
U.S. DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION

OFFICE OF GENERAL COUNSEL

and

NATIONAL WEATHER SERVICE
EMPLOYEES ORGANIZATION (NWSEO)

(ON BEHALF OF NWSEO REGION 8,
THE NOAA ATTORNEYS GUILD)

Second National Collective Bargaining Agreement
(Negotiated January, 2000)

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ARTICLE 1
Parties and Purpose of Agreement

SECTION 1. This Agreement is made between the Office of General Counsel (NOAA-GC), National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce (hereinafter "Management"), and the National Weather Service Employees Organization (NWSEO), on behalf of NWSEO Region 8, the NOAA Attorneys Guild (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 "NOAA-GC" as used in this Agreement means the NOAA Office of General Counsel or a successor office. The term "agency" means the National Oceanic and Atmospheric Administration or a successor agency. The term "employee" refers to attorneys who are members of the bargaining unit unless the context indicates otherwise.

SECTION 3. Whenever a provision of this Agreement requires notice to the Union or service of a document upon the Union, "Union" means the Region 8 Chairperson, NOAA Attorneys Guild, or a designee. If notice concerns matters affecting only one sub-office, it can be served on the local Union steward. Whenever a provision of this Agreement requires notice to Management or service of a document upon Management, "Management" means the General Counsel of NOAA 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.

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 April 10, 1995), Management hereby affirms the recognition of the Union as the exclusive representative of the employees in the bargaining unit as follows:

All attorneys employed by NOAA-GC, nationwide.

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

All management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(1), (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 each party agrees to such renegotiation.

SECTION 4. If the final day of a time period specified in this 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 Title 5, Chapter 71, United States Code, shall affect Management's authority --

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

B. 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.

(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. Taking into account Executive Order 12871 (58 FR 58201, October 6, 1993), Management may elect to negotiate the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, and the technology, methods, and means of performing work.

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 or Region 8 Chairperson, 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 the case of grievance or appeal procedures 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.

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. The parties agree to process information requests using the procedures and forms set forth in the Federal Labor Relations Authority memorandum entitled "Guidance on Investigating, Deciding and Resolving Information Disputes" dated January 5, 1996.

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 NOAA-GC attorneys on a semi-annual basis (October 1 and April 1). The roster shall consist of two lists: (A) attorneys included in the bargaining unit, and (B) attorneys not included in the bargaining unit. For attorneys in the bargaining unit, the roster shall include the job classification, grade, and step of each attorney. For attorneys not in the bargaining unit, the roster shall include the job classification and grade of each attorney.

SECTION 4. A Union steward or designee will be permitted up to 30 minutes to meet with each newly hired 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 Region 8 Chairperson, and such other persons as may be designated by them. The Union will provide to Management a current roster of Region 8 officers, stewards, and designees within 15 calendar days after final approval of this Agreement. The Union will notify Management immediately of any changes when they occur. Except for ad hoc designations, Region 8 officers, stewards, and designees shall not be recognized by Management until such rosters or changes thereto are received.

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 this 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 representational 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 scheduled with the written approval of the employee's supervisor. (If the use of official time involves a grievance against the employee's supervisor, the request should be made to the next 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 proper 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 employees 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. Reasonable use of office equipment and facilities for activities described in Section 2.A. on employee's personal time is also permitted, as long as such use does not interfere with the business of the office. "Reasonable use" is defined as making or faxing the minimum number of copies necessary for representational functions.

ARTICLE 8
Union Use of Facilities

SECTION 1. In each physically separate NOAA-GC suboffice location where employees are stationed, 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 NOAA. Management is not responsible for insuring the distribution of such written communications.

SECTION 3. Subject to the operating needs of NOAA, Management will permit use of its rooms for the purpose of local Union meetings. Written 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 NOAA, 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. In each physically separate NOAA-GC sub-office location where employees are stationed, 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 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) Suitability determination;
- (7) Non-adoption of a suggestion;
- (8) Matters excluded by law or government-wide rule;
- (9) Complaints or appeals from persons outside the bargaining unit; and
- (10) Filling of positions outside the bargaining unit, except for positions that are threshold to 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 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 decision 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 a representative designated by the Union (normally the local Steward). 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 the grievant. Except as provided in this subsection, Management shall not contact the grievant directly, either in writing or verbally regarding the matter grieved, if the grievant has a designated Union representative. If, during the course of a grievance, a Union representative contacts a management official, the representative will inform the official of his representational role and the purpose of the contact.

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 30 calendar days of the date the employee is affected, or becomes aware of (or should have become aware of) the action being grieved. 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 containing 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 General Counsel of NOAA, the General Counsel will issue the 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 General Counsel of NOAA, 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.

F. If the initial grievance was decided by the General Counsel of NOAA, he or she shall designate a NOAA official outside NOAA-GC to handle the appeal.

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. If disciplinary action is taken, an employee who responded to the notice of proposed disciplinary action shall be entitled to grieve the discipline by presenting a grievance appeal to the Management official designated by the NOAA General Counsel. If the employee did not respond to the notice of proposed disciplinary action, the employee may grieve the action by initiating a grievance at Step One.

SECTION 9. Union/Management Grievance Procedure.

A. Management grievances shall be initiated in writing by the NOAA General Counsel or designee and presented to the Union or its 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 Union or its designee, and presented to the NOAA General Counsel, or designee, within 30 calendar days of the action or condition giving rise to the grievance. Decisions by the NOAA General Counsel, 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 (NOAA General Counsel 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. The arbitrator shall apply Federal Rule of Evidence 615 on exclusion of witnesses. 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 of receipt of the arbitrator's award, the Union may submit a request for attorney fees. The Union's request shall be simultaneously served on Management. The Union's request must be accompanied by appropriate and customary documentation of fee entitlement. Within 15 calendar days of submission of the Union's request, Management shall submit its response, and serve it on the Union. The arbitrator may grant extensions of these time limits for good cause.

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 expense 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. If a proposed action for which negotiation is required is purely local, Management may provide the required notice to the local Union steward, and the Union may authorize the local Union steward to conduct the consultations or negotiations provided for in this article.

C. The results of negotiations under this section shall be reduced to writing in a Memorandum of Understanding (MOU), subject to agency head review. Disputes over the interpretation or application of an MOU will be resolved pursuant to the grievance procedure in Article 9.

D. 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.

E. 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 Union proposal to bargain, Management will respond 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 NOAA-GC 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 NOAA-GC to the appropriate successor departments and/or agency(ies) and/or office(s).

SECTION 5. Negotiations or consultations under this article will be telephonic unless the parties mutually agree otherwise.

SECTION 6. 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 specifically 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 NOAA-GC headquarters. They will be available for 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 and thereafter upon request.

SECTION 2. Management agrees to prepare, maintain, and make available to the Union a current office organization chart that clearly indicates supervisory responsibilities. When reorganizations occur in the office, Management agrees to update the organization chart to reflect the changes in organization, and to provide a copy to the Union.

SECTION 3. Management agrees to provide to the Union a copy of the annual office budget, after it has been approved by NOAA, including allocations (if any) between the various NOAA-GC suboffices.

SECTION 4. No later than 30 days after the effective date of this Agreement, Management shall furnish the Union 60 copies of the Agreement. Management shall also furnish a copy of the Agreement to any new employee.

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-GC. No disciplinary action shall be taken except for just and sufficient cause, and in accordance with all applicable laws and regulations.

SECTION 2. A. The parties are in agreement 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 management will suggest 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 a friendly, businesslike 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. Except in emergency situations involving a threat to life or property, any meeting between the employee and a Management representative will 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 will 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 or major adverse actions consist of suspensions for more than 14

days, removal, reduction in grade, or pay.

SECTION 5. A. Disciplinary actions will 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.

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 or adverse 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 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 served with a copy of the final decision.

SECTION 6. Letters of reprimand are temporary contents of the OPF. At the employee's written request, Management will remove any such document from the employee's OPF after two years if there have been no further disciplinary problems.

ARTICLE 14
General Workforce Performance Appraisal System

SECTION 1. The NOAA Performance Management System, NAO 202-430, and the Department of Commerce General Workforce Performance Appraisal System (GWPAS), DAO-202-430, serve as the basis for performing appraisals. NAO 202-432 serves as the basis for taking actions based on unacceptable performance. In addition to these existing and any superseding requirements and authorities, the rest of this article also applies.

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 rating official may exercise authority to change the disputed performance element and/or standard after discussion with the reviewing official. The employee may seek the assistance of the Union in making this presentation. Official time for preparation and presentation shall be provided to the employee and the representative, in accordance with Article 7.

SECTION 3. All employees will receive a performance appraisal, in accordance with the NOAA Performance Management System, which will be based on a comparison of the employee's performance with the standards and elements established for the appraisal period. Employees will receive complete copies of their Performance Plan, Progress Review, and Appraisal Records.

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. Reviewing officials shall review performance appraisals, recommended performance ratings, and any employee comments for those employees rated "does not meet expectations" to ensure that evaluation criteria have been applied fairly and equitably, and are objective and job-related. Any "does not meet expectations" rating must be supported by a written justification, with a copy to the employee.

ARTICLE 15
Reductions in Force and Transfers of Functions

SECTION 1. Procedures.

A. 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). Further, 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.

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 employees who may be affected by the action, 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 and how to select positions to be eliminated. Following the consultation, Management agrees to provide to the Union a copy of its input to the NOAA request for a RIF. Thereafter, Management will also provide to the Union a copy of the portion of the NOAA request pertinent to NOAA-GC, and copies of NOAA and DOC approvals of the request.

D. At the time a position abolishment 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 abolishment 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 annotated 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, and original service date; and the adjusted service date.

(3) Employees and/or their designated representative(s) will be permitted to review the applicable retention register so that the employee may consider how the competitive level was constructed and how the relative standing of the employee was determined.

(4) Employees' performance ratings of record relevant to the issuance of specific RIF

notices will be submitted to the servicing personnel office in sufficient time for retention standing to be determined. The due date would ordinarily be no more than 15 calendar days prior to the issuance date of specific notices.

(5) When employees affected by RIF are in the same competitive level with the same length of service as computed under 5 C.F.R. 351.503, as augmented by credit for performance under 5 C.F.R. 351.504, and the same subgroup, ties will be broken in the following order: (1) length of service in NOAA-GC; (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 conduct a cost study to determine if options other than a RIF are available to produce the necessary cost savings. A copy of the study will be provided to the Union.

SECTION 2. Use of Vacancies.

In the event that Management determines a RIF is necessary, Management will utilize vacancies to mitigate adverse effects on employees, as follows.

A. Management will maintain a current list of vacant positions in the bargaining unit nationwide. Management will use vacancies, to the maximum extent possible and practicable, to avoid or lessen the impact of the RIF within the affected competitive area at the onset of and during the RIF, by making job offers to an individual within the competitive area who is affected by position abolishment. Efforts will first be made to reassign an employee to a position within his or her competitive area.

B. If no reassignment option is available within the affected competitive area, efforts will be made to reassign the employee to a vacancy outside the competitive area. Costs of relocation will be paid under applicable government regulations. For an employee who has received a RIF notice but who has not yet been separated due to a RIF, costs for relocation will be paid in an amount not to exceed the severance pay to which the employee would otherwise have been entitled if that employee were separated by RIF.

C. An offeree of a vacant position may decline the offer without any prejudice to the employee's other RIF rights and options. An offer of a vacant position shall be held open for ten calendar days to allow the offeree time to evaluate the offer and accept or reject.

D. Management will make a reasonable effort to train an employee affected by a RIF, where necessary for reassignment in lieu of separation.

E. When Management decides to fill a vacancy in the bargaining unit (and the vacancy has not already been filled pursuant to subparagraphs A. or B.), it shall consider for the position any qualified employee who has been terminated in a RIF. Reemployment consideration for the employee separated by RIF will be provided for up to three years. To fulfill this obligation, Management will establish a reemployment priority list of employees separated because of a RIF. Insofar as possible, persons rehired from the reemployment priority list will be paid at the same grade and step as at the time of termination.

F. Management may waive non-mandatory OPM qualifications standards (if applicable) if the offer to a vacant position is in lieu of separation.

SECTION 3. Employment Placement Assistance.

A. It is Management's objective to offer employment placement assistance to employees adversely affected by RIFs. This includes employees who are unable to accept assignment to another commuting area. Eligibility for employment placement assistance begins on the date a specific RIF notice is issued, and, except for ongoing services specified below, ends on the effective date of the RIF action.

B. Management will maintain a file of resumés submitted by employees who have received RIF notices or who have been separated. The Servicing Human Resource Office will maintain a file of current vacancy announcements provided by other Federal government offices. Management will request the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, and the Department of Justice to provide announcements to these offices.

C. Employees who are separated due to RIF will have access to the bi-weekly publication "Federal Career Opportunities," published by Federal Research Service, Inc., through the NOAA Servicing Human Resources Office. If a separated employee who does not have access through an HRO so requests, NOAA-GC will purchase a one-year subscription for that employee.

D. Within the constraints of time and budget, NOAA will provide the following additional 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; and financial planning.

E. Employees who receive a specific RIF notice shall be granted a reasonable amount of administrative leave to obtain information regarding unemployment benefits and/or to contact job placement and employment agencies and potential employers.

SECTION 4. Waiver.

During the term of this Agreement, all RIFs will be conducted in accordance with the Agreement and applicable regulations. Nothing will waive the right of the Union to negotiate on the impact or implementation of any individual RIF with respect to matters not specifically covered by this Agreement, except that a waiver may be made in a written document signed and dated by both parties that states that it is a waiver, and specifically describes the nature and extent of the waiver, and its legal basis.

ARTICLE 16 Details/Temporary Promotions

SECTION 1. Temporary promotions may be made when the following requirements are met:

- A. The actual time in the higher grade position to which an employee is assigned or detailed is more than 120 consecutive work days.
- B. Performance of the higher grade position is not a factor that was taken into account in the classification of the employee's present position.
- C. The employee meets all Federal and position requirements.

SECTION 2. An employee who is assigned to a position of higher grade duties for more than 120 consecutive work days will be temporarily promoted and receive the rate of pay for the position to which he or she has been assigned for the entire period of the assignment.

SECTION 3. All temporary promotions of more than 120 working days will be documented by Standard Form 52.

SECTION 4. In the event that it becomes necessary to detail an employee from one bargaining unit position to another, Management agrees that it will solicit and consider qualified volunteers first, subject to the operational and workload needs of the office and budgetary constraints.

ARTICLE 17
Training and Career Development

SECTION 1. 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 three members, one appointed by the Union and two appointed by Management.

C. The Committee shall investigate training and career development opportunities, arrange for the distribution of training and career development information, consult with NOAA-GC employees concerning their interests and ideas, and make recommendations to the Union and Management concerning training and career development programs and policies.

D. The Committee shall confer as often as necessary, but no less than four times a year. If budgetary resources are available, the Committee should meet at least once a year. Minutes of each meeting shall be taken and distributed to Management and all employees, whether in the bargaining unit or not. Recommendations may be by consensus or in majority and minority reports.

SECTION 2. A. At the beginning of each fiscal year or when NOAA-GC has been provided its final budget for that fiscal year, whichever is later, Management may assign a budget to each GC suboffice for training. Allocation of any training budget will be based on:

- (1) NOAA-GC budget for that fiscal year;
- (2) Number of NOAA-GC employees in the suboffice;
- (3) Availability of funds from other sources such as clients or special funds; and
- (4) Other work-related criteria, as appropriate.

B. If a GC suboffice budget is not adequate to fund training for all NOAA-GC employees in that suboffice, those employees not receiving funded training in one fiscal year will receive consideration in the following fiscal year.

C. For purposes of this section, "GC suboffice" means the subject matter office to which an employee is assigned, regardless of the geographic location.

SECTION 3. 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' legal knowledge, skills, abilities, or potential, to the end that each employee will be able to schedule at least 15 hours of training per year.

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 grant or deny such a request, depending on the relevance of the training and demands of office workload.

C. Management will grant administrative leave to employees to attend training that is approved but not funded by Management as valuable to the agency's mission and the employees' performance.

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. Unless such a course is not offered in the employee's commuting area, the employee should attend a course in his or her commuting area. Depending on budgetary constraints, Management may reimburse the employee for all authorized expenses related to such training. 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. Unless such a course is not offered in the employee's commuting area, the employee should attend a course in his or her commuting area. Depending on budgetary constraints, Management may reimburse the employee for all authorized expenses related to such training.

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

ARTICLE 18
Equal Employment Opportunity

SECTION 1. Employees shall receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or disabling condition, and with proper regard for their privacy and constitutional rights.

SECTION 2. A. An employee who believes that he or she may be the victim of prohibited discrimination may file either a formal EEO complaint with the agency, or a grievance under Article 9, but not both. The employee shall not be deemed to have selected the EEO complaint alternative merely because he or she has discussed the matter with an EEO counselor, but shall be deemed to have selected the EEO complaint alternative at the time he or she files a formal discrimination complaint. Any employee who has filed an equal employment opportunity complaint or a grievance that alleges discrimination shall be free from coercion, interference, or reprisal.

B. Any meeting requested by or initiated by the NOAA Office of Civil Rights is not considered a formal discussion for purposes of Article 6, Section 2, of this Agreement. Management is not obligated to notify the Union. However, the employee may elect to be accompanied by a representative, who may be a Union representative.

SECTION 3. The names, addresses, and phone numbers of all EEO counselors who are authorized to accept informal EEO complaints from employees will be conspicuously posted in each office where employees are stationed. Such a list will be kept current.

SECTION 4. Nothing in this article expands or contracts any employee's rights under the Equal Opportunity Act of 1972.

ARTICLE 19

Leave

SECTION 1. General. Various forms of leave are generally governed by applicable laws and regulations. The purpose of this article is to set forth certain understandings between the parties concerning the administration of annual leave, parental and family leave, bereavement leave, and leave related to emergencies. It does not substitute for legal or regulatory authorities, nor does it diminish any right of Management.

SECTION 2. Annual Leave.

A. Employees are entitled to take annual leave subject to the operating needs of the office. During each leave year, reasonable efforts will be made to grant each employee at least two consecutive weeks of annual leave, or three consecutive weeks of annual leave for employees earning eight hours of annual leave per pay period.

B. Requests for and approval of annual leave shall be made in writing as far in advance as practicable. Requests for annual leave shall be made directly to the employee's immediate supervisor, or supervisor's designee(s) in the absence of the supervisor.

C. Management may grant employees advanced annual leave when:

- (1) The employee is eligible to earn annual leave;
- (2) The employee has served more than 90 days in the current appointment;
- (3) The employee submits a request in writing on the approved form;
- (4) The request does not exceed the amount of annual leave the employee would earn during the remainder of the leave year; and
- (5) The employee will be in a duty status long enough to repay or liquidate the advanced leave granted.

SECTION 3. Parental and Family Leave.

A. As provided by law, an employee is entitled to a total of 12 administrative weeks of unpaid leave during any 12-month period.

B. In accordance with applicable statutes, regulations, and Federal guidelines, a female employee may be absent on leave for maternity purposes. The length of such absence shall be determined by the supervisor and employee in consultation with the employee's physician. She may use sick leave (with adequate medical certification), annual leave, or leave without pay to the extent that she has leave (including "donated" leave) available, and meets the requirements for use of such leave.

C. The employee shall make known her intent to request leave for maternity reasons, indicating the type of leave and approximate dates, at least 30 calendar days in advance of the leave date, to allow the office to prepare for any staffing adjustments that may be necessary.

D. No arbitrary date requiring a pregnant employee to cease work or to prevent her from returning to work after childbirth will be established. Normally these decisions will be made by the employee in consultation with her physician.

E. A male employee may be absent on annual leave or leave without pay for up to 14 days for purposes of aiding, assisting, or caring for the mother of his child or minor children while the mother is incapacitated for maternity reasons. A male employee may also request additional annual leave or leave without pay. Sick leave, for purposes of meeting family responsibilities, may also be used consistent with applicable law and guidelines.

F. Employees may request leave for periods of absence for certain family and medical reasons as provided in applicable law including the Family and Medical Leave Act of 1993, the Federal Employees Family Friendly Leave Act, and the Treasury, Postal Service and General Government Appropriations Act for Fiscal Year 1995. If the necessity for such leave is foreseeable, employees shall provide Management with no less than 30 days notice. If the necessity is not foreseeable, employees shall provide notice as soon as practicable. To be eligible for leave under the Family and Medical Leave Act of 1993, an employee must have completed at least one year of civilian service with the government. Copies of the above listed "family friendly" leave acts, as well as applicable NOAA and NOAA-GC guidelines, will be maintained in each NOAA-GC office location.

(1) Leave for parental and family responsibilities consists of appropriate combinations of annual leave, sick leave, or leave without pay. Sick and annual leave may also be advanced to employees, in accordance with applicable regulations. Leave without pay may be requested and granted without exhausting all other leave categories. Leave for adoption may be annual leave, leave without pay, or sick leave. Management agrees to administer all such leave requests equitably and reasonably, taking into consideration both the needs of the employees and the organization.

(2) Management will assure continued employment for an employee for whom extended leave has been approved who wishes to return to work, unless termination is otherwise required by expiration of appointment, by RIF, for cause, or for other reasons unrelated to the absence. The employee will be returned to the position formerly occupied, or, to the maximum extent practicable, to a position within the same commuting area of like seniority, status, and pay.

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

(4) When an employee requests leave:

- (a) In order to care for a spouse, son, daughter, or parent of the employee who has a serious health problem, or
- (b) Because of a serious health condition that renders employee unable to perform his or her job responsibilities,

Management may request certification from the health care provider pursuant to 5 U.S.C. 6383.

G. When a pregnant employee, after consultation with her physician, requests a temporary modification of her job duties, or a temporary assignment to other available work for which she is qualified, Management shall make a reasonable, good faith effort, consistent with staffing needs, to accommodate her request. The employee must present an acceptable medical certificate supporting her request.

SECTION 4. Leave for Bereavement. In accordance with this Agreement, applicable law including the Federal Employees Family Friendly Leave Act, and applicable regulations, an employee will 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 5. Emergencies. When it becomes necessary to close an office location because of

inclement weather or an emergency situation (such as heavy snow, severe icing conditions, flood, earthquake, hurricane, major fire, civil disturbances, bomb threats, or massive power failures), employees (except for essential employees) will be granted administrative leave if they cannot be relocated. When such an event occurs, Management will provide timely notice to the affected office(s) that administrative leave has been declared. If such an event occurs, and affected employees have not been notified that administrative leave has been declared, they may request administrative leave. Upon such a request, Management shall immediately furnish the affected employees with a response by both the agency official empowered to make declarations of emergency situations, and the NOAA-GC management official empowered to grant administrative leave in the affected office location. If the response is oral, and the decision is to deny administrative leave, the denial shall be placed in writing with a statement of the reasons therefore.

SECTION 6. Personal Business. The parties recognize that employees occasionally will need to conduct personal business during work hours, whether in the office or away from the office. Except for brief telephone calls and absences, time spent on personal business is not compensable, and must be charged to annual leave, credit hours, or compensatory time.

ARTICLE 20
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 with the employee. For employees choosing not to participate in a maxiflex work schedule, the basic work week for all full-time employees in the Department of Commerce is 8:30 a.m. to 5 p.m., Monday through Friday, including a non-compensable lunch period of 30 minutes. An employee cannot "work" through lunch to modify his or her established schedule.

SECTION 2. Determinations.

A. Management will continue to have responsibility for seeing that the mission of NOAA-GC is carried out. Subject to the overall direction of NOAA-GC, supervisors in each suboffice will determine adequate coverage during official hours for the purpose of assuring that office functions are fulfilled, including providing representation at essential meetings, handling inquiries from clients, and responding to program needs. When coverage requirements are established, all employees are required to meet them.

B. Each supervisor shall decide which of his or her employees, if any, are eligible to participate in a flexible work schedule. In making that determination the supervisor shall consider the needs of the clients, adequate legal coverage in the office, type of work done by the employee, and the past performance of the employee. Where practicable, personal preference will be honored in scheduling coverage. 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.

C. The supervisor will designate core hours and flexible timebands for the suboffice.

SECTION 3. Abuse.

Any problems of individual abuse of a maxiflex work schedule or timekeeping systems will be reviewed and acted upon by Management. Such action may include excluding an employee from a flexible work schedule, modifying the schedule, or changing the method of timekeeping for that employee.

SECTION 4. 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.

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 5. Implementation.

As soon as possible following the effective date of this Agreement, and subject to NOAA-GC approval, NOAA-GC suboffices will develop and implement suboffice-specific maxiflex work schedule plans based on the needs of each particular suboffice. These plans will be developed by the suboffice supervisor in consultation with the participating employees in each suboffice, and, to the maximum extent practicable, with regard for each employee's individual scheduling preferences. Individual employees will seek and must obtain their supervisor's approval for any revisions to their initial schedules. Supervisors may require weekly posting of schedules if necessary for the proper functioning of the suboffice.

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(c). Suboffice maxiflex work schedule plans are subject to periodic review, and may be modified as needed.

SECTION 8. Part-time career employment.

A. Part-time career employment is an option for Federal employees, as set out in the Federal Employees Part-time Career Employment Act of 1978 ("the Act"), 5 U.S.C. 3401 et seq., Office of Personnel Management (OPM) Guidelines, 5 C.F.R. Part 340 (Other than Full-Time Career Employment), OPM Federal Personnel Manual System Letter 340-3, and Department of Commerce Department Administrative Order 202-340 (Part-time Career Employment Program).

The Act states that part-time permanent employment is beneficial for older people, handicapped individuals, parents, and students, as well as providing benefits to the government as an employer and society in general. The purpose of the Act is to provide increased part-time employment opportunities in the Federal government.

B. Management agrees that part-time career employment is a viable option for bargaining unit employees. Part-time employees are eligible for the same benefits as full-time employees, including leave, retirement, and health and life insurance coverage. Part-time employees will be treated equally with full-time employees for purposes of promotions, awards, and all other aspects of career employment. Management and the Union agree to promote and encourage part-time career employment, consistent with DAO 202-340.

ARTICLE 21
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's needs. Examples of the benefits of working at alternative sites are listed in NOAA's Flexiplace Pilot Program (November 3, 1995). Offsite work must comply with the provisions of Articles 20 (Work Schedules) and 22 (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 Guidelines for Flexiplace Participation (Flexiplace Pilot Program, April, 1994) and the NOAA Supplemental Guidelines (NOAA Flexiplace Program Guide, November 3, 1995). An employee working at an alternative work site shall have executed the "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.

ARTICLE 22
Overtime and Compensatory Time

SECTION 1. The parties believe that the mission of NOAA/GC is best served when employees balance their work duties with their personal responsibilities and pursuits. They agree that 80 hours per pay period is the norm for full-time employees. Employees should be able to accomplish routine work assignments within that schedule. On occasion, in unusual circumstances, Management may require an employee to work more than 80 hours in a pay period. Examples include responding to natural resource emergencies, meeting litigation deadlines, and participating in administrative hearings, Regional Fishery Management Council meetings, or negotiations.

SECTION 2. Employees should notify their supervisors as far in advance as possible of any situation that may require overtime work. A supervisor may order and approve in writing up to ten hours per pay period of overtime work. The NOAA General Counsel or a designee must order and approve in writing any overtime work in excess of ten hours per pay period.

SECTION 3. Hours of overtime work will be compensated by granting compensatory time off in lieu of overtime pay, in accordance with applicable law.

SECTION 4. Employees accruing and using compensatory time will account for such use in accordance with applicable timekeeping procedures.

ARTICLE 23

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.

SECTION 2. It is the responsibility of each employee to minimize the cost to the government of official travel. Out-of-town meetings and conferences will be scheduled, whenever possible, so as to permit the employee to depart his or her residence no more than two hours prior to the time they regularly depart for work and to return home no later than two hours after they regularly return from work. If that cannot be accomplished, it is permissible to depart a day earlier or return a day later than the meeting or conference. It is the responsibility of the employee to schedule travel so as to minimize unproductive time and the need for overnight accommodations.

SECTION 3. Time spent in a travel status during regularly scheduled work hours is considered compensable time. Time spent in travel status outside of regularly scheduled work hours is not considered compensable time, unless otherwise authorized by law. Supervisors have discretion to authorize administrative leave on the day following travel, if an employee took an overnight flight that saved travel funds by avoiding the cost of a hotel room.

SECTION 4. All employees shall enroll in all appropriate airline frequent flyer programs. All employees shall keep a log of mileage earned from official travel and inform their supervisor whenever they become qualified for a free ticket. The supervisor may require the employee to transfer a free ticket to another employee or co-worker if the airline program so allows.

SECTION 5. Rental cars shall be obtained only for official use in situations where public transportation is inadequate or when the overall cost of travel would be reduced by using a rental car. Employees attending the same meeting will share rental cars whenever practicable. Except in an emergency, persons who are not agency employees shall not be permitted to drive rental cars obtained for official use.

ARTICLE 24
Safety and Health

SECTION 1. This Article applies only to NOAA workplaces.

SECTION 2. A. Management will provide a safe and healthy work environment for employees. Management will comply with all applicable requirements for the abatement of unsafe and unhealthful conditions, including inspection and reporting requirements.

B. If an employee has reason to believe that an unsafe or unhealthful condition exists or may exist at his or her workplace, then that employee shall notify his or her supervisor and the Union immediately. Management will refer the complaint to the appropriate individual or office for investigation and, if necessary, correction, and shall notify the Union when such referral has been made.

C. In this Article, "notify" and "notification" mean, where time permits, written notification. Where time does not permit, notification may be made in person or by telephone call. Oral notification shall be memorialized in writing (e-mail is acceptable) within 5 days. Notification under this Article does not relieve Management of its obligations under Article 11.

D. Within 10 days after referral, as provided in Section 1.B. above, or within 10 days of having knowledge of an existing or potential unsafe or unhealthful condition that would affect employees, Management shall make best efforts to provide to the Union a description of the unsafe or unhealthful condition and its cause(s), identification of affected employees, the location of the problem, a summary of steps being taken in the interim to protect employees from being injured by the unsafe or unhealthful working conditions, a description of the actual or proposed remedy, the basis for such remedy, the proposed schedule for corrective action, and the proposed followup schedule, and to supplement this information in order to keep it correct and current. This information will be provided in writing or by such other means of communication as the parties may agree. In case of an emergency requiring immediate corrective action, Management shall provide this information to the Union within 10 days after the corrective action begins.

SECTION 3. When an employee believes that his or her health has been adversely affected by conditions in the workplace, that employee will provide medical documentation to Management. When, in Management's judgment (taking into account medical documentation submitted by the employee), it becomes necessary to remove an employee from a work area because of conditions or practices in the work area that pose a threat to the employee's health or physical safety, Management agrees to consider all reasonable options to provide the employee with an alternative work site, including off-site locations.

SECTION 4. When Management becomes aware of a possible violation of any health or safety

standards in the workplace that may pose a threat to an employee's health or physical safety, Management shall immediately notify both the Union and the affected employee(s) of the violation.

SECTION 5. Management agrees to assure that no employee will be subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by 29 U.S.C. 668, Executive Order 12196, or 29 C.F.R. Part 1960.

SECTION 6.

A. Employees are required to report immediately to their supervisors any accident or injury, major or minor, that occurs on the job. When an employee becomes ill or injured in the performance of his or her duty, the employee must advise the supervisor as soon as possible. In cases where the employee is medically unable to contact his or her supervisor, a family member or 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 7.

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 or substances are to be used in buildings, or that conditions may exist in a building that may adversely affect employees' work areas or health, Management will provide as much advance notice as possible to the Union and to the affected employees.

C. If an employee's supervisor or other authorized individual determines that such construction, space modification, use of paint, pesticides, glues or other chemicals or substances, or the

existence of other condition[s], substantially interferes with or may substantially interfere with an employee's ability to perform work-related responsibilities, the supervisor shall provide alternative work space for the employee.

SECTION 8. When an employee who suffers a job-related injury or illness goes to a medical facility for treatment, Management will accept a written determination made by a competent medical authority at the facility as to the diagnosis, any prognosis, and whether the employee is able to work.

SECTION 9. NOAA GC offices will comply with Executive Order 13058 (August 9, 1997) on a smoke-free environment.

SECTION 10. Management will provide a copy of the Agency's occupational safety and health program, and a copy of applicable safety and health standards, to the Union as required by 29 C.F.R. Section 1960.12 (a).

SECTION 11. A Union steward or his or her designee shall be given an opportunity to accompany safety and health inspectors during a physical inspection of any NOAA GC workplace, as required by 29 C.F.R. Section 1960.27(a).

SECTION 12. Upon the request of either Management or the Union, Safety and Health Committee(s) may be formed to address safety and health concerns related to NOAA GC workplace(s). Management and the Union will each designate one representative to the committee(s). The names of the representatives will be publicized to the employees and to the appropriate officials.

SECTION 13. Upon request from an employee, Management will provide a lock for the door of the employee's individual workspace. A copy of the key for that lock must be maintained in the NOAA GC office so that an employee's co-workers or supervisor will have access to the employee's workspace for work-related reasons. For an employee in a cubicle or an open space office arrangement, Management will provide a lockable cabinet or file upon request.

ARTICLE 25

Awards

SECTION 1. Recognition by performance and/or incentive awards is a means of improving employee morale, efficiency, and productivity, and encouraging a team approach to the achievement of Agency goals.

SECTION 2. A. Management shall ensure that each attorney has a fair and equitable opportunity to receive a performance and/or incentive award.

B. At the beginning of each employment rating period, the supervisor and the employee shall identify a list of job elements or performance goals the achievement of which will support or justify the award of a performance and/or incentive award.

SECTION 3. By February 15 of each year, Management shall furnish the Union a list of awards made to bargaining unit employees within the preceding calendar year. This list will include the name of the employee, the nature or title of the award, a brief description of the substance of the award, and the dollar amount of the award, if any, unless release of the information is prohibited by law.

ARTICLE 26

Official Personnel Folders

All employees, and/or their duly authorized representatives, shall have a reasonable opportunity to review the contents of their own official personnel folders, and to be furnished a copy of documents therein.

ARTICLE 27
Employee Assistance Program

SECTION 1. Management agrees to post on a bulletin board in each NOAA-GC suboffice 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 in each office. When an employee requests assistance from the EAP, Management shall make reasonable efforts to help the employee obtain needed services.

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

ARTICLE 28
Office Space and Furnishings

SECTION 1. Management agrees that private offices are the norm for attorneys, and agrees to make best efforts to maintain existing private offices. If NOAA-GC offices relocate, and subject to budgetary constraints and physical constraints of the space to be occupied, Management will make best efforts to provide a private office to each employee.

SECTION 2. Each employee's office shall be furnished with furniture and equipment adequate for the performance of the employee's work.

SECTION 3. A. In the event that new office space is acquired or constructed for the use of employees, or existing office space is consolidated or relocated, Management will provide to the Union the following information as far in advance as possible:

- (1) A copy of the building or space specifications (before they are submitted to GSA or other responsible authority, if a GSA or other submission is required);
- (2) A copy of any buildout request before it is submitted to GSA or other responsible authority;
- (3) A copy of any building or space specifications approved by GSA or other responsible

authority;

(4) A copy of the building or space lease, if applicable; and

(5) A copy of all decision documents and action plans Management intends to use in the process of acquiring, constructing, consolidating, or relocating space.

B. Acquisition, construction, consolidation, and relocation of office space used by employees are subject to bargaining under Article 11, as are decisions concerning related interior design features such as carpeting, carpet tile, and wall finishes.

ARTICLE 29
Legal Research Materials

SECTION 1. In order to provide high quality legal services to agency clients, and to enable attorneys to competently perform their work, Management agrees to make best efforts to provide all attorneys convenient access to the basic legal research materials necessary for the performance of the employees' presently assigned duties and proposed assignments.

SECTION 2.

A. At the beginning of each fiscal year or when NOAA-GC has been provided its final budget for that fiscal year, whichever is later, Management will assign a budget to each GC geographic suboffice where employees work for the purchase of legal research materials. The attorneys in each GC geographic suboffice will make recommendations on how to expend that budget. The budget allocated by Management will be based on the following considerations:

- (1) NOAA-GC budget for that fiscal year;
- (2) Availability of funds from other sources such as clients or special funds;
- (3) Legal research materials already (either hard copy or computer accessible) in each GC geographic suboffice; and
- (4) Availability of legal research materials in nearby libraries.

B. For purposes of this section, "GC geographic suboffice" means those offices located in the same building or contiguous buildings (i.e., Silver Spring Metro Center Buildings One through Four) in the same geographic location.

SECTION 3. If budgetary resources are available for this purpose, Management will provide each employee with an annual budget for the purchase of legal research materials specific to his or her own workload, for use at his or her workstation.

ARTICLE 30
Workplace Technology

SECTION 1. The parties recognize that workplace technology is a critical tool for performing the work of NOAA-GC, and that without adequate, functioning technology, the office cannot carry out its mission to provide timely legal services to NOAA clients. The parties recognize that technology used by attorneys in the bargaining unit is a significant supplement to the available services of paralegals, secretaries, and other support personnel. Office technology allows the attorneys to perform many support tasks associated with their work, create their own work product, and produce far more work than they could otherwise do. Management agrees to make best efforts to provide employees with necessary and appropriate workplace technology, including ergonomically sound 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 education, experimentation, and use of the most relevant technology. As needs arise, a joint union - management technology committee will be established to make recommendations regarding NOAA GC's acquisition and use of office technology.

ARTICLE 31
Beeper

Management may require employees to carry and respond to "beepers" or cell phones while they are in a duty status or non-duty status. When such employees are not in a duty status, they will be in an on-call status. Time spent during on-call status responding to an emergency notified by beeper or cell phone will be counted as call-back overtime, if performed in the office (but not including commuting time); or irregular or occasional overtime, if performed by telephone from another location.

Article 32
Voluntary Employee Organizations

SECTION 1. Any employee who is a member of any governing body of a recognized voluntary employee organization (such as the NOAA Voluntary Action Committee, Blacks in Government, and government-supported child-care and fitness centers) shall be allowed up to two hours per month of administrative leave to attend meetings of that body.

SECTION 2. Management may reimburse any employee for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with the agency's existing or proposed provision of child care services. [Reference Public Law 103-329 (September 30, 1994), Section 603.]

ARTICLE 33
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 120 calendar days before the expiration date. The party receiving the proposal(s) may submit counterproposals and/or proposals to the other party during the next 45 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 34
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 45 days of completion of the tentative Agreement. Upon receipt of written notification from the NWSEO Region 8 Chairperson 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 approve 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. 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 35
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 Office 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 Office on a timely basis; Management's internal distribution system will not be used for this purpose.
- D. Keeping the NOAA Labor Relations Office 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 Office 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 office 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;
 - (2) The employee's Social Security Number; and
 - (3) 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 Office 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 due to separation or movement to an area not covered by this Agreement: First pay period after date of receipt of notification in Payroll Office.

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 Specialist within 30 calendar days of the action or condition giving rise to the action. Decisions by the NOAA Labor Relations

Specialist shall be rendered in writing no later than 30 calendar days following receipt of the grievance.

For Management

Redacted
Chief Negotiator

Date

Approved by:

Redacted
NOAA General Counsel

Date

For the Union:

Redacted
Chief Negotiator

Date

Redacted
President, National Weather Service
Employees Organization

Date