

**SOUTH ATLANTIC FISHERY
MANAGEMENT COUNCIL
ADMINISTRATIVE HANDBOOK
(Revised May 2011)**

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SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

ADMINISTRATIVE HANDBOOK

The South Atlantic Fishery Management Council (Council) is one of eight congressionally created entities with the administrative office located in Charleston, South Carolina. The Council consists of representatives of the states of North Carolina, South Carolina, Georgia, and Florida and an administrative support staff. The Council establishes conservation measures for the fisheries in the Atlantic Ocean seaward of the territorial boundaries of these states 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). Fishery Management Plans prepared by the Council are designed to produce optimum yield, while preventing the overfishing of our valuable resources.

I. COUNCIL MEMBERS

A. Composition

There are 13 voting members; 8 appointed by the Secretary of Commerce for 3-year terms, 4 are the principal state officials with marine fishery management responsibility (or their designees) and the Regional Administrator of the National Marine Fisheries Service for the Southeast Region or his 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, Seventh Coast Guard District, or a designee; the executive director of the Atlantic States Marine Fisheries Commission, or a designee; and a representative the U.S. Department of State or a designee.

B. Officers and Terms of Office

The Council elects a chairperson and a vice-chairperson annually and they serve until a successor has been elected. Elections are generally held at the first meeting of the Council after August 10th.

II. SUPPORT STAFF

A. Composition

The Council appoints an executive director and other administrative and technical staff, as it deems necessary. The Personnel 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 support staff are not federal employees and are not subject to federal benefits or Civil Service regulations.

B. Functions

1. 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 such other responsibilities or duties as may be delegated by the chairperson. The executive director reports to the Council through its chairperson. 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 **Chairman Personnel Committee**.

2. Staff. The staff consists of positions as recommended by the executive director and authorized by the Council. The executive director is responsible for the overall supervision of the staff.

a. Position Acquisition. Prior to the establishment of a position by the Council, the executive director shall consult with the Personnel Committee concerning the need for such a position and the duties for which the position will be responsible.

b. Appointment. The executive director conducts interviews of qualified applicants for positions. Appointment is made by the executive director on behalf of the Council. Employees serve at the pleasure of the Council. An employee who satisfactorily performs the job can expect continued employment.

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. During the probationary period an employee's job performance and qualifications are evaluated and unsatisfactory performance may result in termination. **During the probationary period new hires can be dismissed for just cause at the executive director's discretion.**

c. Temporary Appointment. The executive director may appoint an individual to a position for a limited term, not to exceed one year. Such appointments may carry some benefits as selected by the executive director and grant the employee no grounds for appeal upon termination.

d. Permanent Part-time Appointment. The executive director may place employees in permanent part-time positions on a continuing basis for as much as half-time. Employees receiving such appointments may receive some benefits as selected by the executive director.

e. Detailed Government Employees. When deemed advisable the executive director may recommend to the Council that a position be filled by a detailed government employee. Such detailed employee(s) will be employed subject to

applicable regulations and may be terminated by the executive director and returned to federal or state service at the convenience of the Council.

f. Experts and Consultants. When the executive director determines that technical assistance not available from NOAA is needed, the director may contract with appropriate outside individuals to provide the needed technical assistance, provided budgetary approval from the Council. However, the Council must notify NOAA General Counsel before seeking outside legal assistance.

IV. SALARY AND WAGE ADMINISTRATION

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 of the Rest of the U.S. (RUS) or the city in which the Council headquarters is located if provided in the schedule. The executive director will determine entry-level salaries, annual and merit increases, and hiring at or above the entry level in order to secure exceptionally qualified personnel. Approval of all personnel actions is subject to the availability of funds. No action may be taken by the executive director that would exceed funds budgeted by the Council.

B. Pay Status

An employee is in pay status when working, when exhausting annual, compensatory or sick leave or when drawing workmen's compensation, on disability 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, reduction in force, and military leave without pay or any other reason.

C. Salary Range

The minimum salary range for a position shall normally be the entry level. Rates above the minimum may be paid when:

- A tight labor market exists and sources of recruitment have been exhausted.
- The applicant possesses exceptional qualifications above the minimum requirements of the job description.
- Salary inequities would not be created.

An employee's salary may be reduced by the executive director within the established range for inefficiency in the performance of duty or for better utilization of individual ability. Salary reductions may also be necessary due to non-availability of funds.

D. Work Schedule

The executive director 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. daily. However, the executive director may allow an employee to work a flexible schedule as long as the employee works 40 hours per week.** No employee may work more than 40 hours in a week without advance approval by their supervisor or the executive director.

Staff wishing to work at home are limited to one day per week and must have the prior approval of their immediate supervisor at least one day in advance. Special circumstances (i.e sick child, etc.) may necessitate an immediate request. If work at home status is approved, the employee must provide the Administrative Group with a contact phone number.

E. Separation

Separation from Council service occurs when an employee leaves the payroll for reasons listed below or upon death.

1. Resignation. An employee may terminate his/her services by submitting a resignation to the Council. Normally, it is expected that an employee give at least two weeks' notice prior to the last day of work. Employees exempt from wage and hour provisions of the Fair Labor Standards Act are expected to give at least 30 days notice prior to their last day of work.
2. Retirement. The earliest age of retirement is 59-1/2 years.
3. Reduction in Force. An employee may be separated whenever it is necessary due to a shortage of funds or work, or due to material changes in the duties of the Council.
4. Dismissal. Dismissal is involuntary separation for cause and should be made in accordance with the provisions of Section VI, Employee Conduct.
5. Payment. Employees who are separated from Council service will be paid in a lump sum for unused annual leave (see V. B. 1.). Sick leave will not be paid upon separation (except at retirement, see Section V. B. 2. Sick Leave). Compensatory leave will be handled in accordance with provisions of section V. B. 3. Compensatory Leave.

F. Salary Increases and Awards

1. Policy. An employee's salary may be increased by an annual cost of living (COL) increase (tied to the federal cost of living increase), geographic differential increase, and/or a merit salary increase. Cash awards for outstanding service may be granted in addition to salary increases. Merit increases and cash awards are based upon job performance and evaluation by the employee's supervisor and the executive director

within budget availability. Annual COL and geographic differential increases will generally be given within the same time frame as federal employees receiving their COL and locality pay increases. Merit and cash awards may be given at any time deemed appropriate by the executive director.

2. Performance Review. An annual performance review for each employee by their supervisor is required. The executive director will be reviewed annually by the chairperson of the Council in consultation with the executive committee and other Council members, as the chair deems appropriate. The annual performance review period for employees will be from January through December each year and will be conducted in December each year. The Council's Annual Performance Appraisal form will be used in evaluating employees. Performance reviews must include discussion involving the employee and his or her supervisor. The executive director will review the performance appraisal. The annual review serves as a basis for determining annual and merit salary increases and annual review of the existing position description.

3. Annual Salary Increases. Annual salary increases will be considered in conjunction with the employee's annual performance review. All salary increases will be determined by the executive director within the limits established in the budget. Employees will be eligible for a merit increase at the time they receive their annual performance evaluation if they receive an average rating of three (3) or greater under Duties Performance and meet the requirements specified under General Performance of the Annual Performance Appraisal form.

All employees will receive the annual cost of living increase when it occurs. Cost of living changes will occur at the same time of year as the federal changes take place and the amount of increase will be that approved for federal employees.

4. 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.

5. Cash Awards. Cash awards may be given to an employee who has demonstrated sustained superior performance, outstanding task accomplishment, or for other reasons relative to exceptional job attributes. The amount of the cash award will be determined by the executive director within budget constraints after consultation with the **Chairman** ~~Executive Committee~~. Cash awards may be given at any time as deemed appropriate.

6. Promotions. A promotion to a new job classification may be made anytime during the year. **All promotions must be approved by the Chairman** ~~Personnel Committee~~. When recommending an employee for promotion the executive director will provide the ~~Personnel Committee~~ **Chairman** with a job description for the new position, justification for the promotion, and the appropriate salary level (within budget limitations).

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

V. EMPLOYEE BENEFITS

A. Insurance, Retirement, and Other

It is the policy of the Council to provide its employees the opportunity to participate in group medical insurance, life insurance, long term care insurance, a retirement plan and such other benefits as designated by the Council.

1. Medical Insurance. A medical insurance program is provided for qualifying employees. Individual and family coverage premiums are fully paid by the Council. (The health insurance contract contains the details of coverage.)
2. Life Insurance. Fully paid term life coverage is provided for eligible employees. The amount of insurance is prescribed by the terms of the contract with the insuring company. (The contract contains the details of insurance levels and coverage.)
3. Disability Insurance. Fully paid short and long term disability coverage is provided for eligible employees. Coverage is prescribed by the terms of the contract with the insuring company. (The contract contains the details of insurance levels and coverage.)
4. Retirement Plan. Full-time permanent employees are eligible for participation in the retirement plan in accordance with plan provisions. An amount equal to 10 percent of annual earnings is contributed by the Council into the plan for qualifying participants. Additionally, the Council will match an employee's contribution to their 401K up to 4%. (The plan document contains the details of qualifying participant.)
5. Long Term Care Insurance. Fully paid long term care coverage is provided for eligible employees up to specified limits. Employees may purchase additional coverage (beyond the specified limits covered by the Council) at their own expense.
6. Other. Additional benefits may be instituted and made available for employees as the executive director/Council deem appropriate.

B. Types of Leave

Types of leave authorized by the Council include: annual leave, sick leave, compensatory leave, family leave, military leave, administrative leave, holidays, civic leave and leave without pay. Abuse of leave privileges is cause for disciplinary action (see VI. B. 4.).

1. Annual Leave. Annual leave will be accrued on the following schedule:
 - 0-2 years service - Accrued at the rate of 4 hours per biweekly pay period.

•3-14 year's 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 service - Accrued at the rate of 8 hours per biweekly pay period.

Annual leave may be taken only upon approval by an employee's supervisor who shall review requests in view of office workload and determine approvability. For purposes of leave entitlement, prior work experience related to the professional position occupied may be creditable as determined by the executive director. 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. Additionally, forfeited annual leave may be donated to reduce another employee's negative sick leave balance on an hour-for-hour basis provided that the donating employee's hourly earnings rate is equal to or greater than the receiving employee. If not, the amount donated will be prorated. (See 9. Leaving Sharing.)

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).

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. In the event that the employee terminates 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. Employees accrue sick leave 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 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. In the event that the employee terminates 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).
- Medical appointments.
- Quarantine due to contagious disease in the employee's immediate family.
- Family leave.

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 9. Leave Sharing).

Upon their retirement or death, Council staff members (or their survivor) will receive compensation for 100% of their accrued unused sick leave with a cap of 1200 hours to be paid as a lump sum or over a period of time at their option. The contribution amount will be calculated on the average daily rate of pay for the past three year's annual earnings.

3. Compensatory Leave. Compensatory leave is earned when an employee is directed by or has the prior approval of his/her supervisor to work overtime (hours in excess of 40 hours a week). Travel on a weekend or holiday which substantially disrupts the employee's schedule will be counted as 8 hours of compensatory time. 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.

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 paid in accordance with Council policy.

--Upon termination, will be paid for accrued compensatory leave in accordance with the Fair Labor Standards Act.

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 Leave. An employee becomes eligible for family leave after completing a minimum of 12 months in their position and after working 1250 hours.

Family leave may be granted for:

- The birth of an employee's child or to care for a newborn child.
- The placement of a child with an employee for adoption or foster care.
- Care of an employee's child, spouse or parent who has a serious health condition.
- A serious health condition which makes an employee unable to perform the essential functions of their position.

Leave granted may be a combination of compensatory time, sick leave, annual leave, and leave without pay. Leave is to be utilized in that order. A maximum of 12 weeks family leave may be granted during each calendar year. Requests for extended periods of leave must be in writing. It is the Council policy to provide gainful employment and make use of the employee's skills as long as not incapacitated for duty.

Leave may be granted at the executive director's discretion for paternity reasons. (Examples of reasons would be attending to the mother prior to birth, during the period of recuperation, complications of birth.) The leave may be a combination of compensatory time, sick leave, annual leave, and leave without pay. Leave is to be utilized in that order.

An employee is obligated to report intent to request family leave and the approximate dates to allow for staffing adjustments.

For reasons of maternity it is incumbent on the employee to consult with her physician relative to her physical ability to perform her job. If after consulting with her physician she must request a modification of her duties or temporary reassignment due to a health hazard, the Council will make a reasonable effort to grant the request. If the employee indicates a desire to return to work following delivery and recuperation, the Council may return her to the position she left or a like position providing the time does not exceed a maximum of 12 weeks. Additional time requested beyond the 12 weeks may be granted at the executive director's discretion. This does not preclude the Council from terminating the employee at an earlier date for causes not related to the maternity absence.

An employee may use sick leave for physical examinations and for the period of recuperation following delivery. A request for extended leave for delivery and recuperation must be supported by a physician's statement indicating the dates of recuperation. If it is subsequently determined that the employee's physical condition prevents her from returning to work at the specified time, additional leave supported by a medical certificate must be requested. Advance leave may be granted in accordance with established policy. Following delivery and recuperation the employee may request leave for a period of adjustment or time to make arrangements for child care.

An employee must give written intent to return to work 10-days in advance of return accompanied by medical certification to what degree the employee can perform their duties.

An employee who does not intend to return to work is to submit a resignation effective no later than the expiration of the period of recuperation. This does not preclude the Council from terminating the employee at an earlier date for causes not related to the maternity absence.

Temporary and part time employees, eligible to accrue leave, may be granted leave that they have accumulated. Advancement of leave is not permissible.

5. Military Leave. Military leave with pay shall be granted employees for the following period of service:

- Annual active duty for training to include related activities such as advance rear detachments, command and staff visits when elements of the same organization have annual active duty for training at different times; leave with pay shall not 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 as a result 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 as approved by the Council. 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.
- a. Jury Duty. When employees serve on a jury they are entitled to leave with pay for the period of absence required.
 - b. Court Attendance. When employees are subpoenaed or directed by proper authority to appear as a witness, they shall be granted civic leave with pay.
9. Leave Sharing. Leave may be donated directly from one employee to another under certain medical conditions. Donation of leave is voluntary and donors remain anonymous. An employee is prohibited from threatening or coercing anyone relative to donation or receipt of donated leave. A violation 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 available leave.

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, death of a family member.

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

A request (Council designated form) for donated leave is initiated no more than 40 days prior to a need. The request includes a statement of the medical problem, certification from a physician or licensed health care provider, and projected absence. The request is given to the executive director for review and approval. After approval a solicitation (Council designated form) is circulated to all applicable employees.

A 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. During use of donated leave, annual and sick leave accrual occurs and is to 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 40 hours of unused donated leave may be retained when returning to duty. 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 provides 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.

(See office files for the prescribed request, solicitation, and donor certification forms.)

10. Leave Without Pay. An employee may request through their supervisor leave without pay when time off the job is necessary and they have no available leave resources. This status for more than 30 days can jeopardize the employee's benefits. Leave without pay status can be assigned an employee for an unauthorized absence or for time off for disciplinary reasons.

VI. EMPLOYEE CONDUCT

A. Rules for Conduct

Rules for conduct can be found in *Rules of Conduct for Employees, Advisors, and Contractors of Regional Fishery Management Councils*.

B. Grievances

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

2. Appeal to the Personnel 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 Personnel Committee consider the matter. The Personnel Committee will decide whether or not the grievance has merit. Decisions of the Personnel Committee may be reviewed by the Council upon a majority vote of the Council's voting members. Decisions of the Council are final.

C. Disciplinary Action, Suspension and Dismissal

1. Policy. Employees can be discharged, suspended or reduced in pay or position for just cause by the executive director.
2. Written Statement. In cases of such disciplinary action, the employee shall, before the action becomes effective, be furnished with a statement in writing setting forth in numerical order 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 warning for causes relating to personal conduct detrimental to Council service pending the giving of written reasons in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons.

3. Appeals. An employee shall be permitted 15 days from the date the statement is delivered to appeal to the Personnel Committee. Notice of appeal shall be sent by registered mail to the chairperson of the Personnel Committee.

The Personnel Committee shall within 30 days of receipt of the appeal determine the merit 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 with merit then the Personnel Committee chairperson shall schedule a committee meeting in which the employee may present evidence in 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 executive 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 Personnel Committee may be reviewed by the Council upon a majority vote of the voting members. A decision by the Council shall be final.

4. Dismissal or Suspension Relating to Performance of Duties. An employee who is dismissed for unsatisfactory performance of duty shall receive at least two warnings prior to dismissal. These warnings must be written and copies placed in the personnel file of the employee. The employee should also be informed that they may file a rebuttal statement in their file in response to the written warning. The causes for dismissal or suspension of Council employees are, but 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;
- h. Pattern of failure to report for duty at the assigned time and place.

5. Dismissal Relating to Personal Conduct. An employee may be dismissed for personal conduct detrimental to Council service. Causes for dismissal are, but 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.
- n. Activities not in accordance with existing conflict of interest legislation.

C. Standards of Conduct

1. Political Activity. Participation and restrictions relative to political activities is governed by the requirements as contained in the *Rules of Conduct for Employees, Advisors, and Contractors of Regional Fishery Management Councils*.
2. Financial Interest. No employee may have a direct or indirect financial interest that conflicts with the fair and impartial conduct of their duties.
3. 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.
4. Drug and Alcohol Free Workplace. The Council maintains a drug and alcohol free work environment.
5. 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.

6. Sexual Harassment. See South Atlantic Fishery Management Council Statement of Organization Practices and Procedures (SOPPs) for policy.

7. 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 Rules of Conduct for Employees, Advisors, and Contactors 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.

D. Software and Equipment Use.

All computer equipment and software are the property of and for the sole use of the Council. Software is licensed to the Council and use of software for which you do not have a license is illegal. Software that is loaded into Council computer equipment that is not licensed to the Council could subject the Council to penalties. Loading unauthorized disks or downloading software can introduce viruses into the computer system. Copying software or data for personal use is theft. Loading any kind of software without executive director authorization is forbidden. Alterations to hardware and software may only be done under executive director authorization. Personal use of computers is not allowed. Violators are subject to disciplinary procedures.

E. Internet Use.

Internet access is provided for Council duties and tasks. The internet system is monitored and use can be traced. Accessing or posting information, which is considered offensive or inappropriate; as determined by the executive director is prohibited. Use of the internet for commercial or personal purposes including but not limited to political lobbying, sending or retrieving pornographic or objectionable material is prohibited. Posting of information that expresses personal views and opinions that give the appearance of Council support is forbidden. Violators are subject to disciplinary procedures.

VII. 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" 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 which authorized the solicitation of the information.
- The purpose for which the information will be used.
- The effect of the individual 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 the executive director to 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 Personnel Committee. The Personnel Committee shall review requests to amend personnel records and respond to the request within 30 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.

VIII. COUNCIL STEERING COMMITTEES

Steering Committees must be composed of at least three members appointed by the chairperson. One member is designated by the chairperson to chair the committee. The committee chairperson will appoint a vice chairperson. Committees may be composed of voting and non-voting Council members. Non-voting Council members will be allowed to vote on the steering committees. Council members from other Councils 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. The Council chairperson or vice

chairperson 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 provide each member with a committee assignment preference questionnaire so they may indicate which steering committees they prefer to serve on. Based on this information, the Council chairperson will determine steering committee appointments.

The following working committees have been established by the Council. Committee membership lists are available from Council.

A. Executive/Finance Committee

The Executive/**Finance** Committee is composed of the Council chairperson, the vice chairperson, the immediate past chairperson, the Personnel **Committee chairperson** and **one other Council member named by the Council chairperson**. If this composition results in less than five members on the Executive/**Finance** Committee, the chairperson shall appoint the appropriate number of individuals to assure the membership of the Executive/**Finance** Committee is five. The Council chairperson serves as committee chairperson. The executive director serves in an advisory capacity.

Working in conjunction with the executive director, the Executive/Finance Committee is responsible for establishing the direction and goals for the Council and addressing issues that arise outside of normal Council operations. 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 award 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. On request of the executive director the **Executive/Finance** Committee serves in an advisory/consulting capacity in matters of the staff pension plan.

B. Personnel Committee

The Personnel Committee is responsible for overseeing the administration of the Council's employment practices.

C. Information and Education Committee

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

D. Statement of Organization Practices and Procedures (SOPPs) Committee

The SOPPs Committee will periodically review the Statement of Organization Practices and Procedures and make recommendations to the Council on any changes necessary to facilitate operations of the Council.

E. Advisory Panel and Scientific and Statistical Selection Committees

The Scientific and Statistical Selection Committee is responsible for reviewing the qualifications of individuals, based on their scientific expertise in disciplines that will provide technical guidance to the Council, and making recommendations for appointments to the Council's Scientific and Statistical Committee. (See Appendix I for composition and policy on the Scientific and Statistical Committee.)

The Advisory Panel Selection Committee is responsible for reviewing the qualifications of individuals, based on their knowledge and experience in the fisheries being managed by the Council, and making recommendations for appointments to the Council's advisory panels. (See Appendix II for composition and policy on advisory panels.)

F. Law Enforcement Committee

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

G. Habitat and Environmental Protection Committee

The Habitat and Environmental Protection 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, and other environmental concerns. This committee also serves as the Coral Steering Committee.

H. Fishery Management Plan Steering Committees

Species oriented steering 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.

I. Ad Hoc Committee

The Council chairperson will appoint committees on an as needed basis to serve for a limited period of time for the purpose of dealing with issues as they arise.

IX. TRAVEL POLICY

A. Authorization

Travel is performed under the authorization of the executive director and the chairperson. Travel to other than specific council sponsored functions must be approved by the executive director and/or Council chairperson. A Council member may request travel compensation to attend such a function without pay. 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 travel incidence.

B. 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 and/or dates must be explained upon submission of a reimbursement claim and is subject to disapproval. To the maximum extent possible, prior approval for alterations to approved itineraries should be obtained.

C. 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.

D. Transportation

Travel by common carrier is presumed to be the most advantageous method of transportation. A contract carrier must be used when available. Use of non-contract carriers, which result in additional costs, will be borne by the traveler. Coach or tourist fare may be used in lieu of a contract carrier if seating is not available or the schedule does not allow efficient use of time or a non-contract carrier offers a lower fare. The most direct route for travel is to be utilized. Airline reservations must be arranged through the Council's designated travel office to insure the lowest fares available are used. In cases where a traveler wishes to travel first class, reimbursement will be determined by ascertaining the lowest fare available for the days the travel occurred and the traveler will be reimbursed that amount.

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 to travel beginning 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 is expected to pay the additional \$50. Any additional costs resulting from a change in travel, for routine personal reasons, is expected to be paid for by the traveler. All travel will conform to the Fly America Act.

Use of a privately-owned vehicle in lieu of commercial transportation is permissible if approved by the executive director. Use of privately-owned automobile will be reimbursed at the rate as established in federal travel regulations not to exceed the cost of the lowest available airfare unless approved in advance by the executive director. Odometer readings are required.

Use of 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.

E. Other Expenses

Use of a rental car is only permitted if authorized on the travel order. The rental must be arranged with the Council's designated travel office. Insurance coverage is provided through the Council's vehicle rental insurance policy.

Parking fees, road tolls, official phone calls, taxi and limousine fares, and miscellaneous expenses (explained on travel order) are reimbursable.

F. 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 days/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 chairperson and in any event must provide adequate justification with submission of travel expense claim. In the event that circumstances are such that prior approval is not possible, the ~~Executive Committee~~ **Chairman** will review the costs/circumstances and approve or disapprove reimbursement. A medical expense incurred while traveling on official business is not reimbursable by the Council.

G. Submission of Claims

Claims for reimbursement are to be submitted on specified forms to Council headquarters within 30 days following completion of travel. Claims received 30 days or more following completion of travel will not be reimbursed unless there are exceptional circumstances (provided in writing) and reimbursement is approved by the executive director. In no case will claims be reimbursed 30 days after the end of a grant period. In evaluating claims for reimbursement, if travel performed is different than that authorized, a cost comparison for alternate travel form will be completed comparing costs incurred as a result of alternate travel and/or transportation mode (e.g., private vehicle in lieu of common carrier) including per diem to approved travel. In the case of Council members, Council paid compensation if claimed, will be considered. The least cost to the Council will be the amount reimbursed.

H. 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. In the event foreign travel arises after budget approval, requests are to be submitted to the NMFS Regional Grants Office.

I. Performance of Duties (Council Members)

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.

X. TELEPHONE POLICY

~~Telephone credit cards may be issued to Council members, staff, and others as deemed necessary for use when conducting official Council business only. Charges to the card will be billed directly to the Council. An annual \$1,000 maximum per user is established. Unauthorized charges that exceed the maximum will be reimbursed to the Council. The Council chairman may grant an exception to the maximum when special circumstances warrant. Abuse of the calling card privilege will be cause for the card to be canceled.~~

XI. MEETINGS AND HEARINGS

A. Formal Meetings

Formal business of the Council is conducted at scheduled meetings and hearings. Public notice is provided through appropriate media channels of the meeting and items to be addressed. Proper notice of the meeting must also be published in the Federal Register and meet the requirements of the Magnuson-Stevens Act. Meetings are open to the public and interested persons are permitted to present oral or written statements regarding

matters on the agenda within reasonable limits. Minutes of meetings are maintained and are available electronically upon request, subject to confidentiality of matters discussed.

The Council may close a meeting, which pertains to classified information, personnel, or other internal administrative matters. Closed meetings preclude public attendance and written proceedings are not available for public inspection.

B. 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.

1. Scheduled by Council. All meetings scheduled by the Council or Council members for the purpose of meeting informally with fishermen 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.
 - a. Informal meetings may be held in conjunction with public hearings.
 - b. A Council member or members may schedule informal meetings at other times with the approval of the chairman. 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.
 - c. Council members that attend informal meetings scheduled by the Council are eligible for travel reimbursement and compensation if approved in advance by the chairman.
2. 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 chairman 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.
 - a. The Council member(s) attending the meeting will report the results to the Council at the next scheduled Council meeting.
 - b. A 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 chairman, as a representative of the Council is eligible for travel reimbursement and compensation.

XII. MANAGEMENT PLAN DEVELOPMENT

There are several options the Council may utilize in the development of 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 specialists.
- b. Use of an interdisciplinary team of NMFS specialists.
- c. Use of a contractor who will assemble an interdisciplinary team of specialists to develop the plan.
- d. Use of Council technical staff.

XIII. 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 them; to do so violates federal law.

Permanent records designated as permanent files are not authorized for destruction. Examples are EIS files, annual report files, 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. Examples are:

- Membership files containing biographical data on members. Cut off when member leaves Council and destroyed five years later.
- 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).

XIV. FINANCIAL MANAGEMENT

The Council and its sub-contractors 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 \$1500 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.

1. **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.
2. **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. 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, www.epls.gov, 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. (See office files on Contracts Procedures for detailed information.)

C. Property Management

Property is managed 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 \$1500 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). Cash disbursements are approved by the executive director. Checks require two signatures, the executive director and other(s) as designated. 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.)