

**Office of National Marine Sanctuaries
Sanctuary Advisory Council
Implementation Handbook
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Fourth Edition**



NATIONAL MARINE
SANCTUARIES

**U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Ocean Service
Office of National Marine Sanctuaries**



About This Document

This implementation handbook is intended to provide sanctuary staff, advisory council members, and the general public with information about national marine sanctuary advisory councils. This handbook incorporates the experience and knowledge gained by the Office of National Marine Sanctuaries (ONMS) since sanctuary advisory councils were first established 17 years ago. Future editions will be prepared as necessary to reflect any additional lessons learned, new council policies or major changes in the 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.

When the handbook mentions "members," it means the primary members of the council. Alternates will always be referred to explicitly.

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List of Acronyms

AOP	Annual Operating Plan
CAL	Citizen-At-Large
DOC	Department of Commerce
FACA	Federal Advisory Committee Act
FOIA	Freedom of Information Act
GCOS	General Counsel Ocean Services
NMSA	National Marine Sanctuaries Act
NOAA	National Oceanic and Atmospheric Administration
NOS	National Ocean Service
OGC	Office of General Counsel
OMB	Office of Management and Budget
PDF	Portable Document File
PRA	Paperwork Reduction Act
ONMS	Office of National Marine Sanctuaries

Introduction

The National Marine Sanctuary System

The Office of National Marine Sanctuaries (ONMS) serves as the trustee for a system of 14 marine protected areas encompassing more than 150,000 square miles of ocean and Great Lakes waters from Washington State to the Florida Keys, and from Lake Huron to American Samoa. The sanctuary system includes 13 national marine sanctuaries and the Papahānaumokuākea Marine National Monument. The sanctuary program, part of the National Oceanic and Atmospheric Administration, manages the sanctuary system by working cooperatively with its partners and the public to conserve these special places while allowing recreation and commercial activities compatible with resource protection. Staff work to enhance public awareness of our marine resources and marine heritage through scientific research, monitoring, exploration, educational programs and outreach.

National Marine Sanctuary Advisory Councils

With the designation of the Florida Keys National Marine Sanctuary in 1990, the ONMS was required by Congress to establish an advisory committee for that sanctuary. The resulting advisory committee was the first time the ONMS established such a body, which was subject to the terms of the Federal Advisory Committee Act (FACA). In 1992, the National Marine Sanctuaries Act (NMSA) was amended to authorize the Secretary of Commerce to establish one or more advisory councils to provide advice to the Secretary regarding the designation and management of national marine sanctuaries. Sanctuary advisory councils (councils) were also specifically exempted from the requirements of FACA (although the NMSA reiterates some of FACA's procedural requirements). All fourteen of the sites in the system have councils (see Table 1 for dates councils were established). All of the councils are active in various projects and issues affecting the management of those sites, and generally meet on a monthly, bimonthly or quarterly basis.

This document explains the general policy of the ONMS with regard to councils (Part I); how to establish and operate a council (Part II); and how to modify a council after it is operational (Part III). Procedures and requirements are discussed in detail in the text. The appendices are referenced in the text and contain models for all of the documents that will be needed during this process.

Table 1: Advisory Councils and Dates Established

Site Established	Year Council
Florida Keys NMS	1991
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
Papahanaumokuakea MNM	2001
Gulf of the Farallones	2002
Cordell Bank NMS	2002
Fagatele Bay NMS	2005
Flower Garden Banks NMS	2005
Monitor NMS	2005

Part I: Sanctuary Advisory Council Policy Statement

The Office of National Marine Sanctuaries (ONMS) regards community involvement and the development of a stewardship ethic as vitally important to successfully protecting sanctuary resources. One key way to achieve this involvement is the formation of sanctuary advisory councils.

Sanctuary advisory councils bring together diverse community members to provide advice to the sanctuary superintendent (authority delegated from the Secretary of Commerce and the Under Secretary for Oceans and Atmosphere) on the management and protection of the sanctuary, or to assist the ONMS in guiding a proposed site through the designation process.

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

- ❖ At each site, provide sufficient support to allow councils to operate efficiently and effectively;
- ❖ Provide support and guidance from the national office to help councils operate efficiently and at a basic level of consistency across the system;
- ❖ Promote coordination and communication among councils and among sanctuary staff that work closely with councils;
- ❖ Develop training programs appropriate to council officers and members, and sanctuary superintendents and staff; and
- ❖ Conduct an annual meeting for council chairs, council coordinators and other appropriate ONMS staff to promote information exchange, networking and cross-pollination between councils.

Part II: Establishing a Council

A. Advisory Council Authority

Section 315 of the NMSA authorizes the ONMS to establish councils and contains the following provisions:

1. The Secretary of Commerce may establish one or more advisory councils 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 (FACA).

2. 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 302 of the Magnuson-Stevens Act; 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.

3. For sanctuaries designated after November 4, 1992, the membership of advisory councils shall be limited to not more than fifteen members.

4. 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.

5. 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 chair 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*; and (4) minutes of each meeting shall be kept and contain a summary of attendees and matters discussed.

Administration of councils has been delegated to the ONMS Director.

B. Representative Roles and Activities of an Advisory Council

Councils may be initially established for a designation or management plan review process, but will generally evolve into a permanent body

to provide advice on the general management of a sanctuary. There is a wide range of activities in which councils are involved and an equally diverse way in which councils conduct their business:

- ❖ Meet with constituent groups to survey their concerns.
- ❖ Request to have issues of concern placed on the agenda.
- ❖ Discuss issues or projects during a meeting.
- ❖ Ask for presentations from experts and sanctuary staff.
- ❖ Make a motion or pass a resolution by a voting action during a meeting.
- ❖ Develop advice and recommendations by consensus.
- ❖ Ask that a position be reflected in meeting minutes.
- ❖ Write a letter, report or other written statement expressing advice, views and/or information to the sanctuary superintendent or other appropriate body.
- ❖ Form a working group or subcommittee to define issues and craft proposals for which the council may take action.
- ❖ Hold a retreat or special meeting to address personnel, administrative or logistical issues.

Below are the most important roles that councils should fulfill, and some thoughts about implementation requirements that should be considered in helping a council realize these roles, which are to:

1. Serve as a liaison between the sanctuary and its community, disseminating information about the sanctuary to the various constituencies of members and bringing the concerns of constituents and the public to sanctuary staff.

There are numerous ways that a council as a body or that individual members can help maintain communications with the constituents and communities of a sanctuary (and fulfill its primary purpose of advising the sanctuary superintendent). One option for the council as a body is to host a public meeting to raise awareness of the sanctuary and its issues, perhaps something along the lines of a town meeting. Members, as individuals, can host similar meetings with their constituents, to bring concerns to the council and relay council positions. If members have other means at their disposal (e-mail, web sites, newsletters, etc), these mechanisms may also be used to relay information back and forth between constituents and the member. The sanctuary should encourage the members to take such steps, by providing support as available and/or asking the members to report on their efforts during normal council meetings. Public interaction with council members during council meetings should be limited to public comment periods, breaks and before and after meetings. This is intended to limit interruptions and distractions.

2. Identify potential partners and constituent groups with which the sanctuary should be working and forge relationships.

Sanctuaries depend upon good working relationships with partners such

as agencies, organizations, and individuals to accomplish their mission of protecting sanctuary resources. The first step is to ask the council to help identify what kind of partnership a sanctuary needs or should pursue (e.g., advocacy, revenue enhancement, research, education, etc.) and then help identify the group or individual who can help the sanctuary carry out that function, perhaps because that group or individual has the resources or authority to accomplish something the sanctuary alone cannot. Investments of time, planning, and information should be made to develop that partnership.

3. Help identify and resolve issues and conflicts, including emerging issues of which the sanctuary might not be aware.

Councils, being crosscutting bodies and representing many diverse interests, are in a unique position to bring emerging and potential issues to the attention of the sanctuary and assist the sanctuary in: (a) determining if the sanctuary/council should address the issue, and (b) assisting in determining its priority in relation to existing issues. Councils are able to raise issues in numerous ways, including bringing them up during a normal council meeting, speaking with the council chair prior to a meeting, or speaking to the sanctuary superintendent. If the chair and the sanctuary superintendent believe the issue is something the council should address, there are numerous ways to do so, including staff presentations, discussions during council meetings, creation of a subcommittee or working group to focus on the issue, or preparation of a white paper or other document.

4. Review and provide input on sanctuary plans, proposals, and products, including prioritizing issues.

Sanctuaries produce copious amounts of written products, many of which, such as management plans, research and education plans, issue papers, etc., generate strong public interest and should be as accurate and well written as possible. Councils can help achieve the best possible product by providing accurate information (including technical or specialized knowledge), drafting, reviewing, and/or approving those products. These tasks can be achieved in a number of ways, including individual efforts, working groups/subcommittee efforts, and identification of external reviewers/contributors. Efforts should start early relative to a due date, and there should be very clear guidance on exactly what is expected from the council.

5. Participate in sanctuary events, activities and programs.

Council members are encouraged to participate in sanctuary events, activities and programs to broaden their knowledge, as well as to supplement sanctuary staff when appropriate. In addition, participating in events will increase the opportunity for council members to interact with the public and their constituents.

6. Support sanctuary friends groups and the National Marine Sanctuary Foundation.

Council members are encouraged to provide information to individuals or groups interested in establishing a friends' group (see part H of this section for further discussion) or the National Marine Sanctuary Foundation to support the sanctuary.

7. Provide technical and background information on issues facing the sanctuary.

Council members may have access to information and situations that sanctuary staff do not. For instance, research representatives may have access to experts and studies that are not available to the general public, or stakeholder representatives may be aware of user conflicts that have not been brought to the attention of sanctuary staff. By asking members to provide such information to the sanctuary via reports at council meetings or other means, the sanctuary can take advantage of all the expertise and experience represented on the council.

8. Validate the accuracy and quality of information that the sanctuary uses for decision-making purposes.

Again, one of the prime advantages presented by a council is having a diverse array of experts available to the sanctuary. That expertise can be used in a variety of ways, including those discussed earlier, but it can also be used to validate the grounds or information that are being used to make decisions about protecting sanctuary resources. This validation can be obtained in a variety of ways, including reviewing documentation about an issue, verifying the conclusions of external experts, presenting findings or answering questions during a council or subcommittee/working group meeting or discussions with the chair and sanctuary superintendent. Any substantive discussions that occur outside the meeting will be brought to the council during its next regular meeting.

C. The Council Charter

A council's charter is the instrument by which a council is officially established, providing the scope of the council's responsibilities and serving as the constitution for the council's operation. Appendix 1 contains a model for a charter; the principal components are listed here:

Establishment and Authority

- ❖ Provides legislative authority to establish advisory councils. States that this document, when signed by the ONMS Director, establishes the named advisory council.

Sanctuary Advisory Council Policy Statement

- ❖ Provides a clear statement of the importance of advisory councils to the ONMS and documents that the ONMS is committed to the full support, utilization, and enhancement of councils at all sanctuaries.

Office of National Marine Sanctuaries

- ❖ Provides a brief overview of the ONMS vision, mission and goals.

[Insert site] National Marine Sanctuary

- ❖ Provides a brief description and history of the individual sanctuary.

Council Objectives and Roles

- ❖ Contains a general statement of the council's purpose and basic principles of operation.

Members, Alternates, and Officers

- ❖ Identifies the number of members.
- ❖ Provides for the superintendent to sit on the council as a non-voting member and details the superintendent's role.
- ❖ Provides for managers/superintendents of nearby national estuarine research reserves and national marine sanctuaries to sit on the council as non-voting members.
- ❖ Describes the process to be used for the application, nomination, and appointment of council voting members.
- ❖ Lists the types of seats (i.e., activities represented) as well as governmental and non-governmental members.
- ❖ Describes the process for removing members.
- ❖ Provides for council officer elections and terms and describes the roles of council officers.

Appointments

- ❖ Summarizes the application process as well as member selection and approval process.

Administration

- ❖ States that members will serve without pay but may receive reimbursement for travel expenses to and from official council meetings.
- ❖ States the commitment for staff, information, administrative services, or assistance to be provided as appropriate to enable the council and its subcommittees/working groups to carry out their functions.

Operation

- ❖ Provides the basics of day to day operation of an advisory council, including when and how council meetings are to be conducted.
- ❖ Details the procedures that must be used for councils to provide advice.

- ❖ Details the conduct of individual council members and the council as a body.
- ❖ Requires the council to develop and use its own letterhead.
- ❖ Provides information concerning subcommittees and working groups.

Other Terms

- ❖ Requires that the council operate pursuant to the charter.
- ❖ Provides the time period for which the charter is effective, including a requirement that six months prior to the expiration of the charter the need for the council must be evaluated by the ONMS with input from council members.
- ❖ Provides a clause allowing the ONMS to revise the charter.

D. Council Structure

Number and Terms of Members

For sanctuaries designated on or before November 4, 1992, the number of seats is not limited by law, but probably should not exceed twenty seats. For sanctuaries designated after the above date, the number of seats is limited by law to fifteen. (The charter needs to expressly state the maximum number of members of the council.)

Members of the council serve two- or three-year terms and may be reappointed. Terms of seats may be staggered to avoid mass replacements every couple of years.

However, a mature council may find the seat terms eventually become so staggered that council recruitments are taking place nearly year-round which is a drain on staff and budgets. In an effort to improve the efficiency of council recruitments it is possible for the site to hold two scheduled recruitments per year (see Appendix 1, Members, Alternates and Officers section).

Use of Alternates

Government agencies may appoint alternates for their primary representatives. At his or her discretion, a sanctuary superintendent may also allow non-governmental seats to have alternates. In such cases, the alternates represent a seat in the absence of the council member and/or may also complete the term if a member resigns. Alternates are chosen by ONMS through the same competitive process as council members and hold the same privileges as members when they are representing the member at a council meeting.

Alternates may serve on working groups. At the sanctuary superintendent's discretion and if the full council approves, an alternate may chair a working group; that alternate shall function under the purview of the council. At the superintendent's discretion, alternates may also serve on subcommittees. Alternates are encouraged to attend regular council meetings even if they are not sitting in for

their primary member. This will enable the alternate to remain current on all issues before the council. Alternates are also encouraged to attend and participate in retreats. An alternate may not name another alternate.

Council Composition

The composition of the council will vary from site to site, based on shared jurisdictions, primary user groups, and other factors. In determining the composition, it is important to keep in mind that resource protection is the ONMS's primary mandate. Good geographic representation of various parts of the sanctuary and the importance of local perspectives being represented on the council are also important factors. Occasionally it will be appropriate to have non-US citizens on an advisory council to address trans-boundary issues, as long as that trans-boundary representative is interested in the protection and management of a United States national marine sanctuary.

It is important to provide seats to represent the primary users of the sanctuary; this assists in providing regular communication between the sanctuary and its stakeholders. To maximize user group representation on the council, if a single council has two seats for one user group (e.g. two conservation seats on one council), different organizations must occupy those two seats; one organization should not fill two seats on a single council. Another consideration used to determine the composition of councils is that of co-jurisdiction of resources; a seat on a council can help cement the relationship between agencies and provides a regular communication channel. Alternatively, to maximize the user group and conservation representation on the council, governmental representatives can be non-voting members. Non-voting governmental members, however, do not have a role in forwarding council recommendations to the sanctuary superintendent and other actions that might require a vote. (See Section G for additional information on non-voting seats.) Councils are not required to have governmental members.

It is the policy of the ONMS to provide extensive discretion to the sanctuary superintendents in determining the composition of their councils, including whether or not government seats should be included and whether those government seats are either voting or non-voting. Several of the mature councils have numerous government seats as voting members; most of the newer councils also include government seats, but normally have them as non-voting members. This pattern has arisen for the following reasons: (1) numerous government agencies have found voting to be uncomfortable and prefer to do agency-to-agency business by usual routes and (2) since newer councils are subject to a fifteen member limit (by the NMSA) which we have interpreted to be fifteen voting seats, having governmental seats as non-voting members allows the sanctuary to maximize the number of non-governmental seats while still having the agency partners at the table. The ONMS will continue to provide discretion to each sanctuary

superintendent on this issue.

The ONMS also provides a great deal of latitude to sanctuary superintendents in defining the sanctuary community from which members must be chosen. This provides flexibility for some sites who might have a geographically limited pool of expertise from which to choose (e.g., sites in Hawaii and American Samoa) and for sites whose community might be based more on expertise and knowledge than location (e.g., maritime heritage experts for the Monitor or Thunder Bay sanctuaries).

It may occasionally also be appropriate to have a non-voting, non-governmental seat. The non-voting youth/student seat is one example of such a seat. Non-voting, non-governmental members operate under the same parameters as non-voting, governmental members. The non-voting, non-governmental members do not have a role in forwarding council recommendations to the sanctuary superintendent and other actions that might require a vote. (See Section G for additional information on non-voting seats.)

Please note that under federal law, federal government employees (Executive Branch) are not allowed to sit on advisory councils in a personal (non-official) capacity. This applies to all federal government employees even if their agency does not hold a seat on the council. State employees are allowed to sit on advisory councils in a personal capacity, but must provide a letter of support on official agency letterhead from their state supervisor. ONMS staff are not allowed to serve on ONMS advisory councils. This includes ONMS federal government employees, contract employees, detailees, interns, fellows, and anyone else working for the ONMS or at an ONMS office. Excluded from this are superintendents or their designees who sit on the councils as non-voting members to ensure relevant information exchange among other adjacent or nearby national marine sanctuaries.

Council members and alternates must be 18 years of age or older. The complexity of the issues addressed by sanctuaries and councils, the ability to effectively network with all ages of constituents, and the ability to travel to and attend meetings and retreats all necessitate this minimum age limit.

The interest and enthusiasm of youth under the age of 18 is very important to the ONMS; these students are our future generation of ocean stewards and leaders. The ONMS wishes to foster and facilitate these links with youth in sanctuary communities and has provided the option to the sanctuaries and monument to add a non-voting youth seat to their councils. To do so, add the following language to the council charter (either when the entire charter is up for review or through a simple charter amendment):

"A non-voting youth/student seat to represent the youth segment of the community, defined as ages 14-17.

The individual filling the youth/student seat must:

- ❖ Attend a school in the area affected by the sanctuary;
- ❖ Have proven ability to communicate and network with other students within the school and in other schools;
- ❖ Possess an interest in sanctuary resource protection and management;
- ❖ Have experience and/or knowledge regarding public uses and activities in the sanctuary;
- ❖ Be able to travel to and attend council meetings and retreats;
- ❖ Have written permission from parent/guardian;
- ❖ Have written recommendation from one or more teachers;
- ❖ Have written permission from school administration to participate on council; and
- ❖ Be accompanied by a chaperone (teacher/parent/guardian) who attends each meeting with the student and stays for the duration of the meeting."

If a site chooses not to create a youth/student seat, it is encouraged to consider a shadowing/mentoring program to expose young people to the advisory council and governmental decision-making.

Roles of Council Seats

All councils are established to address the needs of the individual sanctuary. However, seven types of seats are common to most if not all of the councils: education, research, conservation, citizen-at-large, fishing (commercial, recreational, or both), tourism, and business/industry. The descriptions below outline general expectations and qualifications for each of these common seats. The descriptions should be used in advertising for vacancies for these seats, to help potential applicants understand what would be expected of them if they are chosen for a particular seat, and to help the sanctuary select the best possible candidates. Similar descriptions should be developed for those seats that are specific to a site.

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;
- ❖ experience, ability, and availability to conduct educational outreach consistent with the goals of the sanctuary and the mission of the council; and
- ❖ commitment and availability of time to chair and/or participate on the 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;
- ❖ experience, ability, and availability to conduct outreach within the research community consistent with the goals of the sanctuary and the mission of the council; and
- ❖ commitment and availability of time to chair and/or participate on the 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/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;
- ❖ experience, ability and availability to conduct conservation outreach consistent with the goals of the sanctuary and the mission of the council; and
- ❖ commitment and availability of time to chair and/or participate on the 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 of time to chair and/or participate on appropriate 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 of time to chair and/or participate on appropriate 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 of time to chair and/or participate on appropriate council working groups or subcommittees.

Citizen-at-Large (CAL):

- ❖ reside in the area affected by the sanctuary;
- ❖ proven ability to communicate with members in communities near the sanctuary;
- ❖ experience and/or knowledge regarding marine or Great Lakes management and resource protection issues in the sanctuary;
- ❖ experience and/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 of time to chair and/or participate on appropriate council working groups or subcommittees

At the request of council members, additional guidance is provided for the CAL seat. During the recruitment and selection process for CAL members, if a site has either a single CAL primary and an alternate, or if the council has more than one CAL seat, it is recommended that sites seek a diversity of representation among those individuals (geographically, expertise, which user groups they are most connected to, etc). The site should try not to appoint someone to a CAL seat that would really be better suited to another seat (i.e., non-consumptive recreation, conservation, etc.) though some cross-over of interests will inevitably occur.

During the selection process interview and/or orientation training for new CAL members, discussions should focus on how they define their "constituency" and how they intend to conduct outreach appropriately. Starting with "who they know" and discussing connections beyond that which are comfortable for them could yield expanded communications to help them fulfill their role in the seat. A close working relationship between the CAL seat and the site's public relations/outreach/media staff will also be beneficial for increased constituent building. However, while the ONMS appreciates their efforts to serve as a liaison between the sanctuary and their constituents/community members, CAL members should not feel obligated to try to "represent" the masses of the entire community. To try to represent the entire community would be impossible because there is no one voice to represent a diverse population. So while the ONMS urges CAL members to be in touch with a wide diversity of views, ultimately

the individual is appointed for their personal experience and skills and should represent their view and vote accordingly.

CAL seats are by design fairly broad seats, allowing each site maximum flexibility in selecting the individuals to serve in the seats and allowing each member maximum flexibility in fulfilling the duties of the seat, including defining and reaching out to their "constituents." Examples of how some CAL representatives define and/or reach out to their constituents:

- ❖ Many CAL members rely on their connections with civic/community organizations (Lions Club, Rotary Club, etc)
- ❖ Retired CAL members rely on their former business, military, non-governmental or agency contacts and networks
- ❖ CAL members still working rely on their current work-oriented network
- ❖ CAL members conduct outreach to constituents in widely ranging fashions from formal presentations at civic clubs and community organizations, to "town-hall" style meetings, community leader briefings, public forums on specific issues, emails or newsletters to constituents, or informal discussions about the sanctuary around the community (at the post office, in the line at the grocery store, with friends and family, at work, etc).

One CAL member noted that they believe the council is more effective specifically due to the CAL seats. Because the CAL seat does not answer to any one user or stakeholder group, the member can be much more objective, promote harmony and agreement, ease tensions, and facilitate discussions about controversial topics.

Council Officers: Terms and Elections

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

A chair, vice-chair or secretary may leave his/her term to run for another council officer position if desired. If the chair, vice-chair or secretary is elected to a new position, the council shall nominate and elect a new representative for the vacated position. Council members, including non-voting members, may nominate individuals for council officer positions. Any primary member of the council, including government seats and non-voting seats, may be nominated and elected as a council officer. Election for all positions is by majority vote of all council members, including the non-voting members, and votes shall be made by written ballot. Members who will

not be present at the time of the election may submit their vote in writing to the sanctuary superintendent prior to the meeting (hard copy, fax or email). Alternates may nominate and vote during an election only when the alternate is filling the seat in the absence of the primary member. Following the first election, elections for chair and vice-chair shall be held in alternate years.

If a council officer resigns, the council should hold an election at the next regularly scheduled council meeting. If the newly elected individual feels comfortable they may begin serving in their position immediately upon being elected; otherwise they may begin serving at the next meeting. If the chair resigns, the vice chair acts on their behalf until the new chair assumes their position. If the vice chair resigns, the secretary acts on their behalf until the new vice chair assumes their position. If the secretary resigns the position may remain vacant until the new secretary assumes their position.

Roles of Council Officers

- ❖ **Chair:** The chair schedules and sets agendas for all council meetings with the approval of the sanctuary superintendent, presides over all meetings of the full council and ensures that meetings are run according to accepted meeting practices, signs all correspondence and documents authorized by the council, and generally represents the council's interests and concerns to ONMS and the public. The chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.
- ❖ **Vice-Chair:** The vice-chair serves as chair in the absence of the chair and assists as necessary in performing executive duties of the council. The vice-chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.
- ❖ **Council Secretary:** The council secretary assists sanctuary staff in performing administrative duties (recording minutes, tracking action items, drafting correspondence, preparing the annual council report, etc) as directed by the chair. The secretary also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

Subunits of the Council

Subunits (subcommittees and working groups) are formed by and report to the council. Procedures for providing information and recommendations to the council need to be outlined in the charter. It should also be noted that members of the council who also serve on subcommittees or working groups are still subject to all the terms of the charter. All subunits must submit their findings or recommendations to the full council.

Subcommittees

The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish such subcommittees as necessary to fulfill the council's duties. Subcommittees shall be composed solely of members of the council; at the superintendent's discretion, alternates may also serve on subcommittees. The subcommittee must be chaired by a primary member of the council. Subcommittees shall be recognized as official subunits of the council and are subject to all requirements of the charter. No members of subcommittees, including members who are also members of the council, may receive travel expenses for subcommittee meetings or other activities.

Working Groups

The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish working groups for specific purposes or topics that need focused attention that cannot be accomplished by a subcommittee. Their work will be limited to functional areas and discrete issues relating to individual sanctuaries. Working groups may be composed of members of the council and persons outside the council. Working groups shall be chaired by a primary member of the council and shall function under the purview of the council. At the sanctuary superintendent's discretion and if the full council approves, an alternate member may chair a working group; that alternate shall function under the purview of the council. Working groups established by the council to address specific issues shall disband once the final advice on the particular matter is submitted to the council. No members of working groups, including members who are also members of the council, may receive travel expenses for working group meetings or other activities.

Procedures for determining membership on working groups may be determined by the individual sanctuary and council. The sanctuary superintendent should approve any new members of working groups.

E. Selection and Removal of Council Members

Selection of Governmental Members

Each agency that is given a seat (or made a non-voting member) is responsible for appointing its representative and alternate to the council. Both the primary and alternate representatives may be changed at that agency's discretion, but the agency should notify the sanctuary in writing when any such changes are made. Although the ONMS cannot veto an agency's choice for its seat, it is recommended that the agency representative be someone with sufficient authority to speak for that agency or accomplish commitments with some dispatch. See Appendix 7(g) for a model invitation letter to government agencies

requesting they appoint a representative to the council.

Selection of Non-Governmental Members

For all non-governmental seats, representatives and alternates (if applicable) will be selected through a public, competitive process. The selection process is:

1. Public notification (see Appendix 3 for a model press release) will be provided as to the existence and purpose of the council, the details of the application process, and all applicable guidelines. The application period for council seats must be a minimum of 15 days. It is recommended that sanctuary superintendents contact relevant organizations and associations via letter, email and/or phone call to inform them the recruitment process is underway. A *Federal Register* notice is required (see Appendix 2 for a model *Federal Register* notice). In addition, 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. Interested individuals should be directed to a contact to obtain application packages (see Appendix 4 for the required application form and Appendix 7(f) for a model cover letter).

Notice of the vacancy and the application packages should also be offered on-line at the sanctuary's web site. The application package must contain the council application form (see Appendix 4) and this council handbook. The application package also must contain the final charter so prospective members understand the purposes and authority of the council and what their responsibilities and rights would be as members of the council. The application package should also contain the descriptions of general qualifications and expectations for common seats discussed earlier in this section.

Note that web forms (e.g. the public fills in council applications and submits them online) are not allowed for security reasons. However, a site may offer the council application form in a Portable Document File (PDF) available online. The "seat applying for" section of the application form will need to be altered for each recruitment, depending upon the seat that is being advertised, but please note that the council application form has been reviewed and approved by OMB and cannot be altered in any other way. Offering the council application form in a PDF format is optional; continuing to offer the council application in hard copy is completely acceptable.

2. All applications will be submitted to the sanctuary superintendent. If no qualified individuals apply for a seat, it may be necessary to re-advertise, working with appropriate local organizations and groups to notify them of the seat vacancy. It is also useful to revisit previous council member applications to determine if a qualified individual is still interested in serving on the council, and ask them to submit an application.

3. The sanctuary superintendent must use a preliminary review panel to obtain recommendations on selections. For an existing council, it is recommended that the review panel be a subcommittee of the council. When establishing a council and conducting the first member selection process, it is recommended that the review panel be composed of federal and state agency partners. Members of the community and other local partners may also be used, as appropriate and under specific conditions:

- ❖ members must protect the privacy of the applicants as described below; and
- ❖ input must be offered on an individual basis as seeking consensus advice would violate FOIA.

The superintendent determines the size of the review panel, but 3-4 members are recommended. If a primary council member seat term is about to expire and is being advertised, the current primary council member for that seat should not sit on the review panel if he/she is re-applying for the seat. If the member is not re-applying for the seat, there is no conflict of interest, and with the sanctuary superintendent's concurrence, the member may sit on the review panel. If an alternate council member seat term is about to expire and is being advertised, the current primary council member of the same seat may sit on the review panel if there is no conflict of interest, his or her experience on the council will aid in the selection process, and the sanctuary superintendent concurs.

The review panel will help determine the top three candidates for each seat; this mechanism promotes credibility in the selection process. Individual opinions may be sought if consensus advice is not desirable or too difficult to obtain. Potential members should not be notified that their names are being submitted to ONMS Headquarters for further checks (see #5). In general, before the selection of council members, protect names and other personal or identifying information during the deliberation process. After a selection is made, abide by the language in the rest of this section.

The sanctuary superintendent should be aware of protecting the privacy of the applicants and the reviewers. The following information is releasable to the public, under the Freedom of Information Act (FOIA) or through a court order or congressional inquiry:

- ❖ The names of reviewers, whether they are members of the council or not;
- ❖ The names and business information (e.g., work address and phone numbers) of applicants who are chosen as members of the council;
- ❖ Other information contained in the applications of the individuals chosen as members, that relates to their qualifications to be a member of the council, including education, professional experience, and professional and community affiliations; and/or

❖ Statements of opinion or philosophy.

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

- ❖ The names or other identifying information of applicants who are not chosen as members of the council (protected under Section B(6) safeguarding privacy of individuals); and/or
- ❖ The private information (e.g., home address and phone numbers) of applicants who are chosen as members (protected under Section B(6) safeguarding privacy of individuals).

In general, the sanctuary superintendent should protect the privacy of the applicants and advise the preliminary review panel to safeguard information provided on the applications. Personal information such as home addresses and telephone numbers and other personal information that is not relevant for consideration as a member of a sanctuary advisory council should be redacted from applications before the preliminary review panel receives them.

With the exception of the release of information resulting from a FOIA request, through a court order, or as the result of a congressional inquiry, no individuals or organizations should be permitted to see applications for advisory council seats, except the review panel, advisory council members, and ONMS staff. See page 46, Council Application Records Management, for additional guidance on this issue.

Specific legal requirements for protection of privacy should be discussed with GCOS and OGC, General Law Division (202-482-5391).

4. The sanctuary superintendent may choose to interview candidates as part of the selection process.

5. The sanctuary superintendent selects a representative and an alternate from the three top candidates for each seat, and submits those names for review by their regional director (see Appendix 7(d) for a model regional clearance memo) and approval by the Director of the ONMS (see Appendix 7(e) for model cover memo for member selection approval). Before the Director approves the selectees, they must be cleared through a LEXIS/NEXIS check through GCOS and a departmental bureau check for potential conflict of interest and other issues in the applicant's background (both required by Department of Commerce policy for all department advisory councils). These checks will be conducted by headquarters personnel and the site notified if any problems occur. The site should allow two to four weeks for the LEXIS/NEXIS and bureau check to be completed. Potential members should not be notified of their acceptance until after the checks have been completed and the approval memorandum is signed by the Director.

The representative should be someone who has completed the application

(see Appendix 4 for required application) and provided enough information to determine his or her qualifications, should be a resident of the area affected by the sanctuary, has a demonstrated ability to work cooperatively with others, has the community and professional affiliations to facilitate the exchange of information between the sanctuary and the community, and has expressed a positive philosophy regarding the protection and management of marine or Great Lakes resources.

Council members and alternates must be 18 years of age or older. The complexity of the issues addressed by sanctuaries and councils, the ability to effectively network with all ages of constituents, and the ability to travel to and attend meetings and retreats all necessitate this minimum age limit.

Please note a federal employee (Executive Branch) may not serve on a council in a personal (non-official) capacity in order to avoid possible conflicts under United States government ethics rules. This applies to all federal government employees even if their agency does not hold a seat on the council. A state employee may serve in a personal capacity with the permission of their supervisor. Such permission must be in writing on official agency letterhead.

ONMS staff are not allowed to serve on advisory councils or their subunits. This includes federal government employees, contract employees, detailees, interns, fellows, and anyone else working for a federal office. Excluded from this are superintendents or their designees who sit on the councils as non-voting members to ensure relevant information exchange among other adjacent or nearby national marine sanctuaries.

6. Approved members and alternates, as well as non-selected applicants, are notified formally in writing (see model letters for all three in Appendices 7(h), 7(i), and 7(j)).

7. Members may be formally sworn in at the first meeting of the council. This is a ceremonial gesture and is not required. See Appendix 5 for a model oath.

Removal of Members

The Director has the discretion to remove a member for any reason. Further, the sanctuary superintendent may recommend to the Director the removal of any non-governmental member of the council (see Appendix 7(k) for a model removal approval request memo), if that member has violated one or more terms of the charter or on one or more of the following grounds:

- ❖ Is convicted of any felony offense;
- ❖ Is found to have violated any of the following laws or regulations promulgated thereunder: the National Marine Sanctuaries Act, Marine

Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, or another environmental law for which NOAA or another federal agency has jurisdictional responsibility;

- ❖ Is found to have violated state environmental laws or regulations promulgated thereunder in the state in which a sanctuary is located;
- ❖ 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;
- ❖ Is determined to have abused his or her position as a member of the council (including but not limited to use of council information for personal gain; use of council position to advance a personal agenda or to harm another member of the council or of the community; misrepresentation of, or spreading misinformation about the council or the sanctuary; and refusal to recuse himself or herself if so requested by the sanctuary superintendent and/or chair in a matter in which the member has a conflict of interest);
- ❖ Has a change to the professional affiliation(s) and/or personal circumstances that comprise a significant portion of that member's qualifications for being a member of the council;
- ❖ Misses a consecutive number of meetings (as defined by each charter) without reasonable justification; or
- ❖ Disrupts on more than one occasion council meetings in a manner that interferes with the council conducting its business.

The sanctuary superintendent may consult with the council, but the council does not have the authority to remove a member. The member is formally notified in writing of his or her removal (see Appendix 7(1) for a model letter to remove a member) and a replacement for that seat will be sought.

A warning system may be instituted at each site so that removal becomes the final option, unless the situation is severe enough to warrant immediate removal. Violations of the grounds above must be carefully documented in order for the warning system to work. The system, if implemented, should operate in the following manner:

- ❖ First incident: Verbal warning from sanctuary superintendent (in consultation with chair).
- ❖ Second incident: Written warning from sanctuary superintendent (in consultation with chair).
- ❖ Third incident: Removal.

If a government agency representative fails to attend a certain number of consecutive council meetings (specified in the council charter), the agency may be removed. A government agency may also decide to withdraw from the council. In either case, the sanctuary superintendent is authorized to invite, with the Director's approval, another government agency to replace it on the council.

Agency representatives are expected to hold themselves to the same

standards of conduct as non-governmental members. If the representative of a government agency is problematic, the council may request the government agency replace its representative. The same or similar warning system as that developed for non-governmental members may be used to help document a problem to take to the agency of the problematic member.

F. Council Meetings

Full Council Meetings

The main way to meet with a council is through a regularly scheduled, formal council meeting. The council is limited to a maximum of one such meeting a month (the meetings should only be in different months, they do not have to be precisely 30 days apart), although provisions are made for emergency meetings. The council of an operational sanctuary must meet at least once every six months. Meetings are open to the public and material discussed in council meetings is public, so discretion should be exercised as to information presented during council meetings. Timely notice of each council meeting, including the time, place and agenda of the meeting, shall be provided to the local media and additional notice may be given by such other means as will result in appropriate publicity to interested groups. It is recommended that a minimum of 15 calendar days notice be given. This requirement shall not apply to workshops scheduled by the council to address strategic planning, administration, training, teambuilding or specialized technical issues. The council may not vote on any agenda item for which notice was not provided. Meetings should be held in various portions of the region adjacent to the sanctuary to ensure there is adequate access for interested or affected members of the public; meeting facilities need to be in compliance with the Americans with Disabilities Act. Members of the public must be given an opportunity to provide written or oral comments at the meeting on items on the agenda. Meeting minutes, not verbatim transcripts, of each meeting are to be kept by the ONMS staff. The sanctuary superintendent, in consultation with the chair, schedules meeting times, locations, and agendas. It is useful to plan meetings a year in advance so members can plan accordingly.

Seeking consensus over voting is recommended when possible. A member may occasionally abstain from a vote, after providing an explanation and justification which must be approved by the rest of the council.

Public interaction with council members during council meetings should be limited to public comment periods, breaks and before and after meetings. This is intended to limit interruptions and distractions.

The ONMS recommends the sites provide council members advance notice of council meeting action items, in addition to the notice provided on the agenda in local advertising. Some sites send out an "agenda bill" to their council members prior to the meeting which identifies agenda

items as informational, decision, or pre-decision and provides some background information on each. The more prepared council members are, the more productive the meeting will be.

Emergency Meetings

Emergency meetings may be held at the call of the chair or presiding officer and the sanctuary superintendent. The "emergency situation" is defined by the sanctuary superintendent and the chair or presiding officer. During these exceptional circumstances, it is permissible to provide less than 15 days notice for the meeting provided the reasons for doing so are included in the notice, but reasonable notice under the circumstances must be given.

Emergencies could range from a situation where there is an oil spill and immediate input is needed, to an issue of a significant nature that arises between council meetings but the deadline for input is before the next scheduled meeting.

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 by teleconference as described on page 36.

Council Retreats

Occasions might arise when a council will want or need to conduct activities that do not require or would not be of interest to the general public. Sanctuaries and councils should use caution in determining to hold a retreat, as it is generally desirable to the ONMS to have public attendance and participation (as appropriate) at council meetings. Retreats cannot be used for any purpose that might require qualitative deliberations among council members (e.g., comments on an important public document or project), or that would lead to a vote or recommendation to the sanctuary superintendent. No voting actions may be taken at such retreats. Activities that are usually appropriate for a retreat are:

- ❖ strategic planning for advisory council operations;
- ❖ internal communication and team building;
- ❖ problem resolution relating to advisory council operations;
- ❖ brainstorming;
- ❖ training (including bringing new members up to speed);
- ❖ development of an annual operating plan or work plan for council activities; and
- ❖ member recognition and appreciation.

Planning Effective Retreats

Some councils hold retreats on a regular basis; these sites report mixed success. In order to increase the usefulness and enjoyment of

retreats, the following guidelines are provided, based on the experiences of several different sites.

- ❖ **Goals:** Very early in the planning process, ensure the goals of the retreat are clear and well-understood by all participants in order to obtain the results sought by the council and sanctuary. Everyone should be aware of his or her specific roles and responsibilities.
- ❖ **Participants:** It has proven useful to have as many sanctuary staff, council members, and council alternates as facilities and funding allow to participate in retreats. This helps build and foster strong working relationships.
- ❖ **Participant Investment:** The retreat will only be successful if the participants believe and fully participate in the planned activities.
- ❖ **Retreat Format:** Treat the retreat as a special event, not a regular council meeting. The retreat should be planned in order to achieve the goals laid out for it, but must also be enjoyable. Trying to over-plan and crowd the meeting with too many work activities will likely lead to an unsuccessful retreat. Thought should be given to how the meeting is conducted, whether by sanctuary staff or external facilitators. If training is to be conducted, the style and quality of trainers should be considered. Care should also be given to the quality of presenters and presentations, if any.
- ❖ **Retreat Location:** Retreats tend to be more successful if they are conducted outside the normal office or meeting locations. The proximity of the retreat location to most of the participants' homes or offices is also important (both for their ease of travel as well as the costs to the sanctuary).
- ❖ **Retreat Scheduling and Duration:** Retreats should be planned well in advance to allow maximum participation by sanctuary staff and council members. Duration must also be carefully chosen; council members are likely balancing family and business obligations with the need or desire to attend the retreat. A retreat that extends beyond one day will incur lodging expenses for participants. In general, retreats should probably not extend beyond two days.
- ❖ **Cost Considerations:** Again, costs of the retreat should be balanced against the need for the retreat. Costs that could be incurred include travel (mileage, per diem, and hotel expenses), meeting rooms, and facilitators/trainers (if used).
- ❖ **Retreat Follow-Up:** The retreat must be recorded in some fashion (e.g., notes, photos, slides), including the outcomes and any commitments made by sanctuary staff and council members. Circulate any documents to the participants for review to ensure accuracy. Conduct follow-up on any sanctuary commitments promptly.

Subunit Meetings

Subcommittee Meetings

Subcommittees are not subject to the same provisions as the full council for public notification and number of meetings, although a site can make it so, if desired. A sanctuary staff person should attend meetings if possible. Meetings are held as necessary (and may be conducted by whatever approach the members feel is productive) to achieve the stated goals of the subcommittee, which are limited to reports to the full council. The council must deliberate over the report during a public meeting in determining what recommendations to make to the sanctuary superintendent.

Working Group Meetings

Working groups are also not subject to the public notification and meeting number provisions of the full council, although a site can make it so, if desired. A sanctuary staff person should attend meetings if possible. Meetings are held as necessary (and may be conducted by whatever approach the members feel is productive) to achieve the stated goals of the working group, which are limited to functional areas and discrete issues relative to individual sanctuaries and require reports to the full council. The council must deliberate over the report during a public meeting in determining what recommendations to make to the sanctuary superintendent. It is also suggested that a strong effort be made to ensure that all members of the segment of the community represented by that working group are aware of its existence and are invited to participate.

Preliminary work completed by a subcommittee or working group is not forwarded directly to the government, but instead is provided to the sanctuary advisory council for deliberation at an open meeting. The full council must actually deliberate on and not simply rubber stamp the subcommittee or working group's work. As such, subcommittee and working group meetings can be accomplished using multiple technologies (see page 36.)

G. Administration and Operation of the Council

Communication Protocols

One of the most enduring challenges that staff and councils face is that of communication, both internal and external. Council chairs requested more explicit guidance on council communication protocols be included in the Council Implementation Handbook and also requested sites include the protocols in application kits for individuals interested in applying for council seats.

The general guidance provided below is for the council as a body or

for individuals when they are functioning in their official capacity as members of the council. In general and where appropriate, the following disclaimer should be used in written communications from the council: "The council is an advisory body to the sanctuary superintendent. The opinions and findings of this letter/publication do not necessarily reflect the position of the sanctuary and the National Oceanic and Atmospheric Administration." As always, members are free to communicate as they wish, with whomever they wish, as private individuals and not as council members.

See additional guidance under Conduct of the Council and Council Members on page 47.

Council Member to Council Member

Council members are encouraged to communicate often with each other. The sanctuary should offer them the means to do so, providing, at a minimum, contact information for each member on the council and time at council meetings for members to "network." A sanctuary and council should investigate whether it would be helpful to members if a web site was created for their use. Social events and retreats can also help facilitate good relations and communications. These contacts, however, should not substitute for public deliberations. If a private conversation has enabled members to move forward substantively on an issue, such a conversation should be recounted at the next open meeting.

Council Member to Constituents

Council members are encouraged to communicate on a regular basis with their constituents, in order to increase their ability to represent their constituents to the sanctuary and vice versa. The sanctuary should assist members in doing so. Depending on member needs and the resources available to the sanctuary, this might include:

- ❖ helping members set up geographic or issue-specific groups;
- ❖ helping members establish regular meetings/forums with constituents;
- ❖ providing sanctuary support for members to help them reach constituents;
- ❖ making time at council meetings for members to report on their constituency outreach efforts; and/or
- ❖ providing training on how to communicate with constituents.

Written communications between council members and their constituents become public when they are introduced at meetings, shared among members, or are given to the government. Any information in the custody and control of the federal government may be subject to the Freedom of Information Act.

Council Member to Sanctuary Staff

Council members should feel free to communicate with any member of a sanctuary's staff, either through the council coordinator or directly by visit, e-mail, or telephone, so long as these communications do not constitute advice from the council to the sanctuary. In the latter case, as a matter of courtesy, the member should notify the council coordinator. Specific site staff members may be assigned to work with the council on certain projects, council subcommittees or council working groups. The sanctuary superintendent and council coordinator should facilitate close working relationships between individual site staff and their counterparts on the council (e.g. staff education coordinator and council education seat, staff research coordinator and council research seat, staff public relations/outreach/media coordinator and the citizen-at-large seat). Social events and retreats can also help facilitate good relations and communications.

In order to enhance communications between councils and sanctuary staff, the ONMS encourages each sanctuary to institute regular methods of communication with the council. Such methods might include:

- ❖ annual presentations by the sanctuary superintendent, perhaps prior to or as part of a retreat to prepare the council's annual operating plan for the coming year;
- ❖ presentations by other site staff;
- ❖ weekly or biweekly meetings or conference calls with the chair and other council officers (e.g., some sites have formed explicit executive subcommittees composed of council officers for this purpose); and/or
- ❖ emails or other updates provided to council members on a regular basis (e.g., monthly) to keep them abreast of projects and issues of concern related to the sanctuary.

Council to External Parties (Excluding Congress and the Media)

On some occasions, it will be appropriate for the council to communicate with external parties (however, see separate section on communications with Congress and the media below), including local and state agencies and federal agencies other than NOAA. At such times, the communication will probably come about as the result of a motion during a council meeting. Any advice, correspondence or information the council wishes to offer or express beyond the sanctuary superintendent must be voted on and approved by both the council and the sanctuary superintendent prior to sending, and must be sent on council letterhead. At the sanctuary superintendent's discretion, in such cases the council can either: (1) advise the sanctuary superintendent directly and request the advice be forwarded to the appropriate external parties, or; (2) forward the advice directly to the external parties, with all the caveats aforementioned (i.e., on council letterhead, disclaimer at the bottom, and with the approval of the sanctuary superintendent).

The aforementioned written advice, correspondence or information may also be shared orally (e.g. public hearing) by a council member acting in his or her official capacity. The oral comments should ideally be read verbatim or at a minimum highlight only the main points of the written communication approved by both the council and sanctuary superintendent. The council must officially approve the council member's sharing of the written communication.

Council to Congress

Council members are not prohibited from contacting Congress as private citizens on their concerns as private citizens. Council members may also respond if a congressional member makes an inquiry to the council, after coordinating with the sanctuary superintendent. Subject to the sanctuary superintendent's approval, a council may make a recommendation to NOAA concerning NOAA legislation, which the agency can then take into account during its own decision-making processes. The agency may also inform Congress of the position taken by one or more councils. Subject to the sanctuary superintendent's approval, councils may also comment on state legislation.

However, there is no authority for the council to advise persons or groups other than the Secretary of Commerce on legislation affecting sanctuaries. Also, NOAA may not request or authorize councils or their members to conduct any activity that would lead to grassroots lobbying (this prohibition is set forth in the Department's annual Appropriations Act and 18 U.S.C. Section 1913). Finally, the activities of council members can reflect adversely on NOAA by creating the appearance that the agency is engaged in such prohibited activities. Therefore, a council may not write directly, or send copies of correspondence, to the U.S. Congress, either at the request of NOAA or on its own initiative.

Council to the Media

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

On the other hand, the council and individual members should refrain from discussing issues that do not pertain to the sanctuary. For

example, the council should not comment on NOAA- or Department of Commerce-wide issues, and should refer any such question to sanctuary staff for an appropriate response.

Council to Council

Councils are encouraged to communicate with each other; the best way may be chair to chair. The ONMS facilitates such communication by hosting an annual council chairs and coordinators meeting and maintaining a council section on the program's web site.

Council to ONMS Director

Council members may communicate with the ONMS Director via letters, resolutions, or other means. Such communication should be conducted via the sanctuary superintendent and should have a cover memo from the sanctuary superintendent to the director indicating his or her concurrence or disagreement with the council. See Appendix 7(m) for the Cover Memo for Council Communications.

Sites should work directly with the National Council Coordinator to ensure these communications are appropriately tracked and addressed. The council coordinator should actively track all such aforementioned correspondence through the entire process from start to finish to ensure an accurate and timely response.

Council to NOS, NOAA and the Department of Commerce

Council members may communicate with NOS, NOAA, and the Department of Commerce via letters, resolutions, or other means. Such communication should be conducted via the sanctuary superintendent and ONMS Director, and should have the appropriate transmittal memoranda. See Appendix 7(m) for the cover memo for council communications to ONMS Director. Other memoranda transmitting the communication from the ONMS Director up the chain of command should also be included.

Sites should work directly with the National Council Coordinator to ensure these communications are appropriately tracked and addressed. The site council coordinator should also actively track all such aforementioned correspondence through the entire process from start to finish to ensure an accurate and timely response.

Seat Equality

It is the policy of the ONMS that each seat is considered to be equal on the council for all purposes, including voting (with the exception of ex-officio seats voting) on council resolutions and providing input to the sanctuary superintendent. This encourages broad participation across the council by assuring each member that his or her voice is equally important to the sanctuary. Moreover, the ONMS seeks consensus from the council on issues the council addresses. Consensus

advice involves general agreement among members acting as a group to pursue common objectives. This requires full input from all members acting as equals and precludes any suggestion that some votes would or could be more influential than others. This policy helps ensure that the consensus the ONMS hopes councils will achieve is in fact attainable.

Protocols/Bylaws

Some councils have developed detailed bylaws or protocols, in addition to the requirements contained in the charter, to govern the operation of the council. Examples include protocols that address procedural items such as how meetings are conducted, correspondence drafted, or topics addressed. This level of detail is probably not necessary at all sites; most councils have adopted Robert's Rules of Order for conducting meetings. It is the policy of the ONMS that Robert's Rules of Order or any other protocols may be set aside as a sanctuary superintendent and chair determine necessary in order to facilitate or expedite council business.

Proxy Votes

Because a council is a deliberative body, the discussions and interaction of council members with each other, ONMS staff, and the public are as important to the ONMS as the act of voting. Members should be able to attend and participate in most if not all meetings. In the absence of a member, his/her alternate may vote. If both a member and his/her alternate will be absent from a meeting where a vote may be taken, it is permissible for the member or alternate to participate and vote by telephone (see page 36). The ONMS therefore does not permit proxy voting.

Non-Voting Seats

Some sites/councils may choose to establish non-voting seats on the council. Non-voting governmental members do not have a role in forwarding council recommendations to the sanctuary superintendent and other actions that might require a vote. At the sanctuary superintendent's discretion, the non-voting governmental member is allowed to make motions, second motions, raise issues, suggest resolutions, nominate individuals for the council officer positions and otherwise fully participate on the council, with the exception of voting. Note however that non-voting members may vote during officer elections.

It may occasionally also be appropriate to have a non-voting, non-governmental seat. The non-voting youth/student seat is one example of such a seat. Non-voting, non-governmental members operate under the same parameters as non-voting, governmental members. The non-voting, non-governmental members do not have a role in forwarding council recommendations to the sanctuary superintendent and other

actions that might require a vote. At the sanctuary superintendent's discretion, the nonvoting member is allowed to make motions, second motions, raise issues, suggest resolutions, nominate individuals for the council officer positions and otherwise fully participate on the council, with the exception of voting. Note however that non-voting members may vote during officer elections. See Section D for more information on non-voting seats.

ONMS representatives that sit on the councils in a non-voting capacity (i.e. sanctuary superintendents or their designated representatives) have a much more limited role than other non-voting members. They are allowed to participate in discussions, but that is the extent of their participation.

Employing Multiple Technologies for Meetings

All meetings must comply with public notice and other legal requirements that govern traditional face-to-face meetings, but it is also useful to employ multiple technologies, if available. It is possible to conduct a meeting by teleconference, post the information that is being discussed on the internet, and provide a dial-in number for the public. This would allow the public to listen to the discussion and follow along in the materials. The dial-in number serves as the "virtual meeting," and the website provides the "virtual handouts." Meetings may also be held by video conference, with the materials being discussed posted on the internet.

The ONMS recommends posting virtual handouts a minimum of 48 hours in advance of the meeting to allow the public adequate time to access and review the documents. If one set of virtual handouts have already been posted and have to be replaced by an updated set of handouts, the ONMS recommends posting BOTH sets of documents with an explanation and directing the public to the appropriate set. The situation should also be highlighted at the beginning of the virtual meeting.

The ONMS can provide telephone conferencing by providing a toll free call-in number but cannot cover costs such as private or cellular phone bills, satellite time from a vessel or plane, or other related costs. Individual sites will provide the call-in numbers, arrange the calls, and cover the costs for their council.

The ONMS places a high value on the discussions and interactions of council members. So while it is permissible, at the sanctuary superintendent's discretion, to employ multiple technologies on an occasional basis, such as to facilitate an emergency meeting, they should not replace regular council meetings.

Individual Telephone Participation and Voting in Council Meetings

As discussed above, the ONMS places a high value on the discussions and interactions of council members. Telephone participation and

voting by individual council members may also be permitted on a very occasional basis (e.g., one time a year per member); it should not in any way substitute for the normal in-person participation of a member. The ONMS can provide telephone conferencing by providing a toll free call in number but cannot cover such costs of private or cellular phone bills, satellite phone time from a vessel or plane, or other such costs. Individual sites will provide the call-in numbers, arrange the calls, and cover the costs for their council. Telephone conferencing will not become a normal part of council meetings but may be provided at the sanctuary superintendent's discretion in response to a request from a member. This should only be used as a last resort if both the member and the alternate cannot physically attend a meeting. It is also expected that the member would participate fully in the meeting and not just call in to vote.

Public Audio and/or Videotaping of Council Meetings

Though there is a legal requirement under Section 315 of the NMSA for council meetings to be open to the public, there is no requirement under either the NMSA or FACA that would obligate the ONMS to allow audio or video taping of council meetings. However, since the meetings are open to the public, there is no reason to stop anyone from taping a meeting unless such taping constitutes a disturbance or disruption that prevents the council from completing its business. It is left to the discretion of the sanctuary superintendent and council to determine what constitutes such a disturbance or disruption. If such a disturbance or disruption occurs, the sanctuary superintendent or chair may request that such taping be halted. If the disturbance or disruption continues, the superintendent or chair may ask the person responsible to leave the meeting.

Communication of Council Advice and Dissenting Opinions/Decisions

In order to communicate council advice and to document council majority and minority dissenting opinions to the sanctuary superintendent and the ONMS Director, the following protocol was developed.

- ❖ The sanctuary superintendent requests advice on a specific issue from the council.
- ❖ The council presents the majority opinion to the sanctuary superintendent in written form, and when appropriate includes any minority/dissenting opinions in that written communication.
- ❖ When the sanctuary superintendent makes a decision on the issue:
 - a. If the sanctuary superintendent concurs with the majority council opinion no action is necessary; however, the council may be notified in writing, over e-mail, or verbally as a courtesy.
 - b. If the sanctuary superintendent dissents from the council majority opinion, the sanctuary superintendent should

document this difference of opinion in writing with a short narrative describing the rationale behind the decision. This written decision should be forwarded to the ONMS Director for his review and acknowledgment. See Appendix 8 for the advice acknowledgement template.

This protocol is optional and should only be used for significant or important issues.

Training

The ONMS recommends multiple levels of basic orientation/training when a new council member (either governmental or non-governmental) first joins the council or periodically thereafter for members that have served on the council for a number of years.

Informational Material

The site should furnish informational material to the member ideally as part of a Site Council Handbook. A three-ring binder with dividers is the most traditional format so items can be added or removed as necessary. However, as sites and councils move to a "greener" way of doing business, providing it in electronic format is efficient as well. The information to provide to new members falls into three categories: national or programmatic, sanctuary-specific, and specialized council information.

National or programmatic information includes such things as:

- ❖ NOAA and ONMS organization charts;
- ❖ the NMSA;
- ❖ Sanctuary Watch newsletters;
- ❖ the program brochure or other material summarizing the sites of the ONMS, including a map; and
- ❖ other material, such as other ONMS publications or products that other sites have used for their councils, should also be included, if useful to the new member.

Sanctuary-specific information includes such things as:

- ❖ maps of the sanctuary;
- ❖ documents such as brochures that provide a description of the site's resources and qualities;
- ❖ organizational charts of the sanctuary office;
- ❖ listings of employees, their duties, and contact information;
- ❖ brief descriptions of ongoing sanctuary projects; and
- ❖ the most recent newsletters, annual reports, or other ongoing publications.

Council-specific information includes such things as:

- ❖ the council charter;
- ❖ contact information and brief biographies of other members;
- ❖ council's annual report from the previous year;

- ❖ background information on issues and projects currently being discussed by the council;
- ❖ information on the structure of the council, including sitting officers and existing working groups and subcommittees;
- ❖ future meeting schedule and locations; and
- ❖ national council support documents.

General Orientation

The sanctuary superintendent and/or council coordinator provides a general orientation either one-on-one or with a small group, if a number of new members are starting at once. This will help establish the working relationship between the site staff and the member. The general orientation will introduce the new council members to the ONMS, the site and the council. In particular, staff should review the council charter and the ONMS Council Implementation Handbook (this document).

Seat-Specific Orientation

The 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 new council members' constituents, describes how past council members fulfilled the responsibilities of the seat, and briefly highlights tools available to the member to reach out to their constituents. It would also be beneficial if the former council member could attend the meeting or phone in to assist with the training and provide perspective.

Staff Mentoring

The ONMS recommends site staff mentoring of new council members. For example, the new council member filling the research seat should meet and have a close working relationship with the site's research coordinator. The sanctuary superintendent and council coordinator should facilitate and foster these sorts of relationships.

Constituent-Building Tools

The site should provide all council members with a package of informational materials (brochures, fact sheets, maps, access to powerpoints, etc) and training on how best to utilize the tools to facilitate their constituent-building.

Council-Member Mentoring

A new member might also be "assigned" to a veteran member of the council, who would serve as a mentor and be available for any questions a new member might have.

Additional Training

Beyond the basic training offered to all new members, council members should be offered additional training when possible. Such training might include courses on working with the media, meeting facilitation, mediation, and consensus building. Regional or national opportunities may also be available to provide such training.

Meeting Minutes

Final minutes of each council meeting must be made available to the public, either upon request or by posting to a web page or listserv. Draft minutes that have not yet been finalized should be generally available to members of the public upon request as well.

Management of Resolutions and Action Items

Council meetings may generate a number of resolutions and other action items that will require tracking and follow-up actions. Sanctuaries should develop organizational frameworks that fit their own needs to track and follow-up on action items.

For councils that are particularly active, the number of such actions may be large and there may be difficulty tracking/completing all the action items coming out of meetings. In such cases, a sanctuary may wish to consider having more than one staff member coordinating or supporting the council. Other alternatives that might be considered include defining specific duties for the council secretary, such as tracking resolutions and other action items during a meeting, that will assist the coordinator or working with the chair and superintendent to determine how to deal best with action items (e.g., not every item needs to be a resolution and/or the superintendent may ask that members interested in drafting letters take on that responsibility rather than relying on sanctuary staff to do so).

When follow-up on a particular item is necessary at the ONMS headquarters level, see the Communications Protocols section of this document for details.

When a council passes a resolution or writes a letter to be sent above the ONMS Director's level, it must be routed through headquarters. ONMS headquarters will move the document through the appropriate channels. See the Communications Protocols section of this document for details.

Annual Operating Plan

Councils and sanctuaries may both be eager to involve a council in many aspects of sanctuary operation, but having a council try to do too much does not make the best use of members' commitment, time, and energy; and usually is of little benefit to the sanctuary. It is best

for the sanctuary and council to develop work plans on an annual basis that lay out the issues and projects the council will focus on for the coming year. Annual work plans for the council should mirror the priorities the sanctuary has identified for itself. Work plans can be developed in a number of ways, including discussion during a retreat and/or forming a subcommittee to work with sanctuary staff to draft the document.

Although the charter outlines the general roles of a council, the ONMS strongly encourages each sanctuary and council to prepare a council annual operating plan (AOP) because:

- ❖ Councils are constantly wrestling with the question of what their role is;
- ❖ Having a council AOP that is consistent with the sanctuary's AOP helps ensure the council is focusing on items that are of most assistance and value to the sanctuary superintendent and ensures the most effective use of council time and ONMS resources;
- ❖ Laying out a schedule for the upcoming year requires the sanctuary superintendent and the council to set deadlines for activities when council input is needed (e.g., for special events or projects) and also allows members to plan around their personal schedules; and
- ❖ Preparing a council AOP allows each council to share information with their colleagues on other councils, increasing communication and idea exchange among them.

Many sanctuaries already do some kind of council AOP-type planning or have elements of it in place (e.g., annual schedules or annual priorities), so taking the next step to an articulated AOP should not be onerous. The sanctuary and council should first decide on an AOP format that works best for everyone. Granting that flexibility must be maintained for unforeseen events and "fire drills," the following guidance is provided on how a sanctuary and a council might prepare an AOP:

- ❖ The sanctuary provides information to the council about its activities, products, and outcomes for the coming fiscal year (please see discussion under Informational Support on page 45 for additional guidance).
- ❖ Council members raise additional tasks or roles they have an interest in addressing as a body in the coming fiscal year.
- ❖ Sanctuary staff and council members jointly determine the most appropriate tasks or roles for the council and formulate a rough schedule with assignments and deadlines (perhaps during a retreat).
- ❖ Sanctuary staff and council members identify additional activities and important dates such as regular council meetings and special public events.
- ❖ The information generated by the previous steps is formatted into an AOP that mirrors the sanctuary's AOP and is provided to everyone for review.

- ❖ The council's AOP is finalized and made available to the public.

Annual Report

The ONMS strongly encourages each sanctuary and council to prepare a concise annual report. An annual report should serve several purposes:

- ❖ Serve as a record of the council's accomplishments;
- ❖ Help identify ongoing or recurrent problems;
- ❖ Show how effective the council has been in representing the thoughts, concerns, and ideas of the community to the sanctuary superintendent, and vice versa;
- ❖ Demonstrate how the council has contributed to resource protection; and
- ❖ Serve as a vehicle for sharing information and achievements with the public.

Support for Council Activities

Council Coordinator Support

The sanctuary determines the amount of council coordinator and other staff support necessary for the council to carry out its duties. Councils are labor- and resource-intensive, and become more so with increasing numbers of subcommittees and working groups. It is recommended that at least one full-time sanctuary staff member serve as the coordinator for the council; however, larger or more active councils may need more than one staff person dedicated to the council. Council coordinators who also serve in other demanding staff roles may need the assistance of a council liaison to handle the meeting logistics and minutes. It is recommended that all site staff periodically attend and participate as appropriate in the council meetings, staff working groups and subcommittees, and "mentor" appropriate council members (e.g. a site education coordinator should have a close relationship with the council education seat). Understanding that the duties of a coordinator will vary slightly from site to site, in general a council coordinator may be expected to perform the following tasks:

Council Meeting and Retreat Support

- ❖ Meet with council chair and superintendent to develop the agenda;
- ❖ Secure meeting location, equipment and other logistics for council, working group and subcommittee meetings, and retreats;
- ❖ Advertise locally for meetings (not necessary for workshops and retreats);
- ❖ Plan for refreshments, as permitted;
- ❖ Send out reminders (email or phone) about upcoming meeting;
- ❖ Prepare materials for meeting and distribute in advance;
- ❖ Set up meeting room;

- ❖ Attend, participate in as appropriate and facilitate as necessary council, working group and subcommittee meetings, and retreats;
- ❖ Brief council on national council support and other council-related matters at each full council meeting;
- ❖ Interact with council members, field questions and direct members to other staff for additional information, as appropriate;
- ❖ Take notes/minutes of council meetings;
- ❖ Record meeting electronically or by other means, if needed or desired;
- ❖ Conduct meeting follow-up:
 - Draft, distribute, and ensure minutes are approved and posted;
 - Ensure mailings go out;
 - Distribute council communications from ONMS HQ;
 - Track/follow up on action items:
 - Obtain information;
 - Line up speakers;
 - Prepare and distribute correspondence from the council;
 - Prepare and track resolutions; and
 - Develop information for press releases and internal reports.
- ❖ Conduct retreat follow-up:
 - Draft, distribute retreat summary/report.

Council Administration

- ❖ Handle travel expenses, as necessary;
- ❖ Work with superintendent, council, and headquarters to revise and/or amend council charter;
- ❖ Recruit new members and alternates as necessary:
 - Draft *Federal Register* notices to recruit new members and alternates;
 - Prepare and publish local notices for new members and alternates;
 - 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 a letter from the sanctuary superintendent.
- ❖ Prepare documents as necessary to remove members;
- ❖ Advise the superintendent on council operations and requirements;
- ❖ Work with the superintendent to develop an annual budget for council operations;
- ❖ Work with council and superintendent to develop council annual operating plan (a subcommittee can develop, develop at a retreat, etc.); and/or
- ❖ Work with council and superintendent to develop council annual report.

Other Council Operations and Communications

- ❖ Meet with council executive committee and sanctuary superintendent

periodically to discuss council-related matters (including national council support issues);

- ❖ Meet quarterly with sanctuary superintendent to discuss council-related matters (including national council support issues);
- ❖ Brief all staff, as appropriate, on council-related matters (including national council support issues) during regularly scheduled staff meetings;
- ❖ Facilitate communication between council members, council members and their constituents, council members and staff, and council to council;
- ❖ Work with sanctuary superintendent to identify and facilitate staff "mentors" for council members (e.g. site research coordinator should have close relationship with council research seat);
- ❖ Plan, facilitate and/or conduct, as appropriate, orientation briefings/training for new council members;
- ❖ Identify problems (ethical, legal, policy) and consult with site staff, council, other coordinators and ONMS headquarters as necessary and appropriate to address them;
- ❖ Monitor potential council charter violations or conflict of interest issues; and
- ❖ Prepare and copy non-meeting related materials for the council.

National Support of Councils

- ❖ Facilitate communication between ONMS HQ, site staff and council, as appropriate;
- ❖ Assist national advisory council coordinator in planning and hosting the Annual Council Chairs and Coordinators Meeting, if held at the site;
- ❖ Meet with delegations (local, national, international, individuals and groups), as appropriate, visiting to learn about advisory councils;
- ❖ Attend Annual Council Chairs/Coordinators Meeting. Work with council, chair and superintendent to prepare for and provide input on documents related to meeting; and
- ❖ Provide site information and input into national level council documents, issues and requests (council handbook, directory, annual report, annual meeting planning, performance measures, congressional and other requests, etc.); and
- ❖ Coordinate with other council coordinators across the program to facilitate communication between and interaction among councils.

Sanctuary Budget for Council Activities

Neither councils nor working groups have budgets of their own. Instead, the sanctuary provides support to the council as a regular part of its general budget planning and request. Budgets will vary according to site, but may cover the following expenses:

- ❖ stationery bearing the council letterhead;
- ❖ document printing and copying;
- ❖ mailing and distribution;

- ❖ working lunches as appropriate;
- ❖ per diem expenses as appropriate;
- ❖ rentals of meeting facilities;
- ❖ local notice of council meetings;
- ❖ council retreats (transportation, accommodations; etc.); and
- ❖ other miscellaneous costs.

The budget is dispersed at the discretion of the sanctuary superintendent and does not require council review, although the sanctuary superintendent may ask for the input of council members.

Informational Support

The sanctuary superintendent also determines the information resources necessary for the council to carry out its duties. In general, the superintendent should strive to provide as much information as possible to the council; better information will lead to enhanced council advice. The site should also provide training and tools (brochures, powerpoints, maps, fact sheets, talking points, etc) to the council members to facilitate their constituent building. However, any information provided to a council becomes public information; therefore internal deliberative or decision-making documents cannot be provided to a council until such documents have been cleared for general release.

With regard to releasing budget or annual operating plan (AOP) information to a council, the following guidance is provided:

- ❖ prior fiscal years' budgets and AOPs may be released to a council;
- ❖ for the current or upcoming fiscal years, the information contained on Worksheet A of the standard sanctuary AOP format may be released to a council (i.e., summary budget information broken down by object classes such as personnel, printing, travel, etc.); and
- ❖ at the sanctuary superintendent's discretion, for the current or upcoming fiscal years, the project information contained on Worksheet B of the standard sanctuary AOP format may be released to a council (i.e., specific activities and products as broken down by the standard thirteen categories). The budget information contained in Worksheet B, however, should not be released to councils.

Travel Expenses

Members of the council and its subunits serve without pay. Members of the council itself, however, are eligible for travel expenses incurred as a result of attending official council meetings. No members of subcommittees, including members who are also members of the council, may receive travel expenses for subcommittee meetings or other activities. No members of working groups, including members who are also members of the council, may receive travel expenses for working group meetings or other activities. 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.

Letterhead

Each council is to have its own letterhead, which is not to include the ONMS, NOS, NOAA, or DOC logo. All correspondence from the council, its chair, or members in their official capacities is to be on this letterhead. The council is not to use NOAA letterhead for any purpose. In general and where appropriate, the following disclaimer should appear in correspondence from the council: "The 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 Marine Sanctuary and the National Oceanic and Atmospheric Administration."

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 council has a logo that it uses on its letterhead, that logo may be used on business cards as well.

E-mail Addresses

NOAA cannot provide a NOAA e-mail address for a private citizen (e.g., a council chair) as that would appear that that person was a NOAA employee. However, a general council email address can be set up (e.g., __SAC@noaa.gov) that will direct mail to an appropriate person, such as the council coordinator and/or the chair.

Legal Representation

Historically, lawsuits naming private citizens as a consequence of service on a NOAA advisory committee have been rare. The Department of Justice might provide representation in such a lawsuit if the advisory council member was acting within his or her official capacity. Council members concerned about their personal liability should consult with private counsel.

Council Application Records Management

As described on pages 22-24, Selection of Non-Government Members, the ONMS staff should be aware of protecting the privacy of applicants during and after the member selection process. This includes protecting the applications for both selected and non-selected applicants as follows:

- ❖ Council Applications for Selected Applicants: The ONMS should retain and file the applications in a secure location inaccessible

to non-staff (e.g. locked filing cabinet or on a secure computer). According to the NOAA Disposition Handbook 100-16(b), these applications should be destroyed by shredding when superseded or when no longer needed for current agency business. For record-keeping purposes, the ONMS recommends retaining council member applications for five years beyond the expiration of their final seat term.

- ❖ **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 Disposition Handbook 100-16(b)) or retained and filed in a secure location as described above. Applications shall be filed according to the seat applied for. It is useful to have this information to solicit qualified non-selected applicants to apply again when council seats are vacated. For record-keeping purposes, the ONMS recommends retaining council member applications for five years beyond their application date.

H. Conduct of the Council and Council Members

Council as a Body

The council as a body has a certain prestige and an attendant degree of influence. In most cases this influence will be to the benefit of the sanctuary and ONMS. However, the sanctuary superintendent must take basic safeguards in order to ensure that each council continues to serve the purposes for which it is established. One such safeguard is the requirement that 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. This safeguard is intended to ensure that the sanctuary superintendent is aware of what the council is doing, that the council is not purporting to advise other entities or individuals beyond the scope of its legal mandate, and that the council is not purporting to speak for the sanctuary, ONMS or NOAA in an official capacity, as opposed to on its own behalf as an advisory body.

Individual Council Members

Several basic principles govern the conduct of members of the council (as well as members of working groups who are not members of the council). No member may profit from his or her position; for example, by use of information obtained through the council but not available to the public. No member may seek to influence an issue by invoking his or her council affiliation, outside the context of the council itself (e.g., writing an editorial that expresses a personal opinion but signing it as a council member).

No member may speak for the council as a body unless the full council

has approved that member doing so. When speaking to the public or writing about any matter regarding the sanctuary in a document for distribution beyond council membership, the sanctuary superintendent, or sanctuary staff, a member shall clearly distinguish those recommendations, opinions, or positions officially adopted by the council as a body from those he or she may have as an individual. In no case shall a member represent individual opinions as those of the council, the sanctuary superintendent, sanctuary staff, or NOAA.

A member must not use his or her affiliation with the 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. To do so would create a conflict of interest.

A member may not accept gifts because of his or her affiliation with the sanctuary other than when: the gift has no more than token value, it is the normal exchange of hospitality or a customary gesture of courtesy, and the gift could not be construed by an impartial observer as a bribe, pay off or improper or illegal payment. Accepting gifts as a council member in any other manner than outlined here would constitute a conflict of interest.

A member is expected to conduct himself/herself in a civil fashion, showing courtesy and respect to other council members, sanctuary staff and any other individuals present at meetings and retreats.

Use of Council Title

Service on a sanctuary advisory council is considered service on behalf of the United States Government. Although members of the councils are not federal employees, they are subject to some restrictions, including the requirement to preserve government resources and to not use their affiliation with the council for personal purposes. With regard to use of a government title, members of advisory councils, like federal employees, should consider their council title the equivalent of government property. Therefore, it should be used only in connection with official and approved government/council activities.

If a council member wishes to write a letter expressing their personal opinions (not those of the council), reference to the member's advisory council title or affiliation with the federal government is inappropriate. Reference to a government title or position in connection with personal activities is permitted as part of biographical information, if other information is also included.

Conflict of Interest Guidelines

Charter Language

The model Charter in Appendix 1 contains the following language on conflicts of interest: *Any council member that has an interest (financial, personal or business interest) in any matter before the council or a subcommittee or working group shall disclose such interest prior to discussion and voting on such matter. No member shall cast a vote on any matter that would provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under federal law. An affected member who may not vote on a matter may participate in council deliberations relating to the decision after notifying the council of the voting recusal and disclosing the interest that would be affected. These same guidelines apply to members of working groups who are not members of the council.*

Additional Guidance

In general, conflicts of interest are present if the potential exists for a member to influence the council's discussion and/or recommendation; it is not necessary that influence take place for a conflict of interest to occur. In any case when a member believes there to be a conflict of interest, the member may:

1. Directly remove himself or herself from voting on the matter but still participate in the discussion of the matter.
2. Directly remove himself or herself from voting on the matter and discussion on the matter.
3. Allow the council or working group to vote on whether or not, or to what degree the member should be allowed to participate in the matter.

If a member recuses him or herself, an alternate can participate fully in the discussion; the member may remain in the room for the discussion. Because an alternate is only allowed to cast a vote when sitting in for the primary member, the member should state for the record that their alternate is officially sitting in for this vote. The member should leave the room for the vote. When the member returns to the meeting, the alternate simply resumes their role as alternate attending the meeting.

Specific questions or situations should be directed to ethics attorneys at the Department of Commerce at (202) 482-5384.

Relationship with Friends' Groups and Foundations

In general, councils may work with friends' groups and foundations as they would with any other public organization, including receiving and disseminating information and helping build constituencies in the community. Legal guidance should be sought on a case-by-case basis for specific questions or situations. In general, because councils derive their authority from NOAA and are bound by some of the same provisions that bind federal employees, councils may not establish or fund a friends' group, and may not endorse one friends' group over

another.

PART III - Modifying a Council

A. Revising a Charter

Most charters have a term of three to five years, depending upon the purpose for which the council was established (e.g., a council instituted to help with a designation process would probably have a shorter term than one to provide advice on general sanctuary operation). About six months before the expiration date, the sanctuary superintendent should review the charter, discuss the past operation of the council with council members and with appropriate sanctuary staff on-site and at the national office, review the charters of other sites, and consider what amendments should be made to the existing charter. These amendments should address existing problems or needs of the council. There may also have to be additional changes made to the charter to incorporate "state-of-the-art" items that may have been introduced into charters of other sites since the original charter of a particular site was approved. These may include new legal or programmatic requirements, or an innovation that has worked well at another site. See Appendix 9 for the Charter Revision Process.

Once all of the changes have been determined, a new draft charter should be prepared. The site should work with the National Council Coordinator on an individual review of the charter to see that it complies with national policy. The charter should then be sent in for final approval by the Director of the ONMS.

B. Filling Vacant Seats

At some point, through either attrition or at the end of a member's term, the sanctuary superintendent will have to fill vacant non-governmental seats. The process mirrors that used to choose the original members, with the exception of the preliminary review panel. The sanctuary superintendent will use a subcommittee of council members (e.g., the council officers or other grouping of governmental and/or non-governmental members who are not applying for the vacant seat) to conduct the preliminary review of applications submitted. See Appendix 10 for the Council Member Selection Process.

C. Trouble-Shooting

Councils will not always run smoothly, and problems should be anticipated. In addition to expected options for solving problems (e.g., one-on-one meetings with council members to deal with individual problems or concerns, or retreats of the full council to deal with wider-scale problems), a sanctuary superintendent might consider a number of other alternatives.

Consulting Other Sites

Chances are that another sanctuary might have run into the same problem and already worked through it. Making a few phone calls or consulting the national team of council coordinators might provide a tested solution or at least a place to start.

Going Back to the Beginning

If the problem is related in some way to the charter or the process used to develop the council, reviewing the history of the council's establishment might provide some clarification about what was intended with a certain part of the charter.

Amending the Charter

If a problem is caused by something in the charter and the sanctuary superintendent approves, the charter may be amended through a shorter version of the process that was used to draft the charter. Either staff or the council may identify and suggest potential charter amendments. In either case the amendment should be discussed during a council meeting and have the approval of the sanctuary superintendent. An amendment (see Appendix 6 for a model charter amendment) is usually a single page document that contains the new provision or clarifying language of an existing provision that is cleared through the approval process and signed by the Director of the ONMS. The charter (including the amendment) remains in force for the remainder of the charter's original term, and the amendment should be physically incorporated into the body of the charter when it comes up for renewal. See Appendix 11 for the Charter Amendment Process.

Expert Presentation to the Council

Sometimes hearing information from a different perspective may assist in resolving a problem. The sanctuary superintendent may wish to have an expert make a presentation to the council. Examples include legal presentations by GCOS and national priorities from ONMS senior staff. The sanctuary superintendent might also wish to consider the use of professional facilitators if issues or problems are severe.

Removing a Member

This is an option of "last resort" and has only been exercised once in the history of the ONMS councils. See the earlier discussion on removing members for more details.

Options for Dealing with Common Problems

Council coordinators identified the most common problems encountered in working with councils, as well as some options to address those

problems, as follows:

Members are unsure about their roles:

- ❖ hold retreat and query members
- ❖ describe roles of seats in charter or handbook, and in advertising for vacancies

Members are not in touch with constituents:

- ❖ ask members to set up geographic or issue-specific groups
- ❖ ask members to establish regular meetings/forums with constituents
- ❖ ask members to involve constituents in sanctuary events
- ❖ provide sanctuary support to members to help them reach constituents
- ❖ ask members to report on activities to connect with constituents
- ❖ provide training on how to communicate with constituents

Members lose interest in council meetings and activities:

- ❖ incorporate element of "fun" into council meetings and activities
- ❖ have staff make personal connections with members
- ❖ work with the council to set priorities and take ownership of problems/issues
- ❖ make sure the sanctuary has realistic expectations for the council
- ❖ do not overload council with too many meetings or tasks
- ❖ have mechanisms in place to engage the council during "hot" issues and have less activity on a normal basis

Single or a few members are dominating the council meeting:

- ❖ ask chair to call on and encourage quieter members of council
- ❖ ask chair to keep council meetings focused on agenda items and on time
- ❖ jointly develop and post code of conduct at council meetings
- ❖ ask executive committee (chair, vice chair and secretary) to deal with problematic members immediately, outside of council meetings
- ❖ provide for a standardized, multilevel warning system for problematic members and keep track of "incidents"

Public is not sure of or interested in what the council does:

- ❖ create information products that describe the council as a body, the role of each seat, and biographies of members
- ❖ involve council members at sanctuary events
- ❖ ask and provide support for members to reach out to constituents

Council does not support sanctuary's priorities:

- ❖ educate the council about the sanctuary's priorities during a retreat
- ❖ provide the council with options on what and how to be involved

- ❖ work with the council to realign its priorities through explanation, alternatives, and, where appropriate, compromises

Council wishes to exceed its authority:

- ❖ create a standard briefing package for sanctuary superintendent to deliver to the council
- ❖ reexamine charter and determine where restrictive language could be "eased" or rephrased in positive terms
- ❖ train superintendents and coordinators in how to deal with strong-minded people

Council focuses too much on how it does business and not on making decisions and taking action:

- ❖ have a strong chair
- ❖ focus agendas on action items and allow enough time for discussion
- ❖ hold retreat to resolve issues
- ❖ use facilitation or mediation to resolve issues
- ❖ provide training for both council chairs and sanctuary staff

Representation on council is a problem:

- ❖ consider all factors to ensure adequate and accurate representation (e.g., sanctuary goals, size, programs; geography of region; gender and diversity balance); and integrated thinking (i.e., no single issue members)
- ❖ identify alternatives as appropriate, such as an interagency working group instead of governmental members on councils and have government agencies sit as non-voting members
- ❖ regularly review council membership to ensure the membership meets the needs of the sanctuary and the community

Council and sanctuary are not communicating well with each other:

- ❖ provide a sanctuary superintendent's report at council meetings
- ❖ provide opportunities for members to report to council
- ❖ hold regular meetings among chair, sanctuary superintendent, and coordinator
- ❖ provide training in clear communication techniques, conflict resolution, and group dynamics

NOTE: ALL APPENDICES HAVE BEEN REMOVED FROM THIS VERSION!!