



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

**Measures for Fishing Regulations in the
Proposed NWHI Sanctuary**

February 21, 2006

On December 4, 2000, President Clinton issued Executive Order (EO) 13178 establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve). President Clinton subsequently revised portions of EO 13178 and completed establishment of the Reserve in EO 13196. The Reserve is managed by the National Marine Sanctuary Program, which is within the National Oceanic and Atmospheric Administration (NOAA). Pursuant to the EOs and the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434), NOAA is initiating the process to designate the Reserve as a National Marine Sanctuary. Section 304(a)(5) of the National Marine Sanctuaries Act (NMSA) provides an opportunity for Regional Fishery Management Councils to develop and recommend fishing regulations for proposed sanctuaries.

Consistent with the Section 304(a)(5) process, at its 126th meeting (March 14-17, 2005, in Honolulu, Hawaii) the Western Pacific Regional Fishery Management Council (Council) took final action to recommend specific regulations regarding fishing in the proposed Northwestern Hawaiian Islands (NWHI) sanctuary. On April 14, 2005, the Council transmitted these draft regulations to NOAA for their review and consideration as to whether they were consistent with the purposes and policies of the NMSA as well as the goals and objectives of the proposed sanctuary. On October 24, 2005, NOAA advised the Council that its proposed fishing regulations “do not fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed NWHI sanctuary.” NOAA’s response went on to say that the agency hoped that the Council would participate in the regulation of NWHI fishing through amendments to its existing or new fishery management plans.

More recently, NOAA has proposed that if the Council were to amend its fishery management plans to accord with NOAA’s “sideboards” regarding NWHI fishing, there would be a high likelihood that these amended plans would be accepted for the proposed NWHI sanctuary, with associated fishing regulations promulgated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). These “sideboards” include moratoriums on the harvest of crustaceans, precious corals and coral reef ecosystem associated species, area closures, and caps on the number of participants and total harvests in the bottomfish and pelagic fisheries.

On January 18, 2006, the Council received a letter from the Under Secretary of Commerce for Oceans and Atmosphere stating that NOAA plans to publish a Draft Environmental Impact Statement (DEIS) and draft fishing regulations for the proposed NWHI sanctuary in June 2006. The Under Secretary informed the Council that NOAA is considering three alternatives in its

DEIS. The first would allow limited fishing activities within the proposed sanctuary to continue indefinitely, the second would end such fishing by 2025, and the third would end it after five years following the (yet to be determined) date of the sanctuary's designation. The first two alternatives include catch levels and permit limits for the proposed sanctuary. For the five-year alternative, the number of permits would be limited to those permits active at the time of designation. The Under Secretary went on to say that while a factual basis supporting the legality of establishing catch and permit limits has not been fully developed, NOAA believes that there is a credible basis for moving forward with proposing such limits through amendments to the Council's existing Fishery Management Plans (rather than as regulations under the NMSA). However to meet NOAA's DEIS timeline, the Council was informed that it would have to take final action to adopt these amendments and corresponding regulations by April 14, 2006, with transmittal of the amendment package(s) to NOAA occurring no later than May 1, 2006. If one of the alternatives described above is selected by NOAA as a preferred alternative, the agency would review the Council's proposed MSA regulations as a potential implementation mechanism.

In response to the above proposal, the Council will consider three alternatives regarding fishing regulations within the proposed NWHI sanctuary. The first (Alternative 1A) would allow fishing to in the NWHI to continue under the current MSA regulations, while the second (Alternative 1B) would include the current non-regulatory requirements of Executive Orders 13178 and 13196. The third (Alternative 2) includes three scenarios, one for each of the DEIS alternatives described above. Under all three scenarios, the harvest of crustaceans, precious corals, and coral reef fish would be prohibited and federal permits and catch reports would be required for all fishery participants.

Scenario 1 (allow limited NWHI fishing to continue indefinitely) would limit the number of NWHI commercial bottomfishing permits to seven for the more distant Ho'omalulu Zone and another seven for the Mau Zone (including two permits reserved for use by Native Hawaiian communities). In addition to limiting the number of permits, total bottomfish catches by these vessels within the proposed sanctuary, would be limited to 381,500 pounds per year (all vessels combined), and their total catch of pelagic species would be limited to 78,400 pounds per year (all vessels combined). Recreational fishermen would not be limited at this time but would be required to obtain federal permits on a case-by-case basis and fill out federal logbooks. After two years the Council would review their activity and landings and implement caps as appropriate. Additional measures would include limits on commercial fishing for pelagic species and the establishment of no-take areas in the proposed sanctuary. Several options for these measures are discussed below.

Scenario 2 (allow limited NWHI fishing to continue until 2025) would implement the same measures as Scenario 1; however, all fishing in the proposed sanctuary would be prohibited effective January 1, 2025.

Scenario 3 (allow limited NWHI fishing to continue until five years following the date of sanctuary designation) would not impose new limits on commercial or recreational fishing in the proposed sanctuary; however, all fishing in the proposed sanctuary would be prohibited after five years following the date of sanctuary designation.

Options for commercial pelagic fishing: The following options are being considered under Scenarios 1 and 2 for commercial non-longline pelagic fishing in the proposed sanctuary (longline fishing would continue to be prohibited).

Option	Measures
1	No action
2	Limit of 2 permits, and total annual pelagic catch limit of 11,200 lbs
3	Limit of 6 permits and total annual pelagic catch limit of 33,600 lbs
4	Limit of 15 permits and total annual pelagic catch limit of 214,000 lbs
5	Limit of 27 permits and total annual pelagic catch limit of 387,000 lbs
6	Limit of 66 permits and total annual pelagic catch limit of 207,000 lbs

Options for no-take marine protected areas: The following options are being considered under Scenarios 1 and 2 for no-take areas in the proposed sanctuary.

Option A: Establish no-take areas utilizing the smaller area closure shown below in the north (west of 174 W. longitude). No fishing of any type would be allowed within these areas, with the exception of federally permitted research activities and Midway-based recreational fishing.

Option B: Establish no-take areas utilizing the larger area closure shown in the north (west of 177 W. longitude). No fishing of any type would be allowed within these areas, with the exception of federally permitted research activities and Midway-based recreational fishing.

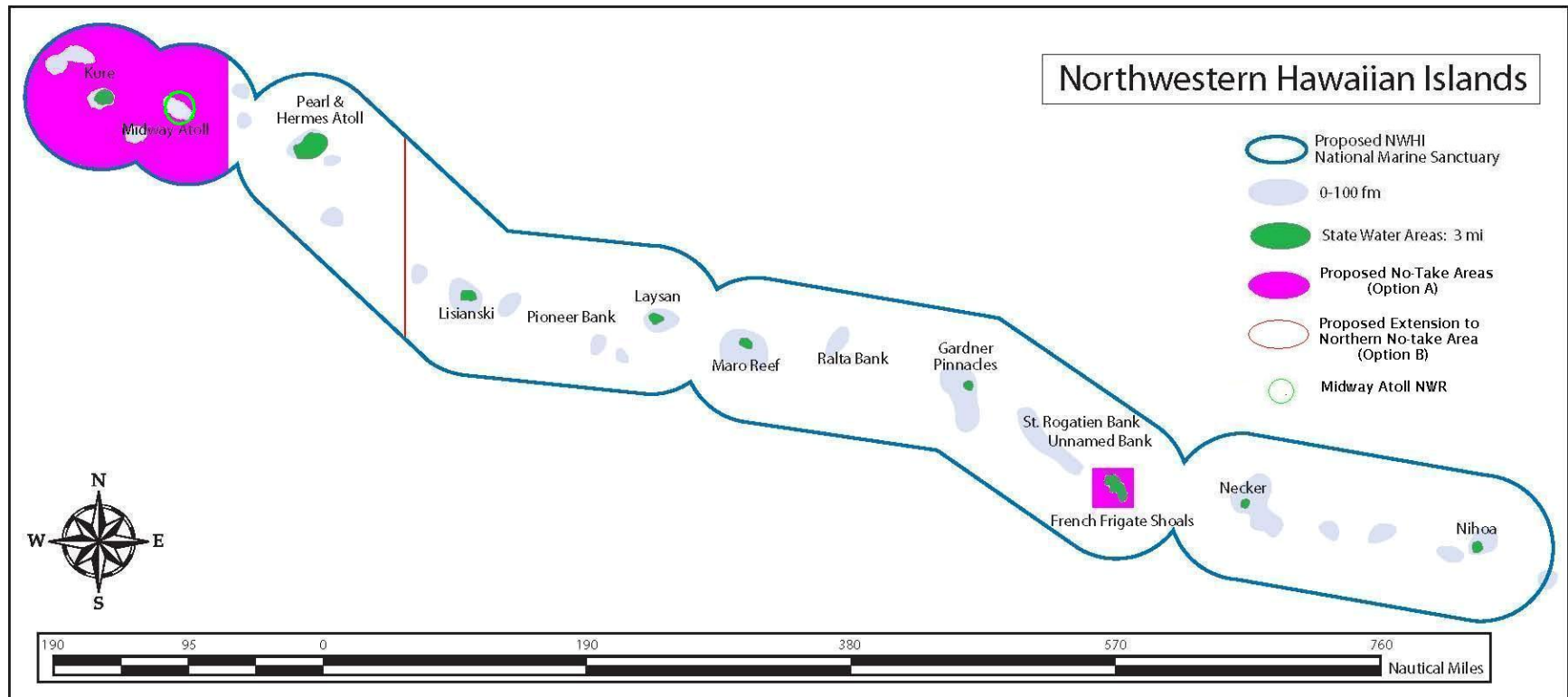
Summary of Measures Included Under Each Scenario

Measure	Scenario 1	Scenario 2	Scenario 3
MORATORIUMS			
Moratoriums on crustacean, precious corals and coral reef ecosystem fisheries	X	X	X
COMMERCIAL BOTTOMFISH FISHING			
Cap permits and landings	X	X	
Issue two permits to Native Hawaiian communities	X	X	X
Require federal logbooks	X	X	X
COMMERCIAL PELAGIC FISHING			
*Cap permits and landings	X	X	
Require federal permits and logbooks	X	X	X
RECREATIONAL FISHING			
Allow case-by-case, cap after two years	X	X	
Require federal permits and logbooks	X	X	X
NO-TAKE MPAS			
**Establish no-take MPAs	X	X	

* Six options as described above

** Two options as described above

Potential NWHI No-take MPAs



Proposed No-Take Areas Option A

1. No-Take Area West of 174 ° W. long. (except at Midway Atoll)
2. No-Take around French Frigate Shoal
 - Point A: 24 ° 0' N lat; 167 ° 40' W. long
 - Point B: 24 ° 0' N lat; 166 ° 0' W. long
 - Point C: 23 ° 30' N lat; 167 ° 40' W. long
 - Point D: 23 ° 30' N lat; 166 ° 0' W. long

Proposed No-Take Areas Option B:

Same as Option A except extend No-Take Area to West of 177 ° W. long (except at Midway Atoll)