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

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# GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

## STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

Pursuant to Section 302-(f)(6) of the Magnuson-Stevens Fishery Conservation and Management Act (hereinafter referred to as the Act) ([18 U.S.C. § 1801 et seq.](#), Public Law 94-265, as amended) each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce (Secretary). Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the Gulf of Mexico Fishery Management Council (Council) has prepared and is hereby publishing its revised Statement of Organization, Practices, and Procedures, originally published September 13, 1977 (42 FR, No. 177). The revised document is available at the Council Headquarters: 2203 North Lois Avenue, Suite 1100, Tampa, Florida, 33607 and on the [Council's web site at www.gulfcouncil.org](#)<sup>[j1]</sup>.  
(Comment: An earlier, unapproved iteration of these 2012 SOPPs are on the website. It should not be up there yet.)

### 1.0 Council Functions and Responsibilities<sup>[j2]</sup>

(Comment: I am trying to standardize Council functions and responsibilities with the terms of the Act. This is text from the model. Please either use this text or mirror the Act.)

In accordance with the requirements of the Act, the Council shall:

- A. Prepare and submit to the Secretary or his or her delegate a fishery management plan with respect to each fishery requiring conservation and management within the Council's geographic area of authority and such plan amendments as are necessary.
- B. Review and comment on applications for foreign fishing transmitted to the Council under a governing international fishery agreement by the Secretary of State under the terms of the Act.
- C. Prepare comments on any fishery management plan or amendments prepared by the Secretary which are transmitted to the Council under Section 304(c)(4) of the Act.
- D. Conduct public hearings at appropriate times and locations in the Council's membership area, to allow interested persons an opportunity to be heard in the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of the Act. When conducting a hearing outside Council's usual jurisdiction, the Council will first consult with the Council in that area.

- E. Submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary.
- F. Review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to:
- (1) The present and probable future condition of the fishery;
  - (2) The maximum sustainable yield from the fishery;
  - (3) The optimum yield from the fishery;
  - (4) The capacity and the extent to which fishing vessels of the United States will harvest the optimum yield on an annual basis;
  - (5) The portion of such optimum yield on an annual basis which will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.
- G. Develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations established by mechanisms and processes under the Act.
- H. Develop multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, in the manner prescribed in the Act.
- I. Conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters, including the allocation of fishery resources to other nations within its area of authority.

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

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

The development procedures for fishery management plans (FMP) are contained in 50 CFR Part 600, especially subpart D. The Council's fishery management planning, development, and submittal process shall be consistent with these guidelines and other applicable laws. In this effort, the Council utilizes Management Committees for each

~~fishery with these committees having oversight over development of FMPs, the Scientific and Statistical Committee (SSC), Socioeconomic SSC (SE SSC), Stock Assessment Panel (SAP), and Advisory Panel (AP) recommendations and public hearings. The Committees make recommendations to the Council as to the provisions of the FMPs based on this oversight responsibility.~~

~~B.—— Review FMPs on Continuing Basis:~~

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

~~C.—— Comment on Foreign Fishing Applications:~~

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

~~D.—— Comment on FMPs Prepared by Secretary:~~

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

~~E.—— Prepare Reports to the Secretary:~~

~~The Council shall submit to the Secretary or his designee:~~

~~(1)—— Such periodic reports as the Council deems appropriate; and~~

~~(2)—— Any other relevant report which may be requested by the Secretary or his delegate.~~

~~F.—— Determine SOPPs:~~

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

~~H.—— Conduct Other Appropriate Activities:~~

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

## **2.0 Council Organization**



## 2.1 Council Composition and Jurisdiction

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

~~Legal authority for the Council is found in the Act (Public Law 94-265 as amended).~~

[JKR3] *(Comment: Redundant with the introductory paragraph to the SOPPs.)* The geographical area of authority of the Council includes the federal waters off of the states of Texas, Louisiana, Mississippi, Alabama, and Florida; and the Council has authority over the fisheries in the exclusive economic zone (EEZ) of the Gulf of Mexico seaward of such states.

### 2.1.1 Voting Members

Eleven of the voting members (at least one of whom shall be appointed from each state) shall be appointed by the Secretary, or his delegate, from a list of qualified individuals submitted by the governor of each applicable constituent state. Each **voting** **[JKR4]** (*Comment: Regs say voting.*) member appointed to the Council must take an oath of office.

The remaining six voting Council members shall be:

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

### 2.1.2 Non-Voting Members

The non-voting members of the Council shall be:

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

Non-voting members of the Council may serve on committees of the Council and may serve as chairpersons of committees and, as members of the committee, may initiate and second motions, as well as vote on matters that pertain to the committee. At meetings of the Council, non-voting members may neither initiate or second motions, nor vote on matters that may be classified as business of the Council. They may, however, participate fully in discussions of such matters.

## 2.2 Oath of Office

As trustees of the nation's fishery resources, each **voting** **[JKR5]** member appointed to the Council must take the following oath of office: “I, [name of the person taking oath], as a duly appointed member of a Regional Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act, hereby promise to conserve and manage the living marine resources of the United States of America by

carrying out the business of the Council for the greatest overall benefit of the Nation. I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Nation's marine fisheries resources, being careful to balance competing private or regional interests, and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions, standards, and requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law, and shall conduct myself at all times according to the rules of conduct prescribed by the Secretary of Commerce. This oath is given freely and without mental reservation or purpose of evasion.”

## **2.3 Terms of Council Members, Removal, and Council Officers**

### **2.3.1 Term of Appointment -- Voting Members**

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

### **2.3.2 Removal**

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

### **2.3.3 Officers**

The Council elects during the first meeting each year after the date (~~usually August 11~~) upon which Council members are appointed from among the voting members, by majority vote of the voting members present and voting, a Council Chair who shall serve a term not to exceed one year unless sooner replaced, and a Council Vice Chair who shall serve for a one year term ending when a successor has been duly elected, unless sooner replaced. Such election shall usually be the last order of business at said meeting. The Chair and the Vice Chair can serve no more than two consecutive terms.

The Chair, or in the Chair's absence the Vice Chair, of the Council has authority to convene and adjourn meetings and public hearings and designate members of the Council, Scientific and Statistical Committee, and Advisory Panel to attend meetings and public hearings. The Chair will control meetings and hearings by recognizing speakers, establishing the order of business, and designating members of the Council and its advisory bodies as members of committees and working groups.

It shall be the policy that in the absence of any Committee's Chair and Vice Chair, the Council Chair will preside and exercise the duties of that office as herein provided. If the Council Chair is also absent, then the Council Vice Chair will preside and exercise the duties of that office as herein provided. Individuals are elected or appointed to the offices of the Council Chair and Council Vice Chair even though they may be state

officials. Alternate representatives (designee or principal) do not assume these offices, but may participate as members of the committees.

## **2.4 Designees**

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

## **2.5 Scientific and Statistical Committee (SSC)**

The Council has established a Standing SSC and Special SSCs for individual management units to provide expert scientific and technical advice to the Council. The SSC shall review and comment on the scientific adequacy of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

### **2.5.1 Objectives and Duties**

The SSC shall provide the Council ongoing scientific advice for fishery management decisions, including recommendations for preventing overfishing and achieving rebuilding targets, and reviews of reports on stock status and health, by-catch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices. The SSC may also recommend priorities for future research needs.

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

### **Multi-Year Research Priorities**

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

centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council.

### Review of FMPs, Amendments, and Framework Procedure Actions

The SSC will advise the Council on the adequacy of scientific information and supporting analyses for proposed management measures and alternatives in FMPs and amendments, including environmental impact statement (EIS) or environmental assessment (EA), regulatory impact review (RIR), and initial regulatory flexibility analysis (IRFA). The SSC will also provide a determination of whether these are based on the best scientific information available, and may provide advice as to the effectiveness of the measures in achieving the objectives of the FMP or amendment. The emphasis of the SSC will be upon evaluating scientific data and logic on which the management measures are based rather than selecting management measures. They will assess the appropriateness of the problem statements and adequacy of the objectives in solving the problems and may suggest additional or revised problems, objectives, and management measures and may indicate which of the measures are most effective in achieving the objectives.

#### **2.5.2 Members and Chair**

Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials, and experience.

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

#### **2.5.3 Administrative Provisions**

The SSC Chair or his designee will, at the request of the Council Chair, attend the Council meeting to report on the SSC recommendations and rationale. (The SSC should attend and meet with the Council to the extent practicable.)

The procedural guidelines of Section 302(~~I~~)(2) of the Act (as amended) shall apply to the conduct of business at the meetings of the Council, advisory panelAPs, and SSCs. The Council's SSCs will meet with the approval of the Council Chair.

#### **2.5.5 Subcommittees**

The Socioeconomic SSC is a subcommittee of the SSC that provides advice on the social and economic implications of the current regulatory structure and potential management changes for all fisheries under the jurisdiction of the Council. The Council may form additional advisory groups as needed to provide recommendations for management

consistent with the Act and other applicable federal laws and regulations. Several major tasks are assigned to the Socioeconomic SSC.

The Council has formed the Southeast Data Assessment and Review (SEDAR) Advisory Panel, or "SEDAR Pool", to provide a pool of expertise in support of Southeast Data, Assessment and Review (SEDAR) benchmark and standard assessments. These panels may also be called upon to review other relevant information and provide recommendations to the SSC or Council, as requested.

## **2.6 Advisory Panels (APs)**

The Council has established APs, which often serve as fishing industry advisory committees, and will form such panels as it deems necessary or appropriate to assist in carrying out assigned functions under the law. An AP shall normally be established for each fishery management unit identified by the Council.

### **2.6.1 Objectives and Duties**

For each FMP or amendment under consideration, the APs provide advice concerning the recommended optimum yield (OY), the management measures and allocations under consideration, the supporting documentation to any regulatory action, management objectives, and any other advice the APs deem appropriate or as required by the Council.

### **2.6.2 Members and Chair**

The APs shall generally be composed of members who are residents of the five state geographical area. Each AP shall be selected so as to provide for geographical, commercial, recreational, marketing, or other interests in accordance with functions and purposes of the panel with such membership established in a manner that provides fair representation to commercial and recreational fishing interests. Membership on an AP is determined by the Council during a closed session of its Council meetings and is based on the application provided by the applicant as well as the Council members' knowledge of the applicant. Consideration for appointment may include the appropriate interest, experience, and past performance as well as other factors such as a record of fishery violations. AP members serve at the pleasure of the Council and may be removed at any time without cause. No person may serve on more than two APs at any one time, however, service on any Ad Hoc or Special AP, as designated by the Council, will not be counted in the limitation to serving on more than two APs at the same time. Each AP shall be limited to a membership of 20 persons unless otherwise specified by the Council. Only federal, state, and Sea Grant members of the Law Enforcement AP and the Habitat Protection APs, as designated by the Council, may have designees represent them at meetings.

A Chair and Vice Chair for each AP shall be elected by members of the AP or may be designated by the Council at its discretion. The Chair or Vice Chair shall preside at each AP meeting. The Council may designate one or more members to meet with each AP.

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

|

### **2.6.3 Administrative Provisions**

The procedural guidelines of Section 302(I) (2) of the Act (as amended) shall apply to the conduct of business at the meetings of the Council, APs, and SSCs. The Council's APs will meet with the approval of the Council Chair.

### **2.7 Fishing Industry Advisory Committee (FIAC)**

The Council has established APs which often serve as fishing industry advisory committees (see Section 2.6).

### **2.8 Committees**

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

Committees will report to the Council and the convened Council will take action on the committee recommendations. No action of any committee is final without the approval of the Council, except as provided for under 2.8.4.e.

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

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

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

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

#### **2.8.1 Council Appointments to Outside Committees**

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

International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee  
Southeast Data, Assessment, and Review (SEDAR) Workshop Panelists (In conjunction with the Executive Director)  
National Marine Fisheries Service (NMFS) Highly Migratory Species (HMS) Advisory Panel (AP)



Southeast Aquatic Resources Partnership (SARP)  
Coral Reef Task Force (Working Committees)  
Artificial Reef Subcommittee of the Technical Coordinating Committee (TCC)

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

### **2.8.2 Standing Committees**

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

#### Administrative Committees

Administrative Policy Committee  
Advisory Panel Selection Committee  
Artificial Reef Committee  
Budget/Personnel Committee  
Data Collection Committee  
Habitat Protection Committee  
Law Enforcement Committee  
Scientific and Statistical Selection Committee  
Outreach and Education Committee

#### Fishery Management Committees

Coastal Migratory Pelagics (Mackerel)  
Coral  
Migratory Species (Billfish, Swordfish, Shark, Tuna)  
Red Drum  
Reef Fish  
Shrimp  
Spiny Lobster/Stone Crab  
Other Management Committees Approved by the Council

### **2.8.3 Committee Composition**

Lists of committee members are available from the Council office.

### **2.8.4 Committee Functions**

(a) Administrative Policy:

Functions of the Administrative Policy Committee are to address policy matters regarding revision and amendments to the Council's Statement of Organization, Practices and Procedures (SOPPs), amendments to the Act; establish guidelines regarding Council

pay and travel; and preview matters for the purpose of bringing before the Council its recommendations as to the Council's policy on its operational side.

(b) Advisory Panel Selection:

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

(c) Artificial Reef:

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

(d) Budget/Personnel:

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

(e) Habitat Protection:

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

If time or meeting constraints do not allow the Council to develop a letter of comments on a project, the HPC shall develop comments by meeting or conference call meeting. If time constraints would not allow such a meeting, the staff, in consultation with the HPC Chair, Council Chair, and Executive Director, will develop a draft letter of Council

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

(f) Data Collection:

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

(g) Law Enforcement:

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

(h) Scientific and Statistical Selection:

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

(i) Outreach and Education:

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

(j) Fishery Management:

Each fishery management committee provides liaison and reviews results of the appropriate APs between the respective fishery ~~advisory panel (AP), scientific and statistical committee (SSC)~~, stock assessment panel (SAP), socioeconomic SSC, and the Council; assists panels in assigned tasks; monitors work of each panel; and monitors work of the contractors and staff in the development and drafting of fishery management plans.

### 3.0 Council Meetings

The Council will meet at the call of the Council Chair or upon request of a majority of its voting members. Meetings will ordinarily be held in plenary sessions, but may be in subgroups or in individual sessions.

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

All participants are to keep electronic devices on silent or vibrating mode during Council meetings.

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

### **3.1 Notice – Regular and Emergency Meetings**

Timely public notice of each regular and each emergency meeting of the Council, SSC and AP, including time, place, and agenda of the meeting, shall be published in the Federal Register, and appropriate news media notice given to local newspapers in the major fishing ports of the Council region (and in other major fishing ports having a direct interest in the affected fishery). Such notice may be given by other means which will result in wide publicity. Notice of each emergency meeting must be promptly announced through the appropriate news media. If notice of an emergency meeting is not published prior to the meeting, it should be published in the Federal Register as soon as possible after the meeting. [JKR6] *(Comment: Must notify NMFS as well. 50 CFR § 600.135.)*

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

#### **3.1.1 Agendas**

A suggested agenda will be prepared for each Council meeting by the Executive Director with the approval of the Council Chair. Agenda items may be recommended to the Executive Director by other Council members and by staff members. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under Section 305(c), in which case public notice shall be given immediately.

### **3.2 Conduct of Meetings**

#### **3.2.1 Written Statement and Oral Testimony**

Meetings will be conducted in a manner to permit the greatest possible participation by all Council members and the public. Interested persons shall be permitted to present oral or written statements regarding matters on the agenda at the meeting. All written information submitted to a Council at meetings or hearings by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

Oral or written communications provided to the Council, its members, or its staff that relate to matters within the Council’s purview are public in nature. All written comments will be posted on the Council’s website for viewing by Council members and the public. **Knowingly and willfully submitting false information to the Council is a violation of Federal Law**[JKR7]. *(Comment: Which law is violated by doing this? )*

Materials submitted to Council members or staff for distribution prior to or during a Council meeting will be treated as all other written comments and will be posted to the website and will be maintained by the Council as part of the permanent record.

### **3.2.2 Quorum** [JKR8] **and Roll Call Voting**

*(Comment: Quorum requirements are not actually discussed in this section. See MSA § 302(e)(1) where a majority of voting members constitutes a quorum.)*

Decisions by consensus are permitted except where the issue is Council approval of a/an:

- (a) FMP;
- (b) Amendment to a FMP;
- (c) Proposed regulation;
- (d) Secretarial FMP or amendment; and
- (e) Council finding that an emergency exists involving any fishery.

Decisions of the Council are by majority vote of the voting members present and voting (except for proposed removal of Council members which requires an affirmative vote by two-thirds of the members). An abstention does not affect the unanimity of a vote. A roll call vote will be held on any motion before the Council at the request of any voting member. Votes for the approval of management plans or plan amendments and other roll call votes are recorded by name of Council member and how they voted. A vote may not be taken until the motion before the Council is recorded in written form visible to each Council member present and the public.

### **3.2.3 Approval or Amendment of Fishery Management Plan and Finding of Fishery Emergency**

A vote is required for Council approval or amendment of a fishery management plan (including any proposed regulations), a Council finding that an emergency exists involving any fishery, or Council comments to the Secretary on fishery management plans developed by the Secretary. A final vote may not be taken until the motion before the Council is recorded in written form, visible to each Council member present and the public. The written motion, as voted on, must be preserved as part of the record or minutes of the meeting. For a vote on a Council finding that an emergency exists in a fishery, the exact number of votes (for, against, and abstaining) must be preserved as part of the record of the meeting.

### **3.2.4 Procedure for Proposed Regulations**

The Council shall prepare any proposed regulations which it deems necessary to carry out any FMP or any amendment to an FMP, which is prepared by it. Such proposed

regulations shall be submitted to the Secretary or his delegate, together with such plan or amendment, for action by the Secretary or his delegate, pursuant to Sections 304 and 305 of the Act. The Council delegates the authority to the Chair of the Council to review any editorial changes to the regulations between now and the time they are submitted to the Secretary and deem those changes as necessary and appropriate.

### **3.2.5 Parliamentary Procedure; Consensus**

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

### **3.2.6 Dissenting Votes; Minority Written Statement**

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

### **3.2.7 Consideration of Information from Interested Parties**

Interested persons shall be permitted to present oral or written statements regarding matters on the agenda at all publicly noticed meetings of the Council or any of its advisory bodies. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral, written, or email statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

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

Under circumstances beyond the Council's control, new information developed by NMFS, state agencies or universities, Council staff, or other entities associated with the Council may not be available in time for distribution before the Council meeting, and may be presented to the appropriate management committee at the meeting where final

action is to be taken. In this situation, the public shall be advised at the earliest possible time to attend the committee session to receive this information. In addition, the relevant committee session shall be scheduled at the earliest available time during the committee meetings. The Council's consideration and final action on that item shall be scheduled as late as possible on the Council agenda in order to allow the maximum time for review and response by all interested parties.

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

Responses to the new information by interested members of the public may be through testimony at public hearings or at the Council session where final action will be taken, or by submitting written statements at the public hearings or to the Council office. Summaries of oral testimony from hearings and the written statements, if received in the Council office at least seven days before the first day of the Council meeting, will be posted on the Council's web site.

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

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

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

### **3.3 Record**

Detailed minutes, except for any closed session, will be kept of each meeting. The minutes, records and other documents which were made available to or prepared for or by the Council, a committee, or panel incident to the meeting shall be available for public inspection and copying at the office of the Council, except for minutes and records of closed sessions. Such available minutes and records will be distributed to the public, on request, consistent with the policy in the Administrative Handbook<sup>[j9]</sup>.

(Comment: Need to post meeting record/minutes on website – 50 CFR 600.150(b))

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

### **3.4 Closed Meetings**

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

### **3.5 Frequency and Duration**

The Council will meet in plenary session at least four times per calendar year. The duration of each meeting will vary according to need.

### **3.6 Location**

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



## **3.7 Public Hearings/Scoping Meetings**

### **3.7.1 Public Participation/Location**

The Council shall conduct public hearings at appropriate times and in appropriate geographic locations as determined by the Council so as to allow all interested persons an opportunity to be heard in the development of FMPs and amendments thereto, and to receive input with regard to other matters of concern to the Council with respect to its mission and the administration and implementation of the provisions of the Act. Interested parties may appear in person and/or submit comments in electronic or written form to the Council.

### **3.7.2 Hearing Notices**

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

### **3.7.3 Council Hearing Officers**

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

### **3.7.4 Records of Participants/Views**

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

## **3.8 Council Member Compensation**

Council members whose eligibility for compensation has been established in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Act) and NOAA guidelines will be paid on a contract basis without deductions being made for Social Security or federal and state income taxes. The level of compensation for authorized Council members shall be as established in accordance with Section 302(d) of the Act and the Federal rule (50 CFR § 600.245).

Compensation will be paid to eligible Council members for time spent in the performance of official duties for the Council and as authorized by the Council or the Council Chair. Payment will be made for a full day's pay whether the duties performed are in excess of or less than eight hours a day for physical attendance at authorized meetings. Payment for authorized participation in conference calls, webinars, or any other electronic meeting that does not require the member to be physically present to participate will be paid at the

half-day rate if the electronic meeting is less than four hours. Payment for participation in an electronic meeting that has a duration of four hours or more will be paid at the full day's pay rate. The time is compensable where the individual member is required to expend a significant private effort which substantially disrupts the daily routine to the extent that a work day is lost to the member. "Homework" time in preparation for formal Council meetings is not compensable. Non-government Council members receive compensation for:

- a. Days spent in actual attendance at a meeting of the Council or jointly with another Council.
- b. Travel on the day preceding or following a scheduled meeting that precluded the member from conducting his normal business on the day in question.
- c. Meetings of standing committees of the Council if approved in advance by the Chair.
- d. Individual member meeting with scientific and technical advisors when approved in advance by the Chair and a substantial portion of any day is needed.
- e. Conducting or attending hearings when authorized in advance by the Chair.
- f. Other meetings involving Council business when approved in advance by the Chair.

### **3.9 Stipends**

Subject to the availability of appropriations, the Secretary of Commerce will pay a stipend per meeting day attended to members of the Special and Standing SSC who are not state marine fisheries employees or federal employees. Payment will be made for a full day's pay whether the duties performed are in excess of or less than eight hours a day for physical attendance at authorized meetings. Payment for authorized participation in conference calls, webinars, or any other electronic meeting that does not require the member to be physically present to participate will be paid at the half-day rate if the electronic meeting is less than four hours. Payment for participation in an electronic meeting that has a duration of four hours or more will be paid at the full day's pay rate. Stipends will be paid to eligible members for attendance at meetings of the SSC, SEDAR, and to give presentations to the Council on behalf of the SSC, as authorized by Council.

## **4.0 Employment Practices**

### **4.1 Staffing**

Subject to the Council's practices and procedures and according to personnel authority provided by the Secretary, the Council may establish positions, recruit, hire, compensate, and dismiss staff deemed necessary to carrying out the decisions and desires of the Council. Each position must be justified during the budget process described in 2 CFR

Part 215, or prior to filling a new position established during the course of the cooperative agreement year. The Council Executive Director has the responsibility to prepare lists of eligible candidates, as appropriate, for each position. The Council has authorized the Executive Director to recruit, hire, compensate, and dismiss all permanent, probationary, and temporary personnel. In the absence of the Executive Director, routine daily activities will be handled by the Deputy Executive Director, and in the absence of both the Executive Director and the Deputy Executive Director, routine daily activities will be handled by the Administrative Officer. The Council, when it deems appropriate and after notification to NOAA Office of General Counsel, may employ on a temporary basis a legal counsel to advise it on matters of importance to the Council consistent with 50 CFR ~~Section~~ § 600.120.

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

#### Staff Functions

Staff positions and functions are listed in Appendix B of the Council's Administrative Handbook. Other positions may be authorized as deemed necessary by the Council. Experts, consultants, and temporary personnel may be employed to provide additional Council staff support as required. Position descriptions for the Executive Director and for each staff member are available at the Council Headquarters in Tampa, Florida.

#### **4.2 Experts and Consultants**

Experts, consultants, and temporary personnel may be employed to provide additional Council staff support as required.

#### **4.3 Detail of Government Employees**

Authority is provided for the temporary transfer of state, local, and federal government employees to the Council staff. The Council may authorize requests for such personnel.

#### **4.4 Personnel Actions**

Dismissal for permanent employees will be made for misconduct, unsatisfactory performance, and/or lack of funds. Dismissal for probationary employees may be for any cause. In the event of dismissal for lack of funds, a reasonable notice will be given to the permanent employee. New employees shall be subject to a probationary period of a minimum of six months, which may be extended up to 12 (twelve) months, during which the individual's fitness for continued employment shall be evaluated. Annual pay rates for staff positions shall be based on 5 U.S.C. § 5332.

#### 4.5 Salary and Wages

In setting rates of pay for Council staff, the principle of equal pay for equal work shall be followed. Variations in basic rates of pay shall be in proportion to substantial differences in the difficulty and responsibilities of the work performed.

#### 4.6 Council Member and Staff Legal Protections

In conducting official Council business, Council members and staff generally have the same protection from individual tort liability as Federal employees on official actions, and are protected by the Federal workmen's compensation statute, by the minimum wage/maximum hour provisions of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (FLSA), and by the rights of access and confidentiality provisions of the Privacy Act. Council staff is also eligible for unemployment compensation in the same manner as Federal employees. Overtime payments shall be made in accordance with the provisions of the FLSA.

#### 4.7 Recruitment and Anti-Discrimination Policy

[JKR10]

*(Comment: All edits in this section are from the Employment and Labor Law Division.)*

All activities supported in whole or in part by federal funds shall be operated under a policy of equal employment opportunity. Council staff positions shall be filled solely on the basis of merit, fitness **for duty**, competence, and qualifications. **The Council is an Equal Employment Opportunity Employer.** All employment actions will be free from discrimination based on race, religion, color, national origin, sex, age, disability, sexual orientation, status as a parent, and reprisal, ~~or any additional basis protected by applicable federal, state, or local law.~~ **See 50 CFR § 600.120.**

Except for complaints alleging sexual orientation and status as a parent, complaints by employees alleging that they have been discriminated against on the basis listed above should be processed in accordance with 29 CFR **Part 1614**. Employees must contact an EEO Counselor at NOAA's Office of Civil Rights within 45 days of the date of the alleged discrimination. Employees alleging discrimination on the basis of sexual orientation will have their complaints processed in accordance with Department Administrative Order (DAO) 215-11. Employees must contact an EEO Counselor at NOAA's Office of Civil Rights, 800-452-6728 (voice), 301-713-0982 TDD, within 45 days of the date of the alleged discrimination.

#### 4.8 General Harassment Policy [JKR11]

*(Comments: All edits in this section are from the Employment and Labor Law Division.)*

The Council has a zero-tolerance policy for harassment on the basis of race, religion, color, national origin, sex, age, sexual orientation, disability, and reprisal. Any employee who believes he or she has been harassed **or believes he or she has witnessed harassment is encouraged to**~~should~~ report the harassment to a supervisor or manager. The supervisor or manager should then follow the steps set forth in DAO 202-955. Any complaints of harassment on the basis of sexual orientation should be handled in accordance with DAO

215-11. The provisions of these DAOs are entirely separate from the EEO complaint process, and must be followed whether or not an employee has filed an EEO complaint. The Council’s Harassment Policy is intended to ensure that staff members work in an environment free of harassment in all their interactions, including interactions with Council members, other staff members, and the public during the course of official Council meetings, advisory body meetings, or committee meetings.

**4.9 Whistleblower Protection**

It is the intent of the Council to adhere to all applicable laws and regulations. The underlying purpose of this Employee Protection Policy is to encourage the organization’s goal of full legal compliance. The support of all employees is necessary to achieving this result. To this end, any employee who reasonably believes that a policy, practice, or activity of the Council is in violation of law has a right to file a complaint with the U.S. Department of Commerce’s Office of Inspector General. This right notwithstanding, any employee with such concerns is encouraged to report those concerns to the Council for review and any necessary correction.

The Council will not retaliate against employees who disclose or threaten to disclose to the Department, any activity, policy, or practice of the Council that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare, or protection of the environment.

**4.910 Leave**

**4.910.1 Annual Leave**

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

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

(Years of service refer to years of Council service except that up to four years of U.S. federal military, state, or federal government service may be applied to years of service in computing total years of creditable service for leave determination<sup>[j12]</sup>.)

*(Comments: Much has been left out from the Model SOPP. May just want to reference 50 CFR 600.120 here.)*

#### **4.910.2 Sick Leave**

(a) Annual Limitation:

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

#### **4.910.3 Advanced Leave**

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

#### **4.910.4 Family Medical Leave Act of 1993**

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

#### **4.910.5 Holidays**

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

- New Year's Day, January 1
- Martin Luther King's Birthday, Third Monday in January
- President's Day, Third Monday in February
- Memorial Day, Last Monday in May
- Independence Day, July 4
- Labor Day, First Monday in September

Columbus Day, Second Monday in October  
Veterans' Day, [November 11](#)  
Thanksgiving Day, Fourth Thursday in November  
Christmas Day, December 25  
Other national holidays for federal employees

#### **4.110 Employee Benefits**

The Council provides medical insurance for full-time permanent employees and their families. The Council may also provide life insurance, disability, dental, and a retirement program for all full-time probationary/permanent employees within the budget limitations authorized by the Council.

#### **4.121 Travel Reimbursement for Non-Federal Travelers**

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

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

The Council observes the General Service Administration (GSA) reimbursement rates for mileage, commercial transportation, and per diem rates for lodging and meals, and incidental expenses (M&IE) as the per se accounting of actual expenses; additional information may be found in 41 CFR Part 301 and will be provided by the Council office upon request. M&IE and lodging will be reimbursed in accordance with GSA's current M&IE and lodging rates unless prior approval is granted by the Executive Director for costs above the limit for the area.

#### **4.123 Foreign Travel**

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

#### **4.143 Training**

Council members appointed after January 12, 2007, shall complete a training course that will cover a variety of topics relevant to matters before the Council. Such training shall be available as well to existing Council members, staff from regional offices, and regional science centers of NMFS, and may be made available to committee or advisory panel members as resources allow.

#### **4.15 Invitational Travel**

The Executive Director of the Gulf of Mexico Regional Fishery Management Council may accept in-kind and/or actual invitational funds for Council staff travel (including his/her own), only after (1) notifying the NMFS Regional Administrator of the origin and purpose of such funding, and (2) directing such gifts to the Administrator. 50 CFR § 600.125(c).

### **5.0 Standards of Conduct**

#### **5.1 Federal Criminal Statutes**

##### Applicable Statutes:

Council members, as Federal officeholders, and Council employees are subject to most Federal criminal statutes covering bribery, conflict-of-interest, disclosure of confidential information, and lobbying with appropriated funds. ~~In addition to abiding by the applicable Federal conflict of interest statutes, both members and employees of the Councils must comply with the standards of conduct cited in 50 CFR Section 600.225. Among other statutes, in particular,~~ [WJ13]the following provisions apply:

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



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

## 5.2 General Standards of Conduct

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

- a. No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county or municipal election.
- b. No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his or her political affiliation.
- c. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.
- d. No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

- e. No Council member or employee of the Council shall use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment which has not been made available to the general public.
- f. No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.

g. The Council has a zero-tolerance policy for harassment on the basis of race, religion, color, national origin, sex, age, sexual orientation, disability, and reprisal. Any employee who believes he or she has been harassed or believes he or she has witnessed harassment is encouraged should report the harassment to a supervisor or manager. The supervisor or manager should then follow the steps set forth in DAO 202-955. Any complaints of harassment on the basis of sexual orientation should be handled in accordance with DAO 215-11. The provisions of these DAOs are entirely separate from the EEO complaint process, and must be followed whether or not an employee has filed an EEO complaint.<sup>[JKR14]</sup> The Council's Harassment Policy is intended to ensure that staff members work in an environment free of harassment in all their interactions, including interactions with Council members, other staff members, and the public during the course of official Council meetings, advisory body meetings, or committee meetings.

*(Comment: This is the same as section 4.8. Why repeat it here? It seems out of place.)*

- h. No Council member or employee of the Council shall use Council property for other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.
- i. Except as provided in 18 U.S.C. Section § 208- ~~n~~ No Council member may participate:
  - (1) Personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a particular matter primarily of individual concern, such as a contract, in which he or she has a financial interest; or
  - (2) In any particular matter ~~that of general public concern which~~ is likely to have a direct and predictable effect on a member's financial interest unless that interest is in harvesting, processing, lobbying, advocacy, or marketing activities and has been disclosed in a report filed pursuant to Section 302(j)(5) of the Act ~~under Section VIII.J.~~

For purposes of this subsection, the member's financial interest includes that of the member's spouse, minor child, partner, organization in which the member is serving as officer, director, trustee, partner or employee, or any person or

organization with whom the member is negotiating or has any arrangement concerning prospective employment.

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

## 5.3 Financial Disclosures

### 5.3.1 General

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

### 5.3.2 Recusal

As provided for in the regulations promulgated under Section 302(j) of the Act, i.e., 50 CFR ~~Parts §§~~ 600.225 and 600.235, as amended, an affected individual who is required to disclose a financial interest shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph 2 within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

If the Council makes a decision before the Secretary has reviewed a determination under subparagraph 3, the eventual ruling may not be treated as cause for the invalidation of reconsideration by the Secretary of such decision.

An affected individual is prohibited from voting in accordance with 50 CFR [§ 600.235](#), as amended, which provides for the making of determinations.

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

### **5.3.3 Security Investigations**

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

## **6.0 Financial Management**

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

### **6.1 Governing Statutes**

The Council's cooperative agreement activities are governed by [2 CFR Part 200 \(Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards\)](#), 2 CFR Part 215 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), 2 CFR Part 230 (Cost Principles for Non-Profit Organizations), 48 CFR Part 31 (Contract Cost Principles and Procedures), [and OMB Circular A-133 \(Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations\)](#), [as applicable](#), and the terms and conditions of the cooperative agreement. (See 5 CFR § 1310.3 for availability of OMB Circulars.)

## **6.2 Cooperative Agreements and Contracts**

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

## **6.3 Procurement**

The cost and financial management principles outlined in [2 CFR Part 200](#), 2 CFR Part 230 and 48 CFR Part 31, [as applicable](#), apply to all Council procurement actions.

## **6.4 Property Management**

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

### Property Numbers:

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

The Council shall comply with the property management standards as stipulated in the applicable uniform administrative requirements.

## **6.5 Real Property**

The leasing, renting, and acquisition of real property and space will be performed in a manner consistent with [2 CFR Part 200](#) or 2 CFR Part 230, [as applicable](#).

## **6.6 Accounting System**

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

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

## **6.7 Audits**

An independent audit will be conducted at least biennially by DOC Office of Inspector General auditors or an independent public accountant (IPA). The scope of the audit may include: conduct of financial operations; compliance with applicable laws and regulations; economy and efficiency of administrative procedures; and achievement of results. The audit will be conducted in accordance with OMB Circular A-133 [or 2 CFR Part 200, as applicable](#). The following NOAA personnel will be invited to participate in the audit exit conference: the Grants Officer and a representative of the NMFS, Southeast Regional Office (SERO).

## **6.8 Financial Reporting**

The Federal Cash Flow Financial Report will be submitted to the Grants Officer through the Grants Online web site and in accordance with the reporting procedures contained in the terms and conditions of the award and 2 CFR Part 215 [or 2 CFR Part 200, as applicable](#). A final report will be submitted within 90 days after ~~completion~~ [expiration](#) of the grant.

## **7.0 Recordkeeping**

Councils, NMFS Headquarters, Regions, and Science Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments within their geographic area of authority. The disposition of such records must be handled in

accordance with NAO 205-1, NOAA Records Management Program and DAO 205-1, Department of Commerce Program for Records Management.

## **7.1 Definitions**

Records: documentary items that are made or received by an agency of the United States in connection with the transaction of public business. Agencies are legally required to keep these records as evidence of their actions, and they must be maintained in accordance with your agency's records retention schedule or one of the government's general records retention schedules. They can be in any format (i.e. text documents, photos, computer codes, electronic files, CD-ROMS, disks, USB keys, magnetic tapes).

Non-records: items made or acquired solely for reference, extra copies of documents kept for reference/personal convenience (even if it's a copy of something that is a record – only the original is the record), notes taken during a meeting which aren't shared with others, drafts.

Personal papers: materials pertaining solely to your private affairs, for example the telephone bill that you brought in to pay during your lunch break or your personal appointment calendar.

## **7.2 Availability of Records**

In accordance with 50 CFR [§ 600.150\(b\)](#), the Council will maintain documents generally available to the public on its Internet site. Documents for posting must include: fishery management plans and their amendments for the fisheries for which the Council is responsible; drafts of fishery management plan amendments under consideration; analysis of actions the Council has under review; minutes or official records of past meetings of the Council and its committees; materials provided to Council members in preparation for meetings; and other Council documents of interest to the public. For documents too large to maintain on the Web site, not available electronically, or seldom requested, the Council will provide copies of the documents for viewing at the Council office during regular business hours or may provide the documents through the mail.

## **7.3 Administrative Records for Fishery Management Plans**

The Council and NMFS Headquarters, Regions and Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments. In the event of litigation, compilation of an administrative record for a court case will be under the direction of NOAA General Counsel.

## **7.4 Disposition of Records**

Council records must be handled in accordance with Department of Commerce and NOAA records management office procedures. The Council will abide by the terms of the NOAA Records Management Guide; the NOAA Records Disposition Handbook; and the following records management authorities: NAO 205-1 NOAA Records

Management Program; DAO 205-1 Program for Records Management; Federal Records Act of 1950; 44 U.S.C. Chapter 31 Records Management by Agency Heads; 44 U.S.C. Chapter 33 Disposal of Records; and 44 U.S.C. § 101 Federal Management and Promotion of Electronic Government Services

All records and documents created or received by Council employees, while in active duty status, belong to the Federal government. When employees leave the Council, they may not take the original or file copies of records with them. Before any records are disposed of, Council members and employees will coordinate with the NOAA records management office.

## **7.5 Permanent Records**

The designation of a file as “permanent” means that the records are appropriate for offer to the National Archives once the records are 20 years old, unless otherwise specified. Destruction of permanent records is not authorized. Examples of permanent records are Environmental Impact Statements (EIS), Environmental Assessments (EA), annual reports, meeting files that include agendas, minutes, reports, studies, and related correspondence.

## **7.6 Privacy Act Records**

The Council will maintain in its office, under appropriate safeguards in accordance with the Privacy Act (PA), personnel files on employees, experts and consultants under contract, and advisory group members. Maintenance, protection, handling of request for information, and disclosure and disposition of PA records will be provided for in the Secretarial guidelines and regulations.

## **7.7 Freedom of Information Act (FOIA)**

FOIA requests received by the Council should be coordinated promptly with the appropriate NMFS Regional Office. The Region will forward the request to the NMFS FOIA official to secure a FOIA number and log into the FOIA system. The NMFS Regional Office will obtain clearance from the NOAA General Counsel’s Office concerning the initial determination for denial of requested information. FOIA requests will be controlled and documented in the Region.

## **7.8 Confidentiality of Statistics**

In accordance with Section 302(i)(4) of the Act and in compliance with 50 CFR §§ 600.130, 600.405, 600.425, and NAO 216-100, the Council may establish policies and procedures applicable to it, its committees, and advisory groups to ensure confidentiality of statistics submitted to the Council by federal or state authorities, and information that may be voluntarily submitted to the Council by private persons, including but not limited to procedures that restrict Council employee access and prevent conflicts of interest. In the case of statistics submitted by a state or federal entity, policies and procedures must



be consistent with the laws and regulations of the federal or state entity submitting the statistics.

## **7.9 Information Quality**

The Council agrees to abide by the NOAA Information Quality Guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information which it disseminates. The NOAA guidelines also establish an administrative mechanism allowing affected persons to seek and obtain correction of information that does not comply with Office of Management and Budget or NOAA applicable guidelines.