

CHUMASH HERITAGE NATIONAL MARINE SANCTUARY ADVISORY COUNCIL CHARTER

Establishment and Authority

Pursuant to the National Marine Sanctuaries Act § 315,¹ the Secretary of Commerce, through the director of the Office of National Marine Sanctuaries (director), hereby establishes the Chumash Heritage National Marine Sanctuary (CHNMS) Advisory Council (advisory council). The advisory council is governed by the Act and shall operate pursuant to the terms of this charter and the National Marine Sanctuary Advisory Council Implementation Handbook (handbook).

Advisory Council Policy Statement

The Office of National Marine Sanctuaries (ONMS) regards community involvement and stewardship as vitally important in carrying out its mission. Advisory councils facilitate this involvement by bringing various representatives of the community together to assist ONMS in guiding a proposed site through the sanctuary designation process, or to provide ONMS with advice on the management and protection of established sanctuaries.

The resources ONMS manages differ in countless ways. This rich variety is part of our natural heritage, a gift to be discovered, appreciated, and protected. Similarly, by recruiting for and having representation by advisory council members from a variety of sectors, ONMS can leverage new creativity, knowledge, and experiences to achieve its vision of a thriving sanctuary system that protects our nation's underwater treasures and inspires momentum for a healthy ocean.

Advisory Council Roles

The advisory council is authorized to advise and make recommendations to the National Oceanic and Atmospheric Administration (NOAA) regarding the designation and management of national marine sanctuaries. Accordingly, any council advice, recommendations, or comments, (i) must affect the planning or management of the Chumash Heritage National Marine Sanctuary or the management and protection of sanctuary resources, and (ii) if implemented, must be part of or related to existing or potential management measures that could be authorized under the National Marine Sanctuaries Act. Any council advice, recommendations, or comments must also be consistent with the scope and provisions of this charter.

Advisory council members serve as liaisons between their constituents and ONMS. The advisory council shall draw on the expertise of its members to provide advice and recommendations regarding the protection and management of the Chumash Heritage National Marine Sanctuary. The council may serve as a forum for discussion and deliberation among its members and as a source of advice and recommendations to the sanctuary superintendent. This advice shall fairly represent the collective and individual views of the advisory council members. In formulating

¹ 16 United States Code (U.S.C.) § 1445a (2012).

advice, the advisory council shall be mindful that pursuant to the National Marine Sanctuaries Act, resource protection is the primary objective of national marine sanctuaries, while another objective is to facilitate human uses to the extent compatible with resource protection². Nothing in this charter constitutes authority to perform operational or management functions, or to make decisions on behalf of ONMS, NOAA, or the Department of Commerce.

Advisory council members shall not reference or otherwise use their advisory council membership in connection with public statements made in their personal capacities unless they also include a disclaimer that the views expressed in the statement are their own and do not represent the views of ONMS, NOAA, or the Department of Commerce.

Advisory council members and alternates may not use their official council title or positions to directly benefit other roles in which they serve. Members and alternates may not use their affiliation with the council for personal profit, or to attempt to influence an issue by invoking their council affiliation outside the context of the council itself. Advisory council members and alternates are not NOAA employees or affiliates and may not perform functions of NOAA employees or affiliates. No member or alternate (when the member is absent) shall cast a vote or be part of a consensus 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. An advisory council member or alternate with a competing interest must disclose the conflict of interest before the advisory council discusses and votes on the matter.

The following ethics classifications govern advisory council members and alternates:

- Federal employees appointed to an advisory council are performing their duties on the advisory council in their official capacities as full-time federal employees, and the ethics laws and regulations that apply to them while serving on the council are the same that apply to them in the course of their federal duties.
- Employees of state agencies who occupy a position reserved for that particular state agency are serving in their capacity as state officials, representing the state. They would be subject to the rules that govern employees of that particular state/agency because they would be serving on behalf of the state. With respect to federal ethics rules, they would be subject to rules against misusing federal government resources.
- State employees serving on advisory councils in their personal capacity would be representing a stakeholder other than that particular state, and would have to do so pursuant to whichever ethics/outside activity rules apply to them in that particular situation. They would be subject to rules regarding the misuse of federal government resources.
- Other appointed advisory council members representing stakeholders, rightsholders, or Indigenous Peoples and not employed by a state or the federal government would be

² 16 U.S.C. § 1431(b)(6) (2012).

considered to be representatives of these groups and would be subject to rules regarding the misuse of federal government resources.

Advisory Council Membership

The advisory council shall consist of no more than 15 voting members. Members shall be selected by the director from groups representing the various perspectives surrounding sanctuary resources, including federal, state, or local agency employees with expertise in natural resources management; individuals with Tribal and Indigenous Knowledge; local user-group representatives; 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.

Members accept the responsibility of attending council meetings. The membership is designed to be varied in terms of points of view represented, geographic distribution, and advisory functions the council will perform. While state, Tribal and federal government entities may be represented on the council, this advisory council does not replace any obligations on the part of NOAA to consult with such states, Tribes, or other federal agencies as required by law, including government-to-government consultation on policies that have tribal implications pursuant to Executive Order 13175.

ONMS policy for council membership denotes each member has equivalent weight in regards to voting on advisory council motions or resolutions and providing input to the superintendent. Although non-voting members and alternates cannot generally vote, these members and alternates should still engage in the discussion. This policy encourages broad participation across the advisory council with all councilmember's voices (voting and non voting members) are important to sanctuary decisions.

Seat Categories

Sanctuary superintendent. Because the advisory council ultimately provides advice to the superintendent, the superintendent does not hold an official seat. However, the superintendent shall sit on the advisory council in a neutral, nonvoting capacity. The superintendent (or designee) must be present at each advisory council meeting or the advisory council cannot meet. Additionally, the superintendent shall work with the chair in scheduling each meeting and approving the agenda to ensure each topic is relevant to the sanctuary. The superintendent may also participate in advisory council discussions by providing factual information and official CHNMS opinions. However, the superintendent shall not provide personal opinions on advisory council issues.

Voting seats. There are two categories of seats for which voting members are appointed or selected. The voting seat categories are as follows:

- *Governmental.* By virtue of the shared functional responsibilities of federal, state, and local jurisdictions in the sanctuary's management, and to ensure relevant information

exchange and consistent management, the advisory council shall ask the following government entities to designate one representative each to sit on the advisory council:

- Santa Ynez Band of Chumash Indians;
- Local Government (open to local, municipal, and county governments with primary and alternate from each county); and
- California Natural Resources Agency.

If a government entity voluntarily decides to stop participating as an advisory council member, or if the director formally removes the entity from the advisory council, the sanctuary superintendent, with approval of the director, shall invite another appropriate government entity as a replacement.

- *Nongovernmental.* Representatives of each of the following activities or groups, which are integrally affected by ONMS sanctuary management goals, shall also serve on the advisory council:
 - Indigenous Cultural Knowledge 1 (representing Indigenous interests, approaches, and cultures);
 - Indigenous Cultural Knowledge 2 (representing Indigenous interests, approaches, and cultures);
 - Public-at-Large - San Luis Obispo County (representing familiarity with and connections to San Luis Obispo County communities within the sanctuary region; including a focus on providing greater access to sanctuary opportunities for marginalized or otherwise excluded communities);
 - Public-at-Large - Santa Barbara County (representing familiarity with and connections to Santa Barbara County communities within the sanctuary region; including a focus on providing greater access to sanctuary opportunities for marginalized or otherwise excluded communities);
 - Conservation (representing marine conservation and environmental organizations within the sanctuary region);
 - Education (affiliation with educational institutions or organizations in the sanctuary region);
 - Research (affiliation with scientific research institutions or organizations active in the sanctuary region);
 - Tourism and Recreation (representing coastal and marine tourism industry in the sanctuary region, and non-extractive marine recreation activities);
 - Ports, Harbors, and Maritime Transportation (representing local ports, marinas and harbors within the sanctuary region, maritime shipping, and transportation)
 - Offshore Energy and Telecommunications (representing offshore energy industry sectors);
 - Commercial Fishing (representing commercial fishing within the sanctuary region); and

- Recreational Fishing (representing recreational angling, charter-boat fishing, consumptive sport diving, and other recreational fishing activities and interests).

Nongovernmental members will serve terms varying in length from two-and-a-half to three years, and may compete for reappointment (subject to the ONMS nongovernmental seat term limits policy described in the handbook). The member recruitment process shall take place on an as needed basis. Should the recruitment process extend beyond the end of the member's term, that member may continue to serve until the process concludes. Should a nongovernmental seat become vacant during the member's scheduled term, the alternate may complete the term, or the vacated position could be advertised to replace the member. The newly appointed member shall serve for a full term, beginning on the swearing-in date. Precise term lengths will be specified in the member's or alternate's appointment letter.

Nonvoting seats. There are three categories of seats for which nonvoting members are appointed or selected. These categories are as follows:

1. *ONMS.* To ensure information exchange within the National Marine Sanctuary System, ONMS may assign one or more individuals from amongst its leadership to sit on the advisory council.
2. *Governmental.* By virtue of the shared functional responsibilities of federal, state, and local jurisdictions in the sanctuary's management, and to ensure relevant information exchange and consistent management, the following government entities shall be asked to designate one representative each to sit on the council:
 - *Federal Government:* Bureau of Ocean Energy Management, Bureau of Safety and Environmental Enforcement, NOAA's National Marine Fisheries Service, U.S. Coast Guard, Department of Defense, U.S. Forest Service.
 - *State Government:* California Department of Fish and Wildlife, California Coastal Commission, California State Lands Commission, Central Coast Regional Water Quality Control Board, California State Parks.
3. *Student Leadership.* To facilitate additional engagement from attendees of surrounding institutions of higher education, a representative and alternate will be selected to fill a non-voting Student Leadership seat. Individuals selected for this seat should be over 18 years of age and be enrolled in a local post-secondary institution (e.g., college, university, vocational, technical schools, etc.) in San Luis Obispo or Santa Barbara counties for the duration of their term. Individuals will be selected based on criteria, including, but not limited to: residence in the area affected by the sanctuary; proven ability to communicate and network with student peers; desire to engage with fellow stakeholders, rightsholders, Indigenous Peoples and communities; interest in sanctuary resource protection and management; and experience or knowledge regarding public uses and activities in the sanctuary. The council member and alternate selected for the Student Leadership seat shall: be appointed for a term of two years; may compete for reappointment unless the individual will no longer be enrolled as a student during the additional term; and shall be subject to the same conditions and rules that apply to non-governmental voting seats.

Alternates

Each primary nongovernmental seat shall have one alternate. An alternate should attend and participate in advisory council meetings and other activities just as any other member, except that the alternate shall not vote unless the primary seat representative is absent. While primary members accept the responsibility of attending advisory council meetings, an alternate ensures that the seat constituents' voice is heard by participating in council discussions and voting when the primary member is absent.

Advisory Council Officers

The advisory council shall elect one member to serve as chair, one member to serve as vice chair, and one member to serve as secretary. The chair and vice chair serve two-year terms and may serve a maximum of two consecutive terms if reelected. The secretary serves a two-year term, and may serve consecutive terms if reelected. The handbook provides guidance on the roles of each officer position.

Advisory Council Member Removal

As indicated in the handbook, advisory council members serve at the discretion of the director. The sanctuary superintendent for the site may recommend removal of a member who violates any term of this charter or any of the proscribed activities in the handbook, including absence from four consecutive meetings without reasonable justification.

Administration

Members of the advisory council serve without pay, except that each member may receive travel expenses (including per diem in lieu of subsistence) for travel to and from official advisory council meetings, meetings of subcommittees of which they are members, and meetings of working groups of which they are members. Similarly, working group members who are not advisory council members shall serve without pay, except that they may receive working group meeting travel expenses (including per diem in lieu of subsistence)³.

All reimbursement of travel expense requests are at the discretion of the sanctuary superintendent and dependent upon financial considerations and constraints. Travel expenses for governmental members may be provided by their own agencies. All travel expenses are governed by federal travel regulations.

Each member and alternate may receive a stipend to help offset costs of participation in advisory council meetings if, based on the member and alternate's responses to the relevant questions on the application form, the member and alternate are eligible and if they opt-in to the stipend program. Working group members who are not advisory council members and are eligible may also receive a stipend. Stipends are not guaranteed and depend upon budget availability and the discretion of the Superintendent.

³ 5 U.S.C. §§ 5702–5703 (2012).

ONMS may make available any staff, information, administrative services, or assistance that the sanctuary superintendent determines reasonably required to enable the advisory council and its subunits to function.

Operation

The advisory council's success depends on its members' consistent attendance and participation at meetings, as well as their constituent outreach. Members should recognize this responsibility (and its corresponding rewards) before applying for and accepting any advisory council seat.

In addition to attending meetings and engaging with constituents, advisory council members must also be familiar with the processes and regulations governing the sanctuary, including the provisions of this charter and all sections of the handbook. The following paragraphs provide an outline of the advisory council's primary activities, but members should consult the handbook for detailed guidance.

Full advisory council meetings. Advisory council meetings are held at the call of the chair and NOAA representative. Full advisory council meetings shall be held at least once every six months, but no more than once in any calendar month. Each meeting shall be open to the public, and the public shall be timely notified of the meeting time, place, and agenda. Failure to provide adequate public notice of each agenda item precludes the advisory council from taking any action on that item. Advisory councils shall also make each meeting's minutes available to the public. Workshops addressing strategic planning, administration, or specialized technical issues are exempt from these public notice and participation requirements.

Any matter that an advisory council member wishes to bring to ONMS's attention shall be brought to the executive subcommittee for consideration as a future meeting agenda topic. The executive subcommittee will discuss and recommend agenda topics but the sanctuary superintendent must ultimately approve all topics placed on the agenda.

Advisory councils may offer advice following either a formal vote (noting any opposing votes and abstentions), or consensus of the members (noting any minority opinions). In either case, a quorum of more than half of the advisory council's voting members must participate.

Any correspondence or other written documents from the advisory council as a body shall be coordinated with, and approved by, the chair and sanctuary superintendent prior to sending. Any written or verbal advice, correspondence or information the council wishes to offer or express as a body must be voted on and approved by both the council and the sanctuary superintendent prior to sending and must be on council letterhead with the appropriate disclaimer. All documents and communications originating from the council shall include the following disclaimer: *The advisory council is an advisory body to the ONMS director. The opinions and findings of this publication do not necessarily reflect the position of the National Oceanic and Atmospheric Administration.*

There may be some instances in which a council conveys official communications to other federal agencies, to Congress, or to other external parties. Under the NMSA and ONMS policy, the council may not provide advice, recommendations, or comments to entities beyond ONMS without the approval of the ONMS director or the site superintendent, as applicable. The ONMS director or site superintendent may, at their discretion, approve the transmittal of council advice or comments to agencies or other third parties beyond ONMS. Any advice, correspondence, or information the council wishes to offer or express beyond the ONMS director shall be voted on or arrived at by consensus, and approved by the council. The ONMS director or site superintendent may convey the council advice, recommendations, or comments to the third party or may authorize the council to transmit the comments directly to the third party after providing it to the ONMS director or superintendent. For comments conveyed to any legislature, including Congress or a state legislature, ONMS will work with the NOAA Office of Legislative and Intergovernmental Affairs to transmit the comments through official channels. ONMS will consult legal counsel before sharing any information that is potentially proprietary, potentially contains personally identifiable information, or is otherwise sensitive or potentially controversial.

Subunits. The chair, in consultation with the advisory council as a whole and with the concurrence of the sanctuary superintendent, may establish subcommittees or working groups as necessary. A subunit may not submit its findings and recommendations directly to the superintendent or ONMS, but the advisory council may choose to take action on the findings or recommendations, including adopting them and/or transmitting them to the superintendent.

The standing “executive subcommittee” will serve as the administrative body of the advisory council and handle administrative activities as appropriate, working closely with the council coordinator. For example, the executive subcommittee may set the time and place of meetings, select agenda items (with the NOAA representative’s approval), and oversee meeting conduct. This subcommittee consists of the chair, vice chair, secretary, and sanctuary superintendent. The chair, with concurrence from the sanctuary superintendent, may also appoint one additional member from the advisory council. With the exception of the sanctuary superintendent, executive subcommittee members shall also serve as the preliminary review panel for advisory council member selection. Meetings of the executive subcommittee are not subject to public meeting requirements because executive subcommittee meetings focus on administrative and preparatory work rather than the official advisory council business of advising the superintendent on sanctuary management issues.

Other Terms

The charter shall remain in effect for five years from the date of signature. Six months prior to expiration, ONMS, with input from advisory council members, will determine whether to renew the charter based on the ongoing need for the advisory council.

ONMS may revise the charter or handbook as it deems necessary, with input from the advisory council.

John Armor
Director, Office of National Marine Sanctuaries

Date