

AOML-NWSEO

**Negotiated
Agreement**

December 2003

**Collective Bargaining Agreement between
the Atlantic Oceanographic and Meteorological Laboratory and
the National Weather Service Employee Organization**

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ARTICLE 1

Parties and Purpose of Agreement

SECTION 1. This Agreement is made between the Atlantic Oceanographic and Meteorological Laboratory (AOML), Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce (DOC) (hereinafter "Management"), and the National Weather Service Employees Organization (NWSEO) on behalf of the employees of the AOML (hereinafter "the Union").

SECTION 2. The term "Department of Commerce (DOC)" as used in this agreement means the U.S. Department of Commerce or its successor department(s) or agency(ies). The term "OAR - AOML" as used in this agreement means the Office of Oceanic and Atmospheric Research's Atlantic Oceanographic and Meteorological Laboratory or a successor office. The term "agency" means the National Oceanic and Atmospheric Administration or a successor agency. The term "employee" refers to employees who are members of the bargaining unit.

SECTION 3. Whenever a provision of this Agreement requires notice to the Union or services of a document upon the Union, "Union" means the Branch Steward of the AOML or a designee. Whenever a provision of this Agreement requires notice to Management or service of a document upon Management, "Management" means the Director of AOML or a designee.

SECTION 4. This Agreement is a collective bargaining agreement entered into as a result of collective bargaining under Title 5, Chapter 71, United States Code.

SECTION 5. Management and Union will both make efforts to assure that employees are in compliance with this Agreement.

ARTICLE 2
Recognition and Bargaining Unit Designation

SECTION 1. In accordance with exclusive recognition granted pursuant to Title 5, Chapter 71, United States Code (Certification of Representative issued by the Federal Labor Relations Authority dated August 14, 2000), Management hereby affirms the recognition of the Union as the exclusive representative of the employees in the bargaining unit as follows:

All professional and nonprofessional employees employed by the AOML.

SECTION 2. Not included in the bargaining unit are the following:

All supervisors, management officials and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7).

ARTICLE 3
General Provisions

SECTION 1. In the administration of all matters covered by this agreement, the parties and employees are governed by the following:

- A. Existing and future statutory laws:**
- B. Existing government-wide rules and regulations, and government-wide rules and regulations issued after the effective date of this Agreement;**
- C. Existing and future agency regulations to the extent they are consistent with, and do not conflict with, this Agreement.**

SECTION 2. Should any provision of this Agreement be found unlawful, the remainder of the Agreement will continue in force. Upon occurrence of such an event, the parties shall confer as soon as practical to renegotiate the invalidated provision(s). Provisions originally negotiated, as part of a package, shall be renegotiated as a package, unless otherwise agreed by the parties.

SECTION 3. Except as provided in this Agreement, while this Agreement is in effect, the parties will not renegotiate any terms of this Agreement unless both parties agree to such renegotiation.

SECTION 4. If the final day of a time period specified in the Agreement falls on a Saturday, Sunday, Federal holiday, or other Federal non-workday, the time period is extended to the next regular workday.

ARTICLE 4
Rights of Management

SECTION 1. Pursuant to 5 U.S.C. 7106(a), nothing in this Agreement shall affect Management's authority,

A. To determine the mission, budget, organization, number of employees, and internal security practices of the agency;

B. To determine the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

C. In accordance with applicable laws:

(1) To hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(2) To assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(3) With respect to filling positions, to make selections for appointments from:

(a) Among properly ranked and certified candidates for promotion; or

(b) Any other appropriate source; and

(4) To take whatever actions may be necessary to carry out the agency mission during emergencies.

SECTION 2. In accordance with 5 U.S.C. 7106(b)(2) and (3), Management shall negotiate:

A. Procedures which management officials will observe in exercising any authorities listed in Section 1 of this Article; and

B. Appropriate arrangements for employees in the bargaining unit adversely affected by the exercise of any authority listed in Section 1 of this Article by management officials.

SECTION 3. The above-mentioned Management rights are not to be interpreted as being all-inclusive, but merely indicate the type of rights which belong to and are inherent to Management. It is understood that any rights Management had prior to the signing of this agreement are retained by Management and will be exercised in accordance with this Agreement, where appropriate.

ARTICLE 5

Rights of Employees

SECTION 1. Each employee shall have the right to join or assist the Union, or any other labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Each employee shall have the right:

- A. To act for the Union in the capacity of a representative, and in that capacity to present the views of the Union to elected or appointed officials of Federal, state, and local governments, the Congress, or other appropriate authorities; and,
- B. To engage in collective bargaining with respect to conditions of employment as authorized by the NWSEO National President, this Agreement, and applicable laws.

SECTION 2. The provisions of this Agreement shall not be construed to preclude an employee from being represented by an attorney or other representative of the employee's own choosing (other than the Union) in any grievance or appeal action, or exercising grievance or appellate rights established by law, rule, or regulation, except in case of grievance procedure as negotiated in this Agreement.

SECTION 3. Nothing in this Agreement shall require an employee to become or remain a member of the Union, or to pay money to the Union, except pursuant to a voluntary, written authorization by the employee for payment of dues through payroll deductions pursuant to 5 U.S.C. 7115.

SECTION 4. Employees have the right, either individually or collectively, to petition Congress, or any member thereof. All employees shall be provided the full protection extended to them by law, regulation, and this Agreement. These rights will not be interfered with or denied.

SECTION 5. Management may question bargaining unit employees to ascertain necessary facts in preparation for third party proceedings under 5 U.S.C. 71, including unfair labor practices and grievances. The management representative shall tell the employee(s):

- A. The purpose of the questioning;
- B. That no reprisal will take place;
- C. That participation is voluntary;
- D. That the questioning will not exceed the legitimate purpose of the inquiry; and,
- E. That he/she may have a NWSEO representative present during the inquiry, upon request.

ARTICLE 6

Rights of the Union

SECTION 1. Pursuant to 5 U.S.C. 7114(b)(4), Management shall furnish to the Union upon request and to the extent not prohibited by law, any information which is normally maintained in the regular course of business, and is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining (and which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining). Union information requests will state with specificity why the information is needed, how it will be used, and how it is important to representational duties. Management will provide the requested information unless it can demonstrate countervailing anti-disclosure interests that outweigh the Union's need.

SECTION 2. The Union shall be afforded the opportunity to be represented at:

- A. Any formal discussion between Management and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or
- B. Any examination of an employee in the unit by a representative of the agency in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee, and the employee requests representation.

SECTION 3. Management shall provide to the Union a roster of all employees of the AOML within 30 calendar days after final approval this Agreement. The roster shall consist of two lists: (a) all employees in the bargaining unit, and (b) all employees not included in the bargaining unit. For employees in list a, the roster shall include the division where employed and their position classification and pay level. For employees in list b, the roster shall include the division where employed and the official title. These lists shall be updated and submitted to the Union on an annual basis from the date of execution of this Agreement.

SECTION 4. A Union steward or designee will be permitted up to 20 minutes to meet with each newly hired bargaining unit employee to explain the role and responsibilities of the Union, but may not use official time to solicit membership.

ARTICLE 7

Union Representation

SECTION 1. The Union will be represented by the NWSEO National President, the Branch Steward for AOML, and such other persons as may be designated by them. The Union will provide to management a current roster of the AOML Branch Steward and Vice Steward and designees within 30 calendar days after final approval of this Agreement. The Union will notify Management immediately of any changes when they occur.

SECTION 2.

A. As provided by 5 U.S.C. 7131:

- (1) Any employee representing the Union in the negotiation of a collective bargaining agreement (or other forms of bargaining described in the Agreement), shall be authorized official time for this purpose, including attendance at impasse proceedings during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subparagraph shall not exceed the number of individuals designated as representing Management for such purposes.
- (2) Union representatives shall be granted a reasonable amount of official time in which to perform their representation duties. Union representatives may conduct internal Union business only when they are in a non-duty status.
- (3) Except as provided in 5 U.S.C. 7131(b) & (c), any employee shall be granted a reasonable amount of official time in connection with any other matter covered by Title 5, Chapter 71, United States Code.

B. Use of official time will be requested in writing and scheduled in advance to obtain the written approval of the employee's immediate supervisor. If the use of official time involves a grievance against the employee's supervisor, the request should be made to the employee's second-level supervisor. An official time request will normally be granted, absent workload or staffing needs. If the employee's use of official time would interfere with the performance of the employee's official duties, Management will discuss the matter with the Union to find a satisfactory solution.

C. Employees using official time will account for such use in accordance with applicable timekeeping procedures.

D. Incidental to the use of official time by the Steward or designee(s) under this article, reasonable use of agency telephone, mail, computer, copying, and communications equipment, and office facilities (hereinafter "office equipment and facilities") will be allowed, as long as such use does not interfere with the business of the office.

ARTICLE 8

Union Use of Facilities

SECTION 1. Management will provide, for posting of Union material, a bulletin board, or, in the event of space limitations, an alternate space acceptable to both parties. Any materials posted shall be dated and initialed by the Union representative responsible for the posting. Management agrees to discuss any objection to posted material with the Union and may request its removal. The Union will maintain the bulletin board space in neat order and the material posted shall be current.

SECTION 2. The Union may place written communications in the mail/inboxes of the employees. This includes direct Union mailings to each facility where mail is initially received and distributed by AOML. Management is not responsible for insuring the distribution of such written communications.

SECTION 3. Subject to the operating needs of AOML, Management will permit use of its rooms for the purpose of local Union meetings. Requests for use of such rooms shall be made in advance to the designated management official. The Union agrees to leave such rooms in the condition in which they were found. Employees who attend these meetings must be in a non-duty status.

SECTION 4. Subject to the operating needs of AOML, when a Union representative is performing representational duties under this Agreement, Management shall make best efforts to provide a meeting place that will protect the confidentiality of any discussions.

SECTION 5. The Union will be permitted to use at least one drawer in a lockable file cabinet or similar container for storage of Union material.

ARTICLE 9

Grievance Procedure

SECTION 1. Coverage.

A. The purpose of this article is to provide for a mutually acceptable method for the prompt and equitable settlement of employee, Union, and Management grievances over the interpretation or application of this Agreement and other working conditions affecting the bargaining unit subject to the control of Management. Unless otherwise provided for, this procedure shall be the sole procedure available to the Union, Management, or employees for resolving grievances.

This article establishes a fair and simple grievance procedure to:

- (1) Assure the Union the right to present and process grievances in its own behalf or on behalf of any employee;
- (2) Assure each employee the right to present a grievance on his or her own behalf, and assure the Union the right to be present during the grievance proceeding;
- (3) Assure Management the right to present and process grievances; and
- (4) Provide that any grievance not satisfactorily settled under this procedure shall be subject to binding arbitration that may be invoked by either party.

B. A grievance means any complaint:

- (1) by any employee concerning any matter relating to the employment of the employee;
- (2) by the Union concerning any matter relating to the employment of any employee; or
- (3) by any employee, the Union, or Management concerning:
 - (a) the effect or interpretation, or a claim of breach, of this a collective bargaining agreement; or
 - (b) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

C. Excluded from this grievance procedure are the following:

- (1) Any claimed violation of subchapter III of Chapter 73 of Title 5, United States Code, relating to prohibited political activities;
- (2) Retirement, life insurance, or health insurance;

- (3) A suspension or removal under Section 7532 of Title 5, United States Code (national security);
- (4) Any examination, certification, or appointment;
- (5) The classification of any position that does not result in the reduction in grade or pay of an employee;
- (6) Termination of a probationary employee;
- (7) Any issue where there would be no tangible relief to the grievant;
- (8) Granting or failure to grant incentive awards;
- (9) Warnings and notice of proposed action;
- (10) Content of published DOC, NOAA and OAR regulations and policies
- (11) Non-selection for temporary promotions of less than 120 days
- (12) Suitability determination;
- (13) Non-adoption of a suggestion;
- (14) Matters excluded by law or government-wide rule;
- (15) Complaints or appeals from persons outside the bargaining unit; and
- (16) Filling of positions outside the bargaining unit.

SECTION 2. Intent and Understanding of the Parties.

A. Management and the Union recognize the importance of settling grievances promptly and equitably at the lowest possible supervisory and Union level. An employee may bring his or her concern to either the steward, the supervisor, or both, on an informal basis, prior to the use of these procedures. The steward will advise the employee, and, if requested, speak to the supervisor about all such concerns as soon as possible. The provisions of this Agreement shall not preclude an employee from bringing a matter of personal concern to either Management or the Union.

B. The parties agree to cooperate fully in processing grievances and to make every reasonable effort to ascertain, document, and present the relevant facts relating to any matters processed under this procedure.

C. The parties agree to consider use of the NOAA alternate dispute resolution program at any point during the grievance procedure. Any time limits specified in this article will be stayed during ADR mediation.

SECTION 3. Time Limits.

A. Except as provided in Section 2 of this article, all time limits specified in this article are binding. This does not preclude a request for an extension of seven calendar days. The request shall be granted automatically and documented by the requester, with a copy to the other party. Additional extensions shall be reasonable and only by mutual agreement and documented in writing to one another. In considering an extension, the parties will consider (1) the length of the delay, (2) the existence of circumstances beyond the control of the party, and (3) whether prejudice to Management or the Union would result from a waiver of time limits.

B. Failure of the Union, the grievant, or the grievant's representative to observe any time limit shall terminate the grievance, unless good cause for the failure is shown.

C. Failure of Management to observe any time limit shall automatically allow the grievant to elevate the grievance to the next step.

SECTION 4. Procedural Information.

A. In adverse actions pursuant to 5 U.S.C. 7512, allegations of Equal Employment Opportunity discrimination, prohibited personnel practices under 5 U.S.C. 2302(b)(1), and removal or reduction-in-grade for unacceptable performance (5 U.S.C. 4303), an aggrieved employee may use either the negotiated grievance procedure or the statutory appeals procedure, but not both. An employee shall be deemed to have exercised his or her option at such time as the employee initiates a timely complaint or appeal under the applicable statutory procedure or timely files a written grievance in accordance with the provisions of the grievance procedure, whichever occurs first.

B. An employee may present a grievance to Management and have it resolved with or without the services of the Union. If presented without Union representation, such grievances may be resolved without Union intervention, provided the resolution is not inconsistent with the terms of this Agreement.

C. Employees who choose to present their own grievances without intervention by the Union are not entitled to further review or consideration beyond the opportunity to present their grievances and have them resolved, affirmatively or negatively.

The decision on such a grievance is final as to the employee who chooses to present his or her grievance without the intervention of the Union. The Union will be provided with a copy of the final determination.

D. Should Management or the Union question the grievability of a matter presented under the

terms of this Agreement, the issue will be presented to an arbitrator in accordance with Article 10.

E. A grievance that does not contain the information necessary to reach a decision, or is otherwise unclear, will be returned to the representative of record or to the grievant with an explanation of the reason(s) for its return within seven working days of its receipt. The grievance must be re-initiated within ten calendar days after receipt of the returned grievance containing the requested information (or an explanation why the information was not provided), or it will be terminated at that step. Management's time limits for response begin when the perfected grievance is received.

F. New issues may not be raised by either party or the grievant after the decision is rendered at Step One of this procedure. However, the parties to a grievance may mutually agree to join new issues to a grievance-in-progress, and may mutually agree to amend a grievance at any step.

SECTION 5. Grievance Resolution.

A. The filing party may terminate the processing of a grievance at any time.

B. If any employee who has filed a grievance leaves the bargaining unit before a decision is reached on a grievance that is being processed, the grievance is terminated unless the employee can be granted tangible relief.

C. If, at any step, Union and Management agree that no grounds existed for a grievance or they agree to the means of resolving the grievance, they shall state their agreement in writing, signed by both parties. This will constitute the final resolution of the grievance.

D. When a settlement concerning a disciplinary or adverse action is accepted by a grievant, it will be deemed settled in its entirety, and neither the grievant nor the Union may proceed further with the grievance or appeal. Such a settlement shall not be precedent in any future grievance or appeal involving a subsequent disciplinary or adverse action, but such disciplinary or adverse actions can be considered as aggravating factors in penalty selection for future disciplinary or adverse actions.

SECTION 6. Representation and Employee Official Time.

A. An employee who chooses to be represented by the Union under the provisions of this article at Step One shall be represented by the Steward or designee.

The designation of a Union representative at Step One does not prohibit a change in Union representatives at any subsequent step. Any changes in Union representation will be documented in writing to the appropriate management official. One Union representative will be afforded appropriate official time for grievance processing in accordance with Article 7.

B. Bargaining unit employees may only be represented in grievances and arbitration, as provided

for in this Agreement, by the Union. Bargaining unit employees may not be represented by representatives of their choosing, including attorneys, in this procedure, but may represent themselves.

C. Once a Union representative has been designated, all written communications will be sent to the Union representative and a courtesy copy to the grievant

D. In accordance with the procedures in Article 7, an aggrieved employee, if otherwise in a duty status, shall be granted a reasonable amount of official time without charge to leave or loss of pay to prepare and present his or her grievance, including time to secure advice on his or her rights, obtain information or assistance, to prepare documents, and to prepare for an arbitration hearing.

SECTION 7. Employee Grievances.

Step One. Initial grievance.

A. When an employee chooses to file a grievance, the grievance must be submitted, in writing, to the employee's immediate supervisor (or other designated management official) within 15 calendar days of the date the employee is affected, or becomes aware of (or should have become aware of) the action being grieved. This time limit may be extended by mutual agreement. The written grievance shall contain the following information, if applicable:

- (1) The name and duty station of the grievant.
- (2) A statement that it is a Step One grievance.
- (3) A description of the facts surrounding the grievance (including relevant dates, places, and known witnesses).
- (4) The specific article and section of this Agreement being grieved (if a violation of the Agreement is being alleged).
- (5) Any past practice that is claimed to have been violated.
- (6) The specific law, rule, or regulation claimed to have been violated (if known to the grievant).
- (7) An explanation of how the grievant was affected.
- (8) The remedy being sought.
- (9) The name and address of the grievant's Union representative, or a statement that the employee is representing himself or herself and is not being represented by the Union.

(10) The grievant's signature, and the date.

B. Within 15 calendar days of receiving a Step One grievance, the supervisor (or other designated management official) shall issue to the employee or his or her Union representative (with a copy to the Union), a dated, written disposition of the grievance. This time limit may be extended by mutual agreement. The Step One grievance response must contain the following information:

- (1) The decision with respect to the grievance;
- (2) The basis for the decision, including the reasons for granting or denying the relief;
- (3) The grievant's right to appeal.

C. If the initial grievance is against the Director of AOML, the AOML Director will issue the final disposition.

Step Two. Grievance Appeal.

D. If satisfactory resolution is not reached at Step One, an appeal may be filed with the management official designated by the Director of AMOL, within 21 calendar days of receipt of the decision in Step One. The appeal must be in writing, must attach a copy of the record of proceedings in Step One, and must state the grounds for appeal.

E. Within 21 calendar days following receipt of the appeal, the designated official shall render a written decision and deliver it to the employee or his or her Union representative (with a copy to the Union). In the case of an employee who has chosen to act without Union representation, this decision is final, and arbitration may not be invoked.

SECTION 8. Disciplinary Actions. All responses made by employees to notices of proposed disciplinary actions shall be considered as fully satisfying the requirements for contesting the disciplinary actions through Step One of the grievance procedure contained in this article. Regardless of whether or not an employee responds to a notice of proposed discipline, grievances for any resulting discipline will be filed under Step Two procedures and will be presented to the Management official designated by the Director, AOML.

SECTION 9. Union/Management Grievance Procedure.

A. Management grievances shall be initiated in writing by the Director of AOML or designee and presented to the NWSEO President or designee, within 30 calendar days of the action or condition giving rise to the grievance. Decisions by the Union shall be rendered in writing within 30 calendar days following receipt of the grievance. Should the issue remain unresolved, arbitration may be invoked by Management.

B. Union grievances shall be initiated in writing by the NWSEO President or designee, and presented to the Director of AOML, or designee, within 30 calendar days of the action or condition giving rise to the grievance. Decisions by the Director of AOML, or designee, shall be rendered in writing within 30 calendar days following receipt of the grievance. Should the issue remain unresolved, arbitration may be invoked by the Union.

ARTICLE 10

Arbitration

SECTION 1. Invoking Arbitration.

A. Within 30 calendar days after receipt of the final decision under Article 9, either Management (Director of AOML or designee) or the Union (National President or designee) may invoke arbitration by notifying the other party in writing.

B. Within ten calendar days of issuing an arbitration notice, the moving party shall advise the Federal Mediation and Conciliation Service (FMCS) that a dispute exists, and shall request a list of seven impartial arbitrators who are qualified by virtue of experience, background, or training to arbitrate grievances in the Federal (U.S.) Sector, and who reside in the local commuting area where the arbitration hearing will be held. The arbitrators' list may be fewer than seven if seven are not available in the local commuting area. The moving party shall request that a copy of the list be furnished to each party. A copy of this correspondence and the designation of the moving party's representative shall be served simultaneously on the other party on the day of the request. The non-moving party shall immediately provide a written designation of its representative.

Within five working days of receipt, either party may reject the entire list and request a new list. If neither party rejects the list or upon receipt of the new list, within 15 calendar days after receiving the arbitrators' list, the parties' designated representatives shall select an arbitrator. This will be accomplished by first Management and then the Union alternately striking names until only the selectee remains. On the next occasion, the Union will strike first. If the selected arbitrator is not available, the parties may agree to request another list or may select someone else from the same list. The moving party will notify (in writing, with a copy to the other party) the FMCS and the arbitrator of the selection.

SECTION 2. Preparation for Arbitration.

A. Management shall compile the complete record of the matter being referred to arbitration. The record shall contain relevant records (including the grievance, the response(s), any supporting documentation, a copy of this Agreement, and, where appropriate, a copy of any statute, rule, regulation, or policy alleged to have been violated). Copies of the record shall be provided to the arbitrator within 15 calendar days after selection.

B. The arbitrator shall hold a pre-hearing conference (telephonic or as agreed) to assist in framing or narrowing the issues; to receive joint stipulations; to schedule the hearing; and to assist in resolving remaining questions regarding the arbitration procedures. If, for any reason, the arbitrator does not hold a pre-hearing conference, Management and the Union shall hold a conference to resolve such issues.

C. Unless the parties agree that the matter may be resolved solely on the basis of the written

record, the arbitrator shall hold a hearing, and the parties shall be permitted to call witnesses and present evidence and oral and/or written arguments.

SECTION 3. Scheduling.

- A. Arbitration hearings shall be held within the grievant's commuting area, unless the parties mutually agree to a different location.**
- B. The arbitrator will set the date of the hearing with the concurrence of the parties and/or their designated representatives. The Union and Management agree that the arbitration hearing will normally be held during regular duty hours. No overtime, compensatory time, or credit hours are authorized for or as a result of the arbitration hearing.**
- C. When a date for the arbitration hearing has been agreed to by the arbitrator and both parties, no postponement of the hearing date will be sanctioned unless by mutual agreement of the parties, in writing. If a delay is agreed to by the parties, the party requesting the delay will be responsible for communicating with the arbitrator and requesting a new hearing date.**

SECTION 4. Appearance of Witnesses.

- A. In accordance with the provisions of Article 7, the grievant, the grievant's representative (if an agency employee), and all agency employees who are called as witnesses who are otherwise in duty status will be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave. However, a party's technical representative who is also a witness may remain during the entire proceeding.**
- B. To reduce hearing costs, the arbitrator is authorized to use telephone and written testimony and cross-examination, or to decide the matter solely on written submissions, to the extent consistent with the parties' right to a full and fair hearing.**

SECTION 5. Arbitration Costs.

- A. The parties will each pay one-half of the regular fees and expenses of the arbitrator hearing the case. All other expenses that the parties agree to incur shall be shared equally.**
- B. The parties will bear the costs equally of a transcript if one is required by the arbitrator. The transcript will be made by a certified court reporter. When a transcript is not required by the arbitrator but mutually desired by the parties, the cost of a certified court reporter and the transcript will be shared equally by the parties. In the event that either party solely desires a transcript, that party shall bear the entire cost.**
- C. Each party's travel and other costs for its representatives and witnesses shall be borne by that party, unless mutually agreed otherwise. Management agrees to issue no-cost refundable travel**

orders to Union representatives and witnesses in order to use the Government rate.

D. When either party invokes arbitration and fails to appear at an arbitration hearing, the appeal is withdrawn and the non-appearing party shall pay the entire cost of the arbitration.

SECTION 6. Attorney Fees.

A. Attorney fees may be awarded in accordance with applicable law.

B. Within 30 calendar days after the arbitrator's award becomes final, the union may submit to the arbitrator a request for attorney fees. The award becomes final on the day that the period to file exceptions expires, or, if exceptions are filed, the day the Federal Labor Relations Authority rules on any exceptions which have been filed, or upon final disposition of any request for reconsideration.

SECTION 7. Arbitrator's Award.

A. The arbitrator's award shall be limited to the application and interpretation of the provisions of this Agreement and applicable law. The arbitrator shall not have power or authority to make any decisions that:

(1) Are contrary to, inconsistent with, or modify, add, delete, or vary, in any way, the terms of this Agreement or of other applicable law or regulations governing the Federal sector.

(2) Involve the exercise of statutory or discretionary rights of either party under the provisions of this Agreement or under applicable law, rules, or regulations, unless provided for by this Agreement.

B. The arbitrator is bound by the Federal Mediation and Conciliation regulations regarding time deadlines for rendering arbitration awards. When the arbitrator is unable to render an award within 60 days from the close of the hearing, an extension of time should be requested from the parties.

C. The arbitrator's award will be sent to both parties simultaneously.

D. Either party may remand the decision to the arbitrator for the purpose of clarifying a decision or award. A copy of notification for such purpose will be immediately furnished to the other party. Any additional expenses shall be paid by the requesting party.

E. The arbitrator's award shall be binding on the parties. However, either party may file an exception to an award, when made under regular arbitration procedures, with the Federal Labor Relations Authority under rules prescribed by the Authority.

SECTION 8. Award of Back Pay. In order for the arbitrator to make an award of back pay under the Back Pay Act, there must be not only a determination that the aggrieved employee was affected by an unwarranted personnel action, but also a determination that such unwarranted action directly resulted in the withdrawal or reduction in the pay, allowances, or differentials that the employee would otherwise have earned or received. An employee awarded back pay under 5 U.S.C. 5596 of the Back Pay Act is entitled to the payment of interest.

ARTICLE 11

Bargaining During the Term of the Agreement

SECTION 1. Under current law a mutual right exists to initiate bargaining over negotiable matters not covered by an applicable collective bargaining agreement. The parties therefore agree to respect each other's right to initiate bargaining over matters not covered by this Agreement during the life of the Agreement.

SECTION 2.

A. When, at any time during the life of this Agreement, Management proposes a change that affects the employees' conditions of employment, or that involves procedures or arrangements for which negotiations are required under 5 U.S.C. 7106(b)(2) and (3) (i.e., so-called "impact and implementation" bargaining), Management shall give the Union notice in writing. The notice shall state the nature of and reasons for the proposed change or other action for which negotiations are required. Within ten calendar days following receipt of such notice, the Union shall notify Management in writing of its desire to consult or negotiate upon the proposed change. Within ten calendar days of the Union's notification to consult or negotiate over the proposed action, the Union shall submit specific written proposals, which may include a proposal that the change not be made. The Union's proposals will clearly articulate the adverse effects of Management's proposed change and how the proposals specifically apply to the employees affected. If required, the parties agree to begin bargaining as soon as practicable, but not later than 14 calendar days after submission of the Union's proposals.

B. The results of negotiations under this section shall be reduced to writing in a Memorandum of Understanding (MOU). Disputes over the interpretation or application of an MOU will be resolved pursuant to the grievance procedure in ARTICLE 9.

C. In the event of impasse, Management may implement its last best offer once the parties have reached impasse unless, within seven calendar days after impasse, the Union has contacted and requested the services of the FMCS or, where appropriate, the Federal Service Impasses Panel (FSIP). If the services of the FMCS or FSIP are timely requested, Management shall maintain the status quo to the maximum extent possible, that is, to the extent consistent with the necessary functioning of the agency.

D. Where the Union requests information in response to a change proposed by Management, the information will be provided consistent with ARTICLE 6 of this Agreement. The parties agree to continue any ongoing negotiations pending Management's response to an information request. Any relevant time limits will be stayed until the information has been received by the Union, except when there is an overriding exigency.

SECTION 3. In the event of a written Union proposal to bargain, Management will respond in

writing within 30 calendar days after receipt by either agreeing to the proposal or offering a counter proposal. The parties agree to begin bargaining as soon as practicable.

SECTION 4. In the event that the Department of Commerce and/or NOAA and/or OAR/AOML are reorganized, this Agreement will be revised for the sole purpose of conforming references contained herein to the Department of Commerce and/or NOAA and/or OAR/AOML to the appropriate successor departments and/or agency(ies) and/or office(s).

SECTION 5. Any time limit in this article may be extended by mutual consent in writing.

ARTICLE 12
Provision of Documents

SECTION 1. Management agrees that current policies and directives that apply to all members of the bargaining unit, including this Agreement and memoranda of agreement made under this Agreement, shall be reduced to writing and maintained in a central repository at AOML. They will be available to copy and/or review by Union representatives during regular business hours. Management agrees to provide copies of such policies and directives to the Union routinely when they are first issued.

SECTION 2. Management agrees to make available to the Union a current AOML organization chart that clearly indicates supervisory responsibilities. When reorganizations occur in AOML, Management agrees to provide an updated organization chart to the Union.

SECTION 3. Management agrees to provide to the Union a copy of the annual AOML budget, after it has been approved by NOAA.

ARTICLE 13

Discipline

SECTION 1. Discipline means corrective measures intended to maintain the efficiency of the service and encourage employee conduct and performance compatible with the appropriate and lawful goals, practices, policies, and procedures of NOAA and AOML. Disciplinary action shall be taken only for just and sufficient cause, and in accordance with all applicable laws and regulations.

SECTION 2.

A. The parties agree that the maintenance of discipline is essential to the satisfactory conduct of public business. The objective of discipline is to correct and improve employee behavior so as to promote the efficiency of the service.

B. Reasonable efforts will be made to explore with an employee the source of any conduct deficiency and ways to overcome such deficiency. Non-disciplinary/non-investigatory counseling of an employee is a private matter between the supervisor and the employee. Such counseling is an exchange of information between an employee and his/her supervisor. It has the specific purpose of improving the employee's conduct or knowledge of a subject related to his/her employment. The employee has no right to a representative during such counseling meetings.

C. However, if an employee reasonably believes that an examination by a representative of Management in connection with an investigation may result in disciplinary action against the employee, and the employee requests representation, the Union shall be given the opportunity to represent the employee. Any meeting between the employee and a Management representative will normally be scheduled not less than 24 hours after Union notification. Management will notify employees of this provision annually.

SECTION 3. When appropriate, as determined by Management, discipline may be preceded by counseling and assistance including warnings, which are informal in nature and are not placed in an employee's Official Personnel Folder (OPF).

SECTION 4. Disciplinary actions are of two types, major and minor. A suspension means the placing of an employee, for disciplinary reasons, in a non-duty status without pay.

A. Minor disciplinary actions consist of written reprimands and suspensions of 14 calendar days or less.

B. Major disciplinary actions consist of suspensions for more than 14 days, removal, reduction in pay level, or reduction in pay.

SECTION 5. Management and/or the employee may request the use of the Department of

Commerce Alternative Discipline System (ADS, Office of Human Resources Management Handbook, 1996 and updates) to address disciplinary actions.

SECTION 6.

A. Disciplinary actions may be proposed after:

- (1) Management becomes aware of the alleged infraction;
- (2) Management receives an investigative report from an investigating authority; or,
- (3) There has been a final disposition of a criminal prosecution.

This does not preclude Management from proposing an action before the receipt of any investigative report or before the final disposition of a criminal prosecution if Management deems it appropriate to do so.

B. Unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, employees will be given 30 calendar days advance written notice of any proposed major disciplinary action, stating the specific reasons for the proposed action. Employees will be given ten calendar days written notice of a suspension for 14 days or less, stating the specific reasons for the proposed action.

C. The employee shall have seven calendar days to reply to any notice issued under Subsection B. Management will normally extend the time to respond for good cause shown. Management shall give the employee a reasonable amount of official time to review the notice and supporting material, and to prepare a reply.

D. The notice of final decision shall state Management's findings and conclusions with respect to the proposed discipline; the employee's statutory appeal rights (if any); the employee's right to elect to grieve the discipline under ARTICLE 9; and the time limits for appeal or grievance. The employee and the designated Union representative (if any) shall both be provided with a copy of the final decision.

SECTION 7. Letters of reprimand are temporary contents of the OPF, and will be removed by Management two years after their date of issue.

ARTICLE 14.

Employee Performance Appraisals

SECTION 1. In accordance with the FSIP decision in Case No. 02 FSIP 165, the Demonstration Project Operating Procedures will serve as the basis for performance appraisals for the period of this agreement. The parties agree that the performance appraisal process involves participation on the part of the rating official and employee.

SECTION 2. Management's establishment and identification of performance standards and elements for each employee's Performance Plan shall comply with legal requirements. Management's application of performance standards to bargaining unit employees shall be fair and equitable, and shall comply with applicable laws, regulations, and this Agreement. Employees may bring disputes concerning establishment and identification of performance elements and/or performance standards to the attention of the rating official. The employee may seek guidance from the Union concerning the employee's performance plan. The rating official may exercise authority to change the disputed performance element and/or standard. The employee must be notified of any change to their performance plan prior to implementation of the change.

SECTION 3. All employees will receive a performance appraisal, which will be based on a comparison of the employee's performance with the benchmark standards and elements established for the appraisal period. Employees will receive complete copies of their Performance Plan, Progress Review, and Appraisal Records. An employee may grieve their rating, performance score, and/or payout under the provisions of Article 9 of this Agreement.

SECTION 4. Employees who use official time in connection with Union representational functions under this Agreement will not be disadvantaged on their appraisals for their union activities or use of official time.

SECTION 5. For employees assigned a rating of performing less than satisfactorily, the rating official will provide a written explanation describing the specific areas in which the employee failed to achieve critical elements and the employee must be placed on a Performance Improvement Plan (PIP).

SECTION 6. A Union representative will be invited to participate in annual meetings held for rating officials to ensure a common understanding of the rating guidelines and their meaning. Before scores are finalized, Management may consider Union input to the distribution of scores and pay increases for Bargaining Unit members. After employee annual performance scores are determined, management will continue to hold meetings for all employees and present statistics describing the distribution of scores and pay increases.

ARTICLE 15

Reductions in Force and Transfers of Functions

SECTION 1. Procedures.

A. During the term of this Agreement, all RIFs will be conducted in accordance with the Agreement and applicable regulations and Demonstration Project Operating Procedures. Management will give the Union advance notice of any anticipated need for a reduction in force (RIF) (the term "RIF" will hereinafter include a transfer of function that involves geographical relocation of employees). Management will provide the Union, upon request, with relevant information in accordance with 5 U.S.C. 7114(b)(4), and Article 6, Section 1 of this Agreement. The Union has the right to negotiate on the impact or implementation of any RIF with respect to matters not specifically covered by this Agreement, pursuant to Article 11.

B. Management shall provide written notification to the Union of a proposed RIF at the earliest possible date. The notice will include the reason for the RIF, the approximate number of positions identified for RIF, and the anticipated effective date that the action will be taken.

C. After the notice specified in Section 1.B. has been given, but before Management has submitted its input to a NOAA request to DOC for a RIF, Management and the Union agree to consult. This is not a bargaining session, but rather an exchange of ideas on how to avoid or minimize the RIF. Management will provide to the Union a copy of the portion of the NOAA request pertinent to AOML, and copies of NOAA and DOC approvals of the request.

D. At the time a position abolition list has been prepared, Management will give the Union the notice required by Article 11, Section 2.A. Management will also provide to the Union a copy of the position abolition list when it has been approved.

E. Retention Standing.

(1) Before the issuance of specific RIF notices, the Union will be provided a copy of the retention register(s) to be used to issue the notices. Amended registers will be provided to the Union as soon as they are prepared.

(2) The retention register will include: the employee's tenure group, competitive level, original service date, and the adjusted service date.

(3) Employees' performance ratings of record relevant to the issuance of specific RIF notices will be submitted to the servicing human resource office in sufficient time for retention standing to be determined.

(4) When employees affected by RIF are in the same competitive level with the same

length of service as computed under applicable regulations and procedures, and the same subgroup, ties will be broken in the following order: (1) length of service in NOAA/AOML; (2) total NOAA service; and (3) time at the current grade level.

F. Management will give a specific notice in writing to employees who will be affected by a RIF, with a copy to the Union. This notice period will be no less than 60 calendar days prior to the implementation date of a RIF action except as provided in Section 1.G. below. The notice period begins the day after the employee receives the notice.

G. When a RIF is caused by circumstances that are not reasonably foreseeable, the Office of Personnel Management (OPM) at the request of the Department may authorize a notice period of less than 60 days but at least 30 full calendar days before the effective date of release. The parties agree to be bound by the OPM decision.

H. Whenever possible and to the extent practicable, and before conducting a budget-driven RIF, Management will attempt to avoid the use of a RIF by exhausting other cost-saving methods, including attrition. Before conducting a budget-driven RIF, Management will explain the rationale for the RIF and provide relevant and available information if requested by the union.

SECTION 2. Employment Placement Assistance.

A. Within the constraints of available time, expertise, and budget, NOAA will provide career transition assistance to an employee who is affected by RIF: information on the placement assistance programs available through OPM; individual job counseling and referral; stress and mental health counseling through the Employee Assistance Program; job testing, assessment, and evaluation; training on self-directed job search, resume preparation, and interviewing.

B. Employees who receive a specific RIF notice shall be granted up to eight hours of administrative leave to obtain information regarding unemployment benefits and/or to contact job placement agencies. Management may grant administrative leave for contacting employment agencies and potential employers.

ARTICLE 16

Training and Career Development

SECTION 1. Training is vital to the accomplishment of the mission of AOML and to the career development of AOML employees.

- A. The parties agree to establish a Joint Training Committee (Committee) to consider programs, policies, and strategies designed to aid employees in enhancing their current job skills and to provide opportunities for upward and lateral career mobility.
- B. The Committee shall consist of four members, two appointed by the Union and two appointed by Management. The Committee shall meet as often as necessary, but no less than two times per year.
- C. The Committee shall investigate training and career development opportunities, arrange for the distribution of training and career development information, consult with AOML employees concerning their interests and ideas, and make recommendations to the Union and Management concerning training and career development programs and policies.

SECTION 2.

- A. Employees and supervisors shall work together, in conjunction with the Committee established under Section 1 of this article, to find training opportunities that will enhance the employees' knowledge, skills, abilities, or potential.
- B. Employees may request to attend courses, seminars, meetings, or conferences that they believe will either enhance their current working skills or provide training for work they can reasonably expect to perform in the future. The supervisor may deny a request for training, seminars, meetings, or conferences, etc., based on such factors as relevance of the training, demands of the office workload, etc.
- C. Management may grant official time to employees to attend training that is approved by Management as valuable to the agency's mission and the employees' performance.

SECTION 3. AOML employees have the responsibility to develop their career plans. Supervisors and rating officials are encouraged to work with employees to facilitate the development of employee career plans.

SECTION 4. With Management's approval, an employee within ten years of retirement eligibility may attend a retirement planning seminar or course offered by NOAA. With Management's approval, an employee with at least five years of government service and within 15 years of retirement eligibility may attend a mid-career retirement planning seminar or course.

Depending on budgetary constraints, Management may reimburse the employee for all

authorized expenses related to such training.

SECTION 5. Management will make an effort to announce to all employees any available positions in the bargaining unit.

ARTICLE 17
Equal Employment Opportunity

SECTION 1. Management and the Union agree to cooperate in providing equal opportunity for all qualified persons and to prohibit discrimination because of race, color, creed, national origin, sex, sexual orientation, handicapping condition, marital status, age, military veteran's preference, and religious or political affiliation except as provided by federal law and government-wide regulations. They further agree to promote the full realization of equal employment opportunity in accordance with applicable laws and government-wide regulations.

SECTION 2. The parties recognize and agree to follow the requirements imposed upon the agency by the Equal Opportunity Act of 1972. The parties further agree to recognize and follow the requirements of Departmental Administrative Order 215-11, as required by Executive Order 11478, as amended by Executive Order 13087.

SECTION 3.

A. A unit employee who believes that he or she may be the victim of prohibited discrimination may file a formal EEO complaint with the agency or may file a grievance, but not both. The employee shall not be deemed to have selected the EEO complaint route merely because he or she has discussed the matter with an EEO counselor, but shall be deemed to have selected the EEO complaint route at the time he or she files a formal discrimination complaint. Any employee who has filed an equal employment opportunity complaint or a grievance which alleges discrimination shall be free from coercion, interference, or reprisal.

B. Any meeting requested by or initiated by the DOC Office of Civil Rights, or NOAA Office of Personnel and Civil Rights does not meet the definition of a formal meeting as defined in this Agreement. Management is not obligated to notify the union. However, the employee may elect to be accompanied by a representative which may be the union.

SECTION 4. The names, addresses, and phone numbers of EEO counselors who are authorized to accept informal EEO complaints from unit employees will be posted. Such a list will be kept current.

ARTICLE 18

Leave

SECTION 1. General.

Leave is governed by applicable laws and regulations. The DOC guidance on leave may be found in The Department of Commerce Handbook on Hours of Duty and Leave Administration and is available for review at [http://ohrm.doc.gov/information/handbook/leave\(toc\).htm](http://ohrm.doc.gov/information/handbook/leave(toc).htm). It provides the principal requirements of law and regulation and provides procedural guidance for the administration of leave.

The purpose of this article is to set forth certain understandings between the parties concerning the administration of annual leave, sick leave, leave without pay, family friendly leave, administrative leave, shore leave and court leave. It does not substitute for legal or regulatory authorities, nor does it diminish any right of Management.

SECTION 2. Annual Leave.

A. Annual leave is a period of approved absence with pay from official duties. It is an employee benefit and accrues automatically.

B. Employees may request leave for attending to personal business, vacation, rest, and recreation. Managers have the discretion to decide when and in what amount annual leave may be approved. The final decision will take into consideration the needs of the workplace as well as the desires of the employee. Requests for annual leave must be made in writing as far in advance as practicable. The requests shall be made directly to the employee's immediate supervisor, or supervisor's designee(s) in the absence of the supervisor.

C. Employees may request and management may approve requests for advanced annual leave which is equal to the amount the employee is expected to accrue by the close of the leave year.

SECTION 3. Sick Leave.

A. Sick leave is a period of approved absence with pay from official duties. Sick leave may be authorized when an employee:

- (1) is incapacitated for duty as a result of physical or mental illness, injury, pregnancy, or childbirth;
- (2) receives medical, dental, or optical examinations or treatment;
- (3) is exposed to a contagious disease as determined by a health care provider or public health authority;

- (4) provides for a family member who is incapacitated as a result of physical or mental illness, pregnancy, childbirth, or who must be assisted to medical, optical, dental examinations or treatments;
- (5) adopts a child;
- (6) participates in a drug or alcohol counseling program in accordance with regulations; or
- (7) requires time to replace or repair a prosthetic devise or train in the use of an aid.

B. Full-time employees may use up to 40 hours of sick leave in any leave year to care for a family member or for bereavement. Full-time employees may be authorized an additional 64 hours of sick leave to care for a family member or for bereavement, the total not to exceed 104 hours in any leave year, provided the employee maintains an 80 hour sick leave balance.

C. Advanced Sick Leave. Employees may request and management may approve requests for advanced sick leave. This amount, by law, may not exceed 240 hours for full time employees who have completed a probationary or trial period. Supervisors approving a request for advanced sick leave must have reasonable assurance that the employee will be in duty status long enough to repay or liquidate the advanced leave granted.

D. Sick Leave to Care for a Family Member with a Serious Health Condition. Most Federal employees may use a total of up to 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition. If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled up to a total of 12 weeks of sick leave each year for all family care purposes, provided the employee is classified as full time and maintains an 80-hour sick leave balance.

E. Bone Marrow or Organ Donor Leave. An employee may use up to 7 days of paid leave each calendar year to serve as a bone-marrow donor. An employee also may use up to 30 days of paid leave each calendar year to serve as an organ donor.

F. Requesting Sick Leave. Except in emergency circumstances, employees should request sick leave in advance. The employee is responsible for notifying his/her supervisor or designee when he/she is prevented from reporting to work because of illness or injury. Such requests for sick leave shall be made as soon as possible and normally by 10 am on the day of the absence. When requests for sick leave are in excess of three (3) workdays, the supervisor may also require a medical certificate or other evidence as to the reason for an absence.

Leave approving officials have the responsibility to determine that the circumstance of the

absence justifies approval of the sick leave request.

SECTION 4. Leave Without Pay. Leave Without Pay (LWOP) is an approved temporary absence from duty in a nonpay status requested by an employee. LWOP may be charged in 15 minute increments. LWOP may be granted by management when there is a reasonable expectation that the employee will return to work at the end of the approved absence. An employee requesting LWOP may be required to first exhaust annual leave when the absence is primarily for the personal convenience of the employee.

SECTION 5. Family Medical Leave. As provided by the Family Medical Leave Act (FMLA) of 1993, Public Law 103-2, an employee is entitled to up to 12 weeks of unpaid leave in any 12 month period for the:

- (1) birth and care of a newborn child;
- (2) adoption or placement of a child for foster care;
- (3) care of a family member with a serious health condition; or
- (4) care and treatment for a personal serious health condition that makes the employee unable to perform any one or more of the essential functions of his/her position.

Part-time employees have a prorated entitlement. Requests for FMLA leave shall be made on Standard Form 71 and submitted to the immediate supervisor at least 30 days in advance. Management may request certification from the health care provider.

SECTION 6. Family Friendly Leave.

A. Leave for maternity purposes consists of appropriate combinations of annual leave, sick leave, or leave without pay. Management shall administer all leave requests equitably and reasonably, taking into consideration both the needs of the organization and the employee.

- (1) Female employees are entitled to use sick leave for prenatal and postnatal medical appointments and any periods of incapacitation as a result of pregnancy and childbirth. A new mother is entitled to use up-to-12 weeks of leave without pay under the FMLA for childbirth and care of the newborn. In addition, a mother or father may use up-to-13 days for well-baby appointments and to care for a newborn child during minor illnesses .
- (2) A new mother or father may use a total of up-to-12 weeks of sick leave to care for a newborn child with a serious health condition. If the new mother or father has already used 13 days of sick leave for family care purposes, she/he will be entitled to use the balance of the 12 week entitlement to sick leave.

The new mother or father must maintain an 80-hour sick leave balance at all times during the up-to-12 week period.

(3) A biological father is entitled to use sick leave to care for the biological mother for any period (up to a maximum of 12 weeks) during which she is incapacitated as a result of pregnancy and childbirth. This includes prenatal and postnatal doctor's examinations, hospitalization, and recovery from childbirth. Supervisors may request medical documentation to support the length of time requested.

B. An employee returning from leave related to parental and family responsibility has all the entitlements provided under applicable laws.

SECTION 7. Leave for Bereavement. In accordance with this Agreement, applicable law including the Federal Employees Family Friendly Leave Act, and applicable regulations, an employee may be granted any combination of annual, sick, or leave without pay, when there has been a death in the employee's family. The definition of family includes the following: a spouse, children (including adopted and foster), parents, brothers and sisters, grandparents, in-laws (mother, father, sister, brother), and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

SECTION 8. Administrative Leave.

A. Excused absence (administrative leave) is a period of administratively authorized absence from official duties without loss of pay and without charge to an employee's leave account.

B. Emergency Conditions are defined as general circumstances that prevent employees from reporting to work on time, or result in the closing of all or part of the Department's activities. Such conditions can include, but are not limited to snow emergencies, severe icing conditions, floods, earthquakes, major fires, public health or safety emergencies, hurricanes, air pollution, power or air conditioning failures, or widespread interruption of public transportation. When an emergency condition results in the closing of all of NOAA or AOML, authorized employees will be granted administrative leave if they cannot be relocated. When such events occur, management will provide advanced notice to affected employees when possible.

C. Management and the Union recognize that tropical storms and hurricanes in the south Florida area pose a particular problem to both the AOML facilities and the safety and personal property of employees. Management may grant liberal leave to all non-essential employees during a hurricane watch. Management may grant administrative leave to employees after a hurricane warning has been issued and during recovery from a hurricane event. When an employee has made a diligent effort to get to work on time but is prevented from doing so due to emergency conditions, management may grant administrative leave.

SECTION 9. Shore Leave. Shore Leave is a period of approved absence with pay authorized by 5 U.S.C. 6305(c) for employees who are regularly assigned to serve aboard an ocean going vessel on an extended voyage. An employee is considered "regularly assigned" when his or her continuing duties are such that all or a significant part of them require that he or she serve aboard

an oceangoing vessel. Temporary assignments of a shore-based employee, such as for limited work projects or for training, do not constitute a regular assignment. An employee earns one day of shore leave for each 15 calendar days of duty on one or more extended voyage. Shore leave accumulates without limit. Employees shall request and managers shall approve shore leave in writing.

SECTION 10. Court Leave. Court leave is an approved absence from official duties, without loss of or reduction in pay or leave, and is provided to an employee who is summoned, in connection with a judicial proceeding, to perform jury duty. Full time and part time employees who have a regular tour of duty are entitled to court leave. Court leave shall be granted in accordance with applicable laws and regulations.

SECTION 11. The union steward or designee may be excused without charge to leave in conjunction with attendance at a training session sponsored by the Union, provided the subject matter of such training is of mutual benefit, serving the interests of AOML and the representative in his/her representational capacity. No travel or per diem or other expenses will be paid by AOML. The request for excused absence will be made in writing as early as possible and include: citation of this section, location, duration, purpose, and nature of the training, and explain how the training will benefit and/or improve labor relations at AOML.

ARTICLE 19

Work Schedules

SECTION 1. General. This article applies to work schedules of all full-time and part-time employees.

A. In accordance with the provisions of 5 U.S.C., Chapter 61, and the "Handbook on Hours of Duty and Leave Administration" (U.S. Department of Commerce, Office of Human Resources Management, September 1995), and the terms of this article, the use of maxiflex work schedules is permitted.

B. Participation in a maxiflex work schedule is voluntary. For employees choosing not to participate in a maxiflex work schedule, the basic work week for all full-time employees at AOML is 8 1/2 hours per day scheduled from Monday through Friday between the hours of 6 am and 6 pm. The 8 1/2 hours includes a non-compensable lunch period of 30 minutes. An employee cannot "work" through lunch to modify his or her established schedule.

C. In order to fulfill its mission and allow maximum flexibility in employee work schedules, the AOML Maxiflex will have the following parameters: Core hours: 10:00 am to 11:30 am and 1:00 pm to 2:30 pm Tuesday and Thursday; Flexible timeband: 24 hours per day, 7 days per week.

D. To accommodate computer systems work and reduced air conditioning in the building during early morning hours, employees are encouraged to schedule all work during the period of 5:00 am to 10:00 pm, Monday through Friday. Requests to schedule work outside this period will be considered in extraordinary situations and will require the approval of the Director of AOML or a designee. Credit hours can be earned at any time.

E. Special mission requirements of AOML, such as the annual hurricane field program, may require employees to work a fixed or other alternative work schedule. Employees who wish to participate in such programs may have to adjust their maxiflex schedule to accommodate the program requirements and budget constraints of AOML

SECTION 2. Definitions.

A. "Basic work requirement" means the number of nonovertime hours an employee must work or account for by leave before being eligible for overtime. For employees choosing to work a maxiflex schedule, the basic work requirement is 80 hours in a biweekly pay period.

B. "Core hours" refers to the scheduled hours of the workday during which an employee must either be present at work, on leave, or using credit hours. Exceptions to core hours may be granted with advanced written approval from their supervisor.

C. "Credit hours" refers to the nonovertime hours which an employee elects to work during the

flexible timeband in the same or another day in order to have an equal amount of time off on another day. A full-time employee may carry over up to 24 credit hours per pay period. A part-time employee is limited to one-fourth of the average hours worked per pay period. Use of credit hours must be approved by the employee's supervisor.

D. "Flexible timeband" refers to the time period outside of core hours during which an employee can vary arrival and departure times or work credit hours.

E. "Maxiflex work schedule" refers to a type of flexible work schedule comprised of core hours (including a non-compensable lunch period) and flexible timebands. Employees must be present during core hours, but may deviate from a specified arrival and departure time and work credit hours during the flexible timeband. The basic work requirement is 80 hours per biweekly pay period, but the employee may complete this requirement in fewer than ten workdays.

SECTION 3. Determinations.

A. Management has responsibility for seeing that the mission of AOML is carried out. Subject to the overall direction of the AOML Director or designee, supervisors will determine adequate coverage during official hours for the purpose of assuring that office functions are fulfilled, including providing representation at essential meetings, handling official inquiries, and responding to program needs. When coverage requirements are established, all employees are required to meet them.

B. Each supervisor determines which employees, if any, are eligible to participate in a flexible work schedule. In making that determination, the supervisor considers the needs of AOML, adequate coverage in the office, type of work done by the employee, the past performance of the employee, and the employees' preferences. Where personal preference conflicts with the equitable sharing of the burden of coverage, personal preference shall give way. The opportunity of each employee to maximize flexible work hours shall be consistent with the coverage of legitimate work unit functions.

SECTION 4. Abuse. Employees may be restricted from participating in maxiflex in the event of the employee's misconduct or below satisfactory performance. In addition, an employee who repeatedly fails to observe the requirements of maxiflex may be excluded from further participation in maxiflex. In the event of the above, management may exclude an employee from a flexible work schedule, modify the employee's schedule, or change the method of timekeeping for that employee.

SECTION 5. Implementation. When an employees requests a maxiflex schedule, supervisors will determine the employee's eligibility. If the emlpoyee is eligible, the supervisor and employee will develop and implement a maxiflex work schedule. Individual employees will request their supervisor's approval for any revisions.

Management may require weekly posting of schedules for the proper functioning of the office.

SECTION 6. Timekeeping. Employees under flexible work schedules will record their time, including leave that is taken, by whichever method is chosen by their supervisor, as specified in the Handbook on Hours of Duty and Leave Administration.

SECTION 7. Review, modification, and termination. Management and the Union agree that establishment and implementation of maxiflex work schedules is a one-year pilot project, and that either party may reopen this article for renegotiation one year after the effective date of this Agreement. This project may be terminated pursuant to the provisions of 5 U.S.C. 6131.

ARTICLE 20

Flexiplace

SECTION 1. Management may grant an employee's request to work at an alternative site, taking into consideration benefits to the employee and fulfillment of the office needs. Offsite work must comply with the provisions of Articles 19 (Work Schedules) and 21 (Overtime and Compensatory Time).

SECTION 2. Details of flexiplace arrangements including work agreements, work schedules, and facilities and equipment issues will be determined in accordance with the Department of Commerce Telework Program Policy, January 16, 2003, the NOAA Supplemental Guidelines (NOAA Flexiplace Program Guide, November 3, 1995), and the Draft OAR Telework Program (August, 2001) and any revisions. An employee working at an alternative work site shall have executed a "Flexible Program Employee/Supervision Agreement." Requests for particular arrangements must be approved in writing (e-mails are acceptable) by the employee's supervisor, or by the supervisor's designee should the supervisor be unavailable, and the written approval must be attached to the employee's time sheet.

SECTION 3. During core hours, defined in Article 19, the employee must be present at AOML or their primary worksite, on official travel, on leave, or using credit hours, unless they obtain written approval of their supervisor.

ARTICLE 21
Overtime and Compensatory Time

SECTION 1. Hours of approved overtime and compensatory time will be compensated in accordance with applicable law. Examples of situations for which overtime or compensatory time is likely to be approved include oceanographic cruises, hurricane flights, laboratory experiments, computer maintenance and repairs, offsite dial-in systems maintenance and repairs, and emergencies.

SECTION 2. Employees should notify their supervisors as far in advance as possible of any situation that may require overtime work. The Director of AOML or a designee must approve in advance and in writing any overtime work in excess of ten hours per pay period.

ARTICLE 22

Travel

SECTION 1. Employees required to travel will follow all applicable rules and procedures established by statute, regulations, and agency directives. To the extent possible, Management should schedule travel during official work hours. Management may, however, require an employee to travel on personal time, weekends, or a holiday. Employees required to travel by Management shall receive per diem or subsistence expenses and other allowable travel expenses subject to applicable laws and regulations.

SECTION 2. Current law requires an employee to use a Government travel card for official Government travel. Current regulations permit an employee to obtain an advance of travel funds via the employee's travel card, but require use of personal funds if the employee's travel card has been suspended or canceled.

SECTION 3. When an employee learns of a travel delay which will extend the originally authorized travel time, he/she shall notify management immediately of the circumstances and receive instructions and authorization to cover the emergency. Examples of such circumstances include flight cancellation, hazardous weather, automotive breakdown, illness, etc. The employee must receive authorization for the delay to be reimbursed and be covered by government insurance, workers' compensation, and leave. In the event that such contact cannot be made on a timely basis, Management may approve payments, where applicable, after the travel has been performed.

SECTION 4. Gainsharing Program Policy

A. Policy: Under the authority of 5 U.S.C. 4501-4507, AOML agrees to pay a cash award for "efficiency" or "economy." The program will be known as the Gainsharing Travel Savings Program (GTSP). It will reward employees who save the AOML money while on official travel. These savings will apply to the use of less expensive lodging, from use of frequent flyer benefits for the purchase of airline tickets for official travel, and, to the extent permissible under agency travel contracts, Federal Travel Regulations, and the National Defense Authorization Act for Fiscal year 2002, as well as any applicable Federal Travel Advisories or waivers issued by the General Services Administration, for the purchase of less expensive airline tickets than the contract price. Employee participation in this program is optional.

The amount of the award for the employee will be 50 percent of the savings on lodging expenses and/or contract carrier airfare. Taxes will be withheld (Federal, State, local, FICA) on the award amount. In most cases, the cumulative savings to AOML must be at least \$200.00 before the employee is eligible to receive an award.

Employees should not incur additional expenses in transportation or other miscellaneous costs in effort to reduce lodging expenses.

Employees who incur additional transportation expenses must have those expenses deducted

from their lodging savings.

When a room is shared while on official travel there may be a lodging savings. The employees should arrange to be billed separately. If this is not possible, a daily rate must be determined for each employee. Divide the total lodging costs by the number of employees and the number of nights to arrive at a daily rate for each employee.

B. Travel Covered:

- (1) All TDY travel with lodging expenses, foreign and domestic, will be covered under this program.
- (2) The first 30 days of extended TDY travel (e.g., a detail of more than 30 days where a reduced per diem amount is required).
- (3) Lodging Savings. Employees who participate in the program can receive cash awards for incurring lodging expenses at a daily rate which is less than the maximum lodging rate for the locality under the lodging plus method. Lodging savings will not be made when an employee is on travel where lodging was prepaid or prearranged through contractual arrangements with the hotel. However, any savings resulting from shared accommodations under such arrangements does qualify for the travel savings award. Additionally, lodging savings will not be made for lodging savings at hotels identified under the GSA Value Lodging Program, or for lodging cost incurred on personal time such as annual leave during official travel or any other type of personal preference travel used in conjunction with official travel. Finally, lodging savings will be made to employees who stay with relatives or friends while on official travel and avoid lodging expenses. These employees will receive one-half of the lodging rate for the locality toward the travel savings award.
- (4) Frequent Flyer Benefits. Employees who obtain a free coach class ticket with frequent flyer benefits earned on official Government travel or personal travel are eligible for the travel savings program. Savings will be measured against the contract rate in effect at the time of the flight. If there is no contract rate, then the lowest available non-restricted coach fare will be used as the basis for measurement of the savings.
- (5) Savings from Contract Price. To the extent permissible under agency travel contracts, Federal Travel Regulations, and the National Defense Authorization Act for Fiscal year 2002, as well as any applicable Federal Travel Advisories or waivers issued by the General Services Administration, employees who obtain a ticket from another source are eligible for the travel savings program. Savings will be measured against the contract ticket rate in effect at the time of the flight.

ARTICLE 23

Safety and Health

SECTION 1. If an employee has reason to believe that an unsafe or unhealthy condition exists at his or her workplace, that employee shall notify his or her supervisor immediately. Management will refer the complaint to the appropriate individual or office for investigation and, if necessary, correction.

SECTION 2. Management agrees to assure that no employee will be subject to retaliation for filing a report of an unsafe or unhealthful working condition.

SECTION 3

A. Employees are required to report immediately to their supervisors any accident, injury, or illness that occur on the job. In cases where the employee is medically unable to contact his or her supervisor, a representative may provide the required notification.

B. Management will inform any employee injured on the job of the procedures for filing a claim for benefits under the Federal Employees Compensation Act or will direct the employee to the person or office that can provide such information.

C. Copies of accident and injury report forms generated by Management will be provided to the local Union steward.

SECTION 4.

A. To the extent that Management has control of the situation, Management will seek to minimize construction or space modifications undertaken during working hours that are likely to result in the presence of dust, fumes, odors, toxins, or levels of noise so as to make the occupied work areas uninhabitable.

B. If Management is aware that paint, pesticides, glues, or other chemicals are to be used in buildings, and will adversely affect employees' work areas, Management will provide as much advance notice as possible to the Union and to the affected employees.

C. If an employee's supervisor determines that such construction or space modification or use of paint, pesticides, or other chemicals or substances is substantially interfering with the employee's ability to perform work-related responsibilities, the supervisor will consider options to provide alternative work space for the employee.

SECTION 5. Management will provide a smoke-free working environment for employees. Smoke is defined as coming from a lighted cigar, cigarette, pipe, or any other lit tobacco product.

ARTICLE 24
Awards and Recognition

SECTION 1. Recognition by performance and/or incentive awards is a means of improving employee morale, efficiency, and productivity.

SECTION 2. On an annual basis, at the request of the Union, Management shall furnish the Union a list of monetary awards made by AOML management to bargaining unit employees within the past fiscal year. This listing will include the name of the employee, the type of the award, and the dollar amount of the award, unless release of the information is prohibited by law. The Union will treat this information confidentially and will use it for representational purposes only.

SECTION 3. The parties recognize that much of the work at AOML is performed as a team effort that includes scientific, technical, and support staff. When the scientific staff is awarded for major accomplishments that support AOML's mission, Management will make efforts to ensure that other members of the team are also recognized and awarded for their contributions. Management may also elect to provide separate awards for the contributions of technical and support staff which significantly enhance the quality and efficiency of AOML's scientific mission.

ARTICLE 25
Employee Assistance Program

SECTION 1. Management agrees to post on a bulletin board information about the services available from the Employee Assistance Program (EAP). These services include such matters as family problems, child care, elder care, marital problems, alcohol and drug abuse, stress, legal consultation, and financial problems. The EAP contact point and means of contact will be posted on a bulletin board.

SECTION 2. An employee who is referred by AOML management to the EAP will be granted administrative leave for the initial counseling session. All other counseling sessions will be charged to the appropriate leave category (sick leave, annual leave, or leave without pay).

ARTICLE 26

Work Space and Furnishings

SECTION 1. Each employee's work space shall be furnished with furniture and equipment adequate for the performance of the employee's work.

SECTION 2.

A. In the event that new work space is acquired or constructed for the use of employees, or existing office space is consolidated or relocated, Management will make available to the Union for review or copying the following information as far in advance as possible:

- (1) The building or space specifications (before they are submitted to GSA or other responsible authority, if a GSA or other submission is required);
- (2) Any build-out request before it is submitted to GSA or other responsible authority;
- (3) Any building or space specifications approved by GSA or other responsible authority;
- (4) The building or space lease, if applicable; and
- (5) All decision documents and action plans Management intends to use in the process of acquiring, constructing, consolidating, or relocating space, unless prohibited by law, rule, or regulation.

B. Acquisition, construction, consolidation, and relocation of work space used by employees are subject to bargaining under Article 11, as are decisions concerning related interior design features.

ARTICLE 27

Workplace Technology

SECTION 1. The parties recognize that workplace technology is a critical tool for performing the work of AOML. Adequate, functioning technology, is essential for AOML to carry out its mission. Management agrees to make reasonable efforts to provide employees with necessary and appropriate workplace technology including ergonomic equipment that takes account of individual needs.

SECTION 2. The parties agree that successful office performance is dependent upon a complex and rapidly evolving workplace technology, and that both Management and bargaining unit employees benefit from ongoing training and use of the most relevant technology. To provide recommendations regarding acquisition and use of new office technology, a Joint Technology Committee is established.

A. Membership: The Joint Technology Committee (the Committee) will be determined by the Director of AOML or designee and the Union Steward or designee. The Committee will consist of equal number of bargaining unit and management representatives. Appointees should be persons with knowledge of and interest in technology.

B. Duties: The Committee shall investigate and make recommendations to Management on workplace technology, including but not limited to the following topics:

- (1) Workstation requirements;
- (2) Technological innovations;
- (3) Safety, health, and ergonomic requirements; and
- (4) Workplace technology training and assistance requirements.

C. Procedures: The Committee shall meet as often as necessary, no less than annually. Minutes of each meeting shall be taken and distributed to all employees.

ARTICLE 28
Duration and Term of the Agreement

SECTION 1. This Agreement shall be approved by the head of the agency within 30 days after it is executed by the parties. It shall be effective on the date it is approved by the head of the agency or, absent approval or disapproval, on the 31st day after execution. It shall remain in full force and effect for a period of three years from its effective date. It shall remain in effect from year to year thereafter until either party gives written notice of its desire to terminate, renegotiate, or amend the Agreement, or any part thereof. Such notice shall be served on the other party between 180 days and 120 days prior to the annual expiration date of the Agreement.

SECTION 2. Once notice is given under Section 1, the moving party must submit its proposal(s) to the other party not less than 90 calendar days before the expiration date. The party receiving the proposal(s) may submit counter-proposals and/or proposals to the other party during the next 30 day period. The parties shall begin negotiations no later than 30 days prior to the termination date. The Agreement will remain in effect until superseded.

ARTICLE 29

Ratification and Approval

SECTION 1. The Agreement is subject to ratification by Union members pursuant to the terms of the Union's Constitution and Bylaws. Ratification will be done within 21 days of completion of the tentative Agreement. Upon receipt of written notification from the NWSEO President that the Agreement has been ratified, the parties will execute the Agreement within seven days by having their chief negotiators sign and date the Agreement. If the Agreement is not ratified, the parties will renew negotiations within 15 days.

SECTION 2. The Agency head will review the Agreement within 30 calendar days from the date the Agreement is executed. If the Agreement is in accordance with 5 U.S.C. 7114(c) and other applicable law, rule, or regulation, the Agency head will approve it within the 30 calendar days from the date the Agreement is executed. Should any portion of the Agreement be disapproved by the Department within the 30 days after execution, the agreed-upon and approved portions will take effect irrespective of any disapproved provisions. The Union retains all rights under the law subsequent to agency head disapproval.

ARTICLE 30

Dues Withholding

SECTION 1. Employees who are members of the Union are permitted to pay dues through the authorization of voluntary allotments from their compensation. This article covers all employees:

- A. Who are members in good standing in the Union;
- B. Who voluntarily complete Standard Form 1187, Request and Authorization for Voluntary Allotment of Compensation, for payment of Employee Organization Dues; and
- C. Who receive compensation sufficient to cover the total amount of the allotment.

The provisions of this Article are subject to, and will be governed by, applicable Federal laws, rules, and regulations issued by the Office of Personnel Management, the Federal Labor Relations Authority, and the Department of Commerce, and will be modified by any future amendments thereto.

SECTION 2. The Union is responsible for:

- A. Purchasing and distributing Standard Form 1187;
- B. Notifying the NOAA Labor Relations Officer or designee, in writing of:
 - (1) Current authorized names and titles of officials who will make the necessary certification of Standard Form 1187 in accordance with this Article.
 - (2) Any change in the amount of dues to be deducted.
 - (3) Any employee who is no longer in good standing within ten days of the date of such determination.
- C. Forwarding properly executed and certified Standard Form 1187 to the NOAA Labor Relations Officer or designee, on a timely basis; Management's internal distribution system will not be used for this purpose.
- D. Keeping the NOAA Labor Relations Officer or designee, informed of the name, title, and address of the allottee to whom remittance should be sent. Until further notice, the remittance will be sent by electronic fund transfer to NWSEO's financial institution per Direct Deposit Sign-up Standard Form 1199A executed October 12, 1989.
- E. Keeping the NOAA Labor Relations Officer or designee, informed of the allottee to whom

checks shall be payable. Until further notice this will be:

National Weather Service Employees Organization
601 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004

SECTION 3. NOAA is responsible for:

- A. Permitting and processing voluntary allotment of dues in accordance with this Article;
- B. Withholding dues on a bi-weekly basis;
- C. Notifying the Union when an employee is not eligible for an allotment. The NOAA Labor Relations Officer or designee, is responsible for this notification;
- D. Withholding new amounts of dues upon certification from the authorized Union official;
- E. Transmitting remittance checks each pay period to the allottee designated by the Union, including a list of employees for whom deductions were made. Each remittance list shall include the name of each employee for whom a deduction has been authorized during the current pay period and:
 - (1) The amount withheld, and
 - (2) The reason for no deduction, such as, "wages inadequate," "organization cancellation," "employee separated," "temporary promotion," or "canceled due to promotion."

SECTION 4.

- A. The amount of the dues to be deducted as allotments from compensation will normally not be changed more frequently than once every 12 months.
- B. Management may provide reminders to employees of their anniversary date on their check stubs once each year.
- C. Administrative errors in remittance checks will be corrected and adjusted in the next remittance check to be issued to the employee organization. If the Union is not scheduled to receive a remittance check after discovery of an error, the gaining party agrees promptly to refund the erroneous remittance.

SECTION 5. The NOAA Labor Relations Officer or designee, will be responsible for coordinating the actions described under this Article prior to payroll processing. The effective

dates for actions under this Agreement are as follows:

Starting dues withholding: First pay period after date of receipt of properly executed and certified Standard Form 1187 by Payroll Office. An employee must remain on payroll deduction for one year after commencement of dues withholding.

Changes in amounts of dues: First pay period after receipt of certification in Payroll Office.

Revocation by employee: First pay period after receipt of properly executed (and countersigned by the NWSEO President) Standard Form 1188 or Request for Revocation Memorandum from the employee.

Termination due to loss of membership in good standing: First pay period after receipt of notification in Payroll Office.

Termination due to loss of exclusive recognition on which allotment was based: First pay period after date of receipt of notification in Payroll Office.

Termination of a dues allotment because of the employee's separation or movement outside the bargaining unit will be effective on the same date as the action to separate or move the employee.

SECTION 6. The Union is responsible for informing its members of the voluntary nature of the system for the allotment of employee organization dues and of the conditions under which the allotment may be revoked once a year. Employees may revoke their dues once a year by close of business on the employee's membership anniversary, but not earlier than the 14-day period immediately preceding that date. Timely and properly executed requests for revocation of dues shall be submitted to the Union, signed by the NWSEO President, and forwarded to the appropriate administrative support center for processing. An untimely request shall be returned to the employee.

SECTION 7. Union grievances on alleged violations of this Article will be submitted by the President, NWSEO, or designee, to the NOAA Labor Relations Officer or designee, within 30 calendar days of the action or condition giving rise to the action. Decisions by the NOAA Labor Relations Specialist or designee, shall be rendered in writing no later than 30 calendar days following receipt of the grievance.