



Recusal Determinations for the Council's February 2021 Virtual Meeting

From: **Demian Schane - NOAA Federal** <demian.schane@noaa.gov>
Date: Fri, Jan 22, 2021 at 9:23 AM
Subject: Recusal Determinations for the Council's February 2021 Virtual Meeting

Dear Council Members:

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

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

Under 50 C.F.R. § 600.235, the C-5 Norton Sound red king crab specifications is not a "Council decision" as that term is defined at 50 C.F.R. § 600.235(a) and therefore no recusal determinations are required for this final action.

The following two final actions constitute "Council decisions":

C1 -- BSAI Pacific cod Pot Catcher Processor LLP License Endorsements -- Final Action, and
C2 -- Standardized Bycatch Reporting Methodology -- Initial/Final Action.

As a result, the recusal regulations at 50 C.F.R. § 600.235 apply.

As for the C1 final action, we have determined that none of the appointed Council Members (Members Campbell, Cross, Down, Jensen, Kimball, Kinneen, and Mezirow) 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 a financial interest in the fishery that would be affected by this final action.

As for the C2 final action, we have determined that none of the appointed Council Members (Members Campbell, Cross, Down, Jensen, Kimball, Kinneen, and Mezirow) is required to be recused from voting on this Council decision under 50 C.F.R. § 600.235 because there is no close causal link between the Council decision and any Council member's financial interests. This Council decision would align FMP language with how bycatch is currently reported and would not change how fisheries are managed or alter the way fisheries operate; therefore, there is no real, as opposed to speculative, possibility that this Council decision will affect any Council member's financial interests.

Although the regulations at 50 C.F.R. § 600.235 do not require voting recusals for either of 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 a 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 this determination. Requests for review should be emailed 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 February 1, 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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