

HAWAIIAN ISLANDS HUMPBACK WHALE 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 (director) of the Office of National Marine Sanctuaries (ONMS). The director hereby re-establishes the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council (council).

This charter provides a background on ONMS and Hawaiian Islands Humpback Whale National Marine Sanctuary, and describes the council's objectives and roles, procedural requirements regarding the appointment of council members, alternates, and officers, and requirements for the conduct of council members, alternates, and meetings, among others. All council activities must be conducted pursuant to this charter.

SANCTUARY ADVISORY COUNCIL POLICY STATEMENT

ONMS regards community involvement and the development of a stewardship ethic as vitally important to successfully manage 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 NOAA on the management of a sanctuary, or to assist the ONMS in guiding a proposed site through the designation process.

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

- Provide sufficient support for councils to operate efficiently and effectively;
- Provide support and guidance to help councils operate efficiently and consistently 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, members, and NOAA staff

The resources ONMS manages differ in size, species, depth, color, culture, and countless other ways. This rich diversity is part of our natural heritage, a gift to be discovered, appreciated, and protected. Whether a natural ecosystem or a human community, diversity creates strength and resilience. By recruiting for and representing the equally remarkable diversity of advisory council members, ONMS can leverage new creativity, knowledge, and experiences to achieve its mission of a thriving sanctuary system that protects our nation's underwater treasures and inspires momentum for a healthy ocean.

OFFICE OF NATIONAL MARINE SANCTUARIES

A national marine sanctuary is an area of the marine or Great Lakes environment of special significance warranting protection and management under the NMSA. As a steward of coastal and ocean resources, NOAA protects and manages the National Marine Sanctuary through ONMS.

The National Marine Sanctuary System is a network of national marine sanctuaries and marine national monuments, currently encompassing more than 620,000 square miles of ocean and Great Lakes waters. ONMS seeks to protect the extraordinary scenic beauty, biodiversity, historical connections, and economic productivity of these areas so they may continue to serve as the basis for thriving recreation, tourism, and commercial activities that drive coastal economies. Through both directed management actions and partnerships, ONMS helps ensure a healthier ocean, now and for future generations.

Vision of ONMS:

A thriving sanctuary system that protects our nation's underwater treasures and inspires momentum for a healthy ocean.

Mission of ONMS:

We protect treasured places in the ocean and Great Lakes.

Strategic goals and objectives of ONMS:

1. Ensure thriving sanctuaries and other ocean parks.
 - 1.1 Reduce threats to key species and marine habitats.
 - 1.2 Protect significant maritime heritage resources.
 - 1.3 Promote responsible human uses.
2. Safeguard more underwater treasures as national marine sanctuaries.
 - 2.1 Incorporate additional nationally significant resources into existing sanctuaries.
 - 2.2 Implement designation processes for new areas.
 - 2.3 Identify additional resources of national significance.
3. Increase support for sanctuaries.
 - 3.1 Expand recognition of national marine sanctuaries.
 - 3.2 Increase sanctuary engagement.
 - 3.3 Create a vision for the next 50 years of sanctuaries.
4. Deepen our understanding of sanctuaries.
 - 4.1 Learn more about our sanctuaries.
 - 4.2 Track and predict conditions and trends.
 - 4.3 Understand the value of sanctuaries to our nation.
5. Ensure the office of national marine sanctuaries is a great place to work.
 - 5.1 Encourage a culture of collaboration, inclusion and respect.
 - 5.2 Increase staff satisfaction and performance.
 - 5.3 Invest in our people and their professional development.

HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

Hawaiian Islands Humpback Whale National Marine Sanctuary (sanctuary) was designated by an act of Congress (Title II, Subtitle C, Public Law 102-587, Hawaiian Islands National Marine Sanctuary Act or HINMSA) to recognize the importance of nearshore waters of Hawai‘i, which serve as the winter breeding, calving, and nursing habitat essential to the long-term survival and recovery of the North Pacific stock of the protected humpback whale (*Megaptera novaeangliae*). The sanctuary, working in partnership with the State of Hawai‘i, its governments, and citizens, will function to provide the protection needed to ensure that the whales and their habitat are safe from harm and harassment while continuing to meet the needs of marine users of an island state.

The identification of marine resources, in addition to humpback whales and their habitat, was stipulated by Congress in the 1992 HINMSA. If, at some point in the future, other resources, in addition to humpback whales, are added to the sanctuary, any protections referred to in this document concerning humpback whales will extend to any added resources.

Section 2306 of the HINMSA directs NOAA, in coordination with the State of Hawai‘i, to develop a sanctuary management plan that “facilitates all public and private uses of the sanctuary (including uses Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes) consistent with the primary objective of the protection of the humpback whales and their habitat.”

The HINMSA established the sanctuary for the following purposes:

- To protect the North Pacific population of humpback whales and their habitat within the sanctuary.
- To educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment.
- To manage human uses of the sanctuary consistent with the National Marine Sanctuaries Act (NMSA), as amended.
- To provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary.

COUNCIL OBJECTIVES

The Director establishes the council to provide advice on:

- Protecting natural and cultural resources, and identifying and evaluating emergent or critical issues involving sanctuary use or resources;
- Identifying and realizing the sanctuary’s research objectives;
- Identifying and realizing educational opportunities to increase the public knowledge and stewardship of the sanctuary environment; and
- Assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the sanctuary and the ONMS.

COUNCIL ROLES

The council, in accordance with the NMSA, shall provide advice and recommendations to the sanctuary superintendent regarding the protection and management of Hawaiian Islands Humpback Whale National Marine Sanctuary.

1. The council shall draw on the expertise of its members, alternates, and other sources in order to provide advice.
2. Council members and alternates shall serve as liaisons between their constituents and/or communities and the sanctuary, keeping sanctuary staff informed of issues and concerns, as well as providing information to their respective communities on the sanctuary's behalf.
3. The council may serve as a forum for consultation and deliberation among its members and as a source of advice and recommendations 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, the NMSA, and the HINMSA, is resource protection.
4. The council is established to provide advice and recommendations to the sanctuary superintendent regarding the management of HIHWNMS. This does not constitute authority to perform operational or management functions, or to make decisions on behalf of the sanctuary, ONMS, NOAA, or the Department of Commerce.
5. The council shall develop a 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.
6. The council shall develop guiding principles, in consultation with and approved by the sanctuary superintendent, to establish an agenda for specific issues and projects the council intends to address.
7. A standing Hawaiian Cultural Advisory committee shall be established to support and incorporate traditional and current Hawaiian cultural perspectives and place-based knowledge into sanctuary programs (HIHWNMS management plan Objective CT 1, 2). To strengthen its ability to effectively advise the sanctuary superintendent, the council shall establish and maintain a Hawaiian cultural training program for all council members. This training program will also be open for participation to sanctuary staff and volunteers.

MEMBERS, ALTERNATES, AND OFFICERS

1. The council shall consist of no more than thirteen (13) non voting members and nineteen (19) voting members who shall be appointed by the director, in consultation with the governor or his/her designee, from among persons employed by federal, state, or local government agencies with expertise in management of natural resources, representatives of Native Hawaiian groups, local user groups, representatives from adjacent counties and

islands, 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 points of view represented, geographic representation, and advisory functions the council will perform.

2. There are four (4) categories of seats for which thirteen (13) non-voting members are appointed or selected.
 - a. The sanctuary superintendent shall sit on the council as a non-voting member and shall work with the council chair (chair) to schedule each meeting and approve the agenda to ensure that discussion topics are relevant to the sanctuary. Council meetings may not be conducted in the absence of the sanctuary superintendent or his/her designee.
 - b. To ensure relevant information exchange between the national marine sanctuary and marine national monument of the Hawaiian archipelago, the superintendent of the Papahānaumokuākea Marine National Monument shall sit on the council as a non-voting member.
 - c. A non-governmental, non-voting youth/student seat represents the youth segment of the community, defined as ages 14-17. A youth/student member may 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 and selection procedures as non-governmental, voting seats on the council, and is also subject to the same grounds for removal.

The individual filling the youth/student seat must:

- Be a minimum of 14 years of age when he or she applies;
- Attend a school, including home schools (or other alternative high school option), in the area affected by the sanctuary;
- Have a proven ability to communicate and network with other students within their school, in other schools within his/her community, or with home schooled students and with adults;
- Possess an interest in sanctuary resource protection and management;
- Have experience and/or knowledge regarding public uses and activities in the sanctuary;
- Be able to travel to and attend council meetings and retreats (youth or parent provides transportation);
- Provide written recommendation from one or more teachers; and
- Serve a maximum of two years, until he or she turns 18, or graduates from high school, whichever comes first.

Once selected, ONMS staff will contact the student to provide:

- Written permission from a parent/guardian;
- Written permission from the school administration to attend council meetings and retreats (only if council meetings or retreats require a student to miss school).

A chaperone (teacher/parent/guardian) is encouraged to attend each meeting with the student and stay for the duration of the meeting.

d. 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 as a non-voting member:

- National Marine Fisheries Service, Office of Law Enforcement
- National Marine Fisheries Service, Pacific Islands Regional Office
- State of Hawai'i Department of Business, Economic Development and Tourism
- State of Hawai'i Department of Health
- State of Hawai'i Department of Land and Natural Resources
- State of Hawai'i Department of Transportation—Harbors Division
- State of Hawai'i Office of Planning and Sustainable Development
- U.S. Army Corps of Engineers
- U.S. Coast Guard
- U.S. Navy

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

An alternate of a governmental council member (from the same government entity) may attend a council meeting if the chair and the sanctuary superintendent are notified at least 24 hours 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.

If a government entity decides to no longer participate as a member or alternate of the council, or fails to attend two consecutive council meetings without reasonable justification and is formally removed by the director, the sanctuary superintendent, with approval of the director, shall invite another appropriate government entity to replace that agency on the council.

If it is found that a governmental member or alternate of the council has violated one or more of this charter's terms, 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.

Governmental members and alternates are subject to the same grounds for removal as non-governmental members.

3. There are two (2) categories for which nineteen (19) voting members are appointed or selected.

a. A non-governmental representative and alternate of each of the following activities, which are integrally affected by the sanctuary's management goals, shall be selected as a voting member:

- Business/Commerce (1) (e.g., chambers of commerce and ocean-related commercial businesses)
- Conservation (1)
- Commercial shipping (1)
- Island-specific representatives (6) (Hawai'i, Kaua'i, Lāna'i, Maui, Moloka'i, O'ahu)
- Education (1)
- Fishing (1) (i.e., recreational, charter, commercial, or subsistence)
- Native Hawaiian (2)
- Ocean Recreation (1) (i.e., non-commercial, non-consumptive ocean user)
- Research (1)
- Tourism (1) (e.g., convention and visitor bureaus, hotels, and other service industries)
- Whale Watching (1) (i.e., commercial whale watching/wildlife viewing businesses)

NOTE: NOAA recognizes that all of the non-government user/interest groups are composed of many different individuals and organizations, each representing specific interests. Each selected member will be encouraged to make concerted efforts to identify, contact, and coordinate with all the diverse individuals and organizations that comprise his/her respective group.

Non-governmental members are appointed for a term of three years, and may compete for reappointment to serve for no more than three consecutive terms representing the same seat. Subject to the provisions of the ONMS policy on the

limit on consecutive terms for non-governmental council members, the three term limit applies to the seat (e.g. conservation seat) and not the position (primary or alternate). If qualified, the same individual may apply for another seat on the council once they are term-limited. If necessary, subsequent terms of appointment may be changed to provide for balanced (staggered) expiration dates. As each non-governmental seat becomes vacant at the end of an incumbent member's term, the process for selection of a new member will be conducted (described under APPOINTMENTS).

At the discretion of the sanctuary superintendent, an alternate may also be appointed to complete a primary member's term, without going through a competitive process, if that member resigns or is removed. Alternatively, the vacated position can be advertised and a replacement appointed. The newly appointed member shall serve for a full term beginning on the date of his/her swearing-in by the sanctuary superintendent. An alternate may not name another alternate.

If a primary member cannot attend a meeting, he/she shall notify the chair and the sanctuary superintendent at least 24 hours in advance that an alternate will stand in his/her place and act on his/her behalf. At such times, an alternate shall be entitled to all of that member's rights.

Members serve at the discretion of the director. The sanctuary superintendent may recommend the director remove 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 federal environmental law or the regulations promulgated thereunder, including, but not limited to: Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, or the National Marine Sanctuaries Act.
- Is found to have violated state environmental laws or regulations;
- Is found to have violated national or state laws or regulations protecting cultural resources;
- Is determined to have abused his/her position as a member or alternate 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 or alternate of the council or community; misrepresentation of, or spreading misinformation about, the council or the sanctuary; and refusal to recuse himself/herself, if so requested by the sanctuary superintendent and/or chair on a matter in which the member or alternate 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 two consecutive meetings without reasonable justification;
- Disrupts, on more than one occasion, council meetings in a manner that interferes with the council's ability to conduct its business; or
- Violates any term of this charter.

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

- b. 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 voting members:

- State of Hawai'i Office of Hawaiian Affairs
- Western Pacific Regional Fishery Management Council

4. Council Officer Roles, Elections, and Terms

a. 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 his/her constituents.
- ii. **Vice Chair:** The vice chair serves as chair in the chair's absence and assists, as necessary, in performing the 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 his/her 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 his/her constituents.

- b) Council Officer Elections and Terms: The council shall elect one member to serve as chair, and one member to serve as vice chair. The council may also elect one member to serve as council secretary. The term length for all council officers is two years. A chair, vice chair, or secretary may serve a maximum of two consecutive terms, if re-elected.

If desired, a chair, vice chair, or secretary may leave his/her current term to run for another council officer position. 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 (except sanctuary superintendents or their designees), may nominate individuals for the council officer positions. Any primary member of the council, including government seats and non-voting seats (with the exception of sanctuary superintendents and the youth seat representative) may be nominated and elected as a council officer.

Elections shall be held at a regular meeting. Election for all positions is by a majority vote of all council members, including the non-voting members (except sanctuary superintendents or their designees), and votes shall be made by written ballot. Members who will not be present at the time of the election may submit their votes in writing to the sanctuary superintendent prior to the election. Alternates may nominate and vote during an election only when the alternate is filling the seat in the absence of the primary member.

If a council officer resigns, the council should hold an election at the next regularly scheduled council meeting. If a newly elected individual feels comfortable, he/she may begin serving in his/her position immediately upon being elected; otherwise he/she may begin serving at the next meeting. If the chair resigns, the vice chair shall act on his/her behalf until a new chair assumes the position. If the vice chair resigns, the secretary shall act on his/her behalf until a new vice chair assumes the position. If the secretary resigns, the position may remain vacant until a new secretary assumes the position.

APPOINTMENTS

Public notice shall be provided as to the vacancy of non-governmental seats. Applications for ensuing terms for vacant seat positions shall be submitted to the sanctuary superintendent or his/her designee (e.g., advisory council coordinator or other appropriate site staff), as defined in the *Federal Register* notice for a particular recruitment. Copies of applications for each seat will be submitted 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 himself/herself from making a recommendation for a respective vacant seat. Selection from among those recommended by the panel, or from among other applicants or nominees, shall be made by the sanctuary superintendent with the approval of the director. In all cases, submission of written statements of particular interest, qualifications, and experience shall be requested. Guidelines for applying shall be supplied at the appropriate time.

ADMINISTRATION

Members and alternates of the council shall serve without pay except that each member or alternate may receive travel expenses including per diem in lieu of subsistence, in accordance with 5 U.S.C. §§ 5702-5703, for travel to and from official council meetings, meetings of council subcommittees of which they are members, and meetings of council working groups of which they are members. Persons outside the council who are members of council working groups shall serve without pay except that they may receive working group meeting travel expenses including per diem in lieu of subsistence, in accordance with 5 U.S.C. §§ 5702-5703. Reimbursement of travel expense requests is at the discretion of the sanctuary superintendent and dependent upon budgetary (or financial) considerations and constraints. Travel expenses for governmental members and alternates of the council may be provided by their own agencies.

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 and working groups to carry out their functions.

OPERATION

1. Meetings

- a. Meetings are held at the call of the chair and the sanctuary superintendent. All meetings must comply with public notice and other legal requirements that govern traditional face-to-face meetings, but it is also useful to employ multiple technologies, if available. For instance, it is possible to conduct a meeting by teleconference, post the information that is being discussed on the Internet, and provide a dial-in number for the public; this would allow the public to listen to the discussion and follow along in the materials, where the dial-in number serves as the "virtual meeting," and the website provides the "virtual handouts." Meetings may also be held by video conference, with the materials being discussed posted on the internet.
- b. Decisions (e.g., recommendations) made by the council shall be made by majority vote of those voting members or their authorized alternates 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 an alternate member shall assume the rights and privileges of the member in the member's absence.
- c. Each meeting shall be open to the public.
- d. Interested persons shall be permitted to present oral or written statements on agenda items, or other pertinent topics, at an appropriate time, as noted on the council agenda.
- e. Emergency meetings may be held at the call of the chair or presiding council 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. Additionally, 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) 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.
 - i. A yearly report shall be prepared by sanctuary staff, in cooperation with the council secretary, which summarizes issues addressed and actions taken during the previous year.
2. When the provisions of this charter and the national marine sanctuary advisory council handbook are silent, *Robert's Rules of Order* shall govern, barring additional legal, regulatory, or policy considerations.
3. 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 ONMS, other NOAA offices, or other agencies shall be made in writing and be coordinated through the sanctuary superintendent.
 - b. Any matter that a council member wishes to raise to the attention of the sanctuary shall be brought to the attention of either the sanctuary superintendent or council chair so that it might be placed on the agenda as a discussion topic. While the sanctuary superintendent and council chair shall discuss topics for an agenda, the sanctuary superintendent shall approve those topics that appear on a final meeting 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 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 of Commerce, and operates through the sanctuary superintendent, the sanctuary superintendent must also approve any advice, correspondence, or information that goes outside the sanctuary prior to sending.
- e. The council shall base its advice on (1) a council vote where positive votes, negative votes, and abstentions are reflected in the meeting minutes; or (2) consensus reached during discussion with minority opinions noted. Regardless, a quorum shall be present when both a vote is taken or a discussion to reach consensus is conducted.
- f. Any information or advice that results from subcommittee or working group discussions 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 a subcommittee's or working group's information or advice, it shall inform the sanctuary superintendent and explain its reasons for not incorporating the subcommittee's or working group's information or advice.

4. Conduct of Individual Members and Alternates

- a. 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 or alternate shall clearly distinguish those recommendations, opinions, or positions officially adopted by the council as a body from those he/she may have as an individual. In no case shall a member or alternate represent his/her individual opinions as those of the council, the sanctuary superintendent, sanctuary staff, or NOAA.
- b. Any council member or alternate that has an interest (financial, personal, or business interest) in any matter before the council, a subcommittee, or working group shall identify such interest prior to discussion and voting on such matter. No member or alternate 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 or alternate 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 or alternates of the council.
- c. All council members and alternates 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 a meeting.

5. 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 prior to sending. 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 Hawaiian Islands Humpback Whale National Marine Sanctuary and the National Oceanic and Atmospheric Administration.*"

6. 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 ONMS, NOAA, or DOC letterhead, or any derivative thereof, for any correspondence or other purpose.

7. 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 council members; at the sanctuary 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. Subcommittees are subject to all requirements of this charter. Given that Hawai'i is an archipelago, members of subcommittees may receive travel expenses for subcommittee meetings or other activities at the discretion of the sanctuary superintendent.

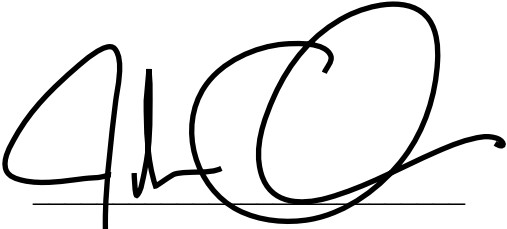
A standing subcommittee, the executive committee, will serve as the administrative body of the advisory council and handle such administrative activities as may be appropriate, including, but not limited to, setting the times and places of meetings, selecting agenda items, and reviewing meeting conduct. The executive committee consists of the council chair, council vice chair, council secretary and sanctuary superintendent; and at the sanctuary 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 functional areas and discrete issues relating to individual sanctuaries. Working groups may be composed of members and alternates of the council and persons outside the

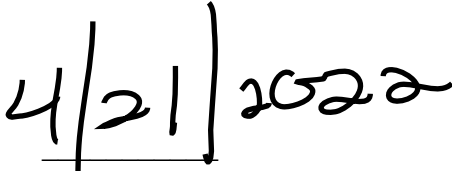
council. Working groups shall be chaired by a primary member of the council and shall function under the purview of the council. At the sanctuary superintendent's discretion, an alternate member may chair a working group; that alternate shall function under the purview of the council. Working groups established by the council to address specific issues shall disband once the final advice on the particular matter is submitted to the council. Given that Hawai'i is an archipelago, members of working groups may receive travel expenses for working group meetings or other activities at the discretion of the sanctuary superintendent.

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 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.



John Armor
Director, Office of National Marine Sanctuaries



Date

I acknowledge and agree with the continuation of the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council under the auspices of this charter.



Brian Neilson
Administrator, Division of Aquatic Resources,
Hawai'i Department of Land and Natural Resources

4/21/2022

Date