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; U.S.C. § 1445a) authorizes the Secretary of Commerce to establish sanctuary advisory councils to provide assistance to the Secretary of Commerce in 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 Gerry E. Studds Stellwagen Bank National Marine Sanctuary Advisory Council (council).

This Charter provides the background on the National Marine Sanctuary Program (NMSP) and the Gerry E. Studds 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 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 are formed of members from the public to: (1) provide advice to the sanctuary superintendent on the management and protection of the sanctuary, or (2) 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 superintendents and staff.

THE NATIONAL MARINE SANCTUARY PROGRAM

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 marine areas or Great Lakes areas of special significance to protect their ecological and cultural integrity for the benefit of current and future generations. In carrying out this mission, 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 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 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.

THE GERRY E. STUDDS
STELLWAGEN 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 protect.

OBJECTIVES AND ROLES

1. The council, in accordance with the Act, shall provide advice and recommendations to the sanctuary superintendent, regarding 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.

3. Council members shall serve as liaisons between their 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 advice, the council members shall recall that the primary objective of the sanctuary and the Act is resource protection.

5. The council shall act solely as an advisory body to the sanctuary superintendent. Nothing in the NMSA or this charter constitutes authority to perform operational or management functions, or to represent or make decisions on behalf of the Sanctuary, NOAA, or the Department of Commerce.

MEMBERS, ALTERNATES, AND OFFICERS

1. The council shall consist of no more than six (6) governmental ex-officio and seventeen (17) 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 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.

(a) (i) 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.

(ii) 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.

(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.

(b) (i) Non-governmental (seventeen 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), and maritime heritage (1). 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.

The non-governmental members are appointed for two-year and 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 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 superintendent.

(ii) 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 offence;

- 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 of the community; misrepresentation of, or spreading misinformation about the council or the sanctuary; and refusal to recuse himself or herself is so requested by the sanctuary superintendent and/or chair in a matter in which the member 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 conducting of business; or

- Violates any term of this charter.

The sanctuary superintendent may consult with the council prior to taking such an action.

4. 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.

5. 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, except that the initial term of the vice-chair is one year. The term of the council secretary 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 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.

(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 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. The sanctuary superintendent shall make selection from among those recommended by the council, or from among other applicants or nominees, with final approval by 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 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, with the approval of 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.

(e) Emergency meetings may be held at the call of the chair 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, 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 and contain a summary of attendees and matters discussed. Such minutes shall be available to the public in the sanctuary office.

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 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 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.

(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 also approve comments of observations that go outside the sanctuary.

(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.

(f) Any information or recommendations 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 advise or information the reasons for not incorporating the subcommittee's or working groups advise or information.

3. Conduct of Individual Members

(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, 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 his or her own 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

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

(b) Any correspondence, press releases, informational releases, news articles, 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 solely 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 council and 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 subcommittee 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 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 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 NMSP, with input from council members as appropriate, to determine whether to renew the charter.

4. Revisions to this charter may be made as determined necessary by the NMSP with input from the council.

Daniel J. Basta
Director, National Marine Sanctuary Program

12/10/07
Date