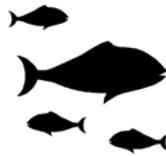


UNITED STATES
DEPARTMENT OF COMMERCE

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

2009



UNITED STATES
DEPARTMENT OF COMMERCE
Ethics Law and Programs Division
Office of the Assistant General Counsel
for Administration
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RULES OF CONDUCT FOR REGIONAL FISHERY MANAGEMENT COUNCIL EMPLOYEES

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. Under a conflict of interest statute, you are barred from participating personally and substantially on any matter as a Council employee that will have a direct and predictable effect on your financial interests, or on the financial interests of your spouse, minor children, or general partners; or on an organization in which you serve as an officer, director, trustee, general partner, or employee; or on a person or entity with which you have an arrangement regarding future employment or are negotiating for future employment.

Exemptions. The requirement that you not participate in a matter affecting your financial interests (or those of persons whose interests are attributed to you, as indicated above) does not apply if the interest is in the form of company stock or bonds 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 matter involving specific parties that will affect the non-party is \$25,000 or less; or
- 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); or
- 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) is \$50,000 or less.

Note that Council members are also generally required to disqualify themselves from participating in matters affecting their financial interests, except those interests covered by the above exemptions and interests in harvesting, processing, lobbying, advocacy, and marketing activities that are reported on a Statement of Financial Interests (NOAA Form 88-195). The latter exemption, which applies to Council members, does not apply to you or your financial interests. You may not work on any matter concerning a harvesting, processing, lobbying, advocacy, or marketing interest (unless, as stated above, the interest is in a publicly-traded stock in a party to a matter that is less than \$15,000 in value (or in an affected non-party that is less than \$25,000), or less than \$25,000 in value if the matter is a broad policy issue and the total value of holdings in all affected companies is less than \$50,000; or is in a broadly-diversified mutual fund; or in a sector-specific fund of \$50,000 or less).

Restriction on Investments and Financial Interests. Under conduct regulations, you are barred from having 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.

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 United States Government in connection with your Council service. This restriction is based on the Federal criminal statute against bribery.

You are also barred by statute from receiving a supplementation of your Council salary 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 are barred from serving as an agent or attorney or, if paid, otherwise representing anyone before a Federal agency or Federal court (unless allowed under an exception, as listed below). This means that in most cases you may not contact a Federal agency official or a Federal court official through a personal meeting, a telephone call, electronic mail, or in writing, on behalf of someone else with the intent to influence Government action. You are also barred from receiving payments for such lobbying 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 to the Basic Rule. You may contact a Federal agency or Federal court official on behalf of:

- 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;
- 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 compensation for such services); or
- your parent, spouse, or child, or an estate or trust you administer (if you receive prior approval in advance from the official responsible for your appointment).

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 more limited restrictions on lobbying the Federal Government, and from receiving payment for lobbying activities of others. The restriction will vary depending on the duration of your service.

If you serve for 61-130 days per year, you are barred from representing 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.

If you serve for 60 days or less per year, you are barred from representing 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 are also barred from receiving payments for such lobbying 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 court).

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 terminate your service with a Fishery Management Council; specifically, they involve lobbying the Federal Government and disclosing nonpublic information.

Restriction on Contacting the Federal Government. After you leave Council service, you will be barred from communicating on behalf of someone else with any Federal agency or Federal court concerning a particular matter involving specific parties with the intent to influence Government action if you participated personally and substantially in the matter as a Council member. Note that this is similar to the anti-lobbying restriction that applies while you serve with the Council. You will also be barred for two years after leaving Council service from representing 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.

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.

If you have a question about conduct rules or their application to a specific situation, you should seek guidance from the Regional Attorney of the National Oceanic and Atmospheric Administration assigned to provide advice to your Council.

You may also seek advice from an attorney in the Ethics Law and Programs Division of the U.S. Department of Commerce at 202-482-5384, particularly with respect to Government-wide conflict of interest rules on bribes, misuse of resources, lobbying the Government, and post-service activities.

RULES OF CONDUCT FOR PERSONS WHO WORK WITH A REGIONAL 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 use of:

- Council equipment (including computers and photocopying machines);
- Council supplies (including Council stationery);
- Council services (including long-distance telephone and fax services); and
- the time of Council personnel.

If you are working in a Council office, you should be mindful 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 and 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 business proprietary information).

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. 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.

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 provide advice to your Council. You may also seek advice from an attorney in the Ethics Law and Programs Division, Office of the Assistant General Counsel for Administration, U.S. Department of Commerce at 202-482-5384.

*Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for
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