GERRY E. STUDDS STELLWAGEN BANK
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 Gerry E. Studds Stellwagen Bank National Marine Sanctuary Advisory Council (council).

This charter provides the background on the Office of National Marine Sanctuaries (ONMS) and the Gerry E. Studds Stellwagen Bank National Marine Sanctuary, 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 the public and the development of a stewardship ethic as vitally important to successfully conserve 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 (authority delegated from the Secretary of Commerce and the Under Secretary for Oceans and Atmosphere) on the management and protection of the sanctuary, or to assist the ONMS in guiding a proposed site through the designation process.

The ONMS is committed to the full support, utilization, and enhancement of councils at all sanctuaries. In order for councils to achieve their full potential, the ONMS, 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;
- Develop training programs appropriate to council officers and members, and sanctuary superintendents and staff;
- Conduct an annual meeting for council chairs, council coordinators and other appropriate

ONMS staff to promote information exchange, networking and cross-pollination between councils; and

- Conduct an annual meeting for council coordinators for training and internal discussions.

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 world-class system of sanctuaries that protects the nation's natural and cultural marine resources for this and future generations and provides both national and international leadership for marine conservation.

Mission of the ONMS:

Identify, protect, conserve, and enhance the natural and cultural resources, values, and qualities of the National Marine Sanctuary System for this and future generations throughout the nation.
Goals of the ONMS are:

- 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 areas 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 an 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.

GERRY E. STUDDSSTELLWAGEN BANK NATIONAL MARINE SANCTUARY

The Gerry E. Studds Stellwagen Bank National Marine Sanctuary is one of those special places. Designated in 1992, the sanctuary encompasses Stellwagen Bank and Basin, Tillies Bank and Basin, and a portion of Jeffreys Ledge. These areas are biologically rich offshore feeding, spawning, and nursery grounds for a wide variety of invertebrates, fish and whales. As such, they are very important to the regional economy as fishing grounds and whale watching areas. Of equal consideration, they are an intrinsic source of high bio-diversity. The sanctuary acts to insure that this critical habitat area is preserved and protected.

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 the Gerry E. Studds Stellwagen Bank National Marine Sanctuary ("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 communities and the sanctuary, keeping 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 Gerry E. Studds Stellwagen Bank National Marine Sanctuary. 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 six (6) governmental ex-officio and eighteen (18) non-governmental members. The ex-officio members shall be non-voting and shall be designated by the cooperating government agencies so indicated. The non-governmental members shall be voting (with the exception of the non-voting Youth seat) and shall be appointed by the director from representatives of local user groups, conservation and other public interest organizations, scientific and educational organizations, or members of the public interested in the protection and multiple use management of sanctuary resources. Membership is to be balanced in terms of points of view represented, and advisory functions the council will perform.

2. The sanctuary superintendent will sit on the council as a non-voting 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 superintendent or his/her designee.

3. There are two categories of seats, governmental and non-governmental, for which members are appointed. The following procedures shall govern the application, nomination and appointment of council members.

4. (a) Governmental (six members). By virtue of the shared interests of federal and state jurisdictions in the implementation of the sanctuary's management, each of the following government entities shall be requested to designate one individual to serve on the council. (Of the numerous responsibilities encompassed within each entity, the specific functional area of expertise needing representation is identified in parentheses):

National Marine Fisheries Service Northeast Regional Center (federal fisheries and protected species management); New England Regional Fishery Management Council (federal fisheries management planning); U.S. Coast Guard (federal marine resources and maritime enforcement); Massachusetts Office of Coastal Zone Management (state-federal ocean management consistency); Massachusetts Division of Marine Fisheries (state ocean fisheries management); and Massachusetts Division of Law Enforcement (cooperative state-federal environmental law enforcement.

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

(c) An alternate (from the same government entity) of a governmental member may attend a council meeting as the agency representative on occasion, if the chair and sanctuary superintendent are notified in advance of any meeting 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.

(d) If a government entity decides no longer to participate as a member of the council, or fails to attend three consecutive council meetings 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.

(e) 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.

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

5. (a) Non-governmental (18 members). A representative of each of the following activities, which are integrally affected by the management goals of the sanctuary, shall be selected: conservation (2), education (2), research (2), recreational fishing (1), diving (1), whale watching (1), fixed fishing gear (1), mobile fishing gear (1), marine transportation (1), business/industry (1), maritime heritage (1) and (1) non-voting youth seat. It is up to the discretion of the superintendent as to whether or not the youth finishes his/her term after he/she turns 18, but is still in school. Additionally, there shall be three (3) citizen at- large representatives whose selection is based on geographic diversity, breadth of experience and knowledge regarding marine issues, policies and practices.

(b) Non-governmental members are appointed for three-year terms, and may compete for re-appointment. If necessary, 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 filled 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 superintendent.

(c) Non-governmental council members will not be selected to serve more than three consecutive terms on the council. On the date when this charter is approved, each council member will be considered to be serving in his/her first term for purposes of computing term limits. This policy applies to the seat (e.g., conservation seat). If qualified, the same individual may apply for another seat on the council (e.g., citizen-at-large) once they are term-limited on another seat (e.g., conservation).

(d) The ONMS Director may waive the limit on the number of consecutive terms for non-governmental council members in the following two circumstances. The waivers and the process as it relates to the council member recruitment and selection process are as follows:

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

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

(ii) Waiver #2: It is a seat that is historically challenging to fill due to the remote location of the sanctuary and distance from population centers, or a limited applicant pool for a particular seat has been shown to limit the number of available candidates to fill a vacancy in a timely and efficient

manner and may disrupt or prevent a council from fulfilling its responsibilities.

Process: The term-limited individual should be advised of the situation and advised not to apply during the first round of recruitment. If after adequate advertising there are no qualified applicants in the first round of recruitment, the superintendent will send a memo to the director requesting the waiver and providing justification as to the need. The signed memo should be posted to the website. The term-limited individual will then be allowed to submit an application during the second round of recruitment (re-advertising). The application will then be reviewed by the preliminary review panel on an equal footing with any other applications submitted during the second round; the signed memo should accompany the application through the entire process from the preliminary review subcommittee to the regional director and ONMS. See Part II, C Selection of council members section in the Handbook for a full description of the recruitment and selection process.

(e) 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-Steven Fisheries 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 the 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 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 h as a conflict of interest);
- Has a change to the professional affiliations) 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 (as defined by the 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 superintendent may consult with the council prior to taking such an action.

(f) As each non-governmental seat becomes vacant and the process for selection of a new member (described under Appointments) is conducted, the sanctuary superintendent 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 that the alternate is officially substituting for the member. The member shall notify the chair and the sanctuary superintendent 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.

6. (a) Council Officer Elections and Terms

The council shall elect one member to serve as chair, 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 (four years) if reelected. The council may elect one member to serve as council secretary. The term of secretary is one year. The council secretary may serve consecutive terms if reelected.

A chair or vice-chair or secretary 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 the 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. 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 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.

(iii) Council Secretary: The council secretary assists sanctuary staff in performing administrative duties (recording minutes, tracking action items, drafting correspondence, preparing the annual council report, etc)

as directed by the chair or vice-chair. The secretary 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 non-governmental 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) Advice and recommendations made by the council are advisory only, and shall be made by majority vote of those eligible to vote. The chair or the sanctuary superintendent may request a recorded vote. A quorum of more than half the non-governmental (voting) membership of the council must be present when any vote is taken or general consensus reached.

(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 sanctuary superintendent. The sanctuary superintendent or his/her designee must be present for the council to formally conduct business at such a meeting. A quorum must also be present for the council to formally conduct business at such a meeting. As soon as is practical after an emergency meeting, the chair shall report, in writing, to the sanctuary superintendent, and shall include in this report: (1) detailed meeting minutes, (2) the nature of the emergency being addressed by the council, (3) any recommendations adopted by the council, and (4) a list of the members in attendance.

(f) Timely notice of each council meeting, including the time, place, and general topics to be discussed, 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 a 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 must be coordinated through, and approved by, 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 formal 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 that 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 go outside the sanctuary prior to sending.

(e) The council shall base its advice on a vote of the council with negative votes, abstentions or 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 from 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) Council members may not use or allow the use of, for other than official purposes, information obtained through or in connection with his or her 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 the 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.

(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.

(d) 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.

4. Conduct of the Council as a Body

(a) The council shall not make recommendations, express opinions or otherwise speak to other than the sanctuary superintendent unless the council has express permission from the sanctuary superintendent and states that its opinions and findings do not necessarily reflect the position of the sanctuary or NOAA.

(b) Any correspondence or other written documents that are intended to speak for the council as a body must be coordinated with, and approved by, the chair and the sanctuary superintendent. The following disclaimer shall be placed in documents originating from the council: "The council is an advisory body. The opinions and findings of this publication do not necessarily reflect the position of the Gerry E. Studds Stellwagen Bank 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 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 its duties. Subcommittees shall be composed solely of members of the council; at the superintendent's discretion, alternates may also serve on subcommittees. The subcommittee must be chaired by a primary member of the council. Subcommittees shall be recognized as official sub-units of the council and 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.

A standing subcommittee, the executive subcommittee, will serve as the administrative body of the advisory council and handle such administrative activities as may be appropriate, including, but not limited to, setting time and place of meetings, selecting agenda items, and reviewing meeting conduct. The executive subcommittee consists of the council chair, council vice-chair, council secretary and sanctuary superintendent. The council coordinator will work very closely with the executive committee. The chair, with concurrence from the superintendent, may also appoint one additional member from the members of the advisory council. The council chair, vice-chair, secretary, and one additional council member appointed by the chair shall also serve as the preliminary review panel for council member selection. Meetings of the executive committee are not subject to public meeting requirements.

(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/or persons outside the council. Working groups shall be chaired by a primary member of

the council and shall function under the purview of the council. At the sanctuary superintendent's discretion and if the full council approves, an alternate member may chair a working group; that alternate shall function under the purview of the council. Working groups established by the council to address specific issues shall disband once the final advice on the particular matter is submitted to the council. No members of the working groups, including members who are also members of the council, may receive travel expenses for the 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 this charter may be made as determined necessary by the ONMS with input from the council.

Daniel J. Basta
Director, National Marine Sanctuary Program

2/8/13
Date