GRAY'S REEF NATIONAL MARINE SANCTUARY
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 National Marine Sanctuary Program (director). The director hereby establishes the Gray's Reef National Marine Sanctuary Advisory Council (council).

This Charter provides a background on the National Marine Sanctuary Program and the Gray's Reef 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 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 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 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 within the limits of available resources 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 superintendents and staff.

NATIONAL MARINE SANCTUARY SYSTEM

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 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:

- 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 NMSP experience and techniques.

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

GRAY'S REEF NATIONAL MARINE SANCTUARY

Gray's Reef National Marine Sanctuary, designated in January 1981, is one of the largest near shore live-bottom reefs in the southeastern United States. Within the 17-square-nautical-mile

sanctuary, there are both rocky ledges and sandy flat areas. The reefs' rock ledges, submerged beneath 60 to 70 feet of water, can be as tall as 6-8 feet and are highly complex. They have projections, overhangs and caves, providing plenty of places for invertebrates to latch on to and for fish to hide. Together these animals form a dense carpet of living creatures that in places completely hides the rock. That gives the habitat of Gray's Reef its common name-a "live bottom". The sanctuary is located in an area on the continental shelf where temperate and tropical waters mingle west of the Gulf Stream. Gray's Reef is just a tiny part of the vast Atlantic Ocean yet its value as a natural marine habitat is recognized both nationally and internationally. Gray's Reef NMS is the only federally protected natural ocean bottom habitat in the South Atlantic Bight (an area that extends from Cape Hatteras, North Carolina, to Cape Canaveral, Florida).

OBJECTIVES AND ROLES

1. The council, in accordance with the Act, may provide advice to the sanctuary superintendent regarding the protection and management of the Gray's Reef 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 superintendent. 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 superintendent regarding the management of the Gray's Reef NMS. This does not constitute authority to perform operational or management functions, or to make decisions on behalf of the sanctuary.

MEMBERS AND OFFICERS

1. The council shall consist of no more than ten (10) voting members and four (4) ex-officio members, who shall be appointed by the director from among persons 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 management of the sanctuary. 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 superintendent shall sit on the council as a non-voting member and shall approve the scheduling of each meeting and the agenda to ensure that topics of discussion are relevant to the sanctuary. The sanctuary superintendent shall also approve other matters as indicated elsewhere in this Charter. Council meetings may not be conducted in the absence of the sanctuary superintendent or his/her designee.

3. 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) Governmental (5 members).

(i) By virtue of the shared functional responsibilities of federal, state, and local jurisdictions in the implementation of sanctuary-related management, government entities shall be requested to designate one individual to serve on the council.

(ii) To ensure that sanctuary plans and policies are well coordinated with State coastal programs and interests, the Georgia Department of Natural Resources, Coastal Resources Division shall be asked to designate one individual to serve on the council as a voting member.

(iii) To ensure relevant information exchange and consistent management, as appropriate, the U.S. Coast Guard, NOAA Fisheries, Sapelo Island National Estuarine Research Reserve, and the Georgia Department of Natural Resources, Wildlife Resources Division, Region VII Law Enforcement shall be asked to designate one individual from each agency to sit on the council as non-voting (ex-officio) members.

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

(v) An alternate (from the same government entity) of a governmental council member may attend council meetings. An alternate may not name another alternate.

(vi) If a government entity decides to no longer participate as a member of the council, or fails to attend 3 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.

(vii) 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.

(b) Non-governmental (9 members).

(i)A representative of each of the following activities, which are integrally affected by the management goals of the sanctuary, shall be selected:

<u>Research</u>
- Living resources
- Non-living resources

<u>Education</u>
- K-12
- University

<u>Resource Protection</u>
- Regional conservation
- Georgia conservation

<u>User Groups</u>

- Sport fishing (recreational rod and reel)
- Sport diving (divers, dive operators, dive clubs, and dive shops)
- Charter/commercial (for profit) fishing (charter and commercial fishing)

(ii) The non-governmental members are appointed for terms of 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 should 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 approval by the sanctuary superintendent.

(iii) 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 hereunder: 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 hereunder 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 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 3 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.

4. Non-governmental members accept the responsibility of attending council meetings and may 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, 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. The council may elect one member to serve as council secretary. The term of the council secretary is one year. The council secretary may serve consecutive terms if reelected.

A chair, vice-chair or secretary may leave his/her term to run for another council officer position if desired. If the chair, vice-chair or secretary is elected to a new position, the council shall nominate and elect a new representative for the vacated position. Election for all positions is by majority vote of all council members, including the non-voting members and votes can 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 chair and sanctuary superintendent prior to the meeting.

(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.

(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 advertising the vacancy of non-governmental seat(s). 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. 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, its subcommittees, and working groups 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. 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 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 may 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. Similarly, 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 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 NMSP, 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 comments or observations that the council wishes to offer or express beyond the sanctuary superintendent 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 superintendent, the sanctuary superintendent must approve comments or observations that go 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 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

(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 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.

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 superintendent. The following disclaimer shall be placed in all documents 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 Gray's Reef 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 council and 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. Subcommittees shall be recognized as official subunits of the council. Subcommittees are subject to all requirements of this charter.

(b) Working Groups: Working groups may be established by the council and the sanctuary superintendent 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 the sanctuary. 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 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.

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 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.

Daniel J. Basta
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