RULES OF CONDUCT
FOR EMPLOYEES AND ADVISORS OF
REGIONAL FISHERY MANAGEMENT COUNCILS

U.S. Regional Fishery Management Councils

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RULES OF CONDUCT FOR EMPLOYEES OF FISHERY MANAGEMENT COUNCILS

If you serve as an employee of a Regional Fishery Management Council, it is important that you maintain a high standard of conduct to ensure public confidence in the actions of the Council. You are considered a Federal employee for purposes of criminal conflict of interest statutes applicable to other United States Government employees. You are also subject to ethics regulations issued by the National Oceanic and Atmospheric Administration for all Regional Fishery Management Council employees. These statutory and regulatory conduct rules are summarized below.

FINANCIAL CONFLICTS OF INTERESTS

Disqualification Requirement – Basic Rule

As a Council employee, you are subject to the same conflict of interest statutes that apply to Federal employees. Under one of these statutes, 18 U.S.C. § 208, you may not participate on a matter as a Council employee that will affect your financial interests or the financial interests of your spouse, minor children, or general partners; or an organization in which you serve as an officer, director, trustee, general partner, or employee; or someone with whom you have an arrangement regarding future employment or are negotiating for employment, unless an exemption applies (as discussed below).

Exemptions

Because of regulatory exemptions, you are allowed to participate in a matter affecting your financial interests (or those of persons whose interests are attributed to you, as indicated above) if the interest is in the form of a security (stock or bond) that is publicly-traded on a United States exchange and:

- the value of your interests in all affected parties is $15,000 or less;
  the value of your interests in a non-party regarding a particular matter involving specific parties that will affect the non-party is $25,000 or less;
- the value of your interests in each affected company is $25,000 or less and your interests in all affected companies is $50,000 or less and the matter at issue is a broad policy matter (rather than a matter involving specific parties);
- the interest is held through a broadly-diversified mutual fund; or
- the interest is held through a mutual fund that focuses its investments in a specific industry sector or geographic sector and your interests in the fund (and in other sector-specific funds that focus investments in the same sector) are $50,000 or less.

Note that disqualification requirements are different for you than they are for Council members. Council members can avoid a disqualification for interests in harvesting, processing, lobbying, advocacy, and marketing activities when reported on a Statement of Financial Interests (NOAA Form 88-195); Council employees may not.

Restrictions on Investments and Outside Employment

Before making an investment or entering into an employment relationship outside the Council, you must consider whether it would interfere with your ability to perform your duties in light of the disqualification requirement relating to your financial and employment interests.

Conflicting Investments and Financial Interests

Under conduct regulations, you may not hold a direct or indirect financial interest that interferes with the fair and impartial conduct of your Council duties. For purposes of this restriction, a financial interest includes an employment interest. An indirect interest includes a financial interest of your spouse or minor child. If a financial interest will impose a disqualification on you that will prevent you from performing your Council duties, you may be required to divest the interest or end the employment. This is most likely to be the case if you have financial interests in commercial or recreational fishing companies or vessels that participate in matters under the jurisdiction of your Council, although minimal stock holding (totaling less than $15,000) may not present such a problem.

BRIBES AND SIMILAR PAYMENTS

You may not accept anything of monetary value in exchange for taking an action as a Council employee or failing to take an action as a Council employee, other than payments from the Council or the Federal Government in connection with your Council service. This restriction is based on the Federal criminal statute against bribery.

You also may not receive a payment or benefit for performing your Council duties from a source other than your Council or the Federal Government.

In addition, Council rules specify that you may not pay, offer, promise, solicit, or receive from any person, firm, or corporation a contribution of money or anything of value in consideration of support or the use of influence in obtaining for any person any appointive office, place, or employment under the Council.

CONTACTING THE FEDERAL GOVERNMENT ON BEHALF OF OTHERS

Basic Rule for Regular Council Employees regarding Contacting the Federal Government on Behalf of Others

If you serve more than 130 days in a 365-day period as a Council employee, you may not serve as an agent or attorney before, or, if paid, otherwise contact on behalf of someone else, a Federal agency or Federal court (unless allowed under an exception, as explained below). This means that in most cases you may not try to influence Government action by contacting a Federal agency official or a Federal court official through a personal meeting, a telephone call, an email, or in writing, on behalf of someone other than yourself. You are also barred from receiving payments for representational activities by others (such as if you are in a partnership and part of the partnership distribution is based on representational activities before a Federal agency or Federal court).

Exceptions

You may contact a Federal agency or Federal court official on behalf of:

- your parent, spouse, or child, or an estate or trust you administer, but only if you receive prior approval in advance from the official responsible for your appointment (in which case the Ethics Office of the Department of Commerce (ethicsdivision@doc.gov or 202-482-5384) can prepare the necessary documents);
- a non-profit organization composed primarily of Federal employees (including Council employees) or their families, if you do not receive compensation for such service and if the matter does not involve a claim against the Government, a proceeding in which the organization is a party, or Government financial benefits to the organization; or
- a Council employee (or other Federal employee) in a personnel proceeding (if it is not inconsistent with your Council duties and if you do not receive payment for such services).

Rule Applicable to Council Employees Who Serve for a Limited Period of Time regarding Contacting the Federal Government on Behalf of Others

If you serve for 130 days or fewer during a 365-day period, you will be subject to fewer restrictions on contacting the Federal Government on behalf of others (and from receiving payment for the representational activities of others). The restriction will vary depending on the duration of your service.

Bars on Contacting a Federal Agency or Court on behalf of Others for Employees Serving Fewer than 130 Days

If you serve for 61-130 days per 365-day period, you may not represent others before a Federal agency or Federal court in any matter involving specific parties if:

- you participated personally and substantially in the matter as a Council employee or
- the matter is pending before your Council.

Bars on Contacting a Federal Agency or Court on behalf of Oethers for Employees Serving Fewer than 60 Days

If you serve for 60 days or fewer per 365-day period, you may not represent others before a Federal agency or Federal court in any matter involving specific parties if you participated personally and substantially in the matter as a Council employee.

You also may not receive payments for such representational activities by others (such as if you are in a partnership and part of the partnership distribution is based on representational activities before a Federal agency or Federal court regarding a matter involving specific parties on which you participated or, if you served for 61-130 days, that was pending before your Council).

MISUSE OF COUNCIL RESOURCES AND INFLUENCE

Council resources, like all Government resources, may only be used for official Government activities. This applies to the use of supplies, equipment, staff time, and services, including long-distance telephone and fax services. You also have an affirmative duty to protect and preserve Council property.

You also must be careful not to disclose or use any nonpublic information that you learn in the course of your service with the Council, until such time as the Council or the Department of Commerce has authorized release of the information.

You also may not use your position as a Council employee, or any authority you have as a Council employee, for personal purposes. You may not refer to your Council position in the course of conducting private activities and you may not use your Council title on any personal correspondence or business cards used for non-Council activities, except that you may refer to your position as part of general biographical information.

RULES REGARDING POLITICAL ACTIVITIES AND AFFILIATION

You may not use your official authority as a Council employee or any influence derived from your position with a 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.

You may not be deprived of employment, position, work, compensation, or benefits provided for, or made possible by, the Magnuson Act (the Act that established the Councils) 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 your political affiliation.

RULES THAT WILL APPLY AFTER LEAVING COUNCIL SERVICE

There are a few restrictions that will apply to you after you end your service with a Fishery Management Council. These restrictions concern representing others before the Federal Government and disclosing nonpublic information.

Restriction on Contacting the Federal Government

After you leave Council service, you may not represent others before any Federal agency or Federal court concerning a particular matter involving specific parties if you participated personally and substantially in the matter as a Council member. "Representing" someone includes any communication on behalf of someone other than yourself that is intended to influence Government action; it can be by a direct discussion, attendance at a meeting, a phone call, a letter, an email, or otherwise. Note that this is similar to the restriction on contacting the Federal Government that applies while you serve with the Council. You also may not for two years after leaving Council service represent others before any Federal agency or Federal court regarding a specific-party matter in which you did not personally participate but that was pending under your official responsibility during your service on the Council, such as if a subordinate of yours worked on the matter. In addition, any Council employee whose base salary is $172,395 or more is barred for one year from representing anyone before the employee's Council for a one year period and from representing a foreign government (or a foreign political party) before any Branch of the U.S. Government for one year and from advising or assisting a foreign government (or foreign political party) on its dealings with the U.S. Government for a period of one year.

Nonpublic Information

You will continue to be restricted after leaving Council service from disclosing or using nonpublic information you obtained through your Council service if the information is protected by statute, until its release has been authorized by the Council or the Department of Commerce.

GENERAL CONDUCT RULES

In addition to the above rules, Council conduct regulations provide that you may not engage in criminal, infamous, dishonest, notoriously immoral, or disgraceful conduct.

RULES OF CONDUCT FOR ADVISORS, PANEL MEMBERS, AND OTHERS WHO WORK WITH A FISHERY MANAGEMENT COUNCIL

If you serve on a committee or panel of a Regional Fishery Management Council, or if you provide services under contract to a Fishery Management Council, you are not considered a Federal employee or a Council employee for purposes of the statutes and regulations on ethical conduct. However, to ensure public confidence in the Fishery Management Council system and Government actions regarding regulation and conservation of fishery resources, it is important that you maintain a high standard of conduct.

MISUSE OF GOVERNMENT RESOURCES

Council resources, like other Government resources, may only be used for official authorized Government activities. This includes the use of:

- Council equipment (including computers and copying machines),
- Council supplies (including Council stationery),
- Council services, and
- the time of Council personnel.

If you are working in a Council office, you should be careful to preserve Council property. If you are entitled to reimbursement from the Council or the Department of Commerce for certain expenditures, such as travel costs, you must ensure that all charges you claim are legally authorized.

MISUSE OF COUNCIL INFORMATION

You may not use information you obtain as part of your work with a Fishery Management Council for personal activities and you may not disseminate the information to persons outside the Council, unless authorized by the Council or the Department of Commerce. Restricted information includes:

- nonpublic fisheries data,
- proprietary information,
- nonpublic economic or scientific analyses,
- private personnel information,
- source selection and other nonpublic procurement information, and
- other nonpublic information.

Improper use or release may result in criminal charges (such as for misuse of national security information) or civil liability (such as for misuse of trade secrets).

MISUSE OF COUNCIL AFFILIATION

You may not use your association with a Fishery Management Council, including business contacts obtained through your work with the Council, for personal benefits or favors for yourself or others, including friends, relatives, or business associates.

Because you are not a Council or Federal employee, you may not represent that you serve or act on behalf of the Council or the Federal Government, unless authorized to do so by the Council. You may not use your association with a Council to imply that the Council endorses your personal activities. Thus, you should not refer to a Fishery Management Council on your business card unless your relationship with the Council is made clear.

ADDITIONAL RULES

Additional rules may apply depending on the specific arrangement or agreement between you or your employer and a particular Council. For example, a clause in a contract under which you provide services to the Government may subject you to additional conduct restrictions.

CONTACT INFORMATION TO OBTAIN FURTHER ADVICE

If you have a question about conduct rules, you should seek guidance from the Regional Attorney of the National Oceanic and Atmospheric Administration assigned to advise your Council.

You may also seek advice from an attorney in the Ethics Office of the Office of General Counsel, U.S. Department of Commerce at 202-482-5384 or ethicsdivision@doc.gov.

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