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National Oceanic and Atmospheric Administration
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MEMORANDUM FOR: Council Members
 North Pacific Fishery Management Council

FROM: Demian A. Schane *Demian A. Schane*
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SUBJECT: Recusal Determinations for the December 2025 Council Meeting

NOAA General Counsel, Alaska Section has reviewed the North Pacific Fishery Management Council's December 2025 draft agenda for recusal issues and set forth its conclusions below. Attached to this memorandum is an overview of the analysis that the Alaska Section of NOAA's Office of General Counsel generally undertakes for recusal determinations.

Under 50 C.F.R. § 600.225(b)(9)(ii), none of the agenda items for the meeting constitute a "particular matter primarily of individual concern," and none of the Council members are recused from participating on any agenda item under that regulation.

Under 50 C.F.R. § 600.235, none of the following agenda items constitute a "Council decision" as that term is defined at 50 C.F.R. § 600.235(a); therefore, a recusal determination is not required for any of them:

- C3 Contextual Information Supporting Groundfish Harvest Specifications – BSAI and GOA year-end Inseason Management Reports (Council only); Ecosystem Status Reports (T); Economic and Community Indicator Reports (T);
- C4 GOA Groundfish Harvest Specifications for 2026 and 2027;
- C5 BSAI Groundfish Specifications for 2026 and 2027;
- C6 BSAI Crab Specifications; and
- C7 2026 Charter Halibut Annual Management Measures.

Under 50 C.F.R. § 600.235, each of the following agenda items constitutes a "Council decision"; therefore, the recusal regulations at 50 C.F.R. § 600.235 apply:

- C1 Crab Arbitration; and
- C2 Crab C-Shares.

For agenda item C1, we have determined that none of the appointed Council Members (Members Drobnica, Goen, Kimball, Moller, Ritchie, Tsukada, and Vanderhoeven) are required to be recused from voting because, based on the financial reports that are on file with the Council, for each of the Council



members with a financial interest in the fishery, the Council decision would not have a significant and predictable effect on that interest. *See* 50 C.F.R. § 600.235(c).

For agenda item C2, we have similarly determined that none of the appointed Council Members are required to be recused from voting because, based on the financial reports that are on file with the Council, for each of the Council members with a financial interest in the fishery, the Council decision would not have a significant and predictable effect on that interest. *See* 50 C.F.R. § 600.235(c).

According to the regulations at 50 C.F.R. § 600.235(g), any Council member may file a written request to NOAA General Counsel for a review of this determination. Requests for review should be e-mailed to Kristen Gustafson, Deputy General Counsel, NOAA Office of the General Counsel at Kristen.L.Gustafson@noaa.gov. A request for review must be received by Ms. Gustafson by December 5, 2025. Please see the regulations at 50 C.F.R. § 600.235(g) for more information on requests for review.

Attachment: Overview of the Council Member Financial Disclosure and Recusal Requirements

This overview on the financial disclosure and recusal process is intended to provide the Council Members and public with plain and simple information that describes the analysis the Alaska Section of NOAA’s Office of General Counsel (“the Alaska Section”) undertakes prior to each Council Meeting of the North Pacific Fishery Management Council. Below, one can find citations to the statute and regulations where more comprehensive requirements for financial disclosure and recusal may be found. This primer does not address every single requirement; rather, it focuses on those that arise in many of the recusal determinations that the Alaska Section makes for the Council Members who are “affected individuals” under the recusal rules.

1. Applicable authorities and sources of information.

- (a) Section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA), 16 U.S.C. § 1852(j).
- (b) Regulations at [50 C.F.R. § 600.235](#) (last amended by [85 Fed. Reg. 56,177 \(Sept. 11, 2020\)](#)).
- (c) [NMFS Policy Directive 01-116](#) and [NMFS Procedural Directive 01-116-01](#).
- (d) FAQs: <https://www.fisheries.noaa.gov/partners/frequent-questions-financial-disclosure-and-financial-interests-form>.

2. Additional prohibition: [50 C.F.R. 600.225\(b\)\(9\)](#).

This regulation has two parts that are similar to, but distinct from, the recusal regulations described below. The first generally prohibits Council Members from participating “in a particular matter in which the member, the member’s spouse, minor child, general partner, organization in which the member is serving as officer, director, trustee, general partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest, unless the interest has been disclosed on the Member’s financial disclosure form. *Id.* § 600.225(b)(9)(i) (emphasis added).

The second part prohibits Council Members from participating “in a particular matter primarily of individual concern, such as a contract, in which he or she has a financial interest, even if the interest has been disclosed” on the Member’s financial disclosure form. *Id.* § 600.25(b)(9)(ii) (emphasis added).

3. Section 302(j) of the MSA and the implementing regulations (50 C.F.R. § 600.235).

- (a) **Applicability.** These provisions apply only to those voting Council Members who have been nominated by the Governor of a State (*i.e.*, Alaska or Washington for the North Pacific Fishery Management Council (NPFMC)) and appointed by the Secretary of Commerce, which the MSA refers to as the “affected individuals.” 16 U.S.C. § 1852(j)(1)(A). From here on out, we refer to “affected individuals” in this technical sense, *i.e.*, voting Council Members who have been nominated by a governor and appointed by the Secretary of Commerce. These affected members are distinguished from the other voting members who serve on the NPFMC by virtue of their employment position with a state or federal agency.

(b) Disclosure requirement. Each affected individual must disclose any financial interest held by the individual; the spouse, the minor child, or the business partner of that individual; and any organization in which the individual serves as an officer, director, trustee, partner, or employee. This includes interests in any harvesting, processing, lobbying, advocacy, or marketing activity within any fishery under the Council’s jurisdiction or with respect to an individual or organization with a financial interest in such activity. 16 U.S.C. § 1852(j)(2). Affected individuals must disclose their financial interests in the manner (*i.e.*, on the Financial Interest Form) and by the deadlines required by 50 C.F.R. § 600.235(b).

(c) Restriction from voting. An affected individual shall not vote on a Council decision that would have a significant and predictable effect on such financial interest. 16 U.S.C. § 1852(j)(7).

Definition: A Council decision does not mean every action the Council takes. A Council decision is defined in regulation to mean the approval of a fishery management plan (FMP) or FMP amendment; request for amendment to regulations implementing an FMP; finding that an emergency exists; and comments to the Secretary on FMPs or amendments developed by the Secretary. It does not include a vote by a committee of a Council. 50 C.F.R. § 600.235(a).

Definition: A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. 16 U.S.C. § 1852(j)(7)(A). More details on these terms are provided under the Process for Making Recusal Determinations, Step 3.

4. Process for Making Recusal Determinations.

Recusal determinations are made by attorneys within the Alaska Section who serve as the “designated officials” under the MSA and regulations. 16 U.S.C. § 1852(j)(7)(B); 50 C.F.R. § 600.235(a).

Step 1: The Alaska Section reviews the Council agenda and determines whether each action on the agenda constitutes a “Council decision.” 50 C.F.R. § 600.235(c)(3)(i).

Note: The recusal provisions apply only to an action that is a “Council decision.” You may therefore see determinations that certain items on a Council agenda are not Council decisions and therefore no recusal is required. For example, the Council’s recommendations for annual harvest specifications or its adoption at initial review of a set of alternatives to be analyzed are not Council decisions.

Step 2: If an action is a “Council decision,” the reviewing attorney will determine whether any of the “affected individuals” has any financial interest in the fishery or sector of the fishery affected by the action. 50 C.F.R. § 600.235(c)(3)(i).

Note: This determination is made based on the financial disclosure forms (the Financial Interest Forms) submitted by each Council Member, which are on file with the Council and [made available on the Council's website](#) for each “affected individual.”

Note: The reviewing attorney “will presume that the information reported on the Financial Disclosure Form is true and correct.” 50 C.F.R. § 600.235(c)(6)(i)(C). If an affected individual does not provide information concerning the specific ownership of a financial interest reported on their form, the attorney “will attribute all harvesting, processing, or marketing activity of, and vessels owned by, the financial interest to the affected individual.” 50 C.F.R. § 600.235(c)(6)(i)(D) (emphasis added). The attorney may also rely on other written information that is reliable and may contact an affected individual to better understand the reported financial interest or any information that is provided in writing. 50 C.F.R. § 600.235(c)(6)(i)(A) & (B).

Step 3: If the reviewing attorney determines both that the action is a Council decision and that one or more affected individuals has a financial interest in the fishery or sector of the fishery affected by the Council decision, then recusal from voting is required if two more findings are made (50 C.F.R. § 600.235(c)(3)(iii)):

(A) There is an expected and substantially disproportionate benefit to the affected individual’s financial interest; and

(B) There is a close causal link between the Council decision and the expected and substantially disproportionate benefit to the affected individual’s financial interest.

Definition: A close causal link means that a Council decision would reasonably be expected to directly impact or affect the financial interests of an affected individual. 50 C.F.R. § 600.235(a).

Definition: An expected and substantially disproportionate benefit means a positive or negative impact that is likely to affect a fishery or sector of a fishery in which the affected individual has a significant financial interest. 50 C.F.R. § 600.235(a).

Definition: And finally, the definition of what constitutes a significant financial interest tends to be the crux of the matter. That phrase means one of three things:

- (1) A greater than 10-percent interest in the total harvest of the fishery or sector of the fishery affected by the Council decision;
- (2) A greater than 10-percent interest in the marketing or processing of the total harvest of the fishery or sector of the fishery affected by the Council decision; or
- (3) Full or partial ownership of more than 10 percent of the vessels using the same gear type within the fishery or sector of the fishery affected by the Council decision.

Note: The regulations define the meaning of clause causal link depending on whether the Council decision involves implementing regulations, which can be found at 50 C.F.R. § 600.235(c)(4). That is not discussed in this memorandum.

5. Process Following the Recusal Process.

If the attorney determines that recusal of an affected individual is required, the attorney prepares a memorandum documenting that determination and attaches it to the memorandum the Alaska Section prepares for each Council meeting. An example from the June 2022 Council meeting can be found [here](#).

The affected individual is then prohibited from voting on the Council decision. The affected individual may still participate in Council deliberations relating to the decision if the affected individual notifies the Council of the voting recusal and identifies the financial interest that would be affected. 16 U.S.C. § 1852(j)(7)(A).

There is also an option for voluntary recusal: At any time before a vote is taken, affected individuals always have the option to voluntarily recuse themselves if they believe the Council decision would have a significant and predictable effect on their financial interests. 50 C.F.R. § 600.235(d). The affected individual would announce to the Council an intent not to vote on the decision and identify the financial interest that would be affected.

6. Conclusion.

In simple terms, where there is an affected individual with financial interests in the fishery or sector of the fishery that will be impacted by a Council decision, the reviewing attorney must determine whether the Council decision would have a significant and predictable effect on that financial interest. This inquiry primarily turns on whether the affected individual has a significant financial interest in the affected fishery or affected sector of the fishery. To determine significant financial interest, the attorney reviews the financial disclosure forms to compute the attributable amount (*see* rules for attribution below) of each affected individual's financial interests to determine whether the amount harvested, processed, or marketed exceeds the 10-percent thresholds noted above. If any of those thresholds are exceeded, the affected individual will be recused from voting (but not deliberating) on that Council decision.

7. Supplementary Note on Step 3 (above).

There are complicated rules for attributing ownership percentages under step 3 that are set forth in regulations at 50 C.F.R. § 600.235(c)(6)(ii)). Below, we try to provide a brief explanation of them.

(a) Direct ownership (companies owned by an affected individual). The attorney will attribute the harvesting, processing, and marketing activity of, and vessels owned by, the company that is equal to the affected individual's percentage of ownership.

Note: The percentage of ownership is based on the affected individual's disclosures on their Financial Interest Form. If the affected individual does not provide information concerning the specific percentage of ownership of a financial interest on their Financial Interest Form, the attorney will attribute 100% of the harvesting, processing, or marketing activity of, and vessels owned by, the financial interest to the affected individual. 50 C.F.R. § 600.235(c)(6)(i)(D).

Note: It is most useful for making these determinations if Council Members include specific vessel ownership and percentages of such ownership of their Financial Interest Forms.

(b) Employment. For companies that employ an affected individual, the attorney will attribute all harvesting, processing, and marketing activity of, and all vessels owned by, a company to the affected individual.

(c) Indirect ownership (companies that are owned by an affected individual's company or employer). The attorney will attribute the harvesting, processing, and marketing activity of, and vessels owned by, a company that is owned by that affected individual's company or employer equal to the affected individual's percentage of ownership in the directly owned company, and the directly owned company's ownership in the indirectly owned company.

(d) Parent ownership (companies that own some percentage of an affected individual's company or employer). The attorney will attribute to an affected individual all harvesting, processing, and marketing activity of, and all vessels owned by, a company that owns fifty percent or more of a company that is owned by the affected individual or that employs the affected individual. If such ownership is less than fifty percent, the attorney will not attribute to the affected individual any of the harvesting, processing, or marketing activity of a company and any vessels that company owns.

(e) Employment or service with associations or organizations. An affected individual may be employed by or serve, either compensated or unpaid, as an officer, director, board member, or trustee of an association or organization. The attorney will not attribute to the affected individual the vessels owned by, or the harvesting, processing, or marketing activity conducted by, the members of that association or organization if such organization or association does not itself own any vessels and is not directly engaged in harvesting, processing, or marketing. However, if such organization or association receives from NMFS an allocation of harvesting or processing privileges, owns vessels, or is directly engaged in harvesting, processing, or marketing, the attorney will attribute to the affected individual the vessels owned by, and all harvesting, processing, and marketing activity of, that association or organization.

(f) Ownership interests of a spouse, minor child, or business partner. The above rules for direct ownership apply. That is, the attorney will attribute to the affected individual the harvesting, processing, and marketing activity of, and vessels owned by, the company equal to the spouse's, partner's or minor child's percentage of ownership in that company.

(g) Employment of a spouse, minor child, or business partner. The key question is whether the spouse's, minor child's, or business partner's compensation is influenced by, or fluctuates with, the financial performance of the company. If it is, the attorney will attribute all harvesting, processing, or marketing activity of, or any vessels owned by, the company that employs the affected individual's spouse, minor child, or business partner to the affected individual. But if the compensation is not influenced by or does not fluctuate with the financial performance of the company, the attorney will not attribute the harvesting, processing, or marketing activity of, or any vessels owned by, that company to the affected individual.