



Recusal Determinations for the Council's December 2021 Meeting

1 message

From: **Demian Schane - NOAA Federal** <demian.schane@noaa.gov>
Date: Thu, Nov 18, 2021 at 12:51 PM
Subject: Recusal Determinations for the Council's December 2021 Meeting

Dear Council Members:

NOAA General Counsel, Alaska Section has reviewed the North Pacific Fishery Management Council's December 2021 draft agenda for recusal issues.

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

Under 50 C.F.R. § 600.235, the following three agenda items are not "Council decisions" as that term is defined at 50

C.F.R. § 600.235(a) and therefore no recusal determinations are required for them:

- C-1: Charter halibut - 2022 annual management measures;
- C-3: BSAI Groundfish - Final harvest specifications; and
- C-3: GOA Groundfish - Final harvest specifications.

Under 50 C.F.R. § 600.235, the following two agenda items constitute a "Council decision," as a result, the recusal regulations at 50 C.F.R. § 600.235 apply:

- C-2: BSAI Halibut abundance-based management (ABM); and
- D-1: Red King Crab Savings Area Extension - Consideration of emergency action request

For the C-2 agenda item, we have determined that none of the appointed Council Members (Members Campbell, Down, Jensen, Kimball, Kinneen, Mezirow, and Vanderhoeven) is required to be recused from voting on this Council decision under 50 C.F.R. § 600.235 because none of the Council members has either (1) a financial interest in the fishery that would be affected by this final action or (2) a significant financial interest in the fishery that would be affected by the decision.

For the D-1 agenda item, we have determined that none of the appointed Council Members (Members Campbell, Down, Jensen, Kimball, Kinneen, Mezirow, and Vanderhoeven) is required to be recused from voting on this Council decision under 50 C.F.R. § 600.235 because none of the Council members has either (1) a financial interest in the fishery that

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would be affected by this final action or (2) a significant financial interest in the fishery that would be affected by the decision.

Although the regulations at 50 C.F.R. § 600.235 do not require any recusals from voting on these Council decisions, a Council member may voluntarily recuse himself or herself under 50 C.F.R. § 600.235(d) if he or she believes that any Council decision would have a significant and predictable effect on that individual's financial interest.

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 these determinations. 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 November 29, 2021. Please see the regulations at 50 C.F.R. § 600.235(g) for more information on requests for review.

Please contact me if you have any questions or would like more information.

Thank you.

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