NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 01-116 ***September 29, 2014***
Fisheries Management
FISHERY MANAGEMENT COUNCIL FINANCIAL DISCLOSURES
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SUMMARY OF REVISIONS:

1. **Introduction:** The National Oceanic and Atmospheric Association's (NOAA) National Marine Fisheries Service (NMFS) is strengthening the policy guidance on the review of financial disclosures by appointed members of the Fishery Management Councils (Council). Appointed Council members, for purposes of this Policy Directive, is defined by Section 302(b)(1)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 302(j) of the MSA, requires Council members to file the Statement of Financial Interests form to fulfill the requirements of the Magnuson-Stevens Act. The purpose of this form is to assist the member and NMFS in avoiding conflicts between official duties and private financial interests or affiliations. Council members may not vote on any Council decision that would have a significant and predictable effect on a financial interest disclosed in the form. The MSA requires the disclosure of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which a Council has jurisdiction. This also includes employment with an entity that provides consulting, legal, or representational services relating to harvesting, processing, lobbying, advocacy, or marketing activities. Council members must disclose such financial interest held by them; their spouse, minor child, partner; or any organization (other than the Council) in which they are serving as an officer, director, trustee, partner, or employee.

2. **Objective:** It is the policy of NMFS to carry out the responsibilities of the Secretary pursuant to Section 302(j) of the MSA and implementing regulations to provide an effective process for submission and review financial disclosures and for identifying and resolving any conflicts of interest by Council members. The process should ensure Council appointments are made using complete and accurate information from nominees, financial disclosures of Council members are complete and transparent to the public, and Council members are aware of the conditions of conflict of interest and the need to recuse themselves. The information required to be reported must be disclosed on the Statement of Financial Interests form NOAA 88-195, or such other form as the Secretary may prescribe. In accordance with the MSA and 50 CFR 600.235(4)(i), it is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by the MSA, or to knowingly vote on a Council decision in violation of the MSA.

3. **Authorities and Responsibilities:** This policy directive outlines the following authorities and responsibilities, which are within those responsibilities established in implementing regulations (See 50 CFR 600.235):

   3.1 The NMFS Office of Sustainable Fisheries is responsible for:

   a. Conducting oversight of the disclosure and recusal process.

   b. Initially reviewing the disclosures of nominees before appointment to the Councils.

3.2 The NMFS Regional Offices are responsible for:

a. Reviewing submission of the financial disclosures of appointed Council members for Councils for which the Regional Administrator is a member.

b. Advising the NOAA Regional Counsel, Council Executive Director and Council member if questions or discrepancies arise.

c. Maintaining a file of disclosures for the Council for at least 5 years.

d. Reviewing financial disclosures prior to Council meetings to determine the potential for a conflict of interest.

e. Advising the NOAA Regional Counsel, the Council Executive Director and the Council member of any such concern.

3.3 NOAA Office of the General Counsel (GC) Regional Sections are responsible for:

a. Reviewing financial disclosures prior to Council meetings to determine the potential for a conflict of interest.

b. Responding to questions regarding the disclosure forms and requests for determinations of conflict of interest

c. Advising the Regional Administrator, the Council Executive Director and the Council member of any such concern.

d. Conducting an annual briefing of the Councils on financial disclosure and recusals.

3.4 Council Executive Directors are responsible for:

a. Reviewing submission of the financial disclosures of appointed Council members for the Council.

b. Advising the Regional Administrator, NOAA GC Regional Section, and Council member if questions or discrepancies arise.

c. Distributing and collecting financial disclosure forms for Council members.

d. Reviewing financial disclosures prior to Council meetings to determine the potential for a conflict of interest.

e. Advising the Regional Administrator, the NOAA GC Regional Section, and the Council member of any such concern.

f. Recording any incidences of recusals or discussions surrounding conflicts and report them to NMFS for inclusion in the annual report to Congress.

4. **Measuring Effectiveness:** Section 302(j)(9) of the MSA requires the Secretary to submit an annual report to Congress on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of the Act, including identifying any conflict of interest problems with respect to the Councils and Scientific and Statistical Committees and recommendations for addressing any such problems.

5. **References:** Procedural directives will be issued to implement this policy as needed.

Signed_____ 9/15/14

Date

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