

Attachment 4a  
Executive Committee – November 17, 2025

# **SAFMC ADMINISTRATIVE HANDBOOK**



**South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405**

**843-571-4366**

**SAFMC.NET**

**These Policies are Subject to Change At Any Time by Council Action**

Approved by Council  
3/10/2023

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THIS IS NOT A CONTRACT OF EMPLOYMENT

EMPLOYEES OF THE COUNCIL ARE EMPLOYED AT WILL. EITHER THE EMPLOYEE OR THE COUNCIL MAY END THE COUNCIL EMPLOYMENT AT ANY TIME AND FOR ANY REASON NOT PROHIBITED BY LAW. NOTHING IN THE COUNCIL'S HANDBOOK, SOPPS, POLICIES OR OTHER DOCUMENTS CREATES A CONTRACT OF EMPLOYMENT. ALL POLICIES, PRACTICES AND PROCEDURES MAY BE CHANGED BY THE COUNCIL FROM TIME TO TIME.

I agree that I have received and have access to the electronic copy of the Council's handbook, that I have read the disclaimer above and that I understand that this is not a contract of employment:

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Printed Name of Employee

\_\_\_\_\_  
Date

The South Atlantic Fishery Management Council (Council) is one of eight congressionally created regional fishery management councils. The administrative office of the Council is located in North Charleston, South Carolina. The Council establishes conservation measures for fisheries in the Atlantic Ocean seaward of the territorial boundaries of the states of North Carolina, South Carolina, Georgia, and the east coast of Florida through the Atlantic side of the Florida Keys out to 200 miles encompassing the U.S. exclusive economic zone (EEZ). Legal authority for the Council is found in the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (Public Law 94-265 as amended) (Magnuson-Stevens Act).

The Council is an Equal Opportunity Employer that does not discriminate on the basis of race, color, religion, national origin, age, disability, reprisal, sex, sexual orientation, gender identity, status as parent, or any additional basis protected by applicable federal, state, or local laws (50 C.F.R. § 600.120) with respect to recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, employee activities, and general treatment during employment. Council staff positions are filled solely on the basis of merit, fitness for duty, competence, and qualification. Any employee with questions or concerns about equal employment opportunities in the workplace is encouraged to bring these issues to the attention of the Executive Director. Retaliation against those who initiate discrimination complaints, serve as witnesses, or otherwise oppose discrimination and harassment is strictly prohibited.

The Council will provide reasonable accommodations to employees (or applicants for employment) with disabilities unless the accommodation would impose an undue hardship on Council operations. If an employee needs assistance to perform their job duties because of a

physical or mental condition, please inform their supervisor, or the Administrative Officer. Requests for disability-related accommodations will be processed, where applicable, in accordance with Department of Commerce Administrative Order (DAO) 215-10 (a copy is available from our Administrative Officer).

The Council will endeavor to accommodate the religious beliefs of its employees to the extent such accommodation does not pose an undue hardship on the Council's operations. Requests for religious accommodation should be made to the employee's supervisor.

The Council seeks to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Any issues that arise should be brought to the employee's supervisor. If the supervisor is unable to resolve the situation to the employee's satisfaction, then the issue shall be brought to the attention of the Council staff's Senior Management team (Executive Director, Deputy Director for Management, Deputy Director for Science, and Administrative Officer). The final decision regarding personnel issues rests with the Executive Director, after consulting with the Council Chair and Council Vice Chair to determine a course of action. If deemed necessary, the Council Chair may convene the Executive Committee to review the issue.

This handbook provides documentation on Council policies and procedures for employees, Council members, process participants and advisors. The handbook is not a contract. The Council reserves the right to revise, add, or delete content from this handbook, with the exception that the policy concerning at-will employment may not be altered. Handbook and policy changes will be communicated to staff promptly.

## I. COUNCIL MEMBERS

### a. Composition

As established by the Magnuson-Stevens Act, there are 13 voting members and 4 non-voting members on the Council. Constituent states include North Carolina, South Carolina, Georgia, and Florida. Voting members include 8 representatives appointed by the Secretary of Commerce for 3-year terms, the principal state official (or their designee) with marine fishery management responsibility in each of the 4 constituent states, and the Regional Administrator of the National Marine Fisheries Service for the Southeast Region or their designee. There are 4 non-voting members of the Council: The Southeast Regional Director of the U.S. Fish and Wildlife Service or a designee; the Commander or designee, Seventh Coast Guard District; the Executive Director or designee of the Atlantic States Marine Fisheries Commission; and a representative or designee of the U.S. Department of State.

### b. Officers and Terms of Office

The Council elects a Chair and a Vice Chair annually and they serve until a successor has been elected. Elections are held at the first meeting of the Council after appointment of Council members (typically the September meeting). The Chair and Vice Chair serve one-year terms and may succeed themselves.

### c. Performance of Duties

Actual performance of duties is construed to mean, but not limited to:

- Days spent in actual attendance at a meeting of the Council or jointly with another Council.
- Travel on the day preceding or following a scheduled meeting that precluded the member from conducting normal business on that day.
- Meetings of standing committees of the Council if approved in advance.
- Individual member meeting with scientific and technical advisors when approved in advance and a substantial portion of a day is needed.
- Conducting or attending hearings when authorized in advance.
- Participating in a webinar when designated to do so by the Council in advance.
- Other meetings involving Council business when approved in advance.

## II. CODE OF CONDUCT

It is expected that all Council representatives, including Council staff, Council members, Advisory Panel members, SSC members, SEDAR and Citizen Science panel members, working group participants, other standing or *ad hoc* Council working groups or Committees organized and supported by the Council, and volunteers and contractors perform their duties with an adherence to a high standard of ethical conduct. All individuals are expected to act with a duty of

care, commitment to the public good, honesty, integrity, equality, fairness, respectfulness and transparency to the fulfilment of the Council's obligations under the Magnuson-Stevens Fishery Conservation and Management Act as amended.

**a. Council Conduct Expectations**

1. Representatives are reminded that nearly all meetings are open to the public and most are broadcasted through the internet to a larger audience than is visible in a meeting room. "Off the cuff remarks" can be misinterpreted and should be avoided. Inappropriate language will not be tolerated.
2. The Council recognizes that debating controversial issues and building consensus is often preceded by disagreement and encourages open and honest deliberations. However, personal attacks or intimidation will not be tolerated.
3. The Council has zero-tolerance policies for harassment based on race, religion, color, national origin, sex, age, sexual orientation, disability and for workplace violence. Any form of harassment or violence among Council representatives violates Council policy and such complaints will be investigated promptly and thoroughly and may subject the offending representative to discipline including termination and/or removal from service.
4. Any Council representative who believes they have been harassed or threatened shall report the incident as outlined in Appendix V for Council employees and Appendix VI for other Council process participants.
5. All potentially dangerous situations, including threats by other Council representatives or outside parties, should be reported immediately to the Council Chair, Executive Director and NOAA General Counsel. Contact law enforcement if the threat is imminent or entails risk of bodily harm.
6. Council representatives who make false complaints may be subject to disciplinary action.
7. The Council will not condone any form of retaliation or intimidation against individuals who report unwelcome conduct or who cooperate in the investigations of such reports in accordance with this policy.
8. Every report of a violation of the Council's harassment, code of conduct or workplace violence policies will be fully investigated, and corrective action will be taken where appropriate.
9. The Magnuson-Stevens Act, at Section 302(b)(6), specifies the following:

*The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—*

*(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation. The Executive Director shall advise the Secretary of Commerce of the Council's action in writing.*

10. Appendix III contains a form which may be used to report harassment related incidents. If you are the recipient of any harassment or threat made by any party, please follow the steps detailed in this section and Appendix V and VI as applicable. It is important for the

Council to be aware of any potential danger in the Council office. The Council intends to take effective measures to protect everyone from the threat of a violent or harassing act.

11. Council employees should refer to Appendix V for additional details related to reporting harassment.
12. Other Council process participants should refer to Appendix VI for additional details related to reporting harassment.

**b. Department of Commerce Provisions**

Rules for conduct can be found in the Department of Commerce publication *Rules of Conduct for Employees and Advisors of Regional Fishery Management Councils*.

**c. Political Activity**

Participation and restrictions relative to political activities are governed by the requirements as contained in the Department of Commerce publication *Rules of Conduct for Employees and Advisors of Regional Fishery Management Councils*.

**d. Harassment**

The Council has adopted the harassment policies for Fishery Management Councils developed by the Department of Commerce.

Model Fishery Management Council Policy on Addressing Allegations of Harassment of Council Employees - See Appendix V.

Model Fishery Management Council Policy on Addressing Allegations of Harassment of Process Participants Other Than Council Employees – See Appendix VI.

[Reports of harassment regarding the principal investigator, co-principal investigator or any other key personnel must be reported to the NOAA grants officer and program officer if the principal or co-principal investigator are placed on administrative leave relating to a harassment finding or investigation. Additional reporting requirements are contained in Appendix V and VI.](#)

**Commented [JC1]:** Addition recommended by NMFS

**e. Dress Code**

While performing official duties and representing the Council, Council representatives, including Council staff, Council members, Advisory Panel members, SSC members, SEDAR and Citizen Science panel and working group participants are expected, always, to present a professional, business-like image. Attire and grooming must be neat, clean and appropriate for the work being performed and the setting in which the work is performed. Shorts, flip flops, and T-shirts are not considered appropriate for official Council business during formally recognized meeting sessions. The Executive Director shall resolve issues related to dress by instructing any representative not in compliance to correct any issues before the next scheduled meeting session.

**f. Social Media**

Official social media content posted as a representative of the Council is to be respectful, honest and accurate. Disclosure of confidential or other non-public information is prohibited.

Ultimately, you are solely responsible for what you communicate in social media. You may be personally responsible for any litigation that may arise should you make unlawful defamatory, slanderous, or libelous statements against any constituent, member of the public, Council Member, Council representative, supervisor, manager or co-worker.

**g. Public Hearings**

Voting Council and Committee members are discouraged from providing public comment during formal Council public comment sessions (those noticed in the Federal Register) on actions that will come before the group on which they have voting privileges, in order to allow sufficient time for each member of the interested public the opportunity to verbally comment on Council actions.

**III. COUNCIL STAFF**

The Council appoints an Executive Director and authorizes other administrative and technical staff positions. The Executive Committee recruits, conducts interviews, and makes recommendations to the Council relative to appointing an Executive Director. The Executive Director is responsible to the Council, and the staff is responsible to the Executive Director. The Executive Director and other council staff are not federal employees and are not subject to federal benefits or Civil Service regulations.

**a. Positions**

Executive Director: As chief executive officer of the Council, the Executive Director is responsible for managing all administrative and technical aspects of Council operations and other responsibilities or duties delegated by the Council Chair. The Executive Director reports to the Council through the Council Chair. The Executive Director is responsible for the overall supervision of the staff. The Executive Director recruits, conducts interviews, and hires staff on behalf of the Council. The Executive Director may delegate these responsibilities to appropriate staff to ensure smooth Council operations. The Executive Director is responsible for the day-to-day administration of the Council staff and reports to the Council on personnel matters through the Council Chair.

Senior Management Team: Senior management consists of the Executive Director, Deputy Director for Management, Deputy Director for Science, and Administrative Officer. In the absence of the Executive Director, the Deputy Director for Management is authorized to act on the Executive Director's behalf; if both are absent, the Deputy Director for Science is authorized to act on the Executive Director's behalf; and if all three are absent, the Administrative Officer is authorized to act on the Executive Director's behalf.

Staff: The staff consists of positions as recommended by the Executive Director and authorized by the Council.

Position Acquisition: Prior to the establishment of a position by the Council, the Executive Director shall consult with the Executive Committee concerning the need for such a position and the associated duties.

**b. Hiring and Appointment**

Appointment: The Executive Director or designated staff conducts interviews of qualified applicants for positions. Appointment is made by the Executive Director on behalf of the Council.

Probation: Newly appointed employees are subject to a 12-month probationary period. New hires and employees promoted from within the Council staff to another position will serve the probationary period in the new position. Nothing prevents the Council from taking appropriate action related to performance and conduct after the probationary period ends.

**c. Employee Classification**

Council employee classifications:

Regular Full-Time Employees: Employees who regularly work at least 40 hours per week who were not hired as a temporary appointment. Regular full-time employees are eligible for paid time off and full benefits.

Regular Part-Time Employees: Employees who regularly work less than 40 hours per week. Regular part-time employees are eligible for pro-rated paid time off and benefits based on the ratio of hours worked to hours required for full-time employment.

Limited Part-Time Employees: Employees who regularly work less than 40 hours per week. Limited part-time employees are not eligible for paid time off or benefits.

Temporary Appointment Employees: Employees appointed to a position for a limited term, not to exceed one year or the funding period of the grant supporting the position. Temporary appointments are eligible for pro-rated paid time off and benefits based on the ratio of hours worked to hours required for full-time employment.

**d. Non-employee Staff**

Detailed Government Employees: The Executive Director may recommend that a position be filled by a detailed government employee (i.e., someone on loan from the state or federal government). Detailed employees will be subject to applicable regulations and the detail duty may be terminated at any time by the Executive Director and the detailed employee returned to their employer. Individuals detailed to the Council are not Council employees, not eligible

for any Council benefits or salary additives, and remain employees of their affiliated agency or organization.

**Contracted Experts and Consultants:** When the Executive Director determines that technical assistance is needed and is not available from existing staff or NOAA, the Executive Director may contract with appropriate outside individuals to provide the needed technical assistance. Per Magnuson-Stevens Act requirements, the Council must notify NOAA General Counsel before seeking outside legal assistance. Contractors are not Council employees and are not entitled to Council benefits or salary additives.

**e. Fair Labor Standards Act Categories**

All positions are categorized as either “exempt” or “non-exempt” for purposes of federal and state wage and hour laws. Employees are informed of their classifications upon hire and prior to subsequent changes.

**Exempt employees:** earn compensatory time at a one-hour to one-hour rate.

**Non-exempt employees:** earn compensatory time at a 1.5 hour to 1-hour rate.

**f. Personnel Files**

A file for each employee containing appointment information, security information, biographical data, and other official documentation will be maintained by the Administrative Officer under secure and safeguarded conditions as required of files subject to the Privacy Act (5 U.S.C. § 552a(d)(1)). Except as otherwise provided for by law, each employee shall have access to their individual file; files are available to others outside of the employee’s supervisory chain of command only through consultation with NOAA legal counsel and in accordance with the provisions of the Privacy Act and the Freedom of Information Act.

Employees should keep their personnel file up to date by informing the Administrative Officer of any changes regarding home address, emergency contacts, personal information, awards, publications, certifications, etc. Certain unreported changes can affect benefits coverage; employees are advised to contact the Administrative Officer if there are any questions about benefit coverage.

**g. Interview Expenses**

The Executive Director, in consultation with the Administrative Officer and Council Chair, may authorize reimbursement of travel expenses for Senior Management Team position interviews.

**h. Moving Expenses**

The Executive Director, in consultation with the Administrative Officer and Council Chair, may approve reimbursement of up to \$5000 of moving expenses for new hires moving to the greater Charleston, South Carolina area. [Receipts are required and reimbursement is limited](#)

to actual approved expenses up to and not exceeding \$5000. All submitted expenses are subject to review by the Administrative Officer for reasonableness, necessity and allowability under 2 CFR 200.464.

**Commented [JC2]:** Clarification requested through the 2024 Enhanced Site Visit by NOAA (ESV).

#### **IV. SALARY and WAGE ADMINISTRATION**

The principle of equal pay for equal work will be followed in setting rates of pay for Council staff. All personnel vacancies will be filled on the basis of merit, competence, and qualifications. Variations in basic rates of pay shall be in proportion to differences in professional experience and in the difficulty and responsibilities of the work performed. The duties of each position shall be explained in its position description.

The Council is required to follow federal pay rates for Council staff as per 50 C.F.R. § 600.120.

Approval of all personnel actions and salary adjustments are subject to the availability of funds. No action may be taken by the Executive Director that would exceed funds budgeted by the Council.

##### **a. Salary Range**

All staff positions are subject to the salary ranges recommended by the Executive Director and approved by the Council within the Council salary schedule. The Council salary schedule is the *Schedule for Federal Employees* as set forth in 5 U.S.C. § 4703, the *Alternative Personnel Management System* for the U.S. Department of Commerce. The Schedule used will reflect the Locality Pay Area applicable to North Charleston, South Carolina.

The Executive Director will determine starting salaries for new employees. The starting salary for a new employee will be based on the pay scale classification specified in the position description and will typically be within the first step of the scale. Higher starting salaries may be offered in the following circumstances:

1. No qualified applicants were recruited at the normal starting salary level.
2. The applicant possesses exceptional qualifications and experience.
3. Paying the minimum would create a salary inequity that violates the “equal pay for equal work” principle as stated previously.

The Executive Director may reduce an employee’s salary due to inefficiency in the performance of duty, to achieve better utilization of individual ability, or to address changes in position responsibilities or workload. Salary reductions may also be imposed due to inadequate funds.

##### **b. Geographic Differential**

All employees will receive a geographic differential increase at the same time locality pay is provided to federal employees. The differential shall be the same as defined in the federal

Rest of the U.S. (RUS) schedule or the city in which the Council headquarters is located if provided in the schedule.

**c. Pay Status**

An employee is considered in pay status when working; when on annual, compensatory, or sick leave; when drawing workmen's compensation or disability benefits; or when on other approved leave with pay. An employee is not in pay status after the last day of work when separated because of resignation, dismissal, death, retirement, or reduction in force; when on military leave without pay; or on approved leave without pay for any other reason.

**d. Payment of Wages**

The workweek runs from Sunday through Saturday. Employees are paid biweekly on alternate Thursdays. Payroll payments include all hours worked for the two-week period ending on the previous Saturday. Payroll payments are made via direct deposit and pay stubs are available via the payroll portal.

**e. Overtime Compensation**

Governing rules for overtime compensation are contained in the Fair Labor Standards Act.

**f. Payroll Deductions**

Various state and federal laws require payroll withholding or deduction. Required deductions may include federal and state income taxes; Social Security and Medicare contributions; and retirement contributions. There are other optional deductions that can be made such as health, dental and vision insurance; disability insurance; life insurance; direct deposit fees; supplemental insurances and other similar options. Contact the Administrative Officer with any questions or for current information.

**g. Work Schedule**

The Administrative Officer is responsible for compiling a record of the work schedule of all employees. The established work hours for the office are 8:00 a.m. to 5:00 p.m. Monday through Friday. An employee is entitled to a lunch break of up to one hour, which is without compensation. The Executive Director may allow an employee to work a flexible schedule if the employee works 40 hours per week. No employee may work more than 40 hours in a week without advance approval by the employee's supervisor or the Executive Director.

Staff are expected to be available during established work hours or specified and approved flexible schedule hours. The Senior Management Team and the [Public Information Officer/Outreach Coordinator](#) are expected to be available to Council staff and Council members outside of normal work hours and are provided a Council-paid cell phone or allowance to support this responsibility. The Executive Director may authorize a phone

Commented [JC3]: Personnel change

allowance for additional staff if their normal job duties require increased access and work hours flexibility.

**h. Lactation Breaks**

Employees will be given unpaid, reasonable break time to express milk for their infant child(ren). They will be provided access to a private place, other than a bathroom, which is shielded from view and free from intrusions of coworkers and the public. During this break time, no duties may be required to be performed

**i. Promotion or Reclassification**

Employees may be promoted and positions may be reclassified due to circumstances such as a substantial and permanent increase in job duties or responsibilities, earning an advanced degree or significant professional certification in a pertinent discipline. Promotion or reclassification may be made anytime during the year. When promoting or reclassifying an employee, the Executive Director will provide a revised job description for the new position, justification for the promotion, and determine the salary level. Salary adjustments based on promotion or reclassification are determined by the Executive Director in consultation with the other members of the Senior Management Team. Salary increases based on promotion or reclassification are subject to the availability of funds.

**j. Performance Appraisal**

An annual and midterm performance appraisal for each employee will be conducted by their supervisor using a standard appraisal form approved by the Executive Director. The annual performance appraisal review period is from July through June. Supervisors will conduct performance appraisals annually in July. In addition, a midterm appraisal will occur in January. Performance appraisals must include discussion of the appraisal between the employee and their supervisor. The Executive Director will review the performance appraisal before it is provided to the employee. The annual appraisal serves as a basis for determining salary additives and cash awards.

New employees receive an interim appraisal after 6 months and a full appraisal at the end of the one-year probationary period. After receiving the full review, new employees fall under the regular performance appraisal schedule.

The Executive Director will be reviewed annually by the Council Chair in consultation with other Council members. The Council Chair will determine the nature of this appraisal and may conduct a mid-year review of the Executive Director.

**k. Grievances**

**Procedure:** An employee with a grievance shall first discuss the problem with their supervisor. If within 30 days they do not feel their grievance was appropriately addressed, they may then discuss their grievance with the Executive Director. The Executive Director

shall then respond to the employee's grievance within 15 working days or advise the employee of the conditions which prevent an answer within 15 working days and when an answer is to be expected.

Appeal to the Executive Committee: If the employee is not satisfied with the decision of the Executive Director or if the employee fails to receive an answer within the designated period, the employee may request that the Executive Committee consider the matter. The Executive Committee will decide whether the grievance has merit. Decisions of the Executive Committee may be reviewed by the Council upon a majority vote of the Council's voting members. Decisions of the Council are final. The timing for appeals is described below.

#### **I. Disciplinary Action, Suspension, and Dismissal**

Policy: Employees can be dismissed, suspended, or subjected to a reduction in pay or position for just cause by the Executive Director.

Written Statement: In cases of such disciplinary action, the employee, before the action becomes effective, shall be furnished with a written statement documenting the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights.

Notwithstanding the above, an employee may be suspended without written warning for causes relating to personal conduct detrimental to Council service if prompt actions is necessary to avoid undue disruption of work, protect the safety of persons or property, or for other serious reasons.

Appeals: An employee shall be permitted 21 days from the date the written statement is delivered to the employee to appeal to the Executive Committee. Notice of appeal shall be sent by registered mail to the Chair of the Executive Committee.

The Executive Committee shall determine the merit of the appeal within 60 days of receipt of the appeal. If the appeal is found without merit, the employee shall be notified in writing and the matter considered closed. If the appeal is found to have merit, then the Executive Committee Chair shall schedule a committee meeting in which the employee may present evidence on their behalf. At the conclusion of the evidence presented by the employee and any evidence presented by the Executive Director, the Committee shall go into closed session to discuss the merits of the employee's appeal. The Committee shall review the evidence and respond in writing to the employee.

Decisions of the Executive Committee may be reviewed by the Council upon a majority vote of the voting members. A decision by the Council shall be final.

#### **Dismissal or Suspension Relating to Performance of Duties**

Absent extenuating circumstances, an employee who is dismissed or suspended for unsatisfactory performance of duty shall receive at least two written warnings prior to action. Copies of these warnings must be placed in the employee's personnel file.

Causes for dismissal or suspension of Council employees due to unsatisfactory performance include, but are not limited to, the following:

- a. Inefficiency or incompetence in the performance of duties;
- b. Negligence in the performance of duties;
- c. Physical or mental incapability for performing duties;
- d. Careless, negligent, or improper use of Council property or equipment;
- e. Failure to maintain satisfactory and harmonious working relationships with the public and employees;
- f. Absence without approved leave;
- g. Improper use of leave privileges; and
- h. Pattern of failure to report for duty at the assigned time and place.

**Dismissal or Suspension Relating to Personal Conduct**

An employee may be dismissed or suspended for personal conduct detrimental to Council service.

Causes for dismissal or suspension due to personal conduct include, but are not limited to, the following:

- a. Insubordination;
- b. Conviction of a felony;
- c. Conviction of a criminal act;
- d. Misuse of Council funds or property;
- e. Falsified job information to secure position;
- f. Participation in any action that would in any way seriously disrupt or disturb the normal operations of the Council;
- g. Trespassing on the home of any Council member or employee for the purpose of harassing or forcing dialogue or discussion from the occupants;
- h. Willful damage or destruction of Council property;
- i. Reporting to work under the influence of alcohol or drugs, or partaking of such things on the job;
- j. Acceptance of gifts in exchange for “favors” or “influence”;
- k. Engaging in incompatible employment or serving a conflicting interest;
- l. Gross misconduct or conduct unbecoming a Council employee;
- m. Conduct which undermines or otherwise impedes the effective performance of the Council or Council staff in its duties and/or responsibilities; and
- n. Activities not in accordance with existing conflict of interest requirements.

**m. Salary Increases and Awards**

There are four salary additives that an employee can receive: COLA, Merit Increase, Cash Award, and Temporary Salary Adjustment.

Cost of Living Adjustment (COLA): annual COLA will be given at the same time as federal employees receive their COLA, if a COLA is declared by the Federal

government. Employees employed as of January 1st of the COLA effective year and in a pay status at the time the award is paid will be eligible to receive the COLA. Employees receiving an average rating of 1.7 or higher, out of the 3 point maximum rating scale, for the primary duties evaluation of their most recent annual performance appraisal are eligible for a COLA. Contractors and temporary appointments are not eligible for a COLA.

Merit Increase: A merit increase is an increase in an employee's base salary level awarded in conjunction with the annual performance appraisal. Employees receiving an average rating of 1.7 or higher, out of the 3 point maximum rating scale, for the primary duties evaluation of their most recent annual performance appraisal are eligible for a merit increase. Contractors and temporary appointments are not eligible for merit increases.

Cash Awards: A cash award is a one-time compensation that may be given to an employee who has demonstrated sustained superior performance, outstanding task accomplishment, or has otherwise distinguished themselves. A cash award does not become a part of the employee's base salary. Cash awards are normally awarded in conjunction with the midterm performance appraisal but may be given at any time as deemed appropriate by the Executive Director. Employees receiving an average rating of 1.7 or higher for the primary duties evaluation of their most recent annual performance appraisal are eligible for a cash award. Contractors are not eligible for cash awards.

Temporary Salary Adjustment for Additional Duties: A temporary salary adjustment is a salary increase provided to compensate an employee who temporarily assumes special duties and additional responsibilities. This adjustment may not exceed 10% of the employee's current salary. The added responsibilities and duties will be documented in an addendum to the employee's job description. If the temporary duties or responsibilities become a permanent part of the position, the position description will be updated, and the position reclassified.

All salary additives, except the COLA, are subject to the availability of funds and the following guidelines:

Merit increases, cash awards, and temporary salary adjustments for additional duties are determined by the Executive Director in consultation with the other members of the Senior Management Team. The total amount allotted for merit increases and cash awards may not exceed the amount of the salary additive pool approved in the Council budget.

The amount available for merit increases and cash awards is termed the salary additive pool. The Council determines the amount available for the salary additive pool as a percentage of the total salary line in the annual Council budget and approves the percentage as part of the annual budget approval process. The Executive Director's salary is not included in the salary additive pool calculation.

The Council Chair will determine merit award or cash award amounts for the Executive Director.

**n. Separation**

Separation from Council employment occurs when an employee leaves the payroll for reasons listed below or upon death. A separated employee is not employed or in pay status as described in Section IV(c).

**Resignation:** An employee may terminate their services by submitting a resignation to the Executive Director. Non-exempt employees are asked to provide at least two weeks' notice prior to the last day of work. Exempt employees are asked to provide at least 30 days' notice prior to their last day of work.

**Retirement:** The earliest age of retirement per IRS guidelines is 59-1/2 years.

**Reduction in Force:** An employee may be separated whenever it is necessary to eliminate their position. This may be due to a shortage of funds or work, or due to material changes in the duties of the Council.

**Dismissal:** Dismissal is involuntary separation for cause and should be made in accordance with the provisions of Section C, Employee Benefits.

**At Will:** Either the employee or the Council may end the Council employment at any time and for any reason not prohibited by law.

Employees separated from Council service will be paid in a lump sum for unused annual leave. Payment for unused sick leave will only be paid when separation is due to retirement. Leave payments are subject to the leave provisions in Section VI.b.

**V. Employee Conduct**

Employees are expected to follow the Council's rules of conduct and Dept. of Commerce policies as described in Section II.

**a. Receipt of Materials**

Each employee will be provided a copy of the South Atlantic Fishery Management Council Statement of Organization Practices and Procedures (SOPPs), the South Atlantic Fishery Management Council Administrative Handbook, and the Department of Commerce publication *Rules of Conduct for Employees and Advisors of Regional Fishery Management Councils*. A Receipt of Materials forms will be signed and dated by the employee at the time of receipt and maintained as part of their personnel file

**b. General Provisions**

**Political Activity:** Participation and restrictions relative to political activities is governed by the requirements as contained in the Department of Commerce publication *Rules of Conduct for Employees and Advisors of Regional Fishery Management Councils*.

Financial Interest: No employee may have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her duties.

Consulting: Employees may engage in consulting activities outside of their Council duties if approved by the Executive Director. When outside consulting is anticipated, the employee will review the activity with the Executive Director. The Executive Director will ensure that the intended activity does not constitute a conflict of interest nor interfere with the employee's performance of duties with the Council. The Executive Committee will be advised of the consulting activity.

Drug and Alcohol-Free Workplace: The Council maintains a drug and alcohol-free work environment.

Security Investigations: If an employee must have access to information that is classified, they will be required to receive an appropriate security clearance from the Office of Investigations and Security of the United States Department of Commerce.

**c. Social Media Engagement**

Social media includes all means of communicating or posting information or content of any sort on the internet or other publicly accessible channels. As the Council social media accounts are all considered official media outlets, the Outreach Team as designated by the Executive Director has the sole authority to post and comment. On occasion, Outreach Team staff will ask members of the staff to address issues pertinent to their areas of expertise. Official social media content is to be respectful, honest and accurate. The disclosure of confidential or other non-public information is prohibited.

Ultimately, you are solely responsible for what you communicate in social media. You may be personally responsible for any litigation that may arise should you make unlawful defamatory, slanderous, or libelous statements against any customer, member of the public, Council Member, Council representative, supervisor, manager or co-worker.

**d. Media Contact**

Direct all media inquiries for official Council responses to the [Outreach Coordinator](#) ~~Public Information Officer~~ unless you have been authorized to respond by your supervisor. If you are not authorized to speak on behalf of the Council, do not speak to the media on behalf of the Council.

**e. Teleworking Policy**

See Appendix IV

**VI. EMPLOYEE BENEFITS**

It is the policy of the Council to provide its regular full-time and regular part-time employees, defined as benefit eligible employees, the opportunity to participate in group medical insurance, life insurance, long term care insurance, a retirement plan, and other benefits as designated by the Council. Temporary full-time employees may be deemed benefit eligible. Benefits are subject to change or elimination at any time.

Benefits for part-time employees may be pro-rated based on hours worked.

A summary of current benefits is available upon request from the Administrative Officer, and is updated as needed.

**a. Insurance, Retirement and Other**

Medical Insurance: A medical insurance program is provided for qualifying employees. The health insurance contract contains details of the coverage.

Life Insurance: Term life coverage is provided for benefit eligible employees. The vendor contract contains the details of insurance levels and coverage.

Disability Insurance: Short and long-term disability coverage is provided for benefit eligible employees. The vendor contract contains the details of insurance levels and coverage.

Retirement Plan: The Council sponsors a 401k retirement plan in which benefit eligible employees can participate. The Council will contribute 10% of an employee’s compensation to the retirement plan. This 10% contribution is broken down into two components: a 3% safe harbor component that is fully vested immediately and a 7% component that has a 5-year vesting schedule. Additionally, the Council will match, subject to available funding, up to an additional 4% of the employee’s contribution. Subject to the availability of funds, the Council may increase or decrease its contributions to the retirement plan on a year to year basis, as part of the annual budget and review of employee compensation. Employees may make pre-tax and/or after-tax (Roth) contributions to the plan. Specific assistance in making these elections is available from the Administrative Officer.

**Commented [JC4]:** Clarifying ability to modify as part of the budget process.

Long-Term Care Insurance: Long-term care coverage is provided for benefit eligible employees. Employees may purchase additional coverage (beyond the specified limits covered by the Council) for themselves and certain family members, at their own expense. Employees may continue the long-term care policy after they leave employment by continuing to pay the premium themselves.

Other: Additional benefits may be instituted and made available for employees as the Executive Director and the Council deems appropriate.

**b. Leave Categories and Provisions**

Types of leave authorized by the Council include annual leave, sick leave, compensatory leave, family leave, military leave, holidays, administrative leave, civic leave, and leave without pay. Abuse of leave privileges is cause for disciplinary action.

**1. Annual Leave**

Benefit eligible employees will receive annual leave. Annual leave may be taken only upon approval by an employee's supervisor who shall review requests in view of the office workload and determine approvability. Annual leave will be accrued on the following schedule:

- 0-2 years + 364 days of service: Accrued at the rate of 4 hours per biweekly pay period.
- 3-14 years of service: Accrued at the rate of 6 hours per biweekly pay period except for the last pay period of the year, when 10 hours are accrued.
- 15+ years or more of service: Accrued at the rate of 8 hours per biweekly pay period.

The Executive Director may consider prior work experience related to the professional position occupied by an employee to determine the rate of annual leave accrual. This provision will apply only to those employees determined to be exempted from the hours of work and overtime pay provisions of the Fair Labor Standards Act.

Employees may carry up to 480 hours of annual leave from one year to the next. Amounts above this maximum not taken at the end of the calendar year are to be forfeited. Under certain conditions, forfeited annual leave may be restored if it was properly scheduled for use and circumstances beyond the employee's control caused the forfeiture. Approval for restoration must be obtained from the Executive Director. This carryover must be used within the first 6 months of the following year.

Upon termination, employees will be paid for any accumulated annual leave (not to exceed the 480 hours allowable accumulation plus leave earned to date in a given calendar year) in a lump sum payment.

The Executive Director may advance annual leave not to exceed the amount an employee can earn during the subsequent 12-month period if there is reasonable assurance that the employee will return to duty for a sufficient period of time to accrue leave in amounts equal to the advancement. If the employee separates prior to repaying the advanced leave, the employee will reimburse the Council for the amount of outstanding leave either through salary reduction of the last wage payment or, if insufficient wages are available, through direct payment or a combination of both.

## 2. Sick Leave

Benefit eligible employees will receive sick leave. Sick leave accrues at the rate of 4 hours per biweekly pay period. There is no limit on the accumulation of sick leave.

The Executive Director may advance sick leave if there is reasonable assurance that the employee will return to duty for a sufficient period of time to accrue leave in amounts equal to the advancement. Advanced sick leave may not exceed the amount of sick leave an employee can earn during the subsequent 12-month period. If the employee is separated prior to repaying the advanced leave, the employee will reimburse the Council for the amount of outstanding leave, either through salary reduction of the last wage payment or, if insufficient wages are available, through direct payment or a combination of both.

Sick leave may be granted for:

- Illness or injury which prevents an employee from performing their usual duties (may include attending to, or death of, members of immediate family). Immediate family includes: spouse, parent, child, grandparent, grandchild, sibling as well as in-laws and steps of those family members.
- Medical appointments.
- Quarantine due to contagious disease in the employee's immediate family.
- Family leave.

Employees are encouraged to utilize sick leave when they do not feel well and should not come to the workplace when feeling ill. By not reporting to the workplace when feeling ill, employees are less likely to affect others in the workplace with an illness.

The Executive Director may require a statement from a medical doctor or other acceptable proof that the employee was unable to perform work.

Sick leave without pay may be granted by the Executive Director for an extended illness after sick, annual, and compensatory leave have been exhausted. A need for sick leave in excess of available balances may be supplied by donated leave (see Leave Sharing).

Upon separation through retirement, Council employees will receive a lump sum compensation for up to 800 hours of their accrued sick leave.

Employees with a sick leave balance greater than 800 hours on June 11, 2018, will be compensated up to 1200 hours. If an employee in this category has a medical event that reduces their balance below 800 hours at any time after June 11, 2018, their compensation benefit then becomes a maximum of 800 hours.

Heirs of full-time employees where the employee is 65 years of age or greater at the time of death will be paid for unused sick leave at the above rate (up to 1200 hours for those with greater than 800 hours on June 11, 2018, unless their balance drops below 800 hours

when their limit would remain up to 800 hours which is the same limit for all other employees). Heirs of employees where the employee is younger than 65 years of age are provided a payment equal to the provisions of the current life insurance benefit.

Unused sick leave compensation will be calculated on the employee's average hourly rate of pay for the past three-year's annual earnings.

The Council maintains a separate account to cover the expected costs of annual and sick leave pay-outs. Compensatory Leave is handled per provisions below.

### 3. Compensatory Leave

Compensatory leave is earned when an employee is directed by, or has the prior approval of, their supervisor to work overtime (hours in excess of 40 hours a week). Overtime may include both approved work and required travel time.

Use of compensatory leave requires prior approval of the employee's supervisor and shall be granted only when the use of such leave does not unduly disrupt Council operations. The Executive Director's compensatory leave will be directed by the Council Chair.

Compensatory leave earning rates are determined based on whether an employee is considered exempt or non-exempt under the Fair Labor Standards Act:

#### Non-exempt employees

- Earn compensatory leave at the rate of one and one-half hours for each hour of approved overtime worked.
- Receive compensatory leave in lieu of overtime compensation.
- May not accrue more than 240 hours of compensatory leave. Additional overtime hours worked will be compensated via their bi-weekly salary.
- Upon termination, will be paid for accrued compensatory leave in accordance with the Fair Labor Standards Act.
- Some positions may require travel. Travel time is paid in accordance with federal and state law. For the purposes of this policy, the regular workday is 8:00 a.m. to 5:00 p.m. (Monday – Friday).

#### Exempt employees

- Earn compensatory leave at the rate of one hour for each hour of approved overtime worked.
- Upon termination, will forfeit all accrued compensatory leave.

### 4. Family and Medical Leave Act (FMLA) Leave

Applies only to employees employed by the Council 12 months or longer and who have worked for the Council 1250 hours or more in the preceding 12 months prior to the commencement of leave.

Employees who meet the eligibility requirements have rights under FMLA for up to 12 weeks of unpaid, job-protected leave within a 12-month period for certain family and medical reasons. The Council utilizes the 12-month period measured forward method to determine the eligible period for FMLA leave purposes. Using this method, employees are entitled to 12 weeks of leave in the 12-month period that follows the first date that FMLA leave is taken. Once the 12-month period is completed, the employee will again be eligible to take another 12 weeks of FMLA leave.

FMLA leave is available for any one or more of the following reasons:

- The birth of the employee's son or daughter and to care for the newborn child.
- The placement with the employee of a son or daughter for adoption or foster care and to care for the newly placed child.
- To care for the employee's spouse, son, daughter, or parent with a serious health condition.
- Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's job.
- Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military service member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation. Leave of up to 26 weeks may be granted under certain, qualifying exigent circumstances.

Sick, annual or compensatory leave, if available, will be substituted for unpaid leave under FMLA, except if the leave is covered under a qualified workers compensation event. The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA but will run concurrently with an employee's FMLA entitlement.

If an employee takes leave under this policy, the employee must continue to pay their portion of benefit plan premiums. Provided that the employee is on a paid status, (using annual, sick, compensatory leave) the premiums will be deducted from the employee's paycheck. If the employee goes on unpaid leave, the employee must continue to pay the premiums that would normally be deducted from their paycheck.

Unpaid time off from work due to leave granted under this policy is not considered time worked for the purpose of accrual of paid time off.

The FMLA provides that leave may be taken intermittently or on a reduced leave schedule under certain circumstances.

Employees who request leave under FMLA must give at least 30 days advance written notice to their supervisor and the Administrative Officer or such lesser amount of notice that is possible in consideration of the specific circumstances of the leave request.

At or before the conclusion of the FMLA leave of absence, the employee is entitled to reinstatement to their former position or to a position equivalent to their former position as outlined under FMLA provisions.

#### 5. Military Leave

Military leave with pay shall be granted for regular full-time employees for the following period of service:

- Annual active-duty training for reservists not to exceed 12 working days in any calendar year; any additional time will be treated as military leave without pay unless the employee wishes to use annual leave.
- Unannounced practice alerts when they occur on an employee's normal workday.
- Attendance at service schools in lieu of annual active duty for training not to exceed 12 days.

Military leave without pay shall be granted for periods of active duty with the Armed Forces of the United States because of involuntary draft or military conscription plus 90 days immediately following said enlistment period. Such leave will also be granted for special duty or call up to aid civil authorities in the event of civil disorders or disasters.

Employees desiring military leave shall submit a copy of their orders to the Executive Director as evidence of the required military duty. For leave without pay, the employee shall make available to the Executive Director a copy of the orders to report for active duty and shall advise the Executive Director of the effective date of leave and the probable date of return. Employees are responsible for making application for reinstatement within 90 days from the date of separation from the service and shall notify the Executive Director of any change in the expected date of return or decision not to return.

#### 6. Approved Holidays

Employees receive holidays in accordance with the federal schedule. Additional holidays may be established either on a temporary or permanent basis as recommended by the Executive Director and approved by the Council.

#### 7. Administrative Leave

Administrative leave may be granted employees for emergency and other reasons as determined necessary and prudent by the Executive Director (e.g., inclement weather, local or national disaster, etc.).

#### 8. Civic Leave

Civic leave for jury duty and court attendance is available to regular full-time employees.

Jury Duty: When employees serve on a jury, they are entitled to civic leave with pay for the period of absence required. If the required absence presents a serious conflict

with Council obligations or employee responsibilities, the employee may be asked to try to postpone jury duty.

**Court Attendance:** When employees are subpoenaed or directed by proper authority to appear as a witness, they shall be granted civic leave with pay. If the required absence presents a serious conflict with Council obligations or employee responsibilities, the employee may be asked to try to postpone their attendance.

#### 9. Leave Without Pay

An employee may request, through the Executive Director, leave without pay when time off is necessary and they have no available leave resources. This status for more than 30 days can jeopardize the employee's benefits and may result in separation. Leave without pay status can be assigned an employee for an unauthorized absence or for time off for disciplinary reasons.

#### c. **Leave Sharing**

Annual, sick, or compensatory leave may be donated directly from one employee to another for certain medical conditions. Donation of leave is voluntary, and donors may remain anonymous. An employee is prohibited from threatening or coercing anyone relative to leave donation or receipt of donated leave, and a violation of this prohibition will be considered misconduct and subject to disciplinary action. To be eligible to use donated leave, an employee must have been employed by the Council for 12 months and exhausted all their available leave (annual, sick, and compensatory).

Donated leave may be used for absence due to:

- Personal illness or disability.
- Exposure to a contagious disease.
- Employee dental or medical care.
- Dental or medical care, accident, illness, or death of an immediate family member.

Donated leave may not be used for medical conditions which are compensable under Worker's Compensation benefits or incurred while committing a felony or assault. Donated leave may not be used during disciplinary suspension or while receiving disability insurance benefits.

A request for donated leave may be initiated no more than 40 days prior to the exhaustion of leave. The request must include a statement of the medical problem, certification from a physician or licensed health care provider, and projected time of absence. The request will be submitted to the Executive Director for review and approval. After approval, a solicitation will be circulated to all applicable employees.

A donated leave recipient may use no more than 200 hours donated leave per medical occurrence. Leave beyond the 200 hours may be requested of the Executive Director who may require additional medical certification. Annual and sick leave is earned at the normal

rates for the employee while on sick leave and using donated sick leave. Earned sick and annual leave will be used as accumulated prior to use of the donated leave. Prior to return to duty following use of donated leave, the employee must furnish medical authorization of ability to perform the functions of their job. No more than 20 hours of unused donated leave may be retained when returning to duty, and unused, donated leave will be credited as sick leave. Excess hours will be returned to donors' pro-rata.

A donor may contribute any amount of annual, sick, or compensatory leave up to a maximum of 120 hours per year. A donor must have a minimum balance of 60 hours each of annual and sick leave immediately following donation. A donor must provide the appropriate form (Council designated form) to the Executive Director authorizing the reduction of leave from their record and surrenders any future claim to the leave.

## **VII. Equipment and Technology Resources**

Equipment and technology resources are the property of the Council and are provided for use to meet the business needs of the Council. Employees may only access company networks from approved computers that are configured in accordance with the Council's security protocols. As a condition of this access, employees are expected to respect the responsibilities associated with having a company computer account. Employees are also responsible for ensuring that electronic communication is effective, ethical, and lawful.

The Council reserves the right to access, search, inspect, and disclose any message, communication, or file on a voice mail or computer system or property owned or operated by the Council at any time and for any reason. All electronic communication may be monitored by authorized staff at the Council's discretion to ensure company assets are being protected and that company policies are being maintained.

The Council may override individual passwords and access all systems at any time.

This policy also applies to non-employees including, but not limited to contractors, visitors and customers, who have access to the Council's e-mail, computer or network systems.

Prohibited uses of equipment and technology resources include, but are not limited to:

- Using the Council network to gain unauthorized access to other systems.
- Creating, downloading, viewing, storing, copying, or transmitting sexually oriented, pornographic, obscene or offensive materials.
- The use of abusive, offensive, or profane language.
- Using the Council network or equipment for outside employment or business activity, or for other non-Council purposes.
- Using the Council network to transmit a personal endorsement of any product, service, or enterprise (including professional organizations).
- Using the Council network to engage in any private lobbying activity.

- The intentional unauthorized acquisition, use, reproduction, transmission, or distribution of any controlled information including computer software, personally identifiable information, copyrighted or trademarked material, or data with other intellectual property rights (beyond fair use) or proprietary data.
- Posting of information that expresses personal views and opinions that give the appearance of Council support.
- Engaging in any activity prohibited by federal, state or local law, rule, policy or regulation.
- Engaging in any activity that would discredit the Council, disrupt the workplace, or violate the public trust.
- Engaging in deliberate activities that overload network resources, such as downloading large files for personal use.
- Transmitting threatening, obscene or harassing messages or information.
- Viewing inappropriate material on the internet and abusing the right to occasionally access personal information (social media, news websites, banking information, etc.)

Loading or modifying programs or software onto Council equipment is prohibited without prior authorization from the Administrative Officer.

To maintain a professional appearance and to avoid potential public misinterpretation, the affixing of stickers or otherwise modifying the appearance of Council equipment is prohibited unless preapproved by the Executive Director.

Upon separation of service, all Council issued equipment must be returned to the Administrative Officer.

## **VIII. Personnel Records Administration**

### **a. Maintenance of Records**

The Executive Director is responsible for maintaining the Council personnel records. This is the only “system of records” maintained by the Council which contains information about an “individual” and is subject to the Privacy Act of 1974 (Public Law 93-579).

In maintaining the records, the Executive Director shall collect only information that is relevant and necessary for the sound administration of the Council personnel system. The Executive Director shall also see that these records are maintained in accordance with the “Privacy Act”. Records are retained for five years following employment termination. The provisions of this section apply to potential, current, and former employees of the Council.

**b. Sources of Information**

Information used in making determinations about employment or other personnel actions are, to the extent practical, to be obtained directly from the individual. Where it is necessary to obtain information from other sources it should be obtained directly from those sources. In securing information from employees and potential employees, the Executive Director shall see that the individual is informed of the following:

- The authority that authorized the solicitation of the information.
- The purpose for which the information will be used.
- The effect on the individual by not providing the requested information in whole or in part.

**c. Examination of Records**

The Executive Director shall respond within five working days to any request by an individual concerning whether the Council maintains records pertaining to that individual. In the event the Council does maintain such records, the individual and authorized representative shall be allowed to examine the individual's records and make copies.

**d. Amendment of Records**

Any individual that the Council maintains records on may request in writing that the Executive Director amend such records and shall set out in such request reasons for amending the records. The Executive Director shall respond to such requests within 10 working days. In the event such a request is refused, the individual shall be informed of the right to appeal to the Executive Committee. The Executive Committee shall review requests to amend personnel records and respond to the request within 60 days of receipt of the request.

**e. Access to Information in Personnel Files**

All information in an employee's personnel file is confidential, however, it may be examined by a Council member or the Executive Director and other Council employees on a need to know basis as determined by the Executive Director.

**IX. TRAVEL POLICY****a. Council Member Travel outside of Council Meetings**

SAFMC Advisory Panel Meetings: Committee Chair and Vice Chair are approved for travel reimbursement and stipend payments to attend meetings of advisory panels that report to their committee. If one will not attend, attendance is open to another Council member by request to the Council Chair and Executive Director.

SAFMC SSC Meetings: The SSC Liaison and Council representatives on any SEDAR Assessments the SSC is reviewing are approved for travel reimbursement and stipend payments to attend SSC meetings. Additional Council members may be authorized to attend by request to the Council Chair and Executive Director.

Council Chair & Council Vice Chair: authorized to receive Council travel orders to attend any AP and SSC meeting.

Total Council member attendance at any non-Council meeting should not normally exceed 4 individuals.

**b. Authorization**

Travel is performed under the authorization of the Executive Director and the Council Chair. Travel to other than specific Council sponsored functions must be approved by the Executive Director and Council Chair. A Council member may request travel compensation to attend such a function without pay (i.e., stipend for those eligible). If a request for travel is denied, the Council member may appeal to the full Council. Approved travel orders will be furnished to individuals to cover each authorized travel occurrence.

Travelers should contact Council administrative staff prior to confirming any travel reservations if they have questions about reimbursable travel expenses.

**c. Duration and Purpose**

The duration and purpose of travel to be performed will be determined prior to each occurrence. Any deviation from an approved itinerary must be approved in advance of the change to the itinerary, except for in extenuating circumstances. Prior approval for alterations to approved itineraries should be obtained from the Executive Director or Administrative Officer.

**d. Subsistence**

The maximum daily subsistence shall be as prescribed in the federal travel regulations and established by Council. The prevailing hotel room rate for Council meetings will be as negotiated by staff (or other organization as appropriate) with the lodging facility. Cost of lodging, meals, and incidental expenses are to be itemized on a travel claim form for each day of travel. Reimbursement will be in accordance with the GSA Travel Regulations.

**e. Transportation**

All airline reservations and car rentals must be made through the Council's designated travel provider. When electing to drive a privately owned vehicle (POV), travel expense reimbursement will be limited to the prevailing airfare rate as determined by the Council's designated provider. The most direct route for travel is to be utilized. If you have special circumstances about your travel, please contact the Administrative Officer in the Council

office for further guidance.

Rental cars are limited to mid-sized sedans or lower cost classes unless work or medical requirements require a larger vehicle (examples – several employees are carpooling and need a van; the traveler must haul a large amount of equipment which requires a van or truck). Carpooling is encouraged when practical. Vehicle insurance coverage is provided through the Council's vehicle rental insurance policy and additional insurance is not to be purchased.

To obtain the lowest airfare possible, travelers are encouraged to complete their reservations as soon as practically possible upon confirming their itinerary. Airfare should be booked more than 14 days prior to departure to avoid potentially higher fees. Excess airline costs associated with personal travel outside the authorized dates indicated on the travel order are to be paid for by the traveler. For example, if authorized travel begins on Friday, but the traveler books a ticket for Thursday to accommodate a personal side trip and the Friday ticket is \$50 cheaper than the Thursday ticket, the traveler must pay the additional \$50. Any additional costs resulting from a change in travel, for routine personal reasons, are to be paid for by the traveler. All travel will conform to the Fly America Act (<https://www.gsa.gov/policy-regulations/policy/travel-management-policy/fly-america-act>).

Total mileage is required for mileage reimbursement. Gas receipts are required for rental car expense reimbursements.

Use of a privately-owned plane is acceptable and a claim must be for direct air route mileage between itinerary points and is reimbursable at the rate as established in federal travel regulations. Reimbursement will not exceed the cost of the lowest available airfare unless approved in advance by the Executive Director.

**f. Distracted Driving Policy**

To increase staff safety and eliminate unnecessary risks, the Council has enacted a Distracted Driving Policy (as follows) that applies to any Council staff, Council member, AP member, or any other authorized traveler when operating a Council funded vehicle or a personal vehicle on Council business:

- Individuals may not text, email, or read while operating a vehicle – whether the vehicle is in motion or stopped at a traffic light.
- If an individual needs to text or email, they must pull over safely to the side of the road or another safe location.
- Only hands free, voice only calls are permitted unless prohibited by law. The use of a hand-held cell phone while operating a vehicle is prohibited.

**X. Other Expenses**

Parking fees, road tolls, official phone calls, taxi and limousine fares, baggage fees, and miscellaneous expenses (explained on travel order) are reimbursable and must be accompanied by receipts.

When traveling by air, any needed ground transportation at the destination is reimbursable up to the lowest cost option available. Rental cars are not authorized solely for transport between airports and hotels except in specific situations that will be indicated on the travel authorization.

Self-parking, rather than valet, should be used whenever available. Valet parking fees will only be reimbursed when authorized on travel orders for circumstances when there is no other option.

**a. Unscheduled Expenses**

If a traveler on official business must adjust their travel itinerary due to illness or for other unplanned circumstance, the traveler may be eligible for travel expense reimbursement for additional travel costs. Compensated members will not be eligible for compensation for those days. To the maximum extent possible, the traveler is to request prior approval through the Executive Director and/or Council Chair. The traveler must provide adequate justification with submission of the travel expense claim. If circumstances are such that prior approval is not possible, the Executive Director and/or Council Chair will review the costs and circumstances and approve or disapprove reimbursement. A medical expense incurred while traveling on official business is not reimbursable by the Council.

**b. Per Diem Guidelines**

The following provisions apply to requests for per diem expense reimbursement:

1. On days when travel only occurs for part of the day (i.e., a split day), breakfast, lunch and dinner reimbursement is in accordance with the current General Services Administration rates and breakdowns.
2. Authorized travelers are only allowed to claim an amount if in actual travel status away from home. For example, if the authorized traveler's flight leaves from Charleston, SC, at 3:00 p.m. to a location that has a daily per diem of \$56, the traveler is only permitted to claim \$28 for dinner, as the traveler was in Charleston for breakfast and lunch.
3. The only exception to this is for local meetings where interaction with Council/AP/SSC members is expected and encouraged; staff are authorized lunch reimbursement and possibly dinner authorization on case-by-case basis.

4. The first and last day of travel is reimbursed at seventy-five percent of the total authorized per diem. When combined work and travel time exceeds 12 hours in a day, full per diem reimbursement is authorized.
5. Per Diem reimbursements will be based on the actual travel itinerary. For example, if a meeting ends early, the per diem reimbursement will be determined by the actual return time to the office or home and may be less than authorized on the travel order. Conversely, if a meeting runs late or travel is delayed by circumstances outside the traveler's control, additional per diem reimbursement can be requested.

Please contact Council administrative staff for assistance in completing travel reimbursement requests if there are any questions about reimbursable expenses or changes in approved travel orders.

**c. Reimbursement submission**

Travel expense reimbursement requests are to be submitted on specified forms to Council headquarters within 30 days following travel completion. Claims received 30 days or more following travel completion will not be reimbursed unless there are exceptional circumstances provided in writing and reimbursement is approved by the Executive Director. Claims received 30 days after the end of a grant period are subject to nonpayment.

**d. Foreign Travel**

To the extent possible, information regarding anticipated foreign travel is to be included in the annual funding request. Detailed description of the travel including destination, duration, purpose, and estimated costs should be included. Approval of the budget will convey travel approval.

**XI. COUNCIL COMMITTEES**

Committees must be composed of at least three members appointed by the Council Chair in consultation with the Vice Chair. One member is designated by the Council Chair to chair the committee. The Council Chair also appoints a vice chair for the committee. Committees may be composed of voting and non-voting Council members and representatives of other Councils or Interstate Fishery Management Commissions. Non-voting Council members are allowed to vote on committee motions, serve as Committee Chairs, and present committee reports to the Council. Council members from other Councils or Commissions may be appointed to committees where the fisheries extended into that Council's area of jurisdiction. These members will be allowed to vote on committee motions but may not chair a committee or report to the Council on the committee's behalf. The Council Chair or Vice Chair may serve on a committee as an ex-officio member with voting privileges when necessary to form a quorum.

Prior to the annual election of Council officers, the Executive Director will solicit feedback from each Council member (voting and non-voting) on which committees they prefer to serve and

chair. Based on this information, the Council Chair in consultation with the Vice Chair and Executive Director will determine committee appointments. Committee membership lists are posted to the website.

All meeting materials considered by each committee shall also be provided to all Council members. Meeting minutes or transcripts are to be distributed to all Council members as soon as available and will also be included in the briefing book when each committee meets.

#### **Executive Committee**

The Executive Committee is composed of the Council Chair, the Vice Chair, the immediate past Council Chair, and two other Council members named by the Council Chair in consultation with the Vice Chair. If this composition results in less than five members on the Executive Committee, the Council Chair in consultation with the Vice Chair shall appoint the appropriate number of individuals to assure membership of the Executive Committee is five. The Council Chair serves as committee chair and the Council Vice Chair serves as committee vice chair. The Executive Director serves in an advisory capacity.

Working in conjunction with the Executive Director, the Executive Committee is responsible for establishing the direction and goals for the Council and addressing issues that arise outside of regularly scheduled formal Council meetings. The Committee reviews and approves the activities schedule for the year and the draft budget prior to Council consideration and approval. It reviews on a regular basis all Council expenditures and reports to the Council. Through the budget process, the committee approves the funding of all contracts entered into by the Council. Subject to federal regulations, the Committee may recommend to the Council the transfer of funds from one budget item to another. If adjustments in personnel costs or staff benefits are necessary during the annual budget review process, the Executive Committee will document the recommendations for Council consideration.

The Executive Committee is responsible for hearing appeals related to grievances, as described above. If an employee is not satisfied with the decision of the Executive Director or if the employee fails to receive an answer within the designated period, the employee may request that the Executive Committee consider the matter. The Executive Committee will decide whether the grievance has merit. Decisions of the Executive Committee may be reviewed by the Council upon a majority vote of the Council's voting members. Decisions of the Council are final. The timing for appeals is described within this handbook.

#### **Outreach and Communications Committee**

The Outreach and Communications Committee is responsible for the overall guidance and recommendations for dissemination of information on Council activities and accomplishments.

#### **Law Enforcement Committee**

The Law Enforcement Committee is responsible for addressing the enforcement aspects of fishery management plans, amendments, and associated regulations.

**Habitat Protection and Ecosystem-Based Management Committee**

The Habitat Protection and Ecosystem-Based Management Committee is responsible for addressing the habitat and environmental aspects of fishery management plans and amendments, issues that affect the essential fish habitats (EFH) of species being managed by the Council, ecosystem-based management, and other environmental concerns. This committee also serves as the Coral FMP Committee.

**Fishery Management Plan Committees**

Species oriented committees are appointed as the need arises, based on the Council's or another Council's fishery management activities. These committees are responsible for the formulation and development of fishery management plans and amendments. Members of these committees interact with Council staff, plan development teams, and other Councils.

**SEDAR Committee**

The South Atlantic Council's Southeast Data, Assessment, and Review (SEDAR) Committee is responsible for reviewing and providing input related to stock assessments (priorities, timing, workshops, etc.) to the SEDAR Steering Committee. The SEDAR Steering Committee is comprised of Council Chairs and Executive Directors of the South Atlantic, Gulf of Mexico, and Caribbean FMCs; NMFS Southeast Regional Administrator; NMFS Southeast Fisheries Science Director; HMS representative; and the Executive Directors of the Interstate Fishery Management Commissions located in the Southeast (Atlantic States Marine Fisheries Commission and Gulf States Marine Fisheries Commission).

**Citizen Science Committee**

The Citizen Science Committee is responsible for the Council's Citizen Science Program.

**Ad Hoc Committees**

The Council Chair, in consultation with the Vice Chair, may create ad hoc committees for a limited period of time to address specific issues or Council program needs.

**XII. MEETINGS AND HEARINGS****a. Briefing Book**

Council staff will prepare a briefing book for all Council, AP, and SSC meetings. Briefing books are typically posted to the Council's website 2 weeks prior to the meeting. The Council chair may authorize including materials in the briefing book for council meetings that are available after the 2-week deadline. Staff will consult with the AP and SSC chair and relevant Council committee chair to determine whether the group will accept late submissions for their meeting briefing books.

**b. Formal Meetings**

Formal business of the Council is conducted at scheduled meetings and hearings. Public notice is provided through media and council communication processes. Meetings are noticed in the Federal Register as required by the Magnuson-Stevens Act. Meetings are open to the public, and interested persons are permitted to present oral or written statements on agenda topics. Chairs may establish comment periods and set time limits for individual oral commenters. Transcripts of meetings are maintained and are available for public inspection – *subject to confidentiality of matters discussed*. An administrative fee may be charged for research and copying of records in response to FOIA requests.

The Council may close a meeting which pertains to classified information, personnel, or other internal administrative matters, in accordance with 50 C.F.R. § 600.135. Closed meetings preclude public attendance, and written proceedings are not available for public inspection.

**c. Informal Meetings**

The purpose of holding informal meetings is to allow the public an opportunity to participate in two-way communication with the Council in a relaxed setting where they can ask questions and share information.

Informal Meeting Scheduled by Council: All meetings scheduled by the Council or Council members for the purpose of meeting informally with fishermen and other members of the public to discuss fisheries related matters must be properly noticed in the Federal Register, advertised through the appropriate media channels, and recorded as part of the official Council administrative record.

- Informal meetings may be held in conjunction with public hearings.
- A Council member or members may schedule informal meetings at other times with the approval of the Council Chair. These meetings must be coordinated with the Executive Director to provide for appropriate public notice and recording of these meetings. The Council member(s) attending the meeting must report the results to the Council at the next scheduled Council meeting.
- Council members that attend informal meetings scheduled by the Council are eligible for travel reimbursement and compensation if approved in advance by the Council Chair.

Informal Meetings Scheduled by constituent group: Council members may attend meetings scheduled by a constituent group to informally discuss fisheries related matters if the Council member is an invitee and is representing themselves or is sent to the meeting by the Council Chair as a representative of the Council. The agenda would be established, and the meeting conducted by the constituent group scheduling the meeting. A Council member attending the meeting will receive information and answer questions where appropriate, but not make

commitments on behalf of the Council. These meetings are not required to be noticed in the Federal Register, advertised, or recorded.

- The Council member(s) attending the meeting will report the results to the Council at the next scheduled Council meeting.
- Council member attending an informal meeting scheduled by a constituent group representing themselves is not eligible for travel reimbursement or compensation. A Council member sent to meetings by the Council Chair as a representative of the Council is eligible for travel reimbursement and compensation.

**d. Virtual and Webinar Meetings**

The Council prefers in-person meetings but recognizes that convening through electronic means, as virtual or webinar meetings, are a viable alternative to increase transparency and efficiency while managing costs of conducting meetings in person. The Council may conduct both formal and informal meetings through virtual means, including Council meetings, committee meetings, AP and SSC meetings. Noticing, record keeping, briefing book, and commenting requirements apply to virtual meetings. Virtual meetings are open to members of the public.

Council and SSC members can participate and vote during an in-person meeting if they are participating via webinar. The Council Chair, Vice Chair, and Executive Director will evaluate requests for an exemption for Council members to participate and vote during an in-person meeting if they are participating via webinar.

**e. Public Comment at Council Conducted Meetings**

The Council welcomes public comments at each meeting. A public comment period is scheduled during each formal Council meeting. In addition, interested persons shall be permitted to present oral or written statements regarding matters on the agenda at all meetings conducted by the Council and its representatives. Both written and oral comments become part of the official meeting record and are available to Council members and the public.

Where constrained by available meeting time, the chairperson or presiding officer of the Council, AP, or SSC may limit public testimony in a reasonable manner by requesting that parties testifying avoid duplicating prior testimony, requiring parties with similar concerns to select a spokesperson, and/or setting a reasonable time limit for each party's testimony.

At any time the Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the council takes final action on conservation and management measures.

**Commented [JC5]:** Clarification; for consistency with SOPPS

**f. Exempted Fishing Permit (EFP) Requests**

Requests to consider Exempted Fishing Permits must be forwarded to the Council prior to the completion and Federal Register submission of the Council meeting agenda. This is typically 6 weeks before the start of the meeting. To consider an EFP, the Council requires that NMFS submit a complete proposal for the EFP for the briefing book. The Council also requires that NMFS present an overview of the EFP request during an appropriate Committee meeting or Council session, prior to the public comment period at the Council meeting where the EFP is reviewed. The Council will discuss, evaluate, and provide recommendations on the EFP during the Council session.

**XIII. MANAGEMENT PLAN DEVELOPMENT**

There are several options the Council may use to develop management plans. The Council, after evaluating available technical resources in Council staff, NMFS, the States, universities, and in private research firms, will select the most cost effective and efficient method of plan development. Briefly, the following options, either singly, or in combination, are available to the Council:

- a. Use of an interdisciplinary plan development team consisting of State, Federal, and non-government employees. The Council intends to include State employees where appropriate (e.g., spiny lobster).
- b. Use of an interdisciplinary team of NMFS employees.
- c. Use of a contractor who will assemble an interdisciplinary team to develop the plan or amendment.
- d. Use of Council technical staff.

**XIV. RECORD KEEPING**

Financial records are handled in accordance with OMB Circular A-110 (§14.20-§14.28). Documents created or received by Council employees, while in active-duty status, belong to the federal government. When an employee leaves the Council, original or file copies of records may not be removed and retained by the employee; to do so violates federal law.

Permanent records designated as permanent files are not authorized for destruction. Examples are Environmental Impact Statement (EIS) files, annual report files, and meeting files.

Personnel files are Privacy Act (PA) records and are maintained under appropriate safeguards. Disposition of PA records is in accordance with federal regulations. For example, time and attendance files are retained for three (3) years following the final financial report for each grant year in accordance with OMB Circular A-110 (§14.53).

**XV. FINANCIAL MANAGEMENT**

The Council and its sub-contractor's administrative operations and grant activities are governed by OMB Circular A-110 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations and OMB Circular A-122 Cost Principles for Non-Profit Organizations. OMB Circular A-110 prescribes standards for financial management systems, procurement, property management, financial reporting, cash depositories, grant closeout procedures, insurance, contracts, reporting, recordkeeping, and other administrative procedures. A-122 addresses cost allowability standards. The Council is required to comply strictly with the provisions of the circulars and terms and conditions of the cooperative agreement. Assets with a value of \$5,000 or greater will be capitalized.

**a. Cooperative Agreement**

The Council receives funds through cooperative agreements for administrative operations to cover expenses, such as salaries, office space, utilities, travel, state liaison activities, and contracts for development of FMPs (including amendments) or FMP oriented information.

Operating Costs Funding for Council administrative and technical support operations is included in the budgets of NOAA and NMFS through the Department of Commerce. Funding is subject to regular budgetary review procedures. Cooperative agreements provide federal funds as are necessary to the performance of the functions of the Council and consistent with budgetary limitations.

Application for Cooperative Agreement. The Council must submit a formal application (Standard Form 424, Federal Assistance Short Form) to the Grants Office through the NMFS Southeast Regional Administrator or through the Silver Spring Grants Office (for Coral). The application includes a budget, program narrative statement, statement of general assurances, and a budget summary worksheet. The program narrative statement describes in appropriate detail the purpose for the funds. The NOAA Grants Office provides detailed information regarding required documentation and the NMFS Budget Office provides information relative to funding availability.

**b. Procurement and Contract Procedures**

The Executive Director is responsible for all procurement and contract activities. [Procedures are in accordance with OMB Circular A-110 \(§14.40-§14.48\)](#). Procurements within budget limitations as approved by Council are documented by purchase order, contract, letter of agreement, or such other means as deemed appropriate by the Executive Director. The Council is responsible for the settlement and satisfaction of all contractual and administrative issues relative to procurement.

Competitive procurements can be made through bid or negotiation. Goods and services may be secured through noncompetitive procurement when competitive procurement is not feasible (sole source). Transactions, to the maximum extent practicable, are in open and free competition. When appropriate, an analysis of lease versus purchase is made to determine

which would be the most economical and practical method of purchase. Positive efforts should be made to utilize small and minority owned business. Additional written procurement function procedures are maintained in accordance with 2 CFR 200.318. Some form of cost or price analysis to determine reasonableness and allowability will be made and documented in the files in connection with every procurement action. Price analysis may be by comparison of price quotations, market price, etc. All vendors will be checked against the Excluded Parties List System, <https://www.sam.gov/portal/SAM/>, to ensure the vendor is an approved source of supplies and equipment.

Procurements of \$100,000 or more will be made by competition. Procurements of less than \$100,000 may be made by competition as deemed appropriate and necessary by the Executive Director. Vendor selection will be based on the most advantageous cost to the Council, price and other factors considered.

**Commented [JC6]:** Clarifications, based on ESV and current guidance

#### **c. Property Management**

Property is managed by the Administrative Officer, in accordance with OMB Circular A-110 (§14.30-§14.37). A perpetual inventory system listing Council property is maintained. Items are marked as Council property and sensitive items are safeguarded. Assets with a value of \$5,000 or greater will be capitalized. A formal inventory will be conducted every two years. Property theft should be reported to local law enforcement personnel, including the FBI.

Property, which is determined to be surplus to the Council needs, may be transferred, traded, sold, or discarded. Items may be transferred to another Council, Federal, state or local entity. Items may be traded for needed supplies, equipment, or for other considerations with another Council, Federal, state or local entity, or commercial vendor. Items may be sold to another Council, Federal, state or local entity, or commercial vendor at a fair market value. Any item that is no longer functional may be discarded in any manner deemed appropriate by the Executive Director.

#### **d. Space Management**

Economy is exercised in the amount and cost of space obtained by the Council. In acquiring space, Council may use:

- General Services Administration leasing assistance.
- Southeast Regional Office assistance.
- Direct negotiations.

#### **e. Accounting**

The Council maintains a document-oriented obligation accounting system (with accruals, as necessary, for budget projection purposes). Customary and usual accounting records are maintained. Obligations are documented to provide quick access and verification by auditors. The system provides fiscal control over expenditures in line with the budget object classes. Financial records are handled in accordance with OMB Circular A-110 (§14.21, §14.22, §14.52, and §14.53). Payments are made under the authority of the Administrative

Officer and the Executive Director. Funds are received into the Council bank account through an electronic fund transfer from ASAP.gov. Draw down frequency and amounts are in accordance with the funding award terms and conditions and U.S. Treasury requirements.

**f. Audits**

See OMB Circular A-133.

**g. Financial Reports**

See OMB Circular A-110 § 14.50-§14.53.

**XVI. APPENDIX I – SSC POLICY**

**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

**SCIENTIFIC AND STATISTICAL COMMITTEE POLICY**

Adopted by Council: 3/10/2023

**A. Objectives and Duties**

When requested by the Council through the Executive Director

1. The Scientific and Statistical Committee (SSC) shall provide expert scientific and technical advice to the Council on the development of fishery management policy, on establishing the goals and objectives of fishery management plans (FMP) or amendments, and on the preparation of such plans or amendments.
2. When requested by the Council, the SSC shall supply the Council with a critical review of the scientific information necessary to make management decisions, such as stock assessments or other reports on stock status, socioeconomic impacts of management measures, sustainability of fishing practices, and habitat and ecosystem status. Such information may include fishing level recommendations including overfishing limits and acceptable biological catch, where appropriate, based on the best scientific information available.
3. The SSC shall assist the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of any FMP and specification of annual catch limits.
4. The SSC shall assist the Council in determining what statistical, biological, economic, social or other scientific information is needed for the development of an FMP or amendment that meets the requirements of the Magnuson-Stevens Act; and shall advise the Council as to the best way of obtaining this information, including identifying entities with ongoing research programs that may be able to develop the needed information.
5. The SSC shall advise the Council on preparing comments on any FMP or amendments prepared by the Secretary or Secretary's delegate or other Councils, which are transmitted to the Council pursuant to the Magnuson-Stevens Act.
6. The SSC shall comment on, if requested by the Council, any proposed regulations, which the Council deems necessary to implement any FMP or any amendment to an FMP which is prepared by the Council.
7. The SSC shall assist the Council in establishing criteria for judging FMP effectiveness.
8. The SSC shall submit to the Council such reports as the Committee deems appropriate and such reports as are requested by the Council.

9. The SSC shall perform such other necessary and appropriate duties as may be requested by the Council to carry out its functions under the Magnuson-Stevens Act.

#### **B. Membership Composition**

1. The SSC of the South Atlantic Fishery Management Council shall be appointed by, and serve at the pleasure of, the Council.
2. The SSC shall be composed of experts in the biological, statistical, economic, social, and other relevant disciplines from the Federal, State and private scientific communities and whatever other source the Council deems appropriate. Members appointed by the Council to the scientific and statistical committee shall be federal employees, state employees, academicians, or independent experts who are not employed by, nor receive any compensation from, advocacy or interest groups and shall have strong scientific or technical credentials and experience.
3. The SSC shall be composed of 19 members; Council may add additional seats as need and resources allow.
4. The SSC shall include among its membership a representative of each state agency represented on the Council.
5. The SSC shall include among its membership at least one social scientist, one economist, and one additional representative from either of these specialties.
6. The SSC shall elect a Chair and Vice Chair from among its members to serve terms of 2 years or until a successor is elected. SSC members that are employed by NMFS cannot serve as Chair or Vice Chair of the SSC.
7. A Social-Economic Panel (SEP) will serve as a sub-panel of the SSC to address social and economic issues related to Council actions and develop advice and recommendations related to social and economic analyses presented to the Council. SEP members are appointed by the Council and include SSC members who fill designated social and economic sciences SSC seats, other SSC members, and non-SSC members with relevant expertise. This panel will be chaired by a Panel member who is also an SSC member, elected from among its members. The SEP will report its findings to the SSC and will develop guidance for consideration by the Council and SSC.

#### **C. Terms of Members**

1. Members of the SSC shall be appointed for 3-year terms by the Council.
2. Membership terms shall be staggered, with 1/3 of the terms ending annually.
3. Membership terms begin on July 1 of each year.

4. Non-SSC members of the SEP will serve 5-year terms.

**D. Termination of Membership**

An SSC member may be terminated at the Council's discretion if:

1. They transfer employment or move to a different location.
2. They are absent from two consecutive meetings without giving adequate notification or reason to the Council Executive Director.
3. They appear unable or unwilling to fulfill their obligations as an SSC member.
4. Their area of expertise is no longer required.
5. The Council determines they should be removed for just cause ("Just Cause" may include, but is not limited to, a violation of marine resource law that has been finally adjudicated by NOAA or other federal or state agencies, or a violation of Council policies or Code of Conduct).
6. The Council determines they should be removed for violation of Council policies.

**E. Appointment and Replacement of Members**

Annual Appointment Process

1. SSC members whose term will expire shall be notified by the Executive Director and invited to reapply if interested. Members will be asked to submit a current resume and cover letter indicating their desire to continue service.
2. The Executive Director shall announce the annual appointment process through the news media, Council mailing lists, NOAA Fisheries mailings and other such means deemed appropriate to solicit qualified nominees. Interested persons will be requested to provide a resume, completed financial disclosure form, cover letter highlighting their qualifications and indicating receipt of the SSC Job Description and other supporting material relative to their qualifications and area of expertise.
3. The Scientific and Statistical Selection Committee will review the qualifications of the existing members seeking reappointment as well as any new nominees and make recommendations for appointments to the SSC to the Council. The Scientific and Statistical Selection Committee may consult with SSC members prior to making recommendations to the Council.
4. Applications for those not receiving appointments will be kept on file until the next appointment period. Applications kept on file will not be reconsidered at the next appointment period unless the applicant requests reconsideration.

When vacancies occur on the SSC due to resignation or Council action removing a member:

1. Vacancies will be considered at the next scheduled Council meeting.
2. Vacancies of state agency designated seats will be filled by a representative of that agency; the person identified by the agency will be reviewed and appointed at the next scheduled Council meeting.
3. Vacancies of designated expertise seats (sociologist or economist) will be filled from the pool of applicants by an applicant with similar expertise.
4. Vacancies of other seats will be filled from the pool of applicants on file at the time the vacancy occurs.
5. If the Council determines that no acceptable candidate is available in the pool to fill the vacancy, the vacancy may be left open until a future meeting when additional applications can be solicited and reviewed.

**F. Administrative Provisions**

1. SSC meetings shall be scheduled by the Executive Director, with the approval of the Council Chair, as often as necessary to fulfill the Committee's responsibilities, within time and budgetary constraints.
2. The SSC shall report to the Council through the Executive Director (or designee).
3. The Council Executive Director shall provide such staff and other support, as the Council considers necessary for SSC activities, within budgetary limitations.
4. To account for effort spent during both in person and online meetings, eligible SSC members will be paid an hourly stipend rate as approved by the Council up to a maximum of eight hours per day for time spent in the performance of duties for the SSC in accordance with Council policy. Activities eligible for stipend payment include those which are noticed via the Federal Register or as authorized by the Council Chair or Executive Director. Time spent on preparation, planning or other related homework items is not stipend eligible. In addition, reimbursement is provided for approved travel expenses incurred in the performance of duties for the SSC in accordance with Council policy. Stipend payments are subject to the availability of funds and may be adjusted or suspended at any time.
5. SSC members are expected to attend meetings in person when meetings are conducted in that format. Online attendance during a meeting that is also conducted in person is not preferred and is only permitted with the advance permission of the Executive Director.
6. The SSC shall follow the Council's procedures covering confidentiality of data.

7. A Council Member will be appointed by the Council Chair to serve as an SSC Liaison. The Liaison will attend SSC meetings to clarify Council requests, needs, and positions as necessary. Other Council members in attendance may also ask questions. The SSC Chair will use their discretion if the discussion becomes extensive.
8. The SSC generally reaches decisions by consensus but may also vote as needed and as determined by the SSC Chair.

**G. Webinar Meetings**

The Council authorizes the use of webinar meetings and in-person meetings of the SSC and SEP.

**H. Public Comment**

The Council welcomes public comments to the SSC.

Written comment:

Written comment on SSC agenda topics is to be distributed to the Committee through the Council office, similar to all other Council briefing materials. Written comment to be considered by the SSC shall be provided to the Council office no later than one week prior to an SSC meeting. Submit written comments via the online comment page on the Council's website or mail comments to:

SAFMC – SSC Comments  
4055 Faber Place Drive  
Suite 201  
North Charleston, SC 29405

Verbal comment:

Two opportunities for comment on agenda items will be provided at set times during SSC meetings. The first will be at the beginning of the meeting, and the second near the conclusion. Those wishing to comment should indicate such in the manner requested by the SSC Chair, who will then recognize individuals to provide comment.

An opportunity for comment on specific agenda items will also be provided as each item come up for discussion. Comments will be taken after all the initial presentations are given and before the SSC starts the discussion of the agenda topic. As before, those wishing to comment should indicate such in the manner requested by the SSC Chair, who will then recognize individuals to provide comment. All comments are part of the record of the meeting.

**XVII. APPENDIX II – AP POLICY****SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL ADVISORY  
PANEL POLICY****Approved 12/6/2024****Commented [JC7]:** Inserted most recent version

Advisory panels (APs) serve as the fishing industry advisory committee as required by the Magnuson Stevens Act (MSA) and are charged with carrying out the objectives and duties listed below for a specific fishery management plan (FMP) or management issue. The Council may establish, abolish, or modify APs as necessary to meet its needs.

**A. Objectives and Duties**

1. Advisory panels will offer the Council continuing advice on the assessments and specifications contained in the FMPs and amendments for each fishery managed by the Council, with particular regard to:
  - a) The capacity and the extent to which the fishing vessels of the United States will harvest the resources considered in the FMPs;
  - b) The effect of such FMPs on local economies and social structures;
  - c) Potential conflicts between user groups of a given fishery resource;
  - d) Enforcement problems peculiar to each fishery with emphasis on the expected need for enforcement resources.
2. Advisory panels will offer advice and prepare comments for the Council on:
  - a) FMPs or amendments during preparation of such plans or amendments by the Council;
  - b) FMPs, policies, or regulations prepared by the Secretary, state agencies, or other Councils and transmitted to the Council for review;
  - c) The effectiveness of plans and amendments that have been implemented;
  - d) Communication and outreach strategies
3. Advisory panel members will keep the Council advised of current trends and developments in fishery, management, law enforcement, data collection, habitat and ecosystem, and communication matters.
4. Advisory panels will perform such other necessary and appropriate duties as may be requested by the Council to carry out its functions under the MSA. This includes participating in the SEDAR assessment process.

**B. Membership Composition and Qualifications**

1. Advisory panels will be composed of people who are either engaged in the

harvest, pursuit, and use of, or are knowledgeable or interested in the conservation and management of, the fishery or group of fisheries that the particular AP is created to address. Advisory panels will also reflect expertise and interest from the standpoint of geographical distribution, industry and other user groups, and the economic and social groups encompassed in the fisheries range.

2. Nominees may not be eligible for appointment if they have had a marine resource violation in the past three years.
3. Each AP will elect a Chair and Vice Chair from among its members who may serve in these roles for a period of three years. Chairs and Vice Chairs may be re-elected to subsequent terms.
4. Liaisons may be added to an advisory panel as non-voting members to fill specific informational needs. These liaisons are ineligible to serve as chair or vice-chair of the AP. When creating a liaison seat, the Council will determine how the liaison is nominated and appointed, and the source of travel support.

### C. Appointment Process

All AP appointments are made by the Council and members serve at the pleasure of the Council. Council staff announces AP vacancies and solicits applications for consideration by the Council.

1. Advisory panel vacancies will be announced through the news media, Council distribution lists, and other means necessary to solicit qualified nominees.
2. Persons interested in serving on an AP must complete and submit an application form provided by the Council.
3. Applicants will be subject to a background check by NOAA Law Enforcement to determine if the applicant has any marine policy violations during the prior 3 years.
4. Some seats are filled by representatives of specific agencies or other Councils. These seats are not advertised, and instead, Council staff contacts the appropriate organization to solicit nominations for the seat. These individuals are not required to complete the SAFMC AP application. The nominated individuals are officially appointed to the Panel by the Council. The nominating entity is responsible for travel reimbursement.
5. The Council will review the qualifications of the nominees and make appointments.
6. Newly appointed members are required to attend an orientation session. New appointees who cannot attend are required to review a video of the Council policies segment of the orientation, and to provide written acknowledgement of watching the video and receiving a copy Council travel, harassment and conduct

policies.

7. Information on Council policies addressing travel, harassment, and conduct will be provided to AP members annually.

#### **D. Membership Terms**

Members are appointed by the Council for three-year terms and may be reappointed for two additional three-year terms. Except as noted below, AP members cannot be appointed to more than three terms in succession. A member may be reappointed to the same advisory panel after having been off the advisory panel for at least one year and will be eligible to serve 3 additional three-year terms.

Advisory Panel member terms take effect on July 1 for appointments made in June and January 1 for appointments made in December. The Council will specify the effective date for appointments made at other times.

##### Exceptions to term limits:

1. If the Council determines no qualified persons have applied for an open position held by a member who has reached the limit of 3 three-year terms, the outgoing member may be appointed to an additional one-year term. In such cases, each new term will be viewed as if it were a third term. This term limit policy does not apply to the SEDAR or Citizen Science APs (Pools).
2. Term limits do not apply to the Coral, Deepwater Shrimp, Golden Crab, Wreckfish, and Shrimp Advisory Panels. These are small, specialized fisheries with relatively few participants and it is difficult to find qualified new applicants to fill AP vacancies.

#### **E. Administrative Provisions**

1. Members of APs will serve without compensation. Members will be reimbursed for travel expenses incurred in the performance of their duties for the Council in accordance with Council travel guidelines.
2. Limited Compensation Exception: Advisory panel Chairs will be provided a stipend for time attending and traveling to Council meetings to provide an official report on panel recommendations. The Vice Chair or another AP member will be eligible for the stipend if designated by the Chair to attend a Council meeting and report on behalf of the AP. Council stipend policies and eligibility requirements will apply.
3. Within time and budget constraints, AP meetings will be scheduled as often as necessary to fulfill the panel's responsibilities.

4. The Council intends that each AP will meet in-person at least once every 2 years or 24 months. If there are no FMP amendments or specific actions to be considered by the AP, the AP will convene to provide the Council general feedback on fishery conditions, inform the Council of any developing issues, and document these recommendations in a Fishery Performance Report. The Chair of the Committee to which the AP reports and the Council Chair may approve deviations from this meeting requirement.
5. The Council Executive Director will provide, within budget limitations, such staff and other support as the Council considers necessary for AP activities.
6. Advisory panels will report to the Council through the AP Chair and Council staff.
7. With approval of the Executive Director, relevant Committee Chair, and Council Chair, APs may establish such subpanels as they deem necessary to facilitate their duties.

#### **F. Meeting Provisions**

1. Advisory panel meetings may be held in-person or via webinar. In-person meetings are preferred when time and budget constraints allow.
2. The Council expects that all AP members will attend meetings in-person. Members who cannot attend in-person are required to notify the AP Chair and staff for remote participation approval. Remote participation counts as being present for attendance requirements.
3. Members approved for remote participation in an in-person meeting can participate in discussions and vote.
4. The Council and its Committees will provide guidance on agendas and topics to be discussed at AP meetings.
5. Council Committee Chairs, or their designee, will attend meetings of the APs associated with their Committee and report to the AP on activities of the Committee.
6. Public comment is allowed during AP meetings. Written comment:

Written comment on AP meeting agenda topics will be distributed to the AP through the Council office, similar to all other Council briefing materials. The deadline and process for submitting comments to be included in the Administrative Record of the meeting and for consideration by the AP will be the same as that for other Council meetings.

Verbal comment:

Two opportunities for comment on agenda items will be provided at set times during AP meetings. The first will be at the beginning of the meeting, and the second at the end of the meeting. Additional comment opportunities will be provided prior to

recessing each day if the meeting runs more than one day. Those wishing to comment should indicate such in the manner requested by the AP Chair, who will then recognize individuals to provide comment. All comments are part of the record of the meeting.

### **G. Inactive Advisory Panels**

Council will consider the ongoing need for an AP and may consider disbanding the AP if the Council does not identify a need for the AP to meet over a 4-year period. The AP can be reinstated when need arises. Council may consider combining APs as another approach to addressing inactivity.

### **H. Termination of Membership**

An AP member may be removed from the panel before the end of their appointed term if:

1. They change employment.
2. They discontinue participation in the fishery for which they were appointed.
3. They move to another state outside of the Council's jurisdiction.
4. They are absent from two consecutive meetings without giving adequate notification or reason to the Council Executive Director.
5. They consistently fail to attend in-person meetings. During AP selection sessions, the Council will review the participation of any members who have missed 2 consecutive meetings.
6. The Council determines they should be removed for just cause ("Just Cause" may include, but is not limited to, a violation of marine resource law that has been finally adjudicated by NOAA or other federal or state agencies)
7. The Council determines they should be removed for a violation of Council policies.

### **I. Advisory Panels that Serve as Membership Pools**

The Council may create specialized APs that serve as "pools" from which individuals are selected to participate on subpanels for specific projects. Examples, described below, include the SEDAR and Citizen Science AP Pools. Advisory panel pools are governed by the same requirements as those above for all other APs, except as specifically noted in the following special provisions or within the description of specific AP pools.

Advisory Panel Pool Provisions:

1. Advisory panel pools will not meet as a panel and are not subject to meeting frequency requirements.
2. Advisory panel pools will not elect chairpersons.

3. There is no limitation on the number of members on an AP pool.
4. Advertising for applicants to a pool may be done as needed for a specific project or as part of a general call for applications on other Council APs.
5. Participation on an AP pool does not prevent appointment to another Council AP.
6. Appointments to AP pools are not subject to length of term limitations.
7. AP Pool members and designated group appointments will be listed in the Council directory.
8. To ensure the accuracy of contact information and the viability of AP pools:
  - Council staff will contact all members who have been individually appointed to an AP pool every 5 years to verify their contact information and intent to remain on the pool.
  - A background check will be conducted at this time for those who indicate they desire to remain on the pool.
  - The Council will be informed of any pool members who cannot be contacted through their last known information, who no longer desire to participate, or who no longer possess a clean record of marine resource violations.

#### **SEDAR AP Pool**

The SEDAR AP Pool (also known as the SEDAR Pool or SEDAR AP) is composed of individuals approved by the Council to participate in the SEDAR stock assessment process. Approved participants (panelists and appointed observers) for each SEDAR workshop will only be selected from the SEDAR Pool. All advisory panel members are included in the SEDAR Pool while they are serving on an AP and are eligible to be appointed to participate in a SEDAR workshop as a panelist or observer. Appointments to the SEDAR AP Pool may be made by the Council or the SEDAR Committee.

#### **Citizen Science AP Pool**

The Citizen Science AP Pool (also known as the Citizen Science Pool or Citizen Science AP) is composed of individuals approved by the Council to participate in the Citizen process. Approved participants for citizen science working groups and subpanels will only be selected from the Citizen Science Advisory Panel Pool. All AP members are included in the Citizen Science Pool while they are serving on an AP and are eligible to be appointed to participate on a Citizen Science group. Appointments to the Citizen Science AP Pool may be made by the Council or the Citizen Science Committee.

#### **J. Ad Hoc Working Groups**

The Council may create *ad hoc* working groups to address specific advisory and fishery information needs that are not addressed by existing Advisory Panels and, due to the nature of the fishery or the issue, do not justify or require creation of an additional permanent Advisory Panel. These working groups are established under MSA Section 302(g).

1. Members of *ad hoc* working groups created under this provision are subject to all Council policies as detailed in the Administrative Handbook.
2. Meetings of *ad hoc* working groups are subject to MSA requirements
3. Standard advisory panel applications are not required for appointment by the Council. This does not prevent the Council from requesting specific information from potential applicants.
4. *Ad hoc* working groups are not subject to term limitations, and participation on a working group does not affect eligibility to serve on APs.
5. The Council will provide a charge and Terms of Reference for the working group.
6. A working group description and member list will be posted on the Council website.
7. The Council will specify operational guidelines for each *ad hoc* working group it creates, considering:
  - a. Workgroup size
  - b. Membership requirements; selection and appointment process
  - c. Selection of a workgroup Chair
  - d. Workgroup duration
  - e. Meeting approach (in-person, virtual)
  - f. Workgroup recommendation handling and routing (i.e., through another AP, direct to a Council committee)
  - g. Relation to existing APs
  - h. Staff support needs

**XVIII. APPENDIX III - Harassment Complaint Form**

**Harassment Complaint Form**

Name of the Complainant (optional) \_\_\_\_\_

Code Name of Complainant (required if actual name not provided) \_\_\_\_\_

Phone Number (optional) \_\_\_\_\_

E-mail (optional) \_\_\_\_\_

Today's Date \_\_\_\_\_

Name of the person(s) who engaged in the harassment \_\_\_\_\_

Date and Time of Incident(s) \_\_\_\_\_

Where did the specific event(s) occur? \_\_\_\_\_

Please explain the event(s) that occurred. Be specific. (Attach additional sheets if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Were there any witnesses to this specific event? (If yes, please provide their names.)  
\_\_\_\_\_  
\_\_\_\_\_

How did you react to the situation? Did you take any action to stop the perceived inappropriate behavior?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Return or mail to the Administrative Officer at 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405

Date Received \_\_\_\_\_

Received By \_\_\_\_\_

**XIX. APPENDIX IV – Teleworking Policy**

**Commented [JC8]:** Updated Telework appendix to reflect current policies

Teleworking is a privilege. It is not a substitute for childcare or an alternative to using leave. Personal business shall not be conducted during stated teleworking hours.

Teleworking ~~plans must be approved in advance by the employee's immediate supervisor~~ and must comply with the following provisions:

- Allowable telework days:
  - Employees may telework up to ~~45~~ days (~~up to 32 hours~~) per week with supervisory approval.
  - Telework days may be scheduled as full (8h) or half (4h) days.
  - Employees are expected to be in the office for the standing weekly staff meeting unless they have obtained prior supervisory approval to attend remotely or are in an approved leave status.
  - ~~Teleworking is not allowed on the day of the standing staff meeting, as in-person attendance is required at staff meetings unless the employee is in a leave status.~~
- ~~T~~Teleworking plans guidelines:
  - ~~Employees must submit a written teleworking plan to their supervisor.~~
  - ~~Plans must be provided at least one day in advance of initiation or changes.~~
  - ~~Plans must indicate the hours that will be worked.~~
  - Employees may schedule recurring telework days.
  - The supervisor may cancel recurring telework plans without advance notice if performance expectations are not met.
  - Extended teleworking plans requests will be evaluated by the supervisor quarterly.
  - ~~Supervisor approval of a teleworking plan~~An existing telework schedule is not a promise or commitment that chosen telework days can always be used.
- Teleworking accessibility:
  - Employees must be accessible during stated working hours while teleworking.
  - The employees phone application is to be active and capable of receiving calls.
  - Other SAFMC staff must be provided a contact number.
- Deviations from teleworking provisions:
  - Employees may request approval from their immediate supervisor and the Executive Director to deviate from the requirements of this policy.
  - Requests for deviations must be submitted one week in advance to allow adequate time for consideration.
  - Evaluation of such requests will be based on consideration of what best meets the needs of the Council and ensures the employee's tasks and responsibilities are met.

## XX. APPENDIX V – Harassment Guidance Council Employees

### Model Fishery Management Council Policy on Addressing Allegations of Harassment of Council Employees

#### SECTION 1. PURPOSE.

The purpose of this policy is to protect Council employees and provide guidance for Councils on taking action related to incidents or allegations of harassment **experienced by Council employees** prohibited by Federal law (i.e., harassment based on sex, sexual orientation, gender identity, race, color, national origin, age, religion, disability, or reprisal). **The Council will not tolerate harassment or retaliation against those who report harassment.** Preventing harassment is everyone's responsibility and individuals who experience or observe harassment are strongly encouraged to come forward to ensure a safe working environment for everyone involved in the Council process. This policy provides a framework for procedures to encourage employees to come forward with harassment allegations without fear of retaliation. This policy outlines an expedited process for reviewing allegations of harassment, ending actual incidents of harassment, and taking disciplinary actions as appropriate. The procedures established in this policy are distinct from the NOAA equal employment opportunity (EEO) complaint process, which is also available to Council employees to pursue allegations of – and seek remedies for – discrimination or harassment.

#### SECTION 2. BACKGROUND.

##### Definition of Unlawful Harassment:

Harassment is a form of discrimination. The Equal Employment Opportunity Commission defines harassment as: “unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.”<sup>1</sup>

.01 The Council is responsible for maintaining a workplace free of harassment. As part of this responsibility, supervisors are responsible for addressing and correcting misconduct that constitutes harassment.

.02 Employees can pursue allegations of harassment to several forums. The allegations or incidents covered in this policy are such that immediate appropriate action by the appropriate

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<sup>1</sup> See the Equal Employment Opportunity Commission website for more information: <https://www.eeoc.gov/harassment>.

supervisor to resolve such matters is mandatory regardless of which forum an employee selects in pursuing an allegation. Employees have recourse when supervisors fail to address allegations of harassment, which could result in serious consequences for the Council.

### SECTION 3. SCOPE.

This policy covers incidents or allegations of harassment prohibited by Federal law,<sup>1</sup> experienced by a Council employee, whether the alleged harassment is ongoing or occurred in the past. The conduct covered by this policy involves:

- a. the targeting of an employee for harassment because of his/her sex (this includes harassment which is not necessarily sexual in nature) or other protected status;
- b. a pattern of pervasive harassment in the work unit including unwelcome behavior towards an individual or individuals which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment; or
- c. a single incident of harassment of such a serious nature that the continued effective functioning of the unit will be impacted.

### SECTION 4. PROCEDURES.

#### .01 Reporting Allegations of Harassment

- a. Councils should each determine a preferred point of contact to coordinate responses to harassment allegations.
- b. Employees are strongly encouraged to report any incident they perceive to be harassment, to include incidents personally experienced and those witnessed. They may report it to any Council supervisor or the designated point of contact, as soon as the incident occurs.
- c. Any Council process participants (e.g. Council Member, NOAA employee, or others participating in the Regional Fishery Management Council process, aside from Council employees) who observe or receive a report of harassment of a Council

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<sup>1</sup> This policy covers allegations of unlawful harassment, which is a form of discrimination. See the Equal Employment Opportunity Commission website for more information: <https://www.eeoc.gov/harassment>. Allegations of incivility or other inappropriate behavior not based on a protected characteristic are outside the scope of this policy. However, this policy is not intended to limit in any way the Council's ability to address incivility, inappropriate behavior, or other issues in an appropriate manner.

employee should to report the incident to the Council Executive Director, Deputy Director, chair or vice-chair as soon as possible.

- d. To the extent possible, the Council will protect the confidentiality of individuals who make harassment reports. However, the Council cannot guarantee complete confidentiality, since it cannot always conduct an effective inquiry without revealing certain information to the alleged harasser and potential witnesses. The Council is committed to ensuring that the allegation of harassment is shared only with those who have a need to know and in a respectful and sensitive manner.
- e. Employees who make reports of harassment or provide information related to such reports will be protected from retaliation.
- f. All reports of harassment when received by the designated point of contact will be promptly evaluated (typically within one week, absent extenuating circumstances, but in some cases more quickly if warranted under the circumstances) to determine if they come within the scope of this policy. Reports that fall within the scope of this policy will be reviewed thoroughly and impartially in accordance with the procedures in this policy.

#### .02 Taking Action on Reported Allegations of Harassment.

- a. A supervisor who receives an allegation that a Council employee has been harassed (whether the allegation is received from the employee or from another person on their behalf) must immediately<sup>1</sup> report the allegation, in writing, to the designated point of contact. Failure by the supervisor to report the allegation could result in disciplinary or adverse action against the supervisor for failure to adhere to the provisions of this Policy.
- b. In all cases, the supervisor, or designated point of contact to whom the incident is reported, must inform the employee of his or her right to seek counseling from an Equal Employment Opportunity counselor in NOAA's Office of Inclusion and Civil Rights<sup>2</sup>. The employee must be informed that all counseling contacts must occur within 45 days from the date of the alleged harassing event.
- c. In some instances, an employee may request that a supervisor keep the employee's allegations of harassment confidential.

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<sup>1</sup> Absent extenuating circumstances, for purposes of the required report, "immediately" means within 24 hours of receipt of allegations.

<sup>2</sup> <https://www.noaa.gov/organization/inclusion-and-civil-rights/eo-counseling-complaints>

1. In such an instance, the supervisor is obligated to inform the designated point of contact of the allegations and of the request for confidentiality, and must inform the employee of this obligation.

2. Where the employee requests confidentiality, the responsible supervisor must provide a written statement to the employee indicating that any inquiry and action will be very limited if anonymity is required. Any such statement should be coordinated with the designated point of contact.

.03 Incidents Where Facts Are Known and Not in Dispute. Employees may allege, or supervisors may become aware of, incidents of harassment where the facts are not in dispute, i.e., where all parties admit the allegations are true. In such situations, corrective action, including stopping any ongoing harassment and initiating disciplinary or adverse action, if appropriate, should be taken immediately in consultation with the designated point of contact. If disciplinary or adverse action is taken against a Council employee, it must proceed in accordance with established Council policy and practice. Corrective actions may include an oral warning or written reprimand if the misconduct was isolated and minor. If the misconduct by a Council employee was severe or pervasive, then reassignment, suspension, demotion or removal may be appropriate.

.04 Incidents Where Facts Are in Dispute. If the validity of the allegations of harassment is in dispute, or not enough facts are known to proceed with corrective action, the responsible supervisor must provide, in writing to the designated point of contact, a summary of the allegations of harassment initially communicated to them within [ 5 ] days. The designated point of contact, where appropriate, will select someone authorized by the Council to conduct an inquiry. The designated point of contact will provide advice and assistance to the official conducting the inquiry. Such inquiries should be completed within [ 45 ] days, absent extenuating circumstances. While the inquiry is pending, consideration should be given to undertaking immediate measures before completing the inquiry to ensure that the opportunity for additional actual or perceived harassment does not occur. Examples of such measures are:

- a. Making scheduling changes so as to avoid contact between the parties; and using all available tools to separate the parties. Granting telework flexibility could be a solution for either the employee experiencing harassment or the accused.
- b. Where the allegations concern the employee's supervisor or a co-worker in the unit, temporary transfers of the supervisor or coworker or placing the supervisor or coworker on non-disciplinary leave with pay pending the conclusion of the inquiry; or having the employee report to an alternative supervisor while the inquiry is being conducted, if the employee agrees that this should be done.

.05 Incidents where the allegations concern another Council process participant are highly fact-specific. It is important for Council management to take appropriate measures, which will differ depending on the alleged harasser.

.06 Procedures for Conducting an Inquiry. The inquiry must result in a record sufficient to support any corrective and/or disciplinary action taken, or to indicate that there is not sufficient evidence to support corrective and/or disciplinary action.

- a. The person selected to perform the inquiry must be authorized by the Council to conduct the inquiry and shall take signed, sworn statements from the employee who has alleged harassment, from the employee against whom the allegations are made, and from all principal witnesses.
- b. The person conducting the inquiry shall coordinate with the designated point of contact to ensure all obligations are met in conducting the inquiry.
- c. The following process should be followed in the course of the inquiry:
  1. Confirm the name, position and supervisory chain of the employee.
  2. Identify the alleged misconduct and the names of those parties allegedly responsible for the conduct.
  3. Obtain from the employee a detailed account of the alleged harassing actions/comments including, a description of the alleged actions/comments, the dates, times and locations of the alleged actions/comments as well as the names, contact information, and affiliations of any witnesses to, or persons with knowledge of, the alleged actions/comments.
  4. With regard to allegations of sexual harassment, determine specifically whether the employee is claiming that someone has made and/or carried out any threats or promises regarding the employee's terms and conditions of employment.
  5. Obtain from those accused of the misconduct a detailed response to each of the employee's allegations, as well as the names of witnesses who can corroborate the accused's account of events.
  6. Obtain statements from all witnesses listed by the employee and the accused of what they witnessed with regard to the alleged misconduct. If available, obtain supporting evidence (e.g. meeting recordings).

7. Inform all interviewees about the prohibition forbidding retaliation against the employee who reported the alleged harassment.

8. When the inquiry is completed, the findings should be shared with the designated point of contact, and the person conducting the inquiry will determine, if possible, whether the alleged actions occurred. The designated point of contact will share these findings with appropriate management officials in the organizations to which the alleged harasser and the employee who is the subject of the alleged harassment are assigned. The designated point of contact may also share the findings with the Department of Commerce Office of the General Counsel in order to receive their guidance on appropriate resolution of the matter.

9. In all instances, upon completion of the inquiry the conclusions will be communicated to the employee who was the target of the alleged harassment. If the inquiry establishes that immediate and appropriate corrective action is warranted, the Council will follow its policies including its disciplinary policy, as appropriate.

.07 The Council shall maintain appropriate documentation for any disciplinary measures and corrective actions that may result from the findings of the inquiry.

#### SECTION 5. EFFECT OF THIS POLICY IN RELATION TO EEO COUNSELING AND FORMAL EEO COMPLAINTS.

A Council employee, at any time, has access to a NOAA EEO Counselor and may file a formal complaint of harassment – including allegations covered by this policy – and/or any other allegations of discrimination not covered by this policy.<sup>1</sup> Sometimes supervisors are not aware of an allegation of harassment until approached by an EEO Counselor or investigator. Once informed by an EEO Counselor or investigator that there is an allegation of harassment by an employee, the supervisor must immediately inform the designated point of contact under this policy about the allegations. The designated point of contact will then promptly evaluate the allegation pursuant to this policy. The EEO Counselor will assist management and employees in resolving allegations but is not authorized to conduct inquiries into employee misconduct, and the existence of an EEO investigation does not alter the Council's duty to conduct its own inquiry. Where an employee files a formal EEO complaint regarding harassment, a copy of any inquiry done by the Council, pursuant to this Policy, will be forwarded to the Office of Civil Rights for inclusion in the Report of Investigation.

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<sup>1</sup> To file a complaint with a NOAA EEO Counselor go to:  
<https://www.noaa.gov/organization/inclusion-and-civil-rights/contact-us>.

## **XXI. APPENDIX VI – Harassment Guidance Other Than Employees**

### **Model Fishery Management Council Policy on Addressing Allegations of Harassment of Process Participants Other Than Council Employees**

#### SECTION 1. PURPOSE.

The purpose of this policy is to protect Regional Fishery Management Council (Council) process participants and provide guidance on taking action related to incidents or allegations of harassment **experienced by Council process participants. The Council will not tolerate harassment or retaliation against those who report harassment.** Preventing harassment<sup>1</sup> is everyone's responsibility and individuals who experience or observe harassment are strongly encouraged to come forward to ensure a safe working environment for everyone involved in the Council process. Council members, including chairs and vice chairs, hold positions of trust and responsibility and it is incumbent upon them, together with the Council Executive Directors, to make every reasonable effort to establish an environment free of harassment and to implement this policy fully. This policy provides a framework for procedures to encourage Council process participants to come forward with harassment allegations without fear of retaliation and outlines a process for reporting and reviewing allegations of harassment and taking action as appropriate.

#### SECTION 2. BACKGROUND.

The Council process involves a complex and dynamic relationship among federal and state employees, Council professional staff, appointed Council members, and members of the public. These individuals frequently meet and interact at various worksites and temporary meeting locations for extended meetings amid challenging issues, which can sometimes lead to interpersonal conflict. The Council process should operate in an atmosphere of respect, collaboration, openness, safety, and equality and every individual who participates in the Council process should be treated with dignity and respect and should be free from abusive conduct and harassment.

#### SECTION 3. SCOPE.

The reporting and response provisions described in this policy apply to "Council Process Participants." In this document, that term includes all persons who participate in the Council process in any setting, with the exception of individuals employed by the Council, who are covered under a separate policy. Council Process Participants include all individuals present

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<sup>1</sup> For purposes of this policy covers a harassment includes unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). This policy does not cover allegations of incivility not based on a protected characteristic. However, this policy is not intended to limit in any way the Council's ability to address incivility, inappropriate behavior, or other issues in an appropriate manner for the context.

under the context of Council business regardless of location, whether in a Council office, at a Council meeting, or at offsite meetings, hearings and events sponsored by a Council. For example, Council Process Participants may include Council members, Advisory Panel or Scientific and Statistical Committee members, external consultants, etc.

#### SECTION 4. PROCEDURES.

##### Reporting

Council Process Participants who observe, experience, or receive a report of harassment, including but not limited to sexual harassment or assault, should report the matter as soon as possible to an appropriate official. Swift reporting allows appropriate law enforcement authorities, the NOAA National Marine Fisheries Service (NMFS), or the Council, as appropriate, to take measures to ensure that offensive behavior stops, the harassee's needs are addressed, and action is taken against the offender.

Council Process Participants who observe or are subject to harassment by any Council member, Council employee, or other Council Process Participants may report incidents in a variety of ways, including but not limited to:

- The Council Executive Director or Deputy Director;
- The Council chair or vice-chair;
- Appropriate law enforcement authorities, as needed.

##### Council Response to Reports

Unless the particular circumstances require otherwise, any Council Member, Council employee, or NOAA employee who receives a report of harassment of a Council process participant should communicate the details of that report, in writing, to the Council Executive Director for appropriate action under this policy. In the event of a reported incident, a response team should be convened consisting of, as appropriate depending upon the context, the Council Executive Director, other designated Council points of contact, and the Council Chair. The response team will determine appropriate follow-up, including whether to engage the NMFS Regional Administrator in the response to the incident, based on the allegations raised and the parties involved.<sup>1</sup> The Council shall maintain a record of each allegation received under this policy, which shall be made available to NMFS upon request.

##### NMFS Role

The Councils are primarily responsible for addressing issues that arise within the Council environment. NMFS will, in consultation with NOAA and the Department of Commerce, provide such support and advice to the Councils as may be appropriate under the circumstances. Any Council that receives a report of harassment against or by a Council member **must** inform the NMFS Regional Administrator of the nature of the incident and any steps taken to address the incident.

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<sup>1</sup> If the person alleged to have experienced harassment is a current federal employee, including but not limited to a NMFS employee, the NMFS Regional Administrator must be notified.

Related Processes

This policy does not apply to allegations of harassment experienced by employees of a Council. Instead, in the event an individual employed by the Council is alleged to have experienced harassment, the Council must follow the steps outlined in the *Model Fishery Management Council Policy on Addressing Allegations of Harassment of Council Employees*.

**Individuals who are federal employees (including but not limited to NOAA employees) or employed by state agencies, academic institutions or other organizations should report any concerns and seek assistance or action through their supervisor and/or within their own organization**, as appropriate, but are encouraged to also report incidents to a Council official described above so that prompt action can be taken by the Council, as needed.

Individuals who are employed by the Councils or the federal government, including but not limited to NOAA, also have the right to file an Equal Employment Opportunity (EEO) complaint with their employing federal agency's EEO office within 45 days of the matter alleged to be discriminatory.

**XXII. APPENDIX VII – Whistleblower Protections**

An employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described below information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

Employees can report to the following entities or individuals:

- (A) A Member of Congress or a representative of a committee of Congress.
- (B) An Inspector General.
- (C) The Government Accountability Office.
- (D) A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- (E) An authorized official of the Department of Justice or other law enforcement agency.
- (F) A court or grand jury.
- (G) A management official or other employee of the contractor, subcontractor, grantee, subgrantee, or personal services contractor who has the responsibility to investigate, discover, or address misconduct.

**Commented [JC9]:** New Content addressing current policies, ESV recommendation