FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY
SANCTUARY ADVISORY COUNCIL
CHARTER

INTRODUCTION

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 by the Federal government. As steward of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages Sanctuaries through the National Marine Sanctuary Program (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:

- to enhance resource protection through comprehensive and coordinated conservation and management tailored to the specific resources that complement existing regulatory authorities;
- to maintain the natural biological communities in the Sanctuaries, and to protect, and where appropriate, restore and enhance natural habitats, populations, and ecological processes;
- to support, promote, and coordinate scientific research on, and monitoring of, Sanctuary resources to improve management decision-making regarding the Sanctuary;
- to enhance public awareness, understanding, appreciation, and wise sustainable use of the marine or Great Lakes environment; and
- to facilitate to the extent compatible with the primary objective of resource protection, multiple uses of the Sanctuary not prohibited pursuant to other authorities.

Flower Garden Banks National Marine Sanctuary (FGBNMS or Sanctuary), located about 110 miles off the coasts of Texas and Louisiana, harbors the northernmost coral reefs in the continental United States and serves as a regional reservoir of shallow water Caribbean reef fishes and invertebrates. The coral reefs rise to within 60 feet of the surface. The Banks themselves are surface expressions of salt domes whose formation

began 160 to 170 million years ago in what was a shallow sea, subject to evaporation. Today it has become a premier diving destination and attracts scientists from around the world.

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

National Marine Sanctuary Program
Sanctuary Advisory Council Policy Statement

The National Marine Sanctuary Program (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 to provide advice to the Sanctuary Manager (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 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 Managers and staff.

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 Flower Garden Banks National Marine Sanctuary Advisory Council (Council).

This Charter 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.

OBJECTIVES AND ROLES

1. The Council, in accordance with the Act, may provide advice to the Sanctuary Manager regarding the management of the Flower Garden Banks National Marine Sanctuary.

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

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 Manager. Such consensus 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 is established to provide advice to the Sanctuary Manager regarding the management of the FGBNMS. This does not constitute 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 11 members, who shall be appointed by the Director from among persons employed by Federal, State, or local agencies with expertise in management of natural resources, representatives of local user groups, conservation and other public interest organizations, scientific and educational organizations, and members of the public interested in the protection and multiple use management of Sanctuary resources. The membership is designed to be balanced in terms of representative viewpoints, geographic diversity, and advisory functions the Council will perform.

2. The Sanctuary Manager may sit on the Council as a nonvoting member and shall work with the Chair in scheduling each meeting and approving the agenda to ensure that topics of discussion are relevant to the Sanctuary. Council meetings may not be conducted in the absence of the Sanctuary Manager or his/her designee.

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

(a) (i) Governmental (Non-voting)(3 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.

Minerals Management Service, Department of the Interior
United States Coast Guard
NOAA Fisheries, Department of Commerce

(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 Manager, 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 Manager may recommend to the Director that the appropriate agency be notified and requested to replace the designee. The Sanctuary Manager may consult with the Council prior to taking such action.

(b)(i) Non-governmental (voting)(8 members). A representative of each of the following constituent groups, which are integrally affected by the management goals of the Sanctuary, shall be selected:

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

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. 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 Manager.

(ii) Members serve at the discretion of the Director. The Sanctuary Manager may recommend to the Director the removal of a non-governmental member of the Council on any of the following grounds if that member:

- Is convicted of any felony offense;
- Is found to have violated any of the following laws or regulations promulgated thereunder: the National Marine Sanctuaries Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, or another environmental law for which NOAA has jurisdictional responsibility;
- Is found to have violated state environmental laws or regulations promulgated thereunder in a state within the region which the sanctuary is located;
- 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 Manager 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 a consecutive number of meetings (as defined by this 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 Manager may consult with the Council prior to taking such an action.

4. An alternate (from the same government entity) of a governmental Council member may attend a Council meeting on occasion if the Chair and Sanctuary Manager 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.

5. As each non-governmental seat becomes vacant and the process for selection of a new member (described under Appointments) is conducted, the Sanctuary Manager 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 the alternate is officially substituting for the member. The Chair and the Sanctuary Manager shall be notified by the member 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, and one member to serve as Council Secretary. The Vice-Chair shall act as Chair in the absence of

the Chair. The term of the Council Secretary is one year. The Council Secretary may serve consecutive terms if reelected. 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, including the non-voting members, and votes shall be made by written ballot. Members who will not be present at the time of the election may submit their vote in writing to the Sanctuary Manager 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 Manager, 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 constituent group seat(s) and at-large representatives. Applications for ensuing terms for vacant seats shall be submitted to the Sanctuary Manager directly. Copies of all applications and nominations for each seat may be submitted by the Sanctuary Manager 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 Manager 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 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 Manager 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 Manager.

(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 Manager.

(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 Manager.

(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 Manager 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 Manager. 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 Manager.

(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 Manager or the Council Chair so that it might be placed on the agenda as a discussion topic. The Sanctuary Manager 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 Manager 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 may be considered as background information.

(d) Any written or oral advice or correspondence that the Council wishes to offer or express beyond the Sanctuary Manager 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 Manager, the Sanctuary Manager must also approve advice or correspondence that goes 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 Manager. If the Council does not incorporate information or advice of a subcommittee or working group, it shall inform the Sanctuary Manager 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 Manager, 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 Manager, 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 Manager. The following disclaimer shall be placed in all documents originating from the Council: "The Council is an advisory body to the Sanctuary Manager. The opinions and findings of this publication do not necessarily reflect the position of the Flower Garden Banks National Marine Sanctuary and the National Oceanic and Atmospheric Administration."

5. Council Letterhead

The Council shall, with the assistance and approval of the Sanctuary Manager, 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 Manager may establish such subcommittees as necessary to fulfill the Council's duties. Subcommittees shall be composed solely of members of the Council; at the Managers discretion, alternates may also serve on subcommittees. A primary member of the Council must chair the subcommittee. 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: Working groups may be established by the Council and the Sanctuary Manager for specific purposes or topics that need focused attention that cannot be accomplished by a subcommittee. 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 Date 3/22/05
Director, National Marine Sanctuary Program