

TRIBAL GOVERNMENTS' GUIDANCE KIT



NOMINATIONS TO THE PACIFIC FISHERY MANAGEMENT COUNCIL

The NOAA Fisheries website provides guidance to help in compiling nomination lists for the Tribal appointment process. The Magnuson-Stevens Act requirements for the Council nomination and appointment process, the Nomination Application Package to be completed by your nominees and other related guidance can be found at:

<https://www.fisheries.noaa.gov/national/partners/council-nomination-process-guidance>.

Contact the NMFS Office of Sustainable Fisheries, Domestic Fisheries Division at 301-427-8535, or email Council.Appointments@noaa.gov.

**YOUR COMPLETED NOMINATION APPLICATION PACKAGE
(TRIBES' NOMINATION LETTER AND YOUR NOMINEES COMPLETED APPLICATIONS)
MUST BE RECEIVED BY THE ASSISTANT ADMINISTRATOR FOR FISHERIES
ON OR BEFORE MARCH 15**

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TRIBAL GOVERNMENT GUIDANCE

The term for the Pacific Council tribal representative will expire in 2021. In accordance with the Magnuson-Stevens Act and other related guidance, Tribal Governments with Federally recognized fishing rights from the States of California, Oregon, Washington, or Idaho must provide a total of at least three nominees for one upcoming vacancy (tribal representative seat) on the Pacific Council.

The Secretary has consulted with the Bureau of Indian Affairs, Department of the Interior, to determine the Indian tribes which may submit nominations. The full list of Tribal government offices receiving this request is included with your letter from the NOAA Assistant Administrator for Fisheries. Appointments can only be made from lists of qualified nominees provided by the tribal governments. Tribal governments must submit a total of not less than three nominees to the NOAA Assistant Administrator for Fisheries, who facilitates this appointment on behalf of the Secretary, by March 15.

The Secretary will appoint a voting Tribal representative to a seat on the Pacific Council who meets the nomination requirements contained in the Magnuson-Stevens Act at Sec. 302(b)(5)(A) and other applicable criteria at 50 CFR 600.215. For guidance in developing nominations, please review the documents contained in this package, as well as the Nomination Application Package, which provides specific information about nominees' qualifications. Because many Tribal governments are eligible to submit nominations for this seat, NMFS encourages you to coordinate with heads of other Tribal governments to nominate a total of not less than three qualified individuals for this vacancy.

Nomination Criteria and Procedures

In accordance with the Magnuson-Stevens Fishery Conservation and Management Act ([Magnuson-Stevens Act](#)) and other related guidance, Regional Fishery Management Council **Tribal governments must nominate at least three individuals for appointment by the Secretary to the PFMC tribal Council seat.** Appointments can be made only from among timely and complete nomination lists developed by Tribal Governments with federally recognized fishing rights from California, Idaho, Oregon and Washington. The tribes submit the lists to the NOAA Assistant Administrator for Fisheries, who facilitates the appointments on behalf of the Secretary.

You may only nominate candidates who meet the nomination requirements contained in the Magnuson-Stevens Act (Sec. 302) and other applicable criteria (50 CFR 600.215) referenced in this kit. For guidance in developing nominations, please review the enclosures contained in this kit, as well as the Nomination Application Package, which provides specific information about nominees' qualifications.

For assistance in compiling nomination lists, please refer to Enclosure 4A. It contains the names of the Regional Fishery Management Council principal state officials, and if applicable, their designees. These principal state officials are appointed by the tribes as voting members on the

Councils and employed with the states' resource agencies, and can provide first-hand insight about Council memberships, as well as fishery management needs of the Councils.

Obligatory Seats

If the tribal governments fail to provide nomination letter(s) and at least three nominees who are knowledgeable and experienced regarding the fishery resources under the authority of the Pacific Council 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.

If the Secretary determines that a nominee is not qualified, the Secretary will notify the appropriate tribal government of that determination. The tribal 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.

Timely Submission

To facilitate timely submission, as required, forward completed nomination letters and nominees' applications in a single PDF file by email to:

Council.Appointments@noaa.gov

All nomination materials must be received electronically this year due to the COVID-19 pandemic. **Completed and timely nomination information must be received by the NOAA Assistant Administrator for Fisheries on or before March 15.** Tribes may contact the Office of Sustainable Fisheries, Domestic Fisheries Division, at 301-427-8535, or by email at Council.Appointments@noaa.gov (cc Morgan.Corey@noaa.gov) if they have questions regarding the completion of nomination packages.

Other Procedures and Criteria

Obligatory Seats

If the tribes initially nominate fewer than three qualified candidates for PFMC obligatory seat, the Secretary must delay consideration of the candidates until that tribe completes their list of candidates by submitting the required minimum number of three. Moreover, that obligatory seat will remain vacant even though three or more candidates' names have been submitted, until the tribes and at least three of the tribes' nominees complete all other nomination requirements, and the Secretary has had an appropriate opportunity to make the selection.

Nominating Circumstances

Before nominating individuals to the Council, we request the tribes conduct an initial background review and consultation with fishing interests as required by the Magnuson-Stevens Act. We will conduct background investigations on the nominees that are selected to serve on a Council. An individual's appointment to the Council will be conditional until that individual's background investigation has been favorably adjudicated. Additionally, individuals who are Federal registered lobbyists will not be appointed as Council members.

Consider your nominations carefully and submit nominees who possess the broadest range of fisheries knowledge and experiences, and who will contribute effectively toward the

conservation and management goals of the Councils, and to the attainment of “fair and balanced” apportionments on a Council. Your candidates must recognize their important roles as trustees and stewards of our Nation's marine fisheries resources. Promotion of self or other narrow interests that would detract from a member's objectivity and service to the welfare of the living marine resources of the United States must be avoided. Each nominee also must indicate a willingness to devote significant personal time and service to Council meetings and related activities. Newly appointed members will be required to complete a training course typically scheduled in October.

Website for Constituent Tribes

NMFS has created a website for the tribes to help you in compiling nomination lists for the annual appointments’ process. This website contains an overview of the Magnuson-Stevens Act requirements as it pertains to the Council nomination and appointment process and other related guidance, and the Nomination Application Package to be completed by your nominees. The Guidance Kit is also available in .PDF format.

<https://www.fisheries.noaa.gov/national/partners/council-nomination-process-guidance>

Documentation

Tribes must nominate at least three individuals, for appointment by the Secretary, to the Pacific Council seat.

Explain, in your nomination letter, how each nominee, by reason of occupational or other experience, scientific expertise, or training, is knowledgeable regarding the conservation and management or the commercial (including aquaculture) or recreational harvest of the fishery resources of the Council’s geographical area; provide a list of persons with whom you consulted in the recreational and commercial communities regarding the nominees; and, include a written response if you choose not to submit at-large nominations. To avoid legal concerns, the nomination letter must be signed (in ink or electronically) by the tribal government chairman or president on his/her official letterhead.

Ensure that each nominee completes and forwards Parts 1-4 of the Nomination Application. The tribes are responsible for gathering completed nomination information and applications from your nominees. Tribes should advise nominees to forward their completed applications in sufficient time to allow the tribes to process.

Enclosure 3A of the Guidance Kit is intended to facilitate final review of the tribes’ nomination letter and nominees’ completed applications.

Appointment

A Council member’s appointment is conditional until such time as the member’s background investigation has been favorably adjudicated. If appointed, Council members must undergo an extensive background investigation and complete other administrative requirements of the appointment process. NMFS conducts initial vetting and enforcement checks of nominees in which most issues that would affect a nominee’s ability to serve are discovered. A past felony conviction may be disqualifying. Further, the background investigation forms require disclosure of past criminal history. Failure to report such matters truthfully and fully would be grounds for an unfavorable background investigation.

ENCLOSURE 2A

REPORT TO CONGRESS ON APPORTIONMENT OF MEMBERSHIP ON THE REGIONAL FISHERY MANAGEMENT COUNCILS

The Report to Congress on Apportionment of Membership on the Regional Fishery Management Councils is found at: <https://www.fisheries.noaa.gov/national/partners/council-reports-congress>

Among other information, the Report contains factors the Secretary will consider in making the upcoming Council appointments. Please refer to this document as nominations are being developed. It specifies significant fishery management issues which the Councils are addressing, and identifies the current status of fishing sector representation on the Councils.

The 2020 Report may be unavailable at this time. Please keep checking the website until an updated version is published.

ENCLOSURE 3A

TRIBAL GOVERNMENT AT-A-GLANCE CHECKLIST

INCLUDE WITHIN YOUR NOMINATION LETTER:

- A minimum of three candidates for the tribal representative vacancy
- A written statement explaining how each nominee meets the requirements listed in Section 302(b)(2)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, i.e. how each of your nominees is knowledgeable regarding the conservation and management or the commercial or recreational harvest of the fishery resources within your Council's geographical area
- An order of priority for nominees, if you have a preference.

To avoid legal concerns, the nomination letter must be signed (in ink or electronically) by the tribal government chairman or president on his/her official letterhead.

NOMINEES' APPLICATION PACKAGES MUST CONTAIN:

Part 1: ACKNOWLEDGEMENT STATEMENT, COMPLETED RESUME, and PHILOSOPHY STATEMENT. Nominees must provide a written statement as to why they want to be a council member; a completed resume noting how, by reason of their occupation or other expertise, scientific expertise, or training, they are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned; and, a statement of their guiding philosophy on the conservation and management of living marine resources.

Part 2: FISHERIES EXPERIENCE FORM. Nominees must specify their personal fisheries experience and background and other management interests within a Council's geographic area.

Part 3: STATEMENT OF FINANCIAL INTERESTS FORM (NOAA Form 88-195) AND NATIONAL MARINE FISHERIES SERVICE (NMFS) INTERGOVERNMENTAL PERSONNEL AGREEMENT (IPA). Nominees must meet applicable financial disclosure requirements as required by Section 302(j) of the Magnuson-Stevens Act and financial disclosure regulations at 50 CFR 600.235. Nominees must also check the appropriate box, and sign and date the cover sheet to Part 3, which pertains to potential participation by nominees in a NMFS IPA.

Part 4: CERTIFICATION OF STATUS FORM. Nominees cannot be appointed to a Regional Fishery Management Council if they are acting as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938. They also must disclose if they are a registered Federal lobbyist, pursuant to the Lobbying Disclosure Act of 1995.

ENCLOSURE 4A

PACIFIC COUNCIL

<https://www.pcouncil.org/navigating-the-council/membership-groups-and-staff/council-members/>