FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL
CHARTER

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 Office of National Marine Sanctuaries (director). The director hereby reestablishes the Flower Garden Banks National Marine Sanctuary Advisory Council (council).

This Charter provides a background on the Office of National Marine Sanctuaries (ONMS) and the Flower Garden Banks National Marine Sanctuary (FGBNMS), and 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.

SANCTUARY ADVISORY COUNCIL POLICY STATEMENT

The ONMS 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 superintendent on the management and protection of the sanctuary, or to assist the ONMS in guiding a proposed site through the designation process.

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

- Provide sufficient support to allow councils to operate efficiently and effectively at each site;
- 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 superintendents and staff.

OFFICE OF NATIONAL MARINE SANCTUARIES

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 under the NMSA. As steward of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages sanctuaries through the ONMS.

Vision of the ONMS:

The Office of National Marine Sanctuaries is a leader in ocean stewardship, conserving and protecting America's ocean and Great Lakes treasures for future generations through strong science-based management.

Mission of the ONMS:

National Marine Sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources. Though active research, management, education, and public engagement, we sustain healthy environments that are foundations for thriving communities and stable economies.

Goals of the ONMS:

- Identify, designate, and manage sanctuaries to maintain the natural biological communities in sanctuaries and to protect and, where appropriate, restore and enhance natural habitats, populations, and ecological processes, through innovative, coordinated, and community-based measures and techniques.

- Build and strengthen the nation-wide system of marine sanctuaries, maintain and enhance the role of the system in larger marine protected area networks, and help provide both national and international leadership for marine protected area management and marine resource stewardship.

- Enhance nation-wide public awareness, understanding, and appreciation of marine and Great Lakes ecosystems and maritime heritage resources through outreach, education, and interpretation efforts.

- Investigate and enhance the understanding of ecosystem processes through continued scientific research, monitoring, and characterization to support ecosystem-based management in sanctuaries and throughout U.S. waters.

- Facilitate human use in sanctuaries to the extent such uses are compatible with the primary mandate of resource protection, through innovative public participation and interagency cooperative arrangements.

- Work with the international community to strengthen global protection of marine resources, investigate and employ appropriate new management approaches, and disseminate ONMS experience and techniques.

- Build, maintain, and enhance an operational capability and infrastructure that efficiently and effectively support the attainment of the ONMS mission and goals.

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Flower Garden Banks National Marine Sanctuary (FGBNMS or sanctuary), located about 110 miles off the coasts of Texas and Louisiana, harbors the northernmost coral reefs in the continental United States and serves as a regional reservoir of shallow water Caribbean reef fishes and invertebrates. The coral reefs rise to within 60 feet of the surface. The banks themselves are surface expressions of salt domes whose formation began 160 to 170 million years ago in what was a shallow sea, subject to evaporation. Today it has become a premier diving destination and attracts scientists from around the world.

The amazing biodiversity and beauty of the Flower Garden Banks prompted researchers and recreational divers to seek their protection for over 20 years. Finally on January 17, 1992, FGBNMS was designated. The area containing both the East and West Banks equals 41.7 square nautical miles in size and contains 350 acres of reef crest. Four years later in October 1996, Congress expanded the sanctuary by adding a small third bank. Stetson Bank, also a salt dome, measures about 800 meters long and 300 meters wide and is located about 70 nautical miles south of Galveston, Texas. Environmental conditions at Stetson Bank, such as temperature fluctuations and water clarity, do not support the growth of reef forming corals like those found at the East and West Flower Garden Banks. Stetson Bank is capped by uplifted layers of claystone and sandstone, which have eroded at unequal rates to create a strange "moonscape" appearance and is home to many species of invertebrates and fish.

COUNCIL ROLES

1. The council, in accordance with the NMSA, shall provide advice and recommendations to the sanctuary superintendent regarding the protection and management of Flower Garden Banks National Marine Sanctuary.

2. The council shall draw on the expertise of its members and other sources in order to provide advice to the sanctuary superintendent.

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 providing information 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 superintendent. Such advice shall fairly represent the collective and individual views of the council members. In formulating such advice, the council members shall recall that the primary objective of the sanctuary and the NMSA is resource protection.

5. The council is established to provide advice and recommendations to the sanctuary superintendent regarding the management of FGBNMS. Nothing in this charter constitutes

authority to perform operational or management functions, or to make decisions on behalf of the sanctuary, NOAA or the Department of Commerce.

6. The council shall develop an annual work plan, in consultation with and approved by the sanctuary superintendent, to establish an agenda for specific issues and projects the council intends to address.

MEMBERS, ALTERNATES, AND OFFICERS

1. The council shall consist of no more than 16 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. There are two categories of seats for which non-voting members are appointed or selected.

(a) The sanctuary superintendent 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 each topic of discussion is relevant to the sanctuary. Council meetings may not be conducted in the absence of the sanctuary superintendent or his/her designee.

(b) 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. The following government agencies shall sit on the council as non-voting members:

Bureau of Ocean Energy Management, Department of the Interior
Bureau of Safety and Environmental Enforcement, Department of the Interior
United States Coast Guard
NOAA Fisheries, Department of Commerce
Environmental Protection Agency
NOAA Office of Law Enforcement

(c) Governmental members are appointed by their agencies and are not subject to term limitations or the competitive application process.

(i) An alternate (from the same government entity) of a governmental council member may attend a council meeting on occasion if the chair and sanctuary superintendent 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.

(ii)If a government entity decides to no longer participate as a member of the council, or fails to attend three consecutive council meetings without reasonable justification and is formally removed by the director, the sanctuary superintendent, 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 superintendent may recommend to the director that the appropriate agency be notified and requested to replace the designee. The sanctuary superintendent may consult with the council prior to taking such action.

(iv) Governmental members are subject to the same grounds for removal as non-governmental members.

3. There is one category of seats for which voting members are appointed. The following procedures shall govern the application, nomination, and appointment of council voting members:

(a) Non-governmental (16 members). Two representatives of each of the following activities, which are integrally affected by the management goals of the sanctuary, shall be selected to serve on the council as voting members:

Recreational Diving
Diving Operators
Oil and Gas Industry
Recreational Fishing
Commercial Fishing
Research
Education
Conservation

(b) The non-governmental members are appointed for a term of three years, and may compete for reappointment. The exact end date of their term is determined by the next scheduled recruitment period that takes place after a member serves their full term. 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 will be advertised at the next scheduled recruitment process and a replacement appointed. The newly appointed member shall serve for a full term beginning on the date of his/her swearing-in by the sanctuary superintendent.

(c) Members serve at the discretion of the director. The sanctuary superintendent 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 found to have violated national or state laws or regulations (in the state in which the sanctuary is located) protecting cultural resources;

- Is determined to have abused his or her position as a member of the council (including but not limited to use of council information for personal gain; use of council position to advance a personal agenda or harm another member of the council or of the community; misrepresentation of, or spreading misinformation about the council or the sanctuary; and refusal to recuse himself or herself if so requested by the sanctuary superintendent and/or chair in a matter in which the member has a conflict of interest);

- Has a change to the professional affiliation(s) and/or personal circumstances that comprise a significant portion of that member's qualifications for being a member of the council;

- Misses three consecutive meetings 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 superintendent may consult with the council prior to taking such an action.

(d) Non-governmental council members will not be selected to serve more than three consecutive terms in a specific seat on the sanctuary advisory council, unless the ONMS Director has granted a waiver to this limit. The ONMS Director will consider waivers to this limit on a case-by-case basis and in a manner provided for by ONMS policy.

4. Members accept the responsibility of attending council meetings. The sanctuary superintendent/director will not designate alternates to serve in their place or to represent them in meetings or at other council activities.

5. (a) Council Officer Elections and Terms
The council shall elect one member to serve as chair, and one member to serve as vice-chair. The vice-chair shall act as chair in the absence of the chair. Terms of the chair and vice-chair are two years; the chair and vice-chair may serve a maximum of two consecutive terms 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. Council members, including non-voting members, may nominate individuals for the council officer positions (except sanctuary superintendents and /or

their designees). Any member of the council, including government seats and non-voting seats (with the exception of the sanctuary superintendent) may be nominated and elected as a council officer. Election for all positions is by majority vote of all council members (except sanctuary superintendents and/or their designees), including the non-voting members, and votes shall be made by written ballot. Members who will not be present at the time of the election may submit their vote in writing to the sanctuary superintendent prior to the meeting.

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

(b) Roles of Council Officers:

(i) Chair: The chair schedules and sets agendas for all council meetings with the approval of the sanctuary superintendent, presides over all meetings of the full council and ensures that meetings are run according to accepted meeting practices, signs all correspondence and documents authorized by the council, and generally represents the council's interests and concerns to the public. The chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

(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. The vice-chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

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 superintendent directly. Copies of all applications and nominations for each seat will be submitted by the sanctuary superintendent to the preliminary review panel to obtain recommendations on selections. 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 superintendent with the approval of the director. The sanctuary superintendent may choose to re-advertise the vacant seat(s) if adequate candidates are not available after the first recruitment process. 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 ONMS may make available such staff, information, administrative services, or assistance as the sanctuary superintendent determines are reasonably required to enable the council and its subcommittees/working groups to carry out their functions.

OPERATION

1. Meetings

(a) Meetings are held at the call of the chair and the sanctuary superintendent.

(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 superintendent.

(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 superintendent.

(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 (the meetings should be in different months, but do not have to be precisely 30 days apart) 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 superintendent 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 superintendent. Requests for information, assistance, or advice from the ONMS, other NOAA offices, or other agencies shall be made in writing and be coordinated through the sanctuary superintendent.
(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 superintendent or the council chair so that it might be placed on the agenda as a discussion topic. The sanctuary superintendent and the council chair shall discuss topics for the agenda. The sanctuary superintendent approves a topic to be placed on the agenda.

(c) The council shall provide advice directly to the sanctuary superintendent via a written recommendation or a motion passed by the council and reflected in the minutes. Draft recommendations and verbal discussions shall be considered by the sanctuary superintendent as additional background information and shall be included in the minutes.

(d) Any advice, correspondence, or information the council wishes to offer or express beyond the sanctuary superintendent shall be voted on and approved by the council prior to sending. Because the council was established specifically to provide advice to the Secretary, and operates through the sanctuary superintendent, the sanctuary superintendent must also approve any advice, correspondence or information that goes outside the sanctuary prior to sending.

(e) The council shall base its advice on a vote of the council with negative votes and abstentions, noted or on consensus reached during discussion with minority opinions noted. A quorum shall be present when the vote is taken or a discussion to reach consensus is conducted.

(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 superintendent. If the council does not incorporate information or advice of a subcommittee or working group, it shall inform the sanctuary superintendent 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

Council members are expected to be familiar with the processes and regulations governing the sanctuary and to keep themselves informed of sanctuary-related events and issues. Expectations include regular meeting attendance and familiarity with the council charter and the ONMS Council Implementation Handbook.

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

(b) 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.

(c) All council members are expected to conduct themselves in a civil fashion, showing courtesy and respect to other council members, sanctuary staff and any other individuals present at the meeting.

(d) Any sanctuary advisory council member that has any professional relationship (i.e. contractual, financial, service, business, etc.) with the sanctuary, NOAA, or another council member, shall provide written detail and notice to the sanctuary superintendent within 30 days of the establishment of a relationship with the sanctuary, NOAA, or another council member. Written notice of said relationship shall be provided to all council members by the sanctuary superintendent within 30 days of either 1) receipt of such written notice from a council member, or 2) establishment of a professional relationship by a council member with the sanctuary. The establishment of such a professional relationship shall be recorded in the public record of the council at the end of the minutes of the next council meeting following said notice.

4. Conduct of the Council as a Body

(a) 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 superintendent prior to sending.

(b) The following disclaimer shall be placed in all documents and communications originating from the council: "The council is an advisory body to the sanctuary superintendent. The opinions and findings of this publication do not necessarily reflect the position of the Flower Garden Banks National Marine Sanctuary and the National Oceanic and Atmospheric Administration."

5. Council Letterhead

The council shall, with the assistance and approval of the sanctuary superintendent, 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 or DOC letterhead for any correspondence or other purpose.

6. Subcommittees and Working Groups

(a) Subcommittees: The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent may establish such subcommittees as necessary to fulfill the council's duties. Subcommittees shall be composed solely of members of the council. The subcommittee must be chaired by a voting member of the council. Subcommittees shall be

recognized as official subunits of the council. Subcommittees are subject to all requirements of this charter. No members of subcommittees may receive travel expenses for subcommittee meetings or other activities.

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

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 five 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 ONMS, 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 ONMS with input from the council.

Daniel J. Basta
Director, Office of National Marine Sanctuaries

4/15/14
Date