligent violations of merit principles or procedures with a demonstrable adverse effect on one or more persons.	Written reprimand to 10 days suspension	5 days suspension to removal	30 days suspension to removal
37. Harassing, threatening or taking reprisal action against an employee as a result of or in anticipation of a grievance, appeal, complaint, or other exercise of rights.	5 days suspension to removal	30 days suspension to removal	Removal
38. Misappropriation of funds.	Removal		
39. Inefficiency	Demotion or separation		
	Removal		

40. Gifts to official supervisors - soliciting contributions for gift or present to those in superior official positions, accepting gifts or presents from Council employees receiving lower salary, or making donations as a gift or present to official supervisors.			
<u>Personal Conduct or Character</u>			
41. Misconduct generally - criminal, infamous, dishonest, or notoriously disgraceful conduct.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
42. Misrepresentation, falsification, or omission of material fact in connection with application, employment or any record, report, investigation or other proceeding.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
43. Certification to the accuracy of a position description containing substantial inaccuracies which may be grade controlling.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
44. Conduct demonstrating untrustworthiness or unreliability.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
45. Discrimination* (*As used in this table, discrimination refers to specific acts taken by an employee in the performance of his/her official duties which discriminate against one or more individuals on the basis of race, sex, religion, color, age, national origin, handicapping condition, marital status, or political affiliation.)	5 days suspension to removal	30 days suspension to removal	Removal
46. Refusal to answer appropriate interrogation in properly authorized inquiry.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
47. Failure to pay a just financial obligation to Council in a proper and timely manner.	Written reprimand to removal	5 days suspension to removal	30 days suspension to removal
<u>Miscellaneous Offenses</u>			
48. Violation of any administrative regulation which does not provide a penalty:			
a. Minor Offense	Oral admonishment or 3 days suspension	Written reprimand to 5 days suspension	5 days suspension to removal
b. Major Offense	5 days suspension to removal	30 days suspension to removal	removal

## 7. Grievances:

It is the policy of the Council to allow grievances by employees who follow the designated procedures.

### (1) Grievable Issues:

- (a) Disciplinary Actions;
- (b) Application of Policies and Procedures;
- (c) Performance Appraisal Ratings;
- (d) Individual Compensation or Benefits;
- (d) Other Matters of Concern or Dissatisfaction, Except as Follows:

### (2) Non-Grievable Issues:

- (a) Organizational Structure;
- (b) Performance Standards and Job Elements for Performance Ratings;
- (c) Content of SOPPs;
- (d) Position Compensation Levels; and
- (e) Employee Benefits.

### (3) Grievance Procedure:

- (a) An employee with a grievance must identify that grievance in writing to the employee's immediate supervisor within ten (10) working days of becoming aware of the cause for his/her complaint and provide details of the grievance and the relief requested. At the employee's discretion, the employee may copy the Executive Director;
- (b) The immediate supervisor will provide an answer to the employee's complaint in writing within ten (10) working days with a copy provided to the Executive Director provided the original grievance was also copied to the Executive Director;
- (c) If the employee is not satisfied with the immediate supervisor's response, the employee may within 7 (seven) working days request that the grievance be elevated to the Deputy Executive Director and must be copied to the Executive Director; and
- (d) The Deputy Executive Director will provide a written response within 10 (ten) working days, unless there are extenuating circumstances in which case the aggrieved employee will be advised of same and notified as to when a response would be provided.
- (e) If the employee is still not satisfied with the Deputy Executive Director's written response, the employee may within 7 (seven) working days request that the grievance be elevated to the Executive Director; and
- (f) The Executive Director will provide a written response within 10 (ten) working days, unless there are extenuating circumstances in which case the aggrieved employee will be advised of same and notified as to when a response would be provided.

The Budget/Personnel Committee may periodically review all grievances, which will remain confidential.

D. Duty Time:

The usual work week is five, eight hour days or 40 hours. This applies to all full-time, permanent employees. The hours worked by individual employees may vary depending on the needs and interests of the office and the individual. The Fair Labor Standards Act applies. The Council office will be open from 8:00 a.m. to 5:00 p.m. on official workdays (Monday through Friday, excluding holidays). An individual employee's workday may vary from the official office hours, but must be predetermined and approved by the individual's supervisor. A supervisor will be available during Council office hours.

An employee is entitled to lunch break of up to one hour, which is without compensation. An employee should consult with his/her immediate supervisor regarding details of a lunch break. Employees are expected to observe scheduled work hours, including proper and timely notification to the supervisor, as soon as possible, of any unexpected absence from the job.

Employees are expected to be available for work on a regular basis. Events can occur from time to time which are unexpected or unavoidable. Such unplanned occurrences should be infrequent in nature. The Council recognizes that some time away from work is necessary and beneficial, and therefore provides for both annual and sick leave. However, frequent absences from work, especially when unplanned, create a hardship on the work unit. Absenteeism can become excessive to the point that management must take appropriate remedial action, including disciplinary action, if necessary.

E. Leave Policy:

1. Annual Leave:

a. Paid Leave Schedule:

The Council's full-time employees are granted paid annual leave in accordance with the following schedule or a share thereof prorated on the basis of days employed in a given calendar year.

<u>Years of Service</u>	<u>Working days of leave per year</u>
Under 3	13
3 to 15	20
15 and over	26

(Years of service refer to years of Council service except that up to four years of U.S. federal military, state, or federal government service may be

applied to years of service in computing total years of creditable service for leave determination.)

b. **Accrual of Annual Leave:**

New employees accrue annual leave the first day of permanent employment status with the annual leave accrual prorated accordingly. Normally, new employees will not be granted leave until the completion of six months of service. Part-time employees accrue annual leave at the same rate, per hours worked.

c. **Taking Annual Leave:**

Earned annual leave may be taken in accordance with procedures and schedules approved by the Executive Director. Any annual leave must be scheduled and documented on an Application for Leave form approved by the Executive Director, or his designee, and upon recommendation of the employee's immediate supervisor.

d. **Leave Compensation at Termination:**

Upon termination of employment, an employee shall be compensated for unused annual leave at the hourly wage rate in effect at the time of termination.

2. **Sick Leave:**

a. **Annual Limitation:**

Council full-time employees will be granted 13 days of paid sick leave, or a prorated share thereof, annually. Sick leave is accumulative throughout an employee's tenure with the Council

b. **Use of Sick Leave:**

Earned sick leave may be authorized and used when an employee:

- (1) is incapacitated for duty as a result of physical or mental illness; injury, pregnancy or childbirth;
- (2) receives medical, dental, or optical examinations or treatment;
- (3) would endanger the rest of the workforce by being present on the job after exposure to a contagious disease as determined by a health care provider or public health authorities;
- (4) makes arrangements necessitated by the death of a family member or arranges for the funeral of a family member, including ceremonies up to one year after the death;
- (5) provides care for a family member (1) who is incapacitated as a result of mental or physical conditions, including pregnancy, childbirth and before/after care of the mother; (2) who requires assistance to medical,

optical, dental examinations or treatments; or (3) with a serious health condition.

- (6) is adopting a child;
- (7) participates in a drug or alcohol counseling program, or other counseling program which is under the auspices of a licensed practitioner and which has been prescribed as treatment by a licensed practitioner; or
- (8) requires time to replace or repair a prosthetic device, or train in the use of an aid, e.g., a seeing eye dog.

Sick leave in excess of three consecutive days shall be supported by administratively acceptable medical documentation.

c. Unused Sick Leave at Termination of Employment:

Unused sick leave may be accumulated and staff may be compensated for sick leave upon their retirement or their estate compensated upon death. Lump sum payments for unused sick leave are not authorized to employees separating from Council service. All accumulated sick leave will be forfeited upon termination of service, except at retirement. Upon an employee's retirement from Council service as defined in accordance with the provisions of the Council's retirement plan, or upon the death of an employee, said employee's accumulated unused sick leave, up to a maximum of 2,400 hours may be used as a basis for a contribution to the employee's retirement. The contribution will equal 50 percent of the cash value of the unused sick leave. The payment will be based upon the employee's then current pay scale and will not exceed the equivalent of 150 days. Payment to be made as a cash pay-out subject to withholding taxes and included as a regular payroll check each year to the extent funds are accumulated. The Council can make partial payments of sick leave pay-outs if accumulated funding is not sufficient to cover the total amount. If more than one employee is involved, the funds would be prorated in accordance with the amount of money that had been accumulated.

3. Compensatory Leave and Overtime Pay:

Overtime payments shall be made in accordance with the provisions of the Fair Labor Standards Act (FLSA). Employees subject to the Fair Labor Standards Act (FLSA) shall receive overtime as specified therein, in pay or compensatory time, for work approved by the Executive Director for hours worked in a work week that exceeds 40 hours. A work week is defined as a seven-day period, Saturday through Friday. Employees occupying non-exempt positions will be paid for overtime in accordance with the provisions of the FLSA (29 U.S.C. '201 et.seq). Since no premium pay (night differential, Sunday differential, hazard pay, etc.) is involved in Council operations, it is anticipated that eligible Council employees will receive overtime pay under the provisions contained in 5 U.S.C.

Travel time during the normal work week (Monday through Friday) is considered as overtime for non-exempt employees only when in excess of 40 hours of actual work. Travel time or work on weekends or holidays will be

considered overtime or holiday pay, as appropriate, for actual hours of travel or work when authorized in advance for hours worked in excess of 40 in a week.

All overtime must be authorized and approved by the employee's supervisor.

Compensatory time vs. overtime - Employees whose rates of pay under 5 U.S.C. do not exceed the maximum rate for GS-10 or who are classified as non-exempt may elect to receive compensatory time in lieu of overtime pay. Employees who are excluded from overtime cash payments (exempt) shall be eligible for compensatory leave at the rate of one hour leave for one hour of work. All compensatory leave earned by exempt employees must be approved in advance by the Executive Director. Compensatory leave must be taken within six (6) months of the date from which it was earned.

4. **Family and Medical Leave Act (FMLA) Leave:**

Although the Council's administrative staff are not Federal employees, the Department of Commerce's Office of the General Counsel has determined that the administrative staff meet the FMLA definition of eligible employees and are subject to Title I of the FMLA. FMLA requires covered employers to provide up to twelve weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances provided both the employer and employee agree. The Council has posted a notice that summarizes FMLA provisions on its information bulletin board. Employees should review the FMLA notice or consult with the Executive Director for further details. Specific details can also be accessed via the web at <http://www.dol.gov/esa/regs/statutes/whd/fmla.htm>.

5. **Donated Leave:**

Annual or sick leave may be voluntarily donated by employees of the Council to another employee as the result of a medical emergency. A medical emergency is defined as a condition of an employee or immediate family member that: is likely to result in an extended period of confinement and/or recuperation; is likely to cause a substantial loss of income to the employee; and the employee does not have sufficient annual and sick leave to cover the anticipated leave. To be eligible for leave donation the employee must also have exhausted all of his/her sick, annual, and compensatory leave and the employee has been denied worker's compensation benefits. Determinations of a medical emergency shall be made by the Executive Director following a review of the attending physician's report, and his decision shall be final. Donated leave will be on an hour-for-hour basis provided that the donating employee's hourly earnings rate is equal to or greater than the receiving employee. If not, the amount donated will be prorated.

6. **Jury/Military Duty:**

The Council recognizes jury duty and military duty for training and shall compensate employees on a full wage rate basis for days absent from work in

performance of such duty. Compensation for military leave for training or jury duty shall not exceed 10 working days annually. Personnel on extended active duty in the armed forces or jury duty shall be placed on leave without pay from the Council staff.

7. Holidays:

The Council recognizes holidays as observed for federal employees and employees are granted the day off with pay in accordance with Federal practices and as shown in the following:

New Year's Day, January 1  
Martin Luther King's Birthday, Third Monday in January  
President's Day, Third Monday in February  
Memorial Day, Last Monday in May  
Independence Day, July 4  
Labor Day, First Monday in September  
Columbus Day, Second Monday in October  
Veterans' Day  
Thanksgiving Day, Fourth Thursday in November  
Christmas Day, December 25  
Other national holidays for federal employees

8. Advance of Leave:

Upon the recommendation of the Executive Director, the Chairman may approve an advancement of sick leave to an employee of no more than 6 (six) weeks and only after the employee has exhausted all sick, annual, and compensatory leave; and the employee has not received sufficient leave donations to cover a medical emergency. If the employee requests leave under the FMLA in conjunction with any incidence of an advance of sick leave as prescribed herein, the total amount of leave shall not exceed 12 weeks. Advanced sick leave may be repaid using sick, annual, and accrued compensatory leave. If the employee is still unable to return to work after this extended leave period, the employee may be extended leave without pay or terminated. A signed promise of repayment must be executed prior to advancing leave.

9. Leave Without Pay (LWOP):

The Executive Director (E.D.) may grant LWOP to an employee for such period as he/she deems appropriate. The LWOP status may be terminated at any time at the discretion of E.D. with 30 days notification to the employee. If the employee requests leave under the FMLA in conjunction with any incidence of an advance of sick leave as prescribed herein, the total amount of leave shall not exceed 12 weeks. The Council's current practice of wholly assuming the cost of health, life, dental, and disability insurance premiums will not continue during the period of LWOP in excess of 30 consecutive days, except in the case of leave approved under the FMLA. The employee must submit to the E.D. a request in writing to continue insurance(s) through the Council's group plan(s) no more than 30 days from the date of entering the LWOP status, and the employee shall be responsible

for payment of all premiums thereafter.

F. Administrative Leave:

The Executive Director shall have authority to grant administrative leave in the event of emergency conditions affecting the office or well-being of the staff.

G. Employee Benefits:

The Council provides medical insurance for full-time permanent employees and their families. The Council may also provide life insurance, disability, dental, and a retirement program for all full-time probationary/permanent employees within the budget limitations authorized by the Council. The retirement program which is provided by the Council may be supplemented by the employee. Details of each of these benefit programs are available in the Council's office.

H. Standards of Conduct:

1. Applicable Statutes:

Council members, as Federal officeholders, and Council employees are subject to most Federal criminal statutes covering bribery, conflict-of-interest, disclosure of confidential information, and lobbying with appropriated funds. In particular, the following provisions apply:

- a. 18 U.S.C. 201 - prohibits offer or acceptance of anything of value to influence any official act;
- b. 18 U.S.C. 203, 205 - prohibits officials from contacting any Federal agency or Federal court on behalf of others concerning a particular matter involving specific parties with the intent to influence Government action if they participated personally and substantially in the matter as a Council member. Furthermore, officials may not receive compensation for the representational activities of others regarding such matters.
- c. 18 U.S.C. 207 - prohibits a former official permanently from representing others before a Federal agency or Federal court concerning a particular matter involving specific parties in which the official participated personally and substantially as a Federal official or for two years concerning a matter which was under the person's official responsibility during their last year of Government service.
- d. 18 U.S.C. 208 - prohibits official acts in a matter in which the official has a personal financial interest. This prohibition does not apply to a financial interest of a Council voting member or Executive Director if the official obtains a waiver under 18 U.S.C. 208(b), or if the disclosure of financial interest in a report has been filed under Section 302(j) of the Act and that individual is in compliance with regulations promulgated under that section.

- e. 18 U.S.C. 209 - prohibits an official from receiving compensation for performing Federal duties from a source other than the United States Government. This restriction does not apply to an official who has served for 130 days or less in a 365-day period.
- f. 18 U.S.C. 210, 211 - prohibits offer or acceptance of value to procure appointment to public office.
- g. 18 U.S.C. 1905 - prohibits disclosure of trade secrets or confidential commercial information except as provided by law.
- h. 18 U.S.C. 1913 - prohibits use of appropriated funds to influence a member of Congress to favor or oppose any legislation or appropriation. However, this prohibition does not apply when responding to a request from a member of Congress or a Congressional Committee. Personal communications of a Council member or employee at his own expense that are identified as such are not prohibited.

2. Standards:

The Council is responsible for maintaining high standards of ethical conduct among themselves and their staff. In addition to abiding by the applicable Federal conflict of interest statutes, both members and employees of the Councils must comply with these standards of conduct:

- a. No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county or municipal election.
- b. No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his or her political affiliation.
- c. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.
- d. No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.
- e. No Council member or employee of the Council shall use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment which has not been made available to the general public.

- f. No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.
- g. The Council has a zero-tolerance policy for harassment on the basis of race, religion, color, national origin, sex, age, sexual orientation, disability, and reprisal. Any employee who believes he or she has been harassed should report the harassment to a supervisor or manager. The supervisor or manager should then follow the steps set forth in DAO 202-955. Any complaints of harassment on the basis of sexual orientation should be handled in accordance with DAO 215-11. The provisions of these DAOs are entirely separate from the EEO complaint process, and must be followed whether or not an employee has filed an EEO complaint.
- h. No Council member or employee of the Council shall use Council property for other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.
- i. No Council member may participate B
  - (1) Personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a particular matter primarily of individual concern, such as a contract, in which he or she has a financial interest; or
  - (2) In any matter of general public concern which is likely to have a direct and predictable effect on a member's financial interest unless that interest is in harvesting, processing, or marketing activities and has been disclosed in a report filed under Section VIII.J. For purposes of this subsection, the member's financial interest includes that of the member's spouse, minor child, partner, organization in which the member is serving as officer, director, trustee, partner or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment.

I. Additional Standards of Ethics and Conduct for Employees:

Employees are expected to contribute to the maintenance of a productive, harmonious, and cooperative work environment. A basic part of this contribution is performing assigned duties as an effective member of the work team, following the rules, policies, procedures, regulations, and laws governing their work activities. Because most employees operate without close supervision, it is critical that all employees abide by the highest standards of honesty and respect for the fiscal and other resources of the Council.

- 1. Employees are expected to present a neat appearance and to dress appropriately for their positions.

2. Most forms of outside employment and/or college educational classes are likely to interfere with an employee's responsibilities to travel in accordance with his/her position. Consequently, any employee who desires to accept outside employment or enroll in an educational class requiring minimum attendance should obtain written approval from his/her supervisor to avoid any unanticipated conflict with his/her current position.
3. Employees shall not engage in insubordination either by direct refusal to perform an assigned job task, or by willful failure to actually perform the assigned duty.
4. Attention to Duties:

All employees are expected to:

- a. Be courteous and respectful to the public, fellow workers, supervisors, Council members, and others;
- b. Be physically and mentally able to perform the essential duties of the position with or without reasonable accommodation as defined by the Americans With Disabilities Act;
- c. Conduct themselves in a manner that supports the proper performance of duties. Conduct that adversely affects the operations of the office, or otherwise interferes with attainment of the Council's goals and objectives is prohibited;
- d. Exercise care in the proper performance of job assignments in keeping with established standards;
- e. Follow work related instructions issued by supervisors;
- f. Give honest opinions on the issues and then give honest efforts towards accomplishing the tasks as finally determined to be appropriate by the supervisor, even when the decision is to proceed in a manner other than the one the employee prefers, except in case of safety issues;
- g. Know the requirements of the position or ask appropriate questions of the employee's immediate supervisor to clarify these requirements;
- h. Maintain a helpful and professional attitude toward the public, fellow workers, supervisors, Council members, and others; and
- i. Make efficient and effective use of the employee's work time. Examples of unsatisfactory use of time include: excessive personal phone calls, excessive visiting, excessive attention to personal matters, or repeatedly distracting fellow workers.

J. Financial Disclosure:

The Act and 50 CFR Part 600.235 require the disclosure by Council members of any financial interest of the reporting individual in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery under the jurisdiction of the individual's Council or of any such financial interest of the reporting individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. Individuals must update the form at any time a reportable financial interest is acquired or the financial interests are otherwise substantially changed. The information will be kept on file and made available for public inspection at reasonable hours at the Council office or at Council meetings.

K. Recusal from Voting:

1. As provided for in the regulations promulgated under Section 302(j) of the Act, i.e., 50 CFR Parts 600.225 and 600.235, as amended, an affected individual required to disclose a financial interest under Section D above shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.
2. At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.
3. Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph 2 within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.
4. Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.
5. If the Council makes a decision before the Secretary has reviewed a determination under subparagraph 3, the eventual ruling may not be treated as cause for the invalidation of reconsideration by the Secretary of such decision.
6. An affected individual is prohibited from voting in accordance with subparagraph 1 as provided in 50 CFR 600.235, as amended, which provides for the making of determinations under subparagraphs 2 and 3.

Section 208 of Title 18, United States Code, does not apply to an affected individual referred to in Section VIII.J. during any time in which that individual is in compliance with the regulations prescribed under Section 302(j) of the Act.

L. Security Investigations:

Security assurances are issued by the Office of Investigation and Security of the Department of Commerce. Security assurances are required for Executive Directors and for all Council members and are valid for five years. Other staff and advisory group members may be required to obtain clearances at the Council's discretion. Those who have not been cleared may not participate in meetings, closed for reasons of national security, or have access to any classified information. Council staff should maintain adequate records to determine when to initiate renewal requests as clearances expire and to request initial and renewal security clearances.

M. Removal:

Council members appointed by the Secretary may be removed from office in accordance with Section 302(b) (6) of the Act (see 50 CFR 600.230 for the details of this process).]

IX. COUNCIL APPOINTMENTS TO OUTSIDE COMMITTEES:

The Chairman, with Council approval, shall appoint members as needed to the following committees:

ICCAT Advisory Committee

NMFS Billfish AP

SEDAR Steering

NMFS HMS AP

SARP

Coral Reef Task Force (Working Committees)

TCC Artificial Reef

The Chairman, with Council approval, shall also appoint members to other committees or advisory groups as necessary and add the names to this list.

X. COUNCIL STANDING COMMITTEES:

A. General:

Members and officers of the committees are appointed by the Council from nominations by the Council Chairman.

Committees will report to the Council and the convened Council will take action on the committee recommendations. No action of any committee is final without the approval of the Council, except as provided for under X.C.5.

While certain Council members are nonvoting members of the Council, they may vote when participating as members of a standing committee in making non-binding recommendations to the Council.

Council members may attend sessions of the Scientific and Statistical Committees (SSC) only when authorized by the Council Chairman or in a nonparticipating capacity as a private citizen.

The Council Chairman or Council Vice Chairman may in order to create a quorum serve as an ex-officio, voting member of any of the Council's committees of which he is not already a member.

The Council Chairman may appoint such ad hoc or special committees, with concurrence of the Council, as are needed to conduct the orderly business of the Council. Such ad hoc committees cease to exist after having completed the business assigned to them.

The following listed committees, and other committees which the Council may appoint, are considered the standing committees of the Council:

Administrative Committees

Administrative Policy Committee  
Advisory Panel Selection Committee  
Artificial Reef Committee  
Budget/Personnel Committee  
Data Collection  
Habitat Protection Committee  
Law Enforcement Committee  
Scientific and Statistical Selection Committee  
Southeast Data Assessment and Review (SEDAR) Selection Committee  
Council Coordination Committee  
Outreach and Education Committee

Fishery Management Committees

A separate fishery management committee shall be appointed for each designated fishery management unit.

B. Committee Composition:

Lists of committee members are available from the Council office.

C. Committee Functions:

1. Administrative Policy:

Functions of the Administrative Policy Committee are to address matters regarding revision and amendments to the Council's Statement of Organization, Practices and Procedures (SOPPs), amendments to the Act; establish guidelines regarding Council pay and travel; and preview matters for the purpose of bringing before the Council its recommendations as to the Council's policy on

its operational side. The Committee is concerned with basic policies which allow the Council and staff to operate.

2. Advisory Panel Selection:

The Advisory Panel Selection Committee develops for approval of the Council the organizational structure, membership composition, functions, duties, and responsibilities of advisory panels.

3. Artificial Reef:

The Artificial Reef Committee develops general and site specific guidelines for the Council in reviewing placement of artificial reefs. The Committee reviews such projects and makes recommendations to the Council for comment to federal and state regulatory agencies. Projects are reviewed to minimize adverse effects on trawling fisheries, insure against adverse impacts on adjacent natural fishery habitat, and optimize use of available artificial reef material and sites.

4. Budget/Personnel:

The Budget/Personnel Committee, with the assistance of the Executive Director and Administrative Officer, develops budget and fiscal policy, prepares the Council budget, monitors budget and fiscal activities, and as appropriate, makes recommendations to the Council. With the assistance of the Executive Director, Committee develops personnel policy, reviews and determines staffing requirements, reviews eligible candidates for technical staff positions, and may make recommendations to the Council regarding personnel hiring, retention, separation, pay, benefits, and other appropriate personnel matters.

5. Habitat Protection:

The Habitat Protection Committee (HPC) assures in each fishery management plan that habitat significant to the fishery is adequately defined and that recommendations are included in the plan for changes in habitat policies of responsible agencies. The Committee may make recommendations concerning any activity undertaken, or proposed to be undertaken, by any state or federal agency that may affect the habitat of a fishery resource under its jurisdiction and shall make recommendations concerning any such activity that is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction. The Committee also monitors activities throughout the geographical area of the Council to determine if any such activity has significant impacts on essential fish habitat (EFH) or on a fishery which is subject to management under a plan and recommends comment to the Council when deemed appropriate. [See Council Policy in Section XX.G.]

If time or meeting constraints do not allow the Council to develop a letter of comments on a project, the HPC shall develop comments by meeting or conference call meeting. If time constraints would not allow such a meeting, the Habitat Support Specialist in consultation with the HPC chairman, Council

Chairman, and Executive Director will develop a draft letter of Council comments and provide copies to the HPC and all Council members for review. The final letter that states the committee is acting on behalf of the Council will be signed by the Council Chairman and communicated to the appropriate agency, with copies concurrently provided to Council members, NMFS, and appropriate Habitat AP(s).

6. Data Collection:

The Data Collection Committee reviews and advises the Council on the data requirements for managing each fishery, the statistical methodology needed, and on all issues related to data and data collection.

7. Law Enforcement:

The Law Enforcement Committee reviews, monitors, and makes recommendations on law enforcement requirements of plans and regulations. It also reviews the policy recommendations of the Law Enforcement AP and other law enforcement issues.

8. Scientific and Statistical Selection:

The Scientific and Statistical Selection Committee develops for the approval of the Council the organizational structure, membership composition, functions, duties, and responsibilities of the SSC.

9. SEDAR (Southeast Data Assessment and Review) Selection:

The SEDAR Selection Committee develops for the approval of the Council the membership composition of the various SEDAR panels.

10. Council Coordination Committee:

The Council Coordination Committee consists of the Chairs, Vice Chairs, and Executive Directors of each of the eight regional fishery management councils, other council members, and staff. The Chairs, Vice-Chairs, and Executive Directors shall be voting members. The six NOAA Fisheries Regional Administrators or their designees, other council members, and staff shall be non-voting members. The Council Coordinating Committee shall meet from time to time as appropriate to discuss issues of relevance to all councils. The Council Coordinating Committee may establish such subcommittees as it deems appropriate.

11. Outreach and Education Committee:

To help further the Council communications goal by aiding in the long-term planning of communications projects, which includes outreach and education, and setting the strategic direction, priorities, and focus of the communication efforts undertaken by the Council.

## 12. Fishery Management:

Each fishery management committee provides liaison and reviews results of the appropriate APs between the respective fishery advisory panel (AP), scientific and statistical committee (SSC), stock assessment panel (SAP), socioeconomic panel (SEP), and the Council; assists panels in assigned tasks; monitors work of each panel; and monitors work of the contractors and staff in the development and drafting of fishery management plans. Current management committees of the Council include: Coastal Migratory Pelagics (Mackerel), Coral, Migratory Species (Billfish, Swordfish, Shark, Tuna), Red Drum, Reef Fish, Shrimp, Spiny Lobster/Stone Crab, Marine Reserves Committee, and Sustainable Fisheries/Ecosystem Committee.

## XI. COUNCIL ADVISORY GROUPS OR PANELS:

### A. **Advisory Panels (APs):**

The Council has established APs, which often serve as fishing industry advisory committees, and will form such panels as it deems necessary or appropriate to assist in carrying out assigned functions under the law. An AP shall normally be established for each fishery management unit identified by the Council. For each FMP or amendment under consideration, the APs provide advice concerning the recommended optimum yield (OY), the management measures and allocations under consideration, the supporting documentation to any regulatory action, management objectives, and any other advice the APs deem appropriate or as required by the Council.

The APs shall generally be composed of members who are residents of the five state geographical area. Each AP shall be selected so as to provide for geographical, commercial, recreational, marketing, or other interests in accordance with functions and purposes of the panel with such membership established in a manner that provides fair representation to commercial and recreational fishing interests. Persons are ineligible for membership on an AP if that person has been convicted of a felony offense or is determined to have violated any federal or state marine resource law or regulation within the previous five years. The appointment of persons who through their association as vessel owners or members of a corporation who have been charged with the violation committed by the vessel operator or crew during that period shall be subject to Council approval. For purposes of this policy, such violations are those regulating harvest and reporting. No person may serve on more than two APs, however, service on any Ad Hoc or Special AP as designated by the Council will not be counted in the limitation to two APs. Each AP shall be limited to a membership of 20 persons unless otherwise specified by the Council. Only federal, state, and Sea Grant members of the Law Enforcement AP and the Habitat Protection APs, as designated by the Council, may have designees represent them at meetings.

A chairman and vice chairman for each AP shall be elected by members of the AP or may be designated by the Council at its discretion. The chairman or vice chairman

shall preside at each AP meeting. The Council may designate one or more members to meet with each AP.

Members and officers of the APs shall be appointed by the Council for a period of two years and may be removed or reappointed at the pleasure of the Council. Reappointments shall be made at the Council meeting falling on a date nearest to April 1st. Appointment of new members may be made at any Council session, the terms of such appointments to end on April 1<sup>st</sup> on odd years.

B. **Scientific and Statistical Committees (SSCs)**

The Council has established a Standing SSC and Special SSCs for individual management units to provide expert scientific and technical advice to the Council. The SSC shall review and comment on the scientific adequacy of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The SSC shall provide the Council ongoing scientific advice for fishery management decisions, including recommendations for preventing overfishing, and achieving rebuilding targets, and reviews of reports on stock status and health, by-catch, habitat status, social and economic impacts of management measures and sustainability of fishing practices. The SSC may also recommend priorities for future research needs.

The Standing SSC and one or more Special SSCs may meet as a single body (SSC) to deliberate and advise on appropriate fishery management units. For each managed stock or assemblage of stocks they shall recommend an ABC and overfishing level (OFL) that takes into account scientific uncertainty. The SSC may also comment on the scientific appropriateness and socioeconomic consequences of various alternatives for Accountability Measures (AMs) to be implemented if Annual Catch Limits (ACLs) are exceeded.

Multi-Year Research Priorities

The SSC shall develop multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall: (a) establish priorities for 5-year periods and (b) be updated as necessary. The Council may revise the plan and will submit it to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council.

Review of FMPs, Amendments, and Framework Procedure Actions:

The SSC will advise the Council on the adequacy of scientific information and supporting analyses for proposed management measures and alternatives in FMPs and amendments, including environmental impact statement (EIS) or environmental assessment (EA), regulatory impact review (RIR), and initial regulatory flexibility analysis (IRFA). The SSC will also provide a determination of whether these are based on the best scientific information available, and may provide advice as to the effectiveness of the measures in achieving the objectives of the FMP or amendment.

The emphasis of the SSC will be upon evaluating scientific data and logic on which the management measures are based rather than selecting management measures. They will assess the appropriateness of the problem statements and adequacy of the objectives in solving the problems and may suggest additional or revised problems, objectives, and management measures and may indicate which of the measures are most effective in achieving the objectives.

#### Review of Stock Assessments:

There are two types of stock assessments. The first of these is a benchmark assessment conducted under the SEDAR process described below. The second of these is an assessment update that may be completed by SEFSC or under an abbreviated SEDAR process as described below from the SEDAR Guidelines:

#### Benchmark Assessments

Standard SEDAR assessments are considered benchmarks that are solicited for the most pressing management issues and first time assessments. Stocks assessed prior to SEDAR should be assessed through SEDAR before any updates in the previous assessments are considered. When a stock is assessed through a SEDAR benchmark assessment, all previous decisions, methods, and datasets shall be reconsidered. Benchmark assessments should be repeated for stocks that are important, vulnerable, undergoing overfishing, or overfished stocks at periodic intervals, set by the SEDAR Steering Committee (e.g., every 5 years). The Council specifies terms of reference for each benchmark assessment including, but not limited to: acceptable biological catch (ABC) and status determination criteria for a stock [overfishing level (OFL), maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST)].

#### Assessment Updates

Once an assessment is approved through SEDAR, the basic framework of input data and model configuration may be updated in the future by adding additional years of data. It is intended that the update process should be considerably less time consuming and require less manpower than benchmark assessments. Minor modifications and changes to input data and modeling techniques may also be incorporated in updates, although in all instances a strict update, defined as only including ( or incorporate) additional data into the previous framework, should be prepared.

The general update process is described below.

The SEDAR Steering Committee will approve and schedule requests for assessment updates and determine the entity which will take lead in conducting the assessment update.

The Council shall make appointments to the update workshop panel in accordance with our SEDAR appointment guidelines. The Regional Administrator and Science Center Director shall designate appropriate participants from their staff.

Oversight and review of assessment updates will be provided by the SSC. The SSC shall establish terms of reference for the update assessments and determine acceptable changes and modifications from the benchmark assessment. It is suggested that a representative of the SSC, or other appropriate Council committee chair, serve as chairman of the update workshop and present workshop findings to their Council.

Prior to conducting an update, the SSC shall provide a written report to the Council describing the terms of the update. Following the update, the SSC shall provide a written Consensus Summary and Advisory Report to the Council detailing their review of the update. The Council shall provide copies of these reports to the SEDAR Coordinator for inclusion in the SEDAR Administrative Record. The Consensus Summary and Advisory Report should follow the same format as those prepared by SEDAR review panels.

All documentation standards of SEDAR workshops apply to assessment updates. Working papers, Assessment Reports, and the Consensus Summary and Advisory Report shall be provided to the SEDAR coordinator for inclusion in the Administrative Record and website posting.

These two assessments differ in that the bench-mark assessment is developed in a complete SEDAR process that includes reviews by the members of the Center of Independent Experts (CIE) under the review workshop. SSC members or a subset of members will be asked to attend the data, assessment, and review workshops as observers or participants and provide comments to the Council. The updated assessment does not include the CIE review workshop. The Standing SSC and appropriate Special SSC will provide a review of the benchmark assessment and assessment updates.

#### SEDAR Process and Panel Pool:

The Southeast Fishery Management Councils are utilizing the SEDAR process for development of their bench-mark stock assessments for the major stocks they are managing. SEDAR stands for the Southeast Data, Assessment and Review process being utilized to obtain peer-reviewed stock assessments. This process involves holding the following public workshops: Data where the scientists, fishers and public participate in submitting and evaluating the data that will be used for the stock assessment(s); Assessment where the scientists, fishers and public are involved with completing and evaluating the stock assessment; and Review where independent scientists, and SSC Members evaluate the stock assessment and certify it as best available data. A separate panel is formed for each of these workshops from the membership of the Council SEDAR pool and from NOAA Fisheries personnel. The Review Panel members will include the CIE persons and a member of the SSC or SAP appointed by each participating Council. Other persons may serve as observers and participate in the discussion.

The SEDAR Pool consists of (1) the Council members and designees of the state fishery directors; (2) All the Council's Advisory Panel (AP) members; (3) SSC members, (4) Stock Assessment Panel (SAP) members; (5) Socioeconomic Panel (SEP) members, (6) all state personnel involved in MSFCMA management reauthorization, and (7) members of the NGO AP. All of these groups are exempted

from the Federal Advisory Committee Act (FACA) and can therefore provide scientific advice to NOAA Fisheries without being constituted as an Advisory Committee under FACA. The Council creates separate SEDAR panels for each workshop from persons in the SEDAR pool, with emphasis on persons with population dynamics backgrounds serving on the SAPs.

#### Other Duties:

The SSC will also advise the Council on the adequacy of scientific information and supporting analyses in the stock assessment update, whether these are based on the best scientific information available, related scientific documents, and the content of the stock assessment and SEP reports. This advice from the SSC will be the basis for the Council to set annual catch limits (ACL), and accountability measures (AM) in the stock assessment. The Council may also set annual catch targets below ACL to further account for uncertainty. [Editorial Note: The Council usually sets the management measures through a regulatory amendment under the framework procedures after SSC review of supporting analyses, precluding SSC review of specific management measures before they are submitted to NMFS.] SSCs should address whether the terms of reference (TOR) were met by each SEDAR Workshop and whether the assessment was conducted in accordance with the SEDAR guidelines. The SSC should review and prioritize research and monitoring needs identified in SEDAR reports. SSC or SAP members should be prepared to take on special roles, including facilitating/chairing the review panel and assessment update workshops, and serving as a panel reporter.

The SSC in assessing the adequacy of scientific data and reports should advise the Council on biases and relative reliability of the data or reports that result from sample size, sampling methodology, assumptions or other factors, to the extent this is possible. Such assessments will provide the Council advice on the relative uncertainty associated with basing its decisions on such data reports.

The SSC will advise the Council on other management or policy issues and scientific documents including those referred to the SSC by the Council. The SSC will recommend short-term and long-term research needs in support of improved management through FMPs (including input into SEDAR or other Operations Plans) for Council-managed fisheries. Decisions by the SSC will be by consensus or vote. Dissenting members, on any issue, may provide the Council their position by letter prior to the appropriate Council meeting. Staff will summarize SSC recommendations when time is insufficient for completion of minutes and mail copies of the summary to SSC members for review. The SSC Chairman or his designee will, at the request of the Council Chairman, attend the Council meeting to report on the SSC recommendations and rationale. (The SSC should attend and meet with the Council to the extent practicable)

#### Structure:

Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials, and experience. Each member of the SSC shall be treated as an affected individual for purposes of financial interest

disclosure and recusal provisions for SSC members as specified in the Act. Financial interest disclosures for SSC members will be reviewed annually by the Council prior to appointment, and when updated by an SSC member reporting any substantial changes in financial interest. Financial interest disclosures will be kept on file by the Secretary.

Subject to the availability of appropriations, the Secretary of Commerce will pay a stipend of \$250.00 per meeting day attended to members of the Special and Standing SSC who are not state marine fisheries employees or federal employees. Stipends will be paid to eligible members for attendance at meetings of the SSC, SEDAR, and to give presentations to the Council on behalf of the SSC, as authorized by Council.

The Council may establish a peer review process, utilizing the SSC or other scientific groups, for scientific information used to advise the Council about the conservation and management of the fishery. The review process is deemed to satisfy the guidelines of section 515 of Public Law 106-554. The SSC shall be composed of a standing committee whose members are experts in biological, statistical, economic, social, legal, or other appropriate disciplines and may also include a number of smaller special committees whose members are especially knowledgeable of each specific fishery being or to be managed by the Council. The standing committee and one or more of the special committees shall be periodically convened to provide the Council with expert advice on specific fisheries or on fisheries related management plans or amendments. Requests by the Council for SSC reviews will be addressed to the chairman of the SSC. The standing committee shall consist of 16 persons unless otherwise specified by the Council. The SSC members may not appoint designees to represent them at meetings.

A chairman and vice chairman for the Standing SSC shall be elected by its members or may be designated by the Council at its discretion from the membership of the Standing SSC. The chairman or vice chairman shall preside when the SSC is convened by the Council and will be responsible for summarizing committee consensus when advice is requested through the mail by the Council.

Members and officers of the SSC shall be appointed for a period of two years and may be reappointed at the pleasure of the Council. It is the Council's policy that persons are ineligible for membership on an SSC if that person has been convicted of a felony offense or is determined to have violated any federal or state marine resource law or regulation within the previous five years. For purposes of this policy, such violations are those regulating harvest and reporting information. It is also the Council's policy that a person is ineligible to serve if that person receives personal remuneration directly from any recreational or commercial fishing organization, environmental organization, or similar interest that currently advocates to the Council or its members a position on the management of fishery resources. These policies also apply to the SEP and SAPs below in Section C. For purposes of this policy, personal remuneration received by a person from an institution or agency contracting with or receiving a grant from such an interest is not considered direct remuneration. Reappointments shall be made at the Council meeting falling on a date nearest to April 1st. Appointment of new members may be made at any Council session.

### C. Other Scientific Advisory Groups or Panels

The Council has formed Finfish and Crustacean stock assessment panels (SAPs) to provide a pool of expertise in support of SEDAR benchmark and updates assessments. These panels may also be called upon to review other relevant information and provide recommendations to the SSC or Council, as requested.

The Council has also formed the Socioeconomic Panel (SEP) to provide advice on the social and economic implications of the current regulatory structure and potential management changes for all fisheries under the jurisdiction of the Council. The Council may form additional advisory groups as needed to provide recommendations for management consistent with the Act and other applicable federal laws and regulations. Several major tasks are assigned to the SEP.

First, the SEP reviews economic and social assessments prepared by NMFS for the fisheries, including related materials available in the literature. They also review reports prepared by SEDAR stock assessment and review panels, particularly ABC recommendations and regulatory measures recommended or proposed by these panels. Based on their reviews, they prepare a report to the Council that examines the economic and social implications of various fishing levels including, but not limited to OFL, ABC, ACL, and ACT, and of specific fishing measures necessary to attain or constrain fishing at that level. The SEP report may contain recommendations on a specific ACL for the stock and preferred regulatory measures. In addition, the report may identify economic and social data collection and analyses necessary to improve the assessments.

Second, the SEP reviews plan amendments which propose limited access systems. They prepare a report indicating their preferred structure for limited access system or any part thereof and the economic and social rationale for such choice. The report may contain suggestions on the necessary data and analyses to be incorporated in the plan amendment.

Third, the SEP addresses other economic and social issues referred to them by the Council. These issues are generally associated with a regulatory change the Council is or will consider for any of the fisheries under its jurisdiction.

The reports of the SEP prepared for the Council will be reviewed by the Standing SSC and appropriate Special SSC, who shall report their findings to the Council via their minutes or verbally by the Standing SSC Chairman.

## XII. MEETINGS OF THE COUNCIL, COMMITTEES, AND ADVISORY GROUPS:

### A. General:

The Council will meet at the call of the Council Chairman or upon request of a majority of its voting members. Meetings will ordinarily be held in plenary sessions, but may be in subgroups or in individual sessions. The Council's SSC and APs will meet with the approval of the Council Chairman. All participants are to keep electronic devices on silent or vibrating mode during Council meetings.

The procedural guidelines of Section 302(I) (2) of the Act (as amended) shall apply to the conduct of business at the meetings of the Council, APs, and SSCs.

### B. Meeting Notices:

Timely public notice of each regular and each emergency meeting of the Council, SSC and AP, including time, place, and agenda of the meeting shall be published in the Federal Register, and appropriate news media notice given to local newspapers in the major fishing ports of the Council region (and in other major fishing ports having a direct interest in the affected fishery); and such notice may be given by other means which will result in wide publicity. Notice of each emergency meeting must be promptly announced through the appropriate news media. If notice of an emergency meeting is not published prior to the meeting, it should be published in the Federal Register as soon as possible after the meeting.

#### Frequency and Duration:

The Council will meet in plenary session at least once each quarter. Ordinarily a meeting will be held each two months. The duration of each meeting will vary according to need.

#### Location:

The Council meetings will ordinarily be held within the five-state geographical area. However, if the Council determines that the best interests of the work of the Council, its committees, advisory groups or panels, in joint management actions with other Councils will be better served, meetings may be held outside of the five-state area, particularly in any of the constituent states affected by a joint management plan. Public access will be given primary consideration in meeting plans. The Council Chairman with input from staff will select the meeting sites for the Council with the understanding that members are given adequate advance notice.

### C. Agendas:

A suggested agenda will be prepared for each Council meeting by the Executive Director with the approval of the Council Chairman. Agenda items may be recommended to the Executive Director by other Council members and by staff members. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to

the meeting date, unless such modification is to address an emergency action under Section 305(c), in which case public notice shall be given immediately.

D. **Rules of Procedure:**

1. Decisions by Council:

Meetings will be conducted in a manner to permit the greatest possible participation by all Council members and the public. Interested persons shall be permitted to present oral or written statements regarding matters on the agenda at the meeting. (See Council Policy in Section XX. F.) All written information submitted to a Council at meetings or hearings by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement. Decisions by consensus are permitted except where the issue is Council approval of:

- a. A FMP;
- b. An amendment to a FMP;
- c. A proposed regulation;
- d. A Secretarial FMP or amendment; and
- e. A Council finding that an emergency exists involving any fishery.

Decisions of the Council are by majority vote of the voting members present and voting (except for proposed removal of Council members which requires an affirmative vote by two-thirds of the members). An abstention does not affect the unanimity of a vote.

2. Conduct/Roberts Rules of Order:

Meetings will generally be conducted in accordance with Roberts Rules of Order, Newly Revised unless otherwise specified in the SOPPs.

3. Presiding Officer:

The presiding officer at any Council meeting will be the Council Chairman, Council Vice Chairman, or in their absences, a member of the Council elected by the voting members present to serve as temporary Chairman.

4. Minority Reports:

Voting members of the Council who disagree with the majority on any issue to be submitted to the Secretary, including principal state officials raising federalism issues, may submit a written statement (minority report) of their reasons for dissent. If any Council member elects to file a minority report, it

should be submitted at the same time as that of the majority (See Council Policy in Section XX.D.).

E. **Meeting Minutes:**

Detailed minutes, except for any closed session, will be kept of each meeting. The minutes, records and other documents which were made available to or prepared for or by the Council, a committee, or panel incident to the meeting shall be available for public inspection and copying at the office of the Council, except for minutes and records of closed sessions. Such available minutes and records will be distributed to the public, on request, consistent with the policy in Section XX.B.

Minutes include a record of persons present and their organizational affiliations when available; a complete and accurate description of matters discussed and conclusions reached; and certification of accuracy by the Chairperson of the Council, SSC, or AP as appropriate.

A roll call vote will be held on any motion before the Council at the request of any voting member. Votes for the approval of management plans or plan amendments and other roll call votes are recorded by name of Council member and how they voted. A vote may not be taken until the motion before the Council is recorded in written form visible to each Council member present and the public.

F. **Closed Meetings:**

The Council shall close its meeting, or portion thereof, and the meetings, or portion thereof, of the SSCs or APs which concern matters or information that bears a national security classification and may close such meetings, or portion thereof, that concerns matters, or information pertaining to national security, employment (personnel) matters including appointment of members of scientific or fishery advisory groups, briefings on litigation, the public decorum, or medical condition of members of the Council or members of the advisory groups, taking into consideration the privacy interests of individuals that will be discussed. Actions that affect the public, although based on discussions in closed meetings, must be taken in public. Notice of such closed meeting, or portion thereof, shall be provided for as in Section XII.B., except that any brief closure of a portion of a meeting may be held, with the concurrence of General Counsel, without such notice to discuss employment (personnel) matters or other internal administrative matters. The closed portion of a meeting closed without notice may not exceed 2 hours.

XIII. HEARINGS:

A. **Public Participation/Location:**

Public hearings will be held by the Council so as to provide maximum participation by the public in the development of FMPs, amendments thereto and other aspects of administering the Act. All such hearings will be held in the geographical area of concern which may include the jurisdiction of other Councils if the fish in the fishery concerned migrate or occur in that area, or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding such a

hearing. Interested parties may appear in person and present their views and/or submit them in written form to the Council.

B. Hearing Notices:

Hearing notices will be prepared and issued in the same manner as meeting notices (Section XII.B.). In addition, local media will be used to publicize meetings so as to maximize public awareness.

Council Hearing Officers:

When it is determined by the Council that a hearing is appropriate, the Council will designate at least one member of the Council to officiate, and the Chairman of the Council is delegated authority to appoint substitute hearing officers when necessary. The designated official in charge will provide for maximum participation and expression of viewpoints by all those present. All meetings will be conducted in an orderly, business manner.

Records of Participants/Views:

Records of the participants and their views, whether orally or written, will be made available to the Council and retained as official Council records.

XIV. FISHERY MANAGEMENT PLAN ORGANIZATION AND DEVELOPMENT PROCEDURE:

The development procedures for fishery management plans (FMP) are contained in 50 CFR Part 600, especially subpart D. The Council's fishery management planning, development, and submittal process shall be consistent with these guidelines and other applicable laws. In this effort, the Council utilizes Management Committees for each fishery with these committees having oversight over development of FMPs, the SSC, SEP, SAP, and AP recommendations and public hearings. The Committees make recommendations to the Council as to the provisions of the FMPs based on this oversight responsibility.

XV. PROCEDURE FOR ENSURING CONFIDENTIALITY OF STATISTICS:

Purpose:

In accordance with Section 302(I)(4) of the Act and in compliance with 50 CFR Parts 405, 410, 415, 420, 600.130 and 600.425, the Council may establish policies and procedures applicable to it, its committees, and advisory groups to ensure confidentiality of statistics submitted to the Council by federal or state authorities, and information that may be voluntarily submitted to the Council by private persons, including but not limited to procedures that restrict Council employee access and prevent conflicts of interest. In the case of statistics submitted by a state or federal entity, policies and procedures must be consistent with the laws and regulations of the federal or state entity submitting the statistics.

## Policy:

**Disclosure:** Confidential data received from federal or state agencies will not be disclosed. Release of confidential data in aggregate or summary form requires authorization from that agency. Disclosure of confidential data collected under Council sponsorship shall be in accordance with guidelines established by NOAA Directive governing confidential fishery statistics.

**Access:** All users having access to confidential data shall be informed that the data are confidential and be required to sign a statement of non-disclosure. When there is a potential for, or possible appearance of conflict of interest, access will not be permitted. Council staff specified by the Executive Director as authorized users shall sign a non-disclosure statement to assure no conflict of interest.

**Operational Responsibilities:** The Council Executive Director will serve as the Council's "Data Base Administrator" for purposes of Council-sponsored data collections. The Executive Director will coordinate with NMFS Data Base Administrator as it relates to access to federal confidential data and with designated state officials for state confidential data and shall be responsible for the security of confidential data.

## Procedures:

### Obtaining Confidential Data:

1. **From State or Federal Agencies:** The Council Executive Director, or Council staff members designated as authorized users, may request confidential data from state or federal agencies to carry out Council responsibilities where direct access to confidential data has not been granted.
2. **Council-Sponsored Data Collection:** Data submitted to the Council are voluntary. If a pledge of confidentiality is made to the submitter, these data are to be treated as confidential. The Executive Director is responsible for making the determination as to when a pledge of confidentiality should be made. Submitters will be advised, in all cases, orally or in writing, the purpose for collecting data, uses that may be made of the data, and that submission of the data is voluntary. If a pledge of confidentiality is made, the submitter shall be advised in writing.

If the Council contracts to have data gathered on its behalf, contractors and their employees are subject to the same civil and criminal penalties as any other authorized user. Contractor personnel will be required to sign a statement of non-disclosure. Confidential data collected under contract are to be transferred on a timely basis to authorized Council staff. No copies of these data can be retained by the contractor.

With the Council Executive Director's approval, aggregated data approved for release may be retained. A data return clause shall be included in the contract.

## Conflict of Interest:

Authorized users are prohibited from using confidential data for personal gain, reward, or competitive advantage. If a potential conflict of interest or the appearance of a conflict of

interest exists, the Executive Director will refer the matter to the NOAA Office of General Counsel, Southeast Region, for determination.

Maintenance:

Security: An inventory will be maintained of all confidential data received from state or federal agencies or collected by Council. The inventory will include a record of distribution and final disposition of each data set. Confidential data will be maintained in a secure and unaltered fashion whether hard copy or electronic.

Access:

1. Access Control: Access to confidential data received from state or federal agencies shall be approved by a designated agency official. Access to confidential data collected under Council sponsorship shall be approved by the Executive Director in accordance with Council policies and procedures.
2. Users: Access will be limited to authorized users. Council authorized users are the Executive Director and Council staff as specified by the Executive Director.
3. Reproduction: Reproduction of any confidential data must be approved by the Executive Director and entered into the data inventory.
4. Contractors: Council contractors may be authorized access to confidential data collected under Council sponsorship with the approval of the Executive Director. Requests for access by a contractor to confidential data submitted to the Council by a state or federal agency shall be submitted to the designated agency official for approval. When access is granted, NOAA Directive 88-30 will be followed. Documentation of that approval must be entered into the data inventory.
5. Statement of Non-Disclosure: Each user who handles the data is required to sign a statement which states they understand the confidential nature of the data and the penalties for unauthorized use and disclosure. The statements shall be kept on file by the Executive Director.

Release of Confidential Data:

1. Release of Confidential Data (Public Requests): Verbal requests will be refused. Written requests are to be treated as FOIA requests and will be forwarded to NMFS for decision.
2. Requests from Congress and Federal and State Agencies: Requests shall be submitted to NMFS.
3. Subpoenas for Data: Subpoenas should be submitted immediately to NOAA Office of General Counsel, Southeast Region.
4. Requests for Release of Aggregate Data: Requests for aggregate data compiled from confidential data shall be approved by the NMFS Data Base Administrator or other

appropriate official for the submitting agency or by the Executive Director for Council-sponsored data collections.

Definitions (For purposes of these procedures):

**Aggregate or Summary Form:** Confidential data or information that is restructured in such a way that the submitter of the data cannot be identified, either from the present release of the restructured data being processed or in combination with preceding or other releases.

**Authorized Use:** Specific use that is allowable within the constraints imposed on a Council by federal or state statutes, regulations, and directives or by Council policies and procedures or commitments made by the Council or Council staff to submitters under data collections sponsored by the Council.

**Authorized User:** A Council staff member or contractor specified by the Council Executive Director as having a need to use confidential data, who has met other requirements specified in these procedures, is cognizant of these procedures, has agreed to comply with the requirements herein, and has signed a "statement of non-disclosure" affirming the user's understanding of Council policies and procedures with respect to confidentiality of statistics, including obligations to comply with federal and state confidentiality laws, regulations, and procedures. Contractors specified to have need to access state or federal confidential data must obtain that data directly from the federal or state entity and must comply with the federal, state, and Council laws, policies, regulations, and procedures.

**Confidential:** Information, the disclosure of which may be prejudicial or harmful, including data received from state or federal agencies labeled confidential and Council-sponsored data collections where confidentiality was pledged to the submitter.

**Conflict of Interest:** Access to confidential data that will or has the potential to provide personal gain, reward, or competitive advantage.

**Data, Information, and Statistics:** Used interchangeably; all three may be confidential.

**Data Base Administrator:** For Council-sponsored data gathering, the Executive Director will serve as data base administrator. For NMFS or state data, the person designated by the agency is responsible for releasing confidential data.

**Need to Know:** Means that the person requesting the data intends to put it to a use that is consistent with the use for which it was collected.

Authorized users are required to sign a Statement of Non-Disclosure. Refer to NOAA Administrative Order 216-100 on Protection of Confidential Fisheries Statistics for additional information.

XVI. **FINANCIAL MANAGEMENT, BUDGET, PROCUREMENT, AND PROPERTY MANAGEMENT PROCEDURES:**

A. Budget, Funding, and Accounting:

The budget and financial management system of the Gulf of Mexico Fishery Management Council provides procedures for and controls over the elements of: budget formulation and execution, fiscal management, procurement, and property management. The management of this system is the responsibility of the Administrative Officer. The following describe the existing Budget and Financial Management System.

The Council's cooperative agreement activities are governed by 15 CFR Part 14 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), OMB Circular A-122 (Cost Principles for Non-Profit Organizations), OMB Circular A-133 (Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations), and the terms and conditions of the cooperative agreement.

1. Budget Formulation and Execution:

a. Accumulation of Budget Data:

Budget data shall be accumulated at various levels according to the breakdown in the chart of accounts, as well as by various accounting periods, to provide current and projected fund usage guidelines as needed.

b. Budget Comparisons:

Procedures will be implemented to make comparisons of actual obligations with budgeted amounts.

c. Relation to Performance/Cost:

Whenever appropriate or required, budgeted fiscal information will be related to performance and unit cost data.

d. Budget Preparation:

Budgets and work plans will be prepared in response to the budget call each year or as required during the year. Justifications will be prepared to support any requests made at this time for increased funds.

e. Budget Amendments:

Amendments to budgetary proposals will be made when necessary.

2. Fiscal Management:

The financial management system will be maintained to conform with requirements of the Department of Commerce (DOC) pursuant to the Act, 15 CFR Part 14, OMB Circular A-122, and OMB Circular A-133, Treasury Department Internal Revenue Service (IRS) regulations, and applicable local requirements (state, municipal, etc.). The Council fiscal year shall be that specified by the federal cooperative agreement.

a. Banking:

A bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage will be used as the depository for all Council funds advanced under grants and other agreements. Requests for funds from the Treasury through the Automated Standard Application for Payments (ASAP) system will be made via electronic fund transfer from Treasury's Automated Clearing House (ACH) vendor payment system. The Council shall initiate each request at approximately the same time that checks are issued by the Council in payment of Council liabilities.

b. Adherence to Accounting System:

Adherence will be made, as a minimum, to the principles in the accounting system accepted by the Council (a Cash Receipts and Disbursement Journal with a monthly Summary of Accounts).

c. Cash Accounting/Accrual System:

Fiscal controls will be accomplished through a source document supported cash accounting system capable of providing modified accrued expenditures as needed.

d. Records Maintenance:

Records maintained will provide accurate, current, and complete disclosure of awards, authorizations, income, obligations, unobligated balances, outlays, and assets. Effective control will be maintained over all funds, property and other assets to assure their use solely for authorized purposes.

e. Checkbook/Source Documents:

An accurate checkbook and files of source documents will be maintained to provide a necessary audit trail.

f. Check Signatures:

All checks issued will bear two authorizing signatures, these signatures being two of either: the Administrative Officer, the Executive Director or the Senior Fishery Biologist (Deputy Executive Director). All checks for amounts greater than \$2,000 must be manually signed.

g. Approval Authority:

Approval authority for expenditures rests with the Executive Director, unless otherwise specified in the SOPPs, and may be delegated by the Executive Director to the Administrative Officer.

h. Financial Records:

Financial records, supporting documents, statistical records, and all other records pertinent to an agreement shall be retained for a period of three years and/or until they are either audited or approved for disposal under the authorities of the General Accounting Office (GAO), General Services Administration (GSA), or the DOC.

i. Purchase Orders:

A sequential numbering system will be used for the issuance of purchase orders. These documents will be maintained in a suspense file until service or merchandise is received and payment is made. Upon full liquidation of the obligation, purchase orders will be transferred to a completed documents file. Approval of purchase orders will be made by the Executive Director with delegated authority for approval to the Administrative Officer.

j. Travel Authorizations:

Travel authorizations will be issued prior to the performance of travel. These will be numbered sequentially and maintained in a file pending payment of the travel vouchers. Travel is approved by the Council or the Council Chairman. Travel authorization documents are issued by the Executive Director with delegated authority for approval to the Administrative Officer.

k. Travel Vouchers/Travel Policies/Special/Routine Travel:

Completed travel vouchers will be audited for conformance to current policies and compliance with existing travel allowances. Vouchers will be certified for payment by the Administrative Officer or the Executive Director. Travel policies are specified in Section 3.

l. Financial Statements:

Financial statements and reports shall be prepared as requested by the Council with at least one report submitted monthly, stating income and expenses. Other reports will be prepared as necessary to meet the requirements of other entities.

m. Payroll Procedures:

Payroll procedures will be established to assure prompt issuance of salary checks/deposits and to provide accurate and timely payroll information to

employees and to federal, state, and local governments, as required. This will be accomplished by implementing the following:

Records of payroll compensation will be maintained in the following categories: Council Members, administrative staff, and independent contractors.

Pay records will indicate the number of hours worked, total earnings, deductions, and net pay. Pay periods will be biweekly and pay records will be summarized each pay period.

Compensation checks will be issued from the Council office. They will be issued at the close of each pay period promptly to the members of the Administrative Staff and promptly to Council members and independent contractors as valid salary-related data are received. A summary statement will be supplied with each salary check/deposit showing the hours and value of regular pay and premium pay earned, amounts for each of the deductions from gross pay, and the net pay. This information, to the extent possible, will be in a display of both biweekly and cumulative amounts.

Determination of the amount of payment of a Council member's salary is based upon the travel time provided in the Travel Expense Report. It is essential that accurate hours and dates of departure and return be reported and that explanations accompany the Travel Expense Report to describe any time shown which is not compensable for personal or other reasons. The Council must submit to the Regional Office annually a report of Council member compensation authorized. This report shall identify, for each member, amount paid, dates, and location and purpose of meetings attended.

n. Cash Receipts/Disbursements:

Cash receipts and cash disbursements will be documented and kept current in a Cash Receipts and Disbursements Journal. Detailed transactions of income and expense and payroll summaries will be posted to these records.

- (1) When advances are made through the ASAP system, the level of cash on hand will be monitored to make the request for funds as close as possible to the time of making disbursements;
- (2) Detailed entries in the Journals will be summarized monthly by accounts as appearing in the Council's chart of accounts. This summary will provide basic data for internal and external financial reporting;
- (3) An imprest fund will be maintained for small over-the-counter purchases up to \$75.00; and
- (4) Cash, currency, checks on hand, checkbooks, and other equally significant fiscal records and materials will be retained in a metal cash fireproof security container.

3. **Travel:**

a. General:

Persons authorized to perform travel for the Council are expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Travel expenses for which reimbursement will be made will be confined to those expenses essential to the transacting of the official business. The per diem and actual subsistence rates established by GSA apply.

b. Authorization:

All travel must be authorized and approved in advance. Exceptions for unscheduled meetings may be approved by the Council. The signed travel authorization form should accompany the claim for reimbursement before payment is made.

Points of travel are indicated in the travel authorization, and deviations from these points of travel, when necessary, must have approval for payment. When a person for his own convenience interrupts the official route of travel by an indirect route, the extra expense shall be borne by the traveler.

c. Travel Advance Policy:

Eligibility

Any person that has received a travel authorization from the Council to attend a scheduled meeting may receive a travel advance, including but not limited to members of the SSCs, APs, and SEP.

Conditions

As a condition of receiving a travel advance, each authorized traveler must provide a written request for such advance accompanied by a signed statement promising to repay any outstanding balance within 30 days of the completion of the meeting, conference, etc. for which the travel advance was issued.

Issuance

The amount of any travel advance shall not exceed the allowable expenses for transportation (air, railroad, bus, and POV), hotel accommodations, meals, and incidental expenses as indicated on the Travel Authorization and for the travel period noted. Documentation of requested advances may be requested by the Executive Directors or Administrative Officer prior to issuance of a travel advance.

## Refund of Travel Advances

If an authorized traveler that receives a travel advance for attendance at a meeting, conference, etc. that is cancelled or the traveler is unable to attend such meeting or for any other reason the advance is not used, the full amount of the travel advance shall be repaid to the Council within 30 days of the scheduled end of such meeting. If an employee receives a travel advance and fails to repay any outstanding balance within 30 days or terminates his/her employment with the Council at any time with an outstanding travel advance, the amount owed to the Council will be deducted from the employee's subsequent or final pay.

d. **Foreign Travel:**

With the exception of travel across the U.S. border to Canada, all foreign travel must be approved in advance by the NMFS. The Council shall comply with the Fly America Act.

e. Means of Travel:

Travel on official business shall be by the method of transportation which will result in the greatest advantage to the Council, cost and other factors considered. Travel may be performed by common carrier (air, bus, etc.), privately owned vehicle, or other means. First class fares are prohibited unless fares less than first class are not reasonably available to meet necessary mission requirements, which must be so stated.

When a traveler finds he will not use accommodations that have been reserved for him, he shall release them within the time limits specified by the carriers. Failure of travelers to take such action may subject them to liability for any resulting losses.

Penalty payments made by air carriers under certain provisions of their tariffs for failing to furnish accommodations for confirmed reserved space are due the Council and not the traveler when they result from travel on official business.

f. Privately Owned Vehicles:

Use of a privately owned vehicle must be justified by comparison with use of common carrier, with considerations being given to total distance of travel, number of points visited, and the number of travelers. When a privately owned vehicle is used as a matter of personal preference and such use is not determined to be advantageous to the Council, reimbursement will be limited to the lesser of amounts as determined by cost comparison.

Reimbursement may be made for taxicab fares plus tip, from the traveler's home to his office on the day he departs from his office on an official trip requiring at least one night's lodging; and from his office to his home on the

day he returns to his office from the trip, in addition to taxi fares for travel between office and carrier terminal.

When two or more persons travel together in a rented or privately owned vehicle, that fact, together with the name of each traveler, should be stated by each traveler on his travel voucher.

The fee for parking an automobile at a common air carrier terminal or other parking area while the traveler is away from his official duty station shall be allowed.

g. Mileage:

When a privately owned vehicle is used in lieu of common carrier, or instead of taxi or limousine, mileage will be paid at the allowable rate then in effect. Distances between points traveled shall be as shown in the highway mileage guides (HMG) or as indicated in reasonable odometer readings submitted in the Travel Expense Report for reimbursement. Variances in mileage claimed compared to the HMG shall be allowed as follows:

<u>Mileage</u>	<u>Percentage Variance</u>
Up to 25	50%
Above 25 to 50	40%
Above 50 to 100	30%
Above 100 to 200	20%
200 and above	10%

h. Limousines, Taxis:

Reimbursement shall be allowed for usual taxicab fares incurred for the conduct of business; however, available courtesy transportation furnished by hotels/ motels should be used to the maximum extent possible as a first source of transportation. Tipping is reimbursable up to 15 percent rounded to nearest 1/4 of a dollar. A receipt is necessary for fares in excess of \$75.

i. Rental Cars:

The use of rental cars is costly and, therefore, discouraged. Reimbursement will be made for use of rental cars when circumstances justify the need which must be clearly stated on the travel expense form. The Council will not reimburse the costs for collision damage waiver or collision damage insurance available in commercial rental contracts for an extra fee, except when foreign travel is involved. Arrangements for such insurance coverage for rental cars must be made in advance through the Council office under the federal car rental contracts. The cost of personal accident insurance is not reimbursable.

j. Lodging and Meals:

The AP, SSC, and Council members are not bound by the separate per diem limits for meals and lodging as set forth in the GSA Travel Regulations. They are subject, however, to the total reimbursement limits established by the NOAA Travel Handbook for actual expenses, and they must itemize their actual expenses up to the specified limit each day. Council staff and other travelers must adhere to the per diem limits or may be reimbursed for actual expenses.

Reimbursement for lodging expenses will be made upon presentation of proper paid lodging receipts, and when they are in amounts that are within authorized allowances. Temporary receipts, sometimes issued at the time of hotel registration, or credit card payment slips are not valid lodging receipts.

Travel Expense Reports submitted for actual subsistence reimbursement must show the cost of individual meals; however, receipts are not required. Meal costs claimed must be for the traveler alone and cannot include costs of alcoholic beverages.

Lodging and meal costs will be reimbursable in amounts as generally allowable in the GSA Travel Regulations or as authorized by the Council or Council Chairman under GSA reimbursement limits.

k. Tips and Gratuities:

Tips to porters, baggage handlers, and bellboys shall be reasonable. Gratuities or tips to waiters, dining room stewards, taxi drivers, and others providing necessary services to the traveler will be limited to 15 percent of the basic charge.

l. Miscellaneous Costs:

Incidental travel costs submitted for reimbursement (telephone, supplies, services, etc.) should have adequate explanation of the nature and purpose of the expense and show that the cost is reasonable and related to the conduct of official business.

m. Receipts:

While receipts are not required for all items of travel expense claimed under \$75.00, receipts are necessary for the following:

- Airfare or fares of other common carriers (bus, train, etc.)
- Registration fees
- Shipments, freight or express
- Excess baggage
- Lodging
- Baggage or property storage
- Car rentals and associated expenses

Equipment rentals  
Parking

n. Disallowances:

A disallowance to the claim submitted may occur at the time the travel expenses are processed for payment. This may result because of the lack of a necessary receipt, a discrepancy appearing in a cost comparison made of expenses submitted, an error made in the computation of costs shown on the Travel Expense Report, an insufficient description of a questionable item in the claim, etc. Amounts disallowed may be reconsidered for payment upon presentation of the necessary receipt, after providing the requested additional information, or after taking whatever other corrective measures are necessary.

o. Certification:

All claims submitted by travelers for reimbursement of travel expenses must contain certification by the traveler that expenses claimed are valid official costs and do not include personal expenses. The certification must also assure that the period of travel shown is accurate and that costs claimed will not be presented for reimbursement elsewhere, which would result in dual reimbursement.

Because the payment of salaries to Council members is usually based upon the travel time indicated in the Travel Expense Report, it is essential that the actual hours and dates of departure and return be reported. Travel time that is not for the conduct of official business must be identified and briefly explained so that proper payment can be made.

p. Other:

The traveler should include additional explanations on the Travel Expense Report when it is felt that any portion of the claim might appear improper or excessive to the voucher auditor.

Council members and other authorized travelers, while in a travel status, may select lodging accommodations of their choice, but may be reimbursed only for the actual amount of the lodging costs and up to the maximum amount for lodging determined by the Council or the Council Chairman. When the election is made to occupy lodging at a location other than the one selected by the Council, commuting costs between the meeting location and the separate place of lodging will not be allowed. Unusual circumstances which would prohibit use of previously assigned meeting hotel accommodations and which would result in higher lodging costs may be approved for payment in the higher amount but only on a case-by-case basis.

For meetings that travel is approved by the Council Chairman for the purpose of delivering a scheduled presentation on behalf of the Council, time

in attendance shall be limited to that portion of the program judged to be beneficial to the Council through the traveler's participation.

q. Approval:

Travel performed by Council members and staff for the Council is classified into special travel requiring Council approval and routine travel approved by the Council Chairman.

r. Special Travel (Approved by Council in advance - applicable to all travelers):

General attendance at:

Fishery association meetings  
Symposiums  
Gulf States Marine Fisheries Commission meetings  
Workshops  
Scientific meetings  
Colloquiums  
Governmental hearings/meetings  
Meetings of other councils  
International meetings  
Other activities deemed of importance to Council

s. Routine Travel (Approved by Council Chairman after the Chairman has ascertained that the travel is in the interest of the Council):

Council Member and Staff travel to:

Council meetings  
SSC meetings  
AP meetings  
Management committee meetings  
International negotiations  
Consultations with NMFS/NOAA  
Policy discussions with the DOC  
Environmental assessments  
Approved presentations at Congressional/legislative hearings  
Consultations with state officials  
Consultations with federal officials  
Scheduled inter-council meetings  
Present scheduled presentations to groups (I&E, status reports, etc.)  
Public hearings  
Approved liaison functions  
Boarding of foreign vessels

Staff travel to:

Scientific meetings (MexUS-Gulf, Sea Grant, etc.)

TCC to Gulf States Marine Fisheries Commission  
Contract monitoring  
Special technical schools

SSC travel to:

SSC meetings  
Council meetings  
AP meetings  
Management committee meetings  
Special consulting trips

AP travel to:

AP meetings  
Council meetings  
SSC meetings  
Management committee meetings

Consultant travel to:

Task force meetings  
Consultations with NMFS  
SSC meetings  
AP meetings  
Management committee meetings  
Council meetings  
Consultations with study groups

B. Cooperative Agreements:

The Council may enter into cooperative agreements with federal agencies, state, and private institutions on matters of mutual interest which further the objectives of the Act. Approval from the Secretary must be obtained prior to entering into such arrangements, and each agreement must specify the nature and extent of Council participation.

C. Procurement:

The cost and financial management principles outlined in OMB Circular A-122 apply to all Council procurement actions.

D. Property Management:

All durable or capitalized equipment will be accounted for by an inventory system.

1. Property Numbers:

A property number will be assigned to all capitalized equipment and property inventory records maintained on all such equipment.

2. Physical Inventory:

A physical inventory of all property and equipment will be made at least once every two years.

3. Leasing/Renting/Acquisition:

A listing of federally owned property will be submitted annually to the Grants Officer in the NOAA Grants Management Division. Theft of Council property will be reported promptly to local law enforcement personnel, the Grants Officer, and to the Regional Office. Sensitive items such as cameras and biological equipment will be locked in cabinets.

4. Capital Equipment Requests:

Procedures for disposal of surplus property:

- a. Property which is determined to be surplus to the Council needs may be transferred, traded, sold, or discarded;
- b. Items may be transferred to another Council, federal, state, or local agency;
- c. Items may be traded for needed supplies, equipment, or for other considerations with another Council, federal, state, or local agency;
- d. Items may be sold to another Council, federal, state, or local agency, or commercial vendor at a fair market value; and
- e. Any item that is no longer functional and, is economically irreparable, may be discarded in any appropriate manner.

5. Authorized Users:

All Council personnel are authorized to have access to Council property, except for files and information maintained under confidentiality.

E. Audits:

An independent audit will be conducted at least biennially by DOC Office of Inspector General auditors or an independent public accountant (IPA). The scope of the audit may include: conduct of financial operations; compliance with applicable laws and regulations; economy and efficiency of administrative procedures; and achievement of results. The audit will be conducted in accordance with OMB Circular A-133. The following NOAA personnel will be invited to participate in the

audit exit conference: the Grants Officer and a representative of the NMFS, Southeast Regional Office (SERO).

F. Financial Reports to NOAA:

The Report of Federal Cash Transactions (Form SF-272) and the Financial Status Report (Form SF-269) will be submitted to the Grants Officer in accordance with the reporting procedures contained in the terms and conditions of the award and OMB Circular A-110. A final report will be submitted within 90 days after completion of the grant.

XVII. **RECORD KEEPING:**

Councils and NMFS Headquarters, Regions and Science Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments within their geographic area of authority. The disposition of such records must be handled in accordance with NOAA records management office procedures. In the event of litigation, compilation of an administrative record for a court case will be under the direction of NOAA General Counsel.

XVIII. **FREEDOM OF INFORMATION ACT (FOIA)**

Such requests shall be immediately forwarded to the NMFS FOIA official who will advise the Council on responding to the request.

XIX. REASONABLE ACCOMMODATIONS FOR DISABILITIES

Requests for disability-related accommodations should be processed in accordance with DAO 215-10.

## APPENDIX A

### GENERAL COUNCIL POLICIES

The Council may adopt general policies with regard to activities, programs, or other influences on the Council's responsibilities as it deems appropriate and which are consistent with the Act and other applicable federal laws and regulations.

#### A. Erroneous News Releases:

News items containing erroneous information on the Council's plan preparation, FMPs, and Council records will be distributed immediately to the appropriate management committee by the staff. The committee chairman will poll the membership to determine if a Council response is warranted. If a majority of the committee concurs, the committee chairman will notify the Executive Director to have staff prepare a draft response. This response will be reviewed by the Council Chairman and Executive Director who must concur that the response is appropriate. If they fail to concur, the draft response shall be referred to the Council.

Responses shall be a factual analysis of the erroneous information in the news items and shall be based on information contained in the FMP or other Council records, if possible. Responses shall not address criticism of the Council, its members, or staff.

#### B. Providing Material to Public:

The public shall be supplied documents and material prepared for public distribution at no cost on a first-come, first-served basis as long as supplies last. The public shall be supplied other Council documents and material for which copies are available on the same basis at no cost. For material requested by the public for which extra copies are not available and for which search and duplication time is required, the cost of satisfying the request shall be evaluated based on current federal regulations. If the estimated cost is approximately \$10 or less, the material shall be distributed at no charge. If the estimated cost is in excess of \$10, a fee for search and duplication will be charged.

#### C. Cassette Tape Files:

Cassette tapes in the Council's files of minutes of the meetings of the various committees may be discarded after approval of summary minutes and under the following retention schedule:

One year retention:

AP Selection  
Law Enforcement Committee  
Habitat Protection Committee  
SSC Selection Committee  
Ad Hoc Committees  
Other administrative committees as established

The later of either three-years retention or audit of grants/agreements:

Budget/Personnel Committee  
Administrative Policy

All other recordings of minutes will be retained indefinitely and periodically be transferred to NOAA for storage.

D. Policy on Minority Reports:

Recognizing that under Section 302 (e)(4) of the Act, any voting member has the right to submit to the Secretary, at any time, either individually or collectively, their position on any matter transmitted to the Secretary by the Council. The Council has approved the following policy in regard to minority positions (reports) on FMPs or amendments submitted to the Secretary for implementation. If voting members are to utilize staff assistance in preparation of a minority position on a FMP or amendment, they must declare their intent to do so at the time the majority approves the FMP or amendment. The Council Chairman will ask for a statement of such intent immediately following the roll call vote on the plan or amendment. If such members request staff assistance, where possible the Council Chairman shall provide time during the course of that meeting for minority members to meet with staff to outline, verbally or in writing, the minority position and discuss (and record) supporting rationale. During the period the FMP or amendment is being completed, staff will provide technical assistance on preparation of the minority position and submit it to the members for editorial suggestions, all of which shall be included and resubmitted to the members. In cases of dispute over the language of the minority position, it is incumbent on the members, not staff, to resolve the issue. The minority report will be submitted to NMFS with the FMP or amendment, or if delays in approval occur, as soon as possible thereafter.

E. Policy on Preparation of Verbatim Minutes:

The Council, by motion, may instruct staff to prepare verbatim minutes of any session or portion thereof that is not transcribed by a court reporter. Such verbatim transcript will thereby become the first priority of minutes to be completed by staff, unless otherwise directed by the Council. Any member of the Council may request such verbatim minutes, but as an individual request initiation and completion of the minutes will be assigned a priority that follows completion of all summary minutes needed by the next Council meeting, unless otherwise directed by the Council Chairman.

F. Policy on Public Testimony:

All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral, written, or email statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

Public testimony must be allowed:

1. At Council meetings on all agenda items before the Council for final action; and
2. At AP and SSC meetings on all agenda items.

If the agenda does not schedule a time for public testimony, the Council Chairman or presiding officer shall schedule testimony at an appropriate time during the meeting that is consistent with the orderly conduct of business.

Public testimony is optional at the discretion of the Chairman:

1. At meetings of the Council's standing committees, stock assessment groups, or other working groups;
2. At Council meetings for agenda items on which no final action is being taken, and testimony may be deferred to future public hearings and to the Council meeting at which final action will be taken; and
3. Council, AP, and SSC meetings for non-agenda items, on which testimony may be deferred to the meeting time scheduled for other business, or to a future Council meeting, at the discretion of the Chairman or presiding officer of the Council, AP, or SSC.

#### 4. Open Public Comment

Open public comment sessions shall be scheduled during regular Council meetings and shall be properly noticed. Comments on fishery issues or concerns not appearing on the agenda will be heard at this time. The time allocated for comments may be limited consistent with the number of persons present or in consideration of other relevant factors. Open public comment sessions may also be scheduled during public hearings and scoping meetings at the discretion of the Chairman, and if time permits.

Limitations on testimony:

Where constrained by available time, the Chairman or presiding officer of the Council, AP, or SSC may limit public testimony in a reasonable manner by:

1. Requesting that parties testifying avoid duplicating prior testimony;
2. Requiring parties with similar concerns to select a spokesman; and/or
3. Setting a reasonable time limit for each party's testimony.

#### G. Habitat Policy and Procedures:

1. Policy:

Because all species are dependent on the quantity and quality of their essential habitats, it is the policy of the Gulf of Mexico Fishery Management Council (Council) to:

Protect, restore, create, and otherwise improve Essential Fish Habitats (EFH) upon which commercial and recreational marine fisheries depend and to improve their productive capacity for the benefit of present and future generations. (For purposes of this policy, and consistent with the Act and implementing regulations, EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of EFH: (1) >waters' include aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and may include aquatic areas historically used by fish where appropriate; (2) substrate includes sediment, hardbottom, structures underlying the waters, and associated biological communities; (3) >necessary' means the habitat required to support a sustainable fishery and the managed species' contributions to a healthy ecosystem; and (4) >spawning, breeding, feeding, or growth to maturity covers a species' full life cycle.)

This policy shall be supported by three policy objectives which are to:

- a. Maintain the diversity and productive capacity of habitats in a quantity needed to sustain managed fisheries and their food base.
- b. Restore and rehabilitate the productive capacity of habitats that have already been degraded.
- c. Create productive habitats where increased fishery productivity will benefit society.

Consistent with the intent of the Act, the Council shall assume an aggressive role in the protection and enhancement of habitats important to managed species and their food base. It shall actively enter federal and state decision-making processes where proposed actions may otherwise compromise the productivity of fishery resources of concern to the Council.

## 2. Council Habitat Responsibilities:

- a. Council committee structure and roles

### Habitat Protection Committee

The Habitat Protection Committee (HPC) is an established committee of the Council and is comprised of Council members. The HPC monitors activities within the Council's jurisdictional area to determine both the negative and positive impacts of activities to EFH or managed fisheries and recommends appropriate actions or responses for consideration by the Council. The HPC is supported by three Habitat Protection Advisory Panels (HPAP).

## (2) Habitat Protection Advisory Panels

The Council has established three HPAPs with broad-based participation from representative constituencies within each of the major geographic areas of the Gulf region. The advisory panels serve the following geographical areas: (1) Florida/Alabama, (2) Mississippi/Louisiana, and, (3) Texas.

The principal role of the HPAPs is to assist the Council, through the HPC in implementing the EFH mandates of the Act, in attempting to maintain and increase optimum conditions within the habitats and ecosystems supporting the marine fishery resources of the Gulf of Mexico. Under this charge, the HPAPs assist the Council in:

- (a) Identifying activities which may adversely or positively affect EFH (from the freshwater tidal boundary to the seaward boundary of the Exclusive Economic Zone), especially Habitat Areas of Particular Concern;
- (b) Assessing the potential impacts to EFH and associated species (direct and indirect) and actions required to ameliorate negative impacts or realize positive impacts;
- (c) Generating public awareness of EFH and fish habitats and impacts upon them;
- (d) Identifying and recommending mitigation, restoration, and habitat creation opportunities; and,
- (e) Encouraging more active and stronger habitat protection, restoration, and conservation activities.

The HPAPs serve as a first alert system for the HPC and Council to inform them of proposed development projects and other activities that may adversely impact or substantially benefit managed Gulf species and EFH. For those proposed activities for which the potential impacts meet the Council's criteria for taking action, a HPAP, or elements thereof, may be convened to advise the Council on impacts, propose courses of action, and identify mitigation, restoration, and habitat creation opportunities. The HPAPs also review policy issues on environmental protection and provide guidance to the Council. The HPAPs, at the call of the Council Chairman, periodically provide advice to the Council on its policies and procedures for addressing its EFH responsibilities and other environmental affairs through the HPC.

## 3. EFH Review:

The Council submitted to the National Marine Fisheries Service (NMFS) a generic EFH Amendment for all of the Council fishery management plans (FMP) that describes and identifies EFH for the fisheries under the Council's jurisdiction,

identifies threats to EFH and dependent fisheries, and discusses potential management measures to avoid and minimize adverse impacts to EFH. The EFH Amendment was based on guidelines promulgated by the Secretary of Commerce as an Interim Final Rule under 50 CFR part 600, subpart J. The EFH Amendment identified EFH and measures to minimize to the extent practicable adverse effects on EFH caused by fishing and other actions to encourage the conservation and enhancement of EFH. The EFH Amendment was partially approved by the Secretary of Commerce on February 8, 1999.

As specified in the Act and as a result of the partial approval of the EFH Amendment, a new standard for review of coastal development activities has been placed on the Council. The Act specifies that:

The Council may comment on and make recommendations to the Secretary and any federal or state agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any federal or state agency that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority.

In addition, all Council-prepared FMPs and amendments and modifications thereto shall include a description and identification of impacts to EFH from fishing activities or other proposed fishery management actions. These documents shall identify measures to minimize adverse effects to the extent practicable and increase opportunities to restore EFH.

4. Guidelines for Assessing Proposed Activities:

The following factors will be considered by the HPC in making an assessment of the proposed activities:

- a. The extent to which the activity, individually and cumulatively, would directly affect EFH identified in the Council's Generic EFH Amendment;
- b. The extent to which precedent would be set in relation to existing or potential cumulative impacts of similar or other developments in the project area;
- c. The degree to which the activity would indirectly affect the production of fishery resources by altering the physical environment that determines their distribution, affects their essential food base, or otherwise alters their EFH;
- d. The extent of any adverse impact that can be avoided through project modification or other safeguards;
- e. The existence of alternative sites available to reduce unavoidable project impacts;
- f. The extent to which the activity requires a water-dependent location if dredging or filling wetlands is involved; and,

- g. The project's or activity's conformance with mitigation guidelines as defined in the 1990 Memorandum of Agreement Between the Environmental Protection Agency and the Department of the Army concerning the determination of mitigation that is consistent with mitigation policies established under the Council on Environmentally Quality Implementing Regulations (40 CFR Part 1508.20), and the Section 404(b)(1) Guidelines (40 CFR Part 230) that indicate that compensatory mitigation may only be authorized for purposes of complying with Section 10/404 when adverse impacts are unavoidable.

5. Criteria to Define Significant Projects:

The HPC shall consider the following criteria in selecting significant projects for review and action:

- a. Those projects that have a significant direct adverse impact on EFH and the ecological processes that sustain EFH or fisheries for which FMPs have been or are being developed by the Council;
- b. Development activities having a direct or indirect adverse impact on any Habitat Area of Particular Concern;
- c. Projects having a significant, adverse, non-direct impact on these fisheries or their EFH;
- d. Projects that may be precedent setting;
- e. Projects for which individual impacts may be minor but which contribute to a cumulatively significant loss or degradation of EFH or the productive capacity of fisheries managed by the Council; and,
- f. Projects that offer significant opportunities to restore or create EFH.

6. Habitat Procedures:

a. Project Review and Coordination

To ensure ample and appropriate opportunity for the Council to influence the decision making process of federal agencies for the conservation of EFH, the Council will work cooperatively with the various federal agencies. As specified at 50 CFR ' 600.930(a), this will be accomplished by the Council establishing procedures for reviewing actions that may adversely or positively affect EFH.

The Council will coordinate closely with the NMFS, federal, state, and other habitat partners to identify actions that may affect EFH, to develop comments and EFH conservation recommendations to federal and state agencies, and to provide EFH information to federal and state agencies. While the Council will work cooperatively with NMFS and others, it has the authority to act independently.

The Council's comments will apply the activity based conservation recommendations contained in Section 7.0 of the Council's EFH Amendment. These are a generalized set of environmentally sound engineering and management practices that should be employed when an action may significantly and adversely affect EFH.

If a project appears to have significant negative or positive impacts on EFH, the Habitat Support Specialist will notify the Executive Director and the HPC Chairman who will, in consultation with the Council Chairman, then decide if the project warrants Council attention. Concurrently, for projects that will have significant adverse impacts to EFH and federally managed fisheries, NMFS will transmit a report to the appropriate agency with a copy to the Council. That report will contain an assessment of project impacts, EFH conservation recommendations, and a statement of the Council's preliminary concurrence with the views and recommendations of NMFS. The statement of concurrence also will advise the agency of its responsibility to provide a substantive response to comments of the Council. The concurrence statement follows.

During the development of the NMFS position statement, the Council has been assessing data supplied by NMFS and other sources relative to this project. Under a formal procedure with NMFS, the Council has requested that we notify you of their preliminary concurrence with our views and recommendations as they relate to this project. Authority for the Council to comment on this project is provided under Sections 305 (b)(2-4) of the Act. Therefore, any responses or correspondence regarding our EFH, conservation recommendations, pursuant to procedures established by the NMFS Interim Final Rules (50 CFR Sections 600.905 - 600.930), also should be sent to the Council. Correspondence should be addressed to the Council at the following address:

Executive Director  
Gulf of Mexico Fishery Management Council  
2203 North Lois Ave., Suite 1100  
Tampa, Florida 33607

Following a decision that separate Council action should be taken, NMFS will be notified and a letter to the appropriate agency containing the Council's views and recommendations will be prepared as described below. Criteria used to define a significant project is contained in the Council's Habitat Policy and Responsibilities statement. Project review and evaluation shall proceed as follows:

- (1) The Habitat Support Specialist shall forward copies of public notices for federal projects, permits, and licenses that significantly affect fisheries to Council members followed by special briefings, as appropriate, and any NMFS position statements, as developed. When deemed appropriate, the staff shall request state and other Federal agency assessments

(position statements) of project impacts and forward them to the Council;

- (1) If feasible within the Council's meeting schedule, the HPC shall develop a letter of Council comments on projects that would have a significant adverse or positive effect on EFH, then forward it to the Council for adoption and communication to the appropriate agency;
- (3) If time or meeting constraints do not allow the Council to develop a letter of comments on a project, the HPC shall develop comments by meeting or conference call meeting. If time constraints would not allow such a meeting, the Habitat Support Specialist in consultation with the HPC Chairman, Council Chairman, and Executive Director will develop a draft letter of Council comments and provide copies to the HPC for review. The final letter will be signed by the Council Chairman and communicated to the appropriate agency, with copies concurrently provided to Council members, NMFS, and appropriate Habitat AP(s).
- (4) Council staff or members may testify at public hearings, as needed;
- (5) Council may hold public hearings, as appropriate; and,
- (6) Federal agencies must provide detailed responses to NMFS and the Council within 30 days following receipt of EFH conservation recommendations. If a federal agency's decision is inconsistent with Council's recommendations, the Council may request the Assistant Administrator of NMFS to further review the agency's decision and involve the Council in any interagency discussions to resolve disagreements.

b. Consultation on Proposed General Concurrences

A General Concurrence represents a consultation process that addresses specific types of actions that require no further consultation because impacts would be minimal, either individually or cumulatively. As required by the NMFS regulations, projects for which a federal agency makes a request to NMFS for a General Concurrence will be coordinated with the Council prior to NMFS making a final determination (50 CFR '600.920[f][3]). In addition, prior to providing a written statement of General Concurrence, NMFS will provide an opportunity for public review through the Council or by other means. Through an agreement with NMFS or the federal agency responsible for tracking the effects on EFH of actions under General Concurrences (50 CFR '600.920[f][2][C][ii]), the Council will annually request information on the nature and number of actions, an analysis of impacts on EFH, and the federal agency's conclusions regarding the magnitude of such effects.

7. Coastal Wetland Management Policy:

The Gulf of Mexico Fishery Management Council (Council) defines coastal wetlands as forested and non-forested habitats, mangroves, and all marsh islands (including portions of barrier islands) that are exposed to tidal activity. Included in forested wetlands are hardwood hammocks, mangrove swamps, spoil banks, cypress-tupelo gum swamps, and bottomland hardwoods. Non-forested wetlands include fresh, brackish, and salt marshes. These areas directly contribute to the high biological productivity of coastal waters by input of detritus and nutrients, by providing nursery and feeding areas for shellfish and finfish, and by serving as habitat for many birds and other animals. Realizing the ecological importance of coastal wetlands in the estuaries of the Gulf of Mexico, and as Essential Fish Habitat for or impacting the fishery resources that the Council manages or that are within the Council's jurisdiction, it is the policy of the Council to:

Promote the conservation, maintenance, and restoration of healthy coastal wetlands to sustain and enhance a diversity of marine resources.

This policy shall be supported by the following objectives.

- a. Coastal wetland management should be directed towards sustaining the diversity and productivity of indigenous marine resources utilizing the area.
- b. Coastal wetland management should promote the long-term health and productivity of wetland habitats for the marine species utilizing the area.
- c. Coastal wetlands should generally not be impounded, although it is recognized that this may be necessary at times to control adverse impacts resulting from natural or human-induced hydrologic changes.
- d. Coastal wetland management should strive to balance the benefits to all forms of indigenous marine resources and plant communities currently utilizing the area.
- e. Permitting or management plans for wetland activities should include sufficient detail to determine potential effects on marine fisheries. It should also include provisions for monitoring and/or mitigation to ensure the objectives of the plan are being met, and that non-target resources are not unacceptably impacted.
- f. Coastal wetland management activities should provide adequate ingress and egress for marine species.
- g. Coastal wetland management activities should allow adequate nutrient and sediment exchange as well as other important physical and chemical interactions with adjacent areas.
- h. The Council supports the necessary planning and implementation to ensure adequate freshwater inflows to sustain coastal wetlands.

8. Marine Aquaculture Policy:

The Gulf of Mexico Fishery Management Council (Council) defines marine aquaculture as the cultivation of marine plants or animals for food or other purposes. Recognizing that marine aquaculture presents both potential benefits as well as potential negative impacts, it is the policy of the Council to encourage environmentally responsible marine aquaculture; the Council encourages consideration of the following guidelines:

a. Cultured Species:

The Council recommends that genetic stocks native to the Gulf of Mexico and the geographic area in which they would be cultured receive priority as candidate culture species. Non-native species should be used only after thorough investigation has demonstrated no detrimental impacts on native species. The Council opposes use of non-native species in marine aquaculture systems unless demonstrated there would be no detrimental impacts on native species. The Council particularly opposes use of non-native species in open water environments where escapement can occur. The Council opposes the collection of juvenile native species for grow out.

Collection of native wild brood stock should be regulated in order to prevent overfishing cultured species stocks, and provision should be made to aid enforceability of possession, landing, and marketing of fish that would be illegal if wild caught fish.

Strategies should be adopted to minimize the potential that the genetic fitness (including both genetic variation and genetic composition) of wild populations would be diminished by marine aquaculture activities and escapement from marine aquaculture activities.

An invoice should accompany all cultured species through each sales transaction, including transactions at the place of the final sale to the consumer to verify the origin of the cultured species.

b. Habitat:

To ensure that marine aquaculture activities are environmentally responsible, the following considerations should be made with respect to habitat in that:

- (1) Existing inland and offshore habitats important to marine fisheries should be protected from physical alterations or degradation;
- (2) A baseline assessment should be conducted as part of the permitting process; and
- (3) Sensitive areas, including habitat areas of particular concern, should be avoided.

c. Research:

The Council recommends the marine aquaculture industry demonstrate, in part, its stewardship of Gulf waters by:

- (1) Actively educating its member institutions about necessary regulations and permits;
- (2) Actively participating in research and monitoring to improve the understanding of marine aquaculture's relationship to coastal and marine ecosystems; and
- (3) Participating in cooperative research to enhance knowledge of cultured species.

d. Location, Design, and Operation:

Marine aquaculture operations should be located, designed, operated, and monitored to prevent adverse impacts to estuaries, marine habitats and native fishery stocks. Impacts that cannot be prevented must be fully mitigated in-kind.

Conditions should be maintained to sustain healthy, diverse, native biological communities without the production of nuisance, toxic, or oxygen-demanding conditions.

Standard operating procedures should contain methods to prevent escapement, accidental transport, or release of cultured organisms.

Marine aquaculture operations should be conducted in accordance with a management plan that incorporates a routine monitoring program. The plan should be approved prior to the beginning of operations as part of the permitting process and modified as needed in accordance with adaptive management principles and based on the results of the monitoring program.

Marine aquaculture operations should develop an emergency plan that covers natural disasters such as tropical storms, floods, and hurricanes.

Ingress and egress of native wild organisms in natural and public waters should not be impeded by physical or water quality barriers.

Marine aquaculture operations in the EEZ should minimize disruption of navigation in natural or public waters.

Marine aquaculture facility locations should avoid areas of high commercial and recreational fishing activities.

Marine aquaculture facilities should avoid or at least minimize conflicts with or restrictions on recreational, for-hire, or commercial fishing activities.

When designing land-based marine aquaculture facilities, settling ponds, man-made wetlands, or other appropriate technologies should be used to

allow for suspended solids to settle out, allow the nutrient load to dissipate, and reduce overall discharge velocities prior to being discharged into the receiving water body.

As part of the permit process, measures should be established to deal with intentional or unintentional facility or property abandonment or other environmental liability to ensure that sites can be reclaimed without public expense and with minimal risk of long-term impact.

As part of the permitting process procedures should be established to deal with: removal of damaged equipment from the permitted site; recovery of equipment that may be unintentionally transported from the permitted site; and restoration of habitats that may be damaged by marine aquaculture activities, whether at the permitted site or elsewhere.

Mechanisms should be developed to ensure that marine aquaculture facilities and operations avoid harmful effects to both wild aquatic and terrestrial organisms.

e. Water Quality:

Marine aquaculture facilities should be designed, maintained, and operated in such a manner that avoids impacts to the local environment by utilizing water conservation practices and discharging effluent that protects existing designated use of receiving water and meets applicable state and federal water quality guidelines.

Marine aquaculture facilities should develop, implement, and monitor best management practices to conserve water and improve effluent water quality.

Comprehensive marine aquaculture facility waste management practices should be required to minimize negative impacts of discharge from the facility.

f. Health Management and Disease Control:

Marine aquaculture activities should:

- (1) Minimize impacts of disease outbreaks if they occur;
- (2) Create and implement health evaluation programs and policies that prevent the importation or release of disease pathogens or parasites of regulatory concern. These policies should support development and utilization of technologies to identify and control disease organisms;
- (3) Develop effective disease control, quarantine, and inventory destruction procedures to prevent the spread of disease to public waterways, native species, and other marine aquaculture facilities;

- (4) Create and implement health management strategies for marine aquaculture organisms in cooperation with states, federal agencies, industry, veterinarians, and scientists; and
- (5) Use only FDA approved therapeutic and chemical treatments as part of best management practices.

9. Submerged Aquatic Vegetation Policy:

The Gulf of Mexico Fishery Management Council (Council) defines submerged aquatic vegetation (SAV) as rooted vascular plants that, except for some flowering structures, live and grow below the water surface. Realizing the ecological importance of SAV to the ecosystem, and as Essential Fish Habitat for or impacting the fishery resources that the Council manages or that are within the Council's jurisdiction, it is the policy of the Council to:

Protect, restore, create, and otherwise improve SAV habitat in the Gulf of Mexico and adjacent estuaries and achieve a net gain in SAV distribution and abundance within these regions.

This policy shall be supported by the following objectives.

- a. Conserve existing SAV beds and prevent further loss due to degradation of water quality, physical damage to the plants, or disruption to the local sedimentary environment.
- b. Strongly endorse and support actions affecting water and habitat quality that will result in restoration of SAV.
- c. Endorse and support propagation and transplant efforts to restore and expand the acreage of SAV necessary to support fisheries in the Gulf of Mexico.
- d. Promote planning and education efforts that incorporate SAV as an integral part of the coastal ecosystem and link the habitat with the fishery resource.
- e. Work within state and federal regulatory processes to decrease or eliminate impacts to SAV.
- f. Promote SAV research and monitoring.

10. Freshwater Inflow Policy:

The Gulf of Mexico Fishery Management Council (Council) defines freshwater inflow as the amount of freshwater entering estuaries in order to maintain the salinity, nutrient, and sediment regimes that support healthy and productive estuaries and their essential fish habitat (EFH). Estuaries are coastal, semi-enclosed bodies of water that have a free connection with the open sea and where freshwater meets and mixes with seawater. Coastal estuaries typically include wetlands and open bay waters in which nutrients from river inflows, adjacent runoff, and the sea support a productive community of plants and animals. The

Gulf of Mexico estuaries serve as nursery grounds for marine organisms, and approximately 98% of commercially and recreationally important species are estuarine-dependent at some point in their life cycle. Sufficient freshwater inflow is necessary to: (1) dilute sea water and create a series of gradients, where salinity increases progressively with distance toward the sea and away from the mouths of rivers; (2) transport nutrients to the coast and then distribute them into estuaries, where they fuel production of fish, shrimp, and other organisms; and (3) carry and distribute sediment into estuaries to maintain their shallow-water characteristics and native submerged and emergent vegetation. Water withdrawals, dams, diversions<sup>1</sup>, construction and maintenance of navigation channels, and other activities, including those that are located far upstream, can affect estuarine and nearshore habitats, including EFH. Realizing the ecological importance of freshwater inflow to maintenance of the estuaries and the role of estuaries in maintaining healthy fishery resources, the Council has a keen interest in maintaining adequate freshwater inflow to estuaries. The Council also has the authority under the Act to comment on and request consultation as provided in the Act if activities would adversely affect EFH. Consequently, it is the policy of the Council to:

Ensure an ample supply of freshwater inflow, applied at the appropriate times, so as to maintain appropriate salinity regimes and concentrations of nutrients and sediments to sustain the function and productivity of estuaries and their EFH.

This policy shall be supported by the following objectives:

- a. Identify activities that pose a threat to freshwater inflow sources and have the potential to adversely affect estuarine and nearshore habitats, including EFH.
- b. Support river basin water management plans and development projects that consider the freshwater needs of estuaries and, to the extent practicable, do not include water withdrawals, dams, diversions, construction and maintenance of navigation channels, or other activities that will adversely affect estuarine and nearshore habitats, including EFH.
- c. Support river basin water management plans and development projects that consider the timing of freshwater discharges to estuaries and ensure that water releases mimic the natural hydrologic cycles, to the extent practicable, except where habitat needs require special management practices.
- d. Support river basin water management plans and development projects that consider the freshwater needs of estuaries and, to the extent practicable, do not include activities that cause too much freshwater to be released, as happens during water releases to minimize anticipated flooding, thereby adversely affecting estuarine, and nearshore habitats, including EFH.

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<sup>1</sup>The use of the term diversion in this policy is not intended to discourage introduction of freshwater for the purposes of restoration of wetlands, marshes, estuaries, or other forms of EFH, or other benefits or values as deemed appropriate by the Council.

- e. Restore and maintain adequate freshwater inflow to estuaries where estuarine, and nearshore habitats, including EFH have been adversely affected by water withdrawals, dams, diversions, construction and maintenance of navigation channels, or other activities.
- f. Consider that evaporation from reservoirs created by dams and weirs may constitute water diversion for the purposes of this policy if estuarine, and nearshore habitats, including EFH would be adversely affected.

#### H. Policy on Drug Free Workplace Requirements:

The purpose of this policy is to notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Council's workplace and specify actions to be taken for violation of this prohibition in accordance with federal grant requirements.

##### 1. Policy:

All Council employees must adhere to the provisions of the Drug Free Workplace Act of 1988 and the federal regulations which became effective March 18, 1989. The purpose of this policy is to promote employee safety, health, and efficiency by prohibiting, in the workplace, the manufacture, distribution, dispersion, possession, or unlawful use of a controlled substance. As a condition of employment, an employee shall abide by the provisions of this policy. Upon determining that an employee has engaged in the manufacture, distribution, dispensation, possession, or use of an unlawful controlled substance or upon having reasonable suspicions under Section 5 of the Federal Drug Free Workplace Act of employee use of an unlawful controlled substance while on duty, the Council shall take action with regard to the employee determined to be appropriate which may include granting of leave with or without pay, suspension with or without pay, or termination.

##### 2. Requirements and Action to be Taken:

An employee shall, as a condition of employment, notify the Council of any criminal drug statute conviction for a violation occurring in the workplace (on duty) no later than five days after such conviction. Within 30 days of an employee's criminal drug statute conviction for a violation occurring in the workplace (on duty) the Council shall take action with regard to the employee which may include discipline up to and including termination and/or require satisfactory participation by the employee in a drug abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement, or other appropriate agency. An employee having a drug problem is required to seek assistance, and will be allowed to use accrued annual leave, sick leave, or leave without pay to permit the employee to participate in a drug abuse assistance or rehabilitation program.

##### 3. Determination:

Reasonable suspicion of employee use of a controlled substance shall be based upon any of the following: observed abnormal behavior or impairment in mental or physical performance, direct observation of use in the workplace (on duty), the opinion of a medical professional, reliable information concerning use in the workplace, and a work-related accident in conjunction with a basis for reasonable suspicion as listed above.

#### I. Policy on New Information:

It is the policy of the Council to afford interested parties an opportunity to review and respond to new data or other information which may be used by the Council as a basis for its management decisions. For purposes of this policy, this new information includes the technical data and analyses developed and compiled in printed, unpublished form by NMFS, state agencies or universities, Council staff, or other entities associated with the Council, which has not previously been distributed to the public, and which is used in the decision-making process. The Council will, through its news releases, notify the public of the availability of new information. Examples of such new information include, but are not to be limited to, stock assessments, scientific assessment group reports, and staff analyses of alternative management strategies. Copies of such documents will be distributed, as soon as available, to Sea Grant extension agents and affected fishery associations for distribution to the public. Members of the public may, by contacting the Council Executive Director, be included on a mailing list to receive such documents for a specific fishery.

Under circumstances beyond the Council's control, new information developed by NMFS, state agencies or universities, Council staff, or other entities associated with the Council may not be available in time for distribution before the Council meeting, and may be presented to the appropriate management committee at the meeting where final action is to be taken. In this situation, the public shall be advised at the earliest possible time to attend the committee session to receive this information. In addition, the relevant committee session shall be scheduled at the earliest available time during the committee meetings. The Council's consideration and final action on that item shall be scheduled as late as possible on the Council agenda in order to allow the maximum time for review and response by all interested parties.

It is also the policy of the Council to consider, and to allow other interested members of the public to consider, new information prepared and offered by interested members of the public before it takes final action, if this new information is provided to the Council as specified herein. For purposes of this policy, this new information consists of data and analyses developed by or for that person which has not been submitted previously to the Council.

Responses to the new information by interested members of the public may be through testimony at public hearings or at the Council session where final action will be taken, or by submitting written statements at the public hearings or to the Council office. Summaries of oral testimony from hearings and the written statements, if received in the Council office at least fourteen days before the first day of the Council meeting, will be included in briefing books for Council members.

New information prepared by the public may be provided to the Council in the same manner as responses to any other new information. However, members of the public are encouraged to provide their new information either by submitting documents at a public hearing or by mail to the Council office at least fourteen days in advance of the Council meeting so that it can be included in the briefing book. New information submitted by NMFS, state agencies or universities, Council staff, or other entities associated with the Council at least fourteen days in advance of the Council meeting will also be included in the briefing book. This assures that the appropriate committee and Council members will have an opportunity to read the new information. New information received in the Council office between five and fourteen days before the meeting will be duplicated by staff and handed out at the meeting.

Members of the public should bring at least 40 copies of any new information, not previously submitted, to the meeting to be passed out to Council members and members of the public at or before the time testimony before the Council is scheduled on the agenda item to which the new information relates. However, such persons should be aware that under the Council's policy on public testimony the Council Chairman may limit the time allowed for each presentation consistent with the total time available and the number of persons registered to testify.

If a resource problem warrants consideration of emergency action or the most expedient action possible, then the Council's distribution of new information under the policy shall be consistent with the urgency of the action. New information will not, however, be accepted after the close of public testimony.

J. Policy on Council Committee Appointments:

The Council SOPPs provide that members and officers of committees are appointed by the Council from nominations by the Council Chairman. Nonvoting members of the Council may participate as voting members of committees as no action of a committee is final without approval of the Council. The Council Chairman or Council Vice Chairman may serve as committee members to make a quorum. This policy is to serve as guidance to the Council Chairman in selecting nominees for Council approval as members.

General Considerations:

1. Size of Committees: Committees should consist of five to seven members.
2. State/Federal Members: These persons, along with others, should serve on Law Enforcement and Data Collection committees since these programs are administered by these agencies.
3. Geographical Balance: To the extent practicable, nominees for management committees should include representation from the states off which the fishery occurs. Similar geographical balance should be applied to nominees for Habitat Protection, AP Selection, and SSC Selection Committees.

4. User Group Balance: For fisheries with recreational and commercial fishing components, nominees for management committees should, to the extent practicable, include comparable representation from the membership for each group, while maintaining, to the extent possible, a geographical balance.
5. Seniority/Continuity: To the extent practicable, incumbent members and chairmen of committees should be retained on the committee, provided they are doing a good job. This would assure a degree of continuity in the committee's corporate memory and allows members to concentrate their study/preparation time on those fisheries they are assigned to monitor.
6. Expertise: To the extent possible, persons with expertise in a particular fishery should be nominated to serve on the committee for that fishery, so other members may avail themselves of that expertise.
7. Member Preference: Each year the staff, on behalf of the Council Chairman, should provide each member a form on which they list preferences for service on administrative (1 to 9) and management (1 to 9) committees and provide it to the Chairman.
8. Designees: For ex-officio members with designees, either the principal or designee may be appointed committee chairman or committee vice chairman. In the absence of the person appointed, the designee or principal in attendance serves on the committee but not in the capacity of chairman.

K. Vessel Monitoring System (VMS) Policy:

In 1997, the Council formed an Ad Hoc Vessel Monitoring System Committee. The Committee was charged with providing recommendations to the Council on the possible use of electronic (satellite) information and monitoring systems for management, enforcement, scientific data collection, and safety in coordination with other committees, as appropriate. The Council's VMS policy is as follows:

The Council recognizes that electronic remote vessel monitoring systems are a viable and desirable technology for use in fisheries management. The Council also recognizes that fishery management needs and available technologies may differ among fisheries and geographical areas. Thus, it is the policy of the Council to:

1. Where appropriate and desired, implement satellite-based or other fishing vessel monitoring systems to assist fishery management programs in the Gulf region;
2. Develop specific technical and operational guidelines for VMS programs for each FMP, as appropriate, and in consultation with the respective fishery's AP and relevant government agencies;
3. Focus VMS programs on enforcement, scientific data collection, and safety;
4. When developing VMS programs, consider efficiency, enforceability, safety, and cost-effectiveness for the fishing industry and management agencies;

5. Allow for research and development of VMS technology;
  6. Couple any requirements for VMS to the issuance of federal fishing permits, except in special situations, such as when a permit is not required and a VMS is required;
  7. Pursue government funding for VMS programs in the Gulf. If comprehensive funding by implementing federal agencies is not possible, pursue alternative funding arrangements (e.g., taxes, special appropriations, industry funding, etc.);
  8. Request that NMFS develop minimum safeguards for the security of VMS data and conduct periodic inspections and other monitoring efforts to insure effectiveness;
  9. Pursue, as a long-term goal, compatibility among VMS programs in the Gulf; and
  10. Request that NMFS and other implementing federal agencies provide the Council and the states with periodic reports on the status of each VMS, including but not limited to the number of vessels participating, the number and types of violations, and recommendations for the continued use or modifications to VMS programs.
- L. Policy on External Comment/Analysis of NMFS Stock Assessments Prepared for the Council:

In the event that any association or organization has a scientist or scientific group comment on or analyze a National Marine Fisheries Service (NMFS) stock assessment for which the Council may use as a basis for setting total allowable catch (TAC) (and associated management measures) and the association or organization would like the Council's management committee to review their analysis and comments when they review the NMFS stock assessment and the stock assessment panel (SAP) report; that association or organization must provide their analysis to the Council at least 14 days prior to the SAP meeting. If for any reason that is not possible, the association or organization should immediately advise the Council Executive Director, who will confer with the Council Chairman on whether to accept the analysis or delay acceptance to a later date when such reviews by the SAP and subsequently the Scientific and Statistical Committee (SSC) are possible. This policy in no way is intended to constrain any person testifying before the Council from presenting information on NMFS stock assessments either by written testimony or oral testimony under the time constraints of such testimony. This policy is conditional upon the NMFS stock assessments being available six weeks in advance of the SAP meeting, and thereby available to the association or organization for review and comment.

M. Policy on Scoping Process:

1. Council identifies a problem or management need that requires an amendment or regulatory amendment and publishes a notice of intent to prepare an EIS/SEIS, unless a decision is made to first prepare an EA.

2. Council staff, in conjunction with NMFS staff and potentially others, e.g., stock assessment panels, develops a discussion of the problem requiring an amendment or regulatory amendment, the purpose and need for action, and a list of options to address the management need. This document becomes a scoping document.
3. The scoping document is distributed to the appropriate advisory panel, the LEAP, the standard list, and other interested parties and organizations. It is also posted on the Council's web site and notice of availability is noted in the Council's newsletter.
4. At the next Council meeting following the development of the scoping document, but not less than 30 days from the distribution of the scoping document, the Council schedules public comments on the scoping document. Based on comments received, the Council then takes action to revise the document or terminate its development, as well as the need to schedule additional public review, i.e., through public meetings or other forums.
5. If the Council decides to continue the development of the scoping document into an options paper and draft amendment with the EA or SEIS, additional reviews by the appropriate advisory panels and the public may be conducted, particularly if the EA indicates the need to develop a SEIS or if a SEIS is contemplated from the beginning

N. Internet Policy:

Internet access is provided for Council duties and tasks. Each permanent member of Council staff is provided with a personal e-mail address and account. The Council's office network may be accessed remotely through the internet by authorized users over a secure virtual private network (VPN) connection. E-mail accounts may be accessed via online e-mail access systems, such as by home and portable computers over the internet, e-mail capable cell phones, or other internet-enabled electronic devices. The Council's office systems may support some but not all forms of remote electronic access.

The use of Council equipment for personal use of the internet may be monitored and recorded. Anyone using Council equipment consents to such monitoring and is advised that if such monitoring reveals possible evidence of criminal activity or employee misconduct, system personnel may provide the evidence of such monitoring to the appropriate supervisor. Individuals are not guaranteed privacy while using Council computers and should, therefore, not expect it. To the extent that employees wish that their private activities remain private, they should avoid using the Council's internet or e-mail for such activities.

Activities for which Council internet and e-mail services may not be used, during working or non-working hours, include the following:

1. the pursuit of private commercial business activities or profit making ventures (i.e., employees may not operate a business with the use of the Council's computers and internet resources);

2. matters directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group;
3. prohibited direct or indirect lobbying;
4. use of Internet sites that result in an additional charge to the Government;
5. engaging in prohibited discriminatory conduct;
6. the obtaining or viewing of sexually explicit material;
7. any activity that would bring discredit on the Council, or
8. any violation of statute or regulation.

Personal use of e-mail cannot interfere with the official business of the employee or organization, such as spending an inappropriate amount of time during duty hours, filling up a mailbox with personal messages so as to prevent official messages from being delivered, or disseminating chain letters.

O. Fishery Allocation Policy:

The allocation policy presented herein was developed by the Gulf of Mexico Fishery Management Council to provide principles, guidelines, and suggested methods for allocation that would facilitate future allocation and reallocation of fisheries resources between or within fishery sectors.

Issues considered in this allocation policy include principles based on existing regulatory provisions, procedures to request and initiate (re)allocation, (re)allocation review frequency, tools and methods suggested for evaluating alternative (re)allocations.

This allocation policy shall be based on the principles, regulatory provisions, guidelines, and suggested methods provided below.

I – Principles for Allocation

A) Conservation and management measures shall not discriminate between residents of different states.

B) allocation shall:

- 1- be fair and equitable to fishermen and fishing sectors;
  - (i) fairness should be considered for indirect changes in allocation
  - (ii) any harvest restrictions or recovery benefits be allocated fairly and equitably among sectors

- 2- promote conservation
  - (i) connected to the achievement of OY
  - (ii) furtherance of a legitimate FMP objective,
  - (iii) promotes a rational, more easily managed use

3- ensure that no particular individual, corporation, or other entity may acquire an excessive share.

C) shall consider efficient utilization of fishery resources but:

1- should not just redistribute gains and burdens without an increase in efficiency

2- prohibit measures that have economic allocation as its sole purpose.

D) shall take into account: the importance of fishery resources to fishing communities by utilizing economic and social data in order to:

1- provide for the sustained participation of fishing communities

2- minimize adverse economic impacts on fishing communities.

E) Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery shall contain conservation and management measures that:

1- establish separate quotas for recreational fishing (including charter fishing) and commercial fishing.

2- prohibit a sector (i.e., recreational or commercial) from retaining red snapper for the remainder of the season, when it reaches its quota.

3- ensure that the recreational and commercial quotas reflect allocation among sectors and do not reflect harvests in excess of allocations.

## II. Guidelines for Allocation

1. All allocations and reallocations must be consistent with the Gulf of Mexico Fishery Management Council's principles for allocation.
2. An approved Council motion constitutes the only appropriate means for requesting the initiation of allocation or reallocation of a fishery resource. The motion should clearly specify the basis for, purpose and objectives of the request for (re)allocation.
3. The Council should conduct a comprehensive review of allocations within the individual FMPs at intervals of no less than five years.
4. Following an approved Council motion to initiate an allocation or reallocation, the Council will suggest methods to be used for determining the new allocation. Methods suggested must be consistent with the purpose and objectives included in the motion requesting the initiation of allocation or reallocation.
5. Changes in allocation of a fishery resource may, to the extent practicable, account for projected future socio-economic and demographic trends that are expected to impact the fishery.
6. Indirect changes in allocation, i.e., shifts in allocation resulting from management measures, should be avoided or minimized to the extent possible.

### III. Suggested Methods for Determining (Re)Allocation

#### 1. Market-based Allocation

- i. Auction of quota
- ii. Quota purchases between commercial and recreational sectors
  1. determine prerequisites and conditions;
    - a. quota or tags or some other mechanism required in one or both sectors
    - b. mechanism to broker or bank the purchases and exchanges
    - c. annual, multi-year, or permanent
    - d. accountability for purchased or exchanged quota in the receiving sector

#### 2. Catch-Based (and mortality) Allocation

- i. historical landings data
  1. averages based on longest period of credible records
  2. averages based on a period of recent years
  3. averages based on total fisheries mortality (landings plus discard mortality) by sector
- ii. allocations set in a previous FMP
- iii. accountability (a sector's ability to keep within allocation)

#### 3. Socioeconomic-based Allocation

- i. socio-economic analyses
  1. net benefits to the nation
  2. economic analysis limited to direct participants
  3. economic impact analysis (direct expenditures and multiplier impacts)
  4. social impact analysis
  5. fishing communities
  6. participation trends
  7. "efficiency" analysis
    - a. lowest possible cost for a particular level of catch;
    - b. harvest OY with the minimum use of economic inputs

#### 4. Negotiation-Based Allocation

- i. Mechanism for sectors to agree to negotiation and select representatives.
- ii. Mechanism to choose a facilitator
- iii. Negotiated agreement brought to Council for normal FMP process of adoption and implementation

## APPENDIX B

### STAFF FUNCTIONS

The Executive Director carries out the decisions of the Council and reports to the Council through the Council Chairman. He manages Council programs and coordinates input to the Council from advisory, scientific, technical, and other committees. All staff functions and staff personnel are under the direction of the Executive Director. The Executive Director carries out the duties and responsibilities of his position without daily supervision.

Current staff positions are as follows:

Stephen Bortone	Executive Director
Richard Leard	Senior Fishery Biologist/Deputy Executive Director
Cathy Readinger	Administrative Officer
Assane Diagne	Senior Economist
Vacant	Economist
Steven M. Atran	Population Dynamics Statistician
Carrie Simmons	Fishery Biologist
Charlene Ponce	Public Information Officer
Patricia Kennedy	Administrative Assistant
Phyllis Miranda	Transcription Specialist
Beth Tarantola	Accounting/HR Assistant
Charlotte Schiaffo	Transcription Specialist
Karen Hoak	Transcription Specialist
Tina O Hearn	Travel/SEDAR Coordinator

Position descriptions for the Executive Director and for each member of the administrative staff are available at the Council Headquarters in Tampa, Florida.

### CERTIFIED CORRECT

Executive Director \_\_\_\_\_

Administrative Officer \_\_\_\_\_