

Magnuson-Stevens Act Financial Disclosures and Recusals

Presented by

Mara Levy

NOAA General Counsel Southeast Section

What does the Magnuson-Stevens Act require?

- Each affected individual must disclose any relevant financial interest in any *harvesting, processing, lobbying, advocacy, or marketing activity* that is being, or will be undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.
- Affected individuals = all Council members nominated by a governor or appointed by the Secretary of Commerce, and SSC members

Where can I find more information on what interests must be disclosed?

- Descriptions on activities considered to be *harvesting, processing, lobbying, advocacy, or marketing* can be found in the regulations at 50 C.F.R. § 600.235(a).
- **WHEN IN DOUBT, DISCLOSE IT!**

When must financial disclosures be made?

- Annually –by no later than February 1 of each year, regardless of whether any information has changed.
- If any information has changed, an updated form must be filed within 30 days.

Is the financial disclosure requirement confined just to the interests of the affected individual?

NO! This affects relevant financial interests held by –

- The affected individual;
- The spouse, minor child, or partner of that individual; and
- Any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee.

What happens if an affected individual has a potential financial interest in a specific Council matter?

- An affected individual is not permitted to vote on a Council decision that would have a significant and predictable effect on any financial interest held by that individual.
- For guidance on what “significant and predictable effect on a financial interest” means refer to 50 C.F.R. § 600.235(c)(2).

What steps must an affected individual take if he/she finds that a Council decision could have a significant and predictable effect on any financial interest held by that individual?

- Notify the NOAA General Counsel attorney assigned to your Council *immediately* to begin the process for a determination on whether recusal is required.

What are the consequences of failing to comply with the financial disclosure requirements?

Any affected individual not in compliance with the financial disclosure requirements may be subject to:

- The criminal and civil provisions of 18 U.S.C. 208 and 216
- Prohibitions in MSA §307(1)(O) if they
 - Knowingly and willfully fail to disclose, or to falsely disclose, any financial interest required under MSA 302(j), OR
 - Knowingly vote on a Council decision in violation of MSA 302(j)(7)(A).
- Removal from the Council or SSC as per 50 C.F.R. §600.235(i).

Where can I go to find more information on this matter?

- The financial disclosure form can be found at:

http://www.nmfs.noaa.gov/sfa/management/councils/financial_disclosure/financial_disclosure_form.pdf

- FAQs on the financial disclosure requirement and form can be found at:

http://www.nmfs.noaa.gov/sfa/management/councils/financial_disclosure/financial_disclosure.html