



WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL

STATEMENT OF ORGANIZATION  
PRACTICES AND PROCEDURES

1164 Bishop Street, Suite 1400  
Honolulu, Hawaii 96813  
(808) 522-8220

Adopted June 2023 at the 195<sup>th</sup> Council Meeting  
Amended September 2024 at the 200<sup>th</sup> Council Meeting

CONTENTS

1	INTRODUCTION .....	3
2	COUNCIL PURPOSE .....	3
3	COUNCIL COMPOSITION .....	4
4	OATH OF OFFICE.....	5
5	TERM OF APPOINTMENT - Voting Members.....	5
6	AUTHORITY OF THE COUNCIL.....	5
7	OFFICERS AND TERMS OF OFFICE .....	6
8	AUTHORITY OF THE CHAIR.....	6
9	REMOVAL OF COUNCIL MEMBERS .....	6
10	DESIGNEES.....	6
11	COUNCIL STAFF.....	7
12	COUNCIL STANDARDS OF CONDUCT .....	9
13	GENERAL STANDARDS OF CONDUCT .....	9
14	COUNCIL MEMBER TRAINING .....	11
15	FINANCIAL DISCLOSURE .....	11
16	RECUSAL .....	11
17	MEETINGS OF THE COUNCIL.....	12
18	PUBLIC HEARINGS .....	15
19	STANDING COMMITTEES OF COUNCIL MEMBERS.....	15
20	SCIENTIFIC AND STATISTICAL COMMITTEE .....	16
21	ADVISORY PANEL.....	17
22	FISHING INDUSTRY ADVISORY COMMITTEE.....	18
23	FEP PLAN TEAMS.....	18
24	INDIGENOUS COMMITTEE .....	18
25	OTHER ADVISORY GROUPS.....	19
26	MEETINGS OF COUNCIL ADVISORY BODIES .....	19
27	PRACTICES AND PROCEDURES FOR PLAN DEVELOPMENT.....	20
28	COUNCIL POLICIES AND PROCEDURES .....	20
29	COUNCIL PROGRAM AGREEMENTS, POLICIES AND PROCEDURES .....	23
30	ADMINISTRATIVE MANAGEMENT SYSTEM.....	24
31	VARIATIONS FROM THESE GUIDELINES.....	31

## INTRODUCTION

The Western Pacific Fishery Management Council (Council), established in 1976 by the Magnuson-Stevens Fishery Conservation and Management Act (Act), hereby presents its Statement of Operating Practices and Procedures (SOPP). This SOPP describes the practices and procedures to carry out the Council's functions under the Act. Copies may be obtained by writing to the Executive Director, Western Pacific Regional Fishery Management Council, Suite 1400, 1164 Bishop Street, Honolulu, Hawaii 96813, and are available for download at the Council's website at <http://www.wpcouncil.org>.

This SOPP supersedes the previous version, published October 2019

## 1 COUNCIL PURPOSE

The Council shall:

- A. Prepare and submit to the Secretary of Commerce (Secretary) a Fishery Ecosystem Plan (FEP<sup>a</sup>) with respect to each fishery in need of management surrounding its geographical area of authority and, from time to time, such amendments to each such plan as necessary;
- B. Prepare comments on any application for foreign fishing transmitted to it by the Secretary of State, and any Fishery Ecosystem Plan or amendment transmitted to it by the Secretary of Commerce;
- C. Conduct public hearings, in the geographic area concerned, to allow interested persons an opportunity to be heard in the development of Fishery Ecosystem Plans and amendments to such plan, and with respect to the administration and implementation of the provisions of the Act;
- D. Prepare reports as the Council deems appropriate, as requested by the Secretary of Commerce, or as required by Congress;
- E. Review on a continuing basis, and revise as appropriate, the assessments and specifications made with respect to the maximum sustainable yield, optimum yield, domestic annual processing, joint venture processing, domestic annual harvesting and the total allowable level of foreign fishing for each fishery under a Fishery Ecosystem Plan within its geographic area of authority;
- F. Prepare comments on any FEP plan or amendment prepared by the Secretary which is transmitted by the Council under Section 304(c)(4) of the Act;
- G. Establish annual catch limits for each of its managed fisheries, as appropriate, that may not exceed the fishing level recommendations established by mechanisms and processes under the Act;
- H. Establish the organizational structure and procedures to carry out provisions of the Act relating to Pacific Insular Area Fishery Agreements, Community Development Program, Western Pacific Demonstration Projects and the Western Pacific Sustainable Fisheries Fund;
- I. Develop multi-year research priorities for fisheries, fisheries interactions, habitats and

---

<sup>a</sup> 2010 implementation of the five place-based FEPs (American Samoa, Mariana Islands, Hawaii, Pelagics and PRIAs) replaced the Council's existing species-based Fishery Management Plan (FMP).

- other areas of research that are necessary for management purposes, in the manner prescribed in the Act;
- J. 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; and
  - K. 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 COUNCIL COMPOSITION

The Western Pacific Regional Fishery Management Council has 16 members (13 voting and three non-voting) from the State of Hawaii, the Territories of Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, and Federal agencies, and has management authority over the fisheries seaward of these islands and all US remote islands and atolls in the Pacific Ocean as set forth in the Act.

- A. Voting Members. The voting members of the Council are:
  - a. Eight members appointed by the Secretary of Commerce from American Samoa, Guam, Hawaii and the Northern Mariana Islands (at least one of whom shall be appointed from each);
  - b. The officials with principal fishery management responsibility in the governments of American Samoa, Guam, Hawaii and the Northern Mariana Islands, or the designee of such officials; and
  - c. The Regional Administrator of the Pacific Islands Regional Office of the National Marine Fisheries Service, or his or her designee.
- B. Non-Voting Members. The non-voting members of the Council are:
  - a. The Regional Director of the U.S. Fish and Wildlife Service, Region 1, or his or her designee;
  - b. The District Commander, 14th Coast Guard District, or his or her designee; and
  - c. A representative of the Department of State, or his or her 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.

### **3 OATH OF OFFICE**

As trustees of the nation's fishery resources, each voting 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.

### **4 TERM OF APPOINTMENT - VOTING MEMBERS**

Voting members (other than principal state officials, the Regional Administrator, or their designees) are appointed for a term of three years and may be reappointed. A voting member's Council service of 18 months or more during a term of office will be counted as service for the entire three-year term. The anniversary date for measuring terms of membership is August 11. The Secretary may designate a term of appointment shorter than three years, if necessary, to provide for balanced expiration of terms of office. Members may not serve more than three consecutive terms. A member who has completed three consecutive terms will be eligible for appointment to another term one full year after completion of the third consecutive term.

### **5 AUTHORITY OF THE COUNCIL**

The Council selects its officers: the Chair and four Vice Chairs from among its members representing each member State.

The Council shall approve all appointments to the positions of Executive Director, Scientific and Statistical Committee, Advisory Panels, Plan Teams and any other group or committee necessary for the purpose of its function. Compensation shall be determined by the Council as allowed under the Act.

Authorization of expenses for domestic travel, including invitational travel, and participation for Council, staff, Scientific and Statistical Committee, Advisory Panel, Plan Team members and any other meeting participant, will be approved by the Council at its meetings and implemented by the Executive Director. The Chair may authorize travel compensation and participation at any time.

## **6 OFFICERS AND TERMS OF OFFICE**

The officers of the Council shall be the Chair and four Vice Chairs, each elected for one-year terms. Officers may succeed themselves. The Chair is elected by a majority of the voting members present and voting. Four Vice Chairs will be elected, one from each State, Territory, and Commonwealth represented on the Council.

## **7 AUTHORITY OF THE CHAIR**

The Chair, or in his or her absence, the Vice Chair named by the Chair, shall convene and preside over Council meetings. The Chair may designate Council members to serve on committees. The Chair may also designate Council members to officiate at public hearings.

The Chair shall function as the Chief Executive Officer with general charge and supervision over and responsibility for the business affairs of the Council.

The Chair, at the direction of the Council, may enter into and execute in the name of the Council, contracts and other instruments in the regular course of business. The Chair, after consulting with the Executive and Budget Committee, appoints Chairs of all Council Committees, including, but not limited to, the Scientific and Statistical Committee, the Advisory Panels and the Plan Teams.

## **8 REMOVAL OF COUNCIL MEMBERS**

The Council may recommend to the Secretary that a member be removed for cause after not less than two-thirds of the Council voting members vote for removal in accordance with Section 302(b)(6) of the Act. Removal requires that the Council provide a written removal recommendation to the Secretary together with a statement of the basis for the recommendation.

A Council member may also be removed if the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with 5 U.S.C. § 554, to have committed an act prohibited by section 307(1)(O) of the Act.

## **9 DESIGNEES**

The Act authorizes only the principal State (including Territory and Commonwealth) officials, the Regional Administrator, and the non-voting members to designate individuals to attend Council meetings in their absence. The Chair of the Council must be notified in writing, in advance of any meeting at which a designee will initially represent the Council member, of 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 the list clearly specifies who would serve if more than one designee attends. A designee may be elected as Chair or Vice-Chair of the Council, and as Vice-Chair would serve as Chair in the absence of the elected Chair; however, a designee for an elected Chair cannot serve as Chair. Reimbursement of travel expenses to any meeting is limited to either the member or one designee. Additional requirements for principal State officials and their designees include the following:

- A. Only a full-time state employee of the state agency responsible for marine and/or anadromous fisheries shall be appointed by a constituent state Governor as the principal state official for purposes of Section 302(b) of the Act;
- B. A principal state official may name his/her designee(s) to act on his/her behalf at Council meetings. Individuals designated to serve as designees of a principal state official on the Council, pursuant to Section 302(b)(1)(A) of the Act, must be a resident of the state and be knowledgeable and experienced, by reason of his or her occupational or other experience, scientific expertise, or training, in the fishery resources of the geographic area of concern to the Council; and
- C. New or revised appointments by state Governors of principal state officials and new or revised designations by principal state officials of their designee(s) must be delivered in writing to the appropriate NMFS Regional Administrator and the Council Chair at least 48 hours before the individual may vote on any issue before the Council. A designee may not name another designee. Written appointment of the principal state official must indicate his or her employment status, how the official is employed by the state fisheries agency, and whether the official's full salary is paid by the state. Written designation(s) by the principal state official must indicate how the designee is knowledgeable and experienced in fishery resources of the geographic area of concern to the Council, the county in which the designee resides, and whether the designee's salary is paid by the state.

## 10 COUNCIL STAFF

- A. Composition. The staff of the Council shall include the Executive Director and such other staff as are authorized by the Council.
- B. Executive Director. The Executive Director is appointed by the Council and reports to the Chair. The Executive Director is authorized to appoint other staff, as appropriate, including experts and consultants to provide technical assistance not available from NOAA, as well as, request for the detail of other government employees. This includes legal assistance, but the Council must first notify the NOAA Office of General Counsel before seeking outside legal advice. The Executive Director may enter into and execute in the name of the Council contracts, agreements and other instruments in the regular course of business.
- C. Function. The staff is responsible for administration and execution of Council operations under the supervision of the Executive Director. Functions include participation in Fisheries Ecosystem Plan development; preparation of Council reports, statements, and correspondence; financial management, budget preparation and procurement; record keeping; meeting logistics; and other programmatic and administrative activities.
- D. Legal Protections for Council and Staff. In conducting official Council business, Council members and staff generally have the same protection from individual tort liability as Federal employees on official actions.

E. General Harassment Policy.

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. Employees who believe they have been harassed or have witnessed harassment are encouraged to immediately<sup>1</sup> report the harassment to the Administrative Officer or the Executive Director. Upon receipt of such a report, the Administrative Officer should follow the steps set forth in Appendix I: 'Model Fishery Management Council Policy on Addressing Allegations of Harassment of Council Employees' and Appendix II: 'Model Fishery Management Council Policy on Addressing Allegations of Harassment of Process Participants Other Than Council Employee's'.

The policies are entirely separate from the NOAA Equal Employment Opportunity (EEO) complaint process, and must be followed whether or not an employee has filed an NOAA EEO complaint. The Council's Harassment Policy is intended to ensure that staff members work in an environment free of harassment in all of their interactions with Council members, other staff members, and the public during the course of official Council meetings, advisory body meetings, or committee meetings.

F. Whistle Blower 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. In fact, Department of Commerce Administrative Order 207-10 requires that employee's report allegations of fraud, waste, and abuse.

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.

G. Recruitment and Anti-Discrimination Policy. Council staff positions must 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. See 50 CFR. 600.120.

<sup>1</sup> An EEO complaint must be filed within 45 days of the alleged discrimination/harassing act.



## **11 COUNCIL STANDARDS OF CONDUCT**

Council members, as Federal office holders, and Council employees are subject to most Federal criminal statutes covering bribery, conflict-of-interest, and disclosure of confidential information. Among other statutes, the following provisions apply:

18 U.S.C. § 201 - prohibits offer or acceptance of anything of value to influence any official act.

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.

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.

18 U.S.C. § 208 - which prohibits official acts in a matter in which the Federal employee has a personal financial interest, does not apply to a financial interest of a Council voting member if he obtains a waiver under 18 U.S.C. § 208(b), or if the disclosure of financial interest form has been filed under Section 302(j) of the Act, and that individual is in compliance with regulations promulgated under said section.

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.

18 U.S.C. §§ 210, 211 - prohibits offer or acceptance of value to procure appointment to public office.

18 U.S.C. § 1905 - prohibits disclosure of trade secrets or confidential commercial information except as provided by law.

31 U.S.C. § 1352 - generally prohibits the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with the Federal award. The Council must also complete Form SF-LLL "Disclosure of Lobbying Activities" and submit it to the Grants Office quarterly as necessary.

## **12 GENERAL STANDARDS OF CONDUCT**

In addition to abiding by the applicable Federal conflict of interest statutes, both members and employees of the Council may comply with the following standards of conduct:

- a. No employee of the Council may 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 elections.
- b. Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements, especially with regard to lobbying, and other restrictions with regard to lobbying.
- c. No employee of the Council may be deprived of employment, position, work, compensation, or benefit provided from 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.
- d. No Council member or employee may 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.
- e. No employee of the Council may have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.
- f. No Council member or employee of the Council may 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.
- g. No Council member or employee of the Council may engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.
- h. No Council member or employee of the Council may 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 50 CFR § 600.235(h) and 18 U.S.C. § 208, no Council member may participate (A) 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 (B) in any particular matter that 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. For purposes of this subsection, the member's financial interest includes that of the member's spouse, minor child, partner, organization in which the members 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.

### **13 COUNCIL MEMBER TRAINING**

As per 50 C.F.R. Section 500.250, 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 and to committee or advisory panel members as resources allow.

### **14 FINANCIAL DISCLOSURE**

Council nominees and voting members appointed to the Council by the Secretary under subsection 302(b)(2) of the Act (“Affected Members”) and members of the SSC shall disclose any financial interest of the reporting individual; the individual's spouse, minor child, or partner; and any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee, in harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction or with respect to an individual or organization with a financial interest in such activity. The information required to be reported must be disclosed on NOAA Form 88-195, "Statement of Financial Interests for Use by Voting Members and Nominees of Regional Fishery Management Councils and Members of the Scientific and Statistical Committee," or such other form as the Secretary, or designee, may prescribe. The report must be filed by nominees for Secretarial appointment before the date of appointment as prescribed by the Secretary. Affected Members must file the report with the Council office within 45 days of taking office. SSC members must file financial disclosures with the Regional Office within 45 days of taking office. Individuals must update the form within 30 days of the time that any such financial interest is acquired or the financial interests are otherwise substantially changed. The information required to be submitted by Council members will be kept on file by the Council, and made available on the Internet and for public inspection at reasonable hours at the Council offices. Information from SSC members will be kept on file by the NMFS Regional Office. A copy of the form may be obtained from the appropriate Regional Office.

It is unlawful for Council nominees, Affected Members, and members of the SSC to knowingly and willfully fail to disclose, or to falsely disclose any financial interest or to knowingly vote on a Council decision in violation of 50 CFR § 600.235. In addition to the penalties provided under 50 CFR § 600.735, a violation may result in removal of the individual from Council membership.

### **15 RECUSAL**

Affected Members may not vote on any Council decision that would have a significant and predictable effect on a disclosed financial interest. Any individual who believes that a Council decision would have such an effect may, at any time before a vote is taken, announce to the Council his or her intent not to vote on the decision and identify the financial interest that would be affected. An individual who is recused from voting may participate in Council and committee 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 Member or upon the initiative of an appropriate designated official (see Sec. 302(j)(1)(b) of the Act), such official shall determine for the record whether a Council decision would have a significant and predictable effect on that individual's financial interest. The determination will be based upon a review of the information contained in the individual's financial disclosure form and any other reliable and probative information provided in writing. All information considered will be made part of the public record for the decision. At the beginning of each Council meeting, or during a Council meeting at any time reliable and probative information is received, the designated official shall announce the receipt of information relevant to a determination concerning recusal, the nature of that information, and the identity of the submitter of such information. If the designated official determines that the affected individual may not vote, the individual may state for the record how he or she would have voted. The Council Chair may not allow such an individual to cast a vote.

## 16 MEETINGS OF THE COUNCIL

- A. Agenda or Order of Business. Timely notice of the time, place and agenda of each Council meeting will be published in the Federal Register prior to the meetings, and in a manner consistent with 50 CFR § 600.135. Notice shall be provided by any means that will result in wide publicity in the major fishing port of the region, except that email notifications and website postings alone are not sufficient. The Council will also issue press releases to announce time, location and agenda for each meeting, providing timely notice prior to the meeting. 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 modification is to address an emergency action under Section 305(c) of the Act, in which case public notice shall be given immediately.

Drafts of all regular public meeting notices must be transmitted to the NMFS Headquarters Office (i.e., Federal Register) at least 23 calendar days before the first day of the regular meeting. Drafts of emergency public notices must be transmitted to the NMFS Headquarters Office at least five working days prior to the first day of the emergency meeting. Although notices of and agendas for emergency meetings are not required to be published in the Federal Register, notices of emergency meetings must be promptly announced through the appropriate news media.

- B. Federal Register Notice. The published Federal Register notice and agenda of the meeting will notify the public of the process to request language interpreters or other auxiliary aids consistent with the Department Administrative Order (DAO) 209-8, Access for People with Disabilities to Meetings and Other Group Events. Anyone needing a special accommodation to attend and participate in a Council-hosted meeting must contact the Council office 14 days before the scheduled meeting.

- C. Minutes. Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chair shall verify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction. Subject to the confidentiality procedures established by the Council on January 28, 1986, and the guidelines prescribed by the Secretary pursuant to Section 402(b) of the Act (50 CFR Part 600, Subpart E (Confidentiality of Statistics) and NAO 216.100), the administrative record and minutes of each meeting and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available on the Council's internet website and for public inspection and copying at a single location in the offices of the Council, or the Secretary, as appropriate.
- D. General Rules of Procedure. The Council shall meet at the call of the Chair or upon request of a majority of the voting members. Meetings shall be conducted in a manner to permit the greatest possible participation by all members of the Council and the public. Decisions by consensus are permitted except where the issue is Council approval or amendment of a Fishery Ecosystem Plan (including proposed amendments and regulations), a Council finding that an emergency exists involving any fishery, and comments on management plans prepared by the Secretary. In these cases, a vote is required. Each motion must be recorded in writing and be visible to each Council Member and the public prior to the vote. A roll call vote may be taken on any matter as requested by any voting member of the Council or by the Chair. The official minutes shall identify each voting Council member and how they voted on each roll call vote. 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. The majority of voting members present and voting shall prevail in such votes (except for a vote to propose removal of a Council member under 50 CFR § 600.230 and except where Roberts Rule of Order require a 2/3 majority vote). Voting by proxy is permitted only pursuant to the Designees section of these SOPPs. Absent Council members/designees may not vote by telephone.
- E. Quorum. A majority of the voting members of the Council shall constitute a quorum for Council meetings.
- F. Minority Reports. The Council shall include any minority reports by Council members on formal submissions to the Secretary of Commerce.
- G. Meeting via Web or Tele-Conference. The Council may elect to meet using web-conferencing and/or teleconferencing services to address timely issues. Satellite web and/or tele-conferencing meeting locations will be hosted in each island area to provide for public participation.

- H. Emergency Meetings. Upon receiving a request for an emergency meeting from any Council member, or upon his or her own instigation, the Council Chair shall instruct the staff to conduct a telephone poll of available voting Council members. If a quorum agrees, the Chair shall call an emergency meeting, which can be conducted by teleconference. Notice of the emergency meeting will be promptly announced and widely publicized and will conform with the mandates of 50 CFR § 600.135. (It is the policy of the Council to limit emergency meetings in order to ensure public participation in its deliberations.)
- I. Parliamentary Rules. Meetings shall be conducted under Robert's Rules of Order.
- J. Closed Meetings. Closed meetings may be held after notification in a manner that will provide wide publicity in the region, and when such notification provides the time, place of the meeting, and the reason for closing such meeting. A meeting or portion thereof **must** be closed when it concerns information bearing a national security classification. A meeting or portion thereof may be closed when it concerns matters pertaining to: national security, employment, or briefings on litigation in which the Council is interested, and internal administration (e.g., candidates for appointment to AP, SSC, etc., medical conditions of Council members). The Council, SSC, and APs may, without notice, briefly close a portion of a meeting to discuss employment or other internal administrative matters for a period not to exceed two hours. In deciding whether to close a portion of a meeting to discuss internal administrative matters, the Council, SSC, and APs should consider the privacy interest of individuals whose conduct or qualifications may be discussed in light of the interests of the public in being informed of Council operations and actions. Before closing a meeting or portion thereof, consultation with the NOAA Office of General should occur to ensure that the matters to be discussed fall within the exception for a meeting without notice.
- K. Consideration of new information. At any time when a Council determines it appropriate to consider new information from a state or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties will have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.
- L. Background information submittal. Any interested persons presenting oral or written statements regarding matters on the agenda shall include a brief description of their background and interests and the subject of the oral and written statement. All written information submitted to the Council shall include the source and date of such information.
  - a. Voting. In accordance guidelines on conduct of meetings of the Council require that each motion must be recorded in writing and be visible to each Council member and the public prior to a vote on measures subject to Secretarial consideration. This procedure must also be followed for amendments to regulations implementing a fishery ecosystem plan, and recommendations for responding to an emergency.

i. Voting in Regular Council Meetings

1. The member making the recommendation will draft, either typed or handwritten, or will dictate to staff for distribution or view of the recommendation to Council members before the vote.

ii. Voting by Teleconference or Videoconference Meetings

1. The member making the recommendation will clearly read the motion aloud immediately prior to the vote, so that everyone on the call understands the wording of the motion being voted on. The motion would then become part of the written record of the call/vote, which would also include the exact vote of the Council members.

## 17 PUBLIC HEARINGS

The Council may hold public hearings in order to provide the opportunity for interested persons to be heard with respect to the development of Fishery Ecosystem Plans or plan amendments, and with respect to the administration and implementation of the Act. The Council may use its judgment regarding when and where such hearings should be held, provided they are held in the particular geographic area concerned. The Council may dedicate a portion of a meeting to a public hearing on FEP issues under consideration at that meeting.

- A. Conduct. When it is determined that a hearing is appropriate, the Chair of the Council will designate at least one voting member of the Council to preside. Conduct of the hearing, beyond the stipulation that all persons be afforded an opportunity to present their views and be given a chance for expression, is within the discretion of the hearing official under whatever instructions the Council may wish to provide.
- B. Notice. Timely notices of each hearing that is not part of a Council meeting will be published in the Federal Register prior to the hearing and in a manner consistent with 50 CFR § 600.135. Advance notice will be given in the local media with the place and time, providing timely notice prior to the hearing. The publicity should be sufficient to assure that all interested parties are made aware of the opportunity to make their views known.
- C. Record. An accurate record of the participants and their views, obtained by use of a tape recording, typewritten transcript, or detailed minutes, shall be available to the Council and maintained as part of the Council's administrative record.

## 18 STANDING COMMITTEES OF COUNCIL MEMBERS

The Western Pacific Regional Fishery Management Council has established the following Standing Committees, each of which shall have not less than 3 members. The Council may, however, establish other standing committees to address matters not covered by the existing standing committees.

- A. An Executive and Budget Committee consisting of the Chair of the Council and the Vice Chairs of the Council. A member of the Executive Committee may designate another Council member to serve as his or her alternate. Meetings of the Executive Committee may be held between regular Council meetings as necessary. The functions of the Executive and Budget Committee are to determine policy, make rulings on administrative matters, determine what meetings and conferences should have Council representation and develop the Council budget and prepare long range programs.
- B. A Program and Research Committee, whose members shall serve for a term of one year. The function of the Program and Research Committee is to review and identify program and research priorities to help achieve the Council's goals and objectives.
- C. A standing committee for each FEP of the Council. The function of these committees is to provide specialized review of annual reports and management issues, and to recommend Council action on such issues, related to their respective FEPs.
- D. Standing committees on Fishery Rights of Indigenous People, Enforcement/Vessel Monitoring System and International Affairs. These committees maintain continuing involvement in and make recommendations for Council action on their respective subject areas relative to FEPs or other issues.
- E. Ad Hoc Committees. The Council may establish Ad Hoc Committees to address issues not addressed by any of the Standing Committees described in A through D, above. These Ad Hoc Committees will report to the Council as directed and will be dissolved by the Council once their purpose has been fulfilled.

## **19 SCIENTIFIC AND STATISTICAL COMMITTEE**

As required by Section 302(g)(1) of the Act, the Western Pacific Regional Fishery Management Council shall have a Scientific and Statistical Committee composed of experts with scientific or technical credentials and experience from State and Federal agencies, academic institutions, and other sources. Members shall serve (4) four year terms representing a wide range of disciplines required for preparation and review of Fishery Ecosystem Plan. Each member of the SSC shall be treated as an affected individual for purposes of disclosure and financial interest and recusal as per the MSA Section 302(g)(1)(E). Financial interest disclosures will be kept on file by the Secretary. The Chair of the committee shall be appointed by the Chair of the Council. No Council member, voting or non-voting, or Council member designee may serve a simultaneous term as a member of the Scientific and Statistical Committee.

The Committee shall:

- Identify scientific resources required for the development of management plans and amendments and recommend resources for Plan Teams;
- Provide ongoing multi-disciplinary review of management plans or amendments and advise the Council on their scientific content, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield and achieving



rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures and sustainability of fishing practices;

- Assist the Council in the development, collection, evaluation and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's activities, and recommend methods and means for the development and collection of such information;
- Recommend to the Council the composition of Plan Teams; and
- Meet in conjunction with the meetings of the Council, to the extent practicable.

## 20 ADVISORY PANEL

The Council shall establish an Advisory Panel that includes representation from various sectors of the fisheries. Six members of each Sub-panel shall be selected by the Council and shall serve for *four-year terms* expiring December 31st. An overall Advisory Panel Chair and a vice-Chairperson for each island area shall be appointed by the Council Chair after consultation with the Executive and Budget Committee. The Council has discretion to select one Vice Chairman in lieu of four vice chairs. The Advisory Panel and Sub-panels are accountable to and report to the Council. The Chair may change any Advisory Panel Chair after consultation with the Executive and Budget Committee, and may remove any advisory panel member with the concurrence of the Council Members from the representative areas.

Advisory Sub-panels shall have representation from user groups and interests concerned with management of the fishery for which a plan is being prepared or reviewed, including fair representation of commercial fishing interests in the Council's geographical area of authority. The functions of the Sub-panels shall be to advise the Council on fishery management problems; to provide input to the fishery management planning efforts; and to advise the Council on the content and effects of management plans, amendments, and, pre-season and in-season management measures.

The basic criteria for AP membership is interest in the fishery; at least one year of fishing, processing, marketing, commercial, recreational or subsistence experience; and a willingness to participate. Membership is limited to 29 members but can be modified by the Chair. Subpanels shall consist of membership as follows, although members may serve on two or more subpanels:

Samoa Archipelago	6 members and 1 vice chair
Marianas Archipelago	6 members and 1 vice chair
Hawaii Archipelago	6 members and 1 vice chair
Pelagics Ecosystem	6 members and 1 vice chair

The category of Interested Party consists of those individuals who applied but were not appointed to the Advisory Panel. These individuals are not reimbursed for expenses when they attend meetings. This category was established to avoid excessively large Advisory Panels but still be able to provide interested parties opportunities to receive additional information and advanced notice for participation.

## **21 FISHING INDUSTRY ADVISORY COMMITTEE**

The Council shall establish a Fishing Industry Advisory Committee in accordance with Section 302(g) of the Act that includes representation from various fishing sectors from the Western Pacific Region. Members of the Committee shall be selected by the Council and shall serve four-year terms. Fishing Industry Advisory Committee Chairs for each island area shall be appointed by the Council Chair. The Advisory Committee is accountable to and reports to the Council. The Council Chair may change any Fishing Industry Advisory Committee Chair and may remove any Fishing Industry Advisory Committee member with the concurrence of the Council Members from the representative areas.

Fishing Industry Advisory Committee shall have representation from industry user groups concerned with management of the fishery for which a plan is being prepared or reviewed, including fair representation of fishing industry interests in the Council's geographical area of authority. The functions of the Fishing Industry Advisory Committee shall be to advise the Council on fishery management problems; to provide input to the fishery management planning efforts; and to advise the Council on the content and effects of management plans, amendments, and, pre-season and in-season management measures.

The basic criteria for Fishing Industry Advisory Committee membership is interest in the commercial fishery; at least one year of commercial fishing, processing or marketing experience; and a willingness to participate. Membership is limited to a total of 40 members but can be modified by the Chair. Subpanels shall consist of maximum membership as follows, although members may serve on two or more subpanels:

Samoa Archipelago	10
Marianas Archipelago	10
Hawaii Archipelago	10
Pelagics Ecosystem	10

## **22 FEP PLAN TEAMS**

The Council shall establish a Plan Team for each geographic fishery management area. Plan Teams shall be working teams of Federal, State and non-government fishery scientist and management specialists. Members of the Plan Teams shall be appointed by the Council with the Chair of each Plan Team appointed by the Council Chair. Plans shall meet as needed to annually review the performance of the fishery and management regime in their respective geographic areas. The Teams shall produce an Annual Report of the Fisheries and the Chair will report its team's findings to the Council.

## **23 INDIGENOUS COMMITTEE**

The Western Pacific Regional Fishery Management Council shall establish an Indigenous Committee. Members of the Committee shall be selected by the council and serve four-year terms. A Committee Chair shall be appointed by the Council Chair after consultation with the Executive Committee. The Council Chair may change or remove any member of the Committee after consultation with the Executive Committee. Sub-panels for American Samoa, CNMI,

Guam, and Hawaii will consist of members that are knowledgeable, actively engaged or experienced in community ocean activities or traditional indigenous fishery practices in their respective geographical areas. The Committee shall provide the Council with recommendations on fishery rights of indigenous peoples, Equity and Environmental Justice (as it relates to fisheries), the development and administration of the Council's Community Development Program, protocols and policies relating to indigenous communities, community-based fishery management, fisheries development, and indigenous fishing issues.

## **24 OTHER ADVISORY GROUPS**

The Council may establish other advisory bodies as necessary and appropriate to assist it in carrying out its statutory functions, as provided under section 302(g)(2). Other Council advisory bodies include:

- A. Regional Ecosystem Advisory Committee
- B. Social Science Research Committee
- C. Community Demonstration Projects Advisory Panel
- D. Community Development Program Advisory Panel
- E. Fishery Data Collection and Research Committee
- F. Education Committee
- G. Non-Commercial Advisory Committee
- H. Bottomfish Advisory Review Board

## **25 MEETINGS OF COUNCIL ADVISORY BODIES**

Consistent with Section 302(i) of the Act, meetings of the Scientific and Statistical Committee, Advisory Panels, Fishing Industry Advisory Committee and all other Committees, Panels and Boards established by the Council shall comply with the following procedural requirements:

- A. Frequency. The committees, teams, boards and panels shall meet at the request of the respective advisory body Chair, with the approval of the Council Chair or Executive Director, as often as necessary to fulfill their responsibilities.
- B. Public Notification. Timely notices of each meeting will be published in the Federal Register. Advance notice will be given in the local media with the time and place.
- C. Participation. The respective committee, team, board or panel shall receive comments from members of the public on issues under consideration. At the discretion of the respective body's Chair, testimony may be limited.
- D. Minutes. A record of each committee, team, board or panel meeting shall be kept and shall contain a record of the people present, an accurate description of matters and conclusions reached, and copies of all statements filed.
- E. Closed Meetings. See section 17.L above.

## 26 PRACTICES AND PROCEDURES FOR PLAN DEVELOPMENT

The Western Pacific Regional Fishery Management Council has established the following practices and procedures for Fishery Ecosystem Plan development.

- A. Work Plans/Scoping. The Council staff, in coordination with NMFS, shall annually review and revise the Pacific Islands Regional Operating Agreement (ROA). FEP working groups and work plans shall be developed for each Council FEP action as per the ROA. The work plans shall include a timeline for plan development and production, including scheduling of scoping, hearings, Council actions and transmittals.
- B. Team's Responsibility in Drafting Plans or Amendments. The Teams and the Council staff will work together on the draft of ecosystem plans or amendments, and necessary monitoring and reports as agreed to in the ROA. The Executive Director shall assign lead responsibility for Council staff for major actions. Contractors and consultants will be used as appropriate. The Scientific and Statistical Committee and Advisory Subpanels shall advise the Teams ("teams" include use of Council staff, contractors, or consultants) and the Council on the adequacy of data and the analysis of alternatives and their effects. The Council shall be provided the opportunity to review the plan or the amendment and recommend modifications.
- C. Public Participation. The Council will provide opportunities for public input and comments, including hearings when necessary, on Plan activities as required by the FEPs and the Magnuson-Stevens Act.

## 27 COUNCIL POLICIES AND PROCEDURES

- A. DIVISION OF RESPONSIBILITIES
  - a. Purpose. To establish a clear understanding of the respective roles and responsibilities of the Western Pacific Regional Fishery Management Council (WPRFMC, also called Council), the Pacific Islands Regional Office (PIRO) of the National Marine Fisheries Service (NMFS) and the Pacific Islands Fisheries Science Center (PIFSC) of NMFS, so that collaboration may proceed smoothly and without confusion, conflict or duplication of effort. The work of the Council must be carried on in close cooperation with the PIRO and the PIFSC if the objectives of the Act are to be attained in the Western Pacific Region.
  - b. Fishery Plan Preparation. The Council, PIRO and NMFS PIFSC shall maintain and periodically review and revise a Regional Operating Agreement (ROA) to develop and implement fishery management actions for the WPR. The ROA is intended to document the specific roles and responsibilities of the Council and NMFS in developing, approving, and implementing fishery management actions under the MSA. The ROA sets forth procedures and review processes to ensure proposed management actions are adequately and completely analyzed, and to facilitate development of such analyses as early in the

process as possible.

- c. Mailing for Review of FEP's and Amendments: Following are the specifications to be followed in sending FMP's and amendments for review:
- i. Transmittal letter and one (1) hard copy and an electronic copy of the documents to the Regional Administrator.  
Regional Administrator  
National Marine Fisheries Service  
NOAA Inouye Regional Center  
1845 Wasp Boulevard, Building 176  
Honolulu, HI 96818
  - ii. Three (3) copies to the Director of the Pacific Islands Fisheries Science Center.
  - iii. One (1) copy each to the following departments for CZM consistency review:  
  
Director  
Department of Business and Economic Development  
State of Hawaii  
P.O. Box 2359  
Honolulu, Hawaii 96804  
  
Director  
Bureau of Planning  
Government of Guam  
Agana, Guam 96910  
  
Director  
Development Planning Office  
American Samoa Government  
Pago Pago, American Samoa 96799  
  
Director  
Coastal Resources Management Office  
P.O. Box 10007  
Second Floor Morgen Building, San Jose  
Saipan, MP 96950
  - iv. Additional copies are sent to other agencies, organizations, industry, fishermen and other resource users as appropriate.
- d. Environmental Impact Statements. The Council is responsible for preparing the initial environmental document to accompany FEPs and amendments. In preparing the environmental documents, the Council will coordinate with NMFS as appropriate. The Council may retain outside assistance to assist with the preparation of any environmental analyses and/or documents.
- e. Economic Analysis. All FEPs and amendments prepared by the Council will include an analysis of the economic impacts of the recommended management measures and

alternative measures. Appropriate guidance for preparation of the economic analysis will be provided.

- f. Regulations. The Council is responsible for drafting regulations for the implementation of the FEPs or amendments to the FMPs. The PIRO may assist the Council with drafting regulations, as appropriate. Additional responsibilities shall be detailed in the Regional Operating Agreement.
- g. Deeming Proposed Regulations. When the Council takes final action on a regulatory action, the Council shall state in its motion:
  - i. The Council deems proposed regulations that clearly and directly flow from the provisions of the motion to be necessary and appropriate in accordance with Section 303(c) of the Act; and
  - ii. The Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under Section 303(c) of the Act are consistent with these instructions.
- h. Public Hearings. The holding of public hearings on Fishery Ecosystem Plans and their accompanying NEPA documents is the joint responsibility of the Council and the PIRO. The hearings will be jointly presided over and the costs, if any, will be shared approximately equally.
- i. Research. Biological and social economic research, resource surveys and experiments are primarily the responsibility of the PIFSC. The Council will seek to fund such work only in circumstances where the results are urgently needed for preparation or modification of a Fishery Ecosystem Plan or amendment, and only after ascertaining that there is no possibility that the work can be done in time by the PIFSC, HIMB, Sea Grant or any other research agency/organization.
- j. Observers. If observers placed aboard foreign or domestic fishing vessels, whether on a voluntary basis or as required by regulations, are primarily engaged in biological research, their employment and supervision are the responsibilities of the PIRO. The Council will employ observers only when the PIRO requests its assistance because of its inability to cover requirements for acquiring data needed for FEP's.
- k. Fishery Development. The Council will make every effort to see that its Fishery Ecosystem Plans and amendments allow for the maximum opportunity to develop new fisheries and expand existing fisheries, consistent with conservation of the resources and avoidance of economic disruption. The Council will advise the PIRO of opportunities for development and expansion of fisheries in the region and will inform the PIRO of the Council's views on the relative priorities of fisheries for Federal development assistance. The Council will review and comment on NMFS fishery development plans and projects. The Council may be represented on fishery development boards. The Council will provide for fisheries development in the Marine Conservation Plan that is supported through the Western Pacific Sustainable Fisheries Fund.
- l. Consultation. The PIRO and the PIFSC will consult with the Council each year concerning their planned programs of research and development in the region. Every effort will be made to schedule such consultations far enough in advance of final decisions on the programs to allow for consideration of the Council's views and recommendations. The Executive Director will be invited to the annual review of programs of the PIFSC.

- m. Appeal. If a disagreement between the Council and the PIRO concerning responsibility for carrying out a given activity, or the necessity or priority of an activity cannot be reconciled, the Council will appeal its position to the Undersecretary and Administrator of NOAA or the Assistant Administrator for Fisheries, as the Council deems appropriate.
- n. Budgets. The Council is responsible for preparing its own administrative and programmatic budgets, which the PIRO forwards to NOAA Grants Management for approval. The Council is also responsible for preparing grant applications and justifications for its programmatic projects, which are subject to review and approval by NMFS.

**B. COMMUNICATION WITH FEDERAL, STATE OR OTHER AGENCIES/ORGANIZATIONS**

- a. Background. In the course of business with Federal agencies that have formal relationships with this Council, only designated individuals shall carry on formal communication. . It is the Council Chair's responsibility to provide a channel of communication through the Executive Director for Council business between the Council and Federal or State or any other agencies/organizations. It is the Chair's responsibility to provide complete and accurate reports of such communication to the Council and to staff members.
- b. Policy. It is not appropriate for staff or Council members to communicate directly with any Federal or State or any other agency regarding Council business. All requests for such communications should be routed through the Chair or the Executive Director. This policy will assure that the Council speaks with one voice and conducts business in an accountable fashion.
  - i. No communications will be sent on Council letterhead that have not been either signed by the Chair or the Executive Director or approved by the Chair or Executive Director for another Council member or staff member's signature.
  - ii. Staff members will give all correspondence to the Executive Director (or her designee in her absence) for signature.
  - iii. Council members will give all correspondence to the Chair for signature.

**C. Requests from Federal and State Legislators**

Copies of all correspondence from federal, state, and territory legislators, and all Council responses, will be maintained to the extent required by 2 CFR Part 200. Responses to requests for testimony or comments on pending legislation shall be promptly coordinated with the NOAA Office of General Counsel, Pacific Islands Section.

## **28 COUNCIL PROGRAM AGREEMENTS, POLICIES AND PROCEDURES**

**A. REGIONAL OPERATING AGREEMENT**

The Council shall establish a Regional Operating Agreement (ROA) documenting specific roles and responsibilities of the Council and NMFS in developing, approving, and implementing fishery management actions under the MSFCMA. An additional objective of the ROA is to set forth procedures and review processes to ensure that NMFS and the Council adequately analyze proposed management actions. The development of management alternatives and preliminary impact analyses of the alternatives should be as early in the management action development process as necessary to ensure consistent and informed decision making by the

Council and NMFS (frontloading). The ROA functions within the general parameters of the 2015 Operational Guidelines. NMFS and the Council may alter or update the ROA if NMFS revises the Operational Guidelines.

**B. WESTERN PACIFIC STOCK ASSESSMENT REVIEW POLICY**

The Council shall establish with NMFS PIFSC and PIRO a Western Pacific Stock Assessment Review (WPSAR) process and operating agreement to improve the quality, timeliness, objectivity, and integrity of stock assessments and other scientific information used in managing fishery resources in the Pacific Islands Region. This WPSAR process and policy shall fulfill the MSA in establishing a peer review process for scientific information used to advise the Council about the conservation and management of fisheries. The WPSAR framework shall define the roles and responsibilities of the parties, summarize the review criteria, detail the review process and provide mechanisms for dispute resolution.

**C. PACIFIC INSULAR AREA FISHING AGREEMENTS, MARINE CONSERVATION PLANS, AND SUSTAINABLE FISHERIES FUND.**

When the MSA was reauthorized in 1996, it included authorities in Section 204(e) to permit foreign fishing within the U.S. Exclusive Economic Zone (EEZ) in the Pacific Islands Region under a Pacific Insular Area fishing agreement (PIAFA). In order to access any funds collected under a PIAFA the Territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands have developed three-year Marine Conservation Plans (MCPs) that describes the uses for any funds. A standardized process will be established for the development, review and approval of the three-year MCPs and hosted on the Council's website, [www.wpcouncil.org](http://www.wpcouncil.org).

With the reauthorization of MSA in 2006, the Sustainable Fisheries Fund was created as the repository for funds from foreign fishing agreements and foreign fishing violations in the Pacific Remote Island Areas (PRIA) of Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker and Wake Islands. The SFF can also receive funds from payments made pursuant to specified fishing agreements with the US Territories. The SFF is administered by National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) and the Western Pacific Regional Fishery Management Council (Council).

In addition to the Agreement and Policy above, the Council maintains on its website ([www.wpcouncil.org](http://www.wpcouncil.org)) and periodically reviews and updates the following policies as needed.

- D. AQUACULTURE POLICY
- E. ESSENTIAL FISH HABITAT CONSIDERATION PROCEDURES
- F. FISHERY DATA COLLECTION AND RESEARCH COMMITTEE SOPP
- G. MARINE EDUCATION AND TRAINING POLICY
- H. VESSEL MONITORING SYSTEM POLICY

**29 ADMINISTRATIVE MANAGEMENT SYSTEM**

Each Council's grant activities are governed by 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), which provides uniform administrative requirements applicable to the Western Pacific Regional Fishery Management Council, including standards for financial management, financial reporting,



property management, and procurement. The Council will operate in full compliance with these standards, as amended, and the terms and conditions of the cooperative agreement.

- A. Conflict of Interest. Appointed Council Members are required to report on their financial interests in harvesting, processing and marketing activities. To the extent that interests are reported, Council members may vote on a matter that would affect the disclosed financial interests, unless it is a significant and predictable effect in which case, Council Members must recuse themselves from voting. See 50 C.F.R. § 600.235. Regardless of disclosure, Council Members must recuse themselves from deliberating and voting on any matter of primarily individual concern. See 50 C.F.R. § 600.225.
- B. Procedure for financial disclosure:
  - a. Council staff will send NOAA Form 88-195 to appropriate individuals informing them of the requirement and deadline for submitting the completed form.
  - b. Administration will maintain and update at regular intervals a file on financial disclosure of those individuals named in 50 CFR Ch. VI Section 601.37.
- C. Procurement Procedures. The Council will comply with the terms and conditions of the award and 2 CFR Part 200, as amended. The purchase of all equipment, not previously approved in the award, costing in excess of \$5,000 per unit and having a useful life of more than 1 year, requires the approval of the Regional Program Officer and the Grants Officer. Such approval will be made only after a cost-benefit analysis, as applicable, (system life cost, lease vs. purchase, compatibility, etc.) by the Council demonstrates the economy of the proposed action.

Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council staff office.

- D. Property Management System. The Council will follow 2 CFR Part 200, as amended and the DOC Financial Assistance Standard Terms and Conditions for the award An accountability system of all non-expendable items of personal property will be maintained by means of an inventory system. Theft will be reported promptly to the appropriate authorities. Procedures for ensuring adequate control and protection are as follows:
  - a. All non-expendable items will be inventoried.
  - b. Council property will be marked clearly with identifying numbers.
  - c. Sensitive equipment such as cameras will remain secured.
  - d. Disposal of surplus will be performed in accordance with grant provisions.
  - e. A listing of personnel with access to Council property will be maintained in the Council Office.

- E. Real Property. The leasing, renting, and acquisition of real property and space will be performed in a manner consistent with 2 CFR Part 200.
  
- F. Accounting and Budgetary Control Procedures. The Council's accounting and budgetary control system will be maintained in compliance with the U.S. Department of Commerce/NOAA General Provisions and Special Conditions which are included in the cooperative agreements for funding the Council's administrative and programmatic needs. A summary of the financial system follows:
  - a. Formal Books of Accounts. A cash receipts and disbursements journal, a general journal and a general ledger will be maintained to record financial transactions.
  - b. Chart of Accounts. The following general account number structure will be followed in recording financial transactions of the Council: Assets; Liabilities; Revenues; Expenses.
  - c. Financial Reports and Performance Reports. The Council will provide financial and performance reports as required by NOAA and 2 CFR Part 200.

Audits will be performed by DOC Office of Inspector General or an independent public accountant. NOAA personnel may be invited as appropriate to participate in the audit exit conference.



- I. Council Member Compensation. Those voting members of the Council who are not employed by the Federal Government or any State or local government shall receive compensation at the daily rate for GS-15 (Step 7) of the General Schedule, published by the U.S. Office of Personnel Management. Such compensation shall be limited to attendance at formal meetings of the Council (actual meeting days), meetings of standing or ad hoc committees on which the Council member is a designated member, or to the Chair, Vice-Chair, or designee while officially representing the Council or conducting official business of the Council outside of such meetings. Such compensation may be paid on a full day's basis whether in excess of eight hours a day or less than eight hours a day. "Homework" time in preparation for any meeting, or attendance of any meeting other than specified above, is not compensable nor is travel time to or from such meetings.

Non-government Council members may receive compensation for:

1. Days spent in actual attendance at a meeting of the Council or jointly with another Council.
  2. Meetings of Standing and Ad Hoc Committees of the Council when the meetings are approved in advance by the Council or by the Chairman between Council meetings, and the Council member is a member of that committee.
  3. Individual member meetings with scientific and technical advisors when approved in advance by the Council Chair or Executive Director.
  4. Conducting or attending hearings when authorized in advance by the Council Chair or Executive Director.
  5. Other meetings involving Council business when approved in advance by the Council Chair or Executive Director.
  6. Meetings with the Executive Director.
  7. Council members may waive compensation for any of the above.
- J. SSC and Advisory Panel Stipends. In accordance with the provision of Section 302(g)(1)(F) of the Act and subject to the availability of funds, the Council may pay a stipend to members of the Scientific and Statistical Committees or Advisory Panels who are not employed by the Federal Government or a state/local marine fisheries agency.
- K. Confidentiality of Statistics. The Council has adopted procedures in compliance with 50 CFR § 600.130, 50 CFR Part 600, subpart E, and NOA 216.100 to ensure the confidentiality of the statistics that may be submitted to it by Federal or State authorities and may be voluntarily submitted to it by private persons, including, but not limited to, procedures for the restriction of Council member, Advisory Panel, Plan Team, SSC and employee access and the prevention of conflicts of interest; except that such procedures in the case of statistics submitted to the Council by a State are consistent with the laws and regulations of the State concerning the confidentiality of such statistics.

- L. Security Assurance. Security assurances for Council members and staff, as appropriate, will be requested and processed according to the instructions and procedures set forth in 50 CFR § 600.240. The Department of Commerce will issue security assurances to Council nominees and members following completion of favorable background checks. Security assurances will be valid for 5 years from the date of issuance. A security assurance will not entitle the member to access classified data. In instances in which Council members may need to discuss, at closed meetings, materials classified for national security purposes, the agency or individual providing such classified information will be responsible for ensuring that Council members and other attendees have the appropriate security clearances.

The following forms are available online at [www.osec.doc.gov/osal](http://www.osec.doc.gov/osal) and must be filled out authorizing the Agency to conduct a background investigation. Council members must fill out Questionnaire for Non-Sensitive Positions (SF-85), Declaration for Federal Employment (OF-306), and submit two completed fingerprint cards (FD-258s). In addition to completing the forms, members must provide two acceptable documents of identification (I-9). Individuals may have their fingerprints taken at their local police department or at the personnel/security office of any Federal agency willing to provide the service. Any member whose assurance is due to expire, will need to complete the above forms and submit to the Executive Director of the council who will then forward to NMFS for processing.

- M. Record-keeping. Record-keeping shall conform to 2 CFR Part 200 and 50 CFR § 600.150. The Council is required to maintain documents generally available to the public on its Internet site for immediate download at <http://www.wpcouncil.org>. Documents for posting must include: fishery ecosystem plans and their amendments for the fisheries for which the Council is responsible, drafts of fishery ecosystem plans and plan amendments under consideration, analysis of actions the Council has under review, minutes or official reports of past meetings of the Council and its committees, materials provided by the Council staff 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 shall provide copies of the documents for viewing at the Council office during regular business hours or by mail, as specified below.
- N. Privacy Act Records. The Council will maintain in its office, under appropriate safeguards in accordance with the Privacy Act, all Privacy Act records, including personnel files on employees, experts and consultants under contract, and advisory group members. Maintenance, protection, handling of requests for information, and disclosure and disposition of Privacy Act records will be accomplished as provided for in Secretarial guidelines and regulations.

- O. 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 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.

- P. Requests for Public Records. Documents available for public inspection at the Council offices include the following: approved minutes, public briefing documents, reports and sign-in sheets from Council, Advisory Panels, Plan Teams, Regional Ecosystem Advisory Committee, Scientific and Statistical Committee and Other Council Ad Hoc Committees.

Members of the public wishing to review any of these documents may call (808-522-8220) or write to the Council office at 1164 Bishop Street, Suite 1400, Honolulu, HI, 96813 to schedule an appointment. Requests should identify the name of the individual, the specific records to be reviewed, and provide a contact number. The Council will ordinarily respond to a request within 10 business days. Reasonable restrictions may be placed upon the number of visitors and visiting hours to the extent necessary to facilitate Council operations. Members of the public wishing to obtain copies of these records should follow the procedures for submitting a Freedom of Information Act request, as set forth below.

Freedom of Information Act. Requests for copies of records maintained by the Council will be processed in accordance with the requirements of the Freedom of Information Act and Department of Commerce regulations set forth in 15 CFR Part 4. Requests must be addressed to NMFS and may be sent to the following:

NOAA FOIA Officer  
1305 East-West Highway, Suite 8536  
Silver Spring, MD 20910-3281

FOIA requests received by the Council will be promptly forwarded to the appropriate NMFS Regional Office. The Regional Office will forward the request to the NMFS FOIA Officer so that the request can be logged into a centralized database and assigned a tracking number. The FOIA Officer will execute a CD-244, "FOIA Request and Action Record," which will include the tracking number and the due date. A search for responsive documents must begin immediately upon receipt of the search tasker from the FOIA office. All responsive documents must be reviewed for disclosure on a line-by-line basis, and segregable portions must be released. Council members may make recommendations regarding potential exemptions to be asserted; however, only a Federal employee can make a disclosure determination. The original documents must be retained by the originating office. Copies of the responsive records must be provided to the FOIA office, in accordance with the instructions on the tasker, and redacted and unredacted versions will be maintained by that office in accordance with DOC policy.

The Region will obtain clearance from the NOAA General Counsel's Office concerning the initial denial of any requested information. In the event the Regional Office determines that requested information is exempt from disclosure, in full or in part, under the FOIA, the denial letter prepared for the Assistant Administrator's signature and a list of the documents to be withheld must be cleared through the NMFS FOIA Officer. Upon completion, a copy of the signed CD-244 and cover letter transmitting the information should be provided to the NMFS FOIA Officer and the NOAA FOIA Officer.

Any fees collected from requesters are transferred to the U.S. Treasury, and the Council does not recover its costs.

Additional information concerning the NMFS FOIA program is available at the Pacific Islands Region website at: [www.fpir.noaa.gov](http://www.fpir.noaa.gov).

- Q. 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.
- R. Amendment to SOPP. Upon approval of a Council's SOPP amendment by the Secretary, the Council will publish a notice of availability in the Federal Register that includes an internet address from which the amended SOPP may be read and downloaded and a mailing address to which the public may write to request copies.

### **30 VARIATIONS FROM THESE GUIDELINES**

The Council may deviate, where lawful, from the guidelines described in this SOPP with appropriate supporting rationale and consistent with 50 CFR § 600.115.

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

### SECTION 1. PURPOSE.

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

### SECTION 2. BACKGROUND.

#### Definition of Unlawful Harassment:

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

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

.02 Employees can pursue allegations of harassment to several forums. The allegations or incidents covered in this policy are such that immediate appropriate action by the appropriate supervisor to resolve such matters is mandatory regardless of which forum an employee selects in pursuing an allegation. Employees have recourse when supervisors fail to address allegations of harassment, which could result in serious consequences for the Council.

---

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



### SECTION 3. SCOPE.

This policy covers incidents or allegations of harassment prohibited by Federal law,<sup>2</sup> experienced by a Council employee, whether the alleged harassment is ongoing or occurred in the past. The conduct covered by this policy involves:

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

### SECTION 4. PROCEDURES.

#### .01 Reporting Allegations of Harassment

- a. Councils should each determine a preferred point of contact to coordinate responses to harassment allegations.
- b. Employees are strongly encouraged to report any incident they perceive to be harassment, to include incidents personally experienced and those witnessed. They may report it to any Council supervisor or the designated point of contact, as soon as the incident occurs.
- c. Any Council process participants (e.g. Council Member, NOAA employee, or others participating in the Regional Fishery Management Council process, aside from Council employees) who observe or receive a report of harassment of a Council employee should report the incident to the Council Executive Director, Deputy Director, chair or vice-chair as soon as possible.
- d. To the extent possible, the Council will protect the confidentiality of individuals who make harassment reports. However, the Council cannot guarantee complete

---

<sup>2</sup> This policy covers allegations of unlawful harassment, which is a form of discrimination. See the Equal Employment Opportunity Commission website for more information: <https://www.eeoc.gov/harassment>. Allegations of incivility or other inappropriate behavior not based on a protected characteristic are outside the scope of this policy. However, this policy is not intended to limit in any way the Council's ability to address incivility, inappropriate behavior, or other issues in an appropriate manner.

confidentiality, since it cannot always conduct an effective inquiry without revealing certain information to the alleged harasser and potential witnesses. The Council is committed to ensuring that the allegation of harassment is shared only with those who have a need to know and in a respectful and sensitive manner.

- e. Employees who make reports of harassment or provide information related to such reports will be protected from retaliation.
- f. All reports of harassment when received by the designated point of contact will be promptly evaluated (typically within one week, absent extenuating circumstances, but in some cases more quickly if warranted under the circumstances) to determine if they come within the scope of this policy. Reports that fall within the scope of this policy will be reviewed thoroughly and impartially in accordance with the procedures in this policy.

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

a. A supervisor who receives an allegation that a Council employee has been harassed (whether the allegation is received from the employee or from another person on their behalf) must immediately<sup>3</sup> report the allegation, in writing, to the designated point of contact. Failure by the supervisor to report the allegation could result in disciplinary or adverse action against the supervisor for failure to adhere to the provisions of this Policy.

b. In all cases, the supervisor, or designated point of contact to whom the incident is reported, must inform the employee of his or her right to seek counseling from an Equal Employment Opportunity counselor in NOAA's Office of Inclusion and Civil Rights<sup>4</sup>. The employee must be informed that all counseling contacts must occur within 45 days from the date of the alleged harassing event.

c. In some instances, an employee may request that a supervisor keep the employee's allegations of harassment confidential.

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

2. Where the employee requests confidentiality, the responsible supervisor must provide a written statement to the employee indicating that any inquiry and action

---

<sup>3</sup> Absent extenuating circumstances, for purposes of the required report, "immediately" means within 24 hours of receipt of allegations.

<sup>4</sup> <https://www.noaa.gov/organization/inclusion-and-civil-rights/eo-counseling-complaints>

will be very limited if anonymity is required. Any such statement should be coordinated with the designated point of contact.

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

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

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

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

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

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

share the findings with the Department of Commerce Office of the General Counsel in order to receive their guidance on appropriate resolution of the matter.

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

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

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

A Council employee, at any time, has access to a NOAA EEO Counselor and may file a formal complaint of harassment – including allegations covered by this policy – and/or any other allegations of discrimination not covered by this policy.<sup>5</sup> Sometimes supervisors are not aware of an allegation of harassment until approached by an EEO Counselor or investigator. Once informed by an EEO Counselor or investigator that there is an allegation of harassment by an employee, the supervisor must immediately inform the designated point of contact under this policy about the allegations. The designated point of contact will then promptly evaluate the allegation pursuant to this policy. The EEO Counselor will assist management and employees in resolving allegations but is not authorized to conduct inquiries into employee misconduct, and the existence of an EEO investigation does not alter the Council’s duty to conduct its own inquiry. Where an employee files a formal EEO complaint regarding harassment, a copy of any inquiry done by the Council, pursuant to this Policy, will be forwarded to the Office of Civil Rights for inclusion in the Report of Investigation.

---

<sup>5</sup> To file a complaint with a NOAA EEO Counselor go to:  
<https://www.noaa.gov/organization/inclusion-and-civil-rights/contact-us>.

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

### SECTION 1. PURPOSE.

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

### SECTION 2. BACKGROUND.

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

### SECTION 3. SCOPE.

The reporting and response provisions described in this policy apply to "Council Process Participants." In this document, that term includes all persons who participate in the Council process in any setting, with the exception of individuals employed by the Council, who are covered under a separate policy. Council Process Participants include all individuals present under the context of Council business regardless of location, whether in a Council office, at a Council meeting, or at offsite meetings, hearings and events sponsored by a Council. For

---

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

example, Council Process Participants may include Council members, Advisory Panel or Scientific and Statistical Committee members, external consultants, etc.

## SECTION 4. PROCEDURES.

### Reporting

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

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

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

### Council Response to Reports

Unless the particular circumstances require otherwise, any Council Member, Council employee, or NOAA employee who receives a report of harassment of a Council process participant should communicate the details of that report, in writing, to the Council Executive Director for appropriate action under this policy. In the event of a reported incident, a response team should be convened consisting of, as appropriate depending upon the context, the Council Executive Director, other designated Council points of contact, and the Council Chair. The response team will determine appropriate follow-up, including whether to engage the NMFS Regional Administrator in the response to the incident, based on the allegations raised and the parties involved.<sup>2</sup> The Council shall maintain a record of each allegation received under this policy, which shall be made available to NMFS upon request.

### NMFS Role

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

### Related Processes

---

<sup>2</sup> If the person alleged to have experienced harassment is a current federal employee, including but not limited to a NMFS employee, the NMFS Regional Administrator must be notified.

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

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

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