LAKE ONTARIO 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 Lake Ontario National Marine Sanctuary Advisory Council (advisory council). The new advisory council will replace the pre-designation advisory council which was established September 17, 2019 and which expired upon the designation of Lake Ontario National Marine Sanctuary. The new council will be 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

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.

Lake Ontario National Marine Sanctuary

Designated in 2024, Lake Ontario National Marine Sanctuary provides stewardship for our nation's maritime and cultural heritage in Lake Ontario. Co-managed by NOAA and the state of New York, bringing new opportunities for research, resource protection, and engagement. In partnership with local communities, the sanctuary provides a national stage for promoting recreation and heritage tourism. Through its broad-based research and education programs, the sanctuary advances Lake Ontario conservation and inspires future generations to protect our Great Lakes and ocean.

On January 17, 2017, leaders of four counties (Oswego, Jefferson, Cayuga, and Wayne) and the city of Oswego, with support from the governor of New York, submitted a nomination to NOAA asking the agency to consider designating an area in eastern Lake Ontario waters as a national marine sanctuary. The nomination focused on protecting and interpreting a nationally

[1] 16 U.S.C. § 1445a (2012).

significant collection of 21 historic shipwrecks and one aircraft in a 1,746 square mile area in eastern Lake Ontario. According to the nomination, archival research indicated that an additional 47 shipwrecks and two historic aircraft could be found within the nominated area.

Vessels that historically plied Lake Ontario's waters often met with treacherous conditions, which resulted in numerous shipwrecks. The lake's cold, fresh water preserves these shipwrecks well, creating a "submerged museum" of historic sites with exceptional archaeological, historical, and recreational value. This collection includes one shipwreck, *St. Peter (1873–1898)*, which is listed on the National Register of Historic Places (NRHP), as well as a 19th century Great Lakes cargo vessel, *David W. Mill*s, which is a New York State Submerged Cultural Preserve and Dive Site.

As co-managers, NOAA and the state of New York will:

- Provide stewardship for maritime cultural heritage resources;
- Conduct research in support of maritime cultural heritage resource protection and broader Lake Ontario conservation;
- Conduct and support educational programming and outreach in support of resource protection, community engagement, and raising awareness about Great Lakes maritime heritage and conservation;
- Enhance recreational and tourism opportunities for the enjoyment of sanctuary resources; and
- Ensure coordination and cooperation between NOAA and other relevant state, federal, and local authorities.

Advisory Council Roles

The advisory council is authorized to advise and make recommendations to NOAA regarding the designation and management of national marine sanctuaries. Accordingly, any council advice, recommendations, or comments, must affect the planning or management of Lake Ontario 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 to the sanctuary superintendent regarding the protection and management of Lake Ontario National Marine Sanctuary. This advice shall fairly represent the collective and individual views of the advisory council members. In formulating advice, the advisory council shall remember that the primary objective of the National Marine Sanctuaries Act and ONMS is resource protection.

Nothing in this charter constitutes authority to perform operational or management functions, or to make decisions on behalf of ONMS, the National Oceanic and Atmospheric Administration (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 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 government resources.
- Other appointed advisory council members representing stakeholders and not employed by a state or the government would be considered to be representatives of the various stakeholder groups, and would be subject to rules regarding the misuse of government resources.

Advisory Council Membership

The advisory council shall consist of 15 voting members, 12 non-voting members (with 10 non-voting, governmental members and 2 non-voting, nongovernmental members), and the sanctuary superintendent. 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; 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. NOAA has consulted with the state of New York in determining the composition of the council.

Seat Categories

Sanctuary superintendent. Because the advisory council ultimately provides advice to the sanctuary 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 ONMS opinions. However, the sanctuary superintendent shall not provide personal opinions on advisory council issues.

Voting seats. There is one category of seats for which voting members are appointed or selected. These categories are as follows:

- *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:
    - Citizen-at-Large (2 seats)
    - Business, Marketing and Economic Development (2 seats)
    - Divers, Dive Clubs and Archaeology (2 seats)
    - Education (K-12) (1 seat)
    - Higher Education (1 seat)
    - Fishing (1 seat)
    - History, Maritime Heritage and Public Interpretation (2 seats)
    - Recreation (1 seat)
    - Research, Science and Technology (1 seat)
    - Tourism (2 seats)

These members will serve terms varying in length from two 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 non-governmental 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.

Non-Voting seats. There are *two* categories of seats for which non voting members are appointed or selected. These categories are as follows:

- *Governmental.* By virtue of the shared functional responsibilities of federal, state, and local jurisdictions of sanctuary 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:
    - New York Department of State
    - New York Office of Parks, Recreation and Historic Preservation
    - United States Coast Guard
    - Port of Oswego Authority
    - Oswego County
    - Cayuga County
    - Jefferson County
    - Wayne County
    - City of Oswego
    - New York Sea Grant

As co-manager of the sanctuary, the state of New York is a non-voting member. The state of New York will be represented by the New York Department of State and the New York Office of Parks, Recreation and Historic Preservation, the lead state agencies in co-managing the sanctuary and points of contact in the Memorandum of Agreement.

Recognizing the cultural significance of this area to federally-recognized Indigenous nations and tribes, the Office of National Marine Sanctuaries welcomes the participation of such interested nations and tribes on the council in a non-voting governmental capacity. This could involve multiple nations and tribes. This process can be initiated by contacting the sanctuary superintendent. Participation on the council does not take the place of government-to-government consultation nor does it serve as the only opportunity for engagement between NOAA and Indigenous nations and tribes.

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.

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 or their designee are notified in advance of any meeting at which an alternate will represent the council member, including the name, address, and position of the individual designated. An alternate may not name another alternate.

- *Youth*. Two non-governmental, non-voting youth seats shall represent the youth segment of the community, defined as those aged 14-17. The youth members shall be appointed for a term of two years, and may compete for reappointment unless the individual will exceed the age limit during the additional term. Members filling the youth seat must fulfill the requirements set forth in the handbook.

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 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 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 three (3) consecutive meetings without reasonable justification.

Administration

Members of the council shall serve without pay except that each member 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. Reimbursement is at the discretion of the sanctuary superintendent and dependent upon budgetary considerations and constraints. No members of working groups or subcommittees (defined below) may receive travel expenses for their group activities or meetings, in accordance with the handbook. Travel expenses for governmental members of the council may be provided by their own agencies.

The ONMS may make available such staff, information, administrative services, or assistance as the NOAA representative determines are reasonably required to enable the council and its subcommittees/working groups to carry out their functions.

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 sanctuary superintendent. 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 either the sanctuary superintendent or the chair so that it can be added to a future meeting agenda. The superintendent and the chair discuss agenda topics, but the superintendent must ultimately approve all topics placed on the agenda.

Advisory councils shall 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 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 sanctuary superintendent. 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 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 (PII), or is otherwise sensitive or potentially controversial.

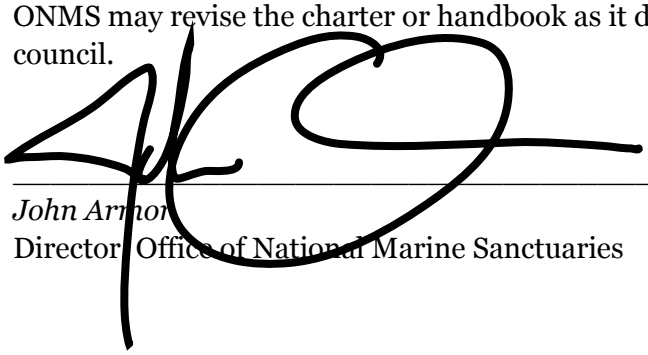
Subunits. The chair, in consultation with the advisory council as a whole and with the concurrence of the sanctuary superintendent, may establish subcommittees or working groups as necessary. A subunit may not submit its findings and recommendations directly to the superintendent or ONMS, but the advisory 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 superintendent's approval), and oversee meeting conduct. This subcommittee consists of the chair, vice chair, secretary, and superintendent. The chair, with concurrence from the superintendent, may also appoint one additional member from the advisory council. With the exception of the 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 take effect on the effective date of the designation of Lake Ontario National Marine Sanctuary, and will remain in effect for five years. Six months prior to expiration, ONMS, with input from the 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.



7/31/2025

John Armor
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Date