

**National Oceanic and Atmospheric Administration,**

Host Agency serving:

Bureau of the Census  
Economic Development Administration  
International Trade Administration  
Priority Business Development Agency  
Bureau of Export Enforcement  
Office of the Inspector General



**U.S. DEPARTMENT OF COMMERCE**

**Central Administrative Support Center**

Federal Building, Room 1736  
601 East 12th Street  
Kansas City, Missouri 64106

December 12, 1997

Mr. Dennis Lee  
AFGE 2875  
75 Virginia Beach Drive  
Miami, FL 33149

Dear Mr. Lee:

A restructuring of the National Marine Fisheries field structure was implemented effective September 28, 1997. This reorganization abolished the Miami Laboratory and established two divisions in its place. These two divisions, Sustainable Fisheries Division and Protected Resources and Biodiversity Division, are the successor divisions for the Miami Laboratory.

Your AFGE local 2875 had exclusive bargaining representation for all covered positions in the Miami Laboratory. Therefore, your local now holds exclusive bargaining unit representation for all covered positions in these two divisions. A listing is enclosed for your information that shows the employees in the two divisions now covered by your bargaining unit. If you have any questions concerning this listing, please do not hesitate to contact me at 816-426-5016.

Sincerely,

A handwritten signature in cursive script, appearing to read "Regina D. James".

Regina D. James  
Personnel Management Specialist

cc: Dr. Bradford E. Brown

**AGREEMENT**  
**BETWEEN**  
**NATIONAL MARINE FISHERIES SERVICE**  
**AND**  
**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**  
**LOCAL 2875**

**MARCH 1986**

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement on this  
27th day of March 1986.

FOR MANAGEMENT:

Richard J. Berry  
Center Director  
Southeast Fisheries Center  
National Marine Fisheries Service

Walter R. Nelson  
Miami Laboratory Director  
Southeast Fisheries Center  
National Marine Fisheries Service

Benjamin J. ...  
Executive Director  
Southeast Fisheries Center  
National Marine Fisheries Service

Lee L. ...  
Personnel Officer  
NDAA/CASC

FOR THE UNION:

Dennis W. Lee  
President, Local 2875  
American Federation of  
Government Employees  
Chief Negotiator

Richard F. ...  
National Representative  
American Federation of  
Government Employees

Angel R. Burtson  
Steward, Local 2875  
American Federation of  
Government Employees

Douglas E. Harper  
Steward, Local 2875  
American Federation of  
Government Employees

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## ARTICLE 1

### PURPOSE OF AGREEMENT

The purpose of this Agreement is to document the procedures agreed to by Management and the Union for:

1. The promotion of ~~employee-management~~ relations which foster efficiency of operations in the public interest;
2. Employee participation in matters affecting conditions of employment as provided in 5 USC 71, The Federal Service Labor-Management Relations Statute;
3. Joint consultation or negotiations between Management and the Union.

## ARTICLE 2

### RECOGNITION AND UNIT DESIGNATION

#### SECTION 1. Parties to the Agreement

This Agreement is made and entered into, by and between the Miami Laboratory, of the SE Fisheries Center, NMFS, hereinafter called Management, and Local Number 2875, American Federation of Government Employees, AFL-CIO, hereinafter referred to as the Parties. Within this Agreement, Employee and Employees refer to Employee and Employees within the bargaining unit.

Management recognizes the Union as the exclusive bargaining representative for all employees included within the bargaining unit.

#### SECTION 2. The Unit is comprised as follows:

Included: All nonsupervisory professional and nonprofessional employees who hold career, career-conditional appointments or temporary full-time tour of duty not to exceed one year appointments, Bureau of Commercial Fisheries, Tropical Atlantic Biological Laboratory, Miami, Florida. 1/

Excluded: Management officials, supervisors, employees engaged in Federal Personnel Work other than in a purely clerical capacity and guards.

1/ Now known as the National Marine Fisheries Service, Southeast Fisheries Center, Miami Laboratory, Miami, Florida.

## ARTICLE 3

### RIGHTS AND OBLIGATIONS OF THE UNION

SECTION 1. The Union agrees to accept employees in the unit of recognition as members of AFGE without discrimination as to race, color, creed, national origin, sex, age, preferential or non-preferential Civil Service status, political affiliation, marital status, or handicapping condition.

SECTION 2. The Union is entitled to act for and to negotiate agreements covering all unit employees. It is responsible for representing the interests of all employees without discrimination and without regard to dues paying membership in AFGE.

SECTION 3. The Union shall be given the opportunity to be represented at any formal discussion between Management and employees or employee representatives concerning any grievance or any personnel policy or practice, or other general condition of employment.

SECTION 4. An employee may handle his/her own grievance, or may be represented by the Union. However, the Union shall be given the opportunity to be represented at discussions between management and employees concerning grievance processing, and at the appropriate time to make the view of the Union known. The right of the Union to be present does not extend to informal problems between the employee and supervisory officials. However, if such discussions involve decisions on personnel policies or other matters which Management is obligated to discuss or negotiate with the Union, such decisions will not be made by Management until this obligation is discharged, and such decisions will not conflict with this Agreement.

SECTION 5. The Union shall not call or engage in a strike, work stoppage or slow down, or condone any such activity, and shall take affirmative action to prevent or stop such activity.

SECTION 6. The Parties agree that all officials of the Union and Management will endeavor to settle differences informally at the lowest level possible. Therefore, all issues will be initially discussed with the first line supervisor and the Steward.

SECTION 7. Management agrees that where copies of requested material, which may be required by the Union to perform its representational duties, are not available at the Laboratory, Management will attempt to secure them, and furnish at cost, through other sources. The Union agrees that Management (1) must honor all Privacy Act requirements and (2) is not to be held responsible for delays in responding to such requests, i.e., out-of-print or not-in-stock material. The Parties agree that where time limits of the Agreement may be affected by a delay in furnishing the requested material, such time limits will be automatically extended by Management for five (5) calendar days after receipt by the Union.

SECTION 8. Stewards shall provide personal representation for members of the bargaining unit, assist in administration of the Agreement, and perform other duties as appropriately assigned by the Local.

SECTION 9. Management will permit properly labeled Union files in the offices of the designated Union officers/Stewards.



## ARTICLE 4

### RIGHTS OF EMPLOYEES

**SECTION 1.** Each employee in the unit shall have the right to form, join, or assist any 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. The rights of each such employee include the right:

A. To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and

B. To engage in collective bargaining with respect to conditions of employment through their exclusive representative if the employees are in a bargaining unit. [5 USC 7102]

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

### **SECTION 3.**

A. If an employee reasonably believes that an examination by a representative of Management in connection with an investigation may result in disciplinary action against him/her and the employee requests representation, the employee shall be given the opportunity to be represented.

B. When a member of the bargaining unit invokes his/her right to representation as described above, the Union agrees to provide such representation in a prompt and timely manner so as to preclude unreasonable delays. No meeting for the above stated purpose will be delayed in excess of twenty-four (24) hours without mutual agreement from the established meeting date and hour in order for the Union to fulfill its representational obligations.

**SECTION 4.** Employees have the right, either individually or collectively, to petition Congress, or any member thereof, and this right shall not be denied or interfered with by Management or the Union.

**SECTION 5.** Each employee shall have the right to bring matters of personal concern to the attention of their immediate supervisor.

**SECTION 6.** Employees may confer with the Steward assigned to their duty station, for the purpose of obtaining assistance in connection with their complaint, grievance or appeal.

**SECTION 7.** An employee has the right to have both Management and the Union apply all applicable provisions of this Agreement fairly and equitably to all employees of the Unit without regard to race, creed, color, national origin, sex, age, marital status, handicapping condition, lawful political affiliation, preferential or nonpreferential Civil Service status or membership in a lawful union [5 USC 7116(b)(4)].

**SECTION 8.** Employees who wish to review their Official Personnel Folder (OPF) may submit a written request to the servicing personnel office through their supervisor. The OPF will be sent to the supervisor. The supervisor will arrange for the employee to review the OPF and return it to the servicing personnel office. Subsequent requests for copies of the same information will be subject to the Privacy Act Fee schedule, in accordance with Department of Commerce regulations.

## ARTICLE 5

### MANAGEMENT RIGHTS

**SECTION 1.** In the administration of all matters covered by this Agreement, officials and employees are governed by existing or future laws and regulations of appropriate authorities; by existing published agency policies and regulations; and by subsequently published agency policies and regulations required by law or by regulations of appropriate authorities, except as modified by this Agreement or any amendments thereto.

**SECTION 2.** In accordance with the Act, 7106, nothing in this Agreement shall affect the authority of Management:

A. To determine the mission, budget, organization, number of employees, and internal security practices of the agency; and in accordance with applicable laws;

B. 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;

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

D. With respect to filling positions, to make selections for appointments from:

1. Among properly ranked and certified candidates for promotion or,
2. Any other appropriate source.

E. To take whatever actions may be necessary to carry out the agency mission during emergencies;

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

**SECTION 3.** Management shall provide the Union the opportunity to negotiate or consult on the impact and implementation of actions Management takes in exercising its rights.

**SECTION 4.** Management reserves the right to communicate directly or indirectly with any/all employee(s) on any subject deemed appropriate by Management unless such communication would violate rights accorded the Union by law or this Agreement.

## ARTICLE 6

### MATTERS APPROPRIATE FOR NEGOTIATIONS AND CONSULTATIONS

SECTION 1. Management and the Union agree to enter into consultation or negotiation before implementing or changing any personnel policy or procedure applicable to the Miami Laboratory pertaining to matters that affect conditions of employment.

SECTION 2. The Parties agree that matters appropriate for consultation or negotiations are personnel policies and practices related to working conditions which fall within the scope of authority of Management, and for which Management is required to meet and confer by Federal law.

SECTION 3.

A. Where during the life of this Agreement, Management proposes to act on a condition of employment which substantially impacts employees of the bargaining unit, in accordance with the Act, Management will dispatch each proposed change no later than 20 calendar days prior to the proposed implementation date. Within 10 calendar days after receipt of the proposal, the Union shall notify Management in writing of its desire to either (1) consult or (2) negotiate on the proposed action. Union notification of election to negotiate shall be accompanied by written specific proposals. The Parties shall meet within 10 calendar days from receipt of the Union's proposals to negotiate.

B. Should the Union elect to consult, a special labor-management meeting shall be convened with ten (10) calendar days of notification to consult, for the purpose of giving due regard to the Union's views on the proposed action, carefully reviewing Union input with the intent to implement where appropriate.

C. It is agreed that when the Union requests negotiations in accordance with this Article, the following procedures will govern the negotiations.

1. Negotiations will be held in facilities arranged for by Management within the general commuting area of the employees within the bargaining unit.

2. Each Party shall be represented at the negotiations by not more than three (3) negotiators, one of which will be designated as the chief negotiator.

3. Proposed changes in conditions of employment shall not be implemented prior to good faith negotiations, provided negotiations were requested by the Union.

4. Services of the FMCS and/or the PSIP will be utilized as appropriate to resolve impasses which may occur during the negotiations.

SECTION 4. Should a dispute between the Parties occur over the negotiability of any matter, the Parties will request a determination be made by the Federal Labor Relations Authority (FLRA).

SECTION 5. It is agreed that when, during the negotiations process, either Party declares an impasse and neither Party has requested the service of the Federal Service Impasse Panel (FSIP) within five (5) calendar days, Management may effect the proposed change in accordance with the last proposal made by Management and appropriate notice is given to the Union, as to when the changes are intended to be put into effect.

SECTION 6. Management acknowledges that employees in the bargaining unit shall not be included in demonstration projects provided for by Title VI of Public Law 95-454 unless there is a written agreement with respect to the project between Management and the Union through negotiations.

SECTION 7. Policies, regulations and procedures established under and decisions issued under E. O. 11491, 11616, 11636, 11787, and 11838, or under any other Executive Order, as in effect on January 11, 1979, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of 5 USC 71 or by regulations or decisions issued pursuant to 5 USC 71. [5 USC 7135(b)]

## ARTICLE 7

### LABOR MANAGEMENT RELATIONS

**SECTION 1.** A joint Labor-Management Committee shall be established consisting of not more than three (3) representatives from the Union local and three (3) from Management. Additional participants may be invited to attend by mutual agreement. This Committee shall normally meet monthly for the consideration of problems and the improvement of communications and cooperation between the Parties. The Committee shall give consideration to such matters as: the interpretation and application of this Agreement; the interpretation and application of rules, regulations, and policies; correction of conditions making for grievances and misunderstandings; the promotion of education and training; the safeguarding of health, and advise on the safety effectiveness program; and the strengthening of the morale of the unit. Sessions will normally not exceed a two (2) hour period. Special meetings will be held at the request of either Party. Employees who are Union representatives will be on official time if on duty at the time of the meeting. If neither Party has an agenda, a meeting will not be held. Action or nonaction by the Committee is not grievable.

**SECTION 2.** Agenda items will be exchanged at least three (3) workdays before each regularly scheduled committee meeting date. Agenda items will be exchanged at least two (2) workdays before each nonregularly scheduled meeting date. One designated Union local representative and one designated Management representative will be responsible for maintaining orderly discussions. Nonagenda items will be discussed if agreed to by both Parties.

**SECTION 3.** A summary will be made of any understanding reached at these meetings. Management and the Union will sign the summary. Only a jointly signed summary may be posted or distributed.

**SECTION 4.** Matters will ordinarily not be considered by the Committee until every effort has been made to reach agreement at lower levels. Individual grievances will not be considered by the Committee.

**SECTION 5.** The Union agrees to cooperate with Management and lends its support in the Combined Federal Campaign. Employees will be notified of the voluntary nature of any contributions and that they are encouraged, but not compelled to participate. Management agrees that no lists will be kept showing names of contributors and amounts of their contributions except those needed to conduct the campaign. Any such lists will be destroyed after the campaign is closed. Management will report the results of each campaign.

## ARTICLE 8

### UNION REPRESENTATION

**SECTION 1.** Management will recognize one (1) Steward for each 15 bargaining unit employees or fraction thereof. Each Steward will be designated an area to represent.

Employees seeking Union representation or assistance will seek it from the Stewards designated for their area.

The Union will provide the Miami Laboratory Director with a roster containing the names, mailing addresses, and work phones of all Stewards and their designated areas of representation within five (5) calendar days after the effective date of the Agreement or the date the roster changes.

Only those Stewards whose names have been provided to Management on the roster will be recognized as Stewards in their respective areas. Where no Steward has been properly designated, Management has no obligation to the Union.

Management will provide the Union President with a roster containing the names, mailing addresses, and work phones of all first line supervisors and their organizational location, within five (5) calendar days after the effective date of the Agreement or the date the roster changes.

### **SECTION 2.**

A. The Union will be granted a block of time per leave year, 2000 hours, for official representational duties in accordance with this Agreement. All unused time shall expire at the end of each year. The Union shall apportion the use of these hours.

B. Union participation at Management initiated meetings, including Labor-Management Committee meetings, etc., are included in this block of time. Nonbargaining unit employees are not authorized to use the above referenced "block of time."

**SECTION 3.** Should it be necessary for the Stewards to leave their work area, the Stewards shall obtain the permission of their supervisor and the supervisor of the section they intend to visit, citing briefly the specific action to be accomplished, where, and by what means. Where Labor-Management business is such that use of the phone system to talk with Management officials or bargaining unit employees will facilitate actions at no commercial cost, such use is authorized provided prior approval of the supervisor has been obtained.

SECTION 4. In the interest of efficient conduct of government business and the economical use of government time, activities related to the internal affairs of the Union may not be conducted within the working hours or working areas of the employees. These activities include, but are not limited to:

A. Activities connected with organizing efforts and the internal management of the Union;

B. Solicitation of membership;

C. Collection of dues or other assessments;

D. Circulation of authorization cards or petitions;

E. Solicitation of signatures on dues withholding authorization forms or forms revoking dues withholding authorization;

F. Campaigning for Union office; and

G. Distribution of literature.

SECTION 5. When the Stewards are performing their official representational duties and the need for privacy arises, upon request, Management agrees to provide appropriate space, if available, to meet this need.

SECTION 6. There shall be no restraint, interference, coercion or discrimination against the Stewards because of the performance of their official representational duties. However, if the Stewards' use of official time for representational duties interferes with the proper performance of official duties as an employee, the matter will be discussed with the Steward in order to find a satisfactory solution. The initial discussion will be between the supervisor and the Steward. If this discussion does not resolve this issue, Management may pursue it through the negotiated grievance procedure.

SECTION 7.

A. No official time other than that provided for in this Agreement shall be authorized.

B. Management is under no obligation to pay Union representatives for representational time spent when they are not scheduled to work nor is Management obligated to incur any other Union expenses in connection with representational duties.



SECTION 8. Management agrees that the Union President is authorized to consult with the Laboratory Director on matters which may be of unit-wide concern. Meetings with the Director shall be arranged in advance, specifying the matters to be discussed. The President and the Director may request attendance by appropriate Management and Union representatives.

SECTION 9. Management will upon the Union's request provide on a monthly basis, a list of bargaining unit gains and losses.

## ARTICLE 9

### GRIEVANCE PROCEDURE

**SECTION 1.** A grievance means any complaint -

A. By any employee concerning any matter relating to the employment of the employee;

B. By the Union concerning any matter relating to the employment of any employee; or

C. By any employee, the Union, or Management concerning -

1. The effect or interpretation, or a claim of breach of a collective bargaining agreement;

2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**SECTION 2.** 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 employee dissatisfactions over matters subject to the control of Management. Unless otherwise provided for, this procedure will be the sole procedure available to the Union, Management or bargaining unit employees for resolving grievances.

Excluded from this negotiated grievance procedure are the following:

A. Actions resulting from involvement in prohibited political activities;

B. Actions relating to retirement, life or health insurance;

C. Actions relating to any examination, certification, or appointment;

D. A suspension or removal predicated or accomplished in the interests of national security;

E. The receipt or failure to receive an incentive award. However, the application of procedures (NOAA Personnel Handbook, Chapter 10) would be grievable. Concerns of the Union regarding application of procedures in the incentive awards area will be addressed at the Labor-Management Committee meetings.

F. The classification of any position which does not result in the reduction-in-grade or pay of an employee;

G. Non-adoption of suggestion;

- H. Termination of probationary, term and temporary employees;
- I. Filling of positions outside the bargaining unit;
- J. Oral admonishments and a notice of proposed adverse action.

SECTION 3. Since dissatisfactions and disagreements may occasionally arise with some people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on a grievant's good standing, performance, loyalty or desirability, nor will any reprisal be taken for initiating such grievance. Similarly, the occurrence of grievances shall not be construed as reflecting unfavorably upon management's quality of supervision or general management, nor upon the Union's competence or good intentions.

SECTION 4. All time limits in this Article may be extended by mutual consent. Such extension will be documented prior to the expiration of the time limit. Failure of Management to observe the time limits shall be cause to advance the grievance to the next step. Failure of the Union or the aggrieved to observe time limits shall be cause for denial of any further remedy.

SECTION 5. Grievances, based on final decisions on unacceptable performance, removals, suspensions for more than fourteen (14) calendar days or less where the statutory review procedures have not been selected by the employee, will be initiated at step 3 of the negotiated grievance procedure (Section 6c below, Article 09). Grievances over reprimands and suspensions for fourteen (14) calendar days or less will be initiated at step 2 of the negotiated grievance procedure (Section 6b below, Article 09).

SECTION 6. Employee grievances

A. Step 1: The grievance shall be submitted in writing to the immediate supervisor within fifteen (15) calendar days of return from a period of continuous approved leave begun prior to the date of the grieved actions or condition. The written presentation will contain:

1. The identity, title and duty station of the aggrieved;
2. A specific and clear statement of the grievance;
3. A statement of the items, regulations or agreement alleged to have been violated citing specific paragraphs or articles,
4. The corrective actions desired;
5. Designation by name of a representative or statement of self-representation.

On receipt of the written grievance, the supervisor or the employee may request a meeting on a mutually agreeable workday within fifteen (15) calendar days for

discussion of the grievance. Arrangements for the representative to be present is the responsibility of the grievant. Following the date of this discussion or receipt of the grievance, whichever is later, the supervisor shall give a written decision to the employee within fifteen (15) calendar days. The appropriate Steward, if not the grievant or representative, will be given the opportunity to be present during any adjusting meeting. It is agreed such adjustment will not be inconsistent with the terms of this Agreement.

B. Step 2: (1) If the matter has not been satisfactorily resolved at Step (1), then the grievant may submit the grievance to the Director of the Miami Laboratory within fifteen (15) calendar days. This written presentation will include the requirements outlined in Step 1 above, refer to any meeting between the supervisor and the grievant, and include a copy of the supervisor's written decision. (2) Within fifteen (15) calendar days following receipt of the Step 2 grievance, the grievance shall be reviewed and the second step deciding official shall render to the grievant a written decision which is not inconsistent with this Agreement.

C. Step 3: The employee may advance the grievance within fifteen (15) calendar days by submission with a copy of all documents developed during the 1st and 2nd steps to the Center Director whose decision shall be rendered within fifteen (15) calendar days after date of receipt of the 3rd step grievance.

D. If the matter is still unresolved, only the Union or Management may invoke arbitration under the provisions of Article 10, Arbitration.

#### SECTION 7.

A. An employee or groups of employees may present their grievances to Management and have them adjusted with or without the services of the Union. If presented without Union representation, such grievances may be adjusted without Union intervention, provided the adjustment is not inconsistent with terms of this Agreement and the Union has been given reasonable advance notice of the grievance and an opportunity to be present at the adjustment.

B. 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 grievance and have it adjusted, affirmatively or negatively. The decision of the Center Director is final as to the employee or employees who choose to present their grievance without the intervention of the Union.

C. Should either party question the grievability of a matter presented under the terms of this Agreement, such will be presented to an arbitrator in accordance with Article 10, Arbitration.

D. In adverse actions (5 USC 7512), EEO discrimination complaints, and removal or reduction in grade for unacceptable performance (5 USC 4303), the employee may use either the negotiated grievance procedure or the statutory appeals procedure, but not both. The employee shall be deemed to have exercised his/her option at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the negotiated procedure, whichever event occurs first.

E. Should a Management official or the grievant raise a new issue or remedy not previously presented at the appropriate level in the grievance procedure, such new issue or remedy will cause the grievance to revert to the lower level for consideration/action within five (5) calendar days, in the interest of resolving the grievance at the lowest possible level.

**SECTION 8.** Grievances may be filed by Management or the Union based on an action that concerns an alleged violation of the provisions of this Agreement, or any supplement thereto. This is the sole vehicle for review of such actions.

A. Management grievances shall be initiated in writing by the Director, Southeast Fisheries Center, and presented to the Union President within thirty (30) calendar days of the action or condition giving rise to the grievance. Decisions by the Union President shall be rendered in writing no later than thirty (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 President and presented to the Director, NMFS, Southeast Fisheries Center within thirty (30) calendar days of the action or condition giving rise to the grievance. Decisions by the Director, NMFS/Southeast Fisheries Center, shall be rendered in writing no later than thirty (30) calendar days following receipt of the grievance. Should the issue remain unresolved, arbitration may be invoked by the Union.

**SECTION 9.** If any employee resigns, dies, or otherwise leaves the bargaining unit employment rolls by any action before a decision is reached on a grievance which is being processed and no compensation issue is involved, action may be stopped by mutual consent and the case closed without decision. A copy of this action will be made a part of the case file.

**SECTION 10.** Unit employees participating as witnesses in a grievance will be considered to be in a duty status during each participation except that no overtime is authorized.

**SECTION 11.** If at any step the parties to the grievance agree that no misinterpretation or misapplication occurred, or they agree to the means of adjusting an acknowledged agreement violation, they shall state their agreement in writing signed by all parties. This will constitute the final resolution of the grievance.

SECTION 12. Management, on written request by the Union, will permit the Union to review all pertinent records for the purpose of substantiating the contentions or claims of the grievance, except those prohibited by statute or regulations outside of Management's control. The Union, on written request by Management, will permit Management to review all pertinent records in possession of the Union concerning the grievance.

SECTION 13. It is agreed that every effort will be made by Management, the Union, and the aggrieved party(s) to settle grievances at the lowest possible level. Unfair labor practices (5 USC 7116) shall not be utilized to resolve issues in dispute involving the interpretation and application of this Agreement.

SECTION 14. Sea Duty Grievance Procedure

When a unit employee at sea considers himself/herself aggrieved over a matter covered by this Agreement, that employee shall, within fifteen (15) calendar days after completion of the voyage, initiate a grievance at Step 1 by filing with the Executive Director, SEFC. If the matter is not satisfactorily resolved at Step 1, the employee may advance the grievance within fifteen (15) calendar days to Step 3 by submission of a copy of all documents to the Center Director. The grievant shall follow all other requirements of this Article.

SECTION 15.

A. A pending or proposed personnel action which has been made the subject of a grievance or arbitration will be stayed pending the final decision of the matter.

B. The Parties agree that in order to preclude undue delay, the time limits within the Grievance and Arbitration Articles will be reduced as follows only in the case of proposed adverse actions.

Adverse Actions are defined as (1) a removal; (2) a suspension for more than fourteen (14) calendar days; (3) a reduction in grade; (4) a reduction in pay; and (5) a furlough of thirty (30) calendar days or less. In these instances all referenced time limits in Section 6, Employee Grievance Procedure, this Article, are reduced to not more than five (5) calendar days, and the time limit to invoke arbitration, Article 10, Arbitration, is reduced to (10) calendar days.

## ARTICLE 10

### ARBITRATION

**SECTION 1.** The Parties agree that prior to considering arbitration, every reasonable effort shall be made to resolve arbitrable grievances and will direct their efforts and resources toward achieving that goal. If such efforts fail, the grievances may, or the question of grievability/arbitrability may, on written request of Management or the Union, whichever Party is desiring arbitration, be referred to an Arbitrator. Arbitration may be invoked only by the Union or Management.

**SECTION 2.** Arbitration will be invoked by submission of a written statement so stating to the other Party not later than thirty (30) calendar days after receipt of a final decision on a matter grieved through the required steps of Article 09 which will not require the Arbitrator to consider any new issues that were not considered during the grievance procedure. Questions of grievability/arbitrability will be submitted in a joint statement, if possible, in accordance with Section 4 below, to the Arbitrator. Within seven (7) calendar days of issuance of a written statement invoking arbitration, the initiating Party will request from the Federal Mediation and Conciliation Service a list of five (5) impartial persons qualified to serve as arbitrators. A copy of this request will be provided the other Party. Immediately on receipt of this list, the receiving Party will provide one (1) copy of the list to the other Party.

**SECTION 3.** If Parties cannot mutually select an arbitrator from the list within ten (10) calendar days, then Management and the Union will alternately strike a name from the list until one remains. The remaining person will be the duly selected Arbitrator. The striking order will be decided by a toss of the coin.

**SECTION 4.** Following selection of the arbitrator and indications of his/her availability, the Parties will attempt to agree in writing upon the precise issue(s) to be decided and will submit a joint statement to that effect in advance of any arbitration proceedings. The statement will present in question form the matter upon which the arbitration is sought and shall include the agreement provisions governing arbitration. If the Parties are unable to concur, each Party will specify the issue in writing with copies to each other and the Arbitrator. The initiating Party shall include with its statement of issues, the redress it expects from arbitration. The Arbitrator shall determine the issue(s) to be heard. The Arbitrator will limit the award solely to the resolution of the issue(s) as specified in writing by the initial statement or statements as specified by the Parties, and nothing further.

**SECTION 5.** The arbitration hearing will normally be held on Management's premises during the regular work hours, Monday through Friday. The Union agrees to notify Management, in writing, at least seven (7) calendar days before the hearing date, of any employee witnesses it intends to call, so that arrangements

may be made for the use of official time if possible. However, under no circumstances will overtime or compensatory time off be authorized under this section for either participants or witnesses called.

SECTION 6. At the arbitration hearing, the Party requesting arbitration will present its case first and will have the burden of proving its case. Each Party has the right to submit evidence in rebuttal. Post-hearing briefs may be submitted.

SECTION 7. In fashioning an award, the Arbitrator shall not add to, subtract from, or otherwise modify any of the terms of this Agreement; nor shall the Arbitrator substitute his/her discretion for that of Management or the Union where either Party has such discretion by virtue of the terms of this Agreement. The Arbitrator shall only interpret the existing provision(s) of the Agreement and apply them to the specific facts of the grievance. The award shall conform to law, Executive Orders and rules and regulations of appropriate authorities.

SECTION 8. The cost of arbitration, if any, shall be shared as follows:

A. Arbitrator's fees and expenses shall be shared equally by the Parties.

B. If a transcript is required by the Arbitrator, or subsequently by MSPB or EEOC, the cost shall be shared equally by the Parties. When a transcript is not required by the Arbitrator, but either Party desires a transcript, the requesting Party shall bear the cost. If both Parties desire a transcript, the costs shall be shared equally. The transcripts, where required by the Arbitrator or by mutual agreement of the Parties, shall be executed by a certified court reporter.

C. All other costs which the Parties mutually agree to incur shall be shared equally.

D. Travel and other costs for Management representatives and witnesses: paid by Management.

E. Travel and other costs specifically authorized for Union representatives and witnesses: paid by the Union.

SECTION 9. Any dispute over the application of an Arbitrator's award shall be returned to the Arbitrator for settlement, including remanded awards.

SECTION 10. The Arbitrator will be requested to render his/her award as quickly as possible, but in no event later than thirty (30) calendar days after the conclusion of the hearing, the period during which the Arbitrator will accept evidence or the filing of post-hearing briefs, whichever occurs later, but not more than fifteen (15) calendar days, unless the Parties agree to a longer time. In rendering his/her award, the Arbitrator will present to both Parties a written opinion stating clearly his/her award, the Arbitrator will present to both Parties a written opinion stating clearly his/her decision, award and underlying reasoning. The opinion will state specifically what issue(s) the Arbitrator decided.



**SECTION 11.** Either Party may file exceptions to an arbitration award with the Federal Labor Relations Authority under regulations prescribed by the Authority. The filing of such an exception shall act to stay the effect of an award until final adjudication by the FLRA.

## ARTICLE 11

### IMPASSES AND MEDIATION

**SECTION 1.** It is mutually agreed that an impasse occurs after both Parties have presented proposals and counterproposals in good faith and both Parties have considered the proposals and counterproposals of the other Party in good faith, and, despite honest and diligent efforts to reach a mutually satisfactory agreement, no agreement can be reached on the subject being negotiated.

**SECTION 2.** When it has been determined that an impasse has been reached, either Party may request the use of mediation by the Federal Mediation and Conciliation Service (FMCS).

**SECTION 3.** If the FMCS cannot provide mediation service, they shall be requested to provide a list of five (5) qualified mediators from which a selection may be made. The cost of the services of the mediator, if any, shall be shared equally by the Parties.

**SECTION 4.** If the FMCS provides such a list, the Parties will meet for the purpose of selecting the mediator within five (5) calendar days of receiving the list. The mediator will be selected by mutual agreement or by alternately striking names until one (1) remains. Such person shall be the duly selected mediator.

**SECTION 5.** If these efforts fail, either party may request the Federal Service Impasses Panel to consider the matter under the regulations it prescribes.

## ARTICLE 12

### USE OF OFFICIAL FACILITIES

SECTION 1. Management agrees that rooms will be provided when available for meetings of the Union during the nonduty hours of the employees.

SECTION 2. Management agrees to grant the Union reasonable access to customary agency publications, materials and equipment for discharging its representational functions under this Agreement and the Act. A written request must be submitted to the Laboratory Director prior to the use of said equipment, material, etc. The Union bears the responsibility for providing the need for the requested item to perform its representational functions.

## ARTICLE 13

### COMMUNICATION

SECTION 1. Bulletin board space shall be made available in the designated area for the display of Union literature, correspondence, notices, etc.

SECTION 2. Such literature will not contain items relating to partisan political matters or propaganda against or attacks on Management, individuals, or other activities of the Federal Government. The Union assumes total and continuing responsibility for the content, views, and statements contained in all materials posted under Union auspices in the Miami Facility or concerning the agency, including individuals or groups representing Management.

SECTION 3. Management may post audit and notify the Union to immediately remove objectionable material. Continued posting of objectionable material may result in the loss of posting privileges. Management agrees to discuss any objection to posted material with the Union.

SECTION 4. On request, but not more often than each calendar quarter, Management will furnish the Union a list containing the names, positions, titles, grades of employees in the unit.

SECTION 5. Management will prepare and print a sufficient number of copies of this Agreement for the use of the Union and Management.

SECTION 6. Management agrees that the AFGE Health Benefits brochures, when made available by AFGE, will be distributed to unit employees.

SECTION 7. Copies of this Agreement shall be provided to each unit employee on duty by the Union.

SECTION 8.

A. The Union agrees to provide the Laboratory Director with a current roster containing the names and addresses of all duly elected officers on an annual basis and when it changes.

B. The initial list will be furnished by the Union within two (2) calendar days after the effective date of this Agreement. When notification is not timely received, Management has no obligation to the Union until such list is received.

## ARTICLE 14

### DUES WITHHOLDING

**SECTION 1.** This Agreement is for the purpose of permitting eligible employees who are members of the Union to pay dues through the authorization of voluntary allotments from their compensations. This Agreement covers all eligible employees:

- A. Who are members in good standing in the Union;
- B. Who voluntarily complete Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues;
- C. Who receive compensation sufficient to cover the total amount of the allotment; and
- D. Who are in an exclusive bargaining unit, and are members of a local union holding exclusive recognition in that unit.

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

**SECTION 2.** The Union is responsible for:

- A. Informing its members on the voluntary nature of the system for the allotment of employee organization dues including the conditions under which the allotment may be revoked once a year;
- B. Purchasing and distributing to its members Standard Form 1187;
- C. Notifying the servicing 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 Agreement.
  - 2. Any change in the amount of dues to be deducted.
  - 3. Any employee who is no longer in good standing within fifteen (15) calendar days of the date of such determination.
- D. Forwarding properly executed and certified Standard Form 1187 to the servicing Labor Relations Office on a timely basis. Management's internal distribution system will not be used for this purpose.
- E. Promptly forwarding an employee's revocation (memorandum or Standard Form 1188, Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues) to the servicing Labor Relations Office when such revocation is submitted to the Union; and

F. Keeping the servicing Labor Relations Office informed of the name, title and address of the allottee to whom remittance should be sent. Until further notice this will be:

AFGE Local 2875  
Key Biscayne Bank  
95 W. McIntire Street  
Miami, FL 33149

Keeping the servicing Labor Relations Office informed of the allottee to whom checks shall be payable. Until further notice this will be:

AFGE Local 2875

SECTION 3. Management is responsible for:

A. Permitting and processing voluntary allotment of dues in accordance with this Agreement;

B. Withholding dues on a biweekly basis;

C. Notifying the Union when an employee is not eligible for an allotment. The servicing Labor Relations Office is responsible for this notification;

D. Withholding new amounts of dues on certification from the authorized Union official;

E. Transmitting remittance checks to the allottee designated by the Union, together with a listing of employees for whom deductions were made;

F. Forwarding, as a separate submission each pay period, a copy of all revocation notices received in the Payroll office to the allottee designated by the Union; and

G. Providing the following information on the remittance listing:

1. The name of each employee for whom the deduction has been authorized to be made during the current pay period.

2. For each employee or group of employees the following information will be given to the extent applicable:

a. Amount withheld;

b. No deduction because employees' compensation was insufficient to permit a deduction.

SECTION 4. JOINT STIPULATIONS

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

B. Management may remind employees of the Annual Revocation Period and of the minimum initial allotment period of 12 months.

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 to promptly refund the erroneous remittance.

SECTION 5. The servicing Labor Relations Office will be responsible for coordinating the actions described under this Agreement 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; no more than once every 12 months. An employee must remain on payroll deductions 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; revocation may be made by use of SF 1188 or by memorandum.	First pay period following March 1 of each year. Notice must be reached by Payroll Office no later than C.O.B. March 1 of each year.
Termination due to loss of membership in good standing.	First pay period after date of 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 recognition area not covered by this Agreement.	First pay period after date of receipt of notification in Payroll Office.

## ARTICLE 15

### AMENDMENTS TO AGREEMENT

**SECTION 1.** Unit employees representing the Union and participating in negotiations pursuant to this Agreement shall be on official time for the number of hours agreed upon.

**SECTION 2.** Amendment to this Agreement may be required because of changes in applicable laws, rules, regulations, or policies issued by higher authority after the effective date of this Agreement. In this event, the Parties will meet for the purpose of negotiating new language that will meet the requirements of such higher authority. Such amendments will be duly executed and will become effective on a date determined to be appropriate under the circumstances.



## ARTICLE 16

### DURATION AND TERMS OF AGREEMENT

SECTION 1. This Agreement shall be in full force and effect for a period of three (3) years from the date of approval, effective March 27, 1986. It shall be automatically renewed from year to year thereafter unless written notice of a desire to cancel or terminate the Agreement is served by either Party on the other between the 105 and 60 calendar day period prior to the date of expiration of the Agreement.

SECTION 2. Where no such cancellation or termination notice is served and the Parties desire to continue said Agreement, but also desire to negotiate changes or revisions in this Agreement, either Party may serve on the other a notice between the 60 and 105 calendar day period prior to the date of expiration of the contract, advising that such Party desires to revise or change terms or conditions such Agreement.

Any such notice shall be accompanied by a copy of the proposed new Agreement, changes or revisions. The Party receiving such notice may deliver a counterproposal to the other Party within thirty (30) calendar days after receipt of such notice. In the event of failure of the respondent Party to submit a counterproposal within the 30-day period herein provided, the existing Labor Management Agreement shall be considered as having been filed as said Party's counterproposal.

SECTION 3. A Memorandum of Understanding shall be executed by the Parties that will specify the ground rules to be used in the renegotiation or revision of this Agreement.

SECTION 4. The Parties agree that on termination of this Agreement, all the terms and conditions agreed herein shall cease to accrue, except that the Agreement will remain in full force and effect during the period of renegotiation which shall not exceed 180 calendar from the date of expiration.

SECTION 5. It is agreed that any procedures or past practices not in accordance with government laws, rules or regulations and not carried forward in this Agreement or amendments will be terminated in its entirety.

## ARTICLE 17

### LEAVE

#### SECTION 1. REQUESTING AND USING LEAVE OF ANY KIND

Employees are responsible for requesting and using leave of any kind in accordance with the leave regulations of the NOAA Personnel Handbook, Chapter 12. Authorized kinds of leave include annual leave, sick leave, leave without pay, absence for maternity or paternity reasons, military leave, court leave, shore leave, excused absence including administrative leave and holidays.

#### SECTION 2. ANNUAL LEAVE

A. Employees shall earn and be granted annual leave in accordance with applicable laws and regulations. Careful consideration shall be given the desires and needs of the employees in granting annual leave, subject to operational requirements. Employees will be given an opportunity to discharge all annual leave earned during the leave year.

B. When a supervisor charges leave for tardiness, the employee will be so notified and will not be required to work during the charged leave period. Unavoidable or necessary tardiness may be excused at the supervisor's discretion.

C. When sickness occurs during a period of annual leave, at the employee's request, the period of illness will be charged to sick leave and the charge to annual leave will be reduced accordingly.

D. The accumulation of annual or sick leave or lack thereof will not be used as a factor in the rating or ranking of applicants in a merit promotion action.

#### SECTION 3. OTHER LEAVE

A. Leave without pay may be granted to not more than one of the unit members to serve with AFGE for one year if requested, in writing, by the Union. An extension may be considered for a second year on request.

When an employee is on leave without pay (LWOP) under the provisions of the Agreement, the employee shall be entitled to return to a job of like seniority, status and pay.

B. Management agrees to grant Union officers and/or Stewards, who are full-time employees in the bargaining unit, excused absences not to exceed 24 work hours per year, in the aggregate, to receive information, briefing, or orientation relating to matters of mutual concern to the Management and the Union. Requests for use of this excused absence will be considered on a case by case basis. The Union bears the responsibility for showing in what way the representative's participation in the Union meeting, conference or convention will have the required benefit for Management. It is further agreed that for these purposes, the maximum period of excused absence for each separate meeting,

conference or convention, normally, will not exceed eight (8) hours per individual.

C. Management and the Union recognize that there are emergency and hazardous weather conditions which may prevent employees from reporting to work or may require that employees leave the work area before the end of the normal workday or tour of duty. Employees' dismissals or excused absences shall be granted uniformly to all employees and no individual shall be granted administrative leave privileges based on differences in commuting distances to work, location of residence, or any other factor. Those complications in getting to work that affect selected employees, and not the majority of the workforce, are considered personal emergencies and charged to annual leave. Employees are to presume, unless otherwise notified, that facilities will be open each regular workday. Employees are expected to be prepared to cope with difficult driving conditions and minor disruptions of public transportation facilities.

D. The issuance of a Hurricane Warning by the National Weather Service shall automatically excuse employees from duty, and they shall remain excused for 4 hours after warnings are discontinued. Employees will not be charged leave when excused from duty by proper authorities in accordance with applicable policy in effect at that time. Those on regular leave during the period of excused absences will continue on regular leave until the time they were scheduled to return to duty.

#### SECTION 4. LEAVE WITHOUT PAY (LWOP)

Leave without pay is a temporary nonpay status and absence from duty on the employee's request and which is approved by the supervisor. Leave without pay covers only those hours which an employee would otherwise work and be paid. It does not include nonpay status on days for which the employee would be compensated on an overtime basis and does not include days on which the employee is not scheduled to work. LWOP is granted in accordance with NOAA Personnel Handbook, Chapter 12.04.

#### SECTION 5. ABSENCE WITHOUT LEAVE (AWOL)

AWOL is defined as absence from duty without prior approval. The employee must give the supervisor an explanation for not having requested such absence. If the explanation is unsatisfactory, the time lost will be charged to AWOL, and the employee will not be paid for such period. Disciplinary action (oral or written reprimand, suspension, removal, whichever is appropriate) must be taken for all periods of AWOL. AWOL is applied in accordance with the NOAA Personnel Handbook, Chapter 12.05.

#### SECTION 6. MATERNITY LEAVE

A. An employee who is pregnant has an obligation to her employer to report her intent to request leave for maternity reasons, including the type of leave, approximate date, and anticipation of duration, in order that the necessary staffing adjustments may be made.

B. When there is any question about the pregnant employee's physical ability

to perform her job without hazard to her health or the health of the unborn child, the employee should consult her own physician on this matter, and notify Management in writing of any specific restrictions.

#### SECTION 7. ABSENCE FOR PATERNITY REASONS

A male employee may request annual leave, compensatory leave, shore leave, or leave without pay to assist or care for his minor children or the mother of his newborn child while she is incapacitated for maternity reasons. Approval of leave for this reason must be in accordance with the granting of leave in other situations (leave schedules of other staff, etc.), and each leave request will be considered on its own merits. Under no circumstances may sick leave be approved for paternity reasons.

#### SECTION 8. COURT LEAVE AND JURY SERVICE

Regulations governing requests for court leave and jury service may be found in NOAA Personnel Handbook Chapter 12.09.

#### SECTION 9. SHORE LEAVE

Employees who are regularly required to serve aboard on ocean going vessels on an extended voyage are eligible for shore leave. Employees assigned once a year, every year are considered to be regularly assigned. Temporary assignments of shorebased employees, such as for limited work projects or training, do not constitute regular assignments. An extended voyage is one which is of at least seven (7) consecutive calendar days duration. Shore leave is earned and taken in whole days only.

NOAA Personnel Handbook, Chapter 12.10, covers eligibility, computation and administration of shore leave.

## ARTICLE 18

### WORK SCHEDULES, OVERTIME, HOLIDAY

#### AND ADDITIONAL PAY PROVISIONS

##### SECTION 1. DEFINITIONS

Workday: A duty period of eight (8) hours in which the duty is performed in no more than nine (9) consecutive hours.

Basic workweek: A period of forty (40) hours, comprised of five (5) eight (8) hour workdays.

Administrative workweek: A period of seven (7) consecutive calendar days, Sunday through Saturday, within which the basic workweek is included.

Overtime: Work authorized and performed in excess of the basic workweek or workday, regardless of whether compensated for by cash or compensatory time.

Regularly scheduled overtime: Overtime scheduled in advance consisting of definite hours and days in excess of the administrative workweek, (1) for a period of at least two consecutive workweeks, or (2) at regularly recurring intervals, such as overtime scheduled every other week.

Irregular or Occasional Overtime: Work which was not scheduled prior to the beginning of the administrative workweek in which it occurs, but which is determined by Management to be necessary.

Holiday work: Nonovertime duty performed on days designated as holidays and compensated at holiday rates of pay.

Work Schedules: Specific hours for scheduled workdays within the administrative workweek.

##### SECTION 2. OVERTIME

A. Overtime work assignments shall be distributed equitably among qualified employees, consistent with workload requirements. First consideration shall be given to those employees who are currently assigned to the job. Management agrees to make a reasonable effort to give employees as much notice as possible when overtime is required, and further agrees to give due consideration to the employee's personal circumstances, subject to fulfilling the mission of the Miami Laboratory.

B. Management agrees that an effort will be made to relieve an employee of an overtime assignment to meet a personal emergency, provided that employee has, in Management's opinion, a legitimate reason, and a qualified replacement is available to take the employee's place. However, if Management is unable to find a replacement, the employee must work the overtime.

C. For the purpose of overtime records (equitable distribution) when an

employee declines an overtime assignment, which is agreed to by the supervisor, equitable distribution requirements are considered to have been met.

D. Overtime work shall not be assigned to employees as a reward or penalty.

E. An employee shall be compensated for every minute of regularly scheduled overtime work. A quarter of an hour shall be the largest fraction of an hour used for crediting irregular or occasional overtime work. When irregular or occasional overtime work is performed in other than a full fraction, odd minutes shall be rounded up or down to the nearest quarter hour. Compensatory time off is not appropriate for regularly scheduled overtime work. Employees whose rate of basic pay is below the maximum rate for GS-10 may not be required to take compensatory time instead of payment for irregular or occasional overtime work. Compensatory time must be used within six pay periods following the pay period in which it is earned. Where an employee is prevented by Management from taking compensatory time off within the six pay periods, the time limit will be extended by the supervisor for an additional six pay periods.

F. Management shall, upon request, provide the Union a semi-annual overtime report by tasks and hours paid during the current fiscal year.

SECTION 3. Employees are not authorized to perform official duties outside of their established tour without the specific approval of their supervisor.

SECTION 4. The basic workday will be 0800 to 1630 EST/EDT, 8 continuous hours of work and a 30 minute lunch period.

SECTION 5. Employees will be allowed an unencumbered lunch period. The lunch period will occur between 11:30 and 1300. It will normally occur after no more than 4 hour of work. The Parties recognize that unpaid lunch periods are times in which employees are entirely free of duty in connection with their jobs. No restrictions on the use of this time shall be made.

SECTION 6. HAZARDOUS DUTY

A. Employees who perform work involving unusual physical hardship or hazard on an irregular or intermittent basis shall be eligible for hazard pay differential for the hours in a pay status on the day on which hazardous duty is performed. The differential is a percentage of regular pay and is in addition to any other pay. Hazard pay differential may not be paid an employee when the hazardous duty is a regular scheduled duty, has been taken into account in the classification of the position, and is so stated on the Position Description.

B. Specific criteria for additional hazardous duty situations applicable to bargaining unit members will be announced as they are established.

C. Examples of hazardous pay differentials authorized for irregular or intermittent hazardous duty which could apply to bargaining unit members are contained in 5 CFR 550.901 Appendix A as follows:

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED FOR IRREGULAR OR INTERMITTENT

HAZARDOUS DUTY UNDER SUBPART 1

HAZARD PAY DIFFERENTIAL, OF PART 550 PAY ADMINISTRATION (GENERAL)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
Exposure to Hazardous Weather or Terrain:		
(1) Work in rough and remote terrain. When working on cliffs, narrow ledges, or near vertical mountainous slopes where a loss of footing would result in serious injury or death, or when working in areas where there is danger of rock falls or avalanches.	25	First pay period beginning after July 1, 1969.
(2) Traveling under hazardous conditions. (a) When travel over secondary or unimproved roads to isolated mountain top installations is required at night, or under adverse weather conditions (such as snow, rain, or fog) which limits visibility to less than 100 feet, when there is danger of rock, mud, or snow slides.	25	Do.
(b) When travel in the wintertime, either on foot or by means of vehicle, over secondary or unimproved roads or snow trails, in sparsely settled or isolated areas to isolated installations is required when there is danger of avalanches, or during "whiteout" phenomenon which limits visibility to less than 10 feet.	25	Do.
(c) When work or travel in sparsely settled or isolated areas results in exposure to temperatures and/or wind velocity shown to be of considerable danger, or very great danger, on the windchill chart (Appendix A-1), and shelter (other than temporary shelter) or assistance is not readily available.		

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
(3) Snow or ice removal operations. When participating in snowplowing or snow or ice removal operations, regardless of whether on primary, secondary or other class of roads, when (a) there is danger of avalanche, or (b) there is danger of missing the road and falling down steep mountainous slopes because of lack of snow stakes, "whiteout" conditions, or sloping ice-pack covering the snow.	25	Do.
(4) Water search and rescue operations. Participating as a member of a water search and rescue team in adverse weather conditions when winds are blowing at 35 m.p.h. (classified as gale winds) or in water search and rescue operations conducted at night.	25	Do.
(5) Travel on Lake Pontchartrain. (a) When embarking, disembarking or traveling in small craft (boat) on Lake Pontchartrain when wind direction is from north, northeast, or northwest, and wind velocity is over 15 knots; or	25	Do.
(b) When traveling in small crafts, where craft is not radar equipped, on Lake Pontchartrain is necessary due to emergency or unavoidable conditions and the trip is made in a dense fog under fog run procedures.		
(6) Hazardous boarding or leaving of vessels. When duties (a), (b), or (c) are performed under adverse conditions of foul weather, ice, or night and when the sea state is high (3 feet and above):	25	First pay period beginning after May 7, 1970.
(a) Boarding or leaving vessels at sea or standing offshore during lightering or personnel transfer operations.		
(b) Boarding, leaving, or transferring equipment between small boats or rafts and steep, rocky, or coral surrounded shorelines.		
(c) Transferring equipment between a small boat and rudimentary dock by improvised or temporary facility such as an unfastened plank leading from boat to dock.		



APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
<b>Exposure to Hazardous Weather or Terrain:</b>		
(7) Small craft texts under unsafe sea conditions. Conducting craft tests to determine the sea-keeping characteristics of small craft in a seaway when U.S. storm warnings normally indicate unsafe seas for a particular size craft.	25	First pay period beginning on or after Sept.28, 1972.
(8) Working on a drifting sea ice floe. When the job requires that the work be performed out on sea ice, e.g., installing scientific instruments and making observations for research purposes.	25	First pay period beginning after March 16, 1973.
<b>Exposure to Physiological Hazards:</b>		
(1) Pressurechamber subject.	25	Do.
(a) Participating as a subject in diving research tests which seek to establish limits for safe pressure profiles by working in a pressure chamber simulating diving or, as an observer to the test or as a technician assembling underwater mock-up components for the test, when the observer or technician is exposed to high pressure gas piping systems, gas cylinders, and pumping devices which are susceptible to explosive ruptures.	25	Do.
(b) Working in pressurized sonar domes. Performing checkout of sonar system after sonar dome has been pressurized. This may include such duties as changing transducer elements, setting of transducer turntables, checking of cables, piping, valves, circuits, underwater telephone, and pressurization plugs.	8	First pay period beginning after Feb. 16, 1975.
(c) Working in nonpressurized sonar domes that are a part of an underwater system. Performing certification pretrial inspections, involving such duties as calibrating, adjusting, and photographing equipment, in limited space with limited egress.	4	First pay period beginning after Feb. 16, 1975.

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
<b>Exposure to Physiological Hazards:</b>		
(2) Simulated altitude chamber subjects. Observers participating in simulated altitude studies ranging from 18,000 to 150,000 feet either as subject or as observer exposed to the same conditions as the subject.	25	Do.
(3) Centrifuge subjects. Participating as subject in centrifuge studies involving elevated G forces above the level of 5 G's whether or not at reduced atmospheric pressure.	25	Do.
(4) Rotational flight simulator subject. Participating as subject in a Rotational Flight Simulator in studies involving continuous rotation in one axis through 360 degrees or in a combination of any axes through 360 degrees at rotation rates greater than 15 r.p.m. for periods exceeding three minutes.	25	First pay period beginning after July 1, 1969.
(5) Hot Work-Working in confined spaces wherein the employee is subject to temperatures in excess of 110 degrees F.	4	First pay period beginning after Feb. 16, 1975.
<b>Exposure to Hazardous Agents, work with or in close proximity to:</b>		
(1) Explosive or incendiary materials. Explosive or incendiary materials which are unstable and highly sensitive.	25	First pay period beginning after July 1, 1969.
(2) At-sea shock and vibration tests. Arming explosive charges and/or working with, or in close proximity to, explosive armed charges in connection with at-sea shock and vibration tests of naval vessels, machinery, equipment and supplies.	25	Do.
(3) Toxic chemical materials when there is a possibility of leakage or spillage.	25	Do.
(4) Fire retardant materials tests. Conducting tests on fire retardant materials when the tests are performed in ventilation restricted rooms where the atmosphere is continuously contaminated by obnoxious odors and smoke which causes irritation to the eyes and respiratory tract.	25	Do.

APPENDIX A<sub>3</sub> SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
Exposure to Hazardous Agents, work with or in close proximity to:		
(5) Virulent biologicals. Materials of micro-organic nature which when introduced into the body are likely to cause serious disease or fatality and for which protective devices do not afford complete protection.	25	Do.
Participating in Liquid Missile Propulsion Tests and Certain Solid Propulsion Operations:		
(1) Tanking and detanking. Tanking or detanking operations of a missile or the test stand "run" bottles with liquid propellants.	25	Do.
(2) Hoisting a tanked missile. Hoisting a tanked missile or a solid propellant propulsion system into and/or over the test stand.	25	First pay period beginning after July 1, 1969.
(3) Pressure tests. Pressure tests on loaded missiles, missile tanks, or run bottles during prefire preparations.	25	Do.
(4) Test stand tests. Test stand operations on loaded missiles under environmental conditions where the high or low temperatures could cause a failure of a critical component.	25	Do.
(5) Disassembly and breakdown. Disassembly and breakdown of a contaminated missile system or test stand plumbing after test.	25	Do.
(6) "Go" condition test stand work. Working on any test stand above the 50-foot level or any stand work while the system is in a "go" condition.	25	Do.
(7) Arming and dearming propulsion systems. Arming, dearming or the installation and/or removal of any squib, explosive device, or a component thereof connected to, or part of, any live or potentially expended liquid or solid propulsion system.	25	Do.
(8) Demolition and destruct tests. Demolition, hazards classification, or destruct type tests where the specimen is nonstandard and/or unproven and the test techniques do not conform to standard or proven procedures.	25	Do.

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
<b>Work in Fuel Storage Tanks:</b>		
When inspecting, cleaning or repairing fuel storage tanks where there is no ready access to an exit, under conditions requiring a breathing apparatus because all or part of the oxygen in the atmosphere has been displaced by toxic vapors or gas, and failure of the breathing apparatus would result in serious injury or death within the time required to leave the tank.	25	Do.
<b>Firefighting:</b>		
(1) Forest and range fires. Participating as a member of a firefighting crew in fighting forest and range fires on the fireline.	25	Do.
(2) Equipment, installation, or building fires. Participating as an emergency member of a firefighting crew in fighting fires of equipment, installations, or buildings.	25	Do.
(3) In-water under-pier firefighting operations (involving hazards beyond those normally encountered in firefighting on land, e.g., strong currents, cold water temperature, etc).	25	Do.
<b>Work in Open Trenches:</b>		
Work in an open trench 15 feet or more deep until proper shoring has been installed.	25	Do.
<b>Underground Work:</b>		
Work underground performed in the construction of tunnels and shafts, and the inspection of such underground construction, until the necessary lining of the shaft or tunnel has eliminated the hazard.	25	

APPENDIX A, SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
Underwater Duty:		
(1) Submerged submarine or deep research vehicle. Duty aboard a submarine or deep research vehicle when it submerges.	25	Do.
(2) Diving. Diving including SCUBA (self contained underwater breathing apparatus) diving, required in scientific and engineering pursuits, or search and rescue operations, when:	25	Do.
(a) at a depth of 20 feet or more below the surface; or,		
(b) visibility is restricted; or,		
(c) in rapidly flowing or cold water; or,		
(d) vertical access to the surface is restricted by ice, rock, or other structure; or,		
(e) testing or working with hardware which presents special hazards (such as work with high voltage equipment or work with underwater mockup components in an underwater space simulation study).		
Sea Duty Aboard Deep Research Vessels:		
Participating in sea duty wherein the team member is engaged in handling equipment on or over the side of the vessel when the sea-state is high (12-knot winds and 3-foot waves) and the work is done on deck in relatively unprotected areas.	25	Do.
Collecting of Aircraft Approach and Landing Environmental Data:		
When operating or monitoring camera equipment adjacent to flight deck in the area of maximum hazard during land sequence while conducting photographic surveys aboard aircraft carriers during periods of heavy aircraft operation.	25	First pay period beginning after July 1, 1969.

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
<b>Experimental Landing/Recovery Equipment Tests:</b>		
Participating in tests of experimental or prototype landing and recovery equipment where personnel are required to serve as test subjects in spacecraft being dropped into the sea or laboratory tanks.	25	Do.
<b>Land Impact or Pad Abort of Space Vehicle:</b>		
Actual participating in dearming and safing explosive ordinance, toxic propellant and high pressure vessels on vehicles that have land impacted or on vehicles on the launch pad that have reached a point in the count-down where no remote means are available for returning the vehicle to a safe condition.	25	Do.
<b>Height Work:</b>		
Working on any structure of at least 50 feet above the base level, ground, deck, floor, roof, etc., under open conditions, if the structure is unstable or if scaffolding guards or other suitable protective facilities are not used, or if performed under adverse conditions such as snow, sleet, ice on walking surfaces, darkness, lightning, steady rain, or high wind velocity.	25	Do.
<b>Flying, participating in:</b>		
(1) Pilot proficiency training. Flights for pilot proficiency training in aircraft' new to the pilot under simulated emergency conditions which parallel conditions encountered in performing flight tests.	25	Do.
(2) Delivery of new aircraft for flight testing. Flights to deliver aircraft which has been prepared for one-time flight without being test flown prior to delivery flight.	25	Do.

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
Flying, participating in:		
(3) Test flights of new modified, or repaired aircraft. Test flights of a new or repaired aircraft or modified aircraft when the modification may affect the flight characteristics of the aircraft.	25	Do.
(4) Reduced gravity-parabolic arc flights-subjects/observers. Reduced gravity flight testing in an aircraft flying a parabolic flight path and providing a testing environment ranging from weightlessness up through +2 gravity conditions.		
(5) Launch and recovery. Test flights involving launch and recovery aboard an aircraft carrier.	25	Do.
(6) Limited control flights. Flights undertaken under unusual and adverse conditions (such as extreme weather, maximum load or overload, limited visibility, extreme turbulence, or low level flights involving fixed or tactical patterns) which threaten or severely limit control of the aircraft.	25	Do.
(7) Flight tests of expandable aircraft tires. Landing to test aircraft tires designed to deflate upon retraction, undertaken to appraise the normal deflate-reinflate cycle and also to evaluate the capability to make a satisfactory landing with the tires deflated.	25	Do.
(8) Landing and taking-off in polar areas. Landing in polar areas on unprepared snow or ice surfaces and/or taking-off under the same conditions.	25	Do.
Experimental Parachute Jumps:		
Participating as a jumper in field exercises to test and evaluate new types of jumping equipment and/or jumping techniques.	25	Do.

APPENDIX A-SCHEDULE OF PAY DIFFERENTIALS AUTHORIZED - (Continued)

Irregular or intermittent duty	Rate of hazard pay differential (percent)	Effective date
<b>Ground Work Beneath Hovering Helicopter:</b>		
(1) Participating in ground operations to attach external load to helicopter hovering just overhead.	25	Do.
(2) Sling-suspended transfers. When performance of duties requires transfer from helicopter to a ship via a sling on the end of a steel cable or from a ship to another ship via a chair harness hanging from a highline between the ships when both vessels are underway.	25	First pay period beginning after Oct. 11, 1969.
(3) Carrier suitability trails aboard aircraft carriers. Participating in carrier suitability trials aboard aircraft carriers when work is performed on the flight deck during launch, recovery, and refueling operations.	25	Do.
(4) Cargo handling during lightering operations. Off-loading of cargo and supplies from surface ships to Landing Craft-Medium (LCM) boats involving exposure not only to falling cargo but such other hazards as shifting cargo within the LCM, swinging cargo hooks, and possibility of falling between the LCM and cargo vessel.	25	Do.
(5) Work in unsafe structures: Working within or immediately adjacent to a building or structure which has been severely damaged by earthquake, fire, tornado, flood, or similar cause, when the structure has been declared unsafe by competent technical authority, and when such work is considered necessary for the safety of personnel or recovery of valuable materials or equipment, and the work is authorized by competent authority.	25	First pay period beginning on or after Apr. 11, 1976.

(5 U.S.C. 5595; E.O. 11257; 3 CFR 1964-1965 Comp., p.357) [34 FR 11083, July 1, 1969; 34 FR 12623, Aug. 2, 1969, as amended at 34 FR 15747, Oct. 11, 1969; 35 FR 7172, May 7, 1970; 37 FR 20248, Sept. 28, 1972; 39 FR 7115 Mar. 16, 1973; 40 FR 7437, Feb. 20, 1975; 41 FR 12635, Mar. 26, 1976; FR 14165, Apr. 2, 1976]



## ARTICLE 19

### TRAINING

SECTION 1. Management and the Union recognize that the training and development of employees is an important part of NMFS's program for efficient operations. The choice of subject matter, areas for training, selection and assignment of training priorities is a function of Management, as is the responsibility for encouraging learning, providing on the job training and off the job assistance, to develop skills, stimulate and encourage employees' efforts at self-development.

SECTION 2. Management and the Union recognize that each employee is responsible for applying reasonable effort, time, and initiative toward increasing his/her potential value through self-development training. The Parties, therefore, agree to encourage employees to take advantage of training and educational opportunities which will add to the skills and qualifications needed to increase their efficiency in the performance of their duties and for possible advancement.

SECTION 3. Management and the Union agree that the Labor-Management Committee will serve as an advisory forum on training recommendations.

SECTION 4. Management agrees that, subject to the availability of funds, selection for training will be based on the following factors:

- A. Need for training in relation to the job;
- B. Extent to which knowledge, skill, attitude or performance is likely to be improved by training;
- C. Length of time and degree to which NOAA, NMFS, Miami Laboratory expect to benefit from training;
- D. Interest and efforts toward self-development and work improvement;
- E. Potential for advancement;
- F. Ability to pass the training on to others; and
- G. Probability of successful completion of training.

Selection for career-oriented training required for promotion shall be in accordance with the competitive procedures in the NOAA Merit Assignment Program.

SECTION 5. Employees shall at least annually advise the Personnel Office of additional skills attained during the preceding year for inclusion of this information in the employee's Official Personnel Folder (OPF).

**SECTION 6.** Management agrees to make available to unit employees, the available current listings, brochures, or announcement of the job-related training courses. Management further agrees to make available announcements of available correspondence courses and after hours educational courses to assist employees in their self-development plans.

**SECTION 7.** All new and reassigned employees will be provided with training, to the extent deemed necessary by Management, whose decision is final, to meet the requirements of their job assignments. If an employee does not feel training is sufficient, he/she can make this known to Management who will make a determination and whose decision will be final.

**SECTION 8.** In instances where employees were invited to apply by Management and did apply for consideration to attend external job-related training courses, management agrees to notify the applicants of their selection or nonselection for the training. In cases of nonselection the reasons will be given to the employee when requested.

**SECTION 9.** Management agrees to fully consider the utilization of the training and experience of employees gained through the provided training.

## ARTICLE 20

### EQUAL EMPLOYMENT OPPORTUNITY

**SECTION 1.** Management and the Union agree to cooperate in providing equal opportunity for all qualified persons, to prohibit discrimination because of age, sex, race, creed, color, lawful political affiliation, union membership, handicapping conditions, marital status or national origin. Through the Labor-Management Committee, each Party agrees to advise the other of outstanding equal opportunity problems of which they are aware and possible avenues of solution.

**SECTION 2.** The Union will be furnished copies of the EEO Affirmative Action plans which apply to employees covered by this Agreement.

**SECTION 3.** A unit employee, in pursuing a complaint of alleged discrimination with an EEO Counselor, or at any step of the EEO complaint procedure, has the right to be accompanied by a Union representative or other representative of his/her choosing, if he/she so desires.

**SECTION 4.** Any employee who wishes or has filed an equal opportunity complaint shall be free from coercion, interference, or reprisal. Any employee who seeks to file a complaint shall do so in accordance with the negotiated grievance procedure contained in Article 09 of this Agreement or in accordance with Chapter 19.03, NOAA Personnel Handbook, but not both. Once a review procedure has been initiated, the complaining employee may not change to another procedure.

**SECTION 5.** The Union recognizes and agrees that Management is required to take corrective or remedial action when learning of violations of EEO law or regulation. It is further understood that EEO complaints are subject to statutory adjudicatory procedures and are resolved under those procedures specified by the Equal Employment Opportunity Commission (EEOC). Management agrees that when, at any stage of the complaint process, it determines it is necessary to make changes with respect to conditions of employment of unit employees in order to: (a) implement a decision by higher authority, (b) correct a conflicting discriminatory provision of this Agreement, or (c) a provision violated an applicable law, order or regulation, as interpreted by the appropriate authority, the Union will be notified as appropriate.

**SECTION 6.** The Union will submit to the Laboratory Director the names of up to three (3) unit employees for consideration for appointment to the EEO Committee. From the names submitted, the Director will appoint one (1) as a regular member on the EEO Committee to represent the Union. The EEO Committee member representing the Union will have the same representational rights and privileges as other members of the Committee.

**SECTION 7.** The names and telephone numbers of Equal Employment Opportunity Counselors and Office of Civil Rights staff will be posted on the EEO bulletin board.

## ARTICLE 21

### SAFETY AND HEALTH

SECTION 1. Management shall provide and maintain safe and healthful working conditions in accordance with controlling laws and Executive Orders. The Union will cooperate by encouraging employees to abide by good safety practices.

SECTION 2. Management and the Union insist on the observance of safety rules and safe procedures by employees and insist on correction of unsafe conditions. It shall be the employees' responsibility to advise Management when they feel that a condition has arisen within their work area which they believe is hazardous to their welfare and general well-being. Management shall investigate and if necessary take steps to correct any such unsafe working condition.

SECTION 3. Management will, subject to NOAA regulations, furnish employees with special tools, safety clothing and items necessary for performing work. Employee failure to use provided safety items could result in disciplinary action.

SECTION 4. Whenever it is suspected that unsafe and/or unhealthy conditions pose a danger to the employees, such conditions will be reported directly to the Laboratory Director for corrective action. If the conditions cannot be immediately corrected, a report shall be sent to the Labor-Management Committee.

SECTION 5. Employees may voluntarily participate in immunization programs when NOAA can provide such services. Arrangements for these programs will be made locally.

SECTION 6. When the offices of the Miami Laboratory are repainted, employees will be given the opportunity to express their preference for color from a color display presented by Management. The preference expressed by the majority of employees will be considered. The final selection of color shall be made by Management. Office occupants shall be informed not later than two weeks prior to being moved to a different space.

## ARTICLE 22

### ACCEPTABLE LEVEL OF COMPETENCE

**SECTION 1.** When the supervisor's evaluation leads to a conclusion that the employee's work may not be of an acceptable level of competence for within-grade purposes, the supervisor shall provide the following to the employee in writing at least 60 calendar days before the employee is eligible for a step increase, except as provided in Section 2 below.

A. An explanation of each aspect of performance in which the employee's services fall below an acceptable level and how this renders the performance on the job as a whole below an acceptable level.

B. A statement of the acceptable level of performance on each of those work aspects.

C. Advice as to what the employee must do to bring the performance up to an acceptable level.

D. A statement that the employee has 60 calendar days in which to bring the performance up to an acceptable level.

**SECTION 2.** When Management makes a negative determination without the employee having received the above information 60 calendar days in advance, as required above, Management shall make another determination not later than 60 calendar days after the date on which the employee completed the waiting period for the step increase. When an acceptable level of competence is achieved at some time after a negative determination, the effective date of the pay increase is the first day of the first pay period after the acceptable determination has been made.

**SECTION 3.** A negative determination may be raised under the provisions of Article 09 of this Agreement.

**ARTICLE 23**

**FLEXITIME**

**SECTION 1.** Management agrees to reopen negotiations on flexitime when and if Alternative Work Schedule is terminated.

ARTICLE 24

TEMPORARY DUTY AT HOME

SECTION 1. Management shall consider employees' written requests to work at home. Those requests meeting the NOAA Personnel Handbook criteria may be granted.

ARTICLE 25

CONTRACTING OUT

SECTION 1. Management agrees to provide all information not prohibited by law or regulation concerning the contemplated contracting out, upon request.

SECTION 2. Both Parties understand that it is against federal policy to have personal service contracts which might establish an employee-employer relationship.



## ARTICLE 26

### POSITION DESCRIPTION

**SECTION 1.** Employees will be provided an adequate Position Description (PD) containing the principal duties, responsibilities and supervisory relationships. Management shall prepare a PD for each position and classify it before it is filled. PD's will be prepared in formats prescribed by the Department of Commerce and/or the Office of Personnel Management. When changes in the duties, responsibilities or supervisory relationships so warrant, the PD will be amended or rewritten. Each employee and his/her supervisor shall be furnished a copy of his/her PD and any subsequent changes. An employee may be asked to review his/her PD and to sign it to certify its accuracy. The employee's signature is optional.

**SECTION 2.** Any employee who believes that his/her position is improperly classified is encouraged to first discuss the matter with his/her supervisor. Employees will be notified in advance when a final decision has been made that affects the classification of their position. Appeals can be directed to the Chief, Personnel Division, Central Administrative Support Center; the Director, Office of Personnel, NOAA; the Director of Personnel, Department of Commerce; or the Office of Personnel Management. One continuing appeal can be instituted if the appeal contains the specific request to continue the appellate review through the various levels. Appeals may be filed directly with the Office of Personnel Management. If this is done, no other appeal may be filed.

ARTICLE 27

POSITION CLASSIFICATION REVIEWS

SECTION 1. In cases where Management decides to conduct a special classification survey or audit of a group of positions, Management shall notify the Union sufficiently in advance of the survey. Management will meet with a Steward on request to discuss the concerns of the employees in the area scheduled to be surveyed or audited.

## ARTICLE 28

### REASSIGNMENT AND DETAILS

SECTION 1. Employees will be notified of reassignments one pay period before the effective date. If the reassignment causes hardship to the employee, the employee may meet with the supervisor to express his/her concerns.

SECTION 2. Management agrees to consider employee requests for reassignment providing the employee makes his/her request with pertinent reasons in writing to his/her supervisor.

SECTION 3. A detail is the temporary assignment of an employee to a different position for a specified period of time with the employee returning to his/her regular duties at the end of the detail. Details will be documented on SF-52 or by memorandum as applicable.

**ARTICLE 29**

**PROMOTIONS**

**SECTION 1.** On written request from the Union or an employee, Management will supply the following information about a promotion action:

- A. Name of the individual selected.
- B. Title of the position.
- C. Location of the position.
- D. Rating Panel with the name of the inquiring employee. Other names will be omitted for Privacy Act protection.
- E. Whether the inquiring employee's name was on the list from which selection to fill the position was made.
- F. Rating plan and/or past potential appraisals.
- G. The numbers of qualified applicants.
- H. Whether the employee was found to be qualified on the basis of minimum standards.
- I. In what areas, if any, the employee may improve in order to increase the chances of future selection for vacancies.
- J. Telephonic career counselling shall be available to the employee on advance request to the personnel office.

## ARTICLE 30

### VACANCY ANNOUNCEMENTS

**SECTION 1.** Vacancies will be advertised according to the requirements of the NOAA Personnel Handbook, Chapter 6, Merit Assignment Program. Management retains the right to determine the level of recruitment and designate so on the Vacancy Announcement at the time the Vacancy Announcement is issued.

Staffing of research positions will be accomplished in accordance with Office of Personnel Management Standards - recommendations for promotion to research positions beyond journeyman level will be considered by the Personnel Management Advisory Committee (PMAC). Assessment of progress and potential for promotion below journeyman level shall be considered at the annual performance appraisal meeting.

## ARTICLE 31

### TRAVEL

**SECTION 1.** Travel will be performed in accordance with NOAA travel regulations and applicable travel order shall be prepared in advance of the travel.

**SECTION 2.** A travel order will be prepared for each employee authorized to travel. Advance travel pay may be obtained by submission of a properly signed request and for an amount within the limits established by the NOAA Travel Handbook. Retention of travel advance shall be governed by the NOAA Travel Handbook.

**SECTION 3.** The per diem rate for travel to and from vessels shall be at the prevailing rate and in accordance with the NOAA Travel Handbook. For temporary duty aboard government or contract vessels, where meals and quarters are available, the per diem paid employees will be in accordance with applicable regulations.

**SECTION 4.** Management agrees to have available, for review by bargaining unit employees, at a designated place, information relative to current fiscal year travel activities.

## ARTICLE 32

### SEA DUTY

**SECTION 1.** Management agrees to provide the clothing and equipment, as determined necessary by Management, to work at sea.

**SECTION 2.** All employees assigned to overnight sea duty will be issued travel orders which shall state the approximate beginning and ending dates of the cruise, including the allowances to be paid. For NOAA vessels, a copy of the cruise instructions will be made available for the review of employees assigned to sea duty. Employees assigned to sea duty aboard non-government vessels will be provided project instructions. Information about the cruise will also be provided, if available. Employees assigned to sea duty will be provided a pre-cruise briefing with as much lead time as possible.

## ARTICLE 33

### AWARDS

**SECTION 1.** Management agrees to encourage the use of incentive awards. Awards will be announced in open employee meetings and when possible, presented to the employee. In the open meetings the awards justification will be announced to the attendees.



SUPPLEMENTAL (1) -

NOAA General Workforce Performance Appraisal System

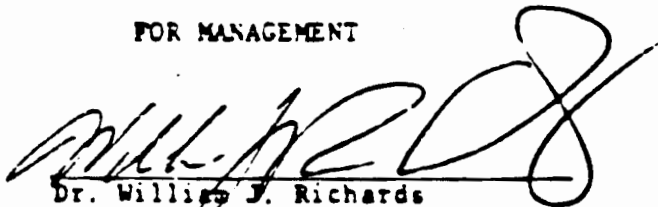
MEMORANDUM OF UNDERSTANDING

The Miami Laboratory, Southeast Fisheries Center, National Marine Fisheries Service and the American Federation of Government Employees Local 2875 have negotiated the attached Appendix to represent changes or additions to the National Oceanic and Atmospheric Administration's General Workforce Performance Appraisal System (GWPAS), dated April 15, 1981. Otherwise, this system is accepted as written.

This Agreement shall be attached to all copies of the aforementioned System, distributed to all unit employees as an Appendix, and shall remain in force as long as the NOAA System is in effect in the Miami Laboratory.

Signatories:

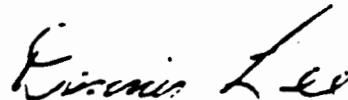
FOR MANAGEMENT



Dr. William J. Richards  
Director, Miami Laboratory

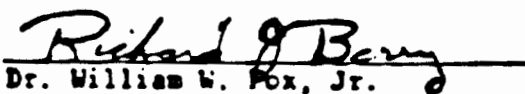
Date: 9/17/81

FOR THE UNION



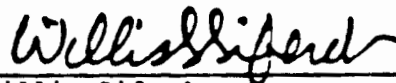
Dennis Lee  
Chief Negotiator, AFGE Local 2875

Date: 9/16/81

*for* 

Dr. William W. Fox, Jr.  
Director, Southeast Fisheries Center

Date: 9/17/81



Willis Siferd  
President, AFGE Local 2875

Date: 9/16/81

1: Management agrees to initially provide each unit employee with a copy of the General Workforce Performance Appraisal System (GWPAS) Document, his/her current position description and the designated rating official by September 14, 1981.

2: The Laboratory Director will hold a General Staff Meeting on September 17, 1981, to explain time frames and logistics of the GWPAS implementation. There will not be a general discussion on details and interpretations of the appraisal system.

Questions concerning this system may be submitted in writing by unit employees to the Laboratory Director's office by September 17, 1981. Management agrees to respond by September 25, 1981, to questions submitted in a memorandum to all unit employees. The parties agree this will be an initial procedure only; additional questions will be discussed individually between each unit employee and his/her rating official.

3: Management agrees that each rating official will hold a scheduled meeting with each of his/her unit employees for the purpose of reviewing and discussing his/her Performance Plan prior to final signing and dating of the Plan. The unit employee shall receive a copy of the signed Performance Plan within 30 days of approval.

4: No formal personnel actions to deny a within grade increase, reassign, reduce-in-grade, or remove an employee, resulting from performance below the satisfactory level, will be initiated until the employee has received written notice of the specific performance deficiencies.

5: New unit employees shall receive a copy of the NOAA General Workforce Performance Appraisal System Document and this appendix from the Union. Management shall provide each new unit employee with his/her current position description, the name of the designated rating official, and a performance plan within 60 days of entry to the position.

6: Scheduled appraisal meetings and progress review meetings will take place during core hours at the beginning of the work week.

# U.S. Department of Commerce PERFORMANCE PLAN, PROGRESS REVIEW & APPRAISAL RECORD

For  
Senior Executive Service,  
Merit Pay, and General Work Force Employees



**THE FORM RECORDS:**

- (1) an understanding between the rating official and employee of what is to be accomplished during the appraisal period;
- (2) how those accomplishments will be evaluated;
- (3) the employee's interim progress toward achieving the specified accomplishments;
- (4) the employee's actual accomplishments during the rating period; and
- (5) the final performance rating assigned the employee.

Name of Employee \_\_\_\_\_

Position Title/Series/Grade \_\_\_\_\_

Organization \_\_\_\_\_

Rating Period \_\_\_\_\_

Covered By:  Senior Executive Service    Merit Pay  
 General Work Force

**KNOWLEDGEMENT OF THE DEVELOPMENT AND RECEIPT OF THE PERFORMANCE PLAN:**

SIGNATURE OF EMPLOYEE (Indicates plan has been discussed)

SIGNATURE OF RATING OFFICIAL (Immediate Supervisor)

SIGNATURE OF APPROVING OFFICIAL or SES Appointing Authority

DATE

## Instructions for Completing the Performance Plan, Progress Review and Appraisal Record

**A. Performance Planning.** Complete the performance plan in collaboration with the employee. The performance plan consists of Items 1, 2, and 3 of Section I and requires the following seven steps:

**Step 1.** Identify the performance elements of the employee's job (Item 1). Performance elements are brief, two- or three-word descriptions of major responsibilities. (Fill out a separate Section I for each performance element.)

**Step 2.** Identify each element as critical or non-critical and specify whether it is being tracked at the Departmental level. (If it is being tracked at the Department level, it must be designated as critical.)

**Step 3.** State the objective of the element. The objective should be a brief statement that defines what the element is intended to accomplish, it focuses on the overall result. An example of an objective might be "To carry out organizational responsibilities by developing and implementing effective administrative procedures."

**Step 4.** Assign a weight to the element to show its importance and/or the time devoted to accomplishing the element. The total weight of all performance elements in the plan must equal 100.

**Step 5.** Identify the major activities (Item 2) or results needed to accomplish the performance element, e.g., develop an operating budget for the office, complete performance plans for all staff.

**Step 6.** Complete Item 3, "Criteria for Evaluation," by listing any performance standards that will be used to supplement the Generic Performance Standards (GPS) listed in Appendix A. The GPS must be used to evaluate employee performance. Supplemental standards are optional.

**Step 7.** The employee, rating official, approving official, and appointing authority (required for SES plans) must sign the "acknowledgement of the development and receipt of the performance plan," which appears on the cover page of this form.

**B. Progress Review.** At least once, near the mid-point of the appraisal period, the rating official must conduct a progress review with the employee. (Some operating units may require additional progress reviews.) To complete the progress review(s), the rating official must do the following three steps:

**Step 1.** For each element in the performance plan, discuss with the employee:

(a) the employee's progress toward accomplishing the element;

(b) the need for any changes to the plan; and

(c) any performance deficiencies noticed, along with recommendations on how to improve them.

**Step 2.** Complete Item 4, "Progress Review," of Section I, noting the areas discussed in Step 1.

**Step 3.** Initial and date the appropriate block in Item 4 (for each performance element) and have the employee do the same to indicate that the progress review took place.

**C. Performance Appraisal.** Near the end of the appraisal period, the employee's performance during the year will be appraised formally on the basis of the performance elements, the generic standards and any supplemental standards contained in the performance plan. To complete the formal performance appraisal, the following steps must be carried out:

**Step 1.** The rating official formally notifies the employee of the date and time for the appraisal meeting.

**Step 2.** The employee may participate in a pre-appraisal meeting with the rating official to present his/her assessment of his/her own performance during the appraisal period.

**Step 3.** The rating official completes Item 5, "Element Rating and Justification," of Section I for each performance element, noting specific accomplishments resulting from the employee's performance and relating them to the appropriate rating level (5—Outstanding, 4—Commendable, 3—Fully Successful, 2—Marginal, 1—Unsatisfactory).

**Step 4.** The rating official assigns an element rating to each performance element.

**Step 5.** The rating official completes Item 1 of Section II, "Performance Summary and Rating," by transferring the appropriate rating information from each performance element to the summary sheet.

**Step 6.** Item 2, "Recommended Summary Rating," of Section II is completed by the rating official. *NOTE: Failure to meet the fully successful standards in one (or more) critical element(s) must result in a less than fully successful summary rating.*

**Step 7.** All of the information documented in Steps 3-6 above is discussed with the employee at the formal appraisal meeting.

**Step 8.** The employee may comment in writing on his/her recommended rating.

**Step 9a. For General Work Force or Merit Pay Employees Only.**—The rating official completes Item 3a or b, if appropriate, and submits the entire form (with any employee comments) to the approving official who then assigns a final performance rating in Item 4, of Section II. A copy of the final rating must be given to the employee.

**Step 9b. For SES Employees Only.**—The rating official and/or reviewing official completes Item 3c and submits the entire form (and any employee comments) to the appropriate Performance Review Board (PRB) for its review and recommendations. The PRB chair signs the correct block in Item 3c, and forwards the recommendations and the form to the SES Appointing Authority who then assigns the final rating by completing 3c.4. A copy of the final rating must be given to the employee.

**S IN II—PERFORMANCE SUMMARY AND RATING**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Item 1. Instructions:**

1. List each element from performance plan, indicate whether it is critical/non-critical and what weight has been assigned to it.
2. Assign a rating level for each element (5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal (1) Unsatisfactory
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute total score by summing all individual scores. Total score can range from 100 to 500

Performance Element	Critical or Non-critical (C or NC)	Being Tracked At Departmental Level	Weight (Sum of Individual Weights must total 100)	Element Rating (1-5)	Score

**Item 2. Recommended Summary Rating (Check appropriate rating based on total score received.)**

- Outstanding (461-500)  
  Commendable (380-460)  
  Fully Successful (290-379)  
  Marginal (200-289)  
  Unsatisfactory-Must be assigned if employee is given an unsatisfactory rating on one or more critical element(s)

**TOTAL SCORE (100-500)**



Employee comments attached  Yes  No

Employee requested higher level review  Yes  No (For SES employees only)  
(If yes, see 3.c.2 on reverse)

Rating Official (Immediate Supervisor)

Date

Employee (Signature indicates appraisal meeting held)

Date

Intermediate Supervisor (Optional)

Date

**Item 3a. General Work Force Employees Only:**

If rating official wishes to recommend consideration for a performance award or quality step increase at this time, complete CD-326 and attach.

**Item 3b. Merit Pay Employees Only:**

If rating official wishes to recommend consideration for a merit pay cash award at this time, complete CD-326 and attach.

**Item 3c. SES Employees Only. See Reverse Side.**

**Final Summary Rating (General Work Force and Merit Pay Employees. See Item 3c.4 on reverse for SES Employees.)**

- Outstanding  
  Commendable  
  Fully Successful  
  Marginal  
  Unsatisfactory

Approving Official Signature

Date

Item 3c. SES Employees Only	Name	Title
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1. Rating Official Recommendation(s). Check appropriate block(s).

<input type="checkbox"/> Retain	<input type="checkbox"/> Bonus (percentage) _____
<input type="checkbox"/> Reassign	<input type="checkbox"/> Performance related pay adjustment (rate) _____
<input type="checkbox"/> Remove	

Rating Official Signature	Date	Second Level Reviewer Signature	Date
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2. Optional Higher Level Review (at employee's request)

Comments:

Recommendations:

Higher Level Reviewer Signature	Date
---------------------------------	------

3. PRB Review

PRB concurs with initial rating  Yes  No (Explain Below)

PRB concurs with other recommendations  Yes  No (Explain Below.)

PRB Chairperson Signature	Date	PRB Members Signature (optional) _____ _____ _____
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4. Appointing Authority

Agree  Disagree with PRB recommendations. If disagree, explain.

Final Rating of Senior Executive:

Outstanding     Commendable     Fully Successful     Marginal     Unsatisfactory

Appointing Authority Signature	Date
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# Appendix A

## GENERIC PERFORMANCE STANDARDS

generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

In evaluating an element, the rater should:

1. Read carefully each performance standard level beginning with the fully successful one. (It is considered the base level standard.)
2. Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in order for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
3. Provide in writing on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating, the rating official need only document in writing that (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may be performing at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgment as to the appropriate rating level he/she will assign. The rationale for the decision must be documented on the rating form, citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement the GPS, not supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

## General Work Force Generic Performance Standards

### OUTSTANDING

This is a level of rare, high quality performance. The quantity and quality of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. Impact is of such significance that organizational objectives are accomplished that otherwise would not have been. The durability and thoroughness of the employee's work on this element are exceptional and reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and procedures that he or she is responsible. Thoughtful adherence to policies and formats as well as suggestions for improvements in these areas increase the employee's usefulness.

This person plans so that work follows the most logical and logical sequence, inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems, adapts quickly to new priorities and changes in procedures and programs without being a part of the longer term process of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's strong skills result in cost savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and being potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments added to this element at increasing levels of difficulty. The work of such work is high and is done of time without disrupting regular work. Appropriate problems are brought to the supervisor's attention, most problems are dealt with routinely, and with exceptional skill.

The employee's oral and written expression are exceptional, clear, and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subject are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

### COMMENDABLE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Timeliness and accuracy of work are reliable. The knowledge and skills the employee applies to this element are clearly above average. The employee consistently problem solving skill and insight into work processes and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she uses contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are realized through the employee's work planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort.

He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well presented.

### FULLY SUCCESSFUL

This is the level of good, sound performance. The quantity and quality of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary, most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and formal requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of costs to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments to their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

### MARGINAL

The quantity and quality of the employee's work under this element are at the minimum level for retention on the job and are below the level expected of most employees. The quantity and quality of the employee's work products under this element do not consistently follow the norm of the employee's work group and assignments are not consistently completed within prescribed time frames.

Tasks are not completed with the needed degrees of accuracy and thoroughness. The questionable quality of work products requires major revisions significant enough to cause problems in meeting deadlines. In later assignments under this element the work has to be closely supervised to ensure that organizational standards are met. The employee's application

of technical knowledge and skills to this performance element is not reliable. Inappropriate variations from policies, procedures, and instructions provided by the organization interfere with completion of his or her work or the work of others.

Errors in work planning lead to missed deadlines. Difficulty in adapting to changes in priorities, procedures, or new approaches to programs cause delays and loss of quality in the work, requiring supervisory intervention. The employee does not give cost considerations when applicable enough weight in his or her planning.

In accomplishing the work required by this element, the employee's behavior toward supervisors, co-workers, and/or users occasionally poses problems and interferes with the cooperation needed to complete the work.

The employee does not consistently carry out special assignments on time and at fully successful levels of quality without disrupting regular work. The employee rarely performs additional work or special assignments even when the workload permits. Supervisory assistance is often necessary to handle routine problems associated with assignments.

The employee's spoken and written expression sometimes fail to convey information needed for successful completion of the work under this element.

### UNSATISFACTORY

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products or it produces technical, inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work. The employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or by loss of credibility due to irresponsible speech or work activity.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete the projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks the necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

# SES/MERIT PAY GENERIC PERFORMANCE STANDARDS

## OUTSTANDING

This is a level of rare, high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work, often ahead of established schedules and with little supervision.

The employee is a strong leader who works well with others and handles difficult situations with dignity and effectiveness. If a supervisor, the employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to the views of others, the employee promotes cooperation among peers and subordinates while guiding, motivating, and stimulating positive responses. The employee's work with others shows a strong commitment to fair treatment and equal opportunity.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

## COMMENDABLE

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and the procedures for meeting them.

The effective planning of the employee has proved the quality of management practices, operating procedures, task assignments, or program activities. The employee has developed and implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee is a good leader who establishes sound working relationships and shows good judgment in dealing with others and considering their views. The employee has a strong sense of mission and seeks out responsibility. The employee's work with others shows support for fair treatment and equal opportunity.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

## FULLY SUCCESSFUL

This is the level of good, sound performance. The employee has responded positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organizational knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee is a capable leader who works successfully with others and listens to suggestions. The employee also works well as a team member, supporting the group's efforts and showing an ability to handle a variety of interpersonal situations. The employee's work with others shows an understanding of the importance of fair treatment and equal opportunity.

The employee communicates clearly and effectively.

All employees at this level and above have:

- followed a management system by which work is planned, tasks are assigned, and deadlines are met.
- if a supervisor, rewarded good performance and corrected poor performance through sound use of performance appraisal systems, performance-based incentives and, when needed, adverse actions, and selected and assigned employees in ways that used their skills effectively.

## MARGINAL

This is the level of performance that is minimally acceptable but shows significant deficiencies that require correction. The employee's work is marginal on one or more major activities of the critical element.

On one or more occasions important work required unusually close supervision to meet organizational goals, or needed so much revision that deadlines were missed or imperiled.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Lack of awareness of policy implications of assignments.
- Inappropriate or incomplete use of programs or services.
- Circumvention of established procedures, resulting in unnecessary expenditures.
- Reluctance to accept responsibility.
- Disorganization in carrying out assignments.
- Incomplete understanding of one or more important areas of the field of work.
- Unreliable methods for completing assignments and
- Lack of clarity in writing and speaking.

If a supervisor, most of the following deficiencies are typically common, but not always common, characteristics of the employee's work:

- Failure to motivate subordinates or promote team spirit.
- Providing unclear assignments and performance requirements to subordinates.
- Providing insufficient instructions to subordinates on how to carry out programs and
- Failure to provide sufficient explanation of organizational needs and his/her subordinates' roles in meeting those needs.

## UNSATISFACTORY

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Little or no contribution to organizational goals.
- Failure to meet work objectives.
- Inattention to organizational priorities and administrative requirements.
- Poor work habits resulting in missed deadlines, incomplete work products.
- Strained work relationships.
- Failure to respond to client needs, and/or
- Lack of response to supervisor's corrective efforts.

If a supervisor, most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- Inadequate guidance to subordinates.
- Inattention to work progress, and
- Failure to stimulate subordinates to meet goals.

SUPPLEMENTAL (2) -

Alternative Work Schedule Experiment

SUPPLEMENTAL (2) -

ALTERNATIVE WORK SCHEDULE EXPERIMENT

Agreement between NMFS, SEFC, Miami Laboratory, Miami, Florida and  
AFGE Local 2875.

Changes to agreement dated 09/27/79 in items 4, 6, 7, 9, and 10  
as follows:

4. The work day shall consist of the hours of 0600a.m. to 0600p.m. and the maximum hours worked in one day shall not exceed 10 hours unless planned and approved in advance. As an experiment a maximum of 11.5 regular hours may be worked. An employee who wants to work in excess of 10 hours per day shall contact his/her supervisor and outline clearly what he/she intends to do. The supervisor will authorize the experiment and evaluate the progress daily. If the supervisor finds that the volume and quality of work are not of normal acceptable standards, the employee shall be notified that the experiment is concluded. This may occur as early as the completion of one day of work.
6. Core hours are designated hours during which an employee must be present for work. The core hours shall occur each day Monday through Friday and will be 930a.m. to 1130a.m. and 100p.m. to 230p.m.
7. Flexible hours are designated hours during which an employee may elect the times of arrival at and departure from work. The flexible hours shall occur each day Monday through Friday and shall be 0600a.m. to 930a.m., 1130a.m. to 100p.m., and 230p.m. to 600p.m.
9. Annual and sick leave and compensatory (leave) time may be taken and charged in multiples of one-quarter hour.
10. All employees must take a legally required one half hour period for lunch. The lunch period shall be taken between 1130a.m. and 100p.m. in flexible time.

Changes agreed to May 19, 1981 by:

W.J. Richards, Laboratory Director \_\_\_\_\_

W.S. Siferd, President, Local 2875 \_\_\_\_\_

May 21, 1981

Concur with changes:

W.W. Fox, Jr., Center Director

## ALTERNATIVE WORK SCHEDULE EXPERIMENT

1. The Employer (NMFS, SEFC, Miami Laboratory) and the Union (AFGE Local 2875) agree to participate in an Alternative Work Schedule Experiment (Experiment) as authorized by Public Law 95-390. The purpose of this experiment is to determine the benefits both positive and negative of permitting employees to work a basic 80 hours per pay period with as few fixed requirements as to hours and days as possible. Another purpose is to provide employees greater freedom and control in their personal and working environments. Another purpose is to permit the maximum degree of personal flexibility consistent with the accomplishment of work. The critical standard to be met is that a total of 80 hours must be worked per pay period or be accounted for by credit time or approved leave.
2. The Experiment shall begin the first day of the beginning of the first full pay period after September 29, 1979. It shall end on the last day of the 1981 leave year. It may be terminated sooner by mutual agreement. Should the Employer decide to terminate the experiment early it shall notify and consult with the Union.
3. The work week shall be five consecutive days Monday through Friday.
4. The work day shall consist of the hours of 0600a.m. to 600 p.m. and the maximum hours worked in one day shall not exceed 10 hours unless planned and approved in advance. As an experiment a maximum of 11.5 regular hours may be worked. An employee who wants to work in excess of 10 hours per day shall contact his/her supervisor and outline clearly what he/she intends to do. The supervisor will authorize the experiment and evaluate the progress daily. If the supervisor finds that the volume and quality of work are not of normal acceptable standards, the employee shall be notified that the experiment is concluded. This may occur as early as the completion of one day of work.
5. The basic work requirements for each full-time employee is 80 hours in a pay period. The basic work required for each part-time employee is the maximum number of hours each pay period the employee is permitted to work by his appointment.
6. Core hours are designated hours during which an employee must be present for work. The core hours shall occur each day Monday through Friday and will be 930a.m. to 1130a.m. and 100p.m. to 230p.m.

7. Flexible hours are designated hours during which an employee may elect the times of arrival at and departure from work. The flexible hours shall occur each day Monday through Friday and shall be 0600a.m. to 930a.m., 1130a.m. to 100p.m., and 230p.m. to 600p.m.
8. Credit hours are those hours which are in excess of an employee's basic work requirement and which the employee selects to work so as to vary the length of another workday or workweek. Full-time employees may carry over a maximum of 10 hours credit from one pay period to the next. Part-time employees may carry over a maximum of 1/8 of the biweekly work requirement rounded up to the nearest whole hour. Credit hours may be carried over to the end of the experiment and must be used before the end of the experiment. An employee shall not be compensated for credit hours except (1) as part of the basic work requirements in the biweekly pay period in which taken, or (2) for accumulated credit hours when the employee is no longer subject to an experiment.
9. Annual and sick leave and compensatory (leave) time may be taken and charged in multiples of one-quarter hour.
10. All employees must take a legally required one half hour period for lunch. The lunch period shall be taken between 1130a.m. and 100p.m. in flexible time.
11. The official office hours shall remain 0800a.m. to 430p.m.
12. If the Employer authorizes administrative leave during the course of a workday, all employees may leave work at the time that authorized leave begins. The number of hours of administrative leave granted to employees will depend on their start times so that hours worked plus administrative leave does not exceed 8 hours.
13. Holidays for full-time employees will be counted as 8 hours paid absence towards the employee's 80 hour requirement. Holidays for part-time employees will be counted for the number of hours normally scheduled but not more than 8.
14. Hours of work officially ordered in advance and in excess of 8 hours in a day or 40 hours in a week are overtime work.
15. Employees may request compensatory (leave) time in lieu of overtime pay for regular scheduled overtime work as well as irregular or occasional overtime work.
16. Travel shall be planned as early as possible and at least a month in advance. Emergency travel requirements do exist from time to time and those trips which occur during a pay period and which will require work in excess of 80 hours in a pay period shall be compensated as overtime, compensatory time, or credit hours as the employee shall specify.

17. All employees, full-time and part-time, may participate in the experiment. Employees who have duties that must be performed at a particular time are expected to be on duty at that time. It is necessary to provide office coverage during the official office hours. Employees and supervisors may have to coordinate hours to make sure someone is present during this time. The Experiment shall apply to the office situation at Miami and to each instance of travel in which the duty of tour can be performed within the confines of the Experiment. It shall not apply to vessel cruises. Violations of the Experiment's rules by employees shall be cause for disciplinary action.
18. All full-time employees will be required to account for a basic 80 hour pay period. All part-time employees will be required to account for their basic work requirement. This will include regular hours, leave hours and credit hours. All actual starting and quitting times must be recorded on Time and Attendance Reports, NOAA Form 34-8. Supervisors will continue to certify the accuracy of those Reports.

As part of the Experiment tests will be conducted on various time accounting systems. For the first four months of the experiment, employees will maintain on a weekly basis a facsimile of the Time and Attendance Report form.

During the second four months employees will prepare work plans weekly using forms developed for that purpose. Employees will provide a copy of the work plan in advance to the supervisor.

During the third 4 month period employees will record times of arrival and departure and leave on a sign in/out log maintained in a place specified by a supervisor. The work plan preparation shall continue for this third 4 month period.

At the end of 12 months, an evaluation shall be made of the forms and procedures used for time accounting and a standard procedure shall be agreed to which shall remain in effect for the remainder of the experiment.

19. Supervisors must approve all forms of leave and credit time in advance. Requests for leave during core time not previously planned shall be received by the supervisor before 10a.m. each day.
20. Evaluations will be performed during the course of the Experiment. At least three evaluations using questionnaires shall be performed: at the beginning, after 6 months, and at the end of the Experiment.

21. Any evaluation report or information request shall clearly reflect the position, input and conclusions of both the Union and the Employer. In those situations where the position, input or conclusions of the Union and the Employer differ, all evaluation reports shall equally state the parties respective positions, input, or conclusions separately. The parties agree that the Union shall be given equal access to all core and research studies by whomever conducted.
22. Each employee shall receive a copy of this agreement and shall have access in the Library to all other materials which explain the concept, rules, and procedures. During the first three months of the Experiment, monthly meetings will be held with employees to explain the procedures and answer questions. After this initial period meetings will be held as the Employer and the Union shall agree to. The Experiment will be discussed at each regular staff meeting.
23. This Contract will be reopened for negotiation on those issues declared nonnegotiable by the Employer in the following circumstances: (1) the Employer or the head of the Agency withdraws their claim of nonnegotiability (section 2424.5, (1) FLRA Rules), or (2) the FLRA declares the issue negotiable (section 2424.8, FLRA Rules). Negotiation shall commence within 30 days of a decision in (1) or (2) above. Negotiations shall be conducted under the ground rules used for negotiating this contract. Agreements reached will be included as part of this contract and will have the same duration. This procedure does not preclude the parties from revising the proposals to overcome questions of nonnegotiability.
24. Individual flexibility may not always be possible for some employees. Supervisors who must limit flexibility must file an Exception to the Rules request with the Laboratory Director. This memorandum shall state specifically the reasons the employee cannot function under the terms of the Experiment and state what alternatives have been considered. Only the Center Director may approve an Exception to the Rules. If employees and supervisors can coordinate their working schedules among themselves to meet the requirements of the office, no request for an exception need be made. Any time it is proposed to deny employees flexibility without employees' assent, then a Request for Exception must be filed. The Union shall be furnished with a copy of each Request for Exception forwarded to the Center Director.

Items 1-24 agreed to September 27, 1979.

Items 4, 6, 7, 9, and 10 changed May 19, 1981.





**GENERAL COUNSEL OF THE  
UNITED STATES DEPARTMENT OF COMMERCE**  
Washington, D.C. 20230

MAR 14 1986

MEMORANDUM FOR: Joseph Verebelyi  
Labor Relations Officer  
Central Administrative Support Center

FROM: Marilyn G. Wagner *Marilyn G. Wagner*  
Assistant General Counsel  
for Administration

SUBJECT: Approval of Negotiated Agreement Between AFGE  
Local 2875 and NMFS Miami Laboratory

Pursuant to Department Administrative Order 202-771, we have reviewed the attached changes to the negotiated agreement between American Federation of Government Employees Local 2875 and the National Marine Fisheries Service Miami Laboratory for legal form and effect. The changes are consistent with applicable laws, rules and regulations.

Attachment

cc: C. A. Blake  
Thomas Johnson

CHANGES TO AGREEMENT BETWEEN AFGE LOCAL 2875

AND NMFS, MIAMI LABORATORY

NEGOTIATED NOVEMBER 6, 1985

Article 3, Section 4 - Delete the last part of the first sentence. The sentence would then read: "An employee may handle his/her own grievance, or may be represented by the Union."

Delete a phrase on the first part of the second sentence. The sentence would then read: "However, the Union shall be given the opportunity to be represented at discussions between management and employees concerning grievance processing, and at the appropriate time to make the view of the Union known."

Article 8, Section 1 - Delete the last paragraph.

Article 22, Section 2 - Substitute the last sentence for the following: "When an acceptable level of competence is achieved at some time after a negative determination, the effective date of the pay increase is the first day of the first pay period after the acceptable determination has been made."

Article 25, Section 3 - Delete the entire section.

Changes are highlighted in the attached pages pertinent to relevant articles and sections.

For the Union:

For Management:

Dennis Lee 2-7-86

Dennis Lee

Benjamin Jimenez 2-7-86

Benjamin Jimenez

Delete portion highlighted

ARTICLE 3

RIGHTS AND OBLIGATIONS OF THE UNION

SECTION 1. The Union agrees to accept employees in the unit of recognition as members of AFGE without discrimination as to race, color, creed, national origin, sex, age, preferential or non-preferential Civil Service status, political affiliation, marital status, or handicapping condition.

SECTION 2. The Union is entitled to act for and to negotiate agreements covering all unit employees. It is responsible for representing the interests of all employees without discrimination and without regard to dues paying membership in AFGE.

SECTION 3. The Union shall be given the opportunity to be represented at any formal discussion between Management and employees or employee representatives concerning any grievance or any personnel policy or practice, or other general condition of employment.

SECTION 4. An employee may handle his/her own grievance, or may be represented by the Union, ~~by an individual approved in writing by the Union.~~ However, the Union shall be given the opportunity to be represented at discussions between management and employees ~~concerning the grievance processing,~~ and at the appropriate time to make the view of the Union know. The right of the Union to be present does not extend to informal problems between the employee and supervisory officials. However, if such discussions involve decisions on personnel policies or other matters which Management is obligated to discuss or negotiate with the Union, such decisions will not be made by Management until this obligation is discharged, and such decisions will not conflict with this Agreement.

SECTION 5. The Union shall not call or engage in a strike, work stoppage or slow down, or condone any such activity, and shall take affirmative action to prevent or stop such activity.

SECTION 6. The Parties agree that all officials of the Union and Management will endeavor to settle differences informally at the lowest level possible. Therefore, all issues will be initially discussed with the first line supervisor and the Steward.

SECTION 7. Management agrees that where copies of requested material, which may be required by the Union to perform its representational duties, are not available at the Laboratory, Management will attempt to secure them, and furnish at cost, through other sources. The Union agrees that Management (1) must honor all Privacy Act requirements and (2) is not to be held responsible for delays in responding to such requests, i.e., out-of-print or not-in-stock material. The Parties agree that where time limits of the Agreement may be affected by a delay in furnishing the requested material, such time limits will be automatically extended by Management for five (5) calendar days after receipt by the Union.

## ARTICLE 8

### UNION REPRESENTATION

SECTION 1. Management will recognize one (1) Steward for each 15 bargaining unit employees or fraction thereof. Each Steward will be designated an area to represent.

Employees seeking Union representation or assistance will seek it from the Stewards designated for their area.

The Union will provide the Miami Laboratory Director with a roster containing the names, mailing addresses, and work phones of all Stewards and their designated areas of representation within five (5) calendar days after the effective date of the Agreement or the date the roster changes.

Only those Stewards whose names have been provided to Management on the roster will be recognized as Stewards in their respective areas. Where no Steward has been properly designated, Management has no obligation to the Union.

Management will provide the Union President with a roster containing the names, mailing addresses, and work phones of all first line supervisors and their organizational location, within five (5) calendar days after the effective date of the Agreement or the date the roster changes.

~~Only those supervisors whose names have been provided to the Union on the roster will be recognized as supervisors in their respective areas. Where no supervisors have been properly designated, the Union has no obligation to Management.~~

### SECTION 2.

A. The Union will be granted a block of time per leave year, 2000 hours, for official representational duties in accordance with this Agreement. All unused time shall expire at the end of each year. The Union shall apportion the use of these hours.

B. Union participation at Management initiated meetings, including Labor-Management Committee meetings, etc., are included in this block of time. Nonbargaining unit employees are not authorized to use the above referenced "block of time."

SECTION 3. Should it be necessary for the Stewards to leave their work area, the Stewards shall obtain the permission of their supervisor and the supervisor of the section they intend to visit, citing briefly the specific action to be accomplished, where, and by what means. Where Labor-Management business is such that use of the phone system to talk with Management officials or bargaining unit employees will facilitate actions at no commercial cost, such use is authorized provided prior approval of the supervisor has been obtained.

ARTICLE 22

ACCEPTABLE LEVEL OF COMPETENCE

SECTION 1. When the supervisor's evaluation leads to a conclusion that the employee's work may not be of an acceptable level of competence for within-grade purposes, the supervisor shall provide the following to the employee in writing at least 60 calendar days before the employee is eligible for a step increase, except as provided in Section 2 below.

A. An explanation of each aspect of performance in which the employee's services fall below an acceptable level and how this renders the performance on the job as a whole below an acceptable level.

B. A statement of the acceptable level of performance on each of those work aspects.

C. Advice as to what the employee must do to bring the performance up to an acceptable level.

D. A statement that the employee has 60 calendar days in which to bring the performance up to an acceptable level.

SECTION 2. When Management makes a negative determination without the employee having received the above information 60 calendar days in advance, as required above, Management shall make another determination not later than 60 calendar days after the date on which the employee completed the waiting period for the step increase. ~~When this new determination is favorable, the step increase shall be made effective (retroactively if necessary) on the date on which the employee completed the waiting period for the step increase.~~

SECTION 3. A negative determination may be raised under the provisions of Article 09 of this Agreement.

←  
Add: When an acceptable level of competence is achieved at some time after a negative determination, the effective date of the pay increase is the first day of the first pay period after the acceptable determination has been made.

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY  
5708 SOUTH CAMPUS DRIVE  
CHICAGO, ILLINOIS 60637

ARTICLE 25

CONTRACTING OUT

SECTION 1. Management agrees to provide all information not prohibited by law or regulation concerning the contemplated contracting out, upon request.

SECTION 2. Both Parties understand that it is against federal policy to have personal service contracts which might establish an employee-employer relationship.

SECTION 3. ~~Management agrees to separate the work performed under contract and the work performed by bargaining unit employees, including the supervision of such work. Employees of the unit normally shall not be required to perform any work for which a contractor is responsible.~~



FEB 18 1986

MEMORANDUM FOR Ferrol Truman  
Personnel Officer, CASC

From:

  
John M. Golden  
Director of Personnel

Subject: Negotiated Agreement Between NMFS  
(Miami Lab) and AFGE Local 2875

Except as noted in paragraphs a. through d. below, the collective bargaining agreement negotiated between National Marine Fisheries Service (Miami Laboratory) and AFGE Local 2875 is approved.

- a. A grievant under a negotiated grievance procedure has a statutory right to represent himself or herself and forego other representation. Except for this self-representation, only the union, and no other, may represent a grievant under the negotiated grievance procedure. Contract provisions to the contrary are inconsistent with the statute. [See 5 U.S.C. 7114(a)(5)]. In Section 4 of Article 3, the contract provides that a grievant may handle his or her own grievance, or be represented by the union or an individual approved by the union. The portion of this section that provides for representation by a union-approved individual is inconsistent with the statute [See 15 FLRA No. 154].
- b. Article 8, Section 1, contains provisions relating to agency supervisors being "recognized" as supervisors. [Section 1, paragraph 6]. Paragraph 6 provides that only those supervisors named on a roster given to the union will be "recognized as supervisors in their respective areas." The provision goes on to state that "Where no supervisor has been properly designated, the Union has no obligation to Management." The intent of this provision is not clear from a literal reading.



If the parties' interpretation is that management has the right to assign supervisory duties, but in doing so is obligated to notify the union of individuals who are supervisors, it would appear that paragraph 6 does not conflict with the statute. However, to the extent the language concerning supervisors means that the assignment of supervisory duties, including LMR duties, to an individual is without effect unless that person's name is on the roster, the contract would interfere with management's right to direct employees and assign work and would be inconsistent with the statute. [See 5 U.S.C. 7106(a)(2)(A) and (B), and 20 FLRA No. 64.]

- c. Article 22 contains provisions relating to the granting of within-grade step increases. Section 1 provides for a warning period of at least 60 days before a negative acceptable level of competence determination is made. Section 2 pertains to situations where a negative determination is made without management having satisfied the requirements of Section 1. In such an event, management is obligated to make a second determination. Section 2 also provides that if the second determination is favorable, the step increase "shall be made effective (retroactively if necessary) on the date on which the employee completed the waiting period for the step increase." This language is inconsistent with a government-wide regulation issued by the Office of Personnel Management at 5 CFR 531.412(b). This regulation provides that, when an acceptable level of competence is achieved after a negative determination, the effective date of the step increase "is the first day of the first pay period after the acceptable determination has been made."
- d. Article 25, entitled "Contracting Out" provides in Section 3 (second sentence) that unit employees "normally shall not be required to perform any work for which a contractor is responsible." The right to direct employees and assign work is reserved to management. [See 5 U.S.C. 7106(a)(2)(A) and (B)]. Therefore, this sentence is inconsistent with the statute. [See 9 FLRA No. 83].

The first sentence in Section 3 also is inconsistent with these statutory provisions. This sentence requires management "to separate the work performed under contract and the work performed by bargaining unit employees, including the supervision of such work." Since the right to direct employees and assign work, including the assignment of supervisory duties, is reserved to management, that portion of this sentence

referring to "supervision of such work" is inconsistent with the statute. In addition, if the intent of the term "separate" in the first sentence is to place restrictions on management's right to direct and assign work to unit employees, this provision would further conflict with these statutory provisions.

Contractual provisions which are not in accordance with the statute or applicable regulations are invalid and unenforceable parts of agreement. [See 5 FLRA No. 80 and 5 U.S.C. 7114(c)]. If the parties decide to renegotiate the provisions identified in paragraph a. through d. above, please provide a copy of the proposals for review. If further negotiations do not result in conforming these provisions to the statute and regulations, the agency should consider these provisions as having no enforceable effect.

Any questions you may have should be directed to Tom Johnson, Room H5108, in the Main Commerce building (377-4861).

