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Fisheries Management
Fisheries Management Council Financial Disclosures

PROCEDURES FOR REVIEW OF FISHERY MANAGEMENT COUNCIL FINANCIAL DISCLOSURES

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Director of Office of Sustainable Fisheries

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1. **Introduction:** As outlined in Policy Directive 01-116, it is the policy of the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) to carry out the responsibilities of the Secretary pursuant to Section 302(j) of the Magnuson-Stevens Act and implementing regulations, which require the disclosure of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Fishery Management Council (Council) concerned has jurisdiction. This directive provides the guidance necessary to ensure a successful and thorough vetting process to review the completeness and accuracy of information in financial disclosure forms submitted by Council nominees and members; and to better clarify the process for identifying conflict of interests.

   This procedure was prepared in consideration of the DOC Office of Inspector General (OIG) January 16, 2013 audit report. This report, in part, provided three recommendations for NOAA that would assist in strengthening guidance on financial disclosures by Council voting members, with an emphasis on how NOAA intends to handle specific consequences for conflicts or potential conflicts it identifies. NMFS, in consultation with the NOAA Office of the General Counsel (NOAA GC) and the Council Coordination Committee, and the concurrence of the DOC Office of the General Counsel, General Law Ethics Division, has reviewed its existing policies and procedures regarding financial disclosure by Council members and nominees.

   The OIG report recommended that NOAA (1) strengthen policy guidance on financial disclosure by Council voting members, (2) strengthen processes for formal reviews of financial interest disclosures, and (3) strengthen criteria for identifying conflicts of interest and processes to follow up on any conflicts that are identified. NMFS addressed (1) by revising NOAA's Statement of Financial Interest Form and providing clearer guidance associated with that form. NMFS has linked these recommendations together for effective implementation. This guidance addresses (2) and (3); will help increase the transparency provided by these disclosures, and; will assist the Council members in avoiding conflicts between their personal financial interests and the official work of the Councils.

2. **Financial Disclosure Form Review:** NMFS has established a vetting process to review the completeness and accuracy of information in nominees' and members' disclosure forms. The procedures outlined in 2.1 and 2.2 serve to document and ensure consistency in the vetting process for each NMFS Region and Council.

2.1 **Financial Disclosure Vetting for Nominees for Council Membership:**

- NMFS Office of Sustainable Fisheries (OSF) will perform an initial review for completeness of financial disclosure forms as a part of the nomination process for new or re-appointed members of a Council.
- OSF will forward these forms to the Office of Law Enforcement (OLE) for review, to determine and verify any connections to fishing vessels or other interests (per 50 C.F.R. 600 et. seq.).
- Once the forms have been vetted by OSF and OLE, they will be considered properly reviewed. No further revisions to information in the forms will be required unless the nominee notifies NMFS of a change.
- NMFS Regional Administrators will receive the financial disclosure forms for all nominees under their jurisdiction. The RAs will have the opportunity to comment and review these forms.
- For nominees appointed by the Secretary to a Council, OSF will forward the current versions of the Financial Disclosure forms to the Executive Directors of the corresponding Councils.
- These forms will then be made public and posted to the Councils websites. New members have 45 days from their appointment to update their financial disclosure form and submit it to the Executive Director of their Council.

2.2 **Financial Disclosure Vetting for Council Voting Members:**

- For appointed members, the NMFS Regions and Executive Directors should review annual submissions of financial disclosures or a supplemental submission due to a change in financial interests.
- The Council Executive Directors should distribute new forms to Council members for annual submissions and collect them in a timely manner.
- Council Executive Directors should perform a review of these forms to ensure they are properly completed to the Executive Director's knowledge, signed and dated, following up with the member as necessary.
- The Executive Directors will then forward those forms on the appropriate NMFS Region, copying OSF.
- Upon receipt, NMFS Regional Offices should review and verify the information on the forms against readily available information, checking back with the Executive Director and member as necessary to confirm the information. The NMFS Regional Office should consult with its regional NOAA GC Section on any legal questions that may arise with the form.
- Upon review of the form, the NMFS Regional Office should notify Council Executive Directors that the NMFS Regional Office sees no incorrect or missing information on the forms. The NMFS Regional Office should coordinate with Council Executive Directors on any form information changes or clarifications and ensure that the Council has current forms available and posted.

- NMFS Regional Offices are to keep the forms on record and make the forms available to the Regional Administrator and NOAA GC to aid in any conflict of interest determinations. Councils must also post current completed forms on the Council website and make them available at meetings and at the Council office.

3. **Criteria for Identifying Conflicts of Interest:** Separately from the process for submission and review of financial disclosures described above, NMFS has provided a brief clarification of the process by which NMFS, NOAA GC and the Councils identify Council members' conflicts of interest. This process is outlined in 3.1 and 3.2:

3.1 **Pre-Council Meeting Review:**

- This process begins by Council Executive Directors, NMFS Regional Administrators, and NOAA GC screening any members with a potential conflict of interest prior to a meeting, based upon the information provided in the member's financial disclosure forms. A review of financial disclosures and, as necessary, a briefing between the affected Council member and NOAA GC of potential issues regarding financial interests and recusals of voting members should occur prior to any formal Council meeting.
- Agendas for a Council meeting will provide the context within which a member's conflict of interest is initially assessed.
- Based upon the proposed actions to occur during a Council meeting and as a result of the screening, prior to a Council meeting, the NMFS Regional Office, NOAA GC, and the Council Executive Director will discuss any information related to a member's potential conflict of interest.
- Prior to a Council meeting, a member will be advised of any such information discussed above, so that the member can consult with NOAA GC as to whether a Council decision would have a significant and predictable effect on that member's financial interest.

3.2 **Post-Council Meeting Action:**

- Councils should record incidences of recusals or discussions surrounding conflicts of interest by members subsequent to each Council meeting. Councils should submit these records to NMFS in a timely manner.
- Both Councils and the NMFS Regional Offices are required to compile this data by the end of the calendar year for inclusion in the Report to Congress on the Disclosure of Financial Interest and Recusal Requirements for Councils and Science and Statistical Committees.

4. **Briefing of Councils on Financial Disclosures and Recusals:** Both NMFS and the Councils want to ensure their members are well aware of their responsibilities for financial disclosure and recusal and the benefits of those disclosures allowing them to fully participate in Council activities. For those reasons, because the Financial Disclosure Form has been revised, and in the interest of transparency, NMFS and NOAA GC will continue to communicate the existing policies and procedures to all NMFS employees, Council members and Council staff. Consistent with this, NOAA GC will conduct an annual briefing for financial disclosure requirements. This includes a briefing on the policy guidance developed to respond to the OIG recommendations 1, 2, and 3. Any briefings or trainings, either coordinated by NOAA GC or OSF will address completing financial disclosure forms, the recusal process, and discuss penalties.

Attachment A

Form 88-195

OMB NO 0648 0192
Expiration Date 3/31/17

Statement of Financial Interests
For Regional Fishery Management Council Voting Members, Nominees and Members of a Scientific and Statistical Committee

Who needs to file a financial disclosure?

You, because you were nominated by the Governor of a state or appointed by the Secretary of Commerce to serve as a voting member of a Regional Fishery Management Council (Council); or you are a nominee to or a member of a Scientific and Statistical Committee (SSC).

What is the purpose of a financial disclosure?

The duties and responsibilities of your position require you to file the Statement of Financial Interests to fulfill the requirements of the Magnuson-Stevens Act. The purpose of this report is to assist you and NMFS in avoiding conflicts between official duties and private financial interests or affiliations. You may not vote on any Council decision that would have a significant and predictable effect on a financial interest disclosed in your report. Under penalty of law, please ensure that the information you provide is complete and accurate.

What must I disclose on this form?

The Magnuson-Stevens Act requires the disclosure of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which a Council has jurisdiction. This also includes employment with an entity that provides consulting, legal, or representational services relating to harvesting, processing, lobbying, advocacy, or marketing activities. You must disclose such financial interest held by yourself; your spouse, minor child, partner; or any organization (other than the Council) in which you are serving as an officer, director, trustee, partner, or employee. This does not include financial interests in entities engaging in scientific fisheries research.

When do I need to file my financial disclosure?

Nominees: This form must be filed by each nominee for Secretarial appointment with the Assistant Administrator by April 15 or, if nominated after March 15, 1 month after nomination by the Governor.

Members: A seated voting member appointed by the Secretary must file this form with the Executive Director of the appropriate Council within 45 days of taking office; and must file an update with the Executive Director of the appropriate Council within 30 days of the time any such financial interest is acquired or substantially changed. All Council members must file this form annually by February 1st regardless of whether any information on the form has changed**.**

SSC Nominees and Members: Nominees to an SSC must file this form with the Regional Administrator for the geographic area concerned within 45 prior to appointment; and must file an update with the Regional Administrator for the geographic area concerned within 30 days of the time any such financial interest is acquired or substantially changed. All SSC members must file this form annually by February 1st regardless of whether any information on the form has changed**.**

Questions?

If you have any questions about how to complete this form, please contact your Council Executive Director, NMFS Regional Office or the NOAA General Counsel for your Council.

PENALTIES

Knowing and willful falsification of information required to be reported may subject you to criminal prosecution or subject you to civil penalties. It is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by the Magnuson Stevens Act, or to knowingly vote on a Council decision in violation of this Act. In addition to the criminal penalties applicable, a violation of this provision may result in removal from Council or SSC membership.

STATEMENT OF FINANCIAL INTERESTS

Nominee or Member's Name (*Print last, first, middle initial*) _____

Name of Council or Council Committee _____

Type of Appointment (list Nominee or Member) _____

Type of Filing: ☐ Annual ☐ Supplemental

Instructions

1. Carefully read the questions for Parts 1-3 on the following pages.
2. In Part 1, you must answer "yes" or "no" for each question provided. If you select "Yes," check the box by any applicable financial interest from the list below the question and provide the appropriate detail explaining your selection. If you need more room to provide detail, please attach those pages to this form.
3. In Part 2, you must answer "yes" or "no" for each question provided. If you select "Yes," check the box by any applicable financial interest from the list below the question and provide the appropriate detail explaining your selection. If you need more space to provide detail, please attach those pages to this form.
4. In Part 2, if you select "I have no spouse, partner, or minor children," you may skip the rest of Part 2 and move to Part 3. Answer Part 3, if necessary.
5. After you have completed the form, sign and date the form on the last page.
6. Submit the completed form to NMFS for Council nominees; to your Council Executive Director for seated Council members; or to the Regional Administrator for the geographic area concerned for SSC members or nominees.

Paperwork Reduction Act
Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The public reporting burden for this information, on this NOAA Form 88-195, is estimated to average 35 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any aspect of this collection of information, including suggestions for reducing this burden to the National Marine Fisheries Service, Office of the Chief Information Officer (F/CIO), 1315 East-West Highway, SSMC #3, 3rd Floor, Silver Spring, Maryland 20910.

Public Access to Information
This form, as completed by seated members of the Regional Fishery Management Councils, will be retained by the Council, made available on the Council's websites, and made available for public review at reasonable hours at the Council's Office and at each public hearing or public meeting.

Part 1: Personal Financial Interest

Section 1.1: Assets and Ownership

Question 1.1.1

Do you have any **stock, equity or ownership interest** (whole or partial ownership) in a **company or business** engaged in any of the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the company or business. Please include company or business name, date the interest began, and fishery or fisheries of interest.

Question 1.1.2

Do you have **stock, equity or ownership interest** (whole or partial ownership) in any **fishing vessel** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the vessel. Please include vessel name, company or business name, date the interest began, and fishery or fisheries of interest.

Question 1.1.3

Do you have **stock, equity or ownership interest** (whole or partial ownership) in any **other entity** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the entity. Please include entity name, date the interest began, and fishery or fisheries of interest.

Question 1.1.4

Do you have **any percentage ownership** in or by a **company, business, or other entity** that provides any of the following services related to any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Lobbying
- ☐ Advocacy

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the entity. Please include entity name, date the interest began, and fishery or fisheries of interest.

Question 1.1.5

Do you have have any percentage ownership in **any entity that either owns (wholly or partially) or is owned by (wholly or partially) another entity** that provides any of the following services for any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Consulting
- ☐ Legal
- ☐ Representational Services
- ☐ Lobbying
- ☐ Advocacy
- ☐ Marketing

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the entity. Please include company or business name, date the interest began, and fishery or fisheries of interest.

Section 1.2: Employment

Question 1.2.1

Do you have employment with any **company or business** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include beginning date of employment, company or business name and fishery or fisheries of interest.

Question 1.2.2

Do you have employment with a **fishing vessel** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include beginning date of employment, vessel name and fishery or fisheries of interest.

Question 1.2.3

Do you have employment with **any other entity** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include beginning date of employment, entity name and fishery or fisheries of interest.

Question 1.2.4

Do you have employment with **any company, business, or other entity** that provides any of the following services related to any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Lobbying
- ☐ Advocacy

Please list and describe each applicable interest, as indicated above. Please include beginning date of employment, entity name and fishery or fisheries of interest.

Question 1.2.5

Do you have employment with **any entity that either owns (wholly or partially) or is owned by (wholly or partially) another entity** providing any of the following services, or providing equipment or services essential to harvesting, processing, lobbying, advocacy, or marketing activities, in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Consulting
- ☐ Legal
- ☐ Representational Services

Please list and describe each applicable interest, as indicated above. Please include beginning date of employment, entity name and fishery or fisheries of interest.

Question 1.2.6

Do you have employment with **an association or organization** whose members include companies, vessels, or other entities engaged in any of the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Lobbying
- ☐ Advocacy
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include beginning date of employment, association name and fishery or fisheries of interest.

Section 1.3: Other Service with an association or organization

Question 1.3.1

Are you **serving as an officer, director, or trustee** of any organization or association whose members include companies or vessels engaged in any of the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ processing
- ☐ Lobbying
- ☐ Advocacy
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include beginning date of service, association name and fishery or fisheries of interest.

Part 2: Financial Interest of Spouses, Partners, and Minor Children

If you have no spouse, partner, or minor children, check the box below and proceed to Part 3.

- ☐ I have no spouse, partner, or minor children

Section 2.1: Assets and Ownership

Question 2.1.1

Does your spouse, partner, or minor child have any **stock, equity or ownership interest** (whole or partial ownership) in a **company or business** engaged in any of the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the company or business. Please include company or business name, date the interest began, and fishery or fisheries of interest.

Question 2.1.2

Does your spouse, partner, or minor child have any **stock, equity or ownership interest** in any **fishing vessel** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the vessel. Please include vessel name, company or business name, date the interest began, and fishery or fisheries of interest.

Question 2.1.3

Does your spouse, partner, or minor child have any **stock, equity or ownership interest** in any **other entity** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the entity. Please include entity name, date the interest began, and fishery or fisheries of interest.

Question 2.1.4

Does your spouse, partner, or minor child have any percentage ownership in **any entity that either owns (wholly or partially) or is owned by (wholly or partially) another entity** that provides any of the following services for any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Consulting
- ☐ Legal
- ☐ Representational Services
- ☐ Lobbying
- ☐ Advocacy
- ☐ Marketing

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration of the entity. Please include entity name, date the interest began, and fishery or fisheries of interest.

Section 2.2 Employment of Spouse, Partner, or Minor Child

Question 2.2.1

Does your spouse, partner, or minor child have employment with any **company or business** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of employment, company or business name and fishery or fisheries of interest.

Question 2.2.2

Does your spouse, partner, or minor child have employment with a **fishing vessel** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of employment, vessel name and fishery or fisheries of interest.

Question 2.2.3

Does your spouse, partner, or minor child have employment with **any other entity** engaged in the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of employment, entity name and fishery or fisheries of interest.

Question 2.2.4

Does your spouse, partner, or minor child have employment with **any company, business, or other entity** that provides any of the following services related to any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Lobbying
- ☐ Advocacy

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of employment, entity name and fishery or fisheries of interest.

Question 2.2.5

Does your spouse, partner, or minor child have employment with **any entity that either owns (wholly or partially) or is owned by (wholly or partially) another entity** providing any of the following services, or providing equipment or services essential to harvesting, processing, lobbying, advocacy, or marketing activities, in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Consulting
- ☐ Legal
- ☐ Representational Services

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of employment, entity name and fishery or fisheries of interest.

Question 2.2.6

Does your spouse, partner, or minor child have employment with **an association or organization** whose members include companies, vessels, or other entities engaged in any of the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Lobbying
- ☐ Advocacy
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of employment, association name and fishery or fisheries of interest.

Section 2.3: Service with an association or organization by Spouse, Partner, or Minor Child

Question 2.3.1

Does your spouse, partner, or minor child **serve as an officer, director, or trustee** of any organization or association whose members include companies, vessels, or other entities engaged in any of the following activities in any fishery under the jurisdiction of the Council concerned?

- ○ No
- ○ Yes

Check all that apply:

- ☐ Harvesting
- ☐ Processing
- ☐ Lobbying
- ☐ Advocacy
- ☐ Marketing
- ☐ Provides equipment essential to any of the above activities
- ☐ Provides other services essential to any of the above activities

Please list person and relationship and describe each applicable interest, as indicated above. Please include beginning date of service, entity name and fishery or fisheries of interest.

Part 3: Information Requested of Other Persons

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in the space below.

Please list and describe each applicable interest, as indicated above. Please include the percentage ownership or share holdings or any other monetary or in-kind enumeration. Please include entity name, date the interest began, and fishery or fisheries of interest.

I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.

Signature_____ **Date *(mm/dd/yyyy)***_____

Attachment B

50 CFR 600.235
Financial Disclosure

CODE OF FEDERAL REGULATIONS

Title 50: Wildlife and Fisheries

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

§600.235 Financial disclosure.

(a) *Definitions.* For purposes of §600.235:

Affected individual means an individual who is—

(1) Nominated by the Governor of a state or appointed by the Secretary of Commerce to serve as a voting member of a Council in accordance with section 302(b)(2) of the Magnuson-Stevens Act; or

(2) A representative of an Indian tribe appointed to the Pacific Council by the Secretary of Commerce under section 302(b)(5) of the Magnuson-Stevens Act who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government.

(3) A member of an SSC shall be treated as an affected individual for the purposes of paragraphs (b)(1), (b)(5) through (b)(7), and (i) of this section.

Council decision means approval of a fishery management plan (FMP) or FMP amendment (including any proposed regulations); request for amendment to regulations implementing an FMP; finding that an emergency exists involving any fishery (including recommendations for responding to the emergency); 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.

Designated official means an attorney designated by the NOAA General Counsel.

Financial Interest Form means NOAA Form 88-195, “STATEMENT OF FINANCIAL INTERESTS For Use By Voting Members of, and Nominees to, the Regional Fishery Management Councils, and Members of the Scientific and Statistical Committee (SSC)” or such other form as the Secretary may prescribe.

Financial interest in harvesting, processing, lobbying, advocacy, or marketing (1) includes:

(i) Stock, equity, or other ownership interests in, or employment with, any company, business, fishing vessel, or other entity or employment with any entity that has any percentage ownership in or by another entity engaging in any harvesting, processing, lobbying, advocacy, or marketing activity in any fishery under the jurisdiction of the Council concerned;

(ii) Stock, equity, or other ownership interests in, or employment with, any company or other entity or employment with any entity that has any percentage ownership in or by another entity that provides equipment or other services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned, such as a chandler or a dock operation;

(iii) Employment with, or service as an officer, director, or trustee of, an association whose members include companies, vessels, or other entities engaged in any harvesting, processing, lobbying, advocacy, or marketing activities, or companies or other entities providing services essential to harvesting,

processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned; and

(iv) Employment with an entity that has any percentage ownership in or by another entity providing consulting, legal, or representational services to any entity engaging in, or providing equipment or services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned, or to any association whose members include entities engaged in the activities described in paragraphs (1)(i) and (ii) of this definition;

(2) Does not include stock, equity, or other ownership interests in, or employment with, an entity engaging in scientific fisheries research in any fishery under the jurisdiction of the Council concerned, unless it is covered under paragraph (1) of this definition. A financial interest in such entities is covered by 18 U.S.C. 208, the Federal conflict-of-interest statute.

(b) *Reporting.* (1) The Magnuson-Stevens Act requires the disclosure of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction. An affected individual must disclose such financial interest held by that individual; the affected individual's spouse, minor child, partner; or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on the Financial Interest Form (as defined in paragraph (a) of this section), or such other form as the Secretary may prescribe.

(2) The Financial Interest Form must be filed by each nominee for Secretarial appointment to the Council with the Assistant Administrator by April 15 or, if nominated after March 15, one month after nomination by the Governor. A seated voting member appointed by the Secretary must file a Financial Interest Form with the Executive Director of the appropriate Council within 45 days of taking office; must file an update of his or her statement with the Executive Director of the appropriate Council within 30 days of the time any such financial interest is acquired or substantially changed by the affected individual or the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; and must update his or her form annually and file that update with the Executive Director of the appropriate Council by February 1 of each year, regardless of whether any information has changed on that form.

(3) The Executive Director must, in a timely manner, provide copies of and updates to the Financial Interest Forms of appointed Council members to the NMFS Regional Administrator, the Regional Attorney who advises the Council, the Department of Commerce Assistant General Counsel for Administration, and the NMFS Office of Sustainable Fisheries. These completed Financial Interest Forms shall be kept on file in the office of the NMFS Regional Administrator and at the Council offices, and shall be made available for public inspection at such offices during normal office hours. In addition, the forms shall be made available at each Council meeting or hearing and shall be posted for download from the Internet on the Council's website.

(4) Councils must retain the Financial Interest Form for a Council member for at least 5 years after the expiration of that individual's last term.

(5) An individual being considered for appointment to an SSC must file the Financial Interest Form with the Regional Administrator for the geographic area concerned within 45 days prior to appointment. A member of the SSC must file an update of his or her statement with the Regional Administrator for the geographic area concerned within 30 days of the time any such financial interest is acquired or substantially changed by the SSC member or the SSC member's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; and must update his or her form annually and file that update with the Regional Administrator by February 1 of each year.

(6) An individual who serves as an SSC member to more than one Council shall file Financial Interest Forms with each Regional Administrator for the geographic areas concerned.

(7) The Regional Administrator shall maintain on file the Financial Interest Forms of all SSC members for at least five years after the expiration of that individual's term on the SSC. Such Forms are not subject to sections 302(j)(5)(B) and (C) of the Magnuson-Stevens Act.

(c) *Restrictions on voting.* (1) No affected individual may vote on any Council decision that would have a significant and predictable effect on a financial interest disclosed in his/her report filed under paragraph (b) of this section.

(2) As used in this section, a Council decision will be considered to have a “significant and predictable effect on a financial interest” if there is a close causal link between the decision and an expected and substantially disproportionate benefit to the financial interest in harvesting, processing, lobbying, advocacy, or marketing of any affected individual or the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee, relative to the financial interests of other participants in the same gear type or sector of the fishery. The relative financial interests of the affected individual and other participants will be determined with reference to the most recent fishing year for which information is available. However, for fisheries in which IFQs are assigned, the percentage of IFQs assigned to the affected individual will be the determining factor.

(3) “Expected and substantially disproportionate benefit” means a quantifiable positive or negative impact with regard to a matter likely to affect a fishery or sector of the fishery in which the affected individual has a significant interest, as indicated by:

(i) A greater than 10-percent interest in the total harvest of the fishery or sector of the fishery in question;

(ii) A greater than 10-percent interest in the marketing or processing of the total harvest of the fishery or sector of the fishery in question; or

(iii) 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 in question.

(4) A member of an SSC is not subject to the restrictions on voting under this section.

(d) *Voluntary recusal.* An affected individual who believes that a Council decision would have a significant and predictable effect on that individual's financial interest disclosed under paragraph (b) of this section may, at any time before a vote is taken, announce to the Council an intent not to vote on the decision and identify the financial interest that would be affected.

(e) *Participation in deliberations.* Notwithstanding paragraph (c) of this section, an affected individual who is recused from voting under this section may participate in Council and committee deliberations relating to the decision, after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(f) *Requests for determination.* (1) At the request of an affected individual, the designated official shall determine for the record whether a Council decision would have a significant and predictable effect on that individual's financial interest. The determination will be based upon a review of the information contained in the individual's financial disclosure form and any other reliable and probative information provided in writing. All information considered will be made part of the public record for the decision. The affected individual may request a determination by notifying the designated official—

(i) Within a reasonable time before the Council meeting at which the Council decision will be made; or

(ii) During a Council meeting before a Council vote on the decision.

(2) The designated official may initiate a determination on the basis of—

(i) His or her knowledge of the fishery and the financial interests disclosed by an affected individual; or

(ii) Written and signed information received within a reasonable time before a Council meeting or, if the issue could not have been anticipated before the meeting, during a Council meeting before a Council vote on the decision.

(3) At the beginning of each Council meeting, or during a Council meeting at any time reliable and probative information is received, the designated official shall announce the receipt of information relevant to a determination concerning recusal, the nature of that information, and the identity of the submitter of such information.

(4) If the designated official determines that the affected individual may not vote, the individual may state for the record how he or she would have voted. A Council Chair may not allow such an individual to cast a vote.

(5) A reversal of a determination under paragraph (g) of this section may not be treated as cause for invalidation or reconsideration by the Secretary of a Council's decision.

(g) *Review of determinations.* (1) Any Council member may file a written request to the NOAA General Counsel for review of the designated official's determination. A request for review must be received within 10 days of the determination.

(2) A request must include a full statement in support of the review, including a concise statement as to why the Council's decision did or did not have a significantly 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, and why the designated official's determination should be reversed.

(3) If the request for review is from a Council member other than the affected individual whose vote is at issue, the requester must provide a copy of the request to the affected individual at the same time it is submitted to the NOAA General Counsel. The affected individual may submit a response to the NOAA General Counsel within 10 days from the date of his/her receipt of the request for review.

(4) The NOAA General Counsel must complete the review and issue a decision within 30 days from the date of receipt of the request for review. The NOAA General Counsel will limit the review to the record before the designated official at the time of the determination, the request, and any response.

(h) The provisions of 18 U.S.C. 208 regarding conflicts of interest do not apply to an affected individual who is a voting member of a Council appointed by the Secretary, as described under section 302(j)(1)(A)(ii) of the Magnuson-Stevens Act, and who is in compliance with the requirements of this section for filing a financial disclosure report. The provisions of 18 U.S.C. 208 do not apply to a member of an SSC, unless that individual is an officer or employee of the United States or is otherwise covered by the requirements of 18 U.S.C. 208.

(i) It is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by this section, or to knowingly vote on a Council decision in

violation of this section. In addition to the penalties applicable under §600.735, a violation of this provision may result in removal of the affected individual from Council or SSC membership.

[63 FR 64185, Nov. 19, 1998, as amended at 75 FR 59152, Sept. 27, 2010]

Attachment C

16 USC 1852(j)
Disclosure of financial interest and recusal

TITLE 16 - CONSERVATION
CHAPTER 38 - FISHERY CONSERVATION AND MANAGEMENT
SUBCHAPTER IV - NATIONAL FISHERY MANAGEMENT PROGRAM

§ 1852. Regional Fishery Management Councils

(j) Disclosure of financial interest and recusal

(1) For the purposes of this subsection—

(A) the term "affected individual" means an individual who—

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) of this section; or

(ii) is a voting member of a Council appointed—

(I) under subsection (b)(2) of this section; or

(II) under subsection (b)(5) of this section who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

(B) the term "designated official" means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).

(2) Each affected individual must disclose any financial interest held by—

(A) that individual;

(B) the spouse, minor child, or partner of that individual; and

(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.

(3) The disclosure required under paragraph (2) shall be made—

(A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and

(B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

(4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

(5) The financial interest disclosures required by this subsection shall—

(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;

(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and

(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.

(6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

(7) **(A)** After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. 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. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from October 11, 1996, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

(8) Section 208 of title 18 does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.