Office of National Marine Sanctuaries
National Oceanic and Atmospheric Administration

# NATIONAL MARINE SANCTUARIES

## Advisory Council Implementation Handbook

8th Edition

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Cover photo: Point Arena Lighthouse sits near the northern boundary of the Greater Farallones National Marine Sanctuary. Photo: Michael Beattie

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## About This Document

This handbook is intended to provide Office of National Marine Sanctuaries (ONMS) staff, advisory council members and alternates, and the general public with information about advisory councils established pursuant to the National Marine Sanctuaries Act (NMSA). The handbook incorporates the experience and knowledge gained by ONMS since these advisory councils were first established more than 30 years ago. This handbook supersedes previous versions of the handbook. Future editions will be prepared as necessary to reflect any additional lessons learned, new council policies, or major changes within ONMS.

## Using This Document

This handbook provides information on how to establish, operate, and resolve issues associated with advisory councils. It is intended to serve as a reference guide, not to be read sequentially unless the reader is seeking a general overview of advisory councils. The information presented is not legal advice and should not be acted upon as such. Although ONMS regularly updates the handbook, information presented may not be current and is subject to change.

Comments or questions on this handbook or National Marine Sanctuaries Act advisory councils should be directed to:

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# Part I:
# Introduction

A Chumash Tomol Crossing in Channel Islands National Marine Sanctuary. Photo: Robert Schwemmer/NOAA

# I. Introduction

This handbook provides the basic procedural framework for all advisory councils established under the National Marine Sanctuaries Act. It is split into four separate sections:

**Part I:** Introduction

**Part II:** Advisory Council Charter and Membership

**Part III:** Advisory Council Routine Operations

**Part IV:** Appendices

Throughout the handbook, readers will find several references to material in other sections. When relevant, the text will contain a hyperlink to allow readers using an electronic copy to click on the text and go directly to the corresponding material.

# II. Advisory Councils Overview

## A. Office of National Marine Sanctuaries (ONMS)

### 1. ONMS and the National Marine Sanctuary System

The Office of National Marine Sanctuaries (ONMS) protects treasured places in the ocean and Great Lakes. As of 2025, ONMS serves as the trustee for a network of underwater parks encompassing more than 629,000 square miles of marine and Great Lakes waters from Washington state to the Florida Keys, and from Lake Huron to American Samoa. The network includes a system of 18 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments. ONMS manages national marine sanctuaries (NMS), and marine national monuments (MNM)[1] by working collectively with its partners and the public to conserve these special places while allowing recreation, commercial, and other public and private activities that are compatible with resource protection. ONMS staff work to enhance public awareness of our marine resources and maritime heritage through scientific research, monitoring, exploration, education and outreach, and community engagement.

[1] The difference between a NMS and a MNM is largely a matter of how the marine protected area was created. NMS are designated by Congress or the Secretary of Commerce, acting through NOAA, under the National Marine Sanctuaries Act, whereas MNM are designated by presidential proclamation under the Antiquities Act of 1906. Rose Atoll MNM receives public input through the National Marine Sanctuary of American Samoa Sanctuary Advisory Council. For more information on the differences between an NMS and an MNM, see NOAA, Quick Guide on Monuments & Sanctuaries (Nov. 2017), https://sanctuaries.noaa.gov/about/monuments-and-sanctuaries-whats-the-difference.html.

Map of the U.S. National Marine Sanctuary System. Image: NOAA

## 2. History of ONMS Advisory Councils

ONMS regards community involvement and stewardship as vitally important in carrying out its mission. Advisory councils have facilitated this involvement since 1992 by bringing different 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.

Congress provided authority for the first Sanctuary Advisory Council in 1990 with the designation of Florida Keys NMS. The advisory council first met in 1992 to provide advice on the management of Florida Keys NMS. Later that year, Congress amended the National Marine Sanctuaries Act to authorize ONMS, as delegated, to establish one or more "advisory councils to advise and make recommendations to the Secretary [of Commerce] regarding the designation and management of national marine sanctuaries."[2] In the Act, Congress authorized appointment of advisory council members from among persons employed by federal or state agencies with expertise in management of natural resources; members of relevant Regional Fishery Management Councils; and representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.[3] Congress also explicitly

[2] 16 U.S.C. § 1445a(a). As delegated, the advisory councils may advise and make recommendations to a superintendent, ONMS, the National Ocean Service (NOS), NOAA, or the Department of Commerce (DOC).
[3] 16 U.S.C. § 1445a(b).

exempted these advisory councils from the requirements of the Federal Advisory Committee Act (FACA), providing Sanctuary Advisory Councils with more procedural flexibility.[4]

As of March 2025, 18 NMSs and two proposed NMS (Proposed Lake Erie NMS and Proposed Sanctuary for the Hudson Canyon) have advisory councils. The following chart displays the establishment date of each advisory council created under the National Marine Sanctuaries Act.

Advisory Council Establishment Dates

| Site | Year Advisory Council Established |
|---|---|
| Florida Keys NMS | 1990 |
| Hawaiian Island Humpback Whale NMS | 1992 |
| Stellwagen Bank NMS | 1992 |
| Monterey Bay NMS | 1994 |
| Olympic Coast NMS | 1995 |
| Thunder Bay NMS | 1997 |
| Channel Islands NMS | 1998 |
| Gray's Reef NMS | 1999 |
| Papahānaumokuākea MNM | 2001 |
| Greater Farallones NMS | 2002 |
| Cordell Bank NMS | 2002 |
| NMS of American Samoa | 2005 |
| Flower Garden Banks NMS | 2005 |
| Monitor NMS | 2005 |
| Mallows Bay-Potomac River NMS | 2020 |
| Wisconsin Shipwreck Coast NMS | 2022 |
| Proposed NMS for Hudson Canyon | 2022 |
| Proposed NMS Lake Erie | 2024 |
| Lake Ontario NMS | 2024 |
| Chumash Heritage NMS | 2025 |
| Papahānaumokuākea NMS | 2025 |

**Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council was established in 2001 and rechartered as a sanctuary advisory council in 2025 when Papahānaumokuākea NMS was created.*

[4] 16 U.S.C. § 1445a(a) ("The Advisory Councils shall be exempt from the Federal Advisory Committee Act."). FACA generally governs advisory groups established by statute, or established or utilized by the President or by an agency official, comprised of at least some nongovernmental members for the purpose of obtaining advice or recommendations on issues or policies within the scope of the agency official's responsibilities. 5 U.S.C. App. §§ 2; 41 C.F.R. 102-3.25. In an effort to achieve transparency, FACA contains procedural requirements that advisory groups must follow to ensure that the public has notice of and access to meetings. The federal government also has several oversight responsibilities under FACA that enable it to efficiently manage the advisory groups. The first sanctuary advisory council at Florida Keys NMS was not exempted from FACA's procedural requirements. *See* Florida Keys National Marine Sanctuary and Protection Act, Pub. Law 101-605 Sec. 9 (1990). However, Congress now specifically exempts from FACA all advisory councils established under the National Marine Sanctuaries Act. 16 U.S.C. § 1445a(a). Nevertheless, the National Marine Sanctuaries Act mirrors some of FACA's procedural requirements. *Compare* 5 U.S.C. § 10(a) (requiring that advisory committees hold public meetings and generally publish timely notice of each meeting in the Federal Register), *with* 16 U.S.C. § 1445a(e) (requiring that National Marine Sanctuaries Act advisory councils hold public meetings and publish timely notice of each meeting locally, and in some cases, in the Federal Register).

## 3. Scope of Advisory Councils

Every ONMS advisory council shares a common purpose under the National Marine Sanctuaries Act to "advise and make recommendations to the Secretary [of Commerce] regarding the designation and management of sanctuaries" 16 U.S.C. § 1445a(a).[5] Because councils are authorized to advise and make recommendations "regarding the designation and management of national marine sanctuaries," any council advice, recommendations, or comments (i) must affect the planning or management of the sanctuary system 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 NMSA. Any council advice, recommendations, or comments must also be consistent with the scope and provisions of the charter established for that council.

Advisory councils, therefore, are not managing bodies of the sanctuaries; for example, they do not create regulations. Rather, they tap into their members' and alternates' varying backgrounds to provide ONMS sites with advice and recommendations. ONMS sites consider all advisory council advice and recommendations, but ultimately, ONMS sites decide which courses of action to pursue.

To fulfill its advisory purpose, advisory councils and their members and alternates engage in numerous activities, which are detailed throughout this handbook. Some of the most important advisory council activities include:

- ***Connecting a site and its community.*** Advisory council members and alternates should serve as liaisons between an ONMS site and its surrounding community. Specifically, members and alternates should disseminate accurate information about a site to their respective constituencies and bring constituents' concerns to the attention of the full advisory council and the superintendent.
- ***Building partnerships.*** ONMS cannot accomplish its mission to protect nationally significant resources alone. Advisory council members and alternates can often connect ONMS superintendents with a host of opportunities and contacts (including both governmental and nongovernmental) that help further ONMS priorities consistent with the ONMS mission and authorities. Advisory councils can advise ONMS on potential partnerships, including identifying groups or individuals who may be potential partners, and assist ONMS to facilitate those connections.
- ***Reviewing and providing input on management plans, priorities, and proposed public actions.*** Advisory council members and alternates can contribute to the production of ONMS documents (like management plans) through full advisory council presentations, advice, recommendations, and identification of external reviewers, as well as through subcommittee and working group reports shared through the full advisory council. Advisory council members and alternates can also express the voices of their constituents during the public comment period for any ONMS action. In some situations, advisory councils may also submit comments on non-ONMS proposed

[5] As delegated, advisory councils provide advice and recommendations to the sanctuary superintendent and ONMS, as applicable.

actions, if approved by the superintendent, and subject to the process detailed in this handbook.

- ***Identifying and resolving stakeholder issues.*** As cross-cutting bodies that represent many different interests, advisory councils are in a unique position to bring potential community stakeholder issues to ONMS's attention. When advisory council members or alternates discover potential issues, they should bring them up for adding to the agenda, for discussion at an advisory council meeting. In resolving conflicts among various stakeholders, an advisory council could take a range of approaches, such as engaging the full advisory council, or creating a subcommittee or working group to prepare a motion, white paper or report on a particular topic.
- ***Participating in site events, activities, and programs.*** Advisory council members and alternates are encouraged to participate in local ONMS events, activities, and programs to represent the advisory council, as well as to broaden their knowledge and public outreach. However, advisory council members and alternates participating in such events should be careful to note the distinction between participating in their official capacities as an advisory council member or alternate versus participating in their private capacities as a member of the public (see more information on the Official Capacities/Private Capacities Section).
- ***Providing technical and background information on issues facing the sanctuary.*** Advisory council members and alternates may have access to technical experts and resources through their connections in their represented constituencies that are not generally available to the public but that are reliable, relevant, and valuable to ONMS. For example, a research member may have access to experts and studies on a particular topic that the broader public may not. Advisory councils are encouraged to advise about and recommend any such technical resources to their superintendents through the general advisory council recommendations processes.

Despite their common purpose and broad duties, each advisory council's specific composition and activities vary according to its charters and individual site priorities. Advisory councils may include conservationists, marine archaeologists, and educators, fishers and maritime businesses representatives, and young people in the community.

## B. ONMS Staff Overview

A public meeting of the Channel Islands National Marine Sanctuary Advisory Council.
Credit: Sean Hastings/NOAA

For advisory councils to achieve their fullest potential, ONMS may provide various resources (depending on budget constraints and need). These may include training programs and materials at the site level; guidance and the consistent implementation of advisory councils from ONMS headquarters; and different media for communication and the exchange of information across the sanctuary system, with, for example, regular in-person and virtual meetings for advisory council chairs and appropriate ONMS staff.

In all cases, members of ONMS staff at both the national level and local level are available to help advisory councils. The sanctuary advisory councils work mainly with local ONMS site staff. The following ONMS staff members serve special functions to assist sanctuary advisory councils in carrying out their duties.

### *1. Site Staff*

ONMS recommends that all its site staff members attend and participate as appropriate in advisory council meetings. Staff members should provide presentations on agenda topics, provide support for advisory council subunits (subcommittees and working groups), and mentor

their counterpart advisory council member(s). For example, a site education coordinator should have a close relationship with the advisory council education member(s) and alternate(s).

## 2. Local Advisory Council Coordinator(s) & Staff Support

The sanctuary superintendent determines the amount of local advisory council coordinator and other staff support necessary for the advisory council to carry out its duties. Advisory councils are labor- and resource-intensive, especially when they have several subunits. At least one ONMS site staff member should serve as the local advisory council coordinator; larger or more active advisory councils may need to dedicate more than one staff person. Local advisory council coordinators who also serve in other demanding staff roles may need assistance from another site staff member to handle the meeting logistics and meeting minutes. Understanding that the duties of a local advisory council coordinator may vary from site to site, a local advisory council coordinator may generally be expected to perform the following tasks:

Greater Farallones National Marine Sanctuary Advisory Council members gather for a photo.
Credit: Alayne Chappell/NOAA

- Meet with advisory council chair and superintendent to develop the agenda;
- Secure meeting location, equipment, and other logistics for advisory council meetings, subunit meetings, and retreats;
- Advertise locally for meetings (not necessary for workshops and retreats);
- Plan for refreshments, as permitted;
- Send reminders to the advisory council about upcoming meetings;

- Prepare materials for meetings and distribute in advance;
- Set up and take down meeting rooms;
- Attend, participate in, and assist chair to facilitate as necessary, advisory council meetings, subunit meetings, and retreats;
- Provide information on sanctuary resources management topics at meetings and retreats
- Brief advisory council on national council support or other advisory council administrative matters at each full advisory council meeting;
- Interact with advisory council members and alternates, field questions, and direct members and alternates to other staff for additional information, as appropriate;
- Record minutes of advisory council meetings;
- Conduct meeting follow-ups:
    - Draft and distribute minutes, and ensure they are approved by the full council and posted;
    - Ensure mailings go out;
    - Distribute advisory council communications from headquarters;
- Track action items:
    - Obtain information;
    - Line up speakers;
    - Prepare and distribute correspondence from the advisory council;
    - Prepare and track resolutions; and
    - Develop information for press releases and internal reports.
- Conduct retreat follow-up:
    - Draft and distribute retreat reports.

## Advisory Council Administration

- Ensure any travel expense requests are processed, as necessary and authorized by the sanctuary superintendent, and subject to the availability of appropriations and advance approval;
- Work with the superintendent, advisory council, and headquarters to revise or amend council charter;
- Recruit new members and alternates:
    - Prepare and publish local community announcements/media advisories seeking new applications for member and alternate positions;
    - Prepare and provide application kits;
    - Coordinate review of applicants and clearance process for selected applicants; and
    - Facilitate notification of selected and non-selected applicants via an email with an official letter (see appendix 8 (g)(h)(i)) attached from the superintendent.
- Prepare documents as necessary to remove members or alternates;
- Advise the superintendent, local staff, and advisory council on advisory council operations and requirements;
- Work with the superintendent to develop an annual budget for advisory council operations; and

- Work with the advisory council and superintendent to develop an annual work plan, as needed (through a subcommittee, retreat, etc.).

### Other Advisory Council Operations and Communications

- Meet with advisory council chair (and, as pertinent, executive subcommittee) and superintendent periodically to discuss advisory council matters (including national advisory council support issues);
- Meet quarterly, or more frequently as needed, with superintendent to discuss advisory council matters (including national council support issues);
- Brief all site staff, as appropriate, on advisory council matters (including national council support issues) during regularly scheduled site staff meetings;
- Facilitate communication between advisory council members and alternates; members, alternates, and their constituents; members, alternates, and ONMS staff, and between advisory councils;
- Work with superintendent to identify and facilitate ONMS staff mentors for advisory council members and alternates (e.g., ONMS site research coordinator should have mentor relationship with advisory council research member/alternate);
- Work with superintendent and regional director to facilitate communications and cooperation among all advisory councils within a region;
- Plan, facilitate, and conduct orientation briefings or trainings for new advisory council members and alternates;
- Identify problems (ethical, legal, policy, etc.) and consult with the ONMS site staff, advisory council, other coordinators, and headquarters (ONMS and, for legal issues, NOAA Office of General Counsel Oceans and Coasts Section (GCOC)) as necessary to address them; and
- Monitor potential advisory council charter violations or conflicts of interest and raise to the appropriate party as needed.

### Local Advisory Council Coordinator Engagement with National Staff on Advisory Council Matters

- Facilitate communication between headquarters, ONMS site staff and the advisory council, as appropriate;
- Assist national advisory council coordinator in planning and hosting the Sanctuary Advisory Council Summit and national meeting of local advisory council coordinators, if held at the site;
- Meet with individuals and groups visiting to learn about advisory councils;
- Attend Sanctuary Advisory Council Summit (if budgetary resources allow):
    - Work with the advisory council, chair, and superintendent to prepare for and provide input on documents related to the meeting.
    - Develop and present case study jointly with the advisory council chair;
- Participate in national meetings of advisory council coordinators;
- Provide site information and input for national-level advisory council documents, issues, and requests such as this handbook, performance measures, congressional requests, etc.; and

- Coordinate with other local advisory council coordinators across the program to facilitate interactions among advisory councils.

### 3. Sanctuary Superintendent

Along with the local advisory council coordinator, the sanctuary superintendent will most directly support the advisory council. Because advisory councils ultimately provide advice to the superintendent, the superintendent does not hold an official seat on the advisory council. However, the superintendent participates in each sanctuary advisory council meeting in his/her official capacity and works with the advisory council in a 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.

### 4. National Advisory Council Coordinator

The national advisory council coordinator generally:

- Serves as the point person for all advisory council related requests sent to the ONMS director.
- Provides guidance to sanctuary staff members on charters, member application packages, clearance processes, and general policy related to advisory councils.
- Organizes and participates in periodic advisory council coordinator calls to facilitate information sharing among sites, Sanctuary Advisory Council Summits, and advisory council coordinators meetings.
- Maintains records of all advisory council meeting dates, approved memoranda, charters, and contact information for advisory council chairs and site staff members supporting advisory councils.
- Serves as a liaison among ONMS headquarters, sites, and advisory council coordinators, to ensure flow of information.

In addition to the national advisory council coordinator, the NOAA Office of the General Counsel and several ONMS headquarters leadership also support advisory councils, including the ONMS director, ONMS deputy director, and ONMS Protected Area Policy division chief.

# Part II:
# Advisory Council Charter and Membership

Tuna swimming in Greater Farallones National Marine Sanctuary. Credit: NOAA

# I. Establishing an Advisory Council

Part II of this handbook outlines the various components of advisory council membership. However, before outlining membership, the process of establishing an advisory council is detailed below for use by the staff members supporting newly designated sites.

1. Establish a Charter (see Appendix 2).
   - The superintendent and local advisory council coordinator should work with the national advisory council coordinator to draft the charter to ensure it complies with national policy. Depending on the site, it may be necessary to consult with state, local, and/or tribal partners.
   - The finished charter should then be submitted with a memorandum for final approval, through the regional director, to the ONMS director. The charter becomes effective upon signature by the ONMS director.
2. Develop advisory council seats:
   - Note: No more than 15 voting seats are permitted for sanctuary advisory councils established after November 4, 1992. See more information in Part II, Section III.
   - Think of user groups and stakeholders that should be represented;
   - Identify and reach out to state and local agencies and tribes to determine interest in participating;
   - Share with any external partners to receive feedback and adjust accordingly;
   - For a list of common seats, see Part II, Section IV.
3. Develop membership application package:
   - Introduction Letter (see Appendix 8(e));
   - Application Form.
4. Work with the national advisory council coordinator and Protected Area Policy division to develop a Federal Register Notice notifying the public of the establishment of a new advisory council.
5. Work with the communications team at headquarters to develop a media roll out plan.
6. Begin recruitment (following the process described in the Handbook).
7. Develop a preliminary review panel to review member and alternate applications.

   **Note, ONMS recommends that the review panel consist of federal, state, and local agency partners, since seeking consensus from this group would not violate FACA. For more information, refer to Part II, Section VI.*

8. Provide the preliminary review panel with appropriate information and materials to make their recommendation (e.g., Application Rubric and Score Log).

   **Note: All applications should have personal identifying information removed to protect applicants.*

9. Once the review panel has submitted their top three candidates for each vacant position to the sanctuary superintendent or NOAA representative, the superintendent determines the top candidate for each vacant position.

10. Once members/alternates are selected, follow the steps listed HERE to begin new member and alternate onboarding/orientation.

# II. Advisory Council Governance

## A. Charter

An advisory council's charter is the instrument that officially establishes an advisory council, providing the scope of the advisory council's responsibilities and serving as the constitution for its operation. The ONMS National Marine Sanctuary Advisory Council Implementation Handbook homepage contains model charters for sanctuary superintendents to use as a guide when creating and updating their individual advisory council charters, and model charters are also attached to this handbook as Appendix 1 and Appendix 2. Please note that no charter is valid until signed by the director of ONMS.

### 1. Charter Renewals and Routine Revisions

Advisory council charters are valid for five years. Approximately six months before a charter's expiration date, the superintendent and local advisory council coordinator should consider what, if any, revisions are needed. In making this decision, they should review the charter, discuss the past operation of the advisory council, as needed, with advisory council members and alternates and appropriate ONMS staff; review other advisory council charters; and consider whether any changes should be made to the existing charter upon renewal. These changes should address existing problems or needs of the advisory council. They may also reflect relevant new provisions added to other advisory council charters; the national advisory council coordinator should be consulted by the site staff for the most updated information. Such provisions may include new legal or programmatic requirements, or a relevant innovation that has worked well at another site.

Once the superintendent and local advisory council coordinator have identified all proposed changes, they should work with the national advisory council coordinator to prepare a revised draft charter. The superintendent and local advisory council coordinator should also be sure to work with the national advisory council coordinator on an individual review of the charter to ensure it complies with national policy. The revised charter should then be submitted with a memorandum for final approval, through the regional director, by the ONMS director. The revised charter becomes effective upon signature by the ONMS director.

If no revisions are necessary, a renewal charter (with no revisions other than effective date) should be submitted with a memorandum for final approval, through the regional director, by the ONMS director. The renewal charter becomes effective upon signature by the ONMS director.

### 2. Extending a Charter

Under no circumstances should advisory council charters be allowed to expire, unless there is an extenuating circumstance, as approved by the ONMS director. An advisory council's charter is the instrument by which the advisory council is officially established. It provides the scope of the

advisory council's responsibilities and serves as the constitution for the advisory council's operations.

In rare circumstances where reviewing and renewing a charter (with or without charter revisions) according to the above schedule is not practical, it may be appropriate to extend the current charter for a short time (generally no more than six months to one year). For example, if the advisory council is currently participating in a designation process or a management plan review, it should dedicate its time and resources to that activity rather than a charter revision. Completing the designation or management plan revision may also necessitate changes to the advisory council that should be reflected in the revised charter. Therefore, it is logical to extend the charter, via a charter extension, in these circumstances. Other potentially valid reasons to briefly extend the charter may include a charter expiration date that does not mesh with the advisory council meeting schedule, a superintendent or local advisory council coordinator turnover, or an unforeseeable event (like a natural disaster). Generally, however, site advisory council coordinators should be aware of their respective charter's expiration date and plan ahead to follow the revision schedule.

To request an extension, the superintendent and local advisory council coordinator should work with the national advisory council coordinator to evaluate the situation and prepare the appropriate extension memorandum. The final memorandum will be submitted by the sanctuary superintendent, through the regional director, for the ONMS director's approval.

### *3. Amending a Charter*

Between the required charter reviews, it may be necessary to amend an advisory council charter. An amendment is a short document signed by the ONMS director that clarifies language of, or revises, an existing charter provision or adds one or more new provisions. A charter with a new amendment remains in effect for the remainder of the charter's original term, and the amendment should be directly incorporated into the body of the charter through a charter revision when the charter comes up for renewal.

Any member or alternate of the advisory council or ONMS staff may propose charter amendments. The superintendent and local advisory council coordinator should be sure to work with the national advisory council coordinator on an individual review of the charter amendment to ensure it complies with national policy. The charter amendment should then be submitted by the sanctuary superintendent, with a memorandum for final approval, through the regional director, by the ONMS director.

## B. Bylaws

In addition to developing a charter, a few advisory councils have created bylaws or protocols to govern their specific operations. Examples include protocols that address procedural items such as conducting meetings, drafting correspondence, or how particular topics are addressed. Because this handbook and the advisory council charter already provide in-depth guidance on advisory council procedures, adopting bylaws or protocols is generally not necessary. However, advisory councils may adopt detailed bylaws or protocols as needed to carry out their business.

# III. Advisory Council Seat Structure

For sanctuaries designated on or before November 4, 1992 (i.e., Monitor, Channel Islands, Greater Farallones, Gray's Reef, Cordell Bank, Florida Keys, Flower Garden Banks, Monterey Bay, Stellwagen Bank, and Hawaiian Islands Humpback Whale national marine sanctuaries), the number of seats on the council is not limited by law.[6] However, sanctuaries designated after November 4, 1992 are limited to a maximum of 15 voting seats according to section 315 of the National Marine Sanctuaries Act.[7] However, sanctuary superintendents, who may consult their advisory councils for input, generally have flexibility as to the types of seats they establish. As explained in further detail below, advisory council seat composition will vary depending on several factors, including shared jurisdictions and primary user groups. While each advisory council's structure may vary depending on when it was created, every advisory council's charter explicitly states the maximum number of members, and when applicable to a given council, alternates.

## A. Seat Establishment Considerations

For sanctuary superintendents who have the flexibility to establish new seats, superintendents should consider several factors before creating them. Advisory councils should bear in mind that ONMS facilitates to the extent compatible with the primary objective of resource protection, all public and private uses of sanctuary resources not prohibited pursuant to other authorities under the National Marine Sanctuaries Act.

In addition, the National Marine Sanctuaries Act provides that members of advisory councils may be appointed from among persons employed by federal or state agencies with expertise in management of natural resources; members of relevant regional fishery management councils; and representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources. 16 U.S.C. § 1445a(b). Additional considerations include the following:

- ***Local stakeholders.*** Superintendents should try to include seats that reflect key local perspectives in and around a sanctuary, especially regarding the sanctuary's primary user groups. Primary-user seats provide for regular interactions between a site and its most prevalent stakeholders. To maximize user group representation, no organization should be represented on more than one seat on any single advisory council, whether representing the same user group or not. For instance, if an advisory council has two seats for one user group (e.g., two conservation seats) or seats that have an overlap in constituents (such as tourism and diving), individuals from different organizations must occupy those two seats. ONMS values the remarkable variety of knowledge, perspectives, and experience found throughout sanctuary communities, and invites a wide range of individuals to seek membership on our sanctuary advisory councils.

[6] National Marine Sanctuaries Act, 16 U.S.C. § 1445a(c) ("For sanctuaries designated after November 4, 1992, the membership of the Advisory Councils shall be limited to no more than 15 members.")
[7] *Id.*

- ***Interstate and international interests.*** Superintendents should consider the co-jurisdiction of shared resources or management of sanctuary uses where seats for federal, state, or local agencies can help cement intergovernmental relationships. In such situations, the advisory council charter should include seats that represent those perspectives. Occasionally, it will be appropriate to have foreign nationals living outside the U.S. serving on advisory councils to address trans-boundary issues, as long as that trans-boundary representative is interested in the protection and management of a U.S. national marine sanctuary.
- ***Voting power.*** Superintendents should also consider whether to include nonvoting members. At their discretion, superintendents may include governmental seats among their advisory council seats, which may be either voting or nonvoting. Note, members and alternates serving in a governmental seat are selected by their associated agency and are not required to apply through the standard application process. Superintendents may also establish a youth seat, which must be nonvoting. Nonvoting members and alternates do not participate in forwarding advisory council recommendations to a superintendent or in any other voting actions. However, nonvoting members and alternates are still encouraged to participate in discussions on these matters.
- ***Availability of Resources.*** Superintendents should weigh the benefit of creating new seats with the resources available to fill it. For instance, it may not always be prudent to establish a new seat for a minority user group where it will be difficult to find community representatives to fill that seat each term, or where the group may not have long-term interests in advising sanctuary management as part of the advisory council. To ensure that small factions of the sanctuary community nevertheless have a voice, interested people should be encouraged to run for a citizen-at-large (CAL) seat or attend advisory council meetings as a member of the public and share concerns during the period for public comment.
- ***Youth Seats.*** Before creating a youth seat, ONMS strongly encourages superintendents and local advisory council coordinators to do significant outreach to local schools and youth-oriented organizations. Connecting with students early in the process will help spark interest in the advisory council and encourage young people to get involved in the advisory council's activities.

While this list notes a few of the most significant factors to consider when defining an advisory council's structure, ONMS confers extensive discretion to superintendents to decide the precise composition of their site's advisory council. ONMS also provides a great deal of latitude to superintendents in defining the sanctuary community from which members can be chosen. This flexibility assists some sites that might have a geographically limited pool of expertise from which to choose (such as sites in Hawaii and American Samoa) and for sites whose communities might be defined more so based on expertise and knowledge than on location (like maritime heritage experts for Monitor NMS). Any new seats added to an existing council should be made through an amendment to the existing charter or through the charter revision process.

## B. Seat Distribution

Regardless of the specific seats for an advisory council, it is ONMS's policy that all seat members—including any alternates—are equal on the advisory council for all purposes, including, (with respect to voting members) voting on advisory council motions or resolutions and providing input to the superintendent. Although nonvoting 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 and reinforces ONMS's philosophy that each member's voice is equally important to sanctuary decisions.

Emphasizing equality among advisory council seats is important because ONMS typically seeks consensus advice from the advisory council. Consensus advice requires general agreement among members, who act as a group to pursue common objectives. Successful consensus advice requires full input from all members acting as equals and precludes any suggestion that some members have more influence than others. See additional information on consensus advice and voting in Part III, Section II.B.

# *IV. Common Advisory Council Seats*

As noted above, all advisory councils are established to address the management needs of the individual sanctuary. However, seven types of seats are common to most—if not all—advisory councils: education, research, conservation, citizen-at-large, fishing (and, at some sites, seats specifically for commercial or recreational fishing), tourism, and business/industry. Four additional seats have been included for some advisory councils: diving, recreation, maritime heritage, and youth. The descriptions below outline general expectations and qualifications for each of these common seats. The descriptions may be used in advertising available seats to help potential applicants understand what to expect if they are chosen for a particular seat. The descriptions may also be used to help select the best possible candidates. Any other seats that a site creates may have similar descriptions.

**Education:**

- affiliation with educational institutions or organizations active in communities near the sanctuary;
- ability to effectively communicate with multiple institutions and educators;
- direct experience with marine or Great Lakes education programs;
- ability and availability to conduct educational outreach consistent with the goals of the sanctuary and the mission of the advisory council; and
- commitment and availability to chair or participate on the advisory council's education working group or subcommittee.

**Research:**

- affiliation with scientific research institutions or organizations active in communities near the sanctuary;
- ability to effectively communicate with multiple institutions and scientists;
- direct experience with marine or Great Lakes research programs;

- ability and availability to conduct outreach within the research community consistent with the goals of the sanctuary and the mission of the advisory council; and
- commitment and availability to chair or participate on the advisory council's research working group or subcommittee.

**Conservation:**

- affiliation with conservation or environmental organizations active in communities near the sanctuary;
- ability to effectively communicate with multiple organizations and the broader community of conservationists and environmentalists in the sanctuary region;
- familiarity with marine or Great Lakes conservation issues and management approaches affecting the sanctuary;
- direct experience working with or representing conservation or environmental organizations, especially those involved with marine or Great Lakes conservation;
- ability and availability to conduct conservation outreach consistent with the goals of the sanctuary and the mission of the advisory council; and
- commitment and availability to chair or participate on the advisory council's conservation working group or subcommittee.

**Fishing (Commercial, Recreational, or Both):**

- familiarity and affiliation with fishing organizations active in communities near the sanctuary;
- knowledge of fishing (commercial, recreational, or both) activities within the sanctuary region;
- breadth of experience and knowledge regarding fisheries law, policies, and practices affecting the sanctuary;
- ability and willingness to communicate with key representatives from the fishing (commercial, recreational, or both) industries; and
- availability to chair or participate on appropriate advisory council working groups or subcommittees.

**Tourism:**

- familiarity and affiliation with the tourism industry in communities near the sanctuary;
- understanding of the links between tourism, sanctuary resources, and human activities;
- ability and willingness to communicate with key representatives from the tourism industry; and
- availability to chair or participate on appropriate advisory council working groups or subcommittees.

**Business/Industry:**

- familiarity and affiliation with local businesses in communities near the sanctuary;

- understanding of the links between local businesses, sanctuary resources, and human activities;
- ability and willingness to communicate with key representatives from local businesses; and
- availability to chair or participate on appropriate advisory council working groups or subcommittees.

**Citizen-at-Large (CAL):**

- resident of the area affected by the sanctuary;
- ability to communicate with members in communities near the sanctuary;
- experience or knowledge regarding marine or Great Lakes management and resource protection issues in the sanctuary;
- experience or knowledge regarding public uses and activities in the sanctuary;
- freedom to express views and cast votes without consideration of any expectations held by an employer or other organization with which the member is affiliated; and
- availability to chair or participate on appropriate advisory council working groups or subcommittees

**Diving (commercial, recreational, or both):**

- familiarity and affiliation with diving organizations in communities near the sanctuary;
- experience or knowledge regarding diving activities within the sanctuary region;
- ability and willingness to communicate with key representatives from diving organizations; and
- availability to chair or participate on appropriate advisory council working groups or subcommittees.

**Recreation (non-consumptive):**

- familiarity and affiliation with the recreational groups or activities on and around the sanctuary;
- experience or knowledge regarding recreational activities reliant on the sanctuary;
- ability and willingness to communicate with key representatives from local recreational groups and individuals who recreate on the sanctuary;
- availability to chair or participate on appropriate advisory council working groups or subcommittees.

**Maritime Heritage:**

- familiarity and affiliation with professional maritime archaeology and interpretive organizations relevant to the resources of the sanctuary;
- ability to effectively communicate and facilitate partnerships with the broader community of maritime archaeologists and/or maritime history regarding the goals of the sanctuary;

- experience, ability, and availability to conduct maritime research and/or maritime history and related interpretive outreach consistent with the goals of the sanctuary and the mission of the council;
- direct experience working with or representing maritime archaeology and/or maritime history and related interpretive organizations, especially those involved with marine conservation;
- commitment and availability of time to chair and/or participate on council, working groups, or subcommittees.

**Youth Seats**

The interest and enthusiasm of youth under the age of 18 is important to ONMS because young people are our future generation of ocean stewards and leaders. Accordingly, ONMS seeks to foster and facilitate links with the young people in sanctuary communities by providing the option for nonvoting, youth seats. Several advisory councils already have such a seat. If a superintendent chooses to add a nonvoting youth seat to its charter, the following language should be included:

Young people filling the youth seat must:

- Be between the ages of 14 and 17 when they apply (unless otherwise stated in site charter);
- Attend a school, including home schools (or other alternative high school option), in the vicinity of the sanctuary;
- Have a proven ability to communicate and network with other students within their school, in other schools within their community, or with home-schooled students and with adults;
- Possess an interest in sanctuary resource protection and management;
- Have experience or knowledge regarding public uses and activities in the sanctuary;
- Be able to travel to and attend advisory council meetings and retreats (parent/guardian or student provides transportation); and
- Provide written recommendations from one or more teachers.

Once selected, ONMS staff will contact students who will then be required to provide:

- Parent/guardian permission;* and
- School permission.*
- Note: These permission slips will grant blanket permission for all advisory council meetings and retreats.

If a superintendent chooses not to create a seat to represent the youth segment of the community, that site is encouraged to consider other options to involve youth in advisory council activities, such as a youth working group, a shadowing/mentoring program, or other creative ways to engage young members of the community.

# V. Member Application and Recruitment Process

## A. Application Process

All nongovernmental members and alternates[8] (if applicable) must be selected through a public, competitive process, as detailed below. Current members and alternates may reapply, subject to the term limits noted below. This process does not apply to governmental seats—as described in more detail below, each government agency with a designated seat on the council is responsible for appointing its representative and alternate to the advisory council and for informing the sanctuary superintendent of those appointments.

### 1. Application Package

The superintendent, or advisory council coordinator working with the superintendent, must develop an advisory council member application package. The application package must contain a cover letter, the advisory council application form or youth seat application form, and the current advisory council charter. The application package may also contain the descriptions of general qualifications and expectations for common seats and the communication protocols discussed in Part III, Section III.

- ***Cover letter.*** In addition to listing the available seats/positions and application deadline, the cover letter should urge applicants to notify ONMS staff of any changes in circumstance that occur after submitting an application that would no longer allow the individual to serve on the advisory council. See appendix 8(e) for the application cover letter template that should be followed.
- ***Application form.*** The general advisory council application form (or the youth seat application form for individuals under age 18) are the only application forms that may be used during the council member recruitment process. The "seat applying for" section of the application form must be altered for each recruitment, depending upon the seat that is being advertised. However, please note that the advisory council application form has been reviewed and approved by the White House Office of Management and Budget (OMB) and cannot be altered in any other way. A site may offer the advisory council application form online in a PDF file or in hard copy.
- ***Current charter.*** Finally, including the current advisory council charter and any current charter amendments with the application package will ensure that prospective appointees understand the roles and authority of the advisory council, as well as the individual responsibilities of members and alternates of the advisory council.

## B. Recruitment

The national advisory council coordinator will maintain a Google spreadsheet or other internal means to track and keep apprised of advisory council recruitments across the system. Local advisory council coordinators must add any scheduled, unexpected, or as-needed positions to be

[8] In this context, "nongovernmental" members may include employees of state and local agencies who are applying to serve on the advisory council in their personal capacities.

filled to the spreadsheet. Each advisory council coordinator should also enter other relevant information, if applicable, in a timely manner (ideally before or concurrent with a given recruitment period).

## 1. Public Notification: Individual Advisory Council Recruitment Periods

All specific seats and positions for which applications are sought and relevant recruitment information must be listed on a site's website in order for the advisory council to solicit applications. The seat application period must be open for a minimum of 15 calendar days and a maximum of 60 calendar days. If a seat fails to receive enough qualified applications during a scheduled recruitment period, the site may re-advertise as needed following these general requirements.

Each advisory council website must have a standing up-to-date recruitment-specific page. This webpage will be the primary means of public notice on advisory council recruitment efforts, periods, and procedures. At a minimum, the webpage must contain the following information:

- A list of all current seats and positions for which applications are sought, or, if there are none, a statement notifying the public to check back at a future time or contact the site for information;
    - Model notice: *We are not currently accepting applications for any advisory council seats or positions. Please check back for future recruitment notices or contact [local advisory council coordinator's name and contact information] for more information about [site] Advisory Council, including recruitment. Our next scheduled recruitment will occur/is expected to occur on or before/around [month and/or year].*
- The start and end dates for the current recruitment period, especially highlighting the postmark/receipt deadline for consideration;
- The name and contact information for the local advisory council coordinator or other ONMS staff person who will receive applications and answer applicant questions; and
- The current OMB-approved application, updated to reflect seats and positions for which applications are being sought during the particular recruitment period, and deadlines.

Webpages may also include the following:

- A link to the ONMS national advisory council website;
- The names, terms, and bios of current primary and alternate members (can be on a separate webpage or in a linked PDF, if desired); and
- Images or other content from current or previous advisory council members to pitch the unique experience and value of advisory council membership.

In addition to posting on their websites, superintendents and local advisory council coordinators are encouraged to work with site media coordinators to use all reasonable methods to publicize the application opportunity and reach potentially interested candidates. As a few examples, publish announcements in local papers, run public service announcements on local radio stations and television channels, and post announcements on social media. The advertisement

should comply with the requirements below and include the site contact information and a link to the advisory council's recruitment webpage. Sites may also work with headquarters to come up with additional suggestions for tools the site may consider using at the local, regional, and national levels. These outreach mechanisms may be used in conjunction with advisory council recruitment webpage announcements but cannot supersede them.[9]

If recruiting candidates for a youth seat, the site should tailor recruitment tools to the different ways young people in the community communicate and the types of media they use. For instance, in addition to the webpage posting, superintendents and local advisory council coordinators should use social media to connect with young people and advertise the seat application opportunity and provide information about the council. ONMS also strongly encourages superintendents and local advisory council coordinators to do a significant amount of outreach to local schools. To do so, superintendents or advisory council coordinators should consider emailing or meeting with school principals to explain the purpose and goals of the youth seat. If the principal supports the idea, then superintendents should create flyers and use multimedia tools to solicit interest. Superintendents and local advisory council coordinators may also connect with local clubs and other youth-oriented organizations to recruit for a youth seat. No matter the outreach methods employed, it is key to gear the outreach and tools to the young audience.

### *2. Application Submission*

Completed applications may be sent by mail, faxed, or emailed as an attachment and must be submitted to the sanctuary superintendent or local advisory council coordinator by the deadline. Upon receipt, applicants should receive a confirmation and be informed that the selection process may take several weeks, but all candidates will receive notice when the application process concludes. This procedure helps assure candidates that they are still under consideration even if they do not hear anything for several weeks.

If an application is received or postmarked after the deadline, it may only be considered if not enough qualified applications were received and the site decides that it needs to re-recruit for that seat. Similarly, if no qualified individuals apply for a seat, it may be necessary to re-advertise for a minimum of 15 days as needed and in accordance with the above notice requirements.

## *VI. Member Selection Process*

## A. Selecting Candidates

### *1. Establish a Preliminary Review Panel*

The superintendent must use a preliminary review panel to receive recommendations on selections. The superintendent subsequently makes recommendations to the ONMS director. Involving the preliminary panel in the review promotes credibility in the overall candidate

[9] ONMS no longer has a policy requirement that it will publish an annual Federal Register Notice of recruitment opportunities. Based on its experience administering and supporting sanctuary advisory councils, ONMS believes that its resources are best directed to more effective public outreach opportunities such as those detailed in this section.

selection process. The superintendent determines the size of the preliminary review panel. ONMS suggests a review panel should consist of three to four members and, to the extent possible, be reflective of the surrounding community. Sites should remove all personal identifiable information, (i.e., home address, personal phone number) from applications before sharing with the preliminary review panel. Panel members are also expected to protect the privacy of the applicants. The applicants' name, affiliation, and question responses may be shared with the preliminary review panel.

For newly established advisory councils, ONMS recommends that the preliminary review panel consist of federal, state, and local agency partners, since seeking consensus from this group would not violate FACA. While ONMS advisory councils are exempt from FACA, including non-agency review panel members from the community for the initial candidate selection process would render the group subject to FACA, since the non-agency panel members would not be members of an established ONMS advisory council. However, the preliminary review panel may include members of the community, subject to the following conditions:

- all review panel members must protect the privacy of the applicants, as described below; and
- non-agency member input must be offered on an individual basis because seeking consensus advice would violate FACA.

For existing advisory councils, ONMS recommends that the advisory council establish the review panel; the panel may be composed of the advisory council's executive committee, as applicable; or, the advisory council may decide to allow other members or alternates of the advisory council to serve on the panel, as applicable. The panel should consist of members who are not applying for the open seat. If anyone currently serving on the advisory council is reapplying for their seat at the end of their term (or the primary seat for which a member is currently an alternate), that member has a conflict of interest and should not sit on the review panel for that seat. If the member or alternate is not reapplying for the seat, there is no conflict of interest. Accordingly, the member or alternate may sit on the review panel with the permission of the superintendent. If an alternate council member seat is open, the current primary council member of the same seat may sit on the review panel, so long as there is no conflict of interest, the primary member's experience on the panel will aid in the selection process, and the sanctuary superintendent concurs.

In all cases, the review panel (including the preliminary review panel) will help determine the top one to three candidates for each seat (this number includes the primary member and alternate candidate recommendations), depending on the number of qualified applicants. For examples of candidate review processes, including ranking systems and rubrics, please see HERE. Meetings of the review panel are not subject to the public meeting requirements discussed in Part III, Section VI.C.1, because the review panel focuses on administrative work rather than the official advisory council business of advising the superintendent on sanctuary management issues. The review panel may provide individual opinions to the sanctuary superintendent if consensus recommendations are difficult to obtain or otherwise undesirable (as noted above, newly established advisory councils involving non-agency members must seek

only individual opinions from the non-agency members). No candidate should be notified about selection status until the ONMS director has reached a final decision.

After selecting the candidates, preliminary review panel members and relevant staff members must abide by the privacy requirements outlined below. As with other advisory council recommendations, ONMS considers the review panel's top candidates, but it is not bound by the recommendations; superintendents may ultimately make their own recommendation to the ONMS director. If the superintendent does not refer the review panel's top candidate(s), the superintendent should notify the ONMS director and the panel members.

## 2. Interviews (optional)

The superintendent may choose to interview applicants as part of the selection process. If desired, the superintendent has flexibility to decide on the format. For example, interviews may be conducted in person, over the phone, or using an online video conference service.

Additional interview guidance applies to certain seats. For instance, if interviewing applicants for a youth seat, ONMS recommends that the superintendent conduct face-to-face interviews with applicants. If selecting a CAL candidate, see additional recommendations for topics to address during interviews below.

## 3. Selection of Advisory Council Candidates for Appointment

After all interviews are complete, the superintendent considers the review panel's recommendations and designates a first and second choice from the top three candidates for each available seat. As with other advisory council recommendations, ONMS considers the review panel's top applicants, but it is not bound by the recommendation; superintendents may ultimately make their own recommendations to the ONMS director. If the superintendent does not agree with the panel's top candidate(s), and decides to put forward a different candidate, the superintendent should notify the panel members and include this information in the official approval memorandum to be signed by the ONMS Director (see Appendix 8(d)).

After selecting the candidates, preliminary review panel members must abide by the privacy requirements outlined below. The selectees' names should be submitted along with a clearance memorandum prepared by the local advisory council coordinator (including the total number of applications received for each seat and position; names of all applicants for each seat and position; brief statement on why the selected candidates were selected; if the review panel and superintendent did not agree on the proposed candidate(s); term; and any other potential issues with the candidate(s)) to the regional director for review. The regional director should review the names and clearance memorandum for completeness and may offer additional comments if desired. The regional director shall then sign the clearance memorandum and submit to the local advisory council coordinator to send to headquarters for vetting and clearance.

## 4. Advisory Council Candidate Vetting/Approval

Before the ONMS director approves the recommended appointees, headquarters personnel will conduct background checks per U.S. Department of Commerce (DOC) advisory council policy. Specifically, selectees must clear a LEXIS/NEXIS public records and background check conducted by NOAA GCOC; and a departmental bureau check for potential conflicts of interest

and any other issues in the applicant's background. The site should allow up to four weeks for these checks to be completed. If any problems occur, the national advisory council coordinator will notify the site. Potential members and alternates should not be notified of status as top candidates, and their names should not appear in any public documents or websites identifying them as advisory council members until after the vetting is complete and the ONMS director signs the approval memorandum.

### *5. Advisory Council Member Notification*

After all selectees have been vetted and the ONMS director has signed the approval memorandum, the site should formally notify, in writing, all approved members and alternates, as well as applicants who were not selected using the templates provided in appendices 10(g)(h) and (i). After all applicants have been notified, ONMS recommends that the site announce the new advisory council members on its webpage and via social media.

New members may be formally sworn in at their first advisory council meeting. This is an optional, ceremonial gesture and is not required.

## B. Additional Requirements

### *1. Governmental Members*

Each federal, state, or local government agency is responsible for appointing its representative and alternate to the advisory council and for informing the sanctuary superintendent of those appointments. Both the primary and alternate representatives may be changed at that agency's discretion, but the agency should notify sanctuary staff in writing when any changes are made. Although ONMS cannot veto an agency's seat appointment, ONMS strongly recommends that the agency representative be someone with sufficient authority to speak for that agency or accomplish commitments with some dispatch.

In addition to these agency appointment guidelines, the following restrictions apply to federal employees and state employees who wish to serve on the advisory council.

#### a. Federal Employees

Under federal law (18 U.S.C. § 205), federal employees are barred from representing anyone other than themselves on any matter before the executive branch or any court, if the United States is a party or has an interest. Service on an advisory council in a nongovernmental seat constitutes representation of the interests of a specific sector, industry, or community before a government agency, and advisory council members make recommendations and advocate for action from the government agency. This means that federal employees are prohibited from serving in a personal capacity in a nongovernmental seat on a sanctuary advisory council, as their roles would involve representing the interests of those other than their own. However, federal employees may be appointed in their personal capacities to serve as a working group member, as long as they do not provide advice directly to the agency and do not represent the interests of another organization, are appointed consistent with all applicable policies and procedures, and as long as they confirm with their agency's ethics office that such service is permissible.

### b. State Employees

State agency employees and members of state legislatures are allowed to sit on advisory councils in a personal capacity. State agency employees must provide a letter of support on official agency letterhead from their state supervisor, but members of a state legislature and public university employees are not required to provide such letters of support. Regardless, both agency employees and members of a state legislature should contact their respective officials to ensure that their state or employer does not have additional or conflicting laws, regulations, or policies about applying for a position on a federal advisory council.

### c. Local Government Employees

Local government employees (city and county) are allowed to sit on advisory councils in a personal capacity. Local government employees do not need to provide a letter of support from their supervisor, but should contact their respective officials to ensure that their city or county employer does not have additional or conflicting laws, regulations, or applicable policies about applying for a position on a federal advisory council.

## *2. NOAA Staff Members*

NOAA staff members, which includes those from ONMS and National Marine Fisheries Service, are not permitted to serve on ONMS advisory councils in a personal capacity (i.e., neither in a governmental seat nor in a nongovernmental seat). This prohibition includes NOAA federal government employees, contract employees, detailees, interns, fellows, and anyone else working for NOAA or at a NOAA office.

## *3. Non-Governmental Members*

All members and alternates (if applicable) for non-governmental seats will be selected through the public, competitive process noted above.

## *4. Advisory Council Member and Alternate Ethics Classification and Federally Registered Lobbyists*

Individuals serving on an advisory council as members or alternates are subject to different Federal ethics rules depending on whether the individual is classified as a federal employee (typically, this would be a federal employee serving in an *ex officio* status in a designated federal agency seat), a special government employee, or a representative. As a general matter, special government employees are appointed to exercise their individual best judgment on behalf of the government, whereas representatives are appointed to provide the council with the points of views of entities or recognizable groups of persons (such as an industry sector or conservation group) that have interests in the subject matter under a council's charge. Federal employees are subject to the full suite of federal ethics rules and regulations. Special government employees are subject to certain federal ethics rules and regulations, such as financial conflict-of-interest and financial disclosure requirements. Representatives are generally not subject to federal ethics rules, but they would be subject to rules against misusing government property, including using government title or affiliation for personal gain. These ethics classifications, in turn, define what restrictions on conduct are applicable to appointed advisory council members, as described below.

The pertinent ethics classifications listed here indicate that from a federal ethics perspective, proposed advisory council representative (nongovernmental) members are not prohibited from serving as a federally registered lobbyist. Some state employees may be prohibited under state law from serving as federally registered lobbyists, and advisory council members who are state employees should be sure to confirm and comply with any applicable state ethics or lobbying restrictions to which they are subject.

Ethics classifications of advisory council members are as follows:

- 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. They may not be federally registered lobbyists.
- Employees of state agencies who occupy a position reserved for that particular state agency would not be considered special government employees because they 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 only be subject to rules against misusing government resources. Employees of state agencies may be federally registered lobbyists unless applicable state rules prohibit serving as a federally registered lobbyist.
- 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. Serving in a personal capacity would place them in the same position as other representatives drawn from the general public (but still subject to state laws that might apply to them). They would be subject to rules regarding the misuse of government resources. They may be a federally registered lobbyists unless applicable state rules prohibit serving as a federally registered lobbyist.
- 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 only be subject to rules regarding the misuse of government resources. Representatives may be federally registered lobbyists.

Each advisory council's charter should briefly document which ethics classifications apply to which seats on the council.

## *5. Citizen-at-Large (CAL) Seats*

CAL seats provide many benefits to advisory councils. Because a CAL seat does not answer to any one user or stakeholder group, the member may be much more objective during meetings, promote harmony and agreement, ease tensions, and facilitate discussions about controversial topics. However, due to its expansive definition, additional guidance is provided on CAL seat recruitment.

CAL seats are fairly broad by design, allowing each site maximum flexibility to select CAL representatives. This broad seat also allows each CAL member and alternate maximum flexibility in fulfilling the duties of the seat, including flexibility to define and connect with their constituents. However, the CAL member and alternate should take care to avoid duplicating another constituent body already represented by the advisory council (e.g., fishing, diving, etc.). Accordingly, perhaps the most difficult roles of the CAL seat are to define their constituent base and develop effective outreach.

During optional CAL seat interviews and new CAL member and alternate orientation, discussions should focus on how these members and alternates define their "constituency" and how they intend to conduct outreach. Members and alternates may find it helpful to start with who they know and then expand connections as they are comfortable. The following list provides some examples of how CAL representatives may narrow their constituent focus and define their constituents based on contacts they have already established:

- CAL members and alternates may rely on their connections with civic or community organizations, like Lions Club, Rotary Club, etc.
- Retired CAL members and alternates may choose to rely on their former business, military, nongovernmental, or agency contacts and networks.
- CAL members and alternates still working may choose to rely on their current work-oriented networks.

Additionally, CAL members and alternates may serve as liaisons to constituents in various ways, including formal presentations at civic clubs and community organizations, town-hall style meetings, community leader briefings, public forums on specific issues, emails or newsletters to constituents, or informal discussions about their respective sanctuaries with members of the community.

A close working relationship between the CAL member and alternate and the site's public relations, outreach, and media staff will also benefit constituent building. However, while ONMS appreciates CAL efforts to serve as a liaison between the advisory council and CAL constituents, these members and alternates should not feel obligated to try to represent the masses of the entire community. ONMS recognizes that representing the entire community would be impossible because there is no one voice to represent a whole population. Thus, while ONMS urges CAL members and alternates to be in touch with a wide array of community perspectives, they are ultimately appointed to represent community perspectives through the lens of their personal experiences and skills, and they should vote accordingly.

During the recruitment and selection process for CAL members and alternates, if a site has either a single CAL seat, or if the advisory council has more than one CAL seat, superintendents should seek to include representation among those appointed individuals from various geographic locations, expertise, connections to particular user groups, etc. The superintendent should also try to avoid having the ONMS director appoint someone to a CAL seat who would really be better suited to another seat (e.g., non-consumptive recreation, conservation, etc.), although some crossover of interests will inevitably occur. These practices will allow the CAL members and alternates to represent as many voices in the community as possible.

## C. Appointee Selection Policies

### *1. Broadening Participation and Perspectives*

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.

### *2. Age Policy*

Advisory council members and alternates must be at least 18 years old, with the exception of an individual filling a nonvoting youth seat. ONMS established the age limit due to the complexity of the issues addressed by ONMS and advisory councils, the ability to effectively network with constituents of all ages, and the ability to travel to meetings and retreats.

If the advisory council has established a youth seat, the following policy applies: Neither the advisory council nor ONMS staff shall release to the public or to the media the personal contact information, including the home address, phone number, or email address of any member under the age of 18. A chaperone (such as a teacher, parent, or guardian) is also encouraged to attend each meeting with the youth member and stay for the duration of the meeting.

## D. Overarching Management Practices

### *1. Privacy Protocols*

Throughout the candidate selection and appointment process, the superintendent should be careful to protect the privacy of the applicants and the reviewers. In general, the superintendent should protect the privacy of the applicants and advise the preliminary review panel to safeguard information provided in the applications.

Advisory councils should be aware that the Freedom of Information Act (FOIA), a court order, or a congressional inquiry could require NOAA to publicly release the following information about reviewers and applicants:

- The names of reviewers, whether they are members of the advisory council or not;
- The names and business information (e.g., work address and phone numbers) of applicants who are chosen as members of the advisory council;
- Other information contained in the chosen members' and alternates' applications that relates to their qualifications to be a member or alternate of the advisory council, including education, professional experience, and professional and community affiliations; and
- The statements of opinion or philosophy that applicants provided in their application packet.

NOAA generally asserts FOIA exemptions to protect the following types of information from release under FOIA, but ultimately courts may determine that public release of this information is required as well:

- The names or other identifying information of applicants who are not chosen as members of the council; and
- The private information (e.g., home address and phone numbers) of chosen applicants.[10]

With the exception of a valid FOIA request, court order, or congressional inquiry, no individuals or organizations should be permitted to see applications for advisory council seats, except the preliminary review panel, ONMS staff members involved in the review process, and NOAA/DOC staff that conduct the vetting. All of these individuals need to safeguard all of the information provided on the applications. The superintendent and advisory council coordinator should consider redacting private information (home address and phone numbers) of applicants before sharing the applications with the preliminary review panel. In no instance should the applications be shared with the general public.

Specific legal requirements for protection of privacy should be discussed with the national advisory council coordinator, who will coordinate with GCOC if necessary.

## E. Application Records Management

Protecting the privacy of applicants during and after the member selection process includes protecting applications for both selected and non-selected applicants.

### *1. Advisory Council Applications for Selected Applicants*

Under NOAA Records Schedule 100-16(a) (records of non-FACA NOAA-sponsored committees), routine administrative records and records of committee members are temporary and should be destroyed when superseded or when no longer needed for current agency business. For record-keeping purposes, ONMS recommends retaining all selected advisory council member and alternate applications for five years after the expiration of the individual's final seat term. ONMS should retain and file the selected applications in a secure location that is only accessible to staff and is approved for storage of personally identifiable information (e.g., in a locked filing cabinet or in a secure computer folder). According to the NOAA Records Schedule 100-16, these applications should be destroyed when no longer needed for current agency business.[11]

### *2. Advisory Council Applications for Non-Selected Applicants*

These applications should either be destroyed by shredding when superseded or when no longer needed for current agency business (according to the NOAA Records Schedule 100-16(a)(records of non-FACA NOAA-sponsored committees)) or retained and filed in a secure location as described above. Applications shall be filed according to the seat applied for. For

[10] This information is generally protected under the FOIA exemption provided in 5 U.S.C. § 552(b)(6), which protects from public disclosure certain records the disclosure of which would constitute a "clearly unwarranted invasion[s] of personal privacy."
[11] NOAA Records Schedule 100-16.

record-keeping purposes, the ONMS recommends retaining council member applications for five years beyond their application date.

## F. Alternate Benefits and Challenges

The use of alternates provides many benefits to the advisory council. An alternate represents a seat in the absence of the primary council member. In addition, alternates can aid in achieving a quorum at meetings, add to overall discussion of issues, ensure a constituent group is at the table even when a primary member is not present, and allow individuals with less time available (due to work, family, or travel obligations) to serve on an advisory council. They can also extend the reach of the advisory council by increasing the voice of constituents, and they play important roles in advisory council subunits. Finally, for advisory councils that have alternates, alternates aid with member recruitment in that they (1) allow individuals to become familiar with the advisory council prior to applying as a primary member, (2) create a recruitment pool for primary members, and (3) provide primary seat applicants peace of mind that primary members are able to miss a meeting and still have their constituents' voices heard via the alternate.

On the other hand, some advisory councils have confronted special challenges when using alternates. For example, there may be a lack of communication between a primary and alternate advisory council member. To address this issue, ONMS staff members should consider establishing regular check-ins with individual seats (both the primary and the alternate member), to increase opportunities to connect these individuals. Such a check-in opportunity also fosters connections between advisory council members, alternates, and ONMS staff. A second issue that may present a challenge with alternate positions is the increased workload for staff (due to increasing the number of individuals on the advisory council). To remedy this issue, advisory councils should be cognizant of the space required for meetings and plan accordingly (e.g., ensure that the meeting room and table size are adequate for all primary and alternate members). An administrative support person, if available, may assist with taking notes and handling logistics so that the local advisory council coordinator can focus on other tasks. As a final example, some sites have found it difficult to recruit for alternate positions. For these advisory councils, it may be helpful to identify individuals who have less time to dedicate or who want to test advisory council membership before committing to a primary seat—the alternate role may be well suited for these candidates. During all optional primary seat interviews, superintendents should ask, when needed, if the applicant is willing to serve as an alternate.

### *1. Alternate Selection and Responsibilities*

Despite their secondary seat status, alternates roles' are nearly identical to those of the primary members of the advisory council. For nongovernmental seats, ONMS selects alternates through the same competitive recruitment process as primary members. For governmental seats, the government agency identifies its member and alternate. During their terms, alternates are encouraged to attend and participate in regular advisory council meetings, even when they are not sitting in for a primary member (although they cannot vote unless filling in for the primary member). Regular attendance will enable alternates to remain current on all issues before the advisory council. Alternates are also encouraged to attend and participate in retreats. Further, alternates can participate in advisory council subunits to the same extent as primary members; at the discretion of the sanctuary superintendent, and if the advisory council approves,

alternates can even chair subcommittees or working groups. Alternates should generally feel as much a part of the advisory council as primary members, subject to the limitations detailed in this handbook and the advisory council's charter. To facilitate alternate engagement with the advisory council, sanctuary staff should encourage attendance and participation at meetings and retreats, and allow alternates to chair subunits.

In the event that a primary member resigns or is removed from an advisory council, superintendents have two options. First, they may appoint the alternate to complete that member's term. Alternatively, superintendents may choose to have the alternate complete the alternate's own appointed term as an alternate, but allow the individual to vote in the absence of that primary member until a new primary member is appointed. The former option enables an alternate to officially act as a primary member and quickly fill the vacant seat, unless an advisory council's charter states otherwise, an alternate can be appointed for the remainder of the primary member's term without advertising for the vacant seat. On the other hand, the latter option keeps the seat temporarily active and still allows the site to openly recruit for a new primary member.

## G. Term Lengths & Limits

Depending on an advisory council's charter, members and alternates can serve two- or three-year terms and may be reappointed. Precise term lengths will be specified in the member's or alternate's appointment letter. However, when a member's or alternate's term is expiring, the member or alternate must reapply if the individual would like to continue to serve on the advisory council, whether in the same seat or a different one; members and alternates cannot automatically be reappointed. Seat terms may be staggered to avoid mass replacements every few years.

Nongovernmental members and alternates cannot serve more than three consecutive terms in the same seat on the same advisory council, but may return to serve on the same advisory council in the formerly held seat following a break of at least one term. This term limit applies to primary and alternate members alike for the same seat, but does not prohibit an individual from applying for a different seat on the same advisory council if qualified and selected. For example, a person may serve one term as the conservation alternate and two terms as the conservation primary member, for a total of three terms. If qualified, that same individual may then apply for a different seat on the advisory council (e.g., CAL) but is capped on the conservation seat at that time.

This policy balances the benefit of including new ideas and a variety of perspectives on the advisory council with the advisory council's effective operation. As noted above, terms may be either two or three years, depending on the applicable advisory council charter. Therefore, a member or an alternate cannot hold the same seat for more than six or nine consecutive years, depending on the individual seat's term length. Members and alternates who have served the maximum term limit are nevertheless encouraged to remain engaged in advisory council activities as members of the public and may consider reapplying to a formerly held seat on the advisory council after a break of at least one term.

There are limited exceptions to this term limit policy. First, the policy applies only to seats that go through the advertised, competitive process; it does not apply to appointed government seats. ONMS refers to the government agencies to designate the primary and alternate members for their applicable seat, including how long each designated primary/alternate member serves. Additionally, the ONMS director will consider waiving the term-limit requirement in the following four situations:

- ***The superintendent determines that continuity of membership is critical.*** This waiver applies to the full advisory council. For example, if the advisory council is at a critical juncture in the management plan review during the expiration of a member or alternate's final term, the superintendent can request that the term limit be waived for a limited time. A superintendent should be aware of such a situation well in advance of recruitment and should request the waiver at least two months in advance.
- ***Enforcing the policy would be culturally inappropriate.*** This waiver is exceedingly rare, and it applies only where the superintendent determines that it would be culturally inappropriate to force member turnover every three consecutive terms. For example, Village Chiefs in American Samoa are exempted from the term limit policy on this basis.
- ***The seat is historically challenging to fill.*** This waiver is appropriate either where the remote location of the sanctuary creates difficulty in recruiting new members or alternates to fill advisory council seats, or where a particular seat has been shown to draw a limited applicant pool after good-faith attempts to fill the position, and the continued opening would disrupt an advisory council from fulfilling its responsibilities. To qualify for this waiver, the term-limited member or alternate should be notified of the situation and advised not to apply during the initial recruiting period to provide an opportunity for other candidates to apply. If, despite adequate advertising, there are no qualified applicants at the end of the period, the superintendent may seek a waiver from the ONMS director (see below). After approval, the site must engage in a second recruiting period, during which the term-limited member or alternate may apply. At the close of the second recruiting period, the signed memorandum from the ONMS director must accompany the application throughout the review process, and that member or alternate's application should be reviewed on equal footing with all other applicants.
- ***An alternate member has served three consecutive terms in one seat and would like to be considered for the primary position.*** This waiver is appropriate when an alternate member has served three consecutive terms in one seat (i.e., terming out), applies for, and is competitively selected to serve as a primary member in the same seat for one additional term. The term-limited individual should apply for the primary position through the regular recruitment process. The application will then be reviewed by the preliminary review panel along with all other applications received and submitted to the superintendent. If the superintendent decides to select the termed-out alternate member for the primary position for the same seat, a memo requesting the waiver should be submitted along with the standard clearance package to the ONMS director for review and approval.

To request a waiver in any of these circumstances, the superintendent must generally send a memorandum to the ONMS director, through the regional directors, justifying the need. If the ONMS director grants the waiver, he or she will sign the memorandum and return it to the superintendent. The signed memorandum must be posted on the site's webpage.

# VII. Member Training

ONMS recommends multiple levels of basic orientation or training for new advisory council members and alternates (both governmental and nongovernmental) and periodic training for seasoned members.

## A. Informational Material

### 1. Site-Specific Orientation Package

The site may provide informational material to members and alternates, ideally as part of an orientation package. The orientation package may include:

**National or programmatic information:**

- general information on NOAA and ONMS;
- this handbook;
- ONMS advisory council support documents (e.g., one-pagers, annual reports, directories); and
- additional material such as ONMS publications or products that other sites have used for their advisory councils, if useful to new members and alternates.

**Sanctuary-specific information:**

- introduction letter from superintendent;
- map of the sanctuary;
- organizational chart of the sanctuary office;
- list of employees, their duties, and contact information; and
- brief history of sanctuary activities and description of ongoing sanctuary projects; and recent newsletters, annual reports, or other publications, if useful to new members.

**Advisory council-specific information:**

- the advisory council charter and any advisory council bylaws;
- information on the advisory council's structure, including current officers and existing working groups and subcommittees;
- contact information and brief biographies of other members;
- the advisory council's most recent annual report;
- the advisory council's annual work plan;
- background information on advisory council matters currently under discussion;
- a schedule of future meetings with locations; and
- travel protocols.

### 2. Constituent-Building Tools

The site staff may also provide all advisory council members and alternates with a basic package of constituent-building informational materials, as well as training on how best to use the tools to engage with constituents. ONMS recommends the site outreach and communications staff members participate in this component of the training, if given.

## B. Orientation

New Monterey Bay National Marine Sanctuary Advisory Council members being sworn in by NOAA staff. Credit: Nichole Rodriguez/NOAA

### 1. In General

The superintendent and local advisory council coordinator should provide a general orientation for new members and alternates, either one-on-one with the new individual or with a small group if multiple new members are starting at once. This general orientation will introduce new advisory council members and alternates to ONMS, the sanctuary site, and the advisory council, as well as begin to establish a relationship between the sanctuary site and the members and alternates. In particular, the general orientation should review the advisory council charter and this handbook.

### 2. Seat-Specific Orientation

ONMS also recommends a seat-specific orientation, which would describe the role and scope of the seat, emphasize the need to continually reach out to the constituents of new advisory council members and alternates, describe how past members and alternates fulfilled the responsibilities of the seat, and highlight tools available to the member and alternate to reach out to their constituents. To assist with the training and provide perspective, the former advisory council members and alternates should be invited to attend the meeting if possible. ONMS recommends that other ONMS site staff members participate in this orientation, as appropriate (e.g., education coordinator participates in orientation of advisory council education member).

### 3. Suggestions for Conducting Orientations:

Outlined below are steps existing site staff have used to orient new members and alternates. This list is a general outline that site staff may use to help guide them through the process.

- Send new member selection letter via email.
- Prepare an orientation agenda.
- Send the new member or alternate an email scheduling their orientation and include the agenda, relevant online resources, and the site-specific handbook to help them prepare for the orientation.
- Prepare/update any presentations for the orientation.

## C. Staff Mentoring

ONMS staff members may also mentor new advisory council members and alternates according to the seats being filled. For example, the new advisory council member or alternate filling the research seat may meet and develop or strengthen a close working relationship with the ONMS research coordinator. These relationships, however, must not be used to circumvent the advisory council process by having the member or alternate provide advice directly to staff members or engaging the staff members in side meetings. The superintendent and local advisory council coordinator should facilitate and foster these relationships.

### 1. Advisory Council Member and Alternate Mentoring

As another mentorship option, a new member or alternate may also be paired with a veteran member of the advisory council, who could assist the new member or alternate and be available for questions.

### 2. Additional Training

Beyond the basic orientation/training offered to all new members and alternates, advisory council members and alternates should be offered additional training when possible and when a need warrants it and if resources are available. Such training might include courses on working with the media, facilitating meetings, conflict resolution and mediation, and consensus building. Regional or national opportunities may also be available to provide training if resources are available.

# VIII. Conflicts of Interest

## A. Overview

A conflict of interest arises where an advisory council member or alternate has an interest outside advisory council membership (including financial, personal, or business interests) involving any matter before the advisory council or one of its subunits. In general, a conflict of interest is present even if a member or alternate with an outside interest has the potential to influence the advisory council's discussion or recommendation; it is not necessary that influence actually take place. Although advisory council members serving in a representative status are not subject to the full suite of federal ethics and conflict of interest rules, advisory council members must still comport themselves with integrity and may not misuse their official council

positions to directly benefit themselves or another.[12] Finally, the rules outlined here do not apply to federal employees who serve on the councils, as federal employees are subject to the suite of ethics statutes and regulations for federal employees.

## B. Effects on Advisory Council Decision-Making

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. 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. After disclosing the advisory council of the conflict, the member or alternate has two choices:

1. The member or alternate may participate in the deliberations, so long as the member or alternate does not partake in the vote or consensus;
2. Alternatively, after disclosing the conflict, the conflicted member or alternate may choose to refrain from discussing the matter. In either event, the member or alternate may remain in the room for the discussion, but the member should leave for the vote. If both the primary and alternate have a conflict, both should abstain from voting and leave the room.

Where primary members recuse themselves from a particular matter, alternates may assume the member's place. To substitute the voting privilege, the primary member must state for the record before leaving the room that the seat alternate is officially sitting for the vote. The substitution and voting privilege is limited to the particular matter(s) that the primary member authorizes and should be documented in the meeting minutes. After an alternate has assumed the role of the primary member, the alternate can participate fully in the discussion and consensus and cast a vote on the matter. When the member returns to the meeting after the vote, the alternate resumes alternate status at the meeting.

Members or alternates who fail to timely disclose conflicts of interest and recuse themselves from voting on the matter are subject to removal under the advisory council removal process outlined in Part III, Section VI.C. These conflict of interest guidelines apply equally to members of working groups who are not members or alternates of the full advisory council.

## C. Examples

Advisory council 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. While by no means an exhaustive list, the following examples outline a few situations where advisory council members and alternates have confronted potential conflicts of interest. Advisory council members and alternates should direct any specific questions about conflicts of interest or situations that may present a conflict of interest to their respective local advisory council coordinator, who will work with the national advisory council coordinator and General Counsel to resolve them.

[12] Office of Government Ethics Memorandum 05x4, "Federal Advisory Committee Appointments."

## 1. Gifts Offered in Connection with Advisory Council Membership

Advisory council members and alternates may not generally accept gifts that are offered because of their affiliation with the advisory council or ONMS staff members. To do so may give rise to a potential conflict of interest and would violate the general principle that advisory council members and alternates may not use their affiliation with the council for personal profit. However, there is a limited exception to this rule. When the gift is (1) of nominal value, (2) exchanged as part of a customary gesture of courtesy or hospitality, *and* (3) could not be construed by an impartial observer as a bribe, pay-off, improper, or illegal payment, then an advisory council member or alternate can accept the gift without creating a conflict of interest. However, all three of these requirements must be satisfied.

## 2. Soliciting Sanctuary Constituents for Personal Business

Advisory council members and alternates must not use their advisory council affiliation to solicit ONMS constituents for personal business or a business operated by a close friend, relative, business associate, corporation, or partnership. Any use of a member or alternate's position on the advisory council to solicit such contacts constitutes an improper use of the member or alternate's position on the advisory council and may give rise to a conflict of interest.

## 3. Community Service Settlement Payments from the National Marine Sanctuary Foundation

When a federal environmental lawsuit settles, the Department of Justice may require that the defendants make community service payments to mitigate their environmental damage. In the case of national marine sanctuaries violations, these payments often go directly to the National Marine Sanctuary Foundation. The National Marine Sanctuary Foundation then distributes the money for the benefit of the harmed sanctuary. NOAA does not directly oversee or manage these funds. As a result, advisory council members and alternates may receive community service settlement payments from the National Marine Sanctuary Foundation without creating a financial conflict of interest.

## 4. Relatives Concurrently Serving on Advisory Councils

In some cases, family members have applied to serve on the same advisory council at the same time. Advisory councils may generally permit relatives to sit on the advisory council concurrently without creating a conflict of interest. However, advisory council members and alternates may not serve on the preliminary review panel reviewing the seat(s) and positions for which close relatives[13] are applying. Members and alternates serving on the preliminary review panel or in another capacity where they would potentially review or recommend a relative's application must alert the superintendent and recuse themselves.

[13] A "close relative" is defined as the spouse, parent, child, sibling, uncle, aunt, first cousin, niece, nephew, stepparent, stepchild, stepsibling, half sibling, parent-in-law, child-in-law, or sibling-in-law.

# IX. Restrictions on Conduct of Members and Alternates

## A. Overview

While advisory council members and alternates are not employees or affiliates of NOAA, advisory councils would not exist but for the National Marine Sanctuaries Act. Thus, because these bodies were created under federal statute, advisory council members and alternates derive their authority from the National Marine Sanctuaries Act and NOAA, and may be seen as

representing the federal government when acting in their "official" capacities as advisory council members and alternates. In addition, NOAA cannot request or authorize a sanctuary advisory council to take an action that NOAA does not have authority to take directly.

Although advisory council members and alternates serving in a representative status are not subject to the full suite of federal ethics and conflict of interest rules, members and alternates are subject to rules against misusing government property, including using government title or affiliation for personal gain. Advisory council members and alternates must comport themselves with integrity and may not use their official council positions to directly benefit other roles in which they serve. Advisory council 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; rather, the role of advisory council members and alternates is to provide advice and recommendations to ONMS and the site.[14]

Since special conduct restrictions apply to advisory council members acting in an official capacity, the following paragraphs define what it means to act in an official capacity versus a private capacity. Advisory council members and alternates may not switch between acting in their "official" and "private" capacities during any advisory council meeting or event.

### *1. "Official Capacity" Definition*

Acting in an "official capacity" means that members and alternates are acting within their roles as a member or alternate of the advisory council or acting on behalf of the advisory council. For example, advisory council members and alternates act in their official capacities when they attend and participate in advisory council activities including, but not limited to, full council meetings, subunit meetings, retreats and field trips, and public scoping meetings. Advisory council members and alternates may also act in their official capacities when they are conducting business for the council before any audience—internal or external—including NOAA, the media, or constituents. When advisory council members and alternates act in their official capacities, they must clearly identify themselves as advisory council members or alternates. For instance, they may introduce themselves to others as advisory council members or wear a name tag that clearly indicates their affiliation with the advisory council.

[14] For example, advisory council employees and alternates may not sign permits, memoranda, or other documents on behalf of NOAA.

### *2. "Private Capacity" Definition*

On the other hand, advisory council members and alternates are not representing the federal government when they act in their private capacities, meaning that advisory council members and alternates are not participating in advisory council events, conducting official business of the advisory council, or holding themselves out as members or alternates of the advisory council. For example, members and alternates may act in a private capacity when submitting an opinion piece to a newspaper without purporting to speak on behalf of the advisory council (either in the text itself or by using their advisory council affiliations in the signature). It is important to clearly distinguish between positions adopted by the advisory council as a body and the individual opinions of council members and alternates. No council member or alternate may speak for the council as a body unless the full council has approved that member or alternate doing so. Advisory council members and alternates expressing personal opinions in their private capacities should include disclaimer language when there could be confusion to alert the public that the message represents the individual's own personal views and not those of the advisory council.

### *3. "Volunteer" Status*

Despite serving voluntarily, advisory council members and alternates are not legally considered "volunteers" and do not operate under the same laws or requirements as other federal volunteers. Nevertheless, advisory council members and alternates acting in their *private* capacities may participate in an official ONMS volunteer program. In these cases, the affected members and alternates should work with ONMS staff to complete the appropriate volunteer forms, and members and alternates must adhere to NOAA's and ONMS's volunteer requirements since they are not acting in an official capacity during the volunteer activities.

## B. Restrictions on Advisory Council Member Conduct

In addition to conflicts of interest restrictions, there are several other federal laws, such as the prohibition on the use of appropriated funds for grassroots lobbying, and ethical rules that apply to advisory council members and alternates. These restrictions also apply to working group members, who are not members or alternates of the full advisory council.

### *1. Lobbying Restrictions*

Lobbying can apply to all forms of outreach and communication, from in-person to online. As a federal agency, NOAA is prohibited by 18 U.S.C. § 1913 from using appropriations for letter-writing campaigns or similar activities designed to influence any official of any government concerning any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of a bill or other measure. NOAA is also prohibited from grassroots lobbying under the annual appropriations act provisions.[15] Grassroots lobbying is an indirect attempt to influence pending legislation by urging members of the public to contact members of Congress to express support of or opposition to legislation or to request them to vote in a particular

[15] The prohibition on grassroots lobbying does not prevent the advisory council from providing comments to NOAA on legislation and does not prevent NOAA from subsequently approving the transmittal of those comments to the legislature, as described in Part III, Section III.F, Communicating Advisory Council Comments to External Parties.

manner. NOAA may not advocate for advisory council members or members of the public to lobby Congress or any legislature. Advisory councils will provide comments to NOAA, who will decide whether to forward to Congress or a state legislature.

However, this restriction does not apply to advisory council members and alternates acting in a private capacity; individual members and alternates may contact congressional representatives—or whomever else they would like—to express their personal views as private citizens (unless the individual member or alternate is subject to other lobbying restrictions under federal or state law due to their role outside of the sanctuary advisory council context), but not as advisory council members or alternates. For more information on advisory council communications with Congress, see Part III, Section III.A below.

### *2. Limits on Use of Advisory Council Title*

Like federal government employees, advisory council members and alternates are prohibited from misusing their position and are prohibited from misusing government resources. Thus, they are not authorized to use their advisory council affiliation for private gain. Advisory council members and alternates should consider their advisory council title to be government property; it should be used only in connection with official and approved advisory council activities. Accordingly, referencing a member's advisory council title or affiliation with the federal government is inappropriate when an advisory council member or alternate is expressing a personal opinion.

As a general matter, if an advisory council member or alternate wishes to express a personal opinion on a sanctuary issue, the member or alternate should not reference their advisory council title or affiliation with the federal government. On the other hand, advisory council members and alternates acting in a private capacity may reference their title or advisory council membership as part of their biographic information, so long as the biography does not exclusively include the advisory council position. For example, if advisory council member Sam Smith presents at a community function in a private capacity, Sam may not be introduced as "Sam Smith, Chair of the local sanctuary advisory council." However, her introduction may state that she works in a local dive shop, volunteers with a nonprofit organization, and serves as the chair of the local sanctuary advisory council. Where the title is used in conjunction with other background information, as in the second example, the multiple affiliations clarify that the member does not purport to communicate on behalf of any one of them, but rather in a private capacity.

Business cards may also state the advisory council member or alternate's title with contact information. However, the business card must not be used in any manner that constitutes an improper invocation of the advisory council member or alternate's affiliation with the advisory council or ONMS. For example, an advisory council member may not include an advisory council business card in a private communication where including the business card would be construed as an attempt to speak on behalf of the advisory council. However, the business card may be used in private communications where the member would not be perceived as acting in an official capacity, such as for the exchange of basic contact information. Of course, advisory council business cards may also be used when the advisory council member or alternate is engaged in advisory council business.

## 3. Limits on Use of Advisory Council Position

Similar to the use of the advisory council title, advisory council members and alternates must not misuse their position. 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. The following non-exhaustive list illustrates legal, ethical, and policy principles governing the conduct of members and alternates (as well as working group members who are not members of the council):

- Advisory council members and alternates may not profit from their positions on the advisory council.
- Advisory council members and alternates may not seek to influence an issue by invoking their advisory council affiliation, except when participating in official advisory council activities.
- Advisory council members and alternates may not engage in any activities that would lead to a conflict of interest with respect to their advisory council positions. Among other examples, members and alternates may not cast a vote on any advisory council matter that would provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest. Any council member or alternate who has an interest in any matter before the council, subcommittee, or working group shall identify such interest prior to discussion and voting on the matter.
- Members and alternates must not use their affiliation with the advisory council to solicit the sanctuary's constituents for a personal business or one operated by a close friend, family member, business associate or a corporation or partnership in which the member holds a significant interest.
- Except for official advisory council purposes, advisory council members and alternates may not use or allow others to use nonpublic information obtained in connection with their advisory council affiliation.
- Advisory council members and alternates may not speak for the advisory council unless the full council has approved of the communication.
    - When an individual member communicates in a private capacity with the public or any government body beyond local ONMS staff about any matter regarding the sanctuary, the member or alternate must clearly distinguish the recommendations, opinions, or positions officially adopted by the advisory council from those the member or alternate may assert as an individual. A member must never represent his or her individual opinions as those of the advisory council, the superintendent, ONMS, or NOAA.

Misuse of the advisory council member or alternate's position may result in removal from the advisory council.

## 4. Friends Groups and Foundations

In general, advisory councils may work with friends groups and foundations (like the National Marine Sanctuary Foundation or local foundation supporting a particular national marine sanctuary) just as they would with any other public organization: the organizations may receive and disseminate information and help build constituencies in the community. While working

with these groups does not generally create a conflict of interest, advisory councils (including their members and alternates when the members and alternates are acting in their official capacities, such as at an advisory council meeting) may not establish or fund a friends group, solicit donations for a friends group, nor may they endorse one friends group over another. Doing so would constitute an improper use of the member or alternate's official position on the advisory council and may give rise to a conflict of interest. Advisory council members and alternates acting in their official capacities as advisory council members and alternates, including during advisory council meetings and advisory council events, may not solicit donations for their friends' group/foundation or otherwise seek to use their official advisory council positions or titles for personal benefit.

## C. Liability, Compensation, and Legal Representation

### *1. Liability*

Advisory council members and alternates who suffer illness or injury as a result of their official service on a council are eligible for compensation under the Federal Employees Compensation Act (FECA). The eligibility provisions and exceptions established by statute may be found at 5 U.S.C. Chapter 81, Subchapter I. Advisory council working group members and alternates who are not advisory council members or alternates also are eligible for compensation under FECA for illness or injury sustained as a result of their official service for the council and working groups.

Any liability claim brought by a third party against an advisory council member, working group member, or alternate will be governed by the Federal Tort Claims Act (FTCA). The relevant provisions of the FTCA may be found at 28 U.S.C. §§ 1346, 2671-80. In accordance with the FTCA, the United States will be substituted as defendant in place of any individual sued for claims arising in connection with their performance of official duties on behalf of an advisory council or working group.

The FECA and FTCA apply to claims arising in connection with official activities such as:

- advisory council meetings,
- subunit meetings,
- retreats and field trips,
- public scoping meetings, and
- other activities where they are authorized to represent the advisory council or introduce themselves as advisory council members or alternates at a sanctuary-sponsored event (e.g., constituent outreach).

The FECA and FTCA will not apply to claims brought by or against council members, working group members, and alternates that arise from harms suffered while in transit to and from these activities or while otherwise acting in a private capacity.

# X. Officer Positions

## A. Positions

The advisory 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. The chair and vice-chair serve two-year terms, and each may serve a maximum of two consecutive terms if reelected. The advisory council may also elect one member to serve as secretary. The advisory council secretary's term is either one or two years (depending on the advisory council's charter). Like the chair and vice-chair, the secretary may also serve two consecutive terms, if reelected. In addition to their specific duties outlined below, each of these advisory council officers is expected to continue fulfilling the general roles of all advisory council members, including representing constituents.

### *1. Chair*

The chair schedules and sets agendas for all advisory council meetings with the approval of the superintendent, presides over all meetings of the full advisory council and ensures that meetings are run according to accepted meeting practices, signs all correspondence and documents authorized by the advisory council, and generally represents the advisory council's interests and concerns to ONMS and the public.

### *2. Vice-Chair*

The vice-chair assists the chair as necessary in performing executive duties of the advisory council. The vice-chair also serves as chair in the absence of the chair.

### *3. Secretary*

The secretary assists ONMS staff in performing administrative duties (recording minutes, tracking action items, drafting correspondence, preparing the annual advisory council report, etc.) as directed by the chair or vice-chair. In the absence of a vice-chair, a secretary can serve as the acting vice-chair.

## B. Eligibility & Nominations

Any advisory council member, including current officers and nonvoting members (except superintendents and their designees, who are not advisory council members), may nominate individuals, including themselves, for advisory council officer positions. Alternates, however, may only nominate individuals for an officer position if the primary member is absent during the meeting where nominations are made. Any primary member of the advisory council, including governmental seats and nonvoting seats (with the exception of the superintendent (who is not an advisory council member), other superintendents from local sanctuaries who are nonvoting members or their alternates, and youth seat representatives), may be nominated and elected as an officer. If allowed for by the local site in consultation with the chair, nominations may be emailed to the local advisory council coordinator before the election or hand written onto ballots during an official council meeting, before voting for officer candidates takes place. Each nominee should accept the nomination before the officer election begins.

If desired, a chair, vice-chair, or secretary may leave his or her current position to run for a different advisory council officer position. If the chair, vice-chair or secretary is elected to the new position, the advisory council shall nominate and elect a new representative for the vacated position.

## C. Elections

### *1. Process*

All members of an advisory council may vote for officers, including those that hold nonvoting seats. Alternates may vote only when filling the seat of an absent primary member. Superintendents and/or their designee(s), however, may not participate in elections, as they are not advisory council members.

To hold elections, the advisory council must have a quorum of at least a simple majority of its total—primary membership present and voting—including nonvoting seats, but excluding alternates. Officers are then elected by receiving a simple majority of the total votes cast. Note that the quorum and winning threshold requirements for officer elections differ slightly from those required for general voting procedures.

All votes shall be made by written ballot. Write-in nominees on the ballot are permissible.[16] Members who will not be present at the time of the election may submit their votes in writing to the superintendent prior to the meeting (hard copy, email, or text message); when this is done, the alternate for that member may not vote. The alternate may vote if officially sitting in for the absent primary member.

### *2. Timing*

Ideally, an officer election should take place at the advisory council meeting prior to the completion of the officer's term to allow the newly elected individual to get up-to-speed for the next meeting. If an election is not held in advance (particularly for the advisory council chair position), ONMS recommends that the retiring officer remain in their seat for the election. The newly elected officer may begin serving in his/her position immediately upon being elected or he/she may choose to begin serving at the next meeting.

If an officer resigns, the advisory council should hold an election at the next regularly scheduled advisory council meeting. However, the site may allow the vice chair or other officer to temporarily fill the position until the next election. The newly elected individual may begin serving in the position immediately if comfortable. Otherwise, the new officer may begin serving at the next meeting.

If it becomes necessary for a current officer to fill in for a vacant position, interim positions are as follows. If the chair resigns, the vice-chair fills that role until the new chair assumes the position. If the vice-chair resigns, the secretary fills that role until the new vice-chair assumes the position. If the secretary resigns, the position may remain vacant until the new secretary assumes the position. In extraordinary circumstances, if all officers resign at the same time, the advisory council can agree to allow a primary advisory council member to serve as interim chair

[16] See Henry M. Robert, Robert's Rules of Order 424–29 (Sarah Corbin Robert et al., eds., 10th ed. 2000).

until new officers are elected. New officers should be elected at the next scheduled advisory council meeting.

# XI. Advisory Council Subunits

## A. Overview

An advisory council chair, with the concurrence of the Superintendent, may create subunits (subcommittees and working groups) that report to the full advisory council on specific issues. Official subunits of the advisory council are subject to the terms of the advisory council's charter. Thus, all members of the subunit, whether full advisory council members or alternates or not, are subject to the terms of the charter and this handbook unless otherwise stated. All subunits working on substantive matters (as opposed to administrative functions of the advisory council) must submit their findings or recommendations to the full advisory council for deliberation at a public meeting. 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. Each advisory council's charter must outline the procedures for providing information and recommendations to the advisory council.

### 1. Selecting Subunit Officers

Subunits shall have a chair to preside over meetings, and may also have a vice-chair and a secretary, as appropriate. If multiple members are interested in running for a subunit officer position, subunit members should vote in the same manner as detailed above for full advisory council officer elections. The chair of the full advisory council has the discretion to ask a subunit participant to serve as the subunit chair (or as another subunit officer).

## B. Subcommittees

### 1. Creation and Purpose

The chair, in consultation with the advisory council as a whole and with the concurrence of the superintendent, may create subcommittees as necessary to fulfill the advisory council's duties. Subcommittees shall be recognized as official subunits of the advisory council and are subject to all requirements in the charter and this handbook.

Subcommittees may be established on a temporary or permanent basis to carry out advisory council duties. For example, chairs of advisory councils may find it useful to create an executive subcommittee to serve as its administrative body. This executive subcommittee would work closely with the local advisory council coordinator and handle administrative activities such as setting the time and place of meetings, selecting agenda items (with the superintendent's approval), and overseeing meeting conduct. If created, it should consist of the advisory council 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, the executive subcommittee members (for advisory councils that have such subcommittees) may also serve as the preliminary review panel for advisory council member and alternate applicant reviews. Meetings of an executive subcommittee are not

subject to the public meeting requirements discussed in Part III, Section VI.C.1, because executive subcommittee meetings focus on administrative and informational/preparatory work rather than the official advisory council business of advising the superintendent on sanctuary management issues. The executive subcommittee may work directly with the superintendent and coordinators on administrative and informational matters such as those described in this paragraph.

Advisory councils, in concurrence with the superintendent, may decide to disband standing subcommittees if it is deemed necessary.

### *2. Composition*

Subcommittees shall be composed solely of members and alternates of the council. While subcommittee officers should generally consist of primary members, alternates may serve as subcommittee officers at the superintendent's discretion. Regardless of the seat status, only adult members are eligible to serve as officers of a subcommittee.

## C. Working Groups

### *1. Creation and Purpose*

The chair, in consultation with the advisory council as a whole and with the concurrence of the 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 are established on a temporary basis to address specific issues. They shall disband once the final advice on the particular matter is submitted to the advisory council.

### *2. Composition*

Working groups may consist of both advisory council members and alternates and people outside the advisory council. However, all officers of the working group must be adult members of the full advisory council, either as primary members or alternates. Any alternates wishing to serve as officers of working groups must have the superintendent's approval. In any event, the working group shall function under the authority of the advisory council, so working group members who are not members or alternates of the full advisory council are still subject to the member and alternate conduct expectations outlined in the charter and this handbook.

Superintendents and advisory councils may establish the procedures for determining membership on working groups. Non-advisory council members on working groups are not typically selected through a competitive process. ONMS staff can help identify and recruit individuals to serve on working groups. However, in all cases, the superintendent must approve each working group member.

## D. Youth Working Groups

### *1. Creation and Purpose*

A youth working group provides a way to engage interested young people on specific issues concerning the sanctuary. ONMS strongly supports youth involvement in sanctuary management and encourages superintendents and advisory councils to establish youth working groups whenever appropriate.

A youth working group must operate according to the same parameters as all other advisory council working groups. To reiterate, all working groups, including youth working groups, must submit their findings or recommendations to the full advisory council for deliberation at a public meeting.

### *2. Composition*

A youth working group may have a maximum of eight people. However, ONMS recommends that superintendents and advisory councils consider a smaller group, particularly when convening the group for the first time.

Along with its youth members, a youth working group must also include adult members. Like all working groups, an adult advisory council member must chair a youth working group. Further, in addition to the working group chair, at least one other adult should serve on the working group and be present every time the working group meets. An ONMS staff member must also attend for the duration of each youth working group meeting.

The following requirements will help advisory councils establish a productive youth working group. Similar to the requirements for a youth seat, appointment to a youth working group requires members to:

- Be at least 14 years old at the time they apply;
- Attend a school (including homeschools) in the area affected by the sanctuary;
- Have a proven ability to communicate and network with other students;
- Possess an interest in sanctuary resource protection and management;
- Have experience or knowledge regarding public uses and activities in the sanctuary;
- Have a reliable source of transportation to attend working group meetings and occasional advisory council meetings;
- Provide a letter of recommendation from one or more teachers; and
- Serve a maximum of two years, terminating either when the working group's work is complete, the youth member reaches their 18th birthday, or the youth member graduates from high school, whichever comes first. (At the superintendent's discretion, this requirement may be waived, allowing a youth member to serve on the working group past their 18th birthday or high school graduation.)

Once selected, ONMS staff will contact the youth member to request:

- Written permission from parent/guardian,* and

- Written permission from school administration to participate on the working group (only if working group or advisory council meetings require a student to miss school.)*

*Permission slips will grant blanket permission for all youth working group meetings and advisory council meetings. In addition to the ONMS permission slip, schools may require their own paperwork. Selected students should check with their school if the youth working group participation requires them to miss class or required school events and work with ONMS to complete any such paperwork.

## *3. Special Considerations for Youth Working Groups*

ONMS strongly encourages superintendents and local advisory council coordinators to conduct significant outreach to local schools prior to the advisory council establishing a youth working group. For example, superintendents should consider emailing or meeting with school principals to explain the youth working group concept. If the principal supports the concept of a youth working group, after the advisory council establishes a youth working group, superintendents should consider creating flyers and using multimedia tools to solicit interest. Superintendents and local advisory council coordinators should also use social media to connect with young people and advertise opportunities for youth to get involved with the advisory council. No matter the outreach method employed, it is key to gear the outreach and tools to the young audience.

Typically, advisory councils do not use a competitive process to select working group members. However, if a superintendent or advisory council feels a competitive process to fill a youth working group is appropriate, youth member applications may only ask a single, open-ended question, such as “Why do you want to serve on the youth working group?” Although the applicants should answer the question in written format and provide a hard copy, they may also be encouraged to supplement it with a PowerPoint, video, or other type of media. This additional submission would allow for creativity and perhaps serve as a window into how they would communicate with others, especially their peers. Like all working groups, superintendents must approve of members selected to serve on a youth working group.

# Part III:
# Advisory Council Routine Operations

Small fish swim with a sea jelly. Credit: NOAA

# I. Meeting Formats

## A. Meeting Frequency

An advisory council must meet at least once every six months, but the full advisory council may not meet more than once each calendar month (meetings can be 30 to 180 days apart). There are exceptions to this rule for emergency meetings, as discussed in Section I.D below. Generally, advisory councils meet in a public forum monthly, bimonthly, or quarterly. The superintendent, in consultation with the chair, schedules meeting times, locations, and establishes agendas. To the extent possible, meeting dates should be scheduled a year in advance so that members can plan to attend. An advisory council's success depends largely on its members' consistent attendance and participation at meetings, so it is vital that members make every effort to attend all regularly scheduled advisory council meetings, for the full duration of each meeting.

## B. Hosting Environmentally Friendly Meetings

ONMS recommends implementing environmentally friendly practices into all advisory council meetings and retreats. Advisory councils may take incremental steps to implement "green" practices over time. Advisory councils are encouraged to be creative, but some suggestions to get started include:

- using reusable dishes and utensils instead of disposable ones;
- bike, walk, or carpool to meetings;
- provide sustainably sourced materials for the advisory council (as appropriate);
- reduce and reuse items as appropriate (such as paper), and recycle as much as possible;
- compost food waste;
- select food that is organic, sustainable, and/or locally grown; and
- include virtual meeting technologies (such as video conferencing) to reduce waste and enhance advisory council communication ability, particularly for subcommittee and working group meetings.

## C. Full Advisory Council Meetings

A public meeting of the National Marine Sanctuary of American Samoa Advisory Council. Credit: Alaese Tauofe/NOAA

The primary method for advisory councils to discuss sanctuary matters is through a regularly scheduled full advisory council meeting. These meetings are open to the public, and all matters discussed are therefore public. Members should be mindful of this fact and use discretion when presenting sensitive advisory council information at meetings. In addition, ONMS staff are subject to restrictions on publicly conveying particulars of pending, predecisional, and deliberative policy matters. Because advisory council meetings are public meetings, ONMS staff are limited in providing updates on pending, predecisional, and deliberative matters at public meetings, although in some situations general information and updates may be provided.

### *1. Public Notice*

To ensure the public has an opportunity to attend meetings, each advisory council must publish a timely notice of each full advisory council meeting with the local media. Advisory council coordinators are also encouraged to include notice of the meeting on the sites' websites and to use other means of publicity that are likely to reach interested people. The notice should be posted at least 15 calendar days before the meeting and must include the meeting time, place, and agenda.

*Note: all requests to add meeting notices to websites should be submitted to the web team well in advance of the 15 day deadline.*

The advisory council may not vote on any agenda item for which the public did not receive advance notice. Thus, if the public did not receive the requisite notice of the meeting itself, the advisory council may not vote on any matter.

This public notice requirement does not apply to advisory council workshops or retreats that address administrative matters of the advisory committee such as strategic planning, administration, training, or team building.

### *2. Public Participation*

To be sure that all interested members of the public have access to meetings, advisory councils should hold full advisory council meetings throughout the region near the sanctuary. The advisory council should choose meeting locations that are accessible to the public and that can sufficiently accommodate an audience. Meeting facilities must also comply with the Americans with Disabilities Act.[17] In addition to traditional face-to-face meetings, advisory councils may also find it beneficial, or necessary due to public health concerns, to meet using available technology. Each full advisory council meeting, both in-person and virtual, must provide the public with an opportunity to deliver written or oral comments on agenda items and other pertinent topics. To limit interruptions and distractions, public interaction with advisory council members and alternates during meetings should be limited to public comment periods and breaks. The public is also free, and encouraged, to reach out to council members or alternates in advance of meetings, and outside of meetings, including the periods immediately before and after meetings to bring up topics they wish the member or alternate to bring up on a constituent's behalf.

### *3. Agenda Notice to Advisory Council Members*

The superintendent should provide advisory council members and alternates with the meeting agenda, including all action items, at least 10-15 days before the meeting. The agenda should clearly identify agenda items that are expected or designed to bring about an advisory council action (such as a vote, a letter, or another form of advice to the superintendent) as "expected action" items. It should also label any agenda topics that could result in an action as "possible action" items. Advisory council members and alternates should be encouraged to carefully review the draft agenda and prepare as necessary for expected or possible action items. The more prepared members and alternates are, the more productive the meeting will be.

## D. Emergency Meetings

Should a situation arise that cannot wait until the next scheduled advisory council meeting, the chair and superintendent may call an emergency meeting. Emergencies will likely result where a significant issue arises between regularly scheduled meetings, requiring input before the next scheduled meeting. For example, an accident may require immediate advisory council input and constitute grounds for an emergency meeting. In calling the meeting, the chair and superintendent must define the applicable emergency.

In these exceptional circumstances, the chair and superintendent must provide public notice that is reasonable under the circumstances. If providing less than 15 days' notice, the reasons for doing so must be included in the notice. Emergency meetings shall be open to public participation and shall provide the public with an opportunity to deliver written or oral comments on agenda items and other pertinent topics.

[17] 42 U.S.C. § 12101 et seq.

An emergency meeting may be a good time to employ multiple technologies to facilitate the meeting. For example, within certain parameters, the meeting may be conducted virtually, as described in Section III.D below.

## E. Canceled Meetings

In the event that an already-advertised council meeting must be canceled (due to inclement weather, natural disasters, or other emergency), the local advisory council coordinator and the advisory council must make every attempt within reason to notify the public before arrival at the meeting venue. For example, the advisory council coordinator should send email notifications, submit a request to post the cancellation notice online, request radio announcements, and pursue any other method likely to reach interested members of the public. The advisory council coordinator or another staff member should also post the cancellation notice on the meeting venue doors for anyone who misses the other notifications (unless the emergency makes it unsafe for travel to the venue to post the notice). If possible, the cancellation notice should provide the time and location of the rescheduled meeting.

## F. Advisory Council Retreats

### *1. Overview*

While it is generally desirable to have public attendance and participation at advisory council meetings, occasions may arise when an advisory council will want or need to conduct activities that pertain to administrative or operational functions of the council, rather than to substantive issues of sanctuary management. In such cases, the advisory council may host a retreat. Activities that are usually appropriate for a retreat include:

- strategic planning for advisory council operations;
- team building;
- solving problems related to advisory council operations;
- brainstorming;
- training;
- developing annual operating plans or activity work plans; and
- hosting advisory council member recognition or appreciation events.

Inappropriate activities for retreats include those that may involve discussions of public interest. Therefore, retreats cannot be used for any purpose that might require qualitative deliberations among advisory council members and alternates (e.g., comments on an important public document or project), or that would lead to a vote or recommendation to the superintendent. As a result, there should be no voting at an advisory council retreat.

The retreat, including outcomes and any participant commitments, must be recorded in some fashion. These recordings can be more informal than typical meeting minutes, and may include notes, photos, or slides. Following the meeting, they should be circulated to all participants for review to ensure accuracy.

### 2. Advice for Planning Effective Retreats

To increase the usefulness and enjoyment of retreats, advisory councils and local site staff members should consider the following factors, which are based on input from several advisory councils that regularly hold successful retreats:

- ***Goals.*** Early in the planning process, advisory councils should ensure the retreat has clear goals that all participants understand. Participants should be aware of their specific roles and responsibilities in carrying out the goals. This awareness will help the advisory council and ONMS obtain results that align with the purpose of the retreat.
- ***Retreat Scheduling and Duration.*** To enable maximum participation, advisory councils, local advisory council coordinators, and superintendents should plan retreats well in advance. Advisory councils should also carefully consider the retreat's duration, acknowledging that participants are likely balancing other obligations with the desire to attend the retreat. In general, retreats should not extend beyond one day. A retreat that spans more than one day would incur lodging expenses for participants who do not live within commuting distance.
- ***Cost Considerations.*** Superintendents and local advisory council coordinators, in consultation with advisory council chairs, should balance costs against the need for holding the retreat. Costs that could be incurred include travel (mileage, per diem, and hotel expenses), meeting rooms, and facilitators/trainers (if used).
- ***Retreat Location.*** Retreats tend to be more successful if they are conducted outside normal office or meeting locations. Nevertheless, to facilitate travel and alleviate costs, advisory councils should generally hold retreats near the majority of participants' homes or offices.
- ***Participation.*** To have a successful retreat, participants must believe in its purpose and participate fully in the planned activities. Retreats should generally include as many ONMS staff and advisory council members and alternates as facilities and funding allow. Broad participation helps strengthen working relationships between advisory council members, as well as between advisory council members and ONMS staff.
- ***Retreat Format.*** Retreats should be treated as a special event, not a regular advisory council meeting. The retreat should be planned to achieve its goals, but it should also be enjoyable. Over-planning and crowding the retreat with too many work activities will likely lead to an unsuccessful retreat. Thus, advisory councils should include fun events and sufficient breaks in the schedule. Advisory councils should also consider how they would prefer to conduct the retreat, i.e., whether it should be run by ONMS staff or external facilitators. If applicable, the advisory council should also consider the style and quality of trainers or presenters.

## G. Subunit Meetings

There are a few primary differences between full advisory council meetings and subunit meetings. First, subunit meetings that focus on administrative or preparatory work are generally not subject to the same meeting limits or public notice requirements as full advisory council meetings. However, the superintendent can impose these rules on the subunits, if desired.

Additionally, the format of the meeting is less formal for subunits. Both subcommittees and working groups can hold meetings as necessary and conduct them by whatever approach the members feel is productive. Subunit chairs are responsible for leading the meetings, including developing and managing meeting agendas, tasks, and action items. ONMS staff may assist subunit chairs in distributing agendas and supporting documents in advance of each meeting.

### *1. Role of Subunit*

Subunit members must also understand that subunits do not directly advise ONMS staff or the superintendent. The work product of each subunit is limited to developing written reports and recommendations for the full advisory council. Therefore, instead of submitting their work product to the superintendent, the subunit must present its work to the full advisory council for deliberation at an open meeting. The advisory council must deliberate—and not simply rubber stamp—the report or recommendations to determine what to ultimately recommend to the superintendent. The advisory council can also choose to provide the superintendent with supporting documents, such as the subunit's meeting notes. If the advisory council does not incorporate information from the advice of a subunit, it shall inform the superintendent and explain its rationale, along with the advisory council's ultimate advice.

### *2. Role of ONMS Staff in Subunit*

Although ONMS staff members are not required to attend subunit meetings, they are strongly encouraged to attend when possible. When ONMS staff members attend, their roles should be clearly defined, and they should remind subunit members that subunits do not directly advise ONMS staff or the superintendent. ONMS staff meeting participation should be limited to assisting with meeting logistics, providing or presenting technical information, and passively observing the meeting. ONMS staff can also help feed information into a subunit report, but the staff should not be an active participant in subcommittee discussions, or offer opinions or agreements to any subcommittee statements or recommendations. An ONMS staff person may also facilitate the meeting. It is recommended that a subunit member record the meeting minutes; however, if requested by the chair of the subunit, a staff member supporting the subunit may assist the group by recording the minutes. If the subunit is addressing policy matters (vs. technical matters), the local advisory council coordinator may provide policy information necessary for the subunit to ensure any proposals are in line with national policy before the subunit presents the proposals to the full advisory council.

In the case of working groups, ONMS staff members and working group members are strongly encouraged to ensure that all members of the community that are represented by the working group are aware of the working group's existence and its membership.

## *II. Meeting Procedures*

### A. Robert's Rules of Order

Advisory councils may choose to follow Robert's Rules of Order as default procedures for conducting meetings where this handbook, the advisory council charter, and any site-specific bylaws/protocols are silent. Advisory councils should not feel strictly bound to these procedures, but some of the concepts in Robert's Rules may be useful for facilitating orderly discussion,

including having the chair recognize members who wish to speak and using a motions procedure to reach decisions. However, to facilitate or expedite advisory council business, Robert's Rules may be set aside as the superintendent and chair deem necessary.

## B. Consensus Advice and Voting Procedures

For an advisory council to take action on an agenda item, the council must first, at a public meeting, either reach (1) consensus on the matter, or (2) a favorable vote on the matter by a simple majority of the total eligible voting members on the council. Where possible, consensus is preferred to majority vote.

### *1. Quorum*

For an advisory council to take action, whether through consensus advice or a vote, there must be a quorum. For purposes of sanctuary advisory council meetings, and in order to promote the efficient and productive use of council meetings, NOAA defines "quorum" as follows:

A quorum requires at least a simple majority of the advisory council's currently-appointed voting members (which may be different from the total number of voting seats designated in the charter) to be present and participate in each matter. To participate means to cast a vote or participate in the consensus decision.

For example, where a charter designates 15 voting seats, but there are only 10 currently appointed voting members, a total of 6 voting members must be present and participate in each matter (6 members is a simple majority of 10 members). Abstentions do not qualify as "participating" As such, in this example, if one member abstains pursuant to the abstention procedure below, then at least seven voting members of the advisory council would need to be present, six of whom cast a vote or participate in the consensus on the particular matter.

While no quorum is technically necessary to hold the meeting itself, the advisory council cannot vote or come to a consensus on any matter absent a quorum on each matter.

### *2. Consensus Advice*

ONMS encourages advisory councils to seek consensus over voting when possible. In its most literal sense, "consensus" means that everyone in a group (or at least a simple majority to meet the quorum requirement) "consents" to the same course of action. It does not necessarily mean that everyone consents with the same degree of fervor. Consensus advice implies a commitment to support (and not undermine) the advisory council's efforts on the matter under consideration. In efforts to reach consensus, advisory councils should allow all voices to be heard and seek out creative solutions to formulate advice capturing the variety of viewpoints.

However, consensus advice is not always practical. When advisory council members cannot reconcile different opinions, they should not prioritize consensus advice over advice that accurately reflects the various constituencies' views. In situations where consensus advice is not feasible, advisory councils should vote on the issue. Advisory councils may also wish to include a dissenting opinion with the majority where advisory council members largely fall into two groups with diverging views.

## 3. General Voting Procedures

When voting on an action item, the item must receive a simple majority of the total number of eligible voting members on the advisory council. For example, suppose on an advisory council with 15 voting seats and there are 15 currently appointed voting members, there are 12 voting members present, and the vote breakdown is as follows: eight in favor, three against, and one abstaining. In this situation, the matter would pass because 11 members cast a vote (meeting the quorum requirement) and a majority (eight) of the total eligible voting members on the advisory council voted in favor. However, if 11 voting members were present and the vote breakdown showed four in favor, three against, and four abstaining, then the vote would fail because a quorum was not present and voting (only seven members cast a vote), and even if there were a fifth vote in favor (so that there were eight total voters), the threshold would not be satisfied to pass the matter. Where so many members refuse to vote on an issue, it may indicate that more discussion is necessary before a vote is appropriate.

On all matters, except officer elections, advisory councils should vote by voice (viva voce), standing, or show of hands.[18] However, if preferred, an advisory council may use any method prescribed in Robert's Rules of Order (such as by written ballot or roll call) so long as no member objects to the chosen procedure. If a voice vote produces an inconclusive result, the chair must conduct a standing or show-of-hands vote to verify the count. Alternates may vote on advisory council matters only when filling the seat of the absent primary member. To promote transparency, the outcome of the vote, including those in favor, opposed, and abstaining, must be reflected in the meeting notes. If there is unanimity, no breakdown is required, but the meeting notes should state that the vote was unanimous.

## 4. Abstentions

Absent a conflict of interest, voting members on advisory councils should generally vote on all matters, since voting expresses the seat constituency's position. However, when a member wishes to remain neutral on an issue, that representative may abstain from voting. To abstain, the member must inform the other members of the advisory council and provide an explanation for refusing to vote. The same would apply to an alternate, acting in the absence of a member, to abstain. Note, if a primary member chooses to abstain, the corresponding alternate may not vote in the primary members' place. Any abstentions (along with their explanations) must be included with the vote breakdown in the meeting notes.

An abstention is not a "vote." Because advisory councils require that a simple majority quorum be present and voting, the abstention is not counted for purposes of achieving the quorum, and it does not count as either a positive or negative vote toward the passing threshold. Where a member abstains, other members of the advisory council may vote on the matter, assuming enough members are otherwise present and voting to hold the vote. For example, if 11 of 15 members are present and four members choose to abstain, the council may not vote because they do not have a quorum present and voting (eight voting members needed). On the other hand, if 11 of 15 members are present and one member chooses to abstain, a vote may ensue since a quorum is present.

[18] See Henry M. Robert, Robert's Rules of Order 395–96 (Sarah Corbin Robert et al., eds., 10th ed. 2000).

## 5. Anonymous Voting

With the exception of officer elections, anonymous voting is not allowed. For transparency reasons, advisory council voting must be conducted in an open manner such that the public knows who voted which way. Because advisory council members represent certain constituent groups, the individuals that make up those constituent groups will want to know how a particular member is voting to ensure the member is adequately representing the constituent group's views.

## 6. Proxy Voting

Proxy voting (absent members authorizing substitutes other than alternates to vote in their place) is not permitted. Because advisory councils are deliberative bodies, the discussions and interaction of members with each other, ONMS staff, and the public are as important to ONMS as the act of voting. Members are expected to attend and participate in most (if not all) meetings. If the advisory council charter provides for alternates, the seat alternate may vote in the primary member's absence. If a member and the seat alternate (if applicable) will be absent from a meeting where a vote may be taken, the superintendent may, in rare cases, with advance notice and approval, permit the member or alternate to participate and vote by phone or video call.

## 7. Nonvoting Advisory Council Members

### Nonvoting Governmental Members

Nonvoting governmental members do not play a role in forwarding advisory council recommendations to the superintendent or in other actions that might require a vote. However, at the superintendent's discretion, the nonvoting governmental member is allowed to make motions, second motions, raise issues, suggest resolutions, and otherwise fully participate on the advisory council. Further, these members (with the exception of the superintendent or designee) may fully participate in officer elections, including nominating individuals for officer positions, rules of voting during officer elections, and serving as an officer (though other local superintendents and their designees who are part of the advisory council may not serve as officers).

### Nonvoting, Nongovernmental Members

If an advisory council has nonvoting, nongovernmental seats (such as a youth seat), these members operate under the same parameters as nonvoting, governmental members. While not permitted to participate in advisory actions that require a vote, the nonvoting member is allowed to make motions, second motions, raise issues, suggest resolutions, nominate individuals for the advisory council officer positions and otherwise fully participate on the advisory council (at the superintendent's discretion). These members may also nominate individuals for officer positions and vote during officer elections. Adult nongovernmental, nonvoting members may serve as advisory council officers, but any youth members may not serve as officers.

### Superintendent or Designee

ONMS representatives that participate in advisory council meetings in a nonvoting capacity (such as the superintendent or his/her designee, as they are advised by the advisory council) have a much more limited role in advisory council activities than nonvoting members and alternates do. These individuals may only participate in discussions; they may not participate in any other capacity, including officer elections. However, in some circumstances, superintendents of neighboring sites may sit on an advisory council in a government seat. The rules that apply to other government seats would similarly apply to sanctuary superintendents.

## C. Meeting Minutes

Advisory councils must keep minutes of each meeting, typically through the advisory council secretary or another person specified by the superintendent. These minutes need not contain verbatim transcripts, but they must include, at a minimum, the meeting time and date, members in attendance, summaries of matters discussed (including outcomes, opposing views, and vote breakdowns, if applicable), and any other highlights. At the start of the following meeting, the advisory council must approve the draft meeting minutes from the previous meeting by agreeing that the draft meeting minutes accurately reflect that meeting's outcomes. After approval, the draft meeting minutes become final.

Final minutes of each advisory council meeting must be made available to the public, either via the advisory council website, listserv (if used), or email, or by making them available upon request. Draft minutes that have not yet been finalized should also generally be available to the public upon request. When an advisory council secretary takes official meeting minutes, an ONMS staff member must also keep a copy of minutes of each meeting for ONMS records.

## D. Technology at Meetings

### *1. Advisory Council Virtual Meetings*

Regardless of how meetings are conducted, they must always comply with public notice, open meeting, and other legal requirements. In addition to traditional face-to-face meetings, advisory councils may also find it beneficial or necessary due to public health concerns to meet using available technology. For example, meetings may be conducted by teleconference or video conference, with links to handouts and public access instructions provided online. The public would then be able to listen to the discussion in the virtual meeting and follow the materials in the virtual handouts. As necessary, virtual public meetings serve as reasonable substitutes for in-person meetings as long as they provide the public with advance notice of the virtual public meeting and a meaningful opportunity to participate by providing oral and written statements on the agenda items. The meeting notice should indicate the mechanism by which members of the public may participate and provide comments, including any registration requirements.

ONMS recommends posting virtual handouts at least 48 hours before the virtual meeting to allow the public adequate time to access and review the documents. If one set of virtual handouts has already been posted and needs to be replaced by an updated set, ONMS recommends posting both sets of documents, with document titles or descriptions that direct

the public to the appropriate set. The chair should also refer the public to the correct handouts at the beginning of the virtual meeting.

When deciding to hold a virtual meeting, the superintendent and advisory council chair should consider the advantages and disadvantages of doing so. ONMS places a high value on the discussions and interactions of advisory council members, and virtual meetings do not promote the same level of interaction. Thus, while it is permissible—at the superintendent's discretion—to use technology to facilitate advisory council communications, it should not permanently replace regular, in-person advisory council meetings. It may, however, be used frequently for subunit meetings, as well as any emergency meetings. For additional information on virtual meeting best practices, please see here.

### 2. Costs

ONMS can provide a toll-free call-in number for virtual meetings but cannot cover costs such as phone bills, satellite time from a vessel or plane, or other related costs. ONMS staff members at individual sites will provide the call-in numbers, arrange the calls, and cover the costs for their advisory council. Advisory councils may also be able to use or download free software online, such as Google Meet, to participate in a virtual meeting. If an advisory council uses a paid software to host meetings, such as GoToWebinar, it should ensure that the public is able to participate at no cost.

### 3. Individual Member Virtual Meeting Attendance

On very rare and exceptional occasions, and at the superintendent's discretion, individual advisory council members may be permitted to participate and vote in advisory council meetings via phone, video conference, or any other live-stream technology. A primary member seeking to participate virtually must request permission from the superintendent with enough time to make the appropriate technological preparations. In deciding whether to allow a member to virtually attend a meeting, the superintendent should take into account the high value that ONMS places on in-person participation and the technical feasibility of allowing virtual participation at the meeting venue. If the seat alternate is able to physically attend the meeting, then that person constitutes a sufficient replacement for the physically absent primary member.

A member's virtual participation should not become a substitute for normal in-person attendance and should only be used as a last resort. If the superintendent allows a member to participate virtually, that member is expected to participate fully and not simply call in to vote.

The same cost limitations apply to individual member participation as full advisory council virtual participation. To arrange a toll-free call-in number, the member would contact the local advisory council coordinator or superintendent.

## III. Advisory Council Communications

One of the most enduring challenges that ONMS staff and advisory councils face is that of communication, both internal and external. The following guidance applies to the advisory council as a body and to individuals when they are functioning in their official capacities as members or alternates of the advisory council. In all cases, advisory council members and

alternates are expected to conduct themselves in a civil fashion, showing courtesy and respect to other advisory council members and alternates, ONMS staff, and the public. The following subsections are broken down by type of communication (those that are advisory and those that are not) and recipient. Procedures differ, so advisory councils and members and alternates must be careful to follow the correct protocols. As always, members and alternates are free to communicate as they wish, with whomever they wish, as private individuals (when not in their official capacities as advisory council members or alternates), subject to the restrictions on use of the advisory council title, position, and affiliation in Part II, Section IX.C. Members and alternates should direct any questions to the superintendent or local advisory council coordinator before issuing any communication.

All communications originating from the advisory council shall include the following disclaimer (or similar wording, per individual advisory councils' charters):

*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 Office of National Marine Sanctuaries and the National Oceanic and Atmospheric Administration.*

As a general principle, 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.

These safeguards ensure that the advisory council is not purporting to advise others beyond the scope of its legal mandate or purporting to speak for ONMS or NOAA in an official capacity, as opposed to on its own behalf as an advisory body.

## A. Communicating Official Advice, Recommendations, or Other Action Items

As noted above, section 315 of the National Marine Sanctuaries Act authorizes the Secretary of Commerce to establish advisory councils to advise and make recommendations to the Secretary of Commerce. Establishment and administration of advisory councils has been delegated to the ONMS director. Sanctuary advisory councils do not directly provide advice to the ONMS director, instead advice is communicated through superintendents. Additionally, there may be instances where advisory councils provide advice beyond the ONMS director. This section provides protocols for communication of council advice, recommendations, or action items to the sanctuary superintendent, to the ONMS regional director, to the ONMS director, and to NOS, NOAA, or DOC.

## B. To Sanctuary Superintendent (General Procedure)

The following protocol governs communicating advisory council advice and documenting advisory council majority opinions and minority (dissenting) opinions to the superintendent. Advisory councils may provide advice to the superintendent on any topics relevant to the sanctuary.

**All Written or Verbal Advice, Correspondence, or Information Relevant to the Sanctuary:**

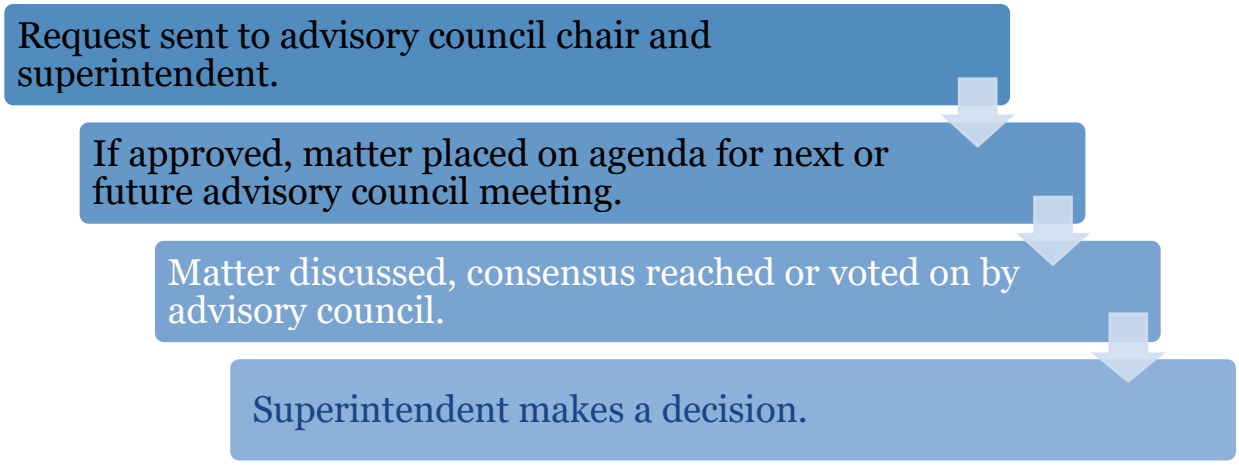
Any matter that an advisory council member wishes to bring to the superintendent's attention must be brought to the chair and the superintendent so that it can be considered for inclusion on a future meeting agenda. The superintendent may also request advice on specific issues from the advisory council. As noted above, the advisory council may not vote on any matter that was not included on the agenda provided for public notice at least 15 days prior to the meeting.

After discussing and reaching a consensus or voting on the matter, the advisory council must provide advice directly to the superintendent via a written recommendation or a motion (written or verbal). The advisory council must concurrently present the written majority opinion and any dissenting opinions to the superintendent. If the advisory council votes on the advice, the written recommendation should include any opposing votes and abstentions. Where the advisory council passes a verbal motion instead of a written recommendation, the superintendent should also receive the meeting minutes. The meeting minutes should accurately capture any final motion made and reflect opposing views or votes and any abstentions. Draft recommendations and verbal discussions must also be included in the minutes; they shall serve as additional background information for the superintendent.

After receiving the above materials from the advisory council, the superintendent will then make a decision on the issue. The next course of action will depend on whether the superintendent agrees or disagrees with the majority opinion. If the superintendent agrees with the majority, no action is necessary; the superintendent may begin to implement the decision or refer it to the appropriate higher contact. Nevertheless, as a courtesy, the superintendent should notify the advisory council of the decision. The decision may then be sent to ONMS leadership for their information at the superintendent's discretion.

On the other hand, if the superintendent dissents from the majority opinion, the superintendent may document the difference of opinion in writing with a short narrative describing the rationale. This written decision should be forwarded to the ONMS director for review and acknowledgment using the Cover Memorandum for Council Communications. The superintendent should also send a copy of the written decision to the advisory council. Following the ONMS director's acknowledgement, the superintendent may either implement the decision or refer it to the appropriate higher contact. The procedures in this paragraph are discretionary, but ONMS will generally follow these procedures for significant advisory council issues.

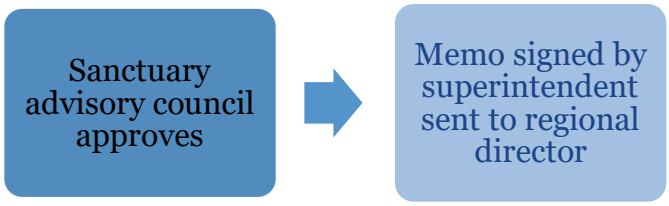
**Individual Member Request to Bring Matter to ONMS Attention:**




Any advice, correspondence, or information the advisory council wishes to send beyond the superintendent shall similarly be approved by the advisory council (either by voting or achieving a consensus). The transmittal of the communications beyond the superintendent must be approved by the superintendent. In all cases, the following subsections discuss the procedures that apply depending on the intended recipient of the advisory council's communication.

## C. To Regional Director

Advisory councils may sometimes choose to provide advice or recommendations to regional directors. The advisory council must transmit these communications through the superintendent and local advisory council coordinator according to the superintendent communications guidelines noted immediately above. All communications should include a cover memorandum from the superintendent to the regional director.




The advisory council's regional director must be included in advice or recommendations to the ONMS director. The regional director must be copied on emails sent by local advisory council coordinators on behalf of sanctuary superintendents to ONMS headquarters that include any advisory council action, such as new member and alternate selections, resolutions, letters, etc.

In high-profile or controversial actions, advisory councils may choose to involve the regional director before advisory council decisions made as a body are submitted by the superintendent to the ONMS director. If the advisory council works with the regional director, the local advisory council coordinator must track these actions closely and ensure that the decision package comes back to the advisory council for submission to the ONMS director, in accordance with the procedures in Section A.III.

## D. To ONMS Director

Advisory council-related communications that ask an ONMS headquarters staff person, such as the director, to act may require resolutions or other actions to be forwarded through the regional director to headquarters. The local advisory council coordinator should actively track all such correspondence through the entire process. The following procedures will ensure that the appropriate parties receive the communication and respond in a timely manner:

**Protocol for Requesting ONMS Headquarter Action:**

When advisory councils communicate with the ONMS director, the superintendent should include the Cover Memorandum for Council Communications. The cover memorandum is an internal document that is intended to provide the ONMS director with background information on the advisory council communication, state the superintendent's position, and outline which of the following actions is needed from the ONMS director:

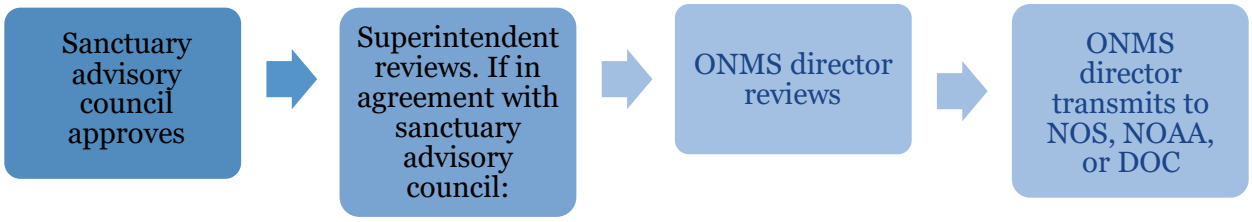
1. No response needed, the information is being shared as a matter of courtesy; or
2. Written response from the director is required (include a draft response); or
3. Receipt of the communication via the Advice Acknowledgement Template is required (site must fill out and attach the template – Appendix 9). Please note, the Advice Acknowledgment Template is an external document that is intended to be shared with advisory councils to show that the ONMS director has acknowledged their advice and/or recommendations.

## E. To NOS, NOAA, or DOC

In addition to ONMS, advisory councils may wish to submit advice or recommendations to NOS, other parts of NOAA, or DOC. As with other advisory council documents, these communications

should be sent according to the above procedures first to the superintendent, through the regional director, to the ONMS director, with the Cover Memorandum for Council Communications. Other memoranda transmitting the communication from the ONMS director up the chain of command should also be included.

**Advisory Council Wishes to Send Advice or Recommendations to NOS, Other Parts of NOAA, or DOC:**




Superintendents and local advisory council coordinators should work directly with the national advisory council coordinator as described above, to ensure these communications are appropriately tracked and addressed. The local advisory council coordinator should also track all correspondence through the entire process to ensure a timely response from the appropriate party.

Advisory councils generally will not communicate with other parts of NOAA or DOC. However, any requests for information, assistance, or advice from these organizations must be made in writing through the superintendent, in the same manner as described previously for communicating advisory council advice or recommendations.

## F. Communicating Advisory Council Comments to External Parties

There may be some instances in which a council conveys official communications to other federal agencies, to Congress, or to other external parties. Section 315 of the NMSA provides that sanctuary advisory councils "advise and make recommendations to the Secretary of Commerce regarding the designation and management of national marine sanctuaries." 16 U.S.C. 1445a(a). Per this statutory provision, a council is only authorized to provide official advice and recommendations to DOC, NOAA, ONMS, and the superintendent (as delegated). 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 DOC, NOAA, or ONMS.[19] Because councils are authorized to advise and make recommendations "regarding the designation and management of national marine sanctuaries," any council advice, recommendations, or comments, whether transmitted beyond ONMS or not, (i) must affect the

[19] Because authority delegated is also retained at the source, DOC and NOAA may also authorize the transmittal of council advice, recommendations, or comments to third parties. However, in routine advisory council operations, the council advises either the site superintendent or the ONMS director, and either the superintendent or ONMS director (as applicable) is the individual who would make the decision whether to approve the transmittal of council advice, recommendations, or comments to third parties.

planning or management of the sanctuary system 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 NMSA. In addition, 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 should consult legal counsel before sharing any information that is potentially proprietary, potentially contains personally identifiable information, or is otherwise sensitive or potentially controversial.

## 1. To Federal Agencies Outside of DOC

Subject to the procedure outlined above, advisory councils, as bodies, may provide comments or input, or request information or assistance, on matters relevant to the sanctuary, to federal agencies outside of DOC. Two procedures govern advisory council recommendations issued outside the DOC:

- If the advisory council is commenting on a proposed government action that is presently open for public comment, the advisory council chair or other approved member authorized by the advisory council, or the local advisory council coordinator, with the superintendent's approval, may submit the comments (as voted on and approved at an advisory council meeting) directly to the agency via regulations.gov.
- If the advisory council is providing comments on a matter that is not open for public comment, the advisory council should follow the general procedure of providing the advice to the superintendent, who will then review, and, if (s)he approves the transmittal, will route it to the appropriate party or will authorize the council to transmit the comments directly to the third party.

The method of transmitting comments is subject to the superintendent's discretionary approval. As noted above, all comments must be on council letterhead with the appropriate disclaimer.

## 2. To Congress or State Legislatures

NOAA cannot request or authorize a sanctuary advisory council to take an action that NOAA does not have authority to take directly. NOAA cannot request or authorize advisory councils (or their members) to conduct any activity that would constitute grassroots lobbying. To avoid even an appearance of such prohibited activities, advisory councils may not advocate for members of the public to lobby Congress or any legislature. In addition, advisory councils may only correspond with a Congress or a state legislature subject to the process outlined here.

If advisory councils wish to convey advice, correspondence, or comments to Congress or a state legislature, the council must first vote on and approve the advice, correspondence, or comments, at which point it must be submitted to the ONMS director for approval. The ONMS director may, at their discretion, approve the transmittal of council advice or comments to Congress or

the state legislature. ONMS will work with the NOAA Office of Legislative and Intergovernmental Affairs to transmit the comments through official channels. ONMS should consult legal counsel before sharing any information that is potentially proprietary, potentially contains personally identifiable information, or is otherwise sensitive or potentially controversial. All comments must be on council letterhead with the appropriate disclaimer.

The only situation where an advisory council may communicate directly with Congress is where Congress specifically requests a response from the advisory council. If responding to a congressional inquiry directed at the advisory council, the advisory council must follow the general procedures to meet as a body to determine a response, and coordinate conducting its response to Congress with the superintendent. Any response the council plans to send to Congress should be sent to the ONMS director to acknowledge and provide feedback using the Cover Memorandum for Council Communications.

Advisory councils may also comment and advise NOAA on relevant legislation affecting NOAA and the sanctuary. With the superintendent's approval, an advisory council may make a recommendation to NOAA via the ONMS director concerning the legislation for the agency to take into account during its own decision-making process. NOAA may also inform Congress of advisory council positions on such legislation.

Nothing in this handbook prohibits individual advisory council members or alternates from contacting members of Congress in their private capacities as private citizens on their personal concerns. For guidance on distinguishing when a member is acting in an official capacity versus a private capacity, see Part II, Section IX.

### *3. Between Advisory Councils and the Media*

One or more members or alternates may communicate with the media on behalf of the advisory council on matters that pertain to advisory council agenda items, but only if the member(s) or alternate(s) have received consent from the full advisory council and approval from the superintendent at an advisory council meeting to be the media contact(s). Further, before relaying information to the media, the advisory council must draft (and approve) either talking points, a position paper, or some other guidance that articulates the advisory council's position on the specific topic to be discussed. The required disclaimer must be included in any communication between the advisory council and media.

The advisory council must provide the superintendent and the local advisory council coordinator with a copy of the finalized media comments, and the superintendent must approve it before the selected media contact(s) may engage with the media. When communicating with the media, the advisory council media contact(s) should follow the approved comments closely to ensure that the information relayed is consistent and accurate.

Advisory councils and their members and alternates are not authorized to discuss issues with the media that do not pertain to the sanctuary. For example, they may not comment on broader NOAA or DOC issues. Instead, advisory councils should refer any such comments to ONMS staff for an appropriate response.

As always, advisory council members and alternates acting as private individuals may speak to the media about any topic.

## 4. To Other External Parties (Does Not Include Congress or the Media)

On some occasions, it may be appropriate for the advisory council to provide comments, communications, or information, or to forward a copy of the council's official advice and recommendations to ONMS, to external parties (other than Congress or the media), such as state or local agencies, foundations, or friends groups. Any such communication will probably result from a motion during an advisory council meeting, but as with all other advice, the superintendent must approve the decision to transmit the comments to the external party (applies to both examples below). In such cases, the advisory council can send written comments according to one of the following procedures below, as determined by the superintendent. Regardless of which procedure is followed, the comments, communications, or information may only be shared with the external party if the ONMS director or superintendent approves the transmittal and the method of transmittal. However, if a council wishes to submit comments to the National Marine Sanctuary Foundation, a nonprofit organization that partners with the Office of National Marine Sanctuaries, an acknowledgement memo, with the appropriate signatures, should be routed to the national council coordinator for the director's review and acknowledgement before any comments are submitted to the foundation.

- The advisory council may follow the general procedure of submitting the communication to the superintendent and request that it is forwarded to the appropriate contact(s).
    - This procedure is best when the superintendent would like to provide context for the decision, refer to past or related issues, or clarify the advice. It is also appropriate for particularly sensitive or contentious issues where the recipient would place more value on a decision passing through the superintendent.
- When the superintendent determines that the above procedure is not appropriate, the advisory council may (with the superintendent's approval) forward the comments directly to the external party, being careful to include the requisite formalities (printed on advisory council letterhead with the appropriate disclaimer, etc.).
    - This procedure may be appropriate where the recipient would place more value or credibility in the comments coming directly from the advisory council rather than passing through NOAA.

In addition to sharing written advice with external parties, advisory council members and alternates may also share information orally on behalf of the advisory council (such as at a public hearing) when it is appropriate to do so. The advisory council must officially approve, through a vote, the oral comments before they are shared and communication of the comments should be coordinated with the superintendent. Sharing of the oral comments is subject to the superintendent's approval. Approved oral comments should be read verbatim, or at a minimum, highlight only the main points of an approved communication.

On occasion, advisory councils may provide comments on issues that have national policy implications. The superintendent should determine whether the issue rises to this level, and if so, should be sure to provide the ONMS director with an opportunity to review and acknowledge

the Sanctuary Advisory Council's comments/recommendations. To do so, the site should submit a Cover Memorandum for Council Communications with the appropriate signatures to the national council coordinator to submit to the ONMS director. The memo should instruct the ONMS director to review and sign to acknowledge what has transpired.

## G. Communications of Advisory Councils and their Members and Alternates (Other than Official Communications of the Advisory Council as a Body)

While official advisory council communications will generally take the form of official advice, recommendations, or comments (where the above protocols will apply), advisory councils and their members and alternates will also need to discuss and share relevant sanctuary information and coordinate within ONMS and with constituents in the course of their official activities. The following procedures apply to advisory councils and their members and alternates acting in their official capacities when engaging in these types of communications within and outside of ONMS (not providing official advice, recommendations, or comments of the advisory council as a body). As above, these restrictions do not apply to advisory council members or alternates acting in their private capacities.

### *1. Within ONMS*

#### Between Advisory Council Members and Alternates

Advisory council members and alternates are encouraged to communicate often with the other members and alternates on the advisory council. ONMS staff members should offer support for doing so, providing (at a minimum) contact information for each advisory council member and alternate and networking time before or after advisory council meetings. Advisory council social events and retreats can also help facilitate positive relationships and communication.

#### Between Advisory Council Members and Alternates and ONMS Staff Members

Advisory council members and alternates are welcome to communicate with any member of ONMS staff, either through the local advisory council coordinator or directly, so long as these communications do not constitute advice from the advisory council to ONMS or a particular ONMS staff member. As a matter of courtesy, the member or alternate should inform the advisory council coordinator if they plan to reach out directly to ONMS staff. In particular, the superintendent and local advisory council coordinator should facilitate close working relationships between ONMS staff members and their counterparts on the advisory council.

To enhance communications between advisory councils and ONMS staff, ONMS encourages local ONMS staff to schedule regular contacts with the advisory council. Ideas include:

- annual presentations by the superintendent or other ONMS staff, perhaps prior to or as part of a retreat to prepare the advisory council's annual work plan;
- weekly or biweekly meetings or conference calls with the chair and other officers/executive subcommittee; and

- regular updates via email (or other platform) to keep advisory council members and alternates abreast of local sanctuary projects and issues.

### Between Advisory Councils

Advisory councils are encouraged to communicate with other advisory councils, both regionally and nationally. While advisory council activities that lend themselves to regional collaboration will likely be rare, ONMS supports inter- and intra-regional cooperation on common issues or projects. The most efficient means of collaborating with other advisory councils may be for the chairs to initially connect, then, as needed, bring information back to their respective advisory councils. However, ONMS also provides opportunities (as resources permit) that encourage inter-council relationships. For example, ONMS hosts a periodic Sanctuary Advisory Council Summit and a national advisory council coordinators meeting, as resources permit. It also maintains a group email for both advisory council chairs and local advisory council coordinators, shared documents and resources on an ONMS Google Drive, and a webpage for each advisory council.

Additionally, ONMS regional staff members play a pivotal role in facilitating relationships among advisory councils in the same region. For example, to help build these relationships and identify areas for cooperation, regional ONMS staff members may (as budgets permit):

- conduct regular conference calls between the regional director, advisory council chairs, local advisory council coordinators, and superintendents within the region;
- plan regular meetings between advisory council chairs, local advisory council coordinators, and superintendents within the region; and
- implement a regular (perhaps quarterly) report of major advisory council action items from across the region and share it within the region and with other regions.

## *2. Outside of ONMS*

### Between Individual Members and their Constituents (or the Broader Public)

To ensure advisory council members and alternates aptly represent their constituents regarding sanctuary matters at advisory council meetings, advisory council members and alternates are expected to communicate on a regular basis with their constituents. ONMS staff may assist members and alternates in doing so, depending on individual needs and available resources. This assistance could include:

- helping members and alternates set up geographic or issue-specific groups;
- helping members and alternates establish regular constituent meetings or forums;
- providing support to help members and alternates reach constituents;
- making time at advisory council meetings for members and alternates to discuss their constituency outreach efforts and any issues encountered; and
- training members and alternates on strategies to effectively communicate with constituents.

Note: All written communications between advisory council members and alternates and their constituents that are introduced at meetings, shared with other members, or given to the federal government become public and may be subject to public disclosure under FOIA.

# IV. Administrative Activities

## A. Routine Tasks

### 1. Managing Resolutions and Other Action Items

#### Tracking and Follow-up Management

Meetings may generate a number of resolutions and other action items that require tracking and follow-up action. Generally, local advisory council coordinators and superintendents should track action items, but advisory councils could develop an organizational framework that fits their own needs to manage these actions. Regardless of the method, recordkeeping should be set up in a way that allows for continuity as staff members turn over.

For advisory councils that are particularly active, it may be difficult to track or complete all action items coming out of meetings. In such cases, ONMS staff members may wish to consider having more than one staff member support the advisory council. The superintendent and chair may also have suggestions for how to best manage action items. For instance, they could charge the advisory council secretary (where applicable) with tracking action items during meetings to assist the local advisory council coordinator. They may also determine that not every item needs to become a resolution or that there are members interested in drafting letters who can take on the responsibility, rather than relying on an ONMS staff member to draft them.

#### Final Resolutions and Other Actions

Final resolutions, motions on substantive actions or other actions (those that the advisory council has approved) should be written on advisory council letterhead and include a date. All final resolutions and other actions should also be posted on the advisory council's website. This does not apply to routine administrative motions such as approval of minutes. For more information on communicating final resolutions and other action items to ONMS, see above.

#### Changing Position on Previous Action

Advisory council positions sometimes change over time. If an advisory council passes a resolution or motion on a topic and its position later changes, the advisory council should pass a new resolution or motion to reflect its current position. The new resolution or motion should explicitly reference the previous resolution or position and explain the change.

### 2. Creating an Annual Advisory Council Work Plan

While advisory council members and alternates and ONMS staff members may be eager to involve advisory councils in many aspects of sanctuary operations, spreading an advisory council too thin is usually of little benefit. Developing an annual work plan may help advisory councils maximize their impact by pinpointing the advisory council's role in advising on sanctuary operations and serving as liaisons to their represented constituencies. In particular,

an annual work plan may help an advisory council plan special projects or events, share information on upcoming activities with constituents, and use its resources most effectively.

Ideally, advisory councils and local ONMS staff members may develop an advisory council work plan annually that outlines issues and projects the advisory council will work on in the coming year. Work plans should set out realistic expectations. They should also mirror the priorities the local ONMS staff has identified for itself. Advisory councils and local ONMS staff may develop the work plan during a retreat, or a subcommittee can work with local ONMS staff members to draft it.

In drafting a work plan, ONMS staff and advisory council members may find it beneficial to use the following procedure, or elements of it:

- Both parties (local ONMS staff and advisory council members and alternates) agree on a format for the work plan.
- ONMS staff provide information to the advisory council about its activities, products, and outcomes for the coming fiscal year.
- Advisory council members and alternates raise additional tasks or roles they have an interest in addressing as a body in the coming fiscal year.
- Both parties jointly determine the most appropriate tasks or roles for the advisory council and formulate a rough schedule with assignments and deadlines.
- Both parties identify additional activities and important dates such as regular advisory council meetings and special events.
- Both parties use this information to format a work plan that mirrors ONMS's annual operating plan.
- The draft work plan is provided to any advisory council members or alternates that did not participate in its drafting and all relevant ONMS staff members for review.
- The advisory council work plan is finalized and made available to the public.

## 3. Creating Annual Advisory Council Report

At the end of each fiscal year, ONMS staff and the advisory council should reflect on the year and may prepare a concise annual report. An annual report could serve several purposes: it acts as a record of the advisory council's accomplishments that year; identifies ongoing or recurrent challenges; reveals the advisory council's effectiveness in serving as a liaison between its constituents and the superintendent; exhibits the advisory council's contribution to resource protection; and shares information and achievements with ONMS and the public. Advisory councils may find it useful to create an annual report in the same fashion as the annual work plan (if applicable).

## 4. Reporting Advisory Council Member Service Hours

All voting and nonvoting advisory council members and alternates and working group members (including non-council working group members), with the exception of federal ONMS employees, are asked to track the hours they spend participating in advisory council work.

ONMS uses these "in-kind service hours" as one means of measuring community participation in sanctuary management. Note that these participation hours should be just the time spent in

advisory-council-related functions. For example, they may include hours preparing for and attending advisory council meetings, subcommittee meetings, working group meetings, and retreats; reading and sending emails through the advisory council group email list; making phone calls related to advisory council business; attending a Sanctuary Advisory Council Summit; and talking to constituents about advisory council matters. The service hours do not include paid work with ONMS staff or other professional interactions with ONMS staff members. Service hours also do not include travel to and from meetings or travel to and from other advisory council functions or duties.

Local advisory council coordinators will ask advisory council members and alternates to report their service hours on a periodic basis (i.e., monthly, quarterly, or annually). The reporting period follows the federal fiscal year (October through September). The report should clearly state the total number of hours for the reporting period.

## B. Customized Advisory Council Materials

### *1. Letterhead*

Each advisory council must have its own letterhead to use for official advisory council business. The letterhead may not include the ONMS, NOS, NOAA, or DOC logo, but the advisory council may create its own logo. All correspondence from the advisory council or any of its members or alternates acting in an official capacity must be sent on this letterhead with the required disclaimer. Advisory councils may not use government letterhead for any purpose.

### *2. Presentation Templates*

In addition to letterhead, advisory councils may create templates to use for electronic advisory council presentations. The template may include an advisory council logo, but (as with letterhead) it must not include a government logo. Presentation templates may be used for all official advisory council presentations.

### *3. Business Cards*

Members of the council may have business cards, provided that (1) the member is personally responsible for paying the card issuer and (2) ONMS, NOS, NOAA, or DOC logos are not used on the card. If the advisory council has its own logo, that logo may be used on business cards. As explained in more detail in Part II, business cards must not be used in any way that constitutes an improper use of the member's or alternate's title on the advisory council.

### *4. Email Addresses*

NOAA cannot provide a NOAA email address for private citizens (like advisory council members), as it could imply that the person is a NOAA employee. However, as deemed necessary, a local advisory council coordinator could put in a request to ONMS to create a general email address (like _NMSAC@noaa.gov) that will forward mail to an appropriate person, such as the local advisory council coordinator or the chair.

ONMS has established a group email for the sanctuary advisory council coordinators (ONMSSAC@noaa.gov ) and for the sanctuary advisory council chairs (ONMS.SACchairs@noaa.gov).

### C. Youth Shadowing/Mentoring Program

As stated previously, it is crucial to engage young people in advisory council activities because they are our future generation of ocean stewards and leaders. In addition (or as an alternative) to creating a youth seat or youth working group, advisory councils may create a youth shadowing/mentoring program. The shadowing/mentoring program is perhaps the most flexible and least staff-intensive way to involve school-aged youth in the advisory council.

To find young people interested in a mentorship, ONMS staff can work with schools to encourage mentoring opportunities for an entire class, specific academic clubs, or individual student(s) wishing to conduct a project.

Youth shadowing can encompass a single advisory council meeting or event with an entire class or multiple meetings or events with individual student(s). Regardless, ONMS staff should dedicate time before, during, or after the meeting to meet with the students. They should also arrange a time for the students to meet with one or more advisory council members. Because the trips to the advisory council meetings would likely be conducted under the auspices of the school, only school field trip forms and permission slips would be necessary. If necessary (for example, if shadowing involves in-field expeditions), a waiver of liability form may also be necessary. A teacher and chaperone(s) should also accompany the student(s).

## *V. ONMS Site-Specific Advisory Council Support*

### A. Funding for Advisory Council Activities

Advisory councils do not have budgets of their own. Instead, local ONMS staff support individual advisory councils and their subunits as a regular part of ONMS's general budget request. Budgets will vary according to site, but any available funds may be used to cover the following expenses:

- stationery bearing the advisory council's letterhead for official communications;
- document printing and copying;
- mailings and distributions;
- per diem expenses (as appropriate);
- rental fees for meeting facilities;
- local notice of advisory council meetings;
- advisory council retreats (transportation, accommodations, etc. as appropriate.); and
- other miscellaneous costs (as appropriate).

Funds are dispersed at the discretion of the superintendent; disbursement does not require advisory council review. Nevertheless, the superintendent may choose to ask for advisory council input.

### B. Informational Support

The superintendent determines the informational resources necessary for the advisory council to carry out its duties. In general, the superintendent should strive to provide as much quality information as possible to the advisory council; better information will lead to better advice.

However, ONMS staff should remember that any information provided to the advisory council becomes public information. Internal, privileged agency legal materials or attorney-client communications should not be shared with an advisory council; any questions about legal or attorney-client materials should be directed to GCOC. GCOC cannot provide legal advice to an advisory council, but GCOC may advise ONMS on how to address or resolve advisory council questions about issues that implicate legal concerns.

The following guidance addresses the parameters for releasing budget or annual operating plan information to an advisory council.

- For prior fiscal years, budgets and annual operating plans may be released to an advisory council;
- For the current or upcoming fiscal years, the information contained on Worksheet A of the standard sanctuary annual operating plan format (i.e., summary budget information broken down by object classes such as personnel, printing, travel, etc.) may be released to an advisory council; and
- For the current or upcoming fiscal years, the project information contained on Worksheet B of the standard sanctuary annual operating plan format (i.e., specific activities and products as broken down by the standard thirteen categories) may be released to an advisory council at the sanctuary superintendent's discretion. However, the budget information contained in Worksheet B should not be released.
- No information containing business trade secrets or confidential commercial or financial information may be released to the advisory council.

## C. Compensation

### *1. In General*

Members and alternates of the advisory council and its subunits serve without pay. ONMS may make available such staff, information, administrative services, or assistance as the superintendent determines are reasonably required for the advisory council and its subunits to carry out their functions.

### *2. Travel Expenses*

All members and alternates of the advisory council may receive travel expenses (including per diem in lieu of subsistence) for travel to and from full advisory council meetings and subunit meetings (if members and alternates are part of the subunit), and official advisory council retreats.[20] All reimbursement of travel expense requests are granted at the discretion of the superintendent and depend on financial considerations and constraints. Travel expenses for governmental members and alternates of the advisory council may be provided by their own agencies. All travel expenses are governed by federal travel regulations.

[20] 5 U.S.C. §§ 5702–5703, authorizing travel or transportation expenses for employees serving intermittently in Government service as an expert or consultant, including employees serving without pay; while away from home or regular place of business and at the place of employment or service.

## D. Advisory Council and Individual Member Appreciation

ONMS recognizes that advisory council members and alternates make significant time commitments when serving voluntarily on advisory councils. In addition to ONMS's regular support for advisory council activities, superintendents should consider implementing appreciation devices as budget and staffing allow. For instance, superintendents may consider:

- providing monthly updates between regular meetings;
- supplementing advisory council meetings and retreats with social activities;
- establishing routine check-ins with individual seats;
- inviting past members and alternates to advisory council activities;
- providing advisory council members and alternates with a nametag;
- recognizing members and alternates leaving the advisory council;
- holding advisory council member and alternate reunions;
- establishing an award program for the advisory council; and
- searching for innovative ways to enhance funding for the advisory council.

# *VI. Addressing Common Advisory Council Issues*

ONMS staff members should anticipate that advisory councils will not always run smoothly. Superintendents and local advisory council coordinators might consider a number of options to address issues that arise. This section of the handbook is intended to aid superintendents and local advisory council coordinators with that troubleshooting. The following discussion provides some general problem-solving procedures, as well as recommendations for common specific advisory council issues.

## A. General Problem-solving Procedures

### *1. Consult Other Sites*

It is likely that other site staff members have encountered the same issue. Consulting the national team of local advisory council coordinators may result in a tested solution or at least a starting point to begin addressing the matter.

### *2. Go Back to the Beginning*

If the problem is related to the charter or the process used to develop the advisory council, reviewing the history of the advisory council's establishment may clarify the intent of the procedure.

### *3. Amend the Charter*

If the problem is caused by or related to something in the charter, and the superintendent agrees that an amendment would address the issue, the charter may be amended by the ONMS director according to the procedures in this handbook. The amendment could clarify unclear language or add a new provision to address the problem.

### 4. Ask an Expert to Present to the Advisory Council

Sometimes hearing information from a different perspective will help solve a problem. Under this approach, the superintendent may ask an expert to present to the advisory council. For example, an expert presentation may involve a legal presentation by GCOS, national priorities presentation from ONMS senior staff, or a topic-specific presentation by outside experts. The superintendent might also wish to consider the use of professional facilitators if issues or problems are severe or highly contentious.

### 5. Remove a Member

While this option may be useful in appropriate circumstances, it should only be exercised as a last resort and must proceed according to the removal requirements in Section C below.

## B. Common Issues and Recommendations

### 1. Members Are Unsure About Their Roles

To solve this issue, superintendents and local advisory council coordinators may consider holding retreats to clarify the roles of current members and alternates. Additionally, they should work to ensure that future members and alternates understand their roles when applying for and accepting a position on the advisory council.

### 2. Members Are Not in Touch with Constituents

If members and alternates are not communicating with constituents, superintendents and local advisory council coordinators may want to consider:

- urging members and alternates to set up geographic or issue-specific groups;
- urging members and alternates to establish regular meetings or forums with constituents;
- urging members and alternates to involve constituents in ONMS events;
- supporting members and alternates to help them reach constituents;
- urging members and alternates to report on activities to connect with constituents; and
- training members and alternates to communicate with constituents.

### 3. Members Lose Interest in the Advisory Council

To help reestablish interest in the advisory council, superintendents and local advisory council coordinators may consider:

- incorporating an element of “fun” into advisory council meetings and activities;
- facilitating personal connections with members and alternates;
- working with the advisory council to set priorities and take ownership of issues;
- setting realistic expectations for the advisory council;
- reducing or altering advisory council workloads or meetings; and
- putting mechanisms in place to engage the advisory council during “hot” issues and have less activity on a normal basis.

### 4. One or a Few Members Dominate the Advisory Council Meetings

When a few members or alternates dominate advisory council meetings, the following strategies may help quieter members or alternates feel more included:

- urging the chair to call on and encourage quieter members and alternates;
- asking the chair to keep meetings on time and focused on agenda items;
- developing (with the advisory council) a code of conduct for meetings;
- suggesting the executive subcommittee (where one exists for a specific advisory council) deals with problematic members outside of meetings; and
- providing for a standardized, multi-level warning system for problematic members and alternates and documenting violations.

### 5. The Public Is Not Informed or Interested in What the Advisory Council Does

Where the public lacks knowledge about the advisory council, the superintendent and the local advisory council coordinator may want to consider:

- creating materials that describe the advisory council's purpose, recent activities, and its membership;
- involving advisory council members and alternates at ONMS events to encourage interactions with the public; and
- urging members and alternates to reach out to constituents and provide support as appropriate.

### 6. The Advisory Council Does Not Support ONMS Priorities

When the advisory council does not support ONMS's sanctuary priorities, ONMS may consider organizing a retreat to better educate the advisory council about these priorities, provide the advisory council with options on how to be involved in those priorities, and work with the advisory council to realign its priorities through explanation, alternatives, and compromises. The purpose of this tactic is not to discourage critical opinions, but to ensure that the advisory council fulfills its purpose of advising ONMS and providing stakeholder recommendations regarding sanctuary protection and management activities.

### 7. The Advisory Council Seeks to Exceed Its Authority

To solve this issue, the superintendent and local advisory council coordinator may consider creating a standard briefing package to deliver to the advisory council to remind members of its authority and reexamining the charter for areas where language could be rephrased. If individual members or alternates are problematic, the superintendent and local advisory council coordinator may want to seek advice from the national advisory council coordinator on dealing with strong-minded people.

## 8. The Advisory Council Is Focused on Process over Making Decisions and Taking Action

There are several options to consider when an advisory council is more focused on process than action. For example, the superintendent and local advisory council coordinator may try to:

- encourage members to elect a strong chair (without endorsing a specific candidate);
- work with the chair to focus meeting agendas on action items;
- share information related to actions well before meetings to allow members and alternates adequate time to prepare;
- allow adequate time for discussion and actions during the meeting;
- hold retreats to resolve issues;
- use a form of mediation to resolve issues; and
- provide focused training for both chairs and relevant ONMS staff members.

## 9. Advisory Council Representation Creates a Problem

If representation on an advisory council creates a problem, the superintendent and local advisory council coordinator should:

- consider all factors to ensure adequate and accurate representation (such as site goals, size, programs, and geography) and integrated thinking to avoid single-issue members or alternates;
- identify alternatives as appropriate, such as an inter-agency working group instead of governmental members on advisory councils, or nonvoting government agencies instead of voting ones; and
- review advisory council membership regularly to ensure the membership reflects the needs of ONMS and the community.

## 10. The Advisory Council and ONMS Staff Are Not Communicating Well

Finally, if the advisory council and ONMS staff members are not communicating well, the local advisory council coordinator and superintendent may consider taking one or more of the following approaches:

- providing a superintendent's report at advisory council meetings;
- providing a local advisory council coordinator's report at advisory council meetings;
- providing opportunities for ONMS staff members to attend meetings, give presentations, and mentor advisory council members;
- holding regular meetings with the chair or executive subcommittee, superintendent, and local advisory council coordinator; and
- providing training in communication techniques, conflict resolution, and group dynamics.

## C. Member Removal Process

### *1. Grounds*

The ONMS director has the discretion to remove a member or alternate for any reason. Further, the superintendent may recommend that the ONMS director remove any nongovernmental member or alternate who has violated the terms of the advisory council's charter or meets one or more of the following grounds for removal:

- Member or alternate is convicted of any felony offense;
- Member or alternate is found to have violated any of the following laws or regulations promulgated thereunder: the National Marine Sanctuaries Act, the Marine Mammal Protection Act, the Migratory Bird Treaty Act, the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, or another federal environmental law;
- Member or alternate is found to have violated state environmental laws or regulations promulgated thereunder in the state in which the sanctuary is located;
- Member or alternate is found to have violated national or state laws or regulations (in a state within the region in which the sanctuary is located) protecting cultural resources;
- Member or alternate is determined to have abused their position as a member or alternate of the advisory council;
    - Abuse of position examples include using advisory council information for personal gain, using advisory council position to advance a personal agenda or to harm another member or alternate of the advisory council or community, spreading misinformation about the advisory council or the sanctuary, or refusing to recuse self in a matter in which the member or alternate has a conflict of interest.
- Member or alternate changes professional affiliation(s) or personal circumstances that comprise a significant portion of that member's or alternate's qualifications for being a member or alternate of the advisory council;
- Member or alternate misses a consecutive number of meetings (as defined by each charter) without reasonable justification; or
- Member or alternate disrupts advisory council meetings on more than one occasion in a manner that interferes with the advisory council conducting its business.

The superintendent may consult with the advisory council on the removal of a member or alternate, but the advisory council does not have the authority to remove a member or alternate. Once the ONMS director authorizes removal, the member or alternate is formally notified in writing by the superintendent of the individual's removal from the advisory council. The superintendent may then either seek a replacement for the vacant position or permit the alternate to serve in a primary capacity for the remainder of a former member's term.

### *2. Warning System*

Superintendents may choose to adopt a warning system that uses removal as a final option (with an exception for situations severe enough to warrant immediate removal). If implemented, the warning system should have three levels. The first incident should result in a verbal warning

from the superintendent (in consultation with the chair). The second incident should result in a written warning from the superintendent (in consultation with the chair). Finally, the third incident should result in removal.

For the warning system to work, superintendents should adhere strictly to the system. All member and alternate violations of the removal grounds or charter provisions must be carefully documented (even if the warning is given verbally). At a minimum, the record should include the nature of the offense and the date that the warning was issued.

## *3. Government Member Removal or Replacement*

### Agency Removal

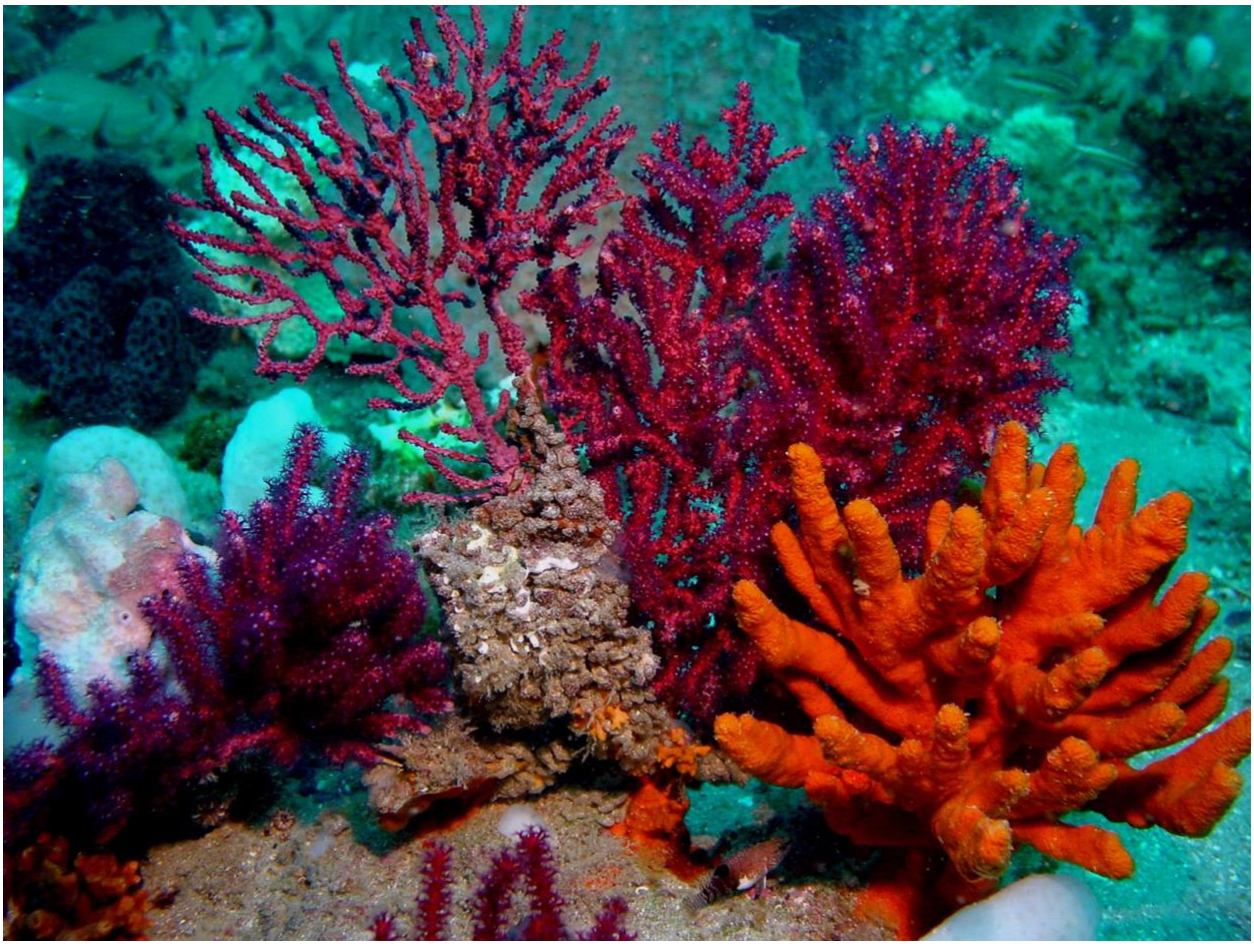
If a government agency representative or alternate fails to attend a certain number of consecutive advisory council meetings (as specified in the charter), the agency may be removed from the charter by the ONMS director. A government agency may decide to withdraw from the advisory council. In this case, the superintendent is authorized to invite, with the ONMS director's approval, a new government agency to replace the prior agency on the advisory council, and work with the ONMS director to amend the charter accordingly.

Agency removal from the charter may only occur if doing so is consistent with the authorizing legislation for the applicable site.

### Agency Representative Replacement

Agency representatives and alternates are expected to adhere to the same standards of conduct as nongovernmental members and alternates, and they are subject to the same grounds for removal. If a government agency representative is problematic, the superintendent may recommend to the ONMS director that the director ask the government agency to replace its representative. The superintendent may consult with the advisory council prior to taking such action. The same or similar warning system as that developed for nongovernmental members and alternates may be used to document a problem to report to the agency.

# National Marine Sanctuary Advisory Council Handbook: Appendices



Gray's Reef National Marine Sanctuary underwater forest. Credit: Greg McFall/NOAA

# Appendix 1 – Model Council Charter

**[SITE] NATIONAL MARINE SANCTUARY**
**ADVISORY COUNCIL CHARTER**

## Establishment and Authority

Pursuant to the National Marine Sanctuaries Act § 315,[21] the Secretary of Commerce, through the director of the Office of National Marine Sanctuaries (director), hereby renews *[site]* National Marine Sanctuary 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 NOAA regarding the designation and management of national marine sanctuaries. Accordingly, any council advice, recommendations, or comments, must affect the planning or management of (name of specific 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 *[site]* 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.

[21] 16 U.S.C. § 1445a (2012).

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 *[insert #]* total members, including the sanctuary superintendent, *[insert #]* voting members, and *[insert #]* nonvoting members (with *[insert #]* nonvoting, governmental members and *[insert #]* nonvoting, nongovernmental 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; 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.

**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 are two categories of seats for which voting members are appointed or selected. These categories are as follows:

- *Governmental [AS APPROPRIATE].* 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: *[list]*.

  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 [AS APPROPRIATE].* 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: [list]
  - Example activities or groups include: Commercial Fishing, Recreational Fishing, Conservation, Recreation (non-consumptive), Education, Business, Tourism, Research, Local Tribes, and Public At-Large.

  [Include one of the paragraphs below.]

  - [OPTION 1] These members are appointed for a term of *[two / three]* years, and may compete for reappointment (subject to the ONMS nongovernmental seat term limits policy described in the handbook). *[If necessary, subsequent terms of appointment may be changed to provide for staggered expiration dates.]* 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

- [OPTION 2] 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 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 *[insert #]* categories of seats for which nonvoting members are appointed or selected. These categories are as follows:

- *ONMS and/or National Estuarine Research Reserve Representatives [AS APPROPRIATE].* To ensure relevant information exchange among national marine sanctuaries and national estuarine research reserves, the superintendents of *[site]* National Marine Sanctuary and the *[site]* National Estuarine Research Reserve shall sit on the advisory council.
- *Governmental [AS APPROPRIATE].* 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: *[list]*. 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.
- *Youth [AS APPROPRIATE].* A nongovernmental, nonvoting youth seat shall represent the youth segment of the community, defined as those aged 14–17. The youth member 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**

[OPTION 1] Members accept the responsibility of attending advisory council meetings. The sanctuary superintendent/director will not designate alternates to serve in an advisory council member's place or to represent an absent member in meetings or at other advisory council activities.

OR

[OPTION 2] 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 [one-year / 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 *[insert #]* 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).[22]

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. No alternates may receive travel expenses for council meetings unless they are filling the seat in the absence of the primary member. All travel expenses are governed by federal travel regulations.

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.

[22] 5 U.S.C. §§ 5702–5703 (2012).

***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 currently-appointed 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.

[AS APPROPRIATE]: 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 remain in effect for five years from the date of signature. 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.

_____ _____

*[Name]* Date
Director, Office of National Marine Sanctuaries

*Charter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Blank word document, no letterhead

# Appendix 2 – Model Council Charter for New Sites

**PROPOSED [SITE] NATIONAL MARINE SANCTUARY**
**ADVISORY COUNCIL CHARTER**

## Establishment and Authority

Pursuant to the National Marine Sanctuaries Act § 315,[23] the Secretary of Commerce, through the director of the Office of National Marine Sanctuaries (director), hereby establishes the proposed *[site]* National Marine Sanctuary 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 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 (name of specific 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 NOAA regarding the protection and management of the proposed *[site]* 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.

[23] 16 U.S.C. § 1445a (2012).

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.

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 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; 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.

**Seat Categories**

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

- *Governmental [AS APPROPRIATE].* 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: *[list]*.

  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, another appropriate government may be invited with the directors' approval.

- *Nongovernmental [AS APPROPRIATE].* 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: [list]
  - Example activities or groups include: Commercial Fishing, Recreational Fishing, Conservation, Recreation (non-consumptive), Education, Business, Tourism, Research, Local Tribes, and Public At-Large.

  [Include one of the paragraphs below.]

  - [OPTION 1] These members are appointed for a term of *[two / three]* years, and may compete for reappointment (subject to the ONMS nongovernmental seat term limits policy described in the handbook). *[To promote staggering, ONMS recommends new advisory councils have an equal mix of two- and three-year term seats for the first seated council. After the initial seats term out, all seats should be appointed for two/three year terms as usual.]* 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.
  - [OPTION 2] 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 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 *[insert #]* categories of seats for which nonvoting members are appointed or selected. These categories are as follows:

- *ONMS and/or National Estuarine Research Reserve Representatives [AS APPROPRIATE].* To ensure relevant information exchange among national marine sanctuaries and national estuarine research reserves, the superintendents of *[site]* National Marine Sanctuary and the *[site]* National Estuarine Research Reserve shall sit on the advisory council.

- *Governmental [AS APPROPRIATE].* 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: *[list]*.

  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, another appropriate government may be invited with the directors' approval.

- *Youth [AS APPROPRIATE].* A nongovernmental, nonvoting youth seat shall represent the youth segment of the community, defined as those aged 14-17. The youth member 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

[OPTION 1] Members accept the responsibility of attending advisory council meetings. The director will not designate alternates to serve in an advisory council member's place or to represent an absent member in meetings or at other advisory council activities.

OR

[OPTION 2] 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 [one-year / 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 NOAA representative for the proposed 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 *[insert #]* 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.[24] 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).[25]

All reimbursement of travel expense requests are at the discretion of the NOAA representative and dependent upon financial considerations and constraints. Travel expenses for governmental members may be provided by their own agencies. No alternates may receive travel expenses for council meetings unless they are filling the seat in the absence of the primary member. All travel expenses are governed by federal travel regulations.

ONMS may make available any staff, information, administrative services, or assistance that the NOAA representative 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.

[24] 5 U.S.C. §§ 5702–5703 (2012).
[25] *Id.*

Any matter that an advisory council member wishes to bring to ONMS's attention shall be brought to either the NOAA representative or the chair so that it can be added to a future meeting agenda. The NOAA representative and the chair discuss agenda topics, but the NOAA representative 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 currently-appointed 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 NOAA representative 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 DOC, NOAA, or 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, 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 NOAA representative, 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.

[AS APPROPRIATE]: 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 NOAA representative. The chair, with concurrence from the NOAA representative, may also appoint one additional member from the advisory council. With the exception of the NOAA representative, 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 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.

_____ _____

*[Name]* Date
Director, Office of National Marine Sanctuaries

*Charter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Blank word document, no letterhead

# Appendix 3 – Community Media Advisory Model

**COMMUNITY ANNOUNCEMENT**

[Date]

**NOAA's [site name] Sanctuary seeks advisory council applicants**

NOAA's [*site name*] National Marine Sanctuary is seeking applicants for [#] primary and [#] alternate seats on its advisory council. The council ensures public participation in sanctuary management and provides advice to the sanctuary superintendent.

**The sanctuary is accepting applications for the following seats: [*seat name*] [(primary) or (alternate)].**

The application period opens on [*date*]. Completed applications are due by [*date*]. Applications received or postmarked after [*date*] will not be considered. To receive an application or for further information, please contact [*contact name*] via email at [*contact email*]; by phone at [*contact phone number*]; or by mail at [*contact address*]. Applications can also be downloaded from the sanctuary's website at [*sanctuary website*].

Applicants accepted as members should expect to serve a [*two or three-year*] term. The advisory council consists of [#] primary and alternate members representing a variety of public interest groups. It also includes [#] seats representing other federal and state government agencies.

[*Site name*] National Marine Sanctuary's Advisory Council actively recruits for new members and alternates when positions are available. Check our website [*site website*] frequently for updates on how you can help manage [site name]'s resources.

Contact: [Name], [phone number] (office) or [phone number] (mobile)

###

*Media advisory format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Blank word document, no letterhead

# *Appendix 4 – Youth Seat Permission Slips (14 – 17 years of age)*

***Note:*** *Parent and school permission slips will only be completed by students that are selected to serve on the council. Permission slips will not be distributed to all applicants, as it is not desirable for ONMS to collect that much personal information unless an applicant is selected.*

## 4(a) – Parent/Guardian Permission Form

I hereby give my permission for _____, who attends _____ School to participate on the *[insert site]* Sanctuary Advisory Council as a non-voting youth seat. I understand the purpose of the youth seat is to *[site inserts explanation*]. I understand the *[insert site]* Sanctuary Advisory Council will meet approximately *[insert estimate of the time commitment]*. The meetings are for the full council, in a group setting, and open to the public. A minimum of two [insert site] staff members also attend and stay for the duration of each council meeting. I understand that a chaperone (teacher/parent/guardian) is encouraged to attend each meeting with the student and stay for the duration of the meeting.

Student Name: _____

Student Address:

_____

Street City State Zip

Date of Birth: _____

Printed name of parent/guardian: _____

Parent/guardian home phone: _____

Parent/guardian work phone: _____

Parent/guardian cell phone: _____

Parent/guardian email: _____

Signature of parent/legal guardian: _____ Date: _____

## 4(b) – Waiver of Liability Form

I have read the information provided by the *[insert site]* and understand that the *[insert site]* will make every reasonable effort to provide a safe environment. I am fully aware of the dangers and risks involved in participating on the Sanctuary Advisory Council, including physical injury, or other consequences arising from this activity.

I understand that participation in the Sanctuary Advisory Council is voluntary and that, by giving permission to undertake this activity, I voluntarily accept and assume all of the risks associated with participation in the activity.

I acknowledge that, should injury occur in the course of participating on the Sanctuary Advisory Council, the sole legal remedy available will be under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346, 2671-2680, that any relief will lie solely against the federal government instead of any individuals, and that any relief may be barred by the application of the FTCA.

I understand that, should I decline to execute this Waiver of Liability, the student named above will not be permitted to participate on the Sanctuary Advisory Council.

Printed name of parent/legal guardian:_____

Signature of parent/legal guardian: _____ Date: _____

# 4(c) – Medical Release Form

In the event of an accident or illness, I understand that reasonable effort will be made to contact me immediately.

In the event of an emergency or non-emergency situation requiring medical treatment, I do ____/do not_____ authorize the *[insert site]* staff to secure emergency medical and/or dental care, as needed, in my absence and until such time as I am contacted. This permission includes but is not limited to the administration of first aid, the use of ambulances, and the administration of anesthesia and/or surgery, under the recommendation of qualified medical personnel.

I accept full responsibility for the cost of treatment for an injury or illness which my child may suffer while participating on the working group.

I have read the information provided by the *[insert site]* and understand that the *[insert site]* will make every reasonable effort to provide a safe environment. I am fully aware of the dangers and risks involved in participating in this activity, including physical injury, or other consequences arising from this activity.

If I am signing on behalf of a minor, I recognize that I may not release any claims the minor may have. However, I understand that the *[insert site]* does not purchase or have medical/dental/hospitalization insurance to cover injuries to or losses of life of minors, or to indemnify parents for expenses in connection therewith, and that such insurance, if desired, must be purchased by me.

Printed name of parent/legal guardian:_____

Signature of parent/legal guardian: _____ Date: _____

Name of preferred physician: _____ Phone No: _____

Name of insurance carrier: _____Policy No: _____

List any special medical or other information (allergies, asthma, diabetes, etc.): _____

_____

# 4(d) – School Administration Permission Form

I hereby give permission for _____, who attends _____ School to participate on the *[insert site]* Sanctuary Advisory Council. I understand the purpose of the youth seat on the council is to *[site inserts explanation*]. I understand the council will meet approximately *[insert estimate of the time commitment*], and may require the student to miss school.

I understand that the parents of the student have granted permission for the student to participate on the *[insert site]* National Marine Sanctuary.

The school grants permission with the understanding that the student will maintain his/her school grades. If the school feels the student's school work is suffering, the school has the right to withdraw its permission to miss school for Sanctuary Advisory Council-related activities.

I understand the school will not be held responsible for any accident or injury that occurs when the student is traveling to or from, or participating on, the *[insert site]* Sanctuary Advisory Council.

School Official Printed Name: _____

School Official Title:
_____

School Official Phone:
_____

School Official Email:
_____

School Official Signature: _____ Date: _____

*Notes:*

- *The school may also have additional paperwork that must be filled out for a student to miss school for a council-related activity.*
- *This form is only necessary if a student will need to miss school for a council-related activity.*

# *Appendix 5 – Youth Working Group Permission Slips (14 – 18 years of age)*

***Note:*** *Parent and school permission slips will only be completed by students that are selected to serve on the youth working group. Permission slips will not be distributed to all applicants, as it is not desirable for ONMS to collect that much personal information unless an applicant is selected.*

## 5(a) – Parent/Guardian Permission Form

I hereby give my permission for _____, who attends _____ School to participate in the *[insert site]* Sanctuary Advisory Council's Youth Working Group. I understand the purpose of the working group is to *[site inserts explanation*]. I understand the working group will meet approximately *[insert estimate of the time commitment]*. The working group will be chaired by a *[insert site]* council member; two adult members from the *[insert site]* advisory council are on the working group and will be present at each working group meeting. A [insert site] staff member will also attend and stay for the duration of each working group meeting.

Student Name: _____

Student Address:

_____

Street City State Zip

Date of Birth: _____

Printed name of parent/guardian:_____

Parent/guardian home phone: _____

Parent/guardian work phone: _____

Parent/guardian cell phone: _____

Parent/guardian email: _____

Signature of parent/legal guardian: _____ Date: _____

## 5(b) – Waiver of Liability Form

I have read the information provided by the *[insert site]* and understand that the *[insert site]* will make every reasonable effort to provide a safe environment. I am fully aware of the dangers and risks involved in participating in the Sanctuary Advisory Council's Youth Working Group, including physical injury, or other consequences arising from this activity.

I understand that participation in the Sanctuary Advisory Council's Youth Working Group is voluntary and that, by giving permission to undertake this activity, I voluntarily accept and assume all of the risks associated with participation in the activity.

I acknowledge that, should injury occur in the course of participating in the Sanctuary Advisory Council's Youth Working Group, the sole legal remedy available will be under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346, 2671-2680, that any relief will lie solely against the federal government instead of any individuals, and that any relief may be barred by the application of the FTCA.

I understand that, should I decline to execute this Waiver of Liability, the student named above will not be permitted to participate in the Sanctuary Advisory Council's Youth Working Group's activities.

Printed name of parent/legal guardian:_____

Signature of parent/legal guardian: _____ Date: _____

# 5(c) – Medical Release Form

In the event of an accident or illness, I understand that reasonable effort will be made to contact me immediately.

In the event of an emergency or non-emergency situation requiring medical treatment, I do ____/do not_____ authorize the working group chair or *[insert site]* staff to secure emergency medical and/or dental care, as needed, in my absence and until such time as I am contacted. This permission includes but is not limited to the administration of first aid, the use of ambulances, and the administration of anesthesia and/or surgery, under the recommendation of qualified medical personnel.

I accept full responsibility for the cost of treatment for an injury or illness which my child may suffer while participating on the working group.

I have read the information provided by the *[insert site]* and understand that the *[insert site]* will make every reasonable effort to provide a safe environment. I am fully aware of the dangers and risks involved in participating in this activity, including physical injury, or other consequences arising from this activity.

If I am signing on behalf of a minor, I recognize that I may not release any claims the minor may have. However, I understand that the *[insert site]* does not purchase or have medical/dental/hospitalization insurance to cover injuries to or losses of life of minors, or to indemnify parents for expenses in connection therewith, and that such insurance, if desired, must be purchased by me.

Printed name of parent/legal guardian:_____

Signature of parent/legal guardian: _____ Date: _____

Name of preferred physician: _____Phone No: _____

Name of insurance carrier: _____Policy No: _____

List any special medical or other information (allergies, asthma, diabetes, etc.): _____

_____

_____

# 5(d) – School Administration Permission Form

I hereby give permission for _____, who attends _____ School to participate in the *[insert site]* Sanctuary Advisory Council's Youth Working Group. I understand the purpose of the working group is to *[site inserts explanation*]. I understand the working group will meet approximately *[insert estimate of the time commitment*], but the working group meetings will not require the student to miss school. However, I understand that *[insert number]* times during the school year the student, as part of the working group, may need to attend a day-long *[insert site]* National Marine Sanctuary Advisory Council Meeting, and this will require the student to possibly miss school these days.

I understand that the parents of the student have granted permission for the student to participate in the *[site]* National Marine Sanctuary's Youth Working Group.

The school grants permission with the understanding that the student will maintain his/her school grades. If the school feels the student's school work is suffering, the school has the right to withdraw its permission to miss school for Youth Working Group-related activities.

I understand the school will not be held responsible for any accident or injury that occurs when the student is traveling to or from, or participating in, the Youth Working Group.

School Official Printed Name: _____

School Official Title:

_____

School Official Phone:

_____

School Official Email:

_____

School Official Signature: _____ Date: _____

# Appendix 6 – Model Oaths

Note: Use of an oath is optional. The below oaths are provided as examples and may be altered to fit the needs of the site.

Option A:

I [speak name] as a duly appointed member (or alternate) of the [site] Sanctuary Advisory Council established under the National Marine Sanctuaries Act hereby promise to assist in achieving the sanctuary program mission to conserve, protect, and enhance the biodiversity, ecological integrity, and cultural legacy of this special underwater place.

I recognize my responsibility to serve as a knowledgeable trustee of the sanctuary's resources and will always be protective of the public interest in those resources. I commit myself to uphold the provisions and standards set forth in the council charter, and shall conduct myself accordingly.

Option B:

I [speak name] as a duly appointed member (or alternate) of the [site] Sanctuary Advisory Council established under the National Marine Sanctuaries Act hereby promise to assist in achieving the sanctuary program mission to conserve, protect, and enhance the biodiversity, ecological integrity, and cultural legacy of this special place.

I promise to assist the [site] to enhance public awareness, understanding and wise use of the marine environment.

I recognize my responsibility to serve as a knowledgeable trustee of the sanctuary's resources and will always be protective of the public interest in those resources. I commit myself to uphold the provisions and standards set forth in the council charter, and shall conduct myself accordingly.

Therefore, I promise to serve as a faithful and responsible representative of my constituents and the Sanctuary Advisory Council, being careful to balance competing interests towards the comprehensive and coordinated conservation and management of the [site].

# Appendix 7 – Model Charter Amendment

**_[site]_ NATIONAL MARINE SANCTUARY**
**ADVISORY COUNCIL CHARTER**

**AMENDMENT _[insert #]_**

The following revisions are made to the charter as signed on *[date of signature]*, and hereby amended on date of amendment indicated below:

*[Section of charter]* is revised to read:

*[new language]*

All other terms of the charter remain in full force and effect.

_____ _____

John Armor
Director, Office of National Marine Sanctuaries

Date

*Model Charter Amendment format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# *Appendix 8 – Model Cover Memoranda and Letters*

## 8(a) – Cover Memorandum for Charter Approval

MEMORANDUM FOR: John Armor,
Director, Office of National Marine Sanctuaries

THROUGH: [Name], Regional Director
[Region]

FROM: [Name], Superintendent
[Site]

SUBJECT: Approval of the Charter for the *[site]* National Marine Sanctuary Advisory Council

The attached charter establishes the Sanctuary Advisory Council for the *[site]* National Marine Sanctuary. The council consists of the following *[insert #]* members: *[list seats and additional info on council as necessary]*

*OR*

Attached please find the revised charter for the *[site]* National Marine Sanctuary Advisory Council. The following major changes have been incorporated into the charter *[provide justification if appropriate for any higher profile changes, such as adding new seats]*.

If you approve, please sign the charter where indicated. If you have any questions, please contact me at *[phone number]*.

Attachment

*Charter approval memo format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(b) – Cover Memorandum for Charter Amendment Approval

MEMORANDUM FOR: John Armor,
Director, Office of National Marine Sanctuaries

THROUGH: [Name], Regional Director
[Region]

FROM: [Name], Superintendent
[Site]

SUBJECT: Charter Amendment for the *[site]* National Marine Sanctuary Advisory Council

The attached document amends the charter as signed on [date]. The changes are made due to [include information on need to amend the charter and resulting advantage].

If you agree, please sign the amendment where indicated. If you have any questions please contact me at [phone number].

Attachment

*Charter amendment approval memo format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(c) – Cover Memorandum for Federal Register Notice to Recruit Members

MEMORANDUM FOR: John Armor
Director

THROUGH: Jessica Kondel
Division Chief, Protected Area Policy Division

FROM: Sage Riddick
National Advisory Council Coordinator

SUBJECT: Annual *Federal Register* Notice to Recruit New Members and Alternates for *[enter number]* National Marine Sanctuary Advisory Councils

Attached for your review and signature is a *Federal Register* notice requesting applications for vacant seats on *[enter number]* of the 20 advisory councils in the National Marine Sanctuary System.

Attachment

Cc: *[name]*, Superintendent, *[site]* National Marine Sanctuary

*[name]*, Advisory Council Coordinator, *[site]* National Marine Sanctuary

*Federal register notice format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- ONMS letterhead

# 8(d) – Cover Memorandum for Member Selection Approval

MEMORANDUM FOR: John Armor,
Director, Office of National Marine Sanctuaries

THROUGH: [Name], Regional Director
[Region]

FROM: [Name], Superintendent
[Site]

SUBJECT: Approval of Members for the *[site]* National Marine Sanctuary Advisory Council

This memorandum requests your approval for my recommendations for members and/or alternates to the *[site]* Sanctuary Advisory Council (council). We received *[insert total #]* applications for [*name of seat*] and [*insert # if applicable*] for *[name of seat]* on the council. Potential members were recruited online and through a Federal Register notice and a variety of other types of outreach: *[list]*. Applications were received from:

[*Name of seat*]:

- [*Insert names of all applicants*]

On *[date]*, the preliminary review panel recommended the top three candidates for each seat. *[Additional information about review panel members and meeting as necessary]*

From the top three candidates for each seat as provided by the preliminary review panel, I recommend the following member [and/or alternate] for each vacant seat:

[*Name of seat/position*]:

- [*Insert name of selected applicant*]
- *[Insert term, if termed out in any other seats/positions, please include]*
- *[Insert statement on why candidate was selected*]

[The selected applicants were recommended by the preliminary review panel OR [Applicant Name] was not recommended by the review panel but was selected because_____]. The selectees have been vetted internally through a LEXIS/NEXIS check. No problems were noted.

Members will be asked to disqualify themselves from participating in any matter that would have or create the appearance of having a direct and predictable effect on their financial interests.

If you agree, please sign where indicated. If you have questions please contact me at *[phone number]*.

_____ _____
John Armor Date
Director, Office of National Marine Sanctuaries

Attachment

*Member selection approval memo format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(e) – Cover Letter for Application Kits

Dear Friend of the *[site]* National Marine Sanctuary:

We are in the process of *[establishing a new Sanctuary Advisory Council or filling vacant seat(s)]* on our Sanctuary Advisory Council. Beginning immediately, we will accept applications for council membership. State employees should consult their employer for specific guidance on eligibility.

The *[site]* National Marine Sanctuary Advisory Council was established pursuant to federal law to ensure continued public participation in the management of the sanctuary. *[more info about history of existing council or purpose of new council]*

Enclosed is our Sanctuary Advisory Council application kit, which includes a copy of the council charter and an application form, as well as some information about the sanctuary. Council terms will be for *[insert #]* years.

We are looking forward to receiving completed applications at our office at *[address]* by *[deadline]*. Applications will be reviewed by a preliminary review panel consisting of *[list members]*. The panel will help us narrow down the number of candidates for each seat to the top three. Of these, a member and an alternate will be chosen, and officially notified of their selection.

If at any point you have a change in circumstance that will not allow you to serve on the council, please notify *[name]* at *[phone number]*. Also, feel free to contact *[name]* if you have any questions about the sanctuary, the council or the council member selection process.

Sincerely,

*[Sanctuary Superintendent]*

Enclosures

*Cover letter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(f) – Invitation Letter to Government Agency

[Agency]

[Address]

[City, State Zip]

Dear [Agency]:

The [site] National Marine Sanctuary Advisory Council is being established to provide advice to the National Oceanic and Atmospheric Administration (NOAA) on the management of the national marine sanctuary. The council will also serve as a critical link between NOAA and the community.

The sanctuary advisory council membership includes representatives from public interest groups, local industry, commercial and recreational user groups, academia, conservation groups, other government agencies, and the general public [or insert seats]. In addition, we would like to have a representative from your agency.

We would appreciate it if the [agency] would identify a representative to serve on the [site] National Marine Sanctuary Advisory Council. Please note, government representatives that have been federally registered lobbyists in the past two years are ineligible to serve on an advisory council. Feel free to contact me at [phone number] at your convenience to discuss this matter.

Sincerely,

*[Sanctuary Superintendent]*

*Invitation letter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(g) – Letter Notifying Selected Member

[Name]

[Address]

[City, State Zip]

Dear [Name]:

This letter is to notify you that you have been selected to serve as a member of the [site] National Marine Sanctuary Advisory Council. In response to your application to represent [seat], we invite you to represent that segment of our community on the council. If you accept, your [length-year] term will be effective [date]. Please advise [contact] at [phone number] at your earliest convenience if you will be able to accept this appointment.

We anticipate having the next meeting of the council on [date] at [location]. You will receive additional information prior to that meeting, including [list] [add any additional information as necessary]. Future meetings will be announced. In the event you are unable to attend a meeting, your approved alternate is [name]. [He/She] can be reached at [phone number].

We look forward to working with you in the future as we continue to protect the resources of [site] National Marine Sanctuary together.

Sincerely,

*[Sanctuary Superintendent]*

*Selection letter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(h) – Letter Notifying Selected Alternate

*[Name]*

*[Address]*

*[City, State Zip]*

Dear *[Name]*:

[*If person applied for primary seat and instead was selected for alternate seat:* Thank you for expressing interest in serving on the *[site]* National Marine Sanctuary Advisory Council. We received *[#]* applications to fill *[#]* seats. This made the task for selecting members very difficult. Each and every applicant had something of value to offer as a member of the advisory council. You were chosen as the alternate for the *[seat]* on the council. The primary member for that seat is *[name]* and can be reached at *[phone number]*. If the primary member is unable to attend a meeting, you will be asked to attend that council meeting and represent the seat, during which time you will have the full voting rights of a primary member.] *OR* [*If person applied for alternate seat and was selected for alternate seat:* This letter is to notify you that you have been selected to serve as an alternate of the *[site]* National Marine Sanctuary Advisory Council. The primary member for that seat is *[name]* and can be reached at *[phone number]*. If the primary member is unable to attend a meeting, you will be asked to attend that council meeting and represent the seat, during which time you will have the full voting rights of a primary member. If you accept, your *[length-year]* term will be effective *[date]*. Please advise *[contact] at [phone number]* at your earliest convenience if you will be able to accept this appointment.]

In order to ensure smooth transitions, we ask that you and the primary member stay in close communication. We encourage you to attend all council meetings as a member of the public to stay abreast of evolving projects and issues. We anticipate having the next meeting of the council on *[date]* at *[location]*. In addition, alternates are also encouraged to attend the council retreats and play critical roles on council working groups.

We greatly appreciate you taking time to respond to our request for applications for membership on the council. We encourage you to continue to take part in sanctuary events and discussions. Your continued support, interest, and advice are most welcome. We look forward to working with you.

Sincerely,

*[Sanctuary Superintendent*

*Selection letter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(i) – Letter to Non-Selected Applicant

[Name]

[Address]

[City, State Zip]

Dear *[Name]*:

Thank you for expressing interest in serving on the *[site]* National Marine Sanctuary Advisory Council. We received *[insert #]* applications to fill *[insert #]* seats. This made the task of selecting members very difficult. Each and every applicant had something of value to offer as a member of the council. We regret to say that you were not selected to serve on the council. However, there are many other ways to be a part of the sanctuary community, and we sincerely hope you will consider some of these alternatives.

The council meetings are open to the public; we encourage you to attend and participate. Interested members of the public may also serve on appropriate council working groups and *[list other ways as appropriate]*.

We greatly appreciate you taking time to respond to our request for applications for membership on the council. We encourage you to continue to take part in sanctuary events and discussions. Your continued support, interest, and advice are most welcome.

Sincerely,

*[Sanctuary Superintendent]*

*Non-selected letter format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(j) – Member Removal Approval Request to the Director

MEMORANDUM FOR: John Armor,
Director, Office of National Marine Sanctuaries

THROUGH: [Name], Regional Director
[Region]

FROM: [Name], Superintendent
[Site]

SUBJECT: Request to Remove Member of the *[site]* National Marine Sanctuary Advisory Council

This memorandum requests your approval to remove *[name]* from the *[site]* Sanctuary Advisory Council (council).

*[Provide summary of situation and grounds for removal]*

*[Describe possible consequences or controversies]*

Therefore, it is in the best interest of *[site]* National Marine Sanctuary and the other members of the council if *[name]* no longer serves as a member of the council. I will offer *[name]* the opportunity to resign, but if *[he/she]* does not, I request your approval to issue a letter of removal to *[name]*.

If you agree, please sign where indicated. If you have questions, please contact me at *[phone number]*.

_____ _____
John Armor Date
Director, Office of National Marine Sanctuaries

*Member removal format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(k) – Letter to Remove Council Member

[Name]

[Address]

[City, State Zip]

Dear [Name]:

Effective [date], you will no longer be a member of the [site] Sanctuary Advisory Council. We appreciate the time and effort you have given to the council in the past. If you have any questions, please contact me at [phone number].

Sincerely,

[Sanctuary Superintendent]

*Member removal format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(l) – Cover Memorandum for Council Communications

MEMORANDUM FOR: John Armor,
Director, Office of National Marine Sanctuaries

THROUGH: [Name], Regional Director
[Region]

FROM: [Name], Superintendent
[Site]

SUBJECT: Transmittal of *[letter, resolution, report, etc.]* from the *[site]* National Marine Sanctuary Advisory Council to ONMS Director

At the *[insert date]* council meeting, the *[site]* Sanctuary Advisory Council *[wrote a letter, passed a resolution, developed a report, etc.]* and requested it be transmitted to the ONMS Director *[or NOS/NOAA/DOC]*.

*[Describe content of letter, background, and desired outcome. Include a statement about the sanctuary superintendent's position on the issue.]*

*[Requested action from ONMS Director:*

1. No response needed, the information is being shared as a matter of courtesy; OR
2. Written response from the director is required (include a draft response); OR
3. Receipt of the communication via this Advice Acknowledgement Template is required (site must fill out and attach this template – Appendix 11). Please note, an Advice Acknowledgment is an external document that is intended to be shared with advisory councils to show that the ONMS Director has acknowledged their advice and/or recommendations.]

If you have any questions please contact me at *[phone number]*.

Attachments

*Cover memo format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# 8(m) – Memorandum for Council Charter Extension

MEMORANDUM FOR: John Armor,
Director, Office of National Marine Sanctuaries

THROUGH: [Name], Regional Director
[Region]

FROM: [Name], Superintendent
[Site]

SUBJECT: Council Charter Extension for the *[site]* National Marine Sanctuary Advisory Council

The [site] National Marine Sanctuary Advisory Council charter expires [insert date]. This memorandum requests that the current charter be extended through [insert date]. [Provide justification for extension. Provide a schedule for the council/site to begin complete review and revision of charter.]

Your signature below will indicate approval of this extension. If you have any questions, please contact me at [phone number].

_____ _____

John Armor Date
Director, Office of National Marine Sanctuaries

*Charter extension memo format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Site letterhead

# Appendix 9 – Advice Acknowledgment Template

**Issue Synopsis & Superintendent's Request of the Council**

Necessary Attachments: *[list]*

**Council's Majority Opinion**

**Council's Minority Opinion**

**Recommendation Made to Sanctuary Superintendent**

**Sanctuary Superintendent's Final Decision**

Concurs with Council _____ Disagrees with Council _____

Manager's Reasons for Disagreement:

**Signature of Transmittal of Information to ONMS Director**

Acknowledges what has transpired:

*ONMS Director Comments:*

*Advice acknowledgement format guidelines (please remove this section on final draft):*

- Font: Georgia, 11pt
- Spacing: 1.15; double spaced between paragraphs
- Margins: 1 inch left/right, 1 inch top/bottom
- Headline: Bold, first word and proper nouns capitalized, everything else lower case
- Blank word document, no letterhead

# Appendix 10 – Charter Revision Process

**Charter Revision Process**

**ONMS HQ and Site Roles**

- The **SITE** should track the council charter expiration date and begin working with the council to review and revise the charter at least six months prior to the expiration date. See Appendix 1 for the Model Council Charter with current programmatic language. See Appendix 10(a) for Cover Memo for Charter Approval.

- There are three types of changes for the **SITE** to consider during the council charter revision:
  (1) Site specific changes: These changes may be suggested by site staff or council members (e.g., adding a new seat, adding communication protocols).
  (2) Programmatic language changes: This is language in the model charter that has been updated since the site council charter was last signed. The **SITE** should compare the two documents side-by-side and update language accordingly.
  (3) If the council charter was amended since it was last signed, the **SITE** should also include that language into the main body of the charter.

- The **SITE** is responsible for working with the council to prepare the revised charter and cover memo, emailing it to **HQ (SAGE RIDDICK)** for a preliminary review to ensure all changes to the charter are consistent with national policy. To facilitate review, the **SITE** should highlight and explain any changes made to the charter.

- Once the preliminary review is complete and any issues are resolved, the **SITE** finalizes the charter. The **SITE** will likely opt to share the final charter with the council to obtain their approval (Note: If the **SITE** shares any version of the charter with the council prior to completion of the preliminary review, the **SITE** must make the council aware that changes could occur to the charter during the preliminary review.)

- The **SITE** emails the final charter and cover memo to **HQ (SAGE RIDDICK)**. **SAGE RIDDICK** prepares a review memo for John for inclusion with the charter package. **SAGE RIDDICK** facilitates the final review at **HQ (JESSICA KONDEL and JOHN ARMOR)** and obtains John's signature.

- Once the charter is signed, **HQ (SAGE RIDDICK)** PDFs the signed version and emails it to the **SITE** and **MICHELLE MILLS** mails the original to the **SITE**. **SAGE RIDDICK** posts the signed charter to the ONMS website.

# Appendix 11 – Council Member Selection Process

**Council Member Selection Process**

**ONMS HQ, Region and Site Roles**

## Media Advisories to Recruit Members

- The preparation and distribution of the recruitment media advisory announcing vacant seats, including positions (i.e., primary, alternate), for which applications are being sought, is the responsibility of the **SUPERINTENDENT**. He or she may delegate the responsibility to his or her respective media coordinator, advisory council coordinator, or other appropriate site staff. Media advisories must be developed using the template and process outlined in Appendix 3.
- Draft media advisories should be developed well in advance of each recruitment period to allow HQ sufficient time to review. Media advisories must be submitted to the national media coordinator (and West Coast media coordinator, for those sites in the West Coast or Pacific Islands regions), with a cc: to the national advisory council coordinator to review and approve.
- The national advisory council coordinator will conduct a preliminary review of the submitted media advisories to ensure consistency with national policy. The national media coordinator will review and edit all media advisories and work with the respective media coordinators, or other appropriate staff, to address any necessary revisions.
- Superintendents can ask their council members and alternates to assist with announcing advisory council member recruitments by asking them to redistribute recruitment media advisories or other announcements. He or she can also contact local government offices, nongovernmental organizations, associations, and other groups for assistance in distribution of the media advisory. Widespread public notification in local media outlets is desirable and all reasonable methods are suggested, including newspaper ads and public service announcements on radio and television. Notice of the vacancy and the application kits should also be offered on-line at the site's specific website. Superintendents should be as creative as possible in getting the word out.

## Application Package

- The **SUPERINTENDENT** is responsible for developing and distributing the council member/alternate application package. The **SUPERINTENDENT** must use the OMB-approved application form (OMB Control #0648-0397) that is currently set to expire on January 31, 2025, see Appendices 4–5.
- In addition to the application form, the application package must contain a cover letter (Appendix 10(e)) and the final, signed charter so prospective members understand the purposes and authority of the council and what their responsibilities and rights would be as council members. It is recommended that the application package also contain the descriptions of general qualifications and expectations for seats (Part II, Section IV) and the communication protocols (Part III, Section IV).

**Selection Process**

- Once the **SUPERINTENDENT** has received the applications, the selection process begins. Refer to the National Marine Sanctuary Advisory Council Implementation Handbook (Part II, Section VI) for a detailed account of the selection process.
- In instances where no qualified or an insufficient number of individuals apply for a seat or position, it may be necessary to re-advertise the vacant seat and position. Note, recruitment occurs on a rolling basis, as positions need to be filled.
- Only in rare circumstances will an extension of the current application period for a particular seat(s) and position(s) be granted. If a **SUPERINTENDENT** wants to extend the current application period for a particular seat and position, he or she must petition the ONMS director and deputy director by providing a written justification to the national advisory council coordinator. Extensions will be reviewed on a case-by-case basis and require the approval of both the ONMS director and deputy director

**Member Vetting and Approval Process**

- The **ADVISORY COUNCIL COORDINATOR** or other appropriate site staff (as determined by the superintendent) prepares the approval memo from the superintendent to the ONMS director through the regional director. He or she forwards the signed and dated clearance memo and completed applications of the individuals being recommended for selection as members or alternates to their regional director. The **REGIONAL DIRECTOR** reviews the applications, works directly with the superintendent to resolve any issues, and then forwards the signed and dated clearance memo to the advisory council coordinator. The advisory council coordinator is responsible for tracking the entire process. Allow at least a week for this part of the process, depending on the number of issues there are to work through, and staff schedules.
- The **ADVISORY COUNCIL COORDINATOR** or other appropriate site staff (as determined by the superintendent) prepares the approval memo from the superintendent to the ONMS director for his or her signature and sends the signed and dated memo to the advisory council support specialist (MICHELLE MILLS), with a cc: to the national advisory council coordinator (SAGE RIDDICK). The **ADVISORY COUNCIL COORDINATOR** should also send the completed applications of the individuals being recommended for selection as members or alternates. Please make sure that the applicant's full name, including middle name or initial, if known, is on the application.
- The **ADVISORY COUNCIL SUPPORT SPECIALIST** (MICHELLE MILLS) oversees the vetting (LEXIS/NEXUS and departmental bureau checks). The timeframe for the vetting process may take up to four weeks, depending on the results of the findings. Often, the results warrant consulting with the **SUPERINTENDENT** to determine if a selected applicant would be a qualified council member or alternate in light of the findings.
- Once any problems have been resolved, the **ADVISORY COUNCIL SUPPORT SPECIALIST** (MICHELLE MILLS) forwards the approval memo to the ONMS director

for signature. After signature, the advisory council support specialist faxes or emails the signed approval memo to the **ADVISORY COUNCIL COORDINATOR** and mails the original. ***Note:*** *Potential members and alternates should not be notified of their acceptance and their names should not appear in any public documents or websites identifying them as council members or alternates until after the vetting is complete and the ONMS director signs the approval memorandum.*

**Applicant Notification**

- It is the **SUPERINTENDENT's** responsibility to notify the applicants if they were selected or not. Model letters to assist in preparing these notifications are available in Appendices 10(g), (h) and (i). In addition, it is the **SUPERINTENDENT's** responsibility to announce new members at the next regularly scheduled advisory council meeting. Site websites should be updated to reflect the new members and may include pictures and bios.

# Appendix 12 – Charter Amendment Process

**Charter Amendment Process**

**ONMS HQ and Site Roles**

- The **SITE** is responsible for preparing the charter amendment and cover memo, emailing them to **HQ (SAGE RIDDICK)** for an initial review, and doing any back and forth necessary. See appendices for Model Charter Amendment and Model Cover Memo for Charter Amendment Approval. The review ensures that any changes are consistent with national policy on councils. The **SITE** should allow a minimum of two weeks, depending on the issues involved, for review and signature of the amendment.
- Once the initial review has taken place, the **SITE** finalizes the charter amendment. The **SITE** emails the final charter amendment and cover memo to **HQ (SAGE RIDDICK). SAGE RIDDICK** prepares a review memo for John for inclusion with the charter amendment and facilitates the final review at **HQ (JESSICA KONDEL and JOHN ARMOR)** and obtains John's signature.
- After signature, **HQ (SAGE RIDDICK)** PDFs the signed version and emails it to the **SITE**. SAGE RIDDICK posts the signed charter to the ONMS website.

# Appendix 13 – Limit on Consecutive Term Limits for Nongovernmental Council Members (Including Alternates)

**Limit on Consecutive Terms for Nongovernmental Council Members**

Purposes:

Sanctuary advisory councils are community-based advisory groups established under the National Marine Sanctuaries Act to provide advice and recommendations to NOAA's Office of National Marine Sanctuaries.

Nongovernmental council members are selected by ONMS through a public and competitive process, with recommendations from a preliminary review subcommittee of the larger Sanctuary Advisory Council.

During the selection process, the sanctuary superintendent always strives to balance institutional memory and experience on the council with infusions of fresh perspectives and ideas. The intent is to always have a variety of individuals on the council to engage fully in the discussions.

ONMS will limit the number of consecutive terms any nongovernmental council member can serve on a council to ensure councils have the benefit of new ideas and different perspectives in a manner that ensures the continued effective operation of the council consistent with the original intent and purpose of the councils.

Opportunities abound for community engagement in national marine sanctuaries above and beyond membership on a Sanctuary Advisory Council. ONMS encourages all members of the public to attend and provide comments during council meetings. Council working groups and sanctuary volunteer programs are also excellent forums to engage interested members of the public.

Policies:

It is the policy of ONMS that nongovernmental council members will not be selected to serve more than three consecutive terms on a Sanctuary Advisory Council subject to the following provisions:

- Terms may be either two-year or three-year, pursuant to the applicable council charter.
- The policy only applies to seats that go through the advertised, competitive process. As such this policy does not apply to appointed governmental seats.
- The policy applies to the seat (e.g., Olympic Coast National Marine Sanctuary Advisory Council conservation seat or Monterey Bay National Marine Sanctuary Advisory Council research 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 out of the diving seat.

In implementing this policy, ONMS will consider the following:

- It is the responsibility of each sanctuary superintendent to track council member term length and the number of terms served, implement this policy, and post current information to this effect on the sanctuary's website.
- Sanctuary superintendents should advise all council members and alternates of this policy and the intent before every recruitment takes place. Term-limited individuals should be notified and reminded individually as well and should be asked not to submit an application for the term-limited seat but encouraged to participate in other ways as noted in the "purposes and policies" section above.
- The impact of the policy on council leadership needs to be considered by sanctuary superintendents and council members before establishing leadership positions.
- In the event a council member becomes seriously ill or suffers a serious injury that precludes regular meeting attendance or requires an extended absence, the sanctuary superintendent may opt not to count this period of time against the council member's term limit.

Waivers:

The ONMS director may waive the limit on the number of consecutive terms for nongovernmental council members in the following four circumstances. The waivers and the process as it relates to the council member recruitment and selection process are described below. A waiver is permissible in the following circumstances if:

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

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

**Waiver #2:** It would be deemed culturally inappropriate (e.g., Village Chiefs in American Samoa) to impose the policy.

> **Process:** A superintendent will be aware of this exceedingly rare situation well in advance of recruitment and should send a memo to the ONMS director requesting the waiver and providing justification as to the need. The signed memo should be posted on the website. The superintendent should then simply invite the term-limited individual to apply as usual. The signed memo should accompany the application through the entire process from the preliminary review subcommittee to the regional director and ONMS HQ. See Part II of the handbook for a full description of the recruitment and selection process.

**Waiver #3:** 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 superintendent will send a memo to the ONMS director requesting the waiver and providing justification as to the need. The signed memo should be posted to the website. The term-limited individual will then be allowed to submit an application during the second round of recruitment (re-advertising). The application will then be reviewed by the preliminary review panel 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 preliminary review subcommittee to the regional director and ONMS HQ. See Part II of the handbook for a full description of the recruitment and selection process.

**Waiver #4**: An alternate member served three consecutive terms in one seat (i.e., terming out), applied for, and was competitively selected to serve as a primary member in the same seat for one additional term.

> **Process**: The term-limited individual should apply for the primary position through the regular recruitment process. The application will then be reviewed by the preliminary review panel along with all other applications received and submitted to the superintendent. If the superintendent decides to select the termed-out alternate member for the primary position for the same seat, a memo requesting the waiver should be submitted along with the standard clearance package to the ONMS director for review and approval.

# Appendix 14 – Definitions

**Advisory Council (est. under National Marine Sanctuaries Act):** A body representing community stakeholders that provides advice and recommendations to the Office of National Marine Sanctuaries director regarding sanctuary designation and management in accordance with the National Marine Sanctuaries Act, 16 U.S.C. § 1445A(a). Although exact composition and operating charters vary, advisory councils may include both governmental and nongovernmental members.

**Action item:** An action item includes any action approved by the full advisory council during a public meeting, such as advice or recommendations in the form of a motion, resolution, or letter; and the establishment of a subcommittee or working group.

**Advisory council meeting:** A convening of the full advisory council in a public forum to conduct official business. Meetings can occur monthly, bimonthly, or quarterly. The public must receive adequate notice before the advisory council can hold a meeting.

**Advisory council officers:** Council officers include the chair, vice-chair, and secretary (when provided for in an individual advisory council's charter).

**Advisory council work plan:** Document(s) that may be developed by individual advisory councils (generally on an annual basis) to prioritize advisory council activities and goals for the coming year (or other specified time frame).

**Alternate:** An individual selected or appointed to fill a particular seat and to vote or provide consensus advice when needed, when the primary member is absent. Both governmental and nongovernmental seats can have alternates. Alternates are treated like primary council members, except that alternates cannot vote unless sitting for their absent primary member. Thus, alternates regularly attend council meetings and participate in the advisory council activities to the fullest extent possible, even when not filling in for a primary member.

**Chair:** An advisory council officer and the head of the advisory council. The chair leads full advisory council meetings and represents the advisory council on specific matters at the local, regional, and national levels.

**Charter:** The document (in addition to this handbook, the National Marine Sanctuaries Act and other applicable laws and regulations) that governs the day-to-day operations of each advisory council and its members. Advisory council charters last for a period of five years, but they can be renewed and amended by the ONMS director as appropriate.

**Executive subcommittee:** A subunit of the advisory council that includes advisory council officers and the superintendent. Not all advisory councils have an executive subcommittee, but those who do use the committee to handle administrative tasks, such as setting the time and place of meetings, selecting agenda items, and overseeing meeting conduct.

**Secretary (of the advisory council):** An advisory council officer (when provided for in an individual advisory council's charter) that assists local ONMS staff members with administrative duties as directed by the chair. In the absence of a vice-chair, a secretary can serve as the acting vice-chair.

**Director (Office of National Marine Sanctuaries):** The head of the Office of National Marine Sanctuaries. The director sits at ONMS headquarters in Silver Spring, Maryland.

**Federal Advisory Committee Act (FACA):** An act passed in 1972 to ensure that advice by federal advisory committees is objective and accessible to the public. FACA formalized a process for establishing, operating, overseeing, and terminating advisory committees. Advisory councils created under the National Marine Sanctuaries Act (like some other advisory committees) are exempt from FACA's requirements. This handbook, thus, provides procedural guidance for these advisory councils.

**Friends groups:** Local chapters of national nonprofits like the National Marine Sanctuary Foundation that can work with sites on an individual basis and independent nonprofit organizations that serve similar roles for individual national marine sanctuaries.

**Full advisory council:** The convening of at least one more than half (or quorum) of the currently-appointed primary members or their alternates (if applicable). A full advisory council does not require that every member of an advisory council be present.

**Governmental member/seat:** Advisory council members appointed by a local, state, tribal, or federal government agency not subject to the competitive application process. Governmental primary members may have alternates and be either voting or non-voting, depending on the individual advisory council's charter.

**Local advisory council coordinator:** The ONMS staff member at each site whose job it is (in part) to assist with the advisory council's administration and to communicate with advisory council members and ONMS at the local, regional, and national levels on advisory council matters.

**Marine national monument:** A marine protected area established by the President of the United States under the Antiquities Act, 16 U.S.C. §§ 431-433.

**Meeting minutes:** A public record of advisory council meetings. At a minimum, meeting minutes must contain the meeting time and date, members in attendance, summaries of matters discussed (including outcomes, opposing views, and vote breakdowns, if applicable), and any other highlights. For draft meeting minutes to become official final meeting minutes, the minutes must be approved by the full advisory council.

**Member:** An individual selected or appointed to serve on an advisory council in a specific seat.

**National advisory council coordinator:** The ONMS staff member responsible for consistently administering and implementing all ONMS advisory councils. The national advisory council coordinator sits at ONMS headquarters in Silver Spring, Maryland.

**National marine sanctuary:** A marine protected area established by NOAA under the National Marine Sanctuaries Act that possesses conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or aesthetic qualities that give it special national, and, in some cases, international significance.

**National Marine Sanctuary Foundation:** A national nonprofit entity dedicated solely to supporting the National Marine Sanctuary System through education and research initiatives,

fundraising, public engagement, and advocacy. The foundation's headquarters are located in Silver Spring, Maryland.

**National Marine Sanctuary System:** All marine protected areas that the Office of National Marine Sanctuaries manages, including national marine sanctuaries and marine national monuments.

**Nongovernmental member/seat:** Advisory council members that do not represent a local, state, or federal government agency. Nongovernmental members are subject to term limits and are selected for seats as part of an advertised, competitive process. Nongovernmental primary members have alternates (if permitted in the advisory council's charter) and, with the exception of a youth seat, all nongovernmental seats are voting.

**Nonvoting member:** An advisory council member without the ability to vote on advisory council advice and recommendations at public meetings or be part of a consensus decision. Applies to any youth seats and may apply to governmental seats; nonvoting status is stated in each advisory council's charter.

**Office of National Marine Sanctuaries:** An office of the National Oceanic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce (DOC). Specifically, the Office of National Marine Sanctuaries (ONMS) is the federal government trustee for a network of marine protected areas across the ocean and Great Lakes waters of the United States. ONMS offices are located at sites near the protected areas across the country, with its headquarters in Silver Spring, Maryland.

**Primary member:** A member of the advisory council who fills a particular seat and is not an alternate.

**Primary user:** Members of the community who primarily use the sanctuary's resources, such as divers, fishers, researchers, etc. Users that constitute "primary users" will vary by site, but advisory councils should generally have seats for each of the site's primary user groups.

**Quorum:** The minimum number of an advisory council's members that must participate in each vote or consensus. To meet the quorum, a simple majority of the advisory council's currently-appointed voting members (which may be different from the total number of voting seats designated in the charter) must be present and participate in each matter. A quorum does not affect an advisory council's ability to call a meeting to order. However, the advisory council cannot vote or come to a consensus on any matter absent a quorum.

**Seat:** The spot on an advisory council that is set aside for representation from a certain user group, agency, or tribe. Each Sanctuary Advisory Council will have seats specific to the local sanctuary's primary user groups. Examples include Conservation seat, Recreational Fishing seat, City of Alpena seat, United States Coast Guard seat, and the Quileute Tribe seat. Seats are defined in each advisory council's charter.

**Site:** The local sanctuary and surrounding community associated with each sanctuary advisory council.

**Superintendent:** The head ONMS official at each site. Superintendents serve under the corresponding ONMS regional director and the ONMS director.

**Subunit:** A subcommittee or working group established by the chair of the advisory council to focus on a particular task, and then report findings to the full advisory council.

**Term:** The length of time an individual is slated to serve in the advisory council seat or officer position for which the person was selected or appointed.

**Vice chair:** An advisory council officer that assists the chair in administering the advisory council. In the absence of a chair, a vice-chair can serve as the acting chair.

**Volunteer:** Non-federal employees defined as individuals that provide services to the federal government without any expectation of compensation, and without coercion or intimidation. Though serving voluntarily, advisory council members are not legally considered "volunteers" when acting as a member or on behalf of an advisory council.

**Voting member:** A primary member with the ability to vote on advice and recommendations and participate in consensus decisions. Voting status is indicated in each advisory council's charter.

**Working group:** An advisory council subunit composed of both advisory council members and non-member persons (e.g., subject matter experts, relevant stakeholders, etc.). Working groups are assembled for a specific, discrete purpose or task and operate as an extension of the full advisory council.

**Youth member:** A nonvoting member of the advisory council, typically under the age of 18, who represents and conducts outreach on behalf of younger constituents.

# Appendix 15 – Common Acronyms

| | |
|---|---|
| **CAL** | Citizen-at-Large |
| **DOC** | Department of Commerce |
| **FACA** | Federal Advisory Committee Act |
| **FECA** | Federal Employees Compensation Act |
| **FOIA** | Freedom of Information Act |
| **FTCA** | Federal Tort Claims Act |
| **GCOC** | Office of General Counsel, Oceans and Coasts Section |
| **MNM** | Marine National Monument |
| **NMS** | National Marine Sanctuary |
| **NMSA** | National Marine Sanctuaries Act |
| **NOAA** | National Oceanic and Atmospheric Administration |
| **NOS** | National Ocean Service |
| **OMB** | Office of Management and Budget |
| **ONMS** | Office of National Marine Sanctuaries |

# Appendix 16 – National Marine Sanctuaries Act § 315

## 16 U.S.C. § 1445a

### (a) Establishment

The Secretary may establish one or more advisory councils (in this section referred to as an "Advisory Council") to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

### (b) Membership

Members of the Advisory Councils may be appointed from among—

(1) persons employed by Federal or State agencies with expertise in management of natural resources;
(2) members of relevant Regional Fishery Management Councils established under section 1852 of this title; and
(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

### (c) Limits on membership

For sanctuaries designated after November 4, 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

### (d) Staffing and assistance

The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

### (e) Public participation and procedural matters

The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.
(2) Emergency meetings may be held at the call of the chairman or presiding officer.
(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the FEDERAL REGISTER, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register.
(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

NATIONAL MARINE
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https://sanctuaries.noaa.gov