

Collective Bargaining Agreement
Between
National Oceanic & Atmospheric Administration
National Marine Fisheries Service
Alaska Fisheries Science Center and
Northwest Fisheries Science Center
And
International Federation of Professional and Technical Engineers
Local 8A
Fisheries Chapter

This Collective Bargaining Agreement is entered into by and between the National Oceanic and Atmospheric Administration Alaska Fisheries Science Center and Northwest Fisheries Science Center, hereinafter referred to as Management, and the International Federation of Professional and Technical Engineers, Local 8A, as the exclusive representative of all full-time and part-time non-supervisory personnel of the Centers, hereinafter referred to as the Union.

For Management:

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Signed

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Article 1: General Provisions

Section 1. Parties

This Collective Bargaining Agreement (CBA) is entered into by and between the National Oceanic and Atmospheric Administration (NOAA) Alaska Fisheries Science Center and Northwest Fisheries Science Center, hereinafter referred to as Management, and the International Federation of Professional and Technical Engineers (IFPTE), Local 8A, as the exclusive representative of all full-time and part-time non-supervisory personnel of the Centers, hereinafter referred to as the Union.

Employees excluded from the Unit are vessel employees, employees of the Auke Bay Laboratories, management officials, supervisors, guards, persons engaged in Federal personnel work in other than purely clerical capacity and/or short term temporary employees (less than 90-day appointment).

Section 2. Purpose

This agreement defines certain roles and responsibilities of the parties; states policies, procedures and methods that govern working relationships between the parties; and identifies subject matter of proper mutual concern to the parties. They have entered into the agreement primarily for the following reasons:

1. To advance employee participation in the formulation and implementation of personnel policies and procedures.
2. To facilitate the adjustment of grievances, complaints, disagreements and impasses.
3. To provide for systematic employee-management cooperation.
4. To promote the highest degree of efficiency and responsibility in the accomplishment of their respective objectives.

Section 3. Common Interests

Management and the Union agree to support certain common interests. These interests include the following:

1. To help prevent hazards to life, property, and health;
2. To constantly strive through joint efforts to improve the quality and quantity of work produced by the organizations involved;
3. To maintain and improve the quality of superior employee communications on technical and personnel matters of concern;
4. To maintain and stimulate attitudes of cooperation which will increase the efficiency of all employees;
5. To promote the judicious use of leave by every employee;
6. To eliminate the conditions which prompt grievances and misunderstandings;
7. To improve employment conditions through joint suggestions and resolutions of problems;
8. To encourage improved morale of all employees in the service, and
9. An increased effort to conserve materials, supplies and equipment used by all activities covered by this agreement;

Section 4. Intent and Purpose

The parties having as their intent and purpose to promote and improve the efficiency and effectiveness of administration in the Federal Service and the well-being of its employees, agree to the establishment of orderly procedures for joint consultation and negotiation on matters of proper mutual concern which are permitted by applicable laws, regulations and policies. It is recognized by both parties that they must exercise restraint and good judgment to establish the constructive relationship which this agreement is designed to bring about. It is further recognized that the public interest in the accomplishment of the purpose of the agency mission is paramount.

Section 5. Time Frames

All time periods specified in this agreement as "days" refers to calendar days. Any time requirements identified in this agreement can be extended by mutual written consent of all parties unless precluded by law, rule or regulation.

Article 2: Mutual Rights and Obligations

Section 1. Management Rights

Management has the right, consistent with applicable laws and regulations:

1. To determine the mission, budget, organization, number of employees and internal security practices of the agency;
2. To hire, assign, direct, lay off, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
3. To assign work, to make determinations with respect to contracting out, and to determine the personnel by which the agency operations shall be conducted;
4. 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.
5. To take whatever actions may be necessary to carry out the agency mission during emergencies; and,
6. To determine the numbers, types, and bands or grades of employees or positions assigned to any organizational subdivision, work project, tour of duty, or the technology, methods or means of performing work.

Management agrees to bargain over implementing procedures and impact of any decision involving a management right using procedures outlined in Article 5, Section 1.

Section 2. Matters in Conflict with Agreement

It is agreed that the administration of all matters covered by this agreement shall be subject to the provision of applicable existing or future laws and regulations to the extent that if any of the provisions of this agreement are not in accord with such laws and regulations, the provision(s) shall be of no effect and new language will be developed in accordance with Article 5, Section 1. To the extent that provisions of any activity, instruction, or directive within the discretion of Management may be in conflict with this agreement, the provisions of this agreement shall govern.

Section 3. Employee Rights

Employees shall have the right, freely and without fear of penalty or reprisal, to organize or join, or to refrain from joining any lawful employee organization. No employee will be required by this agreement to join or remain a member of the Union or to pay money to the Union except pursuant to a voluntary, written authorization by a member for the

payment of dues through payroll deductions. No interference, restraint, coercion, or discrimination shall be practiced within the unit by Management to encourage or discourage membership in any employee organization. Management shall take action, consistent with regulations, as may be required to ensure that no interference, restraint, coercion or discrimination is practiced within the Service to encourage or discourage membership in any employee organization.

Section 4. Employee Participation

Management shall make reasonable efforts to educate all employees to the fact that management recognizes that participation by Federal employees in the formulation and implementation of personnel policies, practices and procedures which affect them in their work, improves employee morale and contributes to the effectiveness of the public service.

Section 5. Employee Protections

Management shall not discipline or discriminate against any employee because he/she has filed a complaint or given testimony under law. Management shall take such action, consistent with regulations, as may be required to ensure that this provision is not violated.

No employee shall be precluded from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable law, directive, regulation, or policy of the agency.

The provisions of this article shall not nullify or abridge the rights of employees or the Union to grieve or appeal the exercise of the management rights set forth in this article through appropriate channels as provided by law.

Management will not coerce or in any manner require employees to invest their money, donate to charity, or participate in activities, meetings, or undertakings not related to their performance of official duties.

Section 6. Outside Activities

Employees shall have the right to engage in outside activities of their own choosing without being required to report to Management on such activities, except as required by law or regulation. Outside work engaged in by employees must not involve a conflict of interest and must not interfere with or be detrimental to the efficient discharge of the official duties of employees during the hours they are expected to be available to perform the work of the Centers.

Section 7. Non-discrimination

No employee will be discriminated against based on race, color, religion, sex (including sexual harassment and pregnancy discrimination), sexual orientation, national origin, age (40 years of age and over), disability (physical or mental), or genetic information. Further, no employee will be discriminated against because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

No supervisor or management official will discipline, threaten, harass, or discriminate against an employee who meets with or seeks the advice of a counselor, management official, commission, or representative of the Union in accordance with regulations and/or the Union contract. **Nothing in this provision limits management's right to discipline employees for engaging in misconduct.**

Article 3: Representation

Section 1. Exclusive Representation

Management agrees to recognize the Union as the exclusive representative of the employees in the bargaining unit and is entitled to act for them and negotiate collective bargaining agreements covering all employees in the bargaining unit. The Union will provide to management a list of those bargaining unit members acting as representatives of the Union and that have the right to use official time as specified in this agreement.

Section 2. Union Representatives

The Union will designate one member of the bargaining unit as the main representative for the Union and one bargaining unit member as his/her deputy. Other officers, representatives, and stewards will be determined through Union elections or appointments. The Union may designate a person who is not a member of the bargaining unit to represent them in matters covered by this agreement but will notify Management in advance of its intent to do so.

Section 3. Union Stewards

The Union will provide to Management the names of those bargaining unit members that are authorized by the Union to act as Stewards. The number of stewards shall be the minimum number required in order to assure that each employee in the bargaining unit shall have ready access to a steward not to exceed a total of four stewards. One of the stewards shall be designated as the Chief Steward.

Management agrees that Union stewards are authorized a reasonable working time during duty hours to participate in matters directly related to the work situation and/or employee grievances, not to exceed a maximum as noted in Article 4 without prior agreement by Management. Management agrees that there shall be no restraint, interference, coercion, or discrimination against the stewards because of the performance of such duties.

When any Union steward is required to leave the work site on appropriate matters directly related to the working conditions and/or employee grievances, he or she will notify their supervisor of the expected period of absence. The amount of time spent away from the work site will be reasonable and the minimum essential to conduct business authorized by this agreement. No internal Union business will be conducted on official duty time. In the event that a steward is not available at a satellite office and an employee needs representation in person, the travel for such representation will be

borne by Management as official travel. The use of video conferencing is preferred as an alternative to official travel for representation purposes.

Section 4. Formal Meetings

Consistent with 5 U.S.C. § 7114 (a)(2)(A), the Union will be afforded an opportunity to be represented at any formal discussion between one (1) or more representatives of Management and one (1) or more employees or their representatives concerning:

- (a) any grievance (a meeting concerning a grievance is, by definition, a formal discussion), or
- (b) any personnel policy or practice or other general condition of employment.

The Union shall be given an opportunity to be present at any examination of an employee in the unit by a Management representative 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. The Union representative need not be present at routine informational meetings during which no discussion occurs regarding changes in personnel policy or general conditions of employment.

At any examination of an employee as part of an investigation, the Management representative will explain the purpose of the meeting to the employee prior to the examination. If the employee being interviewed requests representation, no further questioning will take place until the employee has been given a reasonable amount of time, normally one (1) day, to contact an appropriate representative.

For formal discussions the Union will be given advance notice of the meeting via e-mail by contacting the designated Union representative, where practicable, at least seven (7) days in advance of the discussion.

At those meetings where the Union is represented, Management will acknowledge the attendance of the Union representative at the start of the meeting. Furthermore, Management will permit the Union representative to ask questions, and to present a brief statement before the end of the meeting outlining the Union position concerning the issues. The Union Representative will refrain from activities designed to disrupt the meeting. All issues to be discussed at the meeting by Management will be listed in a written agenda, where practicable, which will be forwarded to the Union at the same time that the Union receives prior notice of the meeting.

Section 5. New Employee Notification

Management will make every effort, on a monthly basis, to provide the Union with a list of new employees who are covered by the bargaining agreement. The Union will be afforded the opportunity to meet with new employees.

Article 4: Official Time

Section 1. Allocation

Consistent with 5 USC Section 7131, Management agrees to allow Union representatives a reasonable amount of official time to complete their representational duties. Official time may only be used on the days and during the times that a local Union official would otherwise be in a duty status. Official Time will normally be limited to the following amounts:

1. Main Representative – up to 10% of their time (8 hrs per pay period).
2. Deputy– up to 10% of their time (8 hrs per pay period).
3. Chief Steward – up to 20% of their time (16 hours per pay period).
4. Stewards – up to 10% of their time (8 hours per pay period).

If additional official time is required for a given pay period the Union representative will normally request and receive approval in advance from their supervisor for the use of official time. The request shall include an explanation of the circumstances establishing the need for additional time. In the event the supervisor is unavailable, or in emergency situations, the Union Representative may proceed to use a reasonable amount of official time as provided by this contract and provide to the supervisor a record of the amount of official time used.

Section 2. Allowable Use

Official time may only be used on the days and during the times that a local Union official would be otherwise in a duty status. The term official time shall include the purposes set forth in 5 U.S.C. § 7131, as well as other representational activities including:

1. Attendance at formal meetings;
2. Attendance at meetings involving unfair labor practice charges or unit clarification petitions and preparation time for such meetings
3. Representation of employees in disciplinary matters in which employees are entitled to representation;
4. Presentation of appeals in connection with statutory or regulatory procedures in which the Union is a party or is designated as the representative, (e.g., MSPB or EEOC proceedings);
5. Attendance at Management examinations of any bargaining unit employee, in connection with an investigation at which an employee requests such representation;
6. Attendance at grievance meetings and arbitration hearings;
7. Attendance at meetings of committees or workgroups when Management has given authorization for Union attendance;

8. Attendance at negotiations as a member of the negotiations team;
9. To confer with employees with respect to any matters for which remedial relief may be sought pursuant to the terms of this agreement wherein the employee has elected to have a representative and is entitled to such representation;
10. To complete research in preparation for labor-management related meetings, negotiations, and hearings;
11. To prepare and maintain records and reports required of the Union and its representatives by any Federal Agency;
12. To respond to Congressional contacts relative to representational matters;
13. Time spent in preparing replies to Management proposals and proposed Management policy changes submitted to the Union for comment or considerations;
14. Time spent in labor-management meetings, or special projects mutually agreed to by the parties;
15. Attendance at approved training to develop knowledge, skills, and abilities of Union Representatives that support better representation for employees and improved efficiency and effectiveness in representational rights.

Section 3. Recording

Official time recording is a bilateral system set up to meet the Office of Personnel Management requirement that management maintain a record-keeping system of official time used in the performance of representational duties. Union officials and representatives are responsible for recording their official time used in the format agreed on by Union and Management.

Section 4. Employee Use

Employees covered by this agreement will be accorded reasonable duty time to consult with a union representative for representational purposes or for representing themselves consistent with the terms of this agreement and applicable regulations and law. This includes time for preparation, attendance (at meetings and/or hearings) and travel of the employee for matters such as, grievance/arbitration, FLRA, MSPB, EEO, or other disciplinary actions, adverse action proceedings, and ULP charges and/or complaints. Travel costs related to these activities will be borne by Management. The employee will make every reasonable effort to request and have advance approval of such use of duty time. The employee will continue to administer and control his/her work-load in a manner that is in the best interest of the Service.

Section 5. Limitations on use

Internal union business will be conducted on non-duty time. The term internal union business shall include the purposes set forth in 5 USC § 7131(b), including such actions as the solicitation of membership or election of Union officials.

It is understood that nothing in this agreement is intended to limit the statutory rights to official time provided pursuant to 5 U.S.C. § 7131 or any other statute or regulation

Article 5: Consultation, Negotiation and Impasse

Section 1. Procedures

Management agrees to negotiate, as required by law, with the Union prior to making substantive changes in personnel policies and matters related to working conditions that are within discretion of the Management and are applicable to employees of the unit.

Management will submit notice of proposed changes to the Designated Union Representative prior to effecting such changes and in sufficient time to allow the Union to submit in writing its proposals and views. The notice will be provided to the Union via email with a subject title "Official Notification." The Union will have 15 days to provide an email response to Management stating a desire to negotiate regarding the proposed change.

Management will provide the Union with the names of Designated Management Representatives.

Section 2. Scope

The scope of negotiations includes policies and practices including, but not limited to:

1. Safety standards and programs
2. Work environment and work situations
3. Procedures for the disposition of employee grievances
4. The provisions by which all employees may be guided and assisted in the achievement of career goals
5. Vacation schedules
6. Policy on pay within the limits of administrative discretion permitted by law and Department of Commerce regulations
7. Application of procedures relating to promotions, disciplinary actions, appeals, reduction in force, and employee appraisal
8. Implementation of Equal Employment Opportunity Program
9. Award Programs
10. The quality and timeliness of information to employees on such matters as government health and life insurance and retirement **to the extent such quality and timeliness is within the control of management.**
11. Organizational efficiency and effectiveness, **to the extent such subjects are negotiable.**
12. Organizational and employee productivity, **to the extent such subjects are negotiable.**

Section 3. Good Faith

Both parties to this agreement have the responsibility of conducting their negotiations and consultations in good faith and otherwise in such manner as will further the purposes of 5 USC 71. They agree to make every reasonable effort to resolve all differences which arise between them in connection with the administration of this agreement.

Section 4. Impasse

When agreement cannot be reached on a matter that both parties agree is negotiable, and after serious and diligent negotiations, then either party may request the Federal Mediation and Conciliation Service to furnish a mediator to meet with the parties, study the issues, and assist the parties in resolving the matters at issue. Any cost involved in obtaining the services of a mediator shall be paid by Management and the Union in equal share. Costs shall not exceed the maximum compensation authorized in agency regulations. When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or third-party mediation, fail to resolve a negotiation impasse, either part may request the Federal Service Impasse Panel to consider the matter.

Article 6: Labor-Management Relations

The parties agree that Labor-Management Relations will be conducted in accordance with federal law, rule, or regulation. The parties further agree that they will meet at a mutually agreeable time and place to negotiate the creation of a Labor-Management Council at the appropriate level of recognition, as contemplated by Executive Order 13522."

Article 7: Discipline

Section 1. Definitions

For purposes of this collective bargaining agreement, the following definitions apply:

Informal Discipline refers to either written or verbal counseling. Such actions may be considered when determining appropriate formal discipline should the employee engage in future misconduct.

Formal Discipline refers to written reprimands, suspensions, removals and/or reductions in grade or pay.

1. Non-appealable adverse action is formal discipline that results in a written reprimand or a suspension of 14 days or less.
2. Appealable adverse action is formal discipline that results in the suspension of an employee for more than 14 days, removal and/or reduction in grade or pay.

Section 2. General Principles

Management agrees that discipline will be administered in a fair and impartial manner and that no employee will be discharged or otherwise disciplined except as provided by appropriate regulations. The goal of discipline is not to punish the employee, but to encourage acceptable conduct and work habits.

The employee will be advised specifically as to all details of the offense with which charged so as to be able to understand the charge and defend him/herself against it. If additional information is needed, the employee will be referred to the Workforce Management (WFM) Office and informed of their representational rights.

Disciplinary conversations and meetings will be conducted in a private manner so as to avoid embarrassment to the employee.

If requested by the union, management shall provide a summary list of all formal written disciplinary actions taken against bargaining unit employees the previous 12 months that includes the charges, and for each type of action the number of employees involved, the actions taken.

Employees are entitled to representation in most phases of a disciplinary process, as provided by federal law and regulation. Management is not responsible for the cost of such representation except as specified in this Agreement, or as required by policy or statute.

Section 3. Preliminary Investigations

Management will generally conduct an investigation to collect evidence relevant to a disciplinary action under consideration.

If an employee reasonably believes that an examination (e.g. meeting or investigation) may result in disciplinary action, the employee has the right to request union representation.

Section 4. Counseling

Written counseling, or the documentation of oral counseling, will not be made part of an employee's Official Personnel File (OPF), but may be maintained by the employee's immediate supervisor.

The purge date of any written record of counseling will be identified in the document. Any such document persisting in any file past the specified purge date can be removed and should not be transferred to any subsequent supervisor of the employee.

Section 5. Non-appealable adverse action suspensions

For Non-appealable adverse action suspensions, the employee will receive advance notice stating the specific reasons for the proposed action and notice of his/her right to union representation.

The employee will be allowed 10 days to provide either an oral and/or written defense to the designated deciding official. The designated deciding official will be at a higher organizational level than the employee's immediate supervisor.

Evidence against an employee shall be made available to the employee or designated representative for review upon request. Nothing in this Article shall limit the right of the Union to request information in accordance with 5 USC 7114.

Reasonable official time will be given to the employee or his/her representative to prepare a defense to any proposed Non-appealable adverse action suspension.

Section 6. Appealable adverse actions

For appealable adverse actions, an employee will be given at least 30 days advance written notice of the proposed action. In cases involving appealable adverse action due

to unacceptable performance, an employee will be given at least 30 days to demonstrate acceptable performance before any appealable adverse action is taken.

The employee will be allowed 15 days to provide either an oral and/or written defense to the designated deciding official. The designated deciding official will be at a higher organizational level than the employee's immediate supervisor.

Evidence against an employee shall be made available to the employee or designated representative for review upon request. Nothing in this Article shall limit the right of the Union to request information in accordance with 5 USC 7114.

Reasonable time will be given to the employee or his/her representative to prepare a defense to any proposed appealable adverse action.

Article 8: Problem Resolution and Grievance Procedures

Problem resolution is an important part of our work. Both parties recognize the importance of prompt and equitable disposition of any problem at the lowest organizational level possible using flexible and informal procedures.

Section 1. Definitions

A problem is any employee concern with matters relating to his/her employment. A problem that cannot be resolved may become a grievance.

A grievance is the formal action taken for any problem which cannot be resolved via Collaborative Problem Solving or Alternative Dispute Resolution.

Section 2. Collaborative Problem Solving

When an employee becomes aware of a problem the employee is encouraged to resolve the problem directly with his/her supervisor.

Problems must be filed by the employee or the Union via e-mail to the employee's immediate supervisor and designated management representative within 30 days of the action or condition giving rise to the problem. When the basis for the problem report is a continuing practice or condition then the problem report can be filed at any time. The subject line of the filing e-mail shall read "Official Notification: Problem Report."

The employee(s) submitting a problem will be represented by a Union representative, unless proceeding under self representation as per Section 5. Where represented by the union, the employee or employees may designate the Union representative to be the spokesman.

The problem report shall include:

1. name of employee filing the problem,
2. the name of the employee's supervisor,
3. a description of the problem,
4. dates of occurrence,
5. the requested remedy.

Once a problem report has been received, the supervisor shall schedule a collaborative problem solving session within 7 days of receipt. The attendees shall include

1. the employee,
2. the supervisor,
3. the Union representative,

4. the designated management representative,
5. and other parties as necessary.

If the parties involved reach resolution, an agreement shall be recorded in writing, signed by all parties, and considered binding to the extent not inconsistent with government wide regulations or law. Agreements arrived at through this discussion will not be precedential.

If collaborative problem solving is unsuccessful or untimely, the problem may be pursued using either Alternative Dispute Resolution (ADR) or Management Adjudication as outlined below.

Section 3. Alternative Dispute Resolution

If resolution has not been achieved at this point, parties are encouraged to use the services of NOAA's Alternative Dispute Resolution Program (detailed in NAO 202-715). ADR consists of a variety of approaches to early intervention and dispute resolution including mediation and facilitated problem solving.

When both parties involved agree to participate in ADR and they reach resolution, an agreement shall be recorded in writing, signed by the parties, and considered binding to the extent not inconsistent with government wide regulations or law. A copy of the agreement shall be provided to all parties. Agreements arrived at through this process will not be precedential for future grievances.

At any time during the ADR process, either involved party may withdraw from the ADR process by providing notice in writing to the other party.

ADR will be completed within 30 days.

Section 4. Grievance Procedure

If Collaborative Problem Solving and/or Alternative Dispute Resolution fail to resolve the issue, a formal grievance may be filed.

A grievance can be initiated:

1. by any employee concerning any matter relating to their employment.
2. by the Union concerning any matter relating to the employment of any employee or a group of employees.
3. by any employee, the Union, or Management concerning the effect, or interpretation, or a claim of a breach of, this agreement.
4. by any employee, the Union, or Management concerning any claimed violation,

misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.

Grievances must be filed by the employee, their representative, or by the Union via e-mail with the employee's Division Director or designated representative. The subject line of the e-mail shall read "Official Grievance Notification." The grievance notification should restate the elements described above for the problem report.

Management Adjudication - Within 30 days after receipt of a grievance the Division Director or a designated representative shall hold a formal meeting and shall give a written decision to the employee and the representative. The union may request to have the grievance heard and decided by officials other than specified in this Section. Such requests should be in writing and include the reasons for the request. The formal meeting shall include the employee, the union representative(s) and the appropriate management officials. Settlement agreements made at this step will not be precedential for future grievances. If resolution is not reached, then either party may request arbitration (Article 9)

Section 5. Self-Representation

An employee or group of employees may present their grievances to Management and have them adjusted with or without the services of the Union. Employees may be represented by a non-union representative such as a personal attorney. A bargaining unit member or group of members proceeding without the involvement of the Union must follow the negotiated grievance procedure. If presented without Union representation, such grievances may be adjusted without Union intervention, provided the adjustment is not inconsistent with the terms of this agreement.

In these cases the Union must be given an opportunity to be present during the grievance proceeding. If the Union requests, Management shall furnish the Union with a copy of the filed grievance, and the response issued at each step.

If a grievance resolution is not satisfactory to the grievant, the decision to take the grievance forward to binding arbitration is exclusive to the Union.

Section 6. Participants in Problem/Grievance Resolution

During collaborative problem solving, ADR, or Management Adjudication, the union and/or Management may call a reasonable number of relevant participants who would contribute to the facilitation of a resolution. These participants and/or subject matter experts shall suffer no loss of pay or annual leave for such service.

Section 7. Timeliness

If management fails to meet the time requirements of this article the union may take the problem or grievance to the next step in the process. If the bargaining unit member or representative fails to prosecute the grievance within the stated time frames, the grievance will be terminated.

Section 8. Jurisdiction and Arbitration

The Parties acknowledge that this grievance procedure neither expands nor contracts the jurisdiction of the Merit Systems Protection Board as provided by law. Further, nothing in this Article is intended to limit the arbitrator's authority to determine questions of arbitrability (c.f. Article 9).

Section 9. Grievance of an Unfair Labor Practice

The union has the right to file as a grievance under this contract any alleged unfair labor practices. When it does so it waives its right to file an unfair labor practice charge over the same issue with the appropriate authorities under 5 USC 7116.

Section 10. Exclusions from Grievance Procedure

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. Issues related to 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. The termination of a probationary employee in accordance with Office of Personnel Management regulations and Appropriate United States Code.
7. Notice of proposed personnel action.
8. Matters excluded by law or government-wide rule not in conflict with this agreement.
9. Complaints or appeals from persons outside the bargaining unit.
10. Termination of temporary appointment.
11. Termination of a temporary promotion.
12. The substance of performance elements in an employee's performance plan.

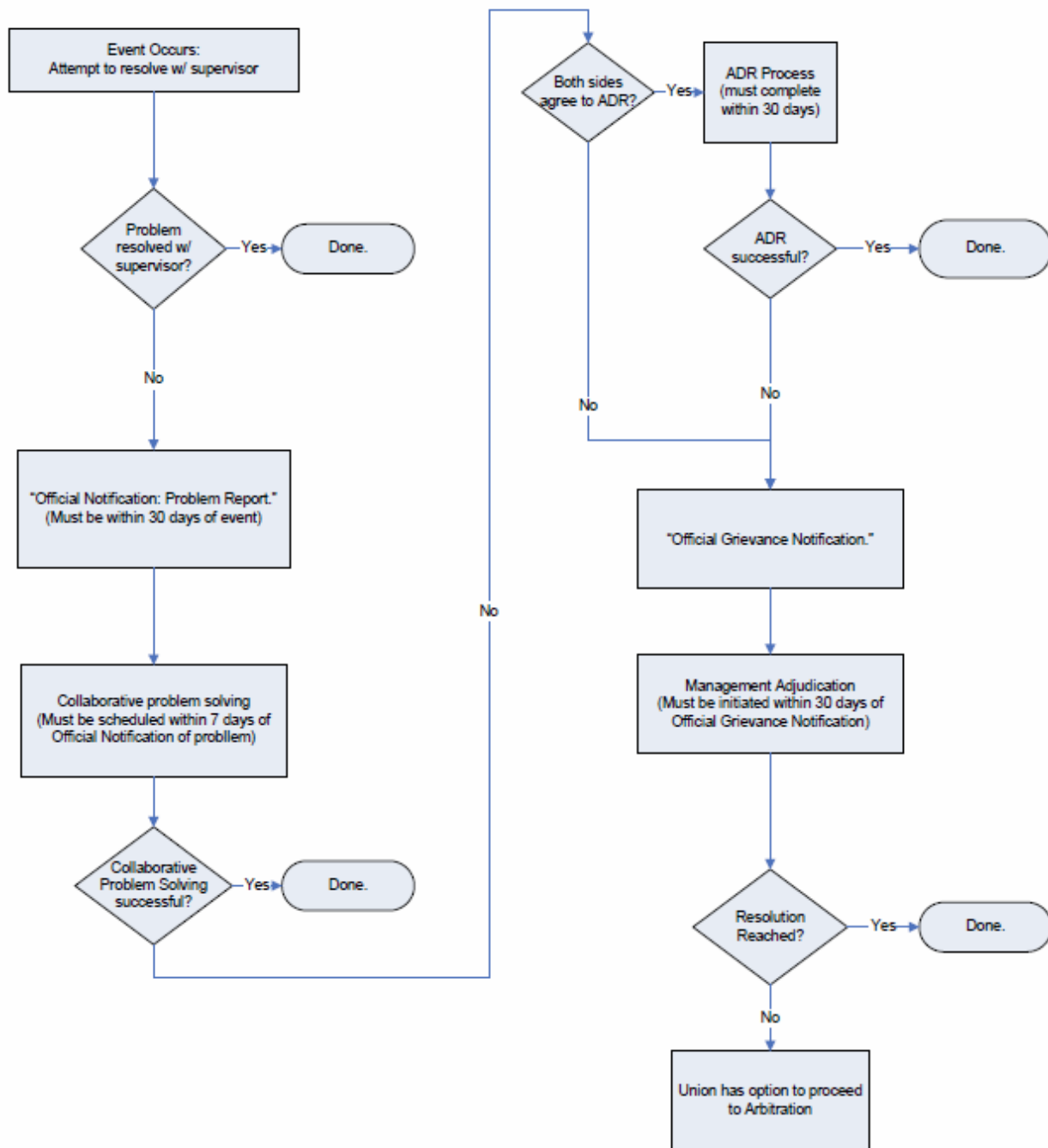
13. Summary performance ratings, performance scores or performance pay increases covered by the Commerce Alternative Personnel System (grievable under DAO 202-771).
14. Granting or failure to grant performance awards, bonuses or other monetary award.

Section 11. Management Grievance

Management grievances must be filed within thirty (30) days of the date Management knew about the matter, unless the matter is a continuing practice or condition, which may be filed at any time. Management grievances shall be filed via e-mail addressed to the Chief Steward and the Union Chapter President with "Grievance Notification" in the subject line. In the event the Chief Steward is the subject of the grievance, the grievance shall be addressed to the Chapter President. The Chief Steward or his or her designee shall issue a written answer addressed to the Management representative who signed the grievance. The answer shall be provided within thirty (30) days after receipt of such grievance.

Section 12. Flow chart of Problem Solving and Grievance Procedure

Problem Solving and Grievance Procedure



Article 9: Arbitration

Section 1. Request for Arbitration

If Management and the Union fail to settle any grievance processed in accordance with this agreement, then a request for arbitration may be made. Within 15 days following conclusion of the grievance procedure the party desiring arbitration shall send an e-mail notification to the other party and include "Arbitration Request" on the subject line. The union shall send the e-mail to the OMI Division Director. For Management grievances Management shall send the e-mail to the Union Chapter President and to the Chief Steward.

The parties shall attempt to agree upon and collectively define and present the specific issue(s) in writing to the arbitrator in advance of any arbitration proceedings.

Section 2. Selection of Arbitrator

Within 15 days after receiving written notification by the other party desiring arbitration, the party invoking arbitration shall request the Federal Mediation and Conciliation Service (FMCS) to submit a list of five (5) arbitrators having federal sector experience or to mutually agree to select an arbitrator from a previously requisitioned arbitrator master list. The parties shall share the cost of the FMCS list equally. If a new list is requested, the parties shall meet within 15 days of receipt of the FMCS list by the parties to select an arbitrator. If the parties cannot agree on one of the listed arbitrators, then the parties will alternately strike one name from the list until only one name remains. The remaining arbitrator will be used to conduct the arbitration.

Before beginning the strike process, during even numbered years Management shall make the first strike, and in odd numbered years, the union shall make the first strike. If either party fails to meet the terms as specified, the other party is free to select an arbitrator from the list and proceed to arbitration.

Section 3. Arbitration Expenses

The fee and expense of the arbitrator shall be borne equally by the Union and Management. The arbitrator hearings shall be held during the regularly scheduled workweek and all employee representatives; the aggrieved employee and employee witnesses shall be in a pay status without charge to annual leave while participating in the arbitration proceedings. Under no circumstances shall the aggrieved employee, representatives or witnesses be paid overtime for participating in arbitration unless specifically authorized by Management. Should either party fail to participate in a duly established arbitration, that party will pay all expenses for that arbitration.

The parties agree that arbitrations will be held in Seattle unless mutually agreed otherwise. To the extent available, the arbitrators will be from the Seattle area.

Section 4. Representation Expenses

Each party is responsible for their own costs for representation.

Section 5. Consolidation of Grievances

The parties may mutually agree to consolidate grievances containing substantially common issues of law and fact. The parties will endeavor to accomplish any mutually agreed upon consolidation five (5) days after a grievance has been referred to arbitration.

Section 6. Limits on Arbitrator

The Arbitrator is bound by **law, rule, and regulation**.. Further, the Arbitrator shall have no authority to alter the terms of this agreement. The decision of the arbitrator will be final and binding on the Parties, subject to the right of appeal set forth in the FSLMRS.

Section 7. Timely Decision

The arbitrator will be requested by the parties to render a decision as soon as possible, but no later than thirty (30) calendar days after conclusion of the hearing unless the parties agree otherwise.

Section 8. Awards and Exceptions

The arbitrator's award shall be binding on the parties. Either party may file exceptions to an award with the Federal Labor Relations Authority (FLRA), under regulations prescribed by the FLRA. If either party decides to take exception to the arbitrator's award or to seek advice or guidance on implementation of the award, they will so notify the other party.

Article 10: Dues Withholding

Section 1. Eligibility

Eligible 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 eligible employees:

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

Section 2. Union Responsibilities

The Union is responsible for:

1. Providing Standard Form 1187;
2. Notifying the Workforce Management Office in writing of:
 - a. Current authorized names and titles of officials who will make the necessary certification of Standard Form 1187 in accordance with this Article.
 - b. Any change in the amount of dues to be deducted.
 - c. Any employee who is no longer in good standing within ten (10) days of the date of such determination.
 - d. Forwarding properly executed and certified Standard Form 1187 to the Workforce Management Office on a timely basis;
 - e. Keeping the Workforce Management Office informed of the name, title and address of the allottee to whom remittance should be sent.

Section 3. NOAA's Responsibilities

NOAA is responsible for:

1. Permitting and processing voluntary allotment of dues in accordance with this Article;
2. Withholding dues on a bi-weekly basis;
3. Notifying the Union when an employee is not eligible for an allotment;
4. Transmitting remittance checks each pay period to the allottee designated by the Union;
5. Providing the Union, upon request, a list of amount withheld per employee

Section 4. Joint Stipulations

The amount of the dues to be deducted as allotments from compensation will normally not be changed more frequently than once each twelve (12) months.

Administrative error in remittance checks will be corrected and adjusted as soon as practicable in a 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 to promptly refund the erroneous remittance.

Section 5. Effective Dates

The effective dates for actions under this Agreement are as follows:

1. Starting dues withholding: First pay period after date of receipt by Workforce Management Office of properly executed Standard Form 1187. An employee must remain on payroll deduction for one (1) year after commencement of dues withholding.
2. Changes in amounts of dues: First pay period after receipt of certification by Workforce Management Office.
3. Revocation by employee: First pay period after receipt of properly executed and signed by appropriate Union official of a Standard Form 1188 or Request for Revocation Memorandum from the employee.

4. Termination due to loss of membership in good standing: First pay period after receipt of notification by Workforce Management Office.
5. Termination due to loss of exclusive recognition on which allotment was based: First pay period after date of receipt of notification by Workforce Management Office.

Article 11: Safety and Health

Section 1. General

The Union and Management agree that addressing the health and safety of employees is of the utmost concern for all parties. Both the Northwest and Alaska Fisheries Science Centers have a history of excellence regarding the safety of employees due in part to the past collaboration between management and employees. These efforts made by all parties to ensure a safe working environment for employees under the many different working conditions under which they must operate in order to meet the mission of NOAA, NMFS, and the Science Centers. Management and Union recognize the suite of environments that employees work in to complete the mission of the Agency, including standard office work, laboratories, temporary and permanent field camps, NOAA Ships, Commercial fishing vessels chartered to conduct research, commercial fishing vessels engaged in fishing activities, small craft operations, and work based out of aircraft. Transits to and from field locations, embarking and disembarking vessels, and similar actions can be especially fraught with risk. Management and the Union agree to work together to provide a work environment free of recognized manageable hazards and to prevent and eliminate accidents and injuries. It is both the Union's and Management's goal to comply with applicable federal, state, and local laws and regulations protecting the working environment, health, and safety of the employees covered by this Agreement.

Section 2. Occupational Safety and Health Program

Management shall institute an effective occupational safety and health program meeting the requirements of Executive Order 12196. Management and the Union shall consult and/or negotiate on any proposed changes or recommendations relative to safety and health policies and/or standards.

Section 3. Working Conditions

Management will attempt in good faith to provide safe and sanitary working conditions and equipment in consonance with EO 12196. Management agrees to insure, to the extent possible, adequate lighting, heating, and ventilation in work areas, and shall not require employees to work in unnecessarily crowded, dark, cold, or unventilated areas. Regarding the adequacy of light, heat, ventilation, and space in any work area, Management will consider and respond to recommendations of safety committees or from individual employees.

Work in the field (vessels, field camps, aviation) can be especially hazardous in part due to the fatigue brought on under adverse working conditions. To address this issue:

1. Policies should be established that allow employees to gain enough rest to maintain safe working operations. These policies should address overall length of deployments, amount of work expected daily, time periods between operations, and other such matters.
2. These policies should then be communicated to the appropriate field authorities (e.g. supervisors, project leaders, cruise leaders, field party chiefs, and deck bosses) so that they are aware of the policies and can plan accordingly.
3. Policies should be developed in concert with the Safety Committees and communicated to staff.

In the field, weather can be the strongest determinant affecting safety of operations. Type of operation, size of vessel, type of aircraft, area of operation, and many other factors affect weather-related operational safety such that a single factor (e. g., Beaufort State) cannot be chosen as the threshold at which operations should cease. Those field personnel invested with responsibility to accomplish work should be trained how to recognize weather-related safety thresholds as they apply to current operational parameters and be given authority and support to suspend operations when necessary. Staff should also be trained to recognize safety thresholds and be encouraged to discuss the issues with the appropriate field authority when they feel the threshold is being approached.

Section 4. Safety Committee

The Union shall designate persons to serve on the Safety Committees established at each Science Center. There shall be one (1) Union designee for each Safety Committee. The Union and Management may mutually agree to increase Union representation. The Safety Committee(s) will perform the following functions:

1. Identify any environmental conditions appearing not in consonance with EO 12196 or considered to be potentially harmful or injurious to health, safety, or comfort of employees. If it is determined that harmful or unsafe conditions exist, and that these conditions pose an immediate and urgent risk for employees, the committee shall immediately notify the authority identified by Management, specifying the problem. The Safety Committee may also provide a recommended action.
2. Participate in the investigation of incidents as necessary under the jurisdiction of the appropriate Director to determine the cause thereof and determine policies for future prevention. Types of incidents subject to investigation are specified in NAO 209-1.
3. Investigate, report, and suggest corrective action for unsafe working conditions referred to the Committee for action following protocols agreed to by Management and the Union.

4. Meet at regularly scheduled intervals and compile minutes of each meeting describing the Committee's and fellow workers' contributions to safety.
5. The results of Safety Committee meetings, minutes, findings, and actions should be readily available to employees. The minutes of Safety Committee minutes shall be posted in an easily accessible form on each Center's intranet.

Section 5. Safety Inspections

There shall be a semi-annual safety inspection of all areas occupied by the employees. A Union representative shall have the right to participate in the inspection. When scheduled safety inspections are made pursuant to OSHA or other statutes or regulations in areas where unit employees work, the Union will be notified and a Union representative may accompany the inspector or inspecting team. Management agrees to provide the Union with information on safety inspections, serious accidents, and occupational illnesses within the limitations of the Privacy Act and security requirements, whether they occur in the field or the office.

Section 6. Notification of Safety Concerns

Management and Union shall encourage employees to work safely and to report any observed unsafe or unhealthy conditions. Employees will report unsafe and/or unhealthy conditions or incidents to their immediate supervisor or other appropriate authority if the supervisor is unavailable. If requested, the anonymity of the employee will be protected to the extent possible. No reprisal will be taken against the employee for reporting unsafe practices, conditions or suspected health and safety violations.

The employee has the right to decline to perform assigned tasks because of a reasonable belief that, under the circumstances, the tasks pose an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through normal hazard reporting and abatement procedures. When confronted with unsafe working conditions, an employee should let his or her supervisor or other appropriate authority know about the problem and discuss solutions before refusing to work. This action may also serve to prevent fellow employees from being exposed to the same risk.

Section 7. Safety Gear and Personal Protective Equipment

Employees will be provided at no cost to them the necessary safety gear and personal protective equipment (PPE) to perform their assigned duties. Requests for safety gear and/or PPE may be made by bargaining unit members to their supervisor or developed through the safety committees. This may be done in consultation with the Safety and Environmental Compliance Officer (SECO) or other appropriate authorities. The bargaining unit's member's supervisor will then determine the best way to meet the request. Cleaning and repair of issued safety gear and PPE shall be provided by Management as needed.

Section 8. On the Job Injury or Illness

Employees shall report to their supervisor all injuries, illnesses or near misses which occur on the job, no matter how slight. Management will have procedures in place to record concerns, injuries, and illnesses; note what actions are taken; and provide an annual summary. The Union will assist Management to the extent possible in using these data to mitigate safety issues and provide improved working conditions. No reprisal will be taken against the employee for reporting injuries, illnesses or near misses.

Section 9. Charter Vessels

Vessels chartered by the Alaska and Northwest Science Centers upon which employees are to be stationed shall meet safety and personal comfort standards defined in vessel-selection materials and processes. Management and the Union, primarily through the Safety Committee, shall ensure that appropriate standards are described and that materials are updated for each vessel-selection cycle. Serious safety matters should be addressed within each cycle through appropriate contract modification processes. While at sea, the field party chief or other NMFS authority shall suspend operations if serious safety issues arise with the vessel or other items that the charter operator has control over. Suspension of operations can be temporary, until the safety issue is resolved, or permanent, ending the cruise leg if necessary.

The Alaska and Northwest Fisheries Science Centers shall also address safety and personal comfort standards for employees stationed on vessels through internal operating procedures for those items over which Management retains direct control.

An annual post field season debrief should occur where all safety and personal comfort issues that arose can be described and methods of resolution discussed. Information from these meetings should be incorporated into the next seasons' activities prior to

vessel selection or departure and appropriate training provided. Past performance on safety should be an important selection criterion for vessels and a means to better prepare field staff in charge of operations from the NMFS side.

Section 10. Aviation Safety

The policy and procedures established in NOAA Aviation Safety Policy, NAO 209-124 will be followed. Requests for aviation safety equipment beyond that required by the NOAA Aviation Safety Policy may be made by bargaining unit members to their supervisor. This may be done in consultation with the SECO's at each Center. The bargaining unit member's supervisor will then determine the best way to meet the request. Upon request, supervisors will help employees overcome administrative issues related to certifications, to the extent possible

Section 11. Safety Training

All training necessary to the safe conduct of assigned duties and response to catastrophic events will be provided by Management. Standards will be set in coordination with Safety Committees on the types of training employees must have before they can complete specific assigned duties, such as time aboard chartered fishing vessels, aerial surveys, use of hazardous materials, and other such job-related activities. A system shall be in place to track each staff persons training participation. Only authorized employees with appropriate training will be permitted or required to operate machinery or equipment or to perform work that could cause injury to an inexperienced operator or endanger other employees. Non-employees (contractors, interns, etc.) who go to sea shall have adequate safety training so as not to endanger their own or employee's health and safety.

Section 12. Smoking

Management will make reasonable efforts to accommodate smokers and non-smokers to their mutual satisfaction consistent with existing law and regulations.

Section 13. Medical Monitoring

Medical monitoring will be done in accordance with the Medical Surveillance Section of OSHA's HAZWOPER regulations. 29 CFR 1910.120(f).

According to these regulations, employees should be enrolled in a medical surveillance program if they meet the criteria specified in 29 CFR 1910.120(f)(2):

1. All employees who are or may be exposed to hazardous substances or health hazards at or above the permissible exposure **limits or, if there is no permissible exposure limit**, above the published exposure levels for these substances, without regard to the use of respirators, for 30 days or more a year;
2. All employees who wear a respirator for 30 days or more a year or as required by 1910.134;
3. All employees who are injured, become ill, or develop **signs or** symptoms due to possible overexposure involving hazardous substances or health hazards from an emergency response or hazardous waste operation; and
4. Members of HAZMAT teams.

Article 12: Labor Management Relations Training

Section 1. Training Time

Management agrees to grant official time to employees who are officially designated Stewards or elected/appointed Union officials, workload permitting, to training which management and the Union agree are of mutual concern and benefit, designed to advise representatives on matters relating to their representational duties within the scope of the Federal Service Labor-Management Relations Program Statute.

Requests for training under this Article must be submitted in writing, through the immediate supervisor, to the OMI Director of the respective Center for determination thirty (30) days prior to the designated training date. The request will contain pertinent information regarding the duration, purpose, nature of the training, plus a justification of mutual concern and benefit.

The Union is limited to a total one hundred twenty (120) hours every calendar year for this purpose. Individual employees are limited forty (40) hours every calendar year. Management may grant additional official time at their discretion.

Section 2. Expenses

Management will pay travel expenses for one Union representative to attend IFPTE Legislative Advocacy Week every other year.

Management, at its discretion, may pay for additional travel expenses associated with training under this Article. Management will not pay course fees or any other incidental costs to this training.

Article 13: Communications

Section 1. Bulletin Boards

It is agreed that the Union may distribute printed notices or post bulletins at each Laboratory, Office or Field Station included in the Unit of recognition.

Literature posted or distributed on Management's bulletin boards will not contain language which is defamatory against Management, individuals or activities of the Federal Government.

Violations of standards concerning content and distribution of literature will be grounds for revocation of these privileges.

Management will provide the Union with bulletin boards in each of the following locations:

- 1. NWFSC Montlake West Building, 1st or 2nd floor**
- 2. NWFSC Montlake East Building, 2nd or 3rd floor**
- 3. AFSC Sand Point Building 4, 1st and 2nd floor main entrances**

Section 2. Office Equipment

Management agrees that the Union may have reasonable use of telephone service, fax machines, e-mail, photocopy machines, computers and printers, and regular mail/postage (including priority, express, or overnight mail) for the purpose of preparing for or facilitating labor-management relations, or any other purpose for which official time is permitted under this Agreement. The Union will ensure that its use of the above-listed equipment does not unduly interfere with the normal operations of the office.

The above-listed equipment may not be used to conduct internal Union business. Furthermore, the parties agree that employees using the above-listed equipment shall be in non-duty or official time status, and shall not impede the work of the Agency.

Section 3. Quarterly Updates

The Union and Management will distribute quarterly updates summarizing ongoing Labor-Management initiatives. The content will be mutually agreed upon by all parties.

Article 14: Duration of Agreement

Section 1. Duration

This agreement shall be in full force and effect for a period of three (3) years from the date of approval. It shall be automatically renewed from year to year thereafter unless written notice of a desire to renegotiate the agreement is served by either party upon the other. Such notice may be made at any time following the expiration of the agreement. Both parties agree that renegotiation will begin within 60 days of the notice. This agreement shall remain valid so long as the Union is entitled to exclusive recognition under the Act.

Section 2. Amendments

This agreement may be opened for amendment of existing articles by mutual consent of the parties at any time after it has been approved and validated. Any requests for amendment shall be in writing and include a brief summary of the requested amendment. The responding party will meet with the requestor within 15 days to discuss the amendment, and the parties shall make the decision whether or not to begin negotiations.

Appendices: Existing MOAs

Appendix 1. Alternate Work Schedules

Appendix 2. Divemaster Records