

Fishery Conservation and Management

§ 600.215

which the designee resides, and whether the designee's salary is paid by the state.

[66 FR 57888, Nov. 19, 2001]

§ 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 Council nomination and appointment procedures.

(a) *General.* (1) Each year, the 3-year terms for approximately one-third of the appointed members of the Councils expire. The Secretary of Commerce (Secretary) will appoint or new members or will reappoint seated members to another term to fill the seats being vacated.

(2) There are two categories of seats to which voting members are appointed: "Obligatory" and "At-large."

(i) Obligatory seats are state specific. Each constituent state is entitled to one seat on the Council on which it is a member, except that the State of Alaska is entitled to five seats and the State of 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 when 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 Council seat.

(ii) The Magnuson-Stevens Act also provides for appointment, by the Secretary, of one treaty Indian tribal representative to the Pacific Fishery Management Council (Pacific Council). To fill that seat, the Secretary solicits written nominations from the heads of governments of those Indian Tribes with federally recognized fishing rights from the States of California, Oregon, Washington, or Idaho. The list of nominees must contain a total of at least three individuals who are knowledgeable and experienced regarding the fishery resources under the authority of the Pacific Council. The Secretary will appoint one tribal Indian representative from this list to the Pacific Council for a term of 3 years and rotate the appointment among the tribes.

(iii) At-large seats are regional. When the term of an at-large member is expiring or when 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 the seat.

(b) *Responsibilities of State Governors.*

(1) Council members are selected by the Secretary from lists of nominees submitted by Governors of the constituent states, pursuant to section 302(b)(2)(C) of the Magnuson-Stevens Act. For each applicable vacancy, a Governor must submit the names of at least three nominees who meet the qualification requirements of the Magnuson-Stevens Act. A Governor must provide a statement explaining how each of his/her nominees meet the qualification requirements, and must also 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, Advisory Panel, Scientific and Statistical Committee, or Fishing Industry Advisory Committee;

(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; or

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

(2) To assist in identifying 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 criteria in paragraph (b)(1) of this section. Nominees may provide such information in any format they wish.

(3) A constituent State Governor must determine the state of residency of each of his/her nominees. A Governor may not nominate a non-resident of that state for appointment to a Council seat obligated to that state. A Governor may nominate residents of another constituent state of a Council for appointment to an at large seat on that Council.

(4) If, at any time during a term, a member changes residency to another state that is not a constituent state of that Council, or a member appointed to an obligatory seat changes residency to any other state, the member may no longer vote and must resign from the Council. For purposes of this paragraph, a state resident is an individual who maintains his/her principal residence within that constituent state and who, if applicable, pays income

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

(5) 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 different nominees. When obligatory and at-large seats do not expire concurrently, 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, provided that the resulting total number of nominees submitted by that Governor for the expiring seats is no fewer than six. If a total of fewer than six nominees is submitted by the Governor, each of the six will be considered for the expiring obligatory seat, but not for the expiring at-large seat.

(c) *Responsibilities of eligible tribal Indian governments.* The tribal Indian representative on the Pacific Council will be selected by the Secretary from a list of no fewer than three individuals submitted by the tribal Indian governments with federally recognized fishing rights from California, Oregon, Washington, and Idaho, pursuant to section 302(b)(5) of the Magnuson-Stevens Act. To assist in assessing the qualifications of each nominee, each head of an appropriate tribal Indian government must furnish to the Assistant Administrator 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 Pacific Council in a different capacity will not disqualify nominees proposed by tribal Indian governments.

(d) *Nomination deadlines.* Nomination letters and completed kits must be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15. For appointments outside the normal

Fishery Conservation and Management

§ 600.215

cycle, a different deadline for receipt of nominations will be announced.

(1) *Obligatory seats.* (i) The governor of the state for which the term of an obligatory seat is expiring must submit the names of at least three qualified individuals to fill that seat by the March 15 deadline. The Secretary will appoint to the Pacific Council a representative of an Indian tribe from a list of no fewer than three individuals submitted by the tribal Indian governments.

(ii) If the nominator fails to provide a nomination letter and at least three complete nomination kits by March 15, the obligatory seat will remain vacant until all required information has been received and processed and the Secretary has made the appointment.

(2) *At-large seats.* (i) If a Governor chooses to submit nominations for an at-large seat, he/she must submit lists that contain at least three different qualified nominees for each vacant seat. A nomination letter and at least three complete nomination kits must be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15.

(ii) Nomination packages that are incomplete after March 15 will be returned to the nominating Governor and will be processed no further. At-large members will be appointed from among the nominations submitted by the governors who complied with the nomination requirements and the March 15 deadline.

(e) *Responsibilities of the Secretary.* (1) 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 on the Councils.

(2) The Secretary will review each list submitted by a governor or the tribal Indian governments to ascertain whether the individuals on the list are qualified for the vacancy. If the Sec-

retary determines that a nominee is not qualified, the Secretary will notify the appropriate Governor or tribal Indian government of that determination. The Governor or tribal Indian government shall then submit a revised list of nominees 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.

(3) The Secretary will select the appointees from lists of qualified nominees provided by the Governors of the constituent Council states or of the tribal Indian governments that are eligible to nominate candidates for that vacancy.

(i) For Governor-nominated seats, the Secretary will select an appointee for an obligatory seat from the list of qualified nominees submitted by the governor of the state. In filling expiring at-large seats, the Secretary will select an appointee(s) for an at-large seat(s) from the list of all qualified candidates submitted. The Secretary will consider only complete slates of nominees submitted by the governors of the Council's constituent states. 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 complete nomination letters and kits that are timely and contain the required number of candidates.

(ii) For the tribal Indian seat, the Secretary will solicit nominations of individuals for the list referred to in paragraph (c) 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. Any vacancy occurring prior to the expiration of any term shall be filled in the same manner as described in paragraphs (d)(1) and (2) of this section, except that the Secretary may use the list referred to in paragraph (b)(1) of this section from

§ 600.220

50 CFR Ch. VI (10-1-02 Edition)

which the vacating member was chosen. The Secretary shall rotate the appointment among the tribes, taking into consideration:

(A) The qualifications of the individuals on the list referred to in paragraph (c) of this section.

(B) The various rights of the Indian tribes involved, and judicial cases that set out the manner in which these rights are to be exercised.

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

(D) The limitation that no tribal Indian representative shall serve more than three consecutive terms in the Indian tribal seat.

[64 FR 4600, Jan. 29, 1999]

§ 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.

(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)(i) Except as provided in § 600.235(h) or in 18 U.S.C. 208, no Council member may participate personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a particular matter in which the member, the member's spouse, minor child, general partner, organization in which the member is serving as officer, director, trustee, general partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest. (Note that this financial interest is broader than the one defined in § 600.235(a).)

(ii) No Council member may participate personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a particular matter primarily of individual concern, such as a