



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
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November 24, 2023

MEMORANDUM FOR: Council Members
North Pacific Fishery Management Council

FROM: Demian A. Schane
Chief, Alaska Section
NOAA Office of General Counsel

for

SUBJECT: Recusal Determinations for the December 2023 Council Meeting

NOAA General Counsel, Alaska Section has reviewed the North Pacific Fishery Management Council's December 2023 agenda for recusal issues.

Under 50 C.F.R. § 600.225(b)(9)(ii), none of the agenda items for the December 2023 meeting 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 following three agenda items do not 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: BSAI Groundfish - Final Harvest Specifications;
- C4: GOA Groundfish - Final Harvest Specifications; and
- C7: 2024 Charter Halibut Annual Management Measures.

Under 50 C.F.R. § 600.235, the following final actions constitute "Council decisions"; therefore, the recusal regulations at 50 C.F.R. § 600.235 apply:

- C1: Crab C share recent participation requirement;
- C2: Crab facility use cap;
- C5: EFH FMP amendments; and
- C6 Crab FMP housekeeping amendment.

For agenda item C1, we have determined that none of the appointed Council Members (Members Down, Drobnic, Jensen, Kimball, Mezirow, Tsukada, and Vanderhoeven) is required to be recused from voting on the Council decision because none of them has a financial interest in the fishery or sector of the fishery that would be affected by the final action. See 50 C.F.R. § 600.235(c).

For agenda item C2, we have determined that none of the appointed Council Members (Members Down, Drobnic, Jensen, Kimball, Mezirow, Tsukada, and Vanderhoeven) is required to be recused from voting on the Council decision because none of them has either (1) a financial interest in the



fishery or sector of the fishery that would be affected by the final action or (2) for those Council members with a financial interest in the fishery or sector of the fishery, a significant financial interest in the fishery or sector of the fishery that is likely to be positively or negatively affected by the decision. See 50 C.F.R. § 600.235(c).

For agenda item C5, we have determined that none of the appointed Council Members (Members Down, Drobnic, Jensen, Kimball, Mezirow, Tsukada, and Vanderhoeven) is required to be recused from voting on the Council decision because, regardless of any financial interest in any fishery or sector of the fishery affected by the final action, there is no real, as opposed to speculative, possibility that the Council decision will affect any such financial interests. See 50 C.F.R. § 600.235(c)(4)(ii).

For agenda item C6, we have determined that none of the appointed Council Members (Members Down, Drobnic, Jensen, Kimball, Mezirow, Tsukada, and Vanderhoeven) is required to be recused from voting on the Council decision because none of them has either (1) a financial interest in the fishery or sector of the fishery that would be affected by the final action or (2) for those Council members with a financial interest in the fishery or sector of the fishery, a significant financial interest in the fishery or sector of the fishery that is likely to be positively or negatively affected by the decision. See 50 C.F.R. § 600.235(c). In addition, regardless of any financial interest in any fishery or sector of the fishery affected by the final action, there is no real, as opposed to speculative, possibility that the Council decision will affect any such financial interests. See 50 C.F.R. § 600.235(c)(4)(ii).

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 4, 2023. Please see the regulations at 50 C.F.R. § 600.235(g) for more information on requests for review.