

(a) Procedures for the restriction of Council member, employee, or advisory group access and the prevention of conflicts of interest, except that such procedures must be consistent with procedures of the Secretary.

(b) In the case of statistics submitted to the Council by a state, the confidentiality laws and regulations of that state.

Subpart C—Council Membership

§ 600.205 Principal state officials and their designees.

(a) Only a full-time state employee of the state agency responsible for marine and/or anadromous fisheries shall be designated by a constituent state Governor as the principal state official for purposes of section 302(b) of the Magnuson-Stevens Act. New or revised designations by state Governors of principal state officials, and new or revised designations by principal state officials of their designees(s), must be delivered in writing to the appropriate NMFS Regional Administrator at least 48 hours before the individual may vote on any issue before the Council. Written designation(s) must indicate the employment status of each principal state official and that of his/her designee(s), how the official or designee is employed by the state fisheries agency, where each individual is employed (business address and telephone number), and whether the official's full salary is paid by the state.

(b) A principal state official may name his/her designee(s) to act on his/her behalf at Council meetings. Individuals designated to serve as designees of a principal state official on a Council, pursuant to section 302(b)(1)(A) of the Magnuson-Stevens Act, must be full time state employees involved in the development of fisheries management policies for that state.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

§ 600.210 Terms of Council members.

(a) Voting members (other than principal state officials, the Regional Administrators, or their designees) are appointed for a term of 3 years and, except as discussed in paragraphs (b) and

(c) of this section, may be reappointed. A voting member's Council service of 18 months or more during a term of office will be counted as service for the entire 3-year term.

(b) The anniversary date for measuring terms of membership is August 11. The Secretary may designate a term of appointment shorter than 3 years, if necessary, to provide for balanced expiration of terms of office. Members may not serve more than three consecutive terms.

(c) A member appointed after January 1, 1986, who has completed three consecutive terms will be eligible for appointment to another term one full year after completion of the third consecutive term.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7073, Feb. 12, 1998]

§ 600.215 Appointments.

(a) *Members appointed from Governors' lists.* This paragraph applies to council members selected by the Secretary from lists submitted by Governors pursuant to section 302(b)(2)(C) of the Magnuson-Stevens Act.

(1) Each year, terms of approximately one-third of the appointed members of each Council expire. New members will be appointed, or seated members will be reappointed to another term, by the Secretary to fill the seats being vacated. The Secretary will select the appointees from lists of nominees submitted by March 15 of each year by the Governors of the constituent states that are eligible to nominate candidates for that vacancy. When an appointed member vacates his/her seat prior to the expiration of his/her term, the Secretary will fill the vacancy for the remainder of the term by selecting from among the nominees submitted by the responsible Governor(s).

(2) A Governor must submit the names of at least three qualified nominees for each applicable vacancy.

(3) Governors are responsible for ensuring that persons nominated for appointment meet the qualification requirements of the Magnuson-Stevens Act. A Governor must provide a statement explaining how each of his or her

nominees meets the qualification requirements; and must provide appropriate documentation to the Secretary that each nomination was made in consultation with commercial and recreational fishing interests of that state, and that each nominee is knowledgeable and experienced, by reason of his or her occupational or other experience, scientific expertise, or training, in one or more of the following ways related to the fishery resources of the geographical area of concern to the Council:

(i) Commercial fishing or the processing or marketing of fish, fish products, or fishing equipment;

(ii) Fishing for pleasure, relaxation, or consumption, or experience in any business supporting fishing;

(iii) Leadership in a state, regional, or national organization whose members participate in a fishery in the Council's area of authority;

(iv) The management and conservation of natural resources, including related interactions with industry, government bodies, academic institutions, and public agencies. This includes experience serving as a member of a Council, AP, SSC, or FIAC;

(v) Representing consumers of fish or fish products through participation in local, state, or national organizations, or performing other activities specifically related to the education or protection of consumers of marine resources; and

(vi) Teaching, journalism, writing, consulting, legal practice, or researching matters related to fisheries, fishery management, and marine resource conservation.

(4) To assist in identifying necessary qualifications, each nominee must furnish to the appropriate Governor's office a current resume, or equivalent, describing career history—with particular attention to experience related to the above criteria. Nominees may provide such information in any format they wish. Career and educational history information sent to the Governors should also be sent to the NMFS Office of Sustainable Fisheries.

(5) The Secretary will review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis

of the criteria prescribed in paragraph (c) of this section. If the Secretary determines that any nominee is not qualified, the Secretary will notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the nominee in question. The Secretary reserves the right to determine whether nominees are qualified.

(6) There are two categories of seats to which voting members are appointed: "obligatory" and "at-large."

(i) Each constituent state is entitled to one seat on the Council on which it is a member, except that Alaska is entitled to five seats and Washington is entitled to two seats on the North Pacific Fishery Management Council. When the term of a state's obligatory member is expiring, or that seat becomes vacant before the expiration of its term, the Governor of that state must submit the names of at least three qualified individuals to fill that seat. In order to fill a state's obligatory seat, the Secretary may select from any of the nominees for such obligatory seat and from the nominees for any at-large seat submitted by the Governor of that state. If a Governor fails to provide a list of at least three qualified nominees for a seat obligated to that Governor's state, then the state's obligatory seat will remain vacant until three qualified nominees are submitted by the Governor and acted upon by the Secretary.

(ii) Prior to submitting nominees for appointment to a Council, a constituent state Governor must determine if each of his or her nominees is a resident of that constituent state. A State Governor may not nominate a non-resident of that state for appointment to a Council seat obligated to that state. If, at any time during a term, an appointee to an obligatory seat changes residency to another state that is not a constituent state of that Council, the member may no longer vote as a representative of that state and must resign from that obligated seat. For purposes of this paragraph (f)(2), a state resident is an individual who maintains his/her principal residence within that constituent state and, if applicable,

pays income taxes to that state and/or to another appropriate jurisdiction within that state.

(7) When the term of an at-large member is expiring, or that seat becomes vacant before the expiration of a term, the Governors of all constituent states of that Council must each submit the names of at least three qualified individuals to fill that seat.

(i) In order to fill an at-large seat, the Secretary may select a nominee for that seat submitted by any Governor of a constituent state. When the terms of both an obligatory member and an at-large member expire concurrently, the Governor of the state holding the expiring obligatory seat may indicate that the nominees who were not selected for appointment to the obligatory seat may be considered for appointment to an at-large seat, provided that the resulting total number of nominees submitted by that Governor for the expiring at-large seat is no fewer than three.

(ii) If a Governor fails to submit a list of three qualified nominees for an available at-large seat within the time allotted, then a new at-large member will be appointed from lists of qualified nominees submitted by Governors of other constituent states.

(iii) If a Governor chooses to submit nominations for one or more vacant at-large seats on a Council, he or she must submit lists that contain at least three different nominees for each vacant seat. In making selections to each of the available at-large seats, the Secretary will consider all names submitted by the constituent state governors.

(iv) In filling expiring at-large seats, the Secretary will consider only complete slates of nominees submitted by the Governors of the Council's constituent states. If nominations are requested to fill more than one at-large seat and a Governor elects to nominate a total of four candidates, (i.e., a slate of three candidates for one seat and one for the other(s)), the set of three candidates will be considered only for the first seat, but the two candidates who were not selected will not be considered for the other(s). In this case, the only candidates considered for the other seat(s) would be derived from the slates offered by the Governors of the

other states that included three different qualified candidates (i.e., candidates who were not considered for one of the other seats).

(v) Governors may nominate residents of another constituent state of a Council for appointment to an at-large seat on that Council.

(vi) The Secretary must, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries in the Council's area of authority. Further, the Secretary must take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries in the Council's area of authority are fairly represented as voting members.

(b) *Tribal Member.* This paragraph applies to the selection of the Pacific Fishery Management Council's tribal member as required by section 302(b)(5) of the Magnuson-Stevens Act.

(1) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than three individuals submitted by the tribal Governments.

(2) The Secretary shall solicit nominations of individuals for the list referred to in paragraph (b)(1) of this section only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The Secretary will consult with the Bureau of Indian Affairs, Department of the Interior, to determine which Indian tribes may submit nominations.

(3) To assist in assessing the qualifications of each nominee, each tribal government must furnish to the NMFS Office of Sustainable Fisheries a current resume, or equivalent, describing the nominee's qualifications with emphasis on knowledge and experience related to the fishery resources affected by recommendations of the Pacific Council. Prior service on the Council in a different capacity will not disqualify nominees proposed by tribal governments.

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(4) Nominations must be provided to NMFS by March 15 of the year in which the term of the current tribal member expires.

(5) The Secretary shall rotate the appointment among the tribes taking into consideration:

(i) The qualifications of the individuals on the list referred to in paragraph (b)(1) of this section.

(ii) The various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised.

(iii) The geographic area in which the tribe of the representative is located.

(iv) No tribal representative shall serve more than three consecutive terms in the Indian tribal seat.

(6) Any vacancy occurring prior to the expiration of any term shall be filled in the same manner as described above except that the Secretary may use the list referred to in paragraph (b)(1) of this section from which the vacating member was chosen.

[61 FR 32540, June 24, 1996, as amended at 62 FR 47586, Sept. 10, 1997; 63 FR 7073, 7075, Feb. 12, 1998]

§ 600.220 Oath of office.

Each member appointed to a Council must take an oath of office.

§ 600.225 Rules of conduct.

(a) Council members, as Federal office holders, and Council employees are subject to most Federal criminal statutes covering bribery, conflict-of-interest, disclosure of confidential information, and lobbying with appropriated funds.

(b) The Councils are responsible for maintaining high standards of ethical conduct among themselves, their staffs, and their advisory groups. In addition to abiding by the applicable Federal conflict of interest statutes, both members and employees of the Councils must comply with the following standards of conduct:

(1) No employee of a Council may use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

(2) No employee of a Council may be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Magnuson-Stevens Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election, or on account of his or her political affiliation.

(3) No Council member or employee may pay, offer, promise, solicit, or receive from any person, firm, or corporation a contribution of money or anything of value in consideration of either support or the use of influence or the promise of support or influence in obtaining for any person any appointive office, place, or employment under the Council.

(4) No employee of a Council may have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties. However, an Executive Director may retain a financial interest in harvesting, processing or marketing activities, and participate in matters of general public concern on the Council that might affect that interest, if that interest has been disclosed in a report filed under § 600.235.

(5) No Council member, employee of a Council, or member of a Council advisory group may use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment that has not been made available to the general public.

(6) No Council member or employee of the Council may engage in criminal, infamous, dishonest, notoriously immoral, or disgraceful conduct.

(7) No Council member or employee of the Council may use Council property on other than official business. Such property must be protected and preserved from improper or deleterious operation or use.

(8) No Council member may participate—

(i) Personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a particular matter primarily