

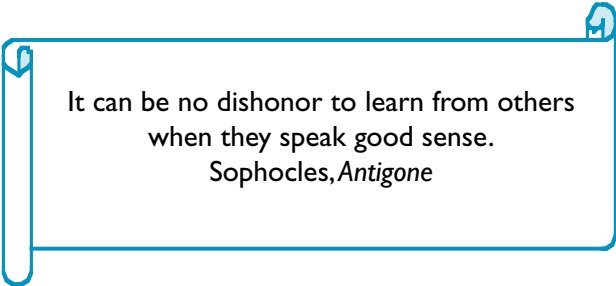


NATIONAL MARINE
SANCTUARIES

National Marine Sanctuary Program
Sanctuary Advisory Council
Implementation Handbook

May 2003
Second Edition





It can be no dishonor to learn from others
when they speak good sense.
Sophocles, *Antigone*

About This Document

This implementation handbook is intended to provide Sanctuary staff with information on how to establish, operate, and resolve problems associated with National Marine Sanctuary Advisory Councils.

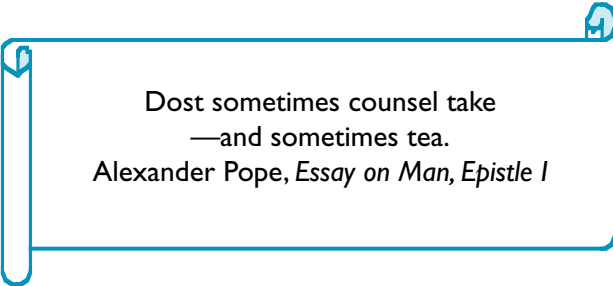
This implementation handbook incorporates the experience and knowledge gained by the National Marine Sanctuary Program (NMSP) since Sanctuary Advisory Councils were started over ten years ago. Future editions will be prepared as necessary to reflect any additional lessons learned, or to reflect major changes in the NMSP.

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Dost sometimes counsel take
—and sometimes tea.
Alexander Pope, *Essay on Man, Epistle I*





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Introduction

With the designation of the Florida Keys National Marine Sanctuary (FKNMS) in 1990, the National Marine Sanctuary Program (NMSP) was required by Congress to establish an advisory committee for that Sanctuary. The resulting advisory committee was the first time the NMSP 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 (Council) were also specifically exempted from the requirements of FACA (although the NMSA reiterates some of FACA's procedural requirements). Ten sanctuaries (Channel Islands, Cordell Bank, Florida Keys, Gray's Reef, Gulf of the Farallones, Hawaiian Islands Humpback Whale, Monterey Bay, Olympic Coast, Stellwagen Bank, and Thunder Bay; see Table I for dates) and the new Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve/proposed Sanctuary have Councils that are active in various projects and issues affecting the management of those sites, and generally meet on a monthly or bimonthly basis. This document explains the general policy of the NMSP 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 might be needed during this process.

Table I: Existing Councils and Dates Established.

Site	Year Council Established
FKNMS	1991
HIHWNMS	1992
MBNMS	1992
SBNMS	1992
OCNMS	1995
TBNMS/UP	1997
CINMS	1998
GRNMS	1999
NWHICRER	2001
GFNMS	2001
CBNMS	2001





**Part I:
Sanctuary Advisory
Council Policy Statement**

The National Marine Sanctuary Program (NMSP) regards the involvement of communities and the development of a stewardship ethic as vitally important to successfully protect Sanctuary resources. One key way to achieve this involvement is the formation of Sanctuary Advisory Councils.

Sanctuary Advisory Councils bring together members of a diverse community to provide advice to the Sanctuary Manager (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 NMSP in guiding a proposed site through the designation process.

The NMSP is committed to the full support, utilization, and enhancement of Councils at all Sanctuaries. In order for Councils to achieve their full potential, the NMSP 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; and
- Develop training programs appropriate to Council officers and members, and Sanctuary Managers and staff.



Part II: Establishing a Council

A. Advisory Council Authority

Section 315 of the NMSA authorizes the NMSP to establish Councils. Section 315 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 Director of the National Marine Sanctuary Program (NMSP).

B. Representative Roles and Activities of an Advisory Council

Councils can be established either short-term for a designation or management plan review process, or long-term to provide advice on the general management of a Sanctuary. There will therefore be a wide range of activities in which Councils are involved (see Table 2 for a list of ways that Councils conduct business). A workshop of Council Coordinators held in May 2000 identified the nine 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:



Table 2: How Councils Conduct 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.
- Ask that a position be reflected in meeting minutes.
- Write a letter expressing concerns to the Sanctuary Manager or other appropriate body.
- Form a working group or subcommittee to define issues for the Council to take action.
- Hold a retreat or special meeting to resolve issues.

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 the Sanctuary staff.

There are numerous ways that a Council as a body or that individual members can employ to help maintain communications with the constituents and communities of a Sanctuary (and fulfill its primary purpose of advising the Sanctuary Manager). 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 (such as electronic communications through e-mail or web sites or “traditional” means, such as newsletters), these mechanisms may also be encouraged 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.

2. Assist in identifying potential partners and constituent groups with which the Sanctuary should be working.

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 Manager. If the Chair and the Sanctuary Manager believe that

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. Prepare annual work plans that identify those issues and projects in which the Council will be involved in the coming year.

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 will 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 (see discussion in #5) and/or forming a subcommittee to work with Sanctuary staff to draft the document.

5. Hold an annual retreat for Council members and Sanctuary staff.

Once a year, Council members and Sanctuary staff should conduct a retreat to strengthen the relationships among Council members and Sanctuary staff, conduct planning for the coming year (to result in an annual work plan), discuss in-depth issues, and/or resolve problems. The retreat should be held at a time and place that accommodates the needs of most people, but it should be away from offices or other normal meeting places in order to facilitate a special atmosphere. The agenda should focus on substantive matters but may also include activities that promote positive interactions between Sanctuary staff and Council members.

6. Review and provide input on Sanctuary plans, proposals, and products.

Sanctuaries produce copious amounts of written products, many of which, such as management plans, research and education plans, issue papers, etc., have 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 endorsing 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.

7. Help support friends' groups.

Councils can provide information (see part H of this section for further discussion) to individuals or groups interested in establishing a friends' group or foundation to support a Sanctuary.

8. 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.

9. 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 variety 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 individual discussions with the Chair and Sanctuary Manager.

C. The 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 I contains a generic model for a Charter; the principal components are listed here:

Introduction: Gives a brief overview of the NMSP, a short history of the individual Sanctuary, and the goals of the Sanctuary. Much of this language is applicable to all Sanctuaries.

Establishment and Authority: States the authority of the NMSP to establish the Council. Much of this language is the same for each Sanctuary.

Objectives and Roles: Contains a general statement of the Council's purpose and some basic principles for operation. This may be expanded, but the five items shown in this section of the model charter in Appendix I must be retained.

Members, Alternates, and Officers:

- Gives the number of members.
- Lists the type of seats that will comprise each Council, which may be divided between governmental and nongovernmental seats.
- Makes a provision for non-voting seats such as for the managers of nearby sanctuaries or other marine protected areas, as well as federal agencies.
- Provides for the election of the Council officers, including a Chair, Vice-Chair, and Secretary. This may vary with the needs of individual Councils.
- Describes the mechanisms for administrative removal of members and alternates.
- Provides for the use of alternates.
- Details the role of the Sanctuary Manager.

Appointments: Details how members will be selected.

Administration:

- Makes a provision that members of the Council will not be paid but may receive travel expenses to attend official Council meetings.
- Allows the Sanctuary Manager to provide the administrative support deemed necessary.

Operation:

- Details the rules of conduct for individual members of the Council.
- Details the rules of conduct for the Council as a body.
- Requires the Council to develop and use its own letterhead.
- Details subcommittees and working groups.

- Describes how Council meetings will be conducted.
- Details advice procedures.

Other Terms:

- Requires that the Council operate pursuant to the Charter.
- Provides the time period for which the Charter is effective.
- Provides a clause allowing the NMSP to revise the Charter.
- Provides a signature block for the Director of the NMSP.

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. 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. The Charter needs to expressly state the maximum number of members of the Council.

Use of Alternates

Government agencies may appoint alternates for their primary representatives. At his or her discretion, a Sanctuary Manager 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 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.

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 NMSP'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. Another consideration is to provide seats to represent the primary users of the Sanctuary; this assists in providing regular communication between the Sanctuary and its stakeholders. 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. As non-voting members, however, the governmental representatives would have no say in forwarding Council recommendations to the Sanctuary Manager and other actions that might require a vote. Councils are not required to have governmental members. Sites that are in the formative stages of their Councils may wish to examine the compositions of existing Councils to help them determine what their Councils should look like. Table 3 provides a summary of the membership on the existing Councils.



Table 3: Sanctuary Advisory Council Compositions

Seat	CB	CI	FK	GF	GR	HI	MB	NWHI	OC	SB	TB	Total
Conservation		✓	✓✓		✓✓	✓	✓	✓✓✓	✓	✓✓		13
Education	✓	✓	✓	✓	✓✓	✓	✓	✓	✓	✓✓	✓✓	14
Research	✓	✓	✓	✓	✓✓	✓	✓	✓✓✓		✓✓	✓	14
Recreational Fishing			✓		✓			✓				3
Commercial Fishing		✓	✓✓✓✓	✓				✓	✓	✓✓		9
Fishing (Combined)						✓	✓				✓	3
Diving			✓✓		✓		✓				✓	5
Boating			✓									1
Whalewatching						✓				✓		2
Tourism		✓	✓✓			✓	✓	✓	✓		✓	8
Recreation		✓				✓	✓			✓		4
Cultural Resources			✓								✓	2
Harbors/Ports							✓					1
Business/Industry	✓	✓		✓		✓	✓		✓	✓	✓	8
Shipping						✓				✓		2
Agriculture							✓					1
Citizen At Large	✓✓	✓✓✓	✓✓✓	✓✓✓		✓	✓✓✓	✓	✓	✓✓✓	✓✓	22
Native/Tribal						✓		✓✓✓	✓✓✓✓		◆	9
County/Local Govt. Agency		✓✓	✓			✓✓✓✓			✓		✓✓✓✓✓	13
Regional Govt. Agency							✓					1
General State Representative								✓				1
State Resources Agency		✓✓			✓	✓✓	✓✓✓		✓✓✓	✓✓		13
State EPA							✓					1
State CZM/Ocean Agency		✓				✓	✓			✓		4
State Planning Agency						✓						1
State Health Agency						✓						1
State Transportation Agency						✓						1
State Business Agency						✓						1
State Natives Agency						✓						1
National Park Service		✓		✓						◆		3
Fish and Wildlife Service								◆	◆			2
U.S. Coast Guard		✓			✓	✓	✓	◆	◆	✓		7
DOD/U.S. Navy		✓				◆		◆	◆			4
Department of State								◆				1
Army Corps of Engineers						✓						1
Nat'l Marine Fisheries Service	◆	✓		◆	✓	◆◆		◆	◆	✓		9
Fishery Management Council						✓		◆		✓		3
Marine Mammal Commission								◆				1
Minerals Management Service		✓										1
National Science Foundation								◆				1
Sanctuary Manager	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆		10
Other Sanctuary Manager	◆	◆◆			◆◆	◆◆	◆◆	◆				10
NERR Manager							◆					1
Total =	8	23	20	11	12	31	24	25	19	22	16	206

✓ = voting seat

◆ = non-voting seat



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Roles of Council Seats

All Councils are developed to address the needs of the individual Sanctuary. However, seven types of seats are common to most or all of the existing Councils: education, research, conservation, citizen-at-large, fishing (commercial, recreational, or both), tourism, and business/industry. A description has been developed of the general expectations and qualifications for each of these common seats. These descriptions are provided below and 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 in the Sanctuary region;
- 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 the Council's Education Working Group.

Research:

- affiliation with scientific research institutions or organizations active in the Sanctuary region;
- 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 the Council's Research Working Group.

Conservation:

- familiarity with marine or Great Lakes conservation issues and management approaches affecting the Sanctuary;
- experience working with or representing conservation or environmental organizations, especially those involved with marine or Great Lakes conservation;
- ability to communicate effectively with the broader conservation community in the Sanctuary region; and
- commitment and availability of time to chair the Council's Conservation Working Group.

Fishing (Commercial, Recreational, or both):

- 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; and
- ability and willingness to communicate with key representatives from the fishing (commercial, recreational, or both) industries.

Tourism:

- familiarity and affiliation with the tourism industry in communities near the Sanctuary;
- understanding of the links between tourism, Sanctuary resources, and human activities; and
- ability and willingness to communicate with key representatives from the tourism industry.

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; and
- ability and willingness to communicate with key representatives from water-dependent and water-associated businesses.

Citizen-at-Large:

- familiarity with 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; and
- 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.

Council Officers and Terms

The Council will elect its own officers by a majority vote. A Chair and Vice-Chair are required. A Secretary is recommended but those functions may also be provided by the Sanctuary or by a contract position. No other officers are authorized for the Council. Terms for officers may be one or two years. Officers may serve two consecutive terms.

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.

Subcommittees

The Council may establish subcommittees as necessary to fulfill its duties. The Sanctuary Manager has the right to approve or disapprove the creation of subcommittees. Subcommittees are composed solely of members of the Council.

Working Groups

Working groups may be established by and under the purview of the Council and the Sanctuary Manager. They are composed of members of the Council and persons outside the Council, and must be chaired by a member of the Council. Procedures for determining membership on working groups may be determined by the individual Sanctuary and Council. The Sanctuary Manager 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 NMSP 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. Appendix 7(e) contains 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 recommended selection process is:

1. Public notification (a model press release is contained in Appendix 3) will be provided as to the existence and purpose of the Council, the details of the nomination process, and all applicable guidelines. A *Federal Register* notice is required (see model for notice in Appendix 2). 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. People should be directed to a contact to obtain application packages (a model application form is contained in Appendix 4 and a model cover letter in Appendix 7(e)). Notice of the vacancy and the application kits should also be offered on-line at the sanctuary's web site. The application package needs to contain the final Charter so that 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 kit may also contain the descriptions of general qualifications and expectations for common seats discussed earlier in this section.

2. All applications will be submitted to the Sanctuary Manager.

3. The Sanctuary Manager may use a preliminary review panel to obtain recommendations on selections. Unless the review panel consists of existing Council members and/or Federal/ State agency employees, the Sanctuary Manager should consult with the Office of the General Counsel for Ocean Services (GCOS) and the Office of the General Counsel for the Department of Commerce (OGC) to avoid any concerns related to the Federal Advisory Committee Act (such as obtaining consensus advice from an unchartered advisory group). The review panel will help determine the top three candidates for each seat; this mechanism provides for a degree of 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 Headquarters for further checks (see #4).

The Sanctuary Manager 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 members who are 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 citizens); 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 citizens).

In general, the Sanctuary Manager 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.

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

4. The Sanctuary Manager selects a representative and an alternate from the three top candidates for each seat, and submits those names for approval by the Director of the NMSP (see model memo in Appendix 7(d)). 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 problems in the applicant's background. 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 provided enough information to determine his or her qualifications, should probably be a resident of the region of 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.

Please note that a Federal employee (Executive Branch) may not serve on a Council in an individual (non-official) capacity in order to avoid possible conflicts under United States government ethics rules.

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

6. Members may be formally sworn in at the first meeting of the Council. This is a ceremonial gesture and is not required. A model oath is contained in Appendix 5.

Removal of Members

The Director has the discretion to remove a member for any reason. Further, the Sanctuary Manager may recommend to the Director the removal of any non-governmental member of the Council (see Appendix 7(j) for a model request), if that member has violated one or more terms of the Charter or on one 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 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 Manager 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 Manager 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(k) for a model letter) and a replacement for that seat will be sought.

A warning system should be instituted at each site so that removal becomes the final option, unless the situation is severe enough to warrant immediate removal. The system, if implemented, should operate in the following manner:

- First incident: Verbal warning from Sanctuary Manager (in consultation with Chair).
- Second incident: Written warning from Sanctuary Manager (in consultation with Chair).
- Third incident: Removal.

Violations of the grounds above must be carefully documented in order for the warning system to work. If a government agency fails to attend a certain number of consecutive Council meetings, it may be removed. A government agency may also decide to withdraw from the Council. In either case, the Sanctuary Manager 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 to replace its representative. The same or a 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, 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. Locations, times, and general agendas for meetings must be announced locally. Meetings should be held in various portions of the region adjacent to the Sanctuary to ensure that there is adequate access to 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. Meeting minutes, not verbatim transcripts, of each meeting are to be kept by the Secretary (or other person designated by the Chair). The Sanctuary Manager, in consultation with the Chair, schedules meeting times, locations, and agendas. It is useful to plan meetings a year in advance so that members can plan accordingly.

Council Workshops and Retreats

Purposes of Workshops and 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 or workshop, as it is generally desirable to the NMSP to have public attendance and participation (as appropriate) at Council meetings. Retreats or workshops 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 Manager. No voting actions may be taken at such workshops or retreats. Activities that are usually appropriate for a retreat or workshop are:

- strategic planning;
- internal communication and team building;
- problem resolution;
- brainstorming;
- training (including bringing new members up to speed);
- development of an annual operating plan; and
- member recognition and appreciation.

Planning Effective Workshops and 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 guidance is provided, based on the experiences of several different sites.

- **Goals:** Very early in the planning process, ensure that the goals of the retreat are clear and well-understood by all the 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 and workshops. This helps build and foster strong working relationships.
- **Participant Investment:** The retreat will not be successful if the participants do not believe and fully participate in the planned activities.
- **Meeting Format:** Treat the retreat as a special event, not just another 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 also be considered. Care should also be given to the quality of presenters and presentations, if any.
- **Meeting Location:** Retreats tend to be more successful if they are conducted somewhere 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).
- **Meeting 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 may be 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).
- **Meeting Follow-Up:** Make sure that the meeting is 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 and ensure that it is accurate. 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. They may meet as needed to accomplish their stated goals, 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 Manager.

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 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 Manager. 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.

G. Administration and Operation of the Council

Communication

One of the most enduring problems that staff and Councils have faced is that of communication, both internal and external. At a meeting of the Council Chairs in February 2001, the Chairs asked that a more explicit protocol on communication be developed as part of the Council Implementation Handbook and also that it be included in application kits for individuals interested in applying for Council seats. A short version of this communication protocol is included with the model application in Appendix 4.

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 Manager. 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 not representing the Council's interests.

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 to 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 or listserv 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.

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. In the latter case, as a matter of courtesy, the member should notify the Coordinator. In some Sanctuaries, specific staff members may be assigned to work with the Council on certain projects or Council working groups. Social events and retreats can also help facilitate good relations and communications.

In order to enhance communications between Councils and Sanctuary staff, the NMSP encourages each Sanctuary to institute regular methods of communication with the Council. Such methods might include:

- annual presentations by the Sanctuary Manager, perhaps prior to or as part of a retreat to prepare the Council's annual operating plan for the coming year;
- weekly or biweekly meetings or conference calls with the Chair and other officers of the Council (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 concerns related to the Sanctuary.

Council to the Media

The Sanctuary may often rely on the Council as a body and individual Council members to help share information with the media. In the cases of the Council as a body, or an individual member speaking for the Council with its permission, talking points, a position paper, or other guidance should be provided to that member to ensure that the Council/Sanctuary position or information is relayed accurately and consistently.

Council to Council

Councils are encouraged to communicate with each other. The best way may be Chair to Chair. The NMSP facilitates such communication by hosting an annual Council Chairs meeting, which also includes the Coordinators. A national directory of all Council members has been prepared and is updated annually. Other methods may eventually include a national listserv for Chairs, or a specific Council section on the NMSP's web site, which could provide contact information for all members, meeting dates and minutes, and other information.

Council to External Parties (Excluding Congress)

On some occasions, it will be appropriate for the Council to communicate with external parties (however, see separate section on communications with Congress below). At such times, the communication will probably come about as the result of a motion during a Council meeting. Such a communication must be approved by both the Council and the Sanctuary Manager prior to sending, and must be sent on Council letterhead.

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. Subject to the Sanctuary Manager'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 and may also inform Congress of the position taken by one or more Councils. Subject to the Sanctuary Manager'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 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.

Protocols/Bylaws

Some Councils have considered that detailed bylaws or protocols, in addition to the requirements contained in the Charter, are useful to govern the operation of the Council. Such protocols may contain procedural aspects 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 NMSP that Robert's Rules of Order or any other protocols may be set aside as a Sanctuary Manager determines 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, NMSP staff, and the public is just as important to the NMSP as the act of voting. Members should be able to attend and participate in most if not all meetings. Also, alternates are approved for members; the NMSP is uncomfortable with the notion of a third party who has not been cleared through the NOAA selection and approval process casting votes. The NMSP therefore does not permit proxy voting.

Telephone Participation and Voting in Council Meetings

As discussed above, the NMSP places a high value on the discussions and interactions of Council members. So while telephone participation and voting may 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 NMSP can provide telephone conferencing by providing a "800" 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. Telephone conferencing will not become a normal part of Council meetings but may be provided at the Sanctuary Manager'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.

Communication of Council Advice and Dissenting Opinions/Decisions

At the February 2001 Sanctuary Advisory Council Chairs and Coordinators Meeting, it was recommended that communication between the Council and the Sanctuary Manager be improved. The Chairs noted that in some cases, when a Sanctuary Manager made a decision that differed from the



Council's advice, this advice was not clearly documented and/or provided to the Director of the NMSP. In addition, there was no way of documenting Council majority and minority dissenting opinions to the Sanctuary Manager and the NMSP Director. To address this issue the following protocol was developed.

- The Sanctuary Manager requests advice on a specific issue from the Council.
- The Council presents the majority opinion to the Sanctuary Manager in written form, and when appropriate includes any minority/dissenting opinions in that written communication.
- When the Sanctuary Manager makes a decision on the issue:
 1. If the Sanctuary Manager 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.
 2. If the Sanctuary Manager dissents from the Council majority opinion, the Sanctuary Manager 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 NMSP Director for his review and acknowledgment. A template containing the appropriate information that should be included when acknowledging advice can be found in Appendix 8.

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

Training

When a new member (either governmental or non-governmental) first joins the Council, some basic orientation should be provided. Three ways are discussed here. One is by furnishing written material to the member, ideally as part of a Site Council Handbook. A three-ring binder with dividers is probably the most efficient format so that items could be added or removed as necessary.

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 NMSP organization charts;
- the NMSA; and
- the program brochure or other material summarizing the sites of the NMSP, including a map.

Other material, such as other NMSP publications or products that other sites have used for their Councils, should also be included, if useful to the new member.

Another major area of information is that concerning the individual Sanctuary and should include:

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

The new member should also be given information concerning the Council itself, including:

- the Charter;
- contact information and brief biographies of other members;

- 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; and
- future meeting schedule and locations.

Secondly, the Council Coordinator may spend some time with that person, 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 Coordinator and the member. During the meeting, the Coordinator should review the Site Council Handbook, particularly the Charter, and provide an overview of the Council's operation and policies, on ethics/conduct; travel; meeting rules (e.g., *Robert's Rules of Order*); agenda development; and public participation. The Coordinator should also discuss with the member the need to continually reach out to his or her constituents and ways that the Sanctuary might be able to support such efforts. Successful methods used by other members might be offered as examples.

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

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

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 is 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 Manager to determine how to deal best with action items (e.g., not every item needs to be a resolution and/or the Manager 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 NMSP headquarter level, Councils and staff are encouraged to use the template (or some version of it) in Appendix 8 to relay information to the Director. If that form or a letter being sent to the Director will require a response, staff are encouraged to inform the National Coordinator to ensure that it is appropriately tracked and addressed.

Annual Operating Plan

Although the Charter outlines the general roles of a Council, the NMSP encourages each Sanctuary and Council to prepare an annual operating plan (AOP) because:

- Councils are constantly wrestling with the question of what their role is;
- Having an AOP that is consistent with the Sanctuary's AOP helps ensure that the Council is focusing on those things that will be of most help to the Sanctuary Manager and ensures the most effective use of Council time and NMSP resources;
- Laying out a schedule for the upcoming year requires the Sanctuary Manager and the Council to set deadlines for activities when Council input is needed (e.g., for special events or projects) and also will allow members to plan around their personal schedules; and
- Preparing an AOP will allow 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 may not be as onerous as expected. 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 Information Support on page 26 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 NMSP 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 Manager, and vice versa;
- Demonstrate how the Council has contributed to resource protection; and
- Serve as a vehicle for sharing information and achievements to the public.

A few Sanctuaries and Councils prepare annual reports, but most have not. Rather than requiring each site to prepare an annual report, the NMSP will prepare a national annual Council report, in conjunction with the summary report of each years Chairs/Coordinators meeting. The national annual Council report will be produced each March, in time for the annual visits of the Sanctuary Managers to Washington, D.C., and is intended to be used for public and Congressional information,

as well as sharing among Councils. Each site will be asked to provide basic information to the national office by the end of each calendar year to help build the report.

The national annual Council report will be designed to meet the same purposes listed above for individual site reports. The report will include an introduction, a summary of the annual Chairs/ Coordinators meeting, future priorities, and site-specific and national achievements, recommendations and decisions, and major administrative changes.

Support for Council Activities

Administrative Support

The Sanctuary determines the amount of administrative 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 work groups. It is recommended that one Sanctuary staff member serve as a general Coordinator for the Council, even if some of the work effort is contracted; however, the level of effort involved will certainly require other members of the staff. Understanding that the duties of a Coordinator will differ from site to site, in general a Coordinator of a Council may be expected to perform the following tasks:

Council Meetings, Workshops and Retreats

- Assist Chair and Manager with agenda development;
- 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; distribute in advance;
- Attend Council, working group and subcommittee meetings, and retreats;
- Take notes/minutes of Council meetings;
- Record meeting electronically or by other means, if needed or desired;
- Draft retreat report/summary ;
- Set up meeting room;
- Conduct meeting follow-up:
 - Draft, distribute, and ensure minutes are approved and posted;
 - Ensure mailings go out;
 - Track/follow up on action items:
 - Obtain information;
 - Line up speakers;
 - Prepare and distribute correspondence from the council;
 - Prepare and track resolutions; and/or
 - 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 Manager, Council, and headquarters to revise and/or amend Charters;
- 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; and/or
- Coordinate review of applicants and clearance process for selected applicants.
- Prepare documents as necessary to remove members;
- Advise the Manager on Council operations and requirements;
- Work with the Manager to develop an annual budget for Council operations;
- Work with Council and Manager to develop Council annual operating plan (a subcommittee can develop, develop at a retreat, etc.); and/or
- Work with Council and Manager to develop Council annual report.

Miscellaneous Council Operations

- Prepare and copy non-meeting related materials for the Council;
- Facilitate communication between Council members, Council members and their constituents, council members and staff, and Council to Council;
- Plan or facilitate orientation briefings/training for new Council members;
- Meet on a regular basis with other Sanctuary staff and Council officers to discuss Council operations and issues; and
- Identify problems and consult with staff, Council, other Coordinators and Headquarters as necessary and appropriate to address them; and/or
- Assist the Manager in monitoring potential Charter violations or conflict on interest issues.

National Council Coordination

- Attend annual Council Chair/Coordinator meeting. Work with Council, Chair and Manager to prepare for and provide input on documents related to meeting; and
- Provide input into national level Council documents and issues (Implementation Handbook, Directory, Annual Report, Annual meeting planning, Congressional and other requests, etc.).

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 Manager and does not require Council review, although the Sanctuary Manager may ask for the input of Council members.



Informational Support

The Sanctuary Manager also determines the information resources that are necessary for the Council to carry out its duties. In general, the Manager should strive to provide as much information as possible to the Council; better information will lead to enhanced Council advice. 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 year's budgets and AOPs may be released to a Council in full;
- 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.)
- at the Sanctuary Manager'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, is not to be released to Councils.

Providing Refreshments for Council Meetings

The following discussions apply to the use of appropriated funds to purchase food (either as light refreshments or meals) for Council meetings. No such restrictions apply if gift or donated funds are to be used for such purposes.

Light Refreshments

The Sanctuary may provide light refreshments for individuals on travel status at a meeting if the "light refreshments" really are light refreshments and not a meal. For example, coffee, tea, water, sodas, pastries, bagels, muffins, cookies, and chips are considered light refreshments; sandwiches are not.

Meals

In general, meals probably cannot be provided for Council meetings. Working lunches may be paid from appropriated funds under the following circumstances:

If the government is sponsoring the meeting:

- The meeting is of general interest to both governmental and non-governmental participants (interpreted as including some kind of affirmative information dissemination activity that is not present at normal Council meetings);

AND

- The meal is incidental to the meeting;
- Eating the meal allows work to continue without interruption; and
- Attendees are not free to get a meal elsewhere.

If an outside entity is hosting a conference or meeting:

- The registration fee for the conference or meeting includes the cost of lunch as an indivisible item

OR

- The meal is incidental to the meeting;
- Eating the meal allows work to continue without interruption; and
- Attendees are not free to get a meal elsewhere.

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. All travel expenses are governed by Federal travel regulations.

Letterhead

Each council is to have its own letterhead, which is not to include the NMSP, 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 Manager. 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 be personally responsible for paying the card issuer and (2) NMSP, 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 committee member was acting within his or her official capacity. Council members concerned about their personal liability should consult with private counsel.



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 NMSP. However, the Sanctuary Manager 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 information or advice that the Council wishes to express as a body must be approved by the Sanctuary Manager. This safeguard is intended to ensure that the Sanctuary Manager 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, NMSP 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.

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.

Conflict of Interest Guidelines

Charter Language

The model Charter in Appendix I 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.

Specific questions or situations should be directed to ethics attorneys at the Department of Commerce.

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, dependent on 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 Manager 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.

Once all of the changes have been determined, a new draft Charter should be prepared. The Charter should then be sent in for final approval by the Director of the NMSP.

B. Filling Vacant Seats

At some point, through either attrition or at the end of a member’s term, the Sanctuary Manager 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 Manager may wish to 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.

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 Manager 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 Manager approves, the Charter may be amended through a shorter version of the process that was used to draft the Charter. An amendment (see Appendix 8 for a model) is usually just one page 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 NMSP. The Charter (including the amendment) remains in force for the remainder of the Charter's original term, and the amendment can be physically incorporated into the body of the Charter when it comes up for renewal.

Expert Presentation to the Council

Sometimes hearing information from a different perspective may assist in resolving a problem. The Sanctuary Manager may wish to have an expert make a presentation to the Council. Examples include legal presentations by GCOS and national priorities from senior staff in the NMSP. The Sanctuary Manager 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 not, so far, been exercised. See the earlier discussion on removing members for more details.

Options for Dealing With Common Problems

A workshop of Council Coordinators held in May 2000 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 talk about 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 Manager to deliver to each Council.
- reexamine charter and determine where restrictive language could be “eased” or rephrased in positive terms.
- train managers 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 representativeness (e.g., Sanctuary goals, size, and 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 having government agencies sitting as non-voting members.

-
- regularly review membership to ensure that membership meets the needs of the Sanctuary.

Council and Sanctuary are not communicating well with each other:

- provide for Sanctuary Manager's report at Council meetings.
- provide opportunities for members to report to Council.
- hold regular meetings among Chair, Sanctuary Manager, and Coordinator.
- provide training in clear communication techniques, conflict resolution, and group dynamics.

Appendix I: Model Charter

NATIONAL MARINE SANCTUARY SANCTUARY ADVISORY COUNCIL CHARTER

INTRODUCTION

A National Marine Sanctuary is an area of the marine or Great Lakes environment of special national, and sometimes international, significance warranting protection and management by the Federal government. As steward of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages Sanctuaries through the National Marine Sanctuary Program (NMSP). The mission of the NMSP is to comprehensively protect and manage these marine or Great Lakes areas of special national significance to protect their ecological and cultural integrity for the benefit of current and future generations. NOAA uses ecologically sound principles of resource conservation, and develops and implements stewardship, education, and research programs that foster public understanding, support, and participation. Use of Sanctuary resources must be consistent with the primary objective of the program, which is resource protection.

Goals of the NMSP are:

- to enhance resource protection through comprehensive and coordinated conservation and management tailored to the specific resources that complement existing regulatory authorities;
- to maintain the natural biological communities in the Sanctuaries, and to protect, and where appropriate, restore and enhance natural habitats, populations, and ecological processes;
- to support, promote, and coordinate scientific research on, and monitoring of, Sanctuary resources to improve management decision-making regarding the Sanctuary;
- to enhance public awareness, understanding, appreciation, and wise sustainable use of the marine or Great Lakes environment; and
- to facilitate to the extent compatible with the primary objective of resource protection, multiple uses of the Sanctuary not prohibited pursuant to other authorities.

[Statement about specific Sanctuary]

National Marine Sanctuary Program Sanctuary Advisory Council Policy Statement

The National Marine Sanctuary Program (NMSP) regards the involvement of communities and the development of a stewardship ethic as vitally important to successfully protect Sanctuary resources. One key way to achieve this involvement is the formation of Sanctuary Advisory Councils.

Sanctuary Advisory Councils bring members of a diverse community together to provide advice to the Sanctuary Manager (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 NMSP in guiding a proposed site through the designation process.

The NMSP is committed to the full support, utilization, and enhancement of Councils at all Sanctuaries. In order for Councils to achieve their full potential, the NMSP 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; and
- Develop training programs appropriate to Council officers and members, and Sanctuary Managers and staff.

ESTABLISHMENT AND AUTHORITY

Section 315 of the National Marine Sanctuaries Act (NMSA or Act; 16 U.S.C. § 1431 *et seq.*) authorizes the Secretary of Commerce to establish Sanctuary Advisory Councils to provide advice to the Secretary of Commerce regarding the designation and management of National Marine Sanctuaries. This authority has been delegated to the Director of the National Marine Sanctuary Program (Director). The Director hereby establishes the _____ National Marine Sanctuary Advisory Council (Council).

This Charter describes the objectives and roles of the Council's activities, procedural requirements regarding the appointment of Council members and officers, requirements for the conduct of Council members and meetings, and other requirements. All Council activities must be conducted pursuant to this Charter.

OBJECTIVES AND ROLES

1. The Council, in accordance with the Act, may provide advice to the Sanctuary Manager regarding the management of the _____ National Marine Sanctuary.
2. The Council shall draw on the expertise of its members and other sources in order to provide advice.
3. Council members shall serve as liaisons between their constituents and/or communities and the Sanctuary, keeping the Sanctuary staff informed of issues and concerns, as well as performing outreach to their respective communities on the Sanctuary's behalf.
4. The Council may serve as a forum for consultation and deliberation among its members and as a source of advice to the Sanctuary Manager. Such advice shall fairly represent the collective and individual views of the Council members. In formulating such consensus advice, the Council members shall recall that the primary objective of the Sanctuary and the Act is resource protection.
5. The Council is established to provide advice to the Sanctuary Manager regarding the management of the ___NMS. This does not constitute authority to perform operational or management functions, or to make decisions on behalf of the Sanctuary.

MEMBERS, ALTERNATES, AND OFFICERS

1. The Council shall consist of no more than # voting members, who shall be appointed by the Director from among persons employed by Federal, State, or local agencies with expertise in management of natural resources, representatives of local user groups, conservation and other public interest organizations, scientific and educational organizations, and members of the public interested in the protection and multiple use management of Sanctuary resources. The membership is designed to be balanced in terms of points of view represented, geographic diversity, and advisory functions the Council will perform.
2. The Sanctuary Manager may sit on the Council as a nonvoting member and shall work with the

Chair in scheduling each meeting and approving the agenda to ensure that topics of discussion are relevant to the Sanctuary. Council meetings may not be conducted in the absence of the Sanctuary Manager or his/her designee.

3. To ensure relevant information exchange among National Marine Sanctuaries and National Estuarine Research Reserves, the Managers of the _____ National Marine Sanctuary and the _____ National Estuarine Research Reserve shall sit on the Council as non-voting members.

4. There are two categories of seats for which voting members are appointed. The following procedures shall govern the application, nomination, and appointment of Council voting members.

(a) (i) Governmental (# members). By virtue of the shared functional responsibilities of Federal, State, and local jurisdictions in the implementation of Sanctuary-related management, each of the following government entities shall be requested to designate one individual to serve on the Council.

[list governmental members]

(ii) If a government entity decides no longer to participate as a member of the Council, or fails to attend # of consecutive Council meetings and is formally removed by the Director, the Sanctuary Manager, with the approval of the Director, shall invite another appropriate government entity to replace that agency on the Council.

(iii) If it is found that a governmental member of the Council has violated one or more of the terms of this Charter, the Sanctuary Manager may recommend to the Director that the appropriate agency be notified and requested to replace the designee. The Sanctuary Manager may consult with the Council prior to taking such action.

(b)(i) Non-governmental (# members). A representative of each of the following activities, which are integrally affected by the management goals of the Sanctuary, shall be selected:

[list non-governmental members]

The non-governmental members are appointed for a term of two (or three) years, and may compete for reappointment. If necessary, subsequent terms of appointment may be changed to provide for balanced (staggered) expiration dates. Should a non-governmental seat become vacant, the vacated position shall be advertised and a replacement appointed as specified below. The newly appointed member shall serve for a full term beginning on the date of his/her swearing-in by the Sanctuary Manager.

(ii) Members serve at the discretion of the Director. The Sanctuary Manager may recommend to the Director the removal of a non-governmental member of the Council on any of the following grounds if that member:

- 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 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 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 Manager 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 this Charter) without reasonable justification;
- Disrupts on more than one occasion Council meetings in a manner that interferes with the Council conducting its business; or
- violates any term of this Charter.

The Sanctuary Manager may consult with the Council prior to taking such an action.

5. An alternate (from the same government entity) of a governmental Council member may attend a Council meeting on occasion if the Chair and Sanctuary Manager are notified in advance of any meeting at which an alternate will represent the Council member, including the name, address, and position of the individual designated. An alternate may not name another alternate.

6. As each non-governmental seat becomes vacant and the process for selection of a new member (described under Appointments) is conducted, the Sanctuary Manager shall recommend to the Director the member and an alternate from among the top three candidates resulting from the review process. The alternate shall have all the rights of the member at such times the alternate is officially substituting for the member. The Chair and the Sanctuary Manager shall be notified by the member before an alternate officially attends a meeting. The alternate may also be appointed to complete a primary member's term if that member resigns or is removed.

OR

6. Members accept the responsibility of attending Council meetings and may not designate alternatives to serve in their place or to represent them in meetings or at other Council activities.

7.(a) Council Officer Elections and Terms

The Council shall elect one member to serve as Chair, one member to serve as Vice-Chair, and one member to serve as Council Secretary. The Vice-Chair shall act as Chair in the absence of the Chair. The term of the Council Secretary is one year. The Council Secretary may serve consecutive terms if reelected. 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 (four years) if reelected. A Chair or Vice-Chair may leave his/her term to run for another Council officer position if desired. If the Chair or Vice-Chair is elected to a new position, the Council shall nominate and elect a new representative for the vacated position.

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 Manager prior to the meeting. Following the first election, elections for Chair and Vice-Chair shall be held in alternate years.

(b) Roles of Council Officers:

(i) Chair: The Chair schedules and sets agendas for all Council meetings with the approval of the Sanctuary Manager, 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 the public.

(ii) 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.

(iii) Council Secretary: The Council Secretary assists Sanctuary staff in performing administrative duties as directed by the Chair or Vice-Chair.

APPOINTMENTS

Public notice shall be provided as to the vacancy of constituent group seat(s) and at-large representatives. Applications for ensuing terms for vacant seats shall be submitted to the Sanctuary Manager directly. Copies of all applications and nominations for each seat may be submitted by the Sanctuary Manager to Council members, for review and screening. Any Council member that has a conflict of interest (financial, personal, self nomination, etc.) shall recuse him/herself from making a selection for the vacant seat. Selection from among those recommended by the Council, or from among other applicants or nominees, shall be made by the Sanctuary Manager with the approval of the Director. In all cases, submission of written statements of particular interest, qualifications, and experience shall be requested. Guidelines for applying shall be supplied at the appropriate time.

ADMINISTRATION

1. Members of the Council shall serve without pay except that each member may receive travel expenses including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of Title 5, U.S.C., for travel to and from official Council meetings. No members of working groups (defined below) may receive travel expenses for working group activities or meetings. Travel expenses for governmental members of the Council may be provided by their own agencies.

2. The NMSP may make available such staff, information, administrative services, or assistance as the Sanctuary Manager determines are reasonably required to enable the Council and its subcommittees/working groups to carry out their functions.

OPERATION

I. Meetings

(a) Meetings are held at the call of the Chair and the Sanctuary Manager.

(b) Decisions (e.g., recommendations) made by the Council shall be made by majority vote of those present, provided there is a quorum (more than half of the voting members). A recorded vote may be requested by the Chair or the Sanctuary Manager.

(c) Each meeting shall be open to the public.

(d) Interested persons shall be permitted to present oral or written statements on items on the agenda, or other pertinent topics.

(e) Emergency meetings may be held at the call of the Chair or presiding officer and the Sanctuary Manager.

(f) Timely notice of each Council meeting, including the time, place, and agenda of each meeting, shall be provided to the local media and additional notice may be given by such other means as will result in appropriate publicity to interested groups. This requirement shall not apply to workshops scheduled by the Council to address strategic planning, administration, or specialized technical issues. The Council may not vote at any meeting for which the above public notice has not been issued. The Council may not vote on any agenda item for which notice was not provided.

(g) The Council shall meet as frequently as necessary, not to exceed once per month for voting meetings, but at least once every six months. The Council meeting place may be rotated among various locations adjacent to the Sanctuary and meeting sites shall be chosen to accommodate anticipated public attendance and be reasonably accessible to those interested in attending.

(h) Minutes of each meeting shall be kept by a person specified by the Sanctuary Manager and contain a summary of attendees and matters discussed; such minutes shall be available to the public.

2. Procedures for Providing Advice: The following procedures shall be used to provide advice:

(a) The Council may provide advice on a relevant issue or topic to the Sanctuary Manager. Requests for information, assistance, or advice from the NMSP, other NOAA offices, or other agencies shall be made in writing and be coordinated through the Sanctuary Manager.

(b) Any matter that a Council member wishes to raise to the attention of the Sanctuary shall be brought to the attention of either the Sanctuary Manager or the Council Chair so that it might be placed on the agenda as a discussion topic. The Sanctuary Manager and the Council Chair shall discuss topics for the agenda. and The Sanctuary Manager approves a topic to be placed on the agenda.

(c) The Council shall provide advice directly to the Sanctuary Manager via a written recommendation or a motion passed by the Council and reflected in the minutes. Draft recommendations and verbal discussions shall not be considered official advice from the Council but may be considered as background information.

(d) Any written or oral advice or correspondence that the Council wishes to offer or express beyond the Sanctuary Manager shall be voted on and approved by the Council. Because the Council was established specifically to provide advice to the Secretary, and operates through the Sanctuary Manager, the Sanctuary Manager must also approve advice or correspondence that goes outside the Sanctuary.

(e) The Council shall base its advice on a vote of the Council with negative votes, abstentions, and minority opinions noted. A quorum shall be present when the vote is taken.

(f) Any information or advice resulting from discussions in subcommittees or working groups that is requested by the Council shall be presented to and considered by the full Council and as appropriate incorporated into the Council's recommendation to the Sanctuary Manager. If the Council does not incorporate information or advice of a subcommittee or working group, it shall inform the Sanctuary Manager and explain in its advice or information the reasons for not incorporating the subcommittee's or working group's advice or information.

3. Conduct of Individual Members

(a) Council members may not use or allow the use of, for other than official Council purposes, information obtained through or in connection with their Council affiliation that has not been made available to the general public.

(b) When speaking to the public or writing about any matter regarding the Sanctuary in a document for distribution beyond Council membership, the Sanctuary Manager, 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 Manager, Sanctuary staff, or NOAA.

(c) 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 identify 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 identifying the interest that would be affected. These same guidelines apply to members of working groups who are not members of the Council.

4. Conduct of the Council as a Body

Any correspondence or other written documents that are intended to speak for the Council as a body shall be coordinated with, and approved by, the Chair and the Sanctuary Manager. The following disclaimer shall be placed in all documents originating from the Council: "The Council is an advisory body to the Sanctuary Manager. 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."

5. Council Letterhead

The Council shall, with the assistance and approval of the Sanctuary Manager, design and use its own letterhead. All correspondence from the Chair or other members of the Council, or the Council as a body, shall be on this letterhead. The Council shall not use official NOAA letterhead for any correspondence or other purpose.

6. Subcommittees and Working Groups

(a) Subcommittees: The Council and the Sanctuary Manager may establish such subcommittees as necessary to fulfill the Council's duties. Subcommittees shall be composed solely of members of the Council and shall be recognized as official subunits of the Council. Subcommittees are subject to all requirements of this Charter. No members of subcommittees, including members who are also members of the Council, may receive travel expenses for subcommittee meetings or other activities.

(b) Working Groups: Working groups may be established by the Council and the Sanctuary Manager for specific purposes or topics that need focused attention that cannot be accomplished by a subcommittee. Working groups may be composed of members of the Council and persons outside the Council. Working groups shall be chaired by a member of the Council and shall func-



tion 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.

OTHER TERMS OF THIS CHARTER

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

Name Date
Director, National Marine Sanctuary Program



Appendix 2: Model Federal Register Notice to Recruit Members

3510-NK

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the _____ National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The _____ National Marine Sanctuary (___NMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): *list seats*. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve #-year terms, pursuant to the Council's Charter.

DATES: Applications are due by *date*.

ADDRESSES: Application kits may be obtained from *name and address*. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: *name, address, phone number, and email address*.

SUPPLEMENTARY INFORMATION: *whatever other info the site wants to provide (e.g., year established, how many members, major roles and activities of the Council, etc.)*

Authority: 16 U.S.C. Sections 1431, et seq.

(Federal Domestic Assistance Catalog Number
11.429 Marine Sanctuary Program)

Name

Date

Assistant Administrator for
Ocean Services and Coastal Zone Management



NATIONAL MARINE
SANCTUARIES

Appendix 3: Model Press Release on Vacant Seats

FOR IMMEDIATE RELEASE

CONTACT: *name and phone number*

Headline

If you are dedicated to the *ecosystem* and to the communities whose economies rely on our environment, the Sanctuary needs your help. The _____ National Marine Sanctuary is seeking applicants for its Sanctuary Advisory Council.

A Sanctuary Advisory Council is being formed to provide NOAA with advice on the management of the Sanctuary. Members provide advice to the Sanctuary Manager on Sanctuary issues. The Council, through its members, will also serve as liaisons to the community regarding Sanctuary issues and act as a conduit, relaying the community's interests, concerns, and management needs to the Sanctuary.

The Sanctuary Advisory Council members will represent public interest groups, local industry, commercial and recreational user groups, academia, conservation groups, government agencies, and the general public. Members will be serving either two- or three-year terms in order to stagger Council membership and allow continuity.

To apply for membership on the Sanctuary Advisory Council, please contact *name and phone number*. Deadline for applying is *date*.

The Sanctuary was established in *year* in recognition of the special resources of the *ecosystem*. Its primary purpose is resource protection.

###

Appendix 4: Model Application Form

NATIONAL MARINE SANCTUARY ADVISORY COUNCIL APPLICATION GUIDELINES

Before applying for Advisory Council membership, please review the Advisory Council Charter provided in your application kit. The Charter outlines the purposes and governs the operation of the Council. In applying for Council membership, you are agreeing to abide by the terms of the Charter if you are selected as a member or alternate. Also please review the information provided at the end of this form; it contains important guidance with regard to the information you submit on this form and its availability under federal law.

Please indicate which seat(s) you are applying for, provide your contact information, and respond to the questions below. The National Marine Sanctuary Program (NMSP) may consider applicants for seats for which they have not applied if the NMSP believes they are qualified for that seat and are willing to serve in it. The application deadline is [date].

Date: _____

Seat applying for: _____ Agriculture _____ Business/Industry _____ Conservation _____ Diving
_____ Education _____ Fishing _____ Other Recreational _____ Research _____ At-Large

Name: _____

Home Address: _____

Home Phone: _____

Fax: _____ **E-mail:** _____

Work Address: _____

Work Phone: _____

Fax: _____ **E-mail:** _____



NATIONAL MARINE
SANCTUARIES

Please address the following in an attached statement:

1. Reasons for interest in serving on the Council, including a statement of guiding philosophy regarding protection and management of marine or Great Lake resources
2. Community and professional affiliations
3. Length of residence in area affected by the Sanctuary
4. Particular expertise and experience germane to the goals and uses of the Sanctuary, particularly in relation to the seat for which you are applying
5. Description of your philosophy of what the role of the Council is, and how you will work to best support the Sanctuary while on the Council
6. Description of how much time you have to devote to Council activities and how you will coordinate, consult, and inform the members of the constituency you will be representing
7. Other qualifications or information relevant to membership on the Council

The information obtained through this application process will be used to determine the qualifications of the applicant for membership on the Sanctuary Advisory Council. The National Marine Sanctuary Program (NMSP) intends affirmatively to disclose the applications only to NMSP staff and other members of the review panel. However, the NMSP may be required to disclose the applications in response to a court order, a Congressional request, or a request from the public under the Freedom of Information Act (FOIA). If disclosure is requested under the FOIA, the NMSP will in general assert FOIA exemptions to protect the privacy of applicants by withholding personal information such as home addresses and telephone numbers (although courts may require that such information be released). In contrast, statements of philosophy or opinions contained in the application would likely be released. Applying for membership on the Council is voluntary.

Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to National Marine Sanctuary Program, 1305 East West Highway, N/ORM6, Silver Spring, Maryland 29010.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

OMB Control #0648-0397
Expires 4/30/06



Communication Protocols (To be included in application package)

The general guidance provided below is for the Council as a body or for individuals functioning in their official capacity as members of the Council. As always, members as private individuals are free to communicate as they wish, with whomever they wish.

Council Member to Council Member

- Council members are encouraged to communicate often with each other.
- The Sanctuary should provide means to do so.

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 help members to do so.

Council Member to Sanctuary Staff

- Council members should feel free to communicate with any member of the Sanctuary's staff, notifying the Coordinator as a courtesy.

Council to the Media

- The Sanctuary may rely on the Council as a body and individual Council members to help share information with the media.
- Talking points or other guidance should be provided.

Council to Council

- Councils are encouraged to communicate with each other.
- NMSP should facilitate such communication.

Council to External Parties (Excluding Congress)

- On some occasions, it will be appropriate for the Council to communicate with external parties.
- Such communication must be approved by both the Council and the Sanctuary Manager and must be sent on Council letterhead.

Council to Congress

- Council members may respond if a Congressional member makes an inquiry to the Council.
- 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.

Appendix 5: Model Council Oath

I (*speaking name*) as a duly appointed member (or alternate) of the Sanctuary Advisory Council established under the National Marine Sanctuaries Act hereby agree to assist to the best of my ability in achieving the Sanctuary goals, which are:

- to enhance resource protection through comprehensive and coordinated conservation and management tailored to the specific resources that complement existing regulatory authorities;
- to maintain the natural biological communities in the Sanctuaries, and to protect, and where appropriate, restore and enhance natural habitats, populations, and ecological processes;
- to support, promote, and coordinate scientific research on, and monitoring of, Sanctuary resources to improve management decision-making regarding the Sanctuary;
- to enhance public awareness, understanding, appreciation, and wise sustainable use of the marine or Great Lakes environment; and
- to facilitate to the extent compatible with the primary objective of resource protection, multiple uses of the Sanctuary not prohibited pursuant to other authorities.

I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Sanctuary's resources, and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions and standards set forth in the Council Charter, and shall conduct myself accordingly.

Appendix 6: Model Charter Amendment

_____ NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL CHARTER

AMENDMENT #

The following revisions are made to the Charter as signed on *date of signature*, and hereby amended on *date of amendment*:

Section of Charter is revised to read:

new language

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

Name
Director
National Marine Sanctuary Program

Date



NATIONAL MARINE
SANCTUARIES

Appendix 7: Model Cover Memoranda and Letters
7(a): Cover Memorandum for Charter Approval

MEMORANDUM FOR: *Name*
 Director, NMSP

FROM: *Name*
 Sanctuary Manager

SUBJECT: Approval of the Charter for the _____ National Marine
 Sanctuary Advisory Council

The attached Charter establishes the Sanctuary Advisory Council for the _____ National Marine Sanctuary. The Council consists of the following # members: *list seats. additional info on Council as necessary*

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

Attachment



7(b): Cover Memorandum for Charter Amendment Approval

MEMORANDUM FOR: *Name*
 Director, NMSP

FROM: *Name*
 Sanctuary Manager

SUBJECT: Amendment to the Charter for the _____ National Marine
 Sanctuary Advisory Council

The attached document revises the Charter as signed on *date*. The changes are made due to *information on need to amend the Charter and resulting advantage*.

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

Attachment



7(c): Cover Memorandum for Federal Register Notice to Recruit New Members

MEMORANDUM FOR: *Name*
Assistant Administrator

FROM: *Name*
Director
National Marine Sanctuary Program

SUBJECT: *Federal Register* Notice to Recruit New Members for the ____ ____
National Marine Sanctuary Advisory Council

Attached for your review and signature is a *Federal Register* notice requesting applications for new representatives (*fill in seats being recruited*) for the ____ ____ National Marine Sanctuary (__NMS) Advisory Council. The National Marine Sanctuary Program has been advised by the General Counsel of the Department of Commerce that all advisory committees must issue such a notice to inform the public about vacancies on those committees.

Extensive notice in local media will also be used to inform the public of these vacancies. The __NMS will accept applications for the vacancies until *date*. At that time, the applications will be reviewed by a subcommittee of the Council who will provide advice to *name*, the Sanctuary Manager. *Name* will in turn make his/her recommendations to me for the vacant seats. After those individuals have been cleared by both a LEXIS/NEXIS and a bureau check within the Department, I will inform *name* of my approval or disapproval of the new members.

This notice is not a rule and does not require clearance beyond the National Ocean Service.

Attachment

7(d): Cover Memorandum for Member Selection Approval

MEMORANDUM FOR: *Name*
 Director, NMSP

FROM: *Name*
 Sanctuary Manager

SUBJECT: Approval of Members for the _____ National Marine
 Sanctuary Advisory Council

This memorandum requests your approval for my recommendations for members and/or alternates to the Sanctuary Advisory Council (Council) for the _____ National Marine Sanctuary. We received # applications to fill # seats on the Council. Potential members were recruited on-line, and through a *Federal Register* notice and a variety of other types of outreach: *list*.

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

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

list each seat, member, alternate and their affiliations

These selectees have also been vetted internally through a bureau check within the Department of Commerce and externally through a LEXIS/NEXIS check. No problems were noted.

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

Name
Director, NMSP

Date

Approved

Let's Discuss



7(e): Cover Letter for Application Kits

Dear Friend of the _____ National Marine Sanctuary:

We are in the process of establishing a new Sanctuary Advisory Council/filling vacant seat(s) on our Sanctuary Advisory Council. Beginning immediately, we will accept applications and nominations for Council membership.

The _____ National Marine Sanctuary Advisory Council was established pursuant to Federal law to ensure continued public participation in the management of the Sanctuary. *more info about history of existing Council or purpose of new Council*

Enclosed is our Sanctuary Advisory Council application kit, which includes a copy of the Charter for the Council and an application sheet, as well as some information about the Sanctuary. Council terms will be for # years.

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

If you have any questions concerning the Council feel free to contact *name and phone number*.

Sincerely,

Sanctuary Manager

Enclosures

7(f): Invitation Letter to Government Agency

Agency
Address
Address

Dear Agency:

The _____ National Marine Sanctuary (___NMS) Advisory Council is being established to provide advice to the National Oceanic and Atmospheric Administration (NOAA) on the management of the ___NMS. The Council will also serve as an informal link between NOAA and the community.

The Sanctuary Advisory Council membership will include representatives from public interest groups, local industry, commercial and recreational user groups, academia, conservation groups, other government agencies, and the general public. In addition, we would like to have a representative from your agency.

We would appreciate it if the agency would send a representative to sit on the _____ National Marine Sanctuary Advisory Council. Feel free to contact me at your convenience to discuss this matter.

Sincerely,

Sanctuary Manager



7(g): Letter Notifying Selected Member

Name
Address
City, State Zip

Dear *Name*:

This letter is to invite you to become a member of the _____ National Marine Sanctuary Advisory Council. In response to your application to represent *seat*, we would like to have you represent that segment of our community. If you accept, your *length*-year term will be effective *date*. Please advise *contact and phone number* at your earliest convenience if you will be able to accept this appointment.

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

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

Sincerely,

Sanctuary Manager



7(h): Letter Notifying Selected Alternate

Name
Address
City, State Zip

Dear *Name*:

Thank you for expressing your interest in serving on the _____ National Marine Sanctuary Advisory Council. We received # applications to fill # seats. This made the task for selecting members very difficult. Each and every applicant had something of value to offer as a member of the Advisory Council. You were chosen as the alternate for the *seat* on the Council. The member for that seat is *name* and can be reached at *phone number*. If the member is unable to attend a meeting, you will be asked to attend that Council meeting and represent that seat, during which time you will have the full voting rights of a permanent member. In order to ensure smooth transitions, we ask that you and the member stay in close communication. Additionally, you are welcome to attend all Council meetings as a member of the public to stay abreast of evolving projects and issues. We anticipate having the next meeting of the Council on *date* at *location*.

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

Sincerely,

Sanctuary Manager



7(i): Letter to Non-Selected Applicant

Name
Address
City, State Zip

Dear *Name*:

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

The Council meetings are open to the public. You are welcome to attend and participate. *list other ways as appropriate*

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

Sincerely,

Sanctuary Manager

7(j): Member Removal Approval Request to the Director

MEMORANDUM FOR: *Name*
 Director, NMSP

FROM: *Name*
 Sanctuary Manager

SUBJECT: Request to Remove Member of the _____ National Marine
 Sanctuary Advisory Council

This memorandum requests your approval to remove *name* from the Sanctuary Advisory Council (Council) for the _____ National Marine Sanctuary.

summary of situation and grounds for removal

possible consequences or controversies

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

_____	_____	_____	_____
<i>Name</i>	Date	Approved	Let's Discuss
Director, NMSP			



7(k): Letter to Remove Council Member

Name
Address
City, State Zip

Dear *Name*:

Effective *date*, you will no longer be a member of the Sanctuary Advisory Council for the _____ National Marine Sanctuary. However, we appreciate the time and effort you have given to the Council in the past. If you have any questions, please contact me *phone number*.

Sincerely,

Sanctuary Manager



Appendix 8: Advice Acknowledgment Template

Issue Synopsis & Manager's Request of the Council

Necessary Attachments: *list*

Council's Majority Opinion

Council's Minority Opinion

Recommendation Made to Sanctuary Manager

Sanctuary Manager's Final Decision

Concurs with Council _____ Disagrees with Council _____

Manager's Reasons for Disagreement:

Signature of Transmittal of Information to NMSP Director

Acknowledges what has transpired:

Name,
Director, NMSP

Date

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