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ATLANTIC STATES MARINE FISHERIES COMMISSION

May 6, 2014



Policy on Commissioner Financial Disclosure and Conflict of Interest

Draft for review by Commissioners at the 2014 Spring Meeting

The Atlantic States Marine Fisheries Commission (Commission) is comprised of three Commissioners from each of the 15 Atlantic coastal states. As an Interstate Compact of the 15 Atlantic coastal states, the Commission affords great deference to its member states in selecting Commissioners to represent them. The diverse personal, educational, financial, and professional backgrounds of the Commissioners are, in fact, one of the Commission's greatest assets. However, this diversity means that some Commissioners will have personal financial interests in the outcomes of management decisions at times.

Financial interests of Commissioners and members of the regional fishery management councils have recently come under additional scrutiny by stakeholders and the public. This document provides the Commission's policy on Commissioner financial disclosure and conflict of interest. This policy was implemented to ensure transparency, accountability, and integrity in the Commission's decision-making process.

Background – Commissioner Code of Conduct

Page 7, Section 1, Paragraph (B) of the Commission's Rule and Regulations provides:

Code of Conduct. Commissioners appointed by the states are responsible for upholding the integrity of the Commission and its member states. No Commissioner shall engage in criminal or disgraceful conduct prejudicial to the Commission, any other Commissioner or any other state. No Commissioner shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of official duties. The Executive Committee shall have the sole authority to consider allegations of breaches of this code, including appeals from Commissioners alleged to be in violation herewith. In the case of a breach, the Executive Committee may direct the Chair to notify the appropriate appointing authority in the Commissioner's home state.

Discussion

The Commission has a long-standing tradition of stakeholders serving as Commissioners. However, the member states making up the Commission have varying disclosure requirements to characterize direct or indirect financial interests. Further, these disclosures are not always made available to the Commission, its Commissioners, or the public. Additionally, Commissioners frequently appoint proxies and are not required by the Commission to notify their home states of such appointments or the proxy's financial interests.

Uncertainty about the financial interests of Commissioners or proxies have raised concern regarding their ability to conduct their duties in a "fair and impartial" manner. There is a delicate balance between providing expertise in Commission deliberations and influencing outcomes when stakeholders are serving as Commissioners.

Policy on Financial Disclosure

The following provisions are intended to further improve the transparency of the Commission's decision making processes. The policy requires financial disclosure and notification of the state appointing authority when a Legislator or Governors' Appointee is appointed to the Commission as well as when Legislator and Governors' Appointee Commissioners appoint a proxy, whether that be a meeting specific, board specific, ongoing, or permanent proxy. This policy applies only to Legislator and Governors' Appointee Commissioners and their proxies since Administrative Commissioners, by virtue of their standing as state officials, are required by their state to fully disclose their financial and any other conflicts of interest.

Financial Disclosure

1. All Legislator and Governors' Appointee Commissioners are required to complete a Commissioner Disclosure Form (see Attachment 1). The form collects basic information on financial interest that may impact a Legislator and Governors' Appointee Commissioner's ability to conduct business in a "fair and impartial" manner. The form will not collect specific value (dollar amounts) of investments or holdings, only the category of financial interests.
2. All proxies appointed by Legislator and Governors' Appointee Commissioners are required to complete a Commissioner Disclosure Form.
3. Completed Commissioner Disclosure Forms from Legislator and Governors' Appointee Commissioners and their proxies must be submitted to the Executive Director by February 1st of each year. If a Legislator and Governors' Appointee Commissioner or proxy is appointed after February 1st, a completed Disclosure Form must be submitted prior to participation in a Commission meeting.
4. Completed Legislator and Governors' Appointee Commissioner Disclosure Forms will be made available to the public through publication on the Commission's website and will be available for public review at Commission meetings.
5. Disclosure Forms will be updated annually by Legislator and Governors' Appointee Commissioners and their proxies. If a Legislator and Governors' Appointee Commissioner or proxy does not have any changes to his/her Disclosure Form, the previous year's form can be resubmitted.
6. The completed Disclosure Forms must be notarized. **Should this be a requirement?**

Notification of Proxy Appointment

1. All Legislator and Governors' Appointee Commissioners that appoint a proxy are required to notify their home state's appointing authority when such an appointment occurs. For example, a Governors' Appointee Commissioner will notify the Governor's office when a proxy is appointed. The notification should also include a copy of the

proxy's Disclosure Form. This will ensure the Commissioner's appointing state is aware that a proxy is representing the state on the Commission. A copy of this notification must be supplied to the Commission's Executive Director.

Legislator and Governors' Appointee Commissioner and Proxy Recusal

1. Legislator and Governors' Appointee Commissioners/proxies can voluntarily recuse themselves at any time due to concern over perceived or real conflicts of interest.
2. Legislator and Governors' Appointee Commissioners/proxies with a financial conflict of interest in a matter before the Commission or one of its management boards or sections, must:

Option 1. No longer sit at the table as a participating board/section member. The Legislator and Governors' Appointee Commissioner/proxy will not participate in the discussion on an issue and in the state caucus prior to a vote. The Legislator and Governors' Appointee Commissioner/proxy can comment from the public microphone if recognized by the board/section chair during the public comment portion of the agenda.

Option 2. Prior to the discussion of an issue, the Legislator and Governors' Appointee Commissioner/proxy must announce to the board/section that he/she is recusing himself/herself from participating in the caucus on voting. Once recused, the Legislator and Governors' Appointee Commissioner/proxy will be able to participate in the deliberations but will not be able to make or second motions on the issue. (This option is similar to the regional council process and is preferred by the Legislators and Governors' Appointee Commissioners.)

Option 3. Prior to the discussion of an issue, the Legislator and Governors' Appointee Commissioner/proxy must announce to the board/section that he/she has a financial conflict of interest. Following this announcement, the Legislator and Governors' Appointee Commissioner/proxy may still fully participate in the debate of the issue. This participation can include debate, making motions, seconding motions, and participating in the state caucus prior to a vote.

A financial conflict of interest is defined as:

- Greater than 10 percent interest in the total harvest of the fishery under consideration by the Commission;
- Greater than 10 percent interest in the marketing or processing (e.g. fish dealer) of the total harvest or the fishery under consideration by the Commission; or
- Full or partial ownership of more than 10 percent of the vessels using the same gear type within the fishery under consideration by the Commission.

Notification of Appointing Authority in the Legislator and Governors' Appointee Commissioner's Home State

If any of the following conditions are met, the Commission will notify the appropriate appointing authority in the Legislator and Governors' Appointee Commissioner's home state regarding the concern of the Commissioner's or proxy's ability to perform the duties of a Commissioner in a fair and impartial manner.

1. The Legislator and Governors' Appointee Commissioner or proxy has a financial conflict of interest as defined in the "Commissioner Recusal" section of this document.
2. The Legislator and Governors' Appointee Commissioner or proxy has been found in violation of criminal or civil state or federal fishery law or regulation. **Should notification occur if convicted of any felony?**
3. The Executive Committee determines that a Legislator and Governors' Appointee Commissioner or proxy is not performing his/her duties consistent with this policy or other Commission guidance provisions.

Concerns over Financial Disclosure and Conflict of Interest

1. Concerns over conflicts of interest should be brought to the attention of the Chair of the Commission for consideration by the Executive Committee. The Executive Committee will determine if any of the provisions of this policy have been violated and decide the appropriate recourse.

Attachment 1

ATLANTIC STATES MARINE FISHERIES COMMISSION

DRAFT -- LEGISLATOR AND GOVERNORS' APPOINTEE COMMISSIONER & PROXY DISCLOSURE FORM

This form is to be filled out by all Legislative and Governors' Appointee Commissioners and their proxies. The intent of this form is to provide a disclosure of direct and indirect financial interests that may impede the ability of a Legislator and Governors' Appointee Commissioner and proxy to execute his/her duties in a fair and impartial manner. The information on this completed form will be provided to other Commissioners and made available to the public for review. Please answer all the questions that apply to your situation. If this form is for a proxy, the appointing Legislative and Governors' Appointee Commissioner and the proxy must sign the form and return it to the Commission by February 1st of each year. If a Legislative and Governors' Appointee Commissioner or proxy is appointed after February 1st, this completed form must be returned to the Commission prior to participating in a meeting.

Name of Commissioner/Proxy: _____

Address: _____

City, State, Zip: _____

Phone (day): _____ Email: _____

Phone (mobile): _____

Type of Commissioner: Governor's Appointee Legislative Commissioner
Type of Proxy: Proxy for Governor's Appointee Proxy for Legislative Commissioner

Name of Commissioner appointing proxy: _____

FOR ALL LEGISLATOR AND GOVERNORS' APPOINTEE COMMISSIONERS/PROXIES

1. Have you been found in violation of criminal or civil state or federal fishery law or regulation or convicted of any felony or crime over the last three years? Should this be extended to five years?

Yes _____ No _____

2. Are you a member of any fishermen's organizations or clubs?

Yes _____ No _____

If "yes," please list them below by name.

- 3. How many years have you lived in state you will be representing? _____ years
- 4. Do you, your spouse, partner or minor child have a direct or indirect financial interest in commercial fishing or for-hire fishing?
Yes _____ No _____

If "yes," please select all that apply:

Vessel Owner (Full or Partial) _____ Vessel Captain _____
Seafood Processor or Dealer _____ Vessel Crew _____
Gear Supplier/Manufacturer _____ Other (Please Specify) _____

FOR COMMERCIAL FISHERMEN:

- 1. How many years have you, your spouse, partner or minor child been employed in the commercial fishing business? _____ years
- 2. Are you, your spouse, partner or minor child employed only in commercial fishing?
Yes _____ No _____
- 3. What is the predominant gear type used? _____
- 4. What are the predominant species targeted? _____
- 5. Do you, your spouse, partner or minor child harvest greater than 10 percent of the total annual harvest of any species managed by the Commission?
Yes _____ No _____
- 6. Do you, your spouse, partner or minor child have full or partial ownership of more than 10 percent of the vessels using the same gear type within the fishery under consideration by the Commission?
Yes _____ No _____

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If yes to either question above, please complete the following:

- Vessel/Entity Name: _____
- Description/Relationship of Financial Interest: _____
- Fishery (Species) of Interest/Gear Type: _____

FOR SEAFOOD PROCESSORS & DEALERS:

1. How long have you, your spouse, partner or minor child been employed in the business of seafood processing/dealing? _____ years
2. Are you, your spouse, partner or minor child employed only in the business of seafood processing/dealing?
Yes _____ No _____ If “no,” please list other type(s) of business(es) and/or
occupation(s): _____

3. Do you, your spouse, partner or minor child process and/or market greater than 10 percent of the total annual harvest of any species managed by the Commission?
Yes _____ No _____

FOR CHARTER/HEADBOAT CAPTAINS/MATES:

1. How long have you, your spouse, partner or minor child been employed in the charter/headboat business? _____ years
2. Are you, your spouse, partner or minor child employed only in the charter/headboat industry?
Yes _____ No _____
If “no,” please list other type(s) of business(es) and/occupation(s): _____

FOR RECREATIONAL FISHERMEN:

1. How long have you engaged in recreational fishing? _____ years

2. Are you, your spouse, partner or minor child working, or have you, your spouse, partner or minor child ever worked in any area related to the recreational fishing industry (for-hire fishery, recreational advocacy, tackle shop owner employee etc.)?

Yes _____ No _____

If "yes," please explain.

FOR COMMERCIAL OR RECREATIONAL FISHERY ORGANIZATION REPRESENTATIVES:

1. How long have you, your spouse, partner or minor child been employed by a commercial or recreational fishery organization? _____ years

List all commercial or recreational fishery organizations you have been employed by during the past three years:

2. Are you, your spouse, partner or minor child employed only commercial or recreational fishery organization?

Yes _____ No _____ If "no," please list other type(s) of business(es) and/or

Occupation(s): _____

FOR NON-GOVERNMENTAL ORGANIZATIONAL (NGO) OR ENVIRONMENTAL ADVOCATES:

1. How long have you, your spouse, partner or minor child been employed by a Non-Governmental Organization (NGO) or environmental advocacy organization? _____ years

List all NGO/environmental advocacy organizations you have been employed by during the past three years:

2. Are you, your spouse, partner or minor child employed only by an NGO or environmental advocacy organization?

Yes _____ No _____ If “no,” please list other type(s) of business(es) and/or

Occupation(s): _____

FOR OTHER INTERESTED PARTIES:

1. How long have you been interested in fishing and/or fisheries management? _____ years

2. Are you employed in the fishing business or the field of fisheries management?

Yes _____ No _____

If “no,” please list other type(s) of business(es) and/or occupation(s):

3. Are you employed in an advocacy role for fisheries, natural resources management, environmental issues, habitat, etc.? Yes _____ No _____

If “yes,” please explain):

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FOR LEGISLATOR AND GOVERNORS' APPOINTEE COMMISSIONER/PROXIES:

In the space provided below, please provide the Commission with any additional information which you feel would allow other Board members and the public to fully understand your financial interest in fishing, fishery management, or the fishing industry.

Commissioner Signature: _____

Date: _____

Proxy Signature: _____

Date: _____