NATIONAL MARINE SANCTUARY of AMERICAN SAMOA ADVISORY COUNCIL CHARTER

ESTABLISHMENT AND AUTHORITY

Section 315 of the National Marine Sanctuaries Act (NMSA or Act; 16 U.S.C. § 1431 *et seq.*) authorizes the Secretary of Commerce to establish sanctuary advisory councils to provide advice to the Secretary of Commerce regarding the designation and management of national marine sanctuaries. This authority has been delegated to the Director of the Office of National Marine Sanctuaries (director). The director hereby establishes the National Marine Sanctuary of American Samoa Advisory Council (council).

The director will consult with the Director of the American Samoa Government Department of Commerce (ASDOC) on the establishment and operation of the council.

This charter provides background on the Office of National Marine Sanctuaries (ONMS) and the National Marine Sanctuary of American Samoa, and describes the objectives and roles of the council's activities, procedural requirements regarding the appointment of council members and officers, requirements for the conduct of council members and meetings, and other requirements. All council activities must be conducted pursuant to this charter.

SANCTUARY ADVISORY COUNCIL POLICY STATEMENT

The ONMS regards the involvement of 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 on the management and protection of the sanctuary, or to assist the ONMS in guiding a proposed site through the designation process.

The ONMS is committed to the full support, utilization, and enhancement of councils at all sanctuaries. In order for councils to achieve their full potential, the ONMS within the limits of available resources will:

- Provide sufficient support to allow councils to operate efficiently and effectively at each site;

- Provide support and guidance from the national office to help councils operate efficiently and at a basic level of consistency across the system;

- Promote coordination and communication among councils and among sanctuary staff that work closely with councils;

- Develop training programs appropriate to council officers and members, and sanctuary superintendents and staff; and

The National Marine Sanctuary of American Samoa is the only sanctuary located in a Territory where the dominant culture is not Western. The National Marine Sanctuary of American Samoa Advisory Council should embrace the local cultural ethics so that the programs and direction of sanctuary will fully reflect the needs of the local people while at the same time satisfying the mandates of the ONMS.

OFFICE OF NATIONAL MARINE SANCTUARIES

A national marine sanctuary is an area of the marine or Great Lakes environment of special national and sometimes international, significance warranting protection and management under the NMSA. As stewards of coastal and ocean resources, the National Oceanic and Atmospheric Administration (NOAA) protects and manages sanctuaries through the ONMS.

Vision of the ONMS:

The Office of National Marine Sanctuaries is a leader in ocean stewardship, conserving and protecting America's ocean and Great Lakes treasures for future generations through strong science-based management.

Mission of the ONMS:

National Marine Sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources. Though active research, management, education, and public engagement, we sustain healthy environments that are foundations for thriving communities and stable economies.

Goals of the ONMS:

- 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 uses in sanctuaries to the extent such uses are compatible with the primary mandate of resource protection, through innovative public participation and interagency cooperative arrangements.

- Work with the international community to strengthen global protection of marine resources, investigate and employ appropriate new management approaches, and disseminate ONMS experience and techniques.

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

THE NATIONAL MARINE SANCTUARY of AMERICA SAMOA

Fagatele Bay Management Area

Fagatele Bay is the original sanctuary management area and contains 0.25 square miles of bay area off the southwest coast of Tutuila Island. Fagatele Bay was designated a sanctuary in 1986 to protect its extensive coral reef ecosystem. Fagatele Bay is thought to support the greatest diversity of marine life in the National Marine Sanctuary System. Based on surveys of Tutuila's coral reefs, there are 168 species of corals in Fagatele Bay that are thought to be the centerpiece of a community of more than 1,400 species of algae and invertebrates and 271 species of fish. The cultural significance of Fagatele Bay lies in its connection with a historic coastal village that occupied its shores from prehistoric times through the 1950s.

On July 26, 2012, NOAA published a final rule to add 5 additional discrete geographical areas to the sanctuary and change the name of the Fagatele Bay National Marine Sanctuary to the National Marine Sanctuary of American Samoa (77 FR 43942). NOAA also amended existing sanctuary regulations and applied these regulations to activities

in the sanctuary. Pursuant to Section 304(b) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b) the final regulations took effect after 45 days of continuous session of Congress beginning July 26, 2012. The regulations became effective on October 15, 2012 (77 FR 65815).

Fagalua/Fogāma'a Management Area

This sanctuary unit encompasses approximately 0.46 square miles of bay area on the southwest shore of Tutuila, just east of Fagatele Bay, from Steps Point across to Sail Rock. The importance of the relationship between this bay and the surrounding environment is comparable to Fagatele Bay, with both bays having high coral coverage, as well as many different types of coral and fish species. Because of this similarity, this unit provides a replicate habitat for increased protection, scientific research and overall increased resilience of coral reef ecosystems. The ecological importance of this unit is comparable to Fagatele Bay, with both bays constituting a regional hotspot for coral cover, as well as coral and fish species richness. Within this unit Fagalua Bay is the site of two turtle images carved in a boulder and prehistoric *fale* foundations and may contain buried archeological deposits.

Aunu'u Management Areas

Aunu'u is a small, volcanic island approximately 1.2 miles southeast of Tutuila with a land area of 0.58 square miles. A total of 5.8 square miles of reef and offshore waters around Aunu'u Island have been included in the sanctuary, with 3.9 square miles designated a research zone, and 1.9 square miles multiple-use zone. Based on limited survey data, there is moderate coral cover and number of species compared to all of American Samoa, and Aunu'u has been identified as having unique fish community within American Samoa. The area surrounding Aunu'u Island consists of marine habitats of varying depth including shallow water reefs to deep waters. Ceramics and potsherds indicate that people were on the island as long as 2000 years ago, although not much is known about the settlements at that time. Aunu'u is the site of two maritime heritage resources dating to the 1800s, though a comprehensive survey of the island has not been conducted. A notification system has been implemented to assist in managing resources in the Aunu'u unit.

Ta'u Management Area

Ta'u Island, part of the Manu'a Island group, is located 70.0 miles east of Tutuila and 6.9 miles southeast of Olosega. The Ta'u unit is approximately 14.6 square miles and includes both nearshore and deep waters from Si'ufa'alele Point south along the western coast, and includes deep waters beginning ¼ mile offshore, adjacent to the nearshore waters of the National Park of American Samoa, along the southern coast

between Si'ufa'alele Point and Si'u Point. Massive *Porites* coral heads occur in the shallow waters just offshore of Afuli Cove along the island's southwestern coast. These huge colonies are among the oldest and largest known corals in the world and merit protection. The western side of Ta'u's southern coast is a regional hotspot for coral and fish diversity and possesses a distinct coral community. The sanctuary serves as a deep water buffer zone for the marine areas of the National Park of American Samoa, as well as adding near shore and reef protection around the *Porites* coral heads.

Swains Management Area

Swains Island is a privately owned low-lying coral atoll located about 200 miles northwest of Tutuila. It is approximately 1.5 miles in diameter, with approximately 1.0 square mile of highly vegetated sand and coral with a maximum elevation of 1.8 m (6 feet) above sea level. Swains Island has a high amount of coral cover and many different types of corals. Coral disease is low at Swains Island. Swains Island is characterized by large schools of predators, mostly barracudas, jacks and snappers. Overall, there are high amounts of large fish around Swains Island. Archeological surveys have not been conducted at Swains Island, but it likely holds prehistoric sites and buried archeological artifacts. This sanctuary unit includes 52.3 square miles of territorial waters within a 3 nm circle of the island, excluding the area around two existing channels to the island.

Muliāva Management Area

Rose Atoll Marine National Monument was established in January 2009 by Presidential Proclamation 8337 (74 FR 1577).

Rose Atoll is approximately 150 miles east of Pago Pago Harbor. It is the easternmost Samoan island and the southernmost point of the United States. One of the smallest atolls in the world, Rose Atoll consists of about .03 square miles of land and 2.5 square miles of lagoon surrounded by a narrow barrier reef. Rose Atoll is a distinct environment within the archipelago. It is an area with large numbers of fish and has a unique coral community, positioned upstream in the South Equatorial Current relative to the rest of the Samoan Archipelago. Rose Atoll supports the highest densities of giant clam in the Samoan archipelago, and is the primary site for green turtle nesting in American Samoa. There are also a number of maritime heritage resources at Muliava.

The Muliāva unit consists includes 13,507.8 square miles of marine waters of the Rose Atoll Marine National Monument and the submerged volcanic cone known as the Vailulu'u Seamount which has a diverse biological community that includes polychaetes, crinoids, octocorals, sponges, and cutthroat eels. Scientists speculate that the volcanic cone within the crater of the seamount will breach the sea surface within decades, forming a new island.

COUNCIL ROLES

1. The council, in accordance with the NMSA, shall provide advice and recommendations to the sanctuary superintendent regarding the protection and management of the National Marine Sanctuary of American Samoa.

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

3. Council members shall serve as liaisons between their constituents and/or communities and the sanctuary, keeping the sanctuary staff informed of issues and concerns, as well as providing information to their respective communities on the sanctuary's behalf.

4. The council may serve as a forum for consultation and deliberation among its members and as a source of advice to the sanctuary superintendent. Such advice shall fairly represent the collective and individual views of the council members. In formulating such advice, the council members shall recall that the primary objective of the sanctuary and the NMSA is resource protection, and how that objective can be achieved within the context of American Samoa.

5. The council is established to provide advice and recommendations to the sanctuary superintendent regarding the management of sanctuary. This does not constitute authority to perform operational or management functions, or to make decisions on behalf of the sanctuary, NOAA or the Department of Commerce.

6. The council shall develop an annual work plan, in consultation with and approved by the sanctuary superintendent, to establish an agenda for specific issues and projects the council intends to address.

MEMBERS, ALTERNATES, AND OFFICERS

1. The council shall consist of no more than 17 voting members, who shall be appointed by the director, in consultation with the ASDOC Director, from among persons employed by federal, state, local agencies, or with the private sector 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 balance points of view, geographic diversity, and advisory functions the council will perform.

2. The sanctuary superintendents 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 superintendent or his/her designee.

3. A non-governmental, non-voting youth seat represents the youth and young adult segment of the community, defined as ages 14-25. The youth member shall be appointed for a term of two years, and may compete for reappointment unless the individual will exceed the age limit during the additional term. This seat is governed by the same application, nomination and appointment procedures as non-governmental voting seats on the council, and is also subject to the same grounds for removal.

   The individual filling the youth seat must:
   - Be between the ages of 14 and 25 when they apply;
   - Possess an interest in sanctuary resource protection and management;
   - Have experience or knowledge regarding public uses and activities in the sanctuary;
   - Be able to travel to and attend council meetings and retreats (parent/guardian or youth provides transportation); and
   - Provide written recommendation from one or more teachers if applicable.

   Once selected, ONMS staff will contact the youth to provide:
   - Written permission from parent/guardian (if under 18);
   - Written permission from school administration, if applicable, to attend council meetings and retreats (only if council meetings or retreats require a student to miss school); and
   - If applicable, the school may also require their own paperwork if for example, the youth has to miss school.

   If under 18, a chaperone (teacher/parent/guardian) is encouraged to attend each meeting with the youth and stay for the duration of the meeting.

4. 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 following government agencies shall sit on the council as non-voting members:

   - National Park Service (non-voting)
   - NOAA - Office of Law Enforcement (non-voting)
   - NOAA - Pacific Islands Regional Office (non-voting)

- Sanctuary Superintendent (non-voting)
- ONMS Pacific Islands Regional Director (non-voting)
- United States Coast Guard (non-voting)
- Samoa Government (non-voting)

5. 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 (4 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.

   - American Samoa's Department of Commerce Resource Division (voting)
   - American Samoa Department of Marine and Wildlife Resources (voting)
   - American Samoa Community College/Sea Grant (voting)
   - American Samoa Environmental Protection Agency (voting)

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

   (iii) 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. In order for alternates to represent the primary member in an official voting capacity, the name of the alternate must be provided in writing on official letterhead to the sanctuary superintendent prior to any council meeting.

   (iv) If a government entity decides no longer to 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, shall invite another appropriate government entity to replace that agency on the council.

   (v) 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)(i) Non-governmental (13 members). All non-governmental members are voting members. A representative-of each of the following activities, which are integrally affected by the management goals of the sanctuary, shall-be selected:

- Research
- Education
- Fishing (2 seats)
- Ocean Recreation or Ocean Centered Eco-tourism
- Tourism
- Business/Industry
- Diving
- Community-at-large (5 seats)
    - Representative from the East side of Tutuila
    - Representative from the West side of Tutuila
    - Representative from the Manu'a Islands
    - Representative from Swains Island
    - Representative from Aunu'u Island

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. It is the policy of the ONMS that non-governmental council members will not be selected to serve more than three consecutive terms on a sanctuary advisory council. Term limits only apply to seats that go through the advertised, competitive process.

Waivers:
The ONMS Director may waive the limit on the number of consecutive terms for non-governmental council members in the following three circumstances. The waivers and the process as it relates to the council member recruitment and selection process are described below. A waiver is permissible in the following circumstances if:

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

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

Waiver #2: It would be deemed culturally inappropriate to impose the policy.

□ **Process:** A superintendent will be aware of this exceedingly rare situation well in advance of recruitment and should send a memo to the ONMS Director requesting the waiver and providing justification as to the need. The signed memo should be posted on the website. The superintendent should then simply invite the term-limited individual to apply as usual. The signed memo should accompany the application through the entire process from the preliminary review subcommittee to the regional director and ONMS HQ. See Part II, C Selection of Council Members section in the Handbook for a full description of the recruitment and selection process.

Waiver #3: It is a seat that is historically challenging to fill due to the remote location of the sanctuary and distance from population centers, or a limited applicant pool for a particular seat has been shown to limit the number of available candidates to fill a vacancy in a timely and efficient manner and may disrupt or prevent a council from fulfilling its responsibilities.

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

(b)(ii) As each non-governmental seat becomes vacant and the process for selection of a new member (described under Appointments) is conducted, the sanctuary superintendent, who may consult with ASDOC, shall recommend to the director the member from among the top three candidates resulting from the review process. Members accept the responsibility of attending council meetings. The sanctuary superintendent/director will not designate alternates to serve in their place or to represent them in meetings or at other council activities.

(c) Members serve at the discretion of the director. The sanctuary superintendent, in consultation with the ASDOC Director, 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 or another federal agency has jurisdictional responsibility;
- Is found to have violated territorial environmental laws or regulations promulgated thereunder in American Samoa;
- Is found to have violated national or territorial laws or regulations in American Samoa 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 make up 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 term of this charter.

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

6. (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 two years. 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. Council members, including non-voting members, may nominate individuals for the council officer positions (except sanctuary superintendents and/or their designees). Election for all positions is by majority vote of all council members, including the non-voting members (except the superintendent or their designee and a youth seat representative), and votes shall be made by written ballot. Alternates may nominate and vote during an election only when the alternate is filling the seat in the absence of the primary member. Members who will not be present at the time of the election may submit their vote in writing (by e-mail is acceptable) to the sanctuary superintendent prior to the meeting. Following the first election, elections for chair and vice-chair shall be held in alternate years.

If a council officer resigns, the council should hold an election at the next regularly scheduled council meeting. If the newly elected individual feels comfortable they may begin serving in their position immediately upon being elected, otherwise they may begin serving at the next meeting. If the chair resigns, the vice chair acts on their behalf until the new chair assumes their position. If the vice chair resigns, the secretary acts on their behalf until the new vice chair assumes their position. If the secretary resigns, the position may remain vacant until the new secretary assumes their position.

In extraordinary circumstances, if all council officers resign at the same time, the council can agree to allow another council member to serve as interim chair until the new officers are elected; new officers should be elected at the next scheduled council 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. The chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

(ii) Vice-Chair: The vice-chair serves as chair in the absence of the chair and assists as necessary in performing executive duties of the council. The vice-chair also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

(iii) Council Secretary: The council secretary assists sanctuary staff in performing administrative duties (recording minutes, tracking action items, drafting correspondence, preparing the annual council report, etc.) as directed by the chair or vice-chair. The secretary also continues to fulfill the general roles that all council members fill, including representing the interests of their constituents.

APPOINTMENTS

Public notice shall be provided as to the vacancy of constituent group seat(s) and at-large representatives. Applications for ensuing terms for vacant seats shall be submitted to the sanctuary superintendent directly. Copies of all applications and nominations for each seat will be submitted by the sanctuary superintendent to the preliminary review panel to obtain recommendations on selections. Any council member that has a conflict of interest (financial, personal, self nomination, etc.) shall recuse him/herself from making a selection for the vacant seat. Selection from among those recommended by the council or from among other applicants or nominees shall be made by the sanctuary superintendent with the approval of the director. The sanctuary superintendent may choose to re-advertise the vacant seat(s) if adequate candidates are not available after the first recruitment process. In all cases, submission of written statements of particular interest, qualifications, and experience shall be requested. Guidelines for applying shall be supplied at the appropriate time.

ADMINISTRATION

1. Members of the council shall serve without pay except that each member may receive travel expenses including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of Title 5, .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 ONMS may make available such staff, information, administrative services, or assistance as the sanctuary superintendent determines are reasonably required to enable the council and its subcommittees/working groups to carry out their functions.

OPERATION

1. Meetings

(a) Meetings are held at the call of the chair and the sanctuary superintendent.

(b) 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 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. 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 (the meetings should be in different months, but do not have to be precisely 30 days apart), but at least once every six months. The council meeting place may be rotated among various locations adjacent to the sanctuary site 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.

(i) Council meetings shall be conducted in English. Should a council member require translation during meetings, the sanctuary superintendent may provide a translator. If a council member requires that written materials be provided in Samoan, the sanctuary superintendent may provide that service to the extent practicable.

2. Procedures for Providing 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 ASDOC, ONMS, other NOAA offices, or other agencies shall be made in writing (by e-mail is acceptable) and be coordinated through the sanctuary superintendent.

(b) Any matter that a council member wishes to raise to the attention of the sanctuary superintendent 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 written or oral advice, correspondence or information the council wishes to offer or express beyond the sanctuary superintendent shall be voted on and approved by the council prior to sending. Because the council was established specifically to provide advice to the Secretary, and operates through the sanctuary superintendent, the sanctuary superintendent must also approve advice, correspondence, or information that goes outside the sanctuary prior to sending.

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

(f) Any information or advice resulting from discussions in subcommittees or working groups that is requested by the council shall be presented to and considered by the full council and as appropriate incorporated into the council's recommendation to the sanctuary superintendent. If the council does not incorporate information or advice 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 are expected to be familiar with the processes and regulations governing the sanctuary and to keep themselves informed of sanctuary-related events and issues. Expectations include regular meeting attendance and familiarity with the council charter and the ONMS Council Implementation Handbook.

(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, NOAA, or ASG.

(c) Any council member that has an interest (financial, personal or business interest) in any matter before the council or a subcommittee or working group shall identify such interest prior to discussion and voting on such matter. No member shall cast a vote on any matter that would provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under federal law. An affected member who may not vote on a matter may participate in council deliberations relating to the decision after notifying the council of the voting recusal and identifying the interest that would be affected. These same guidelines apply to members of working groups who are not members of the council.

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

4. Conduct of the Council as a Body

(a) 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 prior to sending.

(b) 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 National Marine Sanctuary of American Samoa, the National Oceanic and Atmospheric Administration or the American Samoa Government."*

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 DOC letterhead for any correspondence or other purpose.

6. Subcommittees and Working Groups

(a) Subcommittees: The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish such subcommittees as necessary to fulfill 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 subcommittees may be chaired by a primary member of the

council. Subcommittees shall be recognized as official subunits of the council. Subcommittees are subject to all requirements of this charter. Subcommittee members shall serve without pay. Each member may receive subcommittee meeting travel expenses including per diem in lieu of subsistence (in accordance with sections 5702 and 5703 of Title 5, U.S.C.). Reimbursement is at the discretion of the sanctuary superintendent and dependent upon budgetary (or financial) considerations and constraints. Travel expenses for government members of the council may be provided by their own agencies.

Executive Committee: A standing subcommittee, the Executive Committee, in consultation with the sanctuary superintendent, will serve as the administrative body of the sanctuary advisory council and handle such administrative activities as may be appropriate, including, but not limited to, setting time and place or meetings, selecting agenda items, and reviewing meeting conduct. The Executive Committee consists of the council chair, council vice-chair, council secretary and sanctuary management; at the superintendent's discretion, subcommittee or working group chairs who are members of the council may also sit on the Executive Committee. The advisory council coordinator will work very closely with the Executive Committee. Meetings of the Executive Committee are not subject to public meeting requirements.

(b) Working Groups: The chair, in consultation with the council as a whole and with the concurrence of the sanctuary superintendent, may establish working groups for specific purposes or topics that need focused attention that cannot be accomplished by a subcommittee. Their work will be limited to the functional areas and discrete issues relating to individual sanctuaries. Working groups may be composed of members of the council and 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 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. Working group members shall serve without pay. Each member may receive working group meeting travel expenses including per diem in lieu of subsistence (in accordance with sections 5702 and 5703 of Title 5, U.S.C.). Reimbursement is at the discretion of the sanctuary superintendent and dependent upon budgetary (or financial) considerations and constraints. Travel expenses for government members of the council may be provided by their own agencies.

OTHER TERMS OF THIS CHARTER

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

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

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

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

Daniel J. Basta
Director, Office of National Marine Sanctuaries

Date 4/15/14