

Monterey Bay National Marine Sanctuary Advisory Council Charter

Establishment and Authority

Section 315 of the National Marine Sanctuaries Act (NMSA; 16 U.S.C. § 1431 et seq.) authorizes the Secretary of Commerce to establish sanctuary advisory councils to provide advice to the Secretary of Commerce regarding the designation and management of national marine sanctuaries. This authority has been delegated to the Director (director) of the Office of National Marine Sanctuaries (ONMS). The director hereby re-establishes the Monterey Bay National Marine Sanctuary Advisory Council (council).

This charter provides a background on the ONMS and Monterey Bay National Marine Sanctuary (MBNMS), and describes the objectives and roles of the council's activities, procedural requirements on the appointment of council members, alternates, and officers, requirements for the conduct of council members and alternates and meetings, and other requirements. All council activities must be conducted pursuant to this charter and the council-specific protocols incorporated therein.

Sanctuary Advisory Council Policy Statement

The ONMS regards the involvement of communities and the development of a stewardship ethic as vitally important to successfully protect sanctuary resources. One key way to achieve this involvement is the formation of sanctuary advisory councils.

Sanctuary advisory councils bring members of a diverse community together to provide advice to the sanctuary superintendent, as designated by the ONMS Director, on the management of the sanctuary, or to assist the ONMS in guiding a proposed site through the designation process.

The ONMS is committed to the full support, utilization, and enhancement of councils at all sanctuaries. In order for councils to achieve their full potential, the ONMS within the limits of available resources will:

- Provide sufficient support to allow councils to operate efficiently and effectively at each site;
- Provide support and guidance from the national office to help councils operate efficiently and at a basic level of consistency across the system;
- Promote coordination and communication among councils and among sanctuary staff that work closely with councils; and
- Develop training programs appropriate to council officers and members, and sanctuary superintendents and staff.

Office of National Marine Sanctuaries

A national marine sanctuary is an area of the marine or Great Lakes environment of special national, and sometimes international, significance warranting protection and management under the NMSA. As steward of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages sanctuaries through the ONMS.

Vision of the ONMS:

The Office of National Marine Sanctuaries is a leader in ocean stewardship, conserving and protecting America's ocean and Great Lakes treasures for future generations through strong science-based management.

Mission of the ONMS:

National Marine Sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources. Through active research, management, education, and public engagement, we sustain healthy environments that are foundations for thriving communities and stable economies.

Goals of the ONMS:

- Identify, designate, and manage sanctuaries to maintain the natural biological communities in sanctuaries and to protect and, where appropriate, restore and enhance natural habitats, populations, and ecological processes, through innovative, coordinated, and community-based measures and techniques.
- Build and strengthen the nation-wide system of marine sanctuaries, maintain and enhance the role of the system in larger marine protected area networks, and help provide both national and international leadership for marine protected area management and marine resource stewardship.
- Enhance nation-wide public awareness, understanding, and appreciation of marine and Great Lakes ecosystems and maritime heritage resources through outreach, education, and interpretation efforts.
- Investigate and enhance the understanding of ecosystem processes through continued scientific research, monitoring, and characterization to support ecosystem-based management in sanctuaries and throughout U.S. waters.
- Facilitate human uses in sanctuaries to the extent such uses are compatible with the primary mandate of resource protection, through innovative public participation and interagency cooperative arrangements.
- Work with the international community to strengthen global protection of marine resources, investigate and employ appropriate new management approaches, and disseminate ONMS experience and techniques.
- Build, maintain, and enhance an operational capability and infrastructure that efficiently and effectively support the attainment of the ONMS mission and goals.

Monterey Bay National Marine Sanctuary

Designated in 1992, Monterey Bay National Marine Sanctuary (MBNMS) is a federally protected marine area offshore of California's central coast. Stretching from Marin to Cambria, the sanctuary encompasses a

shoreline length of 276 miles and 4,601 square nautical miles of ocean, extending an average distance of 30 miles from shore. It supports an exceptionally productive ecosystems and highly diverse habitats.

As of March 2004, the area within the MBNMS north of the San Mateo/Santa Cruz county boundary is administered by the Superintendent of Gulf of the Farallones National Marine Sanctuary (GFNMS). The legal boundaries of each sanctuary remain as is. Specifically, GFNMS is responsible for developing and managing most sanctuary programs within the area; MBNMS is responsible for the Water Quality Protection Program. Other issues (e.g. action plans in the revised management plan) that overlap will be worked on collaboratively between GFNMS and MBNMS.

Goals of MBNMS:

- To enhance resource protection through comprehensive and coordinated conservation and management tailored to the specific resources that complements existing regulatory authorities;
- To support, promote, and coordinate scientific research on, and monitoring of, sanctuary resources to improve management decision-making in the sanctuary;
- To enhance public awareness, understanding, and ecologically sound use of the marine environment; and
- To facilitate to the extent compatible with the primary objective of resource protection, multiple uses of the sanctuary not prohibited pursuant to other authorities.

Council Roles

1. The council, in accordance with the NMSA, shall provide advice and recommendations to the sanctuary superintendent, regarding the management of MBNMS.
2. The council shall draw on the expertise of its members, alternates, and other sources in order to provide advice to the sanctuary superintendent.
3. Council members and alternates shall serve as liaisons between their constituents and/or communities and the sanctuary, keeping sanctuary staff informed of issues and concerns, as well as providing information to their respective communities on the sanctuary's behalf.
4. The council may serve as a forum for consultation and deliberation among its members and as a source of advice and recommendations to the sanctuary superintendent. Such advice shall fairly represent the collective and individual views of the council members. In formulating such advice, the council members shall recall that the primary objective of the sanctuary and the NMSA is resource protection.
5. The council is established to provide advice and recommendations to the sanctuary superintendent regarding the management of MBNMS. Nothing in this charter constitutes authority to perform operational or management functions, or to make decisions on behalf of the sanctuary, NOAA or the Department of Commerce.
6. The council shall develop an annual work plan, in consultation with and approved by the sanctuary superintendent, to establish an agenda for specific issues and projects the council intends to address.

Goals of the Council

1. The council shall review sanctuary-related issues and, following public input and formal council action, transmit council recommendations and concerns to the sanctuary superintendent. Written comments and recommendations may be forwarded to other entities by the council with the concurrence of the sanctuary superintendent (see Operation 2(a-f)).
2. The council shall advise the sanctuary superintendent on how to link existing programs that have shared responsibilities for the protection and management of resources inside and adjacent to the sanctuary;
3. The council shall advise the sanctuary superintendent on ways that sanctuary mandates may be carried out through a comprehensive and cooperative management strategy;
4. The council shall encourage participation by interested agencies and organizations in the development of strategies and procedures to address specific management concerns (e.g., water quality plans);
5. The council shall advise the sanctuary superintendent on priority research and monitoring needs, proposals, reports, permit issues, and project coordination;
6. The council shall assist the sanctuary superintendent in obtaining available expertise of the Monterey Bay Sanctuary community to promote the gathering of information and the design and application of research that will support informed decision-making;
7. The council shall provide advice to the sanctuary superintendent on the development and implementation of broad-based public relations, outreach and education programs which inform and educate the public about the sanctuary;
8. The council shall advise the sanctuary superintendent on general administration and revenue enhancement opportunities for the sanctuary;
9. The council shall fully represent the specific constituency groups for which each member or alternate was selected;
10. The council shall act as a liaison between the sanctuary and various public and private groups and interests;
11. The council shall promote effective communication at all levels regarding sanctuary matters;
12. The council shall serve as unofficial, good will ambassadors of the sanctuary and make every effort to educate their respective constituencies (see the council's Oath of Office);
13. The council shall advise the sanctuary superintendent on ways to support long-term continuance and effective implementation of the ONMS;
14. The council shall advise the sanctuary superintendent on ways to seek creative and cooperative inter-agency management solutions to issues affecting MBNMS; and

15. Council members shall serve as liaisons between their constituents, communities and/or government agencies and the sanctuary, keeping sanctuary staff informed of issues and concerns, as well as performing outreach to their respective communities on sanctuary issues.

Members, Alternates and Officers

1. The council consists of no more than twenty (20) voting members, who shall be appointed by the director from among persons employed by federal, state, or local agencies with expertise in management of natural resources, representatives of local user groups, such as conservation and other public interest organizations, scientific and educational organizations, and members of the public interested in the protection and multiple use management of sanctuary resources. The membership is designed to be balanced in terms of points of view represented, geographic diversity, and advisory functions the council will perform.
2. There are three categories of seats for which non-voting members are appointed or selected.
 - (a) The sanctuary superintendent may sit on the council as a non-voting member and shall work with the chair in scheduling each meeting and approving the agenda to ensure each topic is relevant to the sanctuary. Council meetings may not be conducted in the absence of the sanctuary superintendent or his/her designee.
 - (b) To ensure relevant information exchange and consistent management among California's national marine sanctuaries, and other relevant federal agencies, a representative of the Elkhorn Slough Estuarine Research Reserve, National Marine Fisheries Service, U.S. Coast Guard, and Channel Islands, Gulf of the Farallones, and Cordell Bank national marine sanctuaries shall sit on the council as a non-voting member. Council members and alternates (or designees) appointed to these seats shall be subject to the same conditions and rules that apply to governmental voting seats.
 - (c) To facilitate additional engagement from attendees of surrounding institutions of higher education, a representative and alternate will be selected to fill a non-voting College/Student seat. Individuals selected for this seat should attend a local institution of higher education (e.g., college, university); live in the area affected by the sanctuary; have proven ability to communicate and network with student peers; possess an interest in sanctuary resource protection and management; and have experience or knowledge regarding public uses and activities in the sanctuary. The council member and alternate selected for the College/Student seat shall be subject to the same conditions and rules that apply to non-governmental voting seats.
3. There are two categories of seats for which voting members are appointed. The following procedures govern the application, nomination and appointment of council voting members.
 - (a) Governmental (7 members)
 - (i) By virtue of the shared functional responsibilities of Federal, State, and local jurisdictions in the implementation of sanctuary-related management, each of the following government

entities shall be requested to designate one individual to serve on the council. (Of the numerous responsibilities encompassed within each entity, the specific functional area of expertise needing representation is identified in parentheses): California Department of the Fish And Wildlife; California Department of Parks and Recreation; California Coastal Commission (coastal coordination and planning); California EPA (water quality); California Resources Agency (State natural resources trustee); Association of Monterey Bay Area Governments in consultation with, and representing, the adjacent contiguous local government jurisdictions; and harbor and port operating entities that border the sanctuary.

- (ii) Governmental members and alternates are appointed by their agencies and are not subject to term limitations or the competitive application process.
- (iii) An alternate (from the same government entity) of a governmental council member may attend a council meeting on occasion if the chair and sanctuary superintendent are notified in advance of any meeting at which an alternate will represent the council member, including the name and position of the individual designated. An alternate may not name another alternate.
- (iv) If a government entity decides no longer to participate as a member of the council or fails to attend four consecutive council meetings and is formally removed by the director, the sanctuary superintendent, with approval of the director, shall invite another appropriate government entity to replace that agency on the council.
- (v) If it is found that a governmental member or alternate of the council has violated one or more of the conditions of this charter, the sanctuary superintendent may recommend to the director that the appropriate agency be notified and requested to replace the designee. The sanctuary superintendent may consult with the council prior to taking such action.
- (vi) Governmental members and alternates are subject to the same grounds for removal as non-governmental members.

(b) Non-governmental (13 members)

- (i) A representative and alternate of each of the following activities, which are integrally affected by the management goals of the sanctuary, shall be selected: research (1), education (1), conservation (1), commercial fishing (1), recreational fishing (1), diving (1), agriculture (1), business and industry (1), tourism (1), and non-extractive recreational users (1). In addition, there shall be three (3) citizen at-large representatives (and alternates) whose selection is based on geographic diversity, and breadth of experience and knowledge regarding marine issues, policies and practices.
- (ii) The non-governmental council members and alternates are normally appointed for a term of three years, and may compete for reappointment (subject to the non-governmental term limits policy described below). If necessary, terms of appointment may be changed to provide for staggered expiration dates or member or alternate resignation mid-term. Subject to the provisions of the ONMS policy on the limit on consecutive terms for non-governmental council members, non-governmental council members and alternates will not be selected to

serve more than three consecutive terms representing the same seat unless a waiver (as provided for in the policy) is granted by the director. Should a non-governmental seat become vacant, the alternate should complete the term and the vacated alternate position could be advertised and a replacement appointed as specified below. The newly appointed member shall start a new term, beginning on the date of his/her swearing-in by the sanctuary superintendent, unless the term is adjusted to provide for balanced expiration dates and program efficiencies. The council membership recruitment process shall take place up to four times per year.

- (iii) Members and alternates serve at the discretion of the director. The sanctuary superintendent may recommend to the director the removal of a non-governmental member or alternate of the council on any of the following grounds if that member or alternate:
- Is convicted of any felony offense;
 - Is found to have violated any of the following laws or regulations promulgated thereunder: NMSA, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, or another environmental law for which NOAA or another federal agency has jurisdictional responsibility;
 - Is found to have violated state environmental laws or regulations;
 - Is found to have violated national or state laws or regulations protecting cultural resources;
 - Is determined to have abused his or her position as a member or alternate of the council (including but not limited to use of council information for personal gain; use of council position to advance a personal agenda or harm another member or alternate of the council or of the community; misrepresentation of, or spreading misinformation about the council or the sanctuary; and refusal to recuse himself or herself if so requested by the sanctuary superintendent and/or chair in a matter in which the member or alternate has a conflict of interest);
 - Has a change to the professional affiliation(s) and/or personal circumstances that comprise a significant portion of that member's qualifications for being a member of the council;
 - Misses four consecutive meetings without reasonable justification;
 - Disrupts on more than one occasion council meetings in a manner that interferes with the council conducting its business; or
 - Violates any term of this charter.

The sanctuary superintendent may consult with the council prior to taking such an action.

4. Term Limits Policy

- (a) The non-governmental council members and alternates will serve on the council for no more than three consecutive terms. On the date when this charter is approved, each council member and alternate will be considered to be serving in his/her first term for purposes of computing term limits. This policy applies to the seat (e.g., diving seat) and not the position. For example, this would allow an individual to serve one term as the diving alternate and two terms as the diving primary member,

for a total of three terms. If qualified, the same individual may also apply for another seat on the council (e.g., citizen-at-large) once they are term-limited on the diving seat.

- (b) The ONMS Director may waive the limit on the number of consecutive terms for nongovernmental voting council members in the following circumstances. The waivers and the process as it relates to the council member recruitment and selection process are as follows:

- (i) *Waiver #1:* It is determined that continuity of council's membership is deemed critical by the sanctuary superintendent (e.g., at a critical juncture in the management plan review process). The request for this waiver should be made at least two months prior to the expiration of the subject seat(s).

Process: The waiver applies to the entire council, not a specific seat. The sanctuary superintendent will be aware of this situation well in advance of recruitment and should send a memo to the director requesting the waiver for a certain length of time and providing a justification as to the need. The signed memo should be provided to the council and posted on the website.

- (ii) *Waiver #2:* It is a seat that is historically challenging to fill due to the remote location of the sanctuary and distance from population centers, or a limited applicant pool for a particular seat has been shown to limit the number of available candidates to fill a vacancy in a timely and efficient manner and may disrupt or prevent a council from fulfilling its responsibilities.

Process: The term-limited individual should be advised of the situation and advised not to apply during the first round of recruitment. If after adequate advertising, there are no qualified applicants in the first round of recruitment, the sanctuary superintendent will send a memo to the director requesting the waiver and providing justification as to the need. The signed memo should be provided to the council and posted to the website. The term-limited individual will then be allowed to submit an application during the second round of recruitment. The application will then be reviewed by a council working group on an equal footing with any other applications submitted during the second round; the signed memo should accompany the application through the entire process from the council's nomination working group to the regional director and ONMS.

5. The individuals selected to fill the conservation, education, and research seats on the council must also serve as the chair of each respective working group. The alternate selected for those seats is expected to serve as the vice-chair of each working group.

6. Council Officer Elections and Terms

- (a) The council shall elect one member to serve as chair, and one member to serve as vice-chair. The vice-chair shall act as chair in the absence of the chair. Terms of the chair and vice-chair are two years; the chair and vice-chair may serve a maximum of two consecutive terms if reelected. The council may elect one member to serve as council secretary. The term of the council secretary is two years. The council secretary may serve consecutive terms if reelected.

- (b) A chair, vice-chair, or secretary may leave his/her position to run for another council officer position if desired. If the chair, vice-chair or secretary is elected to a new position, the council shall nominate and elect a new representative for the vacated officer position. Council members, including non-voting members and alternates (except sanctuary superintendents and/or their designees), may nominate individuals for the council officer positions. Any primary member of the council, including government seats and non-voting seats (with the exception of sanctuary superintendents) may be nominated and elected as a council officer, provided he/she is no more than 18 months into his/her third consecutive term. Sitting officers subject to the term limits policy described above may be granted a partial extension such that they may complete the remainder of the term of office for their current officer position. Election for all positions is by majority vote of all council members, including the non-voting members (except sanctuary superintendents and/or their designees). Votes shall be made by written ballot. Alternates may nominate and vote during an election only when the alternate is filling the seat in the absence of the primary member. Members who will not be present at the time of the election may submit their vote in writing to the sanctuary superintendent prior to the meeting.
- (c) If a council officer resigns, the council should hold an election at the next regularly scheduled council meeting. If the newly elected individual feels comfortable they may begin serving in their position immediately upon being elected, otherwise they may begin serving at the next meeting. If the chair resigns, the vice chair acts on their behalf until the new chair assumes their position. If the vice chair resigns, the secretary acts on their behalf until the new vice chair assumes their position. If the secretary resigns, the position may remain vacant until the new secretary assumes their position.

In extraordinary circumstances, if all council officers resign at the same time, the council can agree to allow another council member to serve as interim chair until the new officers are elected; new officers should be elected at the next scheduled council meeting.

7. Roles of Council Officers

- (a) Chair: The chair schedules and sets agendas for all council meetings with the approval of the sanctuary superintendent or through a prior council resolution, presides over all meetings of the full council and ensures that meetings are run according to accepted meeting practices, as set forth in the Protocols, signs all correspondence and documents authorized by the council, and generally represents the council's interests and concerns to the public. The chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents. The advisory council coordinator may assist the Chair with correspondence to the advisory council as necessary.
- (b) Vice-Chair: The vice-chair serves as chair in the absence of the chair and assists as necessary in performing executive duties of the council. The vice-chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.
- (c) Council Secretary: The council secretary assists sanctuary staff in maintaining a record of minutes for each regularly scheduled meeting of the council and ensures that they are accurate and available to the public, may assist in correspondence directed by the council, helps to prepare an annual report on council activities, and performs other administrative duties as directed by the chair or vice-chair. The secretary also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

Appointments

1. Public notice shall be provided as to the vacancy of constituent group and at-large seat position(s). Applications for ensuing terms for vacant seat positions shall be submitted to the sanctuary superintendent or his/her designee (e.g., advisory council coordinator or other appropriate site staff), as defined in the Federal Register notice for a particular recruitment). Any council member that has a conflict of interest (financial, personal, self-nomination, etc.) shall recuse him/herself from making a recommendation for the vacant seat.
2. Selection from among those recommended by the council nomination working group, or from among other applicants or nominees, shall be made by the sanctuary superintendent with the approval of the director. The sanctuary superintendent may choose to conduct interviews with applications (over the phone or in person) as part of the selection process. Copies of all applications and nominations for each seat are submitted by the sanctuary superintendent to the council's nomination working group to obtain recommendations on selections. The sanctuary superintendent may choose to re-advertise the vacant seat(s) if qualified candidates are not available after the first recruitment process. In all cases, submission of written statements of particular interest, qualifications, and experience shall be requested. Guidelines for applying shall be supplied to the applicants.
3. The sanctuary superintendent should take steps to ensure that relevant individuals or appropriate entities (e.g., organizations, institutions, trade associations) are advised of any non-governmental vacancy, whether primary or alternate, for the purpose of soliciting applications for the vacant position. At the discretion of the superintendent, the council may include a representative of the related seat(s) on the council nomination working group. Alternatively, a list of applicants or candidates may also be provided to an appropriate entity for comment (with appropriate redaction of personal information). Such steps may include working with council members and alternates to develop or maintain a list of potential contacts related to each non-governmental seat.
4. The superintendent shall appoint individuals to the three citizen at-large seats based on the individual's community experience within one or more of the five counties closest to the sanctuary: Monterey, Santa Cruz, San Luis Obispo, San Benito and Santa Clara. The sanctuary superintendent should consider geographic distribution, breadth of the applicant's experience and knowledge regarding marine issues, policies and practices, and letters of support illustrating community engagement, in the selection of citizen-at-large members and alternates.
5. If a primary council member can no longer serve, the alternate should assume the seat to complete a primary member's term. If the alternate chooses not to be primary, the council, with the concurrence of the sanctuary superintendent, may elect to recruit both.
6. Newly appointed representatives (not reappointments) shall participate in an orientation to be prepared by sanctuary staff prior to their swearing in as council members.
7. As each non-government seat becomes vacant and the process for selection of a new member is conducted, the sanctuary superintendent shall recommend to the director the member and an alternate from among the top three candidates resulting from the reviewing process or among other applicants. The alternate shall have all the rights of the member at such times the alternate is officially substituting for

the member. The chair and the sanctuary superintendent (or his/her designee) shall be notified before an alternate officially attends a meeting.

Administration

1. Members and alternates of the council shall serve without pay except that each member or alternate may receive travel expenses including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of Title 5, U.S.C., for travel to and from official council meetings, meetings of council subcommittees of which they are members, and meetings of council working groups of which they are members. Persons outside the council who are members of council working groups shall serve without pay except that they may receive working group meeting travel expenses including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of Title 5, U.S.C. Reimbursement of travel expense requests is at the discretion of the sanctuary superintendent and dependent upon budgetary (or financial) considerations and constraints. Travel expenses for governmental members and alternates of the council may be provided by their own agencies.
2. The ONMS may make available such staff, information, administrative services, or assistance as the sanctuary superintendent determines are reasonably required to enable the council and its subcommittees and working groups to carry out their functions.

Operation

1. Meetings
 - (a) Meetings are held at the call of the chair and the sanctuary superintendent.
 - (b) Decisions (e.g., recommendations) made by the council shall be made by majority vote of those present, provided there is a quorum (more than half of the voting members). A recorded vote may be requested the chair or the sanctuary superintendent.
 - (c) Each meeting shall be open to the public.
 - (d) Interested persons shall be permitted to present oral or written statements on items on the agenda, or other pertinent topics.
 - (e) Emergency meetings may be held at the call of the chair or presiding officer and the sanctuary superintendent.
 - (f) Timely notice of each council meeting, including the time, place, and agenda of each meeting, shall be provided to the local media and additional notice may be given by such other means as will result in appropriate publicity to interested groups. This requirement shall not apply to workshops scheduled by the council to address strategic planning, administration, or specialized technical issues. The council may not vote at any meeting for which the above public notice has not been issued. The council may not vote on any agenda item for which notice was not provided, unless said item meets the exceptions outlined below in the council's protocols for conducting a meeting.

- (g) The council shall meet as frequently as necessary, not to exceed once per month (the meetings should be in different months, but do not have to be precisely 30 days apart) for voting meetings, but at least once every six months. The council meeting place may be rotated among various locations adjacent to the sanctuary and meeting sites shall be chosen to accommodate anticipated public attendance and be reasonably accessible to those interested in attending.
 - (h) Minutes of each meeting shall be kept by a person specified by the sanctuary superintendent and contain a summary of attendees and matters discussed; such minutes shall be available to the public.
2. Procedures for Providing Advice: The following procedures shall be used to provide advice:
- (a) The council may provide advice on a relevant issue or topic to the sanctuary superintendent. Requests for information, assistance, or advice from the ONMS, other NOAA offices, or other agencies shall be made in writing and be coordinated through the sanctuary superintendent.
 - (b) Any matter that a council member or alternate wishes to raise to the attention of the sanctuary shall be brought to the attention of either the sanctuary superintendent or the council chair so that it might be placed on the agenda as a discussion topic. The sanctuary superintendent and the council chair shall discuss topics for the agenda. The sanctuary superintendent approves a topic to be placed on the agenda.
 - (c) The council shall provide advice directly to the sanctuary superintendent via a written recommendation or a motion passed by the council and reflected in the minutes. Draft recommendations and verbal discussions shall be considered by the sanctuary superintendent as additional background information and shall be included in the minutes.
 - (d) Any advice, correspondence, or information the council wishes to offer or express beyond the sanctuary superintendent shall be voted on and approved by the council prior to sending. The council is established specifically to provide advice to the Secretary, and operates through the sanctuary superintendent; the sanctuary superintendent must approve any advice, correspondence, or information that goes outside the sanctuary prior to sending.
 - (e) The council shall base its advice on a vote of the council with negative votes and abstentions noted or on consensus reached during discussion with minority opinions noted. A quorum shall be present when the vote is taken or a discussion to reach consensus is conducted.
 - (f) Any information or advice resulting from discussions in subcommittees or working groups that is requested by the council shall be presented to and considered by the full council and as appropriate incorporated into the council's recommendation to the sanctuary superintendent. If the council does not incorporate information or advice of a subcommittee or working group, it shall inform the sanctuary superintendent and explain in its advice or information the reasons for not incorporating the subcommittee's or working group's advice or information.

3. Conduct of Individual Members and Alternates

- (a) Council members are expected to be familiar with the processes and regulations governing the sanctuary, and to keep themselves informed about sanctuary-related issues and events.

Expectations include:

- (i) Regular attendance at council meetings; and
 - (ii) Familiarity with the council charter and the ONMS Advisory Council Implementation Handbook.
- (b) When speaking to the public or writing about any matter regarding the sanctuary in a document for distribution beyond council membership, the sanctuary superintendent, or sanctuary staff, a member or alternate shall clearly distinguish those recommendations, opinions, or positions officially adopted by the council as a body from those he or she may have as an individual. In no case shall a member or alternate represent individual opinions as those of the council, the sanctuary superintendent, sanctuary staff, or NOAA.
- (c) Any council member or alternate that has an interest (financial, personal or business interest) in any matter before the or a subcommittee or working group shall identify such interest prior to council discussion and voting on such matter. No member or alternate shall cast a vote on any matter that would provide a direct financial benefit to that member or alternate or otherwise give the appearance of a conflict of interest under federal law. An affected member or alternate who may not vote on a matter may participate in council deliberations relating to the decision after notifying the council of the voting recusal and identifying the interest that would be affected. These same guidelines apply to members of working groups who are not members of the council.
- (d) Honoring and upholding the Council's Oath of Office to serve as knowledgeable trustees of the sanctuary's resources.
- (e) All council members are expected to conduct themselves in a civil fashion, showing courtesy and respect to other council members, sanctuary staff and any other individuals present at the meeting.

4. Conduct of the Council as a Body

- (a) Any correspondence or other written documents that are intended to speak for the council as a body shall be coordinated with, and approved by, the chair and sanctuary superintendent prior to sending.
- (b) The following disclaimer shall be placed in all documents originating from the council: *"The council is an advisory body to the sanctuary superintendent. The opinions and findings of this[insert letter or publication] do not necessarily reflect the position of Monterey Bay National Marine Sanctuary and the National Oceanic and Atmospheric Administration."*

5. Scheduling Council Meetings

- (a) Regular Meetings

- (i) Regular meetings are formal council sessions that are scheduled at the call of the council chair (chair) with approval by the sanctuary superintendent. The council shall meet as frequently as necessary, not to exceed once a month for normal meetings, but at least once every six months. Each meeting shall be open to the public and advance notice of at least 15 days when possible prior to each meeting, including the time, place, and agenda of each meeting, shall be provided to the local media and additional notice may be given by such other means as will result in appropriate publicity to interested groups. This requirement shall not apply to work sessions described in 5(b). The council may not vote at any meeting for which the above public notice has not been issued. The council may not vote on any agenda item for which notice was not provided, with the exception of emergency items at the request of the sanctuary superintendent and/or chair. Interested persons shall be permitted to present oral or written statements on items on the agenda. An official public work session may be scheduled in conjunction with a regular meeting to address situations that require detailed presentations, expert participation, and/or panel discussions (e.g., Vessel Traffic Study Workshop). There shall be time allotted on each agenda for members of the public to introduce and inform council members about issues that are not on the agenda.
- (ii) The procedure is:
 - o Council members agree to meet at regular intervals at the suggestion of the chair and with the approval of the sanctuary superintendent;
 - o Council members may choose to approve an annual calendar of regular meeting dates, times, and locations. The calendar, once approved by the sanctuary superintendent, shall be distributed to all interested persons and available electronically on the sanctuary's website;
 - o In accordance with the council's desire to represent the diverse geographic interests within the sanctuary, regular council meetings shall occur throughout the sanctuary during any given calendar year;
 - o Council members shall RSVP for meetings to sanctuary staff; and,
 - o Meeting agendas shall be written by the sanctuary superintendent and the chair in accordance with the applicable procedures outlined in Section 6: Setting An Agenda.

(b) Council Work Sessions

- (i) Council work sessions are informal meetings to address internal issues such as strategic planning and administrative matters (e.g., the council retreat, and the public relations workshop).
- (ii) The procedure is:
 - o Council work sessions may be scheduled as recommended by the chair, the sanctuary superintendent, or in response to a request by a council member at a regular meeting. Council work sessions must be approved by the sanctuary superintendent;

- Agendas for work sessions shall be written by the persons most responsible for the subject material and shall be concurred to by the chair and the sanctuary superintendent;
- Sanctuary staff will send relevant material, as needed, in advance of the session so council members may prepare;
- An outside facilitator to moderate the work session may be recommended;
- Work session results and follow-up will be sent to council members, as appropriate, after the session and a brief report of the event shall be included on the agenda of the next regular council meeting; and

(c) Emergency Meetings

- (i) Emergency meetings are formal council sessions to address special issues that require immediate attention. Emergencies could range from a situation where there is an oil spill and immediate input is needed, to an issue of a significant nature that arises between council meetings but the deadline for input is before the next scheduled meeting.
- (ii) The procedure is:
 - Emergency meetings may be held at the call of the chair and the sanctuary superintendent;
 - All regular meeting protocols shall govern an emergency meeting; and
 - During these exceptional circumstances, it is permissible to provide less than 15 days of notice for the meeting provided the reasons for doing so are included in the notice.

6. Setting An Agenda

- (a) Meeting agendas shall be prepared by the chair and concurred to by the sanctuary superintendent, and shall include discussion topic items of important to the sanctuary program; a report from the sanctuary superintendent; activity reports from working groups and subcommittees, and include time for the public to raise sanctuary-related issues not on the agenda.
- (b) The procedure is:
 - (i) The chair and the sanctuary superintendent shall meet or otherwise confer prior to a regular meeting to discuss suggested agenda topic items and determine their relevance to the sanctuary's mission and goals;
 - (ii) Agenda items may come from a number of sources including, but not limited to, the sanctuary superintendent, council members, and council working groups, and subcommittees. Members of the public, or constituency groups, are encouraged to contact a member of the council to recommend an agenda item;
 - (iii) Topics, time allotments, and order of items within the agenda are at the discretion of the chair and the sanctuary superintendent;

- (iv) Sanctuary staff, or council members at the request of the superintendent, shall be responsible for contacting special guests and speakers;
- (v) Staff shall send and post on the Sanctuary's website proposed meeting agendas and pertinent information to council members at least 15 days prior to the meeting and all public information shall be available to interested persons upon request;
- (vi) Final agendas shall be available at the meeting; and
- (vii) Past agendas shall be kept on file and be made available, along with the corresponding meeting minutes, at the sanctuary office and electronically on the sanctuary's website.

7. Conducting A Meeting

- (a) Council meetings shall be informative working sessions designed to educate council members, the attending public, and the sanctuary office about issues affecting the sanctuary, and to provide advice and recommendations to the sanctuary superintendent regarding the management and protection of the sanctuary and its resources.
- (b) The procedure is:
 - (i) The meeting shall be called to order by the chair or the presiding officer;
 - (ii) The council secretary shall take the roll call and shall inform the chair if a quorum (more than half of the voting members) is present. Roll call shall include all members and alternates.
 - (iii) Council members, alternates, and members of the audience shall wait to be called upon by the chair, before addressing a topic. The chair may reserve the right to limit a speaker's time and shall make certain that a speaker's comments and any written handouts are germane to the topic at hand. Council members and alternates shall make every effort to submit any agenda relevant written materials to sanctuary staff 15 days prior to a council meeting;
 - (iv) Comments: There shall be time allotted on each agenda for members of the public, including the advisory council, to introduce and inform council members about issues that are not on the agenda. The chair shall call on interested audience participants one at a time. Public comment is limited to not more than three minutes per commenter. Discussion about specific issues during the public comment period is at the discretion of the chair. Comment cards will be made available for members of the public to indicate their desire to speak and are called upon in the order of their receipt. Time will be agendaized for items not on the agenda and comments on agenda items will be subsequent to the presentation on the item.
 - (v) Member updates: Council members may also use the regular meetings as a vehicle for briefly communicating constituency concerns to the sanctuary advisory council during the standing Council Member Announcements agenda item.

- (vi) Motions: Provided a motion has been agendized and made available 15 days in advance of the meeting, the council will discuss the motion, allowing members to comment, and the public to comment and then the proponent may make a motion to adopt.
- (vii) Exceptions to the requirement for prior notice include:
 - o Laudatory motions
 - o Motions to agendize future meeting motions, or as provided for in Section 8 below.
 - o Emergency: For time sensitive matters, the superintendent, with concurrence from the chair, may agendize a motion with five or more days notice. This short notice exception would not apply to general motions presented by advisory council members.
 - o Administrative matters (e.g. Approval of minutes, calendar items, etc.)

All motions must be seconded to proceed to council discussion followed by public comment. A motion may be amended only once during discussion (with the exception of a friendly amendment made with the consent of the maker of the motion to clarify motion language). If the principle motion fails, a follow-up motion may be made on the same item. When a motion is on the floor, the chair shall ensure action is taken on the motion before going on with the business of the meeting.

- (b) Council members are expected to participate fully on all council actions (e.g. resolutions, motions, and votes);
- (c) A quorum (more than half of the voting members) must be present before a voting action can be taken. A majority vote of those present is required to pass a motion. The motion and its vote shall be recorded in the meeting minutes;
- (d) Meeting minutes shall be recorded by sanctuary staff with assistance from the council secretary or other person specified by the sanctuary superintendent and contain a summary of attendees and matters discussed; such minutes shall be available to the public at the sanctuary office and on the sanctuary web-site; and
- (e) The chair shall adjourn the meeting when council business is completed.

8. Requesting and Providing Advice and Assistance on Sanctuary Related Issues

(a) Sanctuary Superintendent Request

- (i) The sanctuary superintendent may request the council's advice and/or assistance on a particular topic or question of importance to the sanctuary. The request may be made at any time in writing, verbally, or during a council meeting.
- (ii) The procedure is:
 - o The sanctuary superintendent shall describe the topic or issue and specify what action the sanctuary would like from the council;

- Sanctuary staff shall distribute pertinent information, if necessary, regarding the issue to council members and alternates so that they may prepare for discussions and possible action;
- Following a presentation by the sanctuary superintendent, the chair, shall open the floor for review and discussion of the matter;
- Council members (and alternates, when appropriate) shall determine how their respective agencies or constituent groups may provide assistance to the sanctuary in addressing the superintendent's request;
- The council may request that more information be provided at the next regular meeting or, the council may vote to take action with a simple majority, or the council may decide to provide advice, guidance or input without taking an action by vote. Minority opinions will be noted;
- Council members may determine that the appropriate response is to advance the sanctuary superintendent's request and/or the council's recommendations to other pertinent entities. The sanctuary superintendent must concur with all such communications;
- The council may request that a subcommittee, or working group examine, or be established to examine the issue, determine appropriate responses, and report back to the council and the sanctuary superintendent. If the council does not incorporate the information or advice of a subcommittee or working group, it shall inform the sanctuary superintendent;
- The sanctuary superintendent shall consider the working groups', subcommittees', and the council's advice in making a decision concerning the topic in question. The superintendent shall communicate directly with the council's nomination working group. Sanctuary superintendent shall inform the council of that decision and proposed action either at a regular meeting and/or in writing to the chair and relevant working groups, subcommittees; and
- The advice of the council and the subsequent managerial decision will be formally recorded in the council's meeting minutes.

(b) Council Member Request

- (i) Council members and alternates may request council review of a particular topic or question of importance to the sanctuary.
- (ii) The procedure is:
 - Council members and alternates may raise a perceived issue of importance to the council's attention in two ways: a) by contacting the chair and sanctuary superintendent about the issue, either in writing, or verbally, prior to a council meeting so that the matter may be placed on a council meeting agenda; or b) by raising the issue verbally during a council meeting and requesting that it be placed on a future meeting agenda.
 - Once it has been determined that an item will be placed on the agenda and if that item requires action to be taken by the council, then a draft motion and appropriate supporting information, shall be furnished along with the agenda in advance of the council meeting. The motion and information will clearly state the nature of the action to

be taken; appropriate findings that state the case for the action; and the action steps that would be made to accomplish the action.

- Emergency items may be added, if time does not allow for the development of a draft motion and supporting information, with the approval of the chair and superintendent.

9. Subcommittees and Working Groups

(a) Subcommittees

- (i) The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish such subcommittees as necessary to fulfill the council's duties. Subcommittees shall be composed solely of members of the council; at the superintendent's discretion, alternates may also serve on subcommittees. The subcommittee must be chaired by a member or alternate of the council. Subcommittees shall be recognized as official subunits of the council. Subcommittees are subject to all requirements of this charter. Reimbursement for travel expenses is at the discretion of the sanctuary superintendent and dependent upon budgetary (or financial) considerations and constraints.
- (ii) The procedure is:
 - Subcommittees may appoint their own chair or chairs and are responsible for setting their own meeting schedule;
 - Subcommittees may disband once final advice on the particular matter is submitted to the council.
 - At the discretion of the council and/or superintendent, subcommittees may be required to be open to the public.
- (iii) A standing subcommittee, the executive subcommittee, will serve as the administrative body of the advisory council and handle such administrative activities as may be appropriate, including, but not limited to, setting time and place of meetings, selecting agenda items, and reviewing meeting conduct. The executive subcommittee consists of the council chair, council vice-chair, council secretary and sanctuary superintendent. The council coordinator will work very closely with the executive committee. The chair, with concurrence from the superintendent, may also appoint one additional member from the members of the advisory council. The council chair, vice-chair, secretary, and one additional council member appointed by the chair shall also serve as the council's nomination working group for council member selection. Meetings of the executive committee are not subject to public meeting requirements.]

(b) Existing Working Groups

- (i) Working groups created prior to the establishment of the council (Research, Education, and Conservation) have in the past provided and shall continue to provide advice to the council on priorities and program coordination. Such working groups shall be requested to provide a

general report to the council of the status of requested advice at each council meeting. All working groups must submit their findings or recommendations to the full council. Existing working groups shall make every effort to meet in places that are open and accessible to the public.

- (ii) The three existing working groups (conservation, education and research) - shall operate in close cooperation with sanctuary staff and under consistent procedures. Working groups shall be recognized as official sub-units of the council and are subject to all requirements of this charter. Meeting of these three working groups may not be conducted in the absence of a sanctuary staff person. The agendas for these meetings must be produced in consultation with sanctuary staff. Any written materials, letters, or reports produced by the three working groups may receive technical expertise and assistance from sanctuary staff for review and comment prior to finalization and distribution to the full council. All working groups must submit their findings or recommendations to the full council.

(c) Adhoc Working Groups

- (i) The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish working groups for specific purposes or topics that need focused attention that cannot be accomplished by a subcommittee. Their work will be limited to functional areas and discrete issues relating to individual sanctuaries. Working groups may be composed of members and alternates of the council and persons outside the council. Working groups shall be chaired by a primary member of the council and shall function under the purview of the council. At the sanctuary superintendent's discretion and if the full council approves, an alternate member may chair a working group; that alternate shall function under the purview of the council. Working groups established by the council to address specific issues shall disband once the final advice on the particular matter is submitted to the council. Working groups shall provide a general activities report to the chair at each regular meeting of the council.

10. Council Actions

(a) Correspondence

- (i) The council may direct that correspondence be written pertaining to specific topics and/or issues, provided that such correspondence complies with the terms of this charter.
- (ii) The procedure is:
 - o The council shall, with the assistance and approval of the sanctuary superintendent, design and use its own letterhead. All correspondence from the chair or other members or alternates of the council, or the council as a body, shall be on this letterhead. The council shall not use official DOC or NOAA letterhead for any correspondence or other purpose;
 - o Correspondence may be directed as the result of a motion passed during a regular council meeting;

- The Chair may request that a council member draft correspondence with assistance from sanctuary staff with approval of the superintendent;
- All correspondence directed by the council and in concurrence with the sanctuary superintendent, will be signed by the chair, or vice-chair acting for the chair, and copied to the sanctuary superintendent.
- Copies of council directed correspondence and related material will be made available to council members; and
- All council correspondence will be kept at the sanctuary office and will be made available on the sanctuary website.

(b) Council Resolutions

- (i) Resolutions provide formal council recommendations for action on specific issues or state formal council opinions.
- (ii) The procedure is:
 - A motion to draft a resolution on any agenda item may be made by any council member during a regular meeting;
 - Council resolutions will include: a) pre-ambulatory clauses describing the issue in question; and b) the statement "Be it hereby resolved that the Sanctuary Advisory Council," followed by operative clauses. Resolutions may be as long as council members deem necessary;
 - Council resolutions will be made available to the sanctuary superintendent, in a timely manner, prior to them being made public;
 - Draft resolutions will be made available to council members and alternates prior to formal action;
 - Formal resolutions will be voted on by council members (and alternates, when attending for members) at meetings; and
 - Council resolutions will be kept on file at the sanctuary office and will be made available on the sanctuary website.

(c) Council Annual Report

- (i) The annual report highlights the council's major accomplishments, projects, correspondence, and resolutions as well as contains a summary of working groups' activities.
- (ii) The procedure is:
 - The report will be drafted by sanctuary staff;
 - Draft council reports will be made available to the sanctuary superintendent, in a timely manner, prior to their being made public;
 - A draft of the report will be presented to the council for approval at the second regular meeting of each calendar year;
 - The report will be signed by the chair and sent to the sanctuary superintendent who will forward it to ONMS; and

- The final report will be available to council members and interested members of the public.

(d) Council to External Parties

- (i) On some occasions, it will be appropriate for the council to communicate with external parties (however, see separate section on communications with Congress and the media below), including local and state agencies and federal agencies other than NOAA. At such times, the communication will probably come about as the result of a motion during a council meeting. Any advice, correspondence or information the council wishes to offer or express beyond the sanctuary superintendent must be voted on and approved by both the council and the sanctuary superintendent prior to sending, and must be sent on council letterhead. At the sanctuary superintendent's discretion, in such cases the council can proceed with one of the following courses of action:
 - The council may advise the sanctuary superintendent directly and request the advice be forwarded to the appropriate external parties. The council and staff may determine this is the best course of action to allow the superintendent to provide additional context or background, to refer to previous and/or related issues, to increase the understanding and consequent value of the advice, or for particularly sensitive and/or contentious issues.
 - The council may forward the advice directly to the external parties, with all the caveats aforementioned (i.e., on council letterhead, disclaimer at the bottom, and with the approval of the sanctuary superintendent). The council and staff may determine this is the best course of action in situations where the recipient may place more value and/or credibility in the advice coming directly from a citizen group rather than through a government agency.
- (ii) The aforementioned written advice, correspondence or information may also be shared orally (e.g. public hearing) by a council member or alternate acting in his or her official capacity. The oral comments should ideally be read verbatim or at a minimum highlight only the main points of the written communication approved by both the council and sanctuary superintendent. The council must officially approve the council member's sharing of the written communication prior to it being shared.
- (iii) *Council to Congress*: Individual council members are not prohibited from contacting members of Congress as private citizens on their concerns as private citizens. The council may also respond if a congressional member makes an inquiry to the council, after coordinating with the sanctuary superintendent. Subject to the sanctuary superintendent's approval, a council may make a recommendation to NOAA concerning NOAA legislation, which the agency can then take into account during its own decision-making processes. The agency may also inform Congress of the position taken by one or more councils. Subject to the sanctuary superintendent's approval, councils may also comment on state legislation.

However, there is no authority for the council to advise persons or groups other than the Secretary of Commerce on legislation affecting sanctuaries. Also, NOAA may not request or

authorize councils or their members to conduct any activity that would lead to grassroots lobbying (this prohibition is set forth in the Department's annual Appropriations Act and 18 U.S.C. Section 1913). Finally, the activities of council members can reflect adversely on NOAA by creating the appearance that the agency is engaged in such prohibited activities. Therefore, a council may not write directly, or send copies of correspondence, to the U.S. Congress, either at the request of NOAA or on its own initiative.

- (iv) *Council to the Media:* ONMS may often rely on the council to help disseminate sanctuary information to the media. When the subject matter pertains to council agenda items (i.e. issues pertaining to the sanctuary), and where the council is communicating as a body or an individual member or alternate is speaking for the council with its permission, talking points, a position paper, or other guidance should be drafted by the council and followed to ensure that the council/sanctuary position or information is relayed accurately and consistently. The council should provide a copy of the talking points, position paper, or other guidance to the sanctuary superintendent and council coordinator. A council may, with the concurrence of the sanctuary superintendent, also amend the council charter to include media/communication protocols.

On the other hand, the council and individual members should refrain from discussing issues that do not pertain to the sanctuary. For example, the council should not comment on NOAA- or Department of Commerce-wide issues, and should refer any such question to sanctuary staff for an appropriate response. Council members acting in their role as private individuals may of course speak to the media about any topic. (Part II, G3, Use of Council Title).

- (v) *Council to Council:* Councils are encouraged to communicate with each other; the best way may be chair to chair. The ONMS facilitates such communication by hosting National Marine Sanctuary Advisory Council Summits and council coordinator meetings, creating council directories that include council member contact information, maintaining group emails for both council chairs and council coordinators, and maintaining a council section on the program's web site.
- (vi) *Council to Regional Director:* Councils may communicate with their regional director via letters, resolutions, reports or other means. Such communications should be conducted via the sanctuary superintendent and follow all appropriate protocols identified within the ONMS Advisory Council Implementation Handbook.
- (vii) *Council to ONMS Director:* Councils may communicate with the director via letters, resolutions, reports or other means. Such communication should be conducted via the sanctuary superintendent and follow all appropriate protocols identified within the ONMS Advisory Council Implementation Handbook.
- (viii) *Council to NOS, NOAA and the Department of Commerce:* Council members may communicate with NOS, other parts of NOAA, and the Department of Commerce via letters, resolutions, or other means. Such communication should be conducted via the sanctuary superintendent and director, follow all appropriate protocols identified within the ONMS Advisory Council Implementation Handbook.

11. Addressing Constituent Concerns

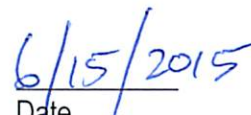
- (a) Council members and alternates have a responsibility to serve the best interests of the sanctuary. Council members and alternates are also responsible for keeping abreast of the issues and events affecting their constituents and representing constituency interests before the council.
- (b) Expectations include:
 - (i) Frequent communication with constituents;
 - (ii) Reminding their constituents that the council is a vehicle to express concerns, needs, and appreciation for sanctuary programs;
 - (iii) Bringing constituent concerns to the attention of the chair and sanctuary superintendent;
 - (iv) Timely reports to constituents on progress made on a specific issue; and
 - (v) Addressing inaccurate information and misconceptions about the sanctuary and its programs and informing the chair and sanctuary superintendent about such situations.

Other Terms of this Charter

1. The council shall operate pursuant to the terms of this charter.
2. This charter shall remain in effect for a period of five years from the date of signature.
3. Six months prior to the expiration of this charter, the need for the council will be evaluated by the ONMS, with input from council members, to determine whether to renew the charter.
4. Revisions to the charter may be made as determined necessary by the ONMS with input from the council.



Daniel J. Basta
Director, Office of National Marine Sanctuaries



Date