THUNDER BAY 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 National Marine Sanctuary Program (director). The director hereby establishes the Thunder Bay National Marine Sanctuary Advisory Council (council). NOAA and the State of Michigan will mutually agree upon the individuals who will serve on the Council.

This Charter provides a background on the National Marine Sanctuary Program and the Thunder Bay 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.

THUNDER BAY NATIONAL MARINE SANCTUARY

In October 2000, the Thunder Bay National Marine Sanctuary (sanctuary) was designated as the nation's first freshwater sanctuary. The sanctuary is located in Thunder Bay in northern Lake Huron, off the coast of Alpena, Michigan. The 448-square-mile Thunder Bay National Marine Sanctuary protects a nationally significant collection of an estimated 116 shipwrecks. This collection spans over a century of Great Lakes shipping history, reflecting transitions in ship architecture and construction from wooden schooners to steel-hulled steamers and freighters. These underwater cultural resources tell the stories of Great Lakes maritime history and commerce, its immigrants and natives, its earliest explorations and the fur trade, westward expansion in the 1800's and modern day lake trade.

As equal management partners, NOAA and the State of Michigan will:

- Protect Thunder Bay's underwater cultural resources;
- Develop educational projects focused on Great Lakes' maritime heritage;
- Conduct research to further identify and interpret the area's shipwrecks; and
- Promote recreational use of the resources consistent with their protection.

OBJECTIVES AND ROLES

1. The council, in accordance with the Act, the regulations, and the MOU between NOAA and the State of Michigan, may provide advice to the sanctuary superintendent and the joint management committee (JMC) (pursuant to 15 CFR part 922.192) regarding the protection and management of the Thunder Bay 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 consensus advice to the sanctuary superintendent. Such consensus advice shall fairly represent the collective and individual views of the council

members. In formulating such advice, the council members shall be mindful that the primary objective of the sanctuary and the Act is underwater cultural resource protection.

5. The council may serve as an initial forum for dispute resolution between the sanctuary and local users and/or stakeholders.

6. The council is established to provide advice to the sanctuary superintendent and JMC regarding the management of Thunder Bay NMS. This does not constitute the authority to perform operational or management functions, or to make decisions on behalf of the sanctuary.

MEMBERS, ALTERNATES, AND OFFICERS

1. The council shall consist of no more than 15 voting members, who shall be appointed by the director from among persons employed by federal, state, or local agencies, representatives of local government agencies and local user groups, public interest organizations, scientific and educational organizations, and members of the public interested in the protection and multiple use management of sanctuary resources. NOAA and the State will mutually agree upon the individuals who will serve on the council. 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, the State of Michigan, and the Chippewa-Ottawa Resource Authority may sit on the council as nonvoting members.

3. The sanctuary superintendent 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.

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

(a) (i) **Governmental (five members)**. By virtue of the shared functional responsibilities of federal, state, and local jurisdictions in the implementation of sanctuary-related management, each of the following government entities shall be requested to designate one individual to serve on the council. The Thunder Bay Underwater Preserve Committee is also included in this category.

Alpena County Board of Commissioners

Alpena City Council

Alpena Township Board of Trustees

Sanborn Township Board of Trustees

Thunder Bay Underwater Preserve Committee

(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, may invite another appropriate government agency or another interest to replace that entity on the council. NOAA and the State will mutually agree upon the removal of any council members and/or the appointment of another government entity or a new interest.

(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 representative. NOAA and the State will mutually agree upon the removal of any council members/or government entity. NOAA and the state may consult with the council prior to taking such action.

(b)(i) **Non-governmental (ten members)**. A representative of each of the following interests, which are integrally affected by the management goals of the sanctuary, shall be selected:

Recreation (including, kayaking, charter boats/tour boats)

Tourism

Business/Economic Development

Fishing (recreational, charter, and/or commercial)

Diving (including snorkeling)

Education (elementary, junior high, high school)

Education (higher education)

Maritime History & Interpretation

Citizen-at-Large

Citizen-at-Large

The non-governmental members are appointed for a term of three years, and may compete for reappointment. If necessary, subsequent terms of appointment may be

changed to provide for balanced (staggered) expiration dates. If a council member vacates a seat before his/her term is up, the alternate will serve out the remainder of the term. Should a non-governmental seat become vacant once the term expires, 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 and the State of Michigan. NOAA and the State mutually agree upon the selection and/or removal of any council member or government entity. The sanctuary superintendent may recommend to the director the removal of a non-governmental member of the council if that member has violated one or more terms of the charter or on any of the following grounds:

- Is convicted of any felony offense;
- Is found to have violated any of the following laws or regulations promulgated thereunder: the National Marine Sanctuaries Act, the National Historic Preservation Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, or another environmental law or cultural resource law for which NOAA, the State 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 other term of this charter.

NOAA and the state may consult with the council prior to taking such action.

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

6. If a Council member vacates a non-governmental seat before his/her term is up, the alternate will serve out the remainder of the term. 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 the top three candidates resulting from the review process. NOAA and the state will mutually agree upon the individuals who will serve on the council. The alternate shall have all the rights of the member at such times the alternate is officially substituting for the member.

7.(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. A chair or vice-chair may leave his/her term to run for another council officer position if desired. If the chair or vice-chair is elected to a new position, the council shall nominate and elect a new representative for the vacated position.

Election for all positions is by majority vote of all council members, excluding 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. Alternate members are considered non-voting members for council elections unless they are filling the seat in the primary member's absence, in which case they hold the same rights and privileges as members, including voting. Following the first election, elections for chair and vice-chair shall be held in alternate years.

(b) Roles of Council Officers:

(i) Chair: With the concurrence of the sanctuary superintendent, the chair schedules and sets agenda for all council meetings. The chair, in consultation with the council as a whole and with concurrence from the sanctuary superintendent may establish working groups and subcommittees of the council and appoint their chairs (see page 11 for further discussion). The chair presides over all meetings of the full council and ensures that meetings are run according to the 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.

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 who shall than forward copies to the JMC. Copies of all applications and nominations for each seat may be submitted by the sanctuary superintendent to council members, for review and screening. Any council member that has a conflict of interest (financial, personal, self nomination, etc.) shall recuse him/herself from making a selection for the vacant seat. Selection from among those recommended by the council, or from among other applicants or nominees, shall be made by the sanctuary superintendent with the approval of the director. NOAA and the state will mutually agree upon the individuals who will serve on the council. 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

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 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. For purposes of a quorum and for voting, the official alternate member shall assume the rights and privileges of the member in the member's absence.

(c) Each council 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 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, the State of Michigan, 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 and agree that a topic is an appropriate sanctuary issue before it may be placed on the agenda.

(c) The council shall provide advice directly to the sanctuary superintendent and JMC via a written recommendation or a motion passed by the council and reflected in the minutes. Draft recommendations and verbal discussions shall not be considered official advice from the council, but shall be considered as background information and included in the minutes.

(d) Any written or oral advice or correspondence that the council wishes to offer or express beyond the sanctuary superintendent and JMC 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 advice or correspondence that goes outside the sanctuary.

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

(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 and JMC. 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, the media or writing about any matter regarding the sanctuary in a document for distribution beyond council membership, the sanctuary superintendent and JMC, 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, the JMC, the State of Michigan, 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 not 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.

After disclosure of the interest or potential conflict of interest (other than direct financial gain as previously identified) the Council shall determine if the stated interest constitutes

a conflict of interest and decide whether or not that member should recuse themselves from discussion and voting.

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

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 and joint management committee. The opinions and findings of this publication do not necessarily reflect the position of the Thunder Bay National Marine Sanctuary, the National Oceanic and Atmospheric Administration, or the State of Michigan."**

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 State of Michigan letterhead for any correspondence or other purpose.

6. Subcommittees and Working Groups

(a) Subcommittees: The chair, in consulting with the council as a whole and with the concurrence of the sanctuary superintendent, may establish such subcommittees and appoint subcommittee chairs as necessary to fulfill the council's 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 subunits 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.

(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 and appoint working group chairs for specific purposes or topics that need focused attention that are best suited to this structure or format that cannot be accomplished by a subcommittee or the council as a whole. 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. No members of working groups, including members who are also members of the council, may receive travel expenses for working group meetings or other activities.

OTHER TERMS OF THIS CHARTER

1. The council shall operate pursuant to the terms of this charter.

2. This charter shall remain in effect for a period of three years from the date of signature.

3. Six months prior to the expiration of this charter, the need for the council will be evaluated by the NMSP, with input from council members, to determine whether to renew the charter.

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

Daniel J. Basta
Director, National Marine Sanctuary Program

7/9/07
Date

I acknowledge and agree with the continuation of the Thunder Bay National Marine Sanctuary Advisory Council under the auspices of this Charter.

John R. Halsey
State of Michigan

Date