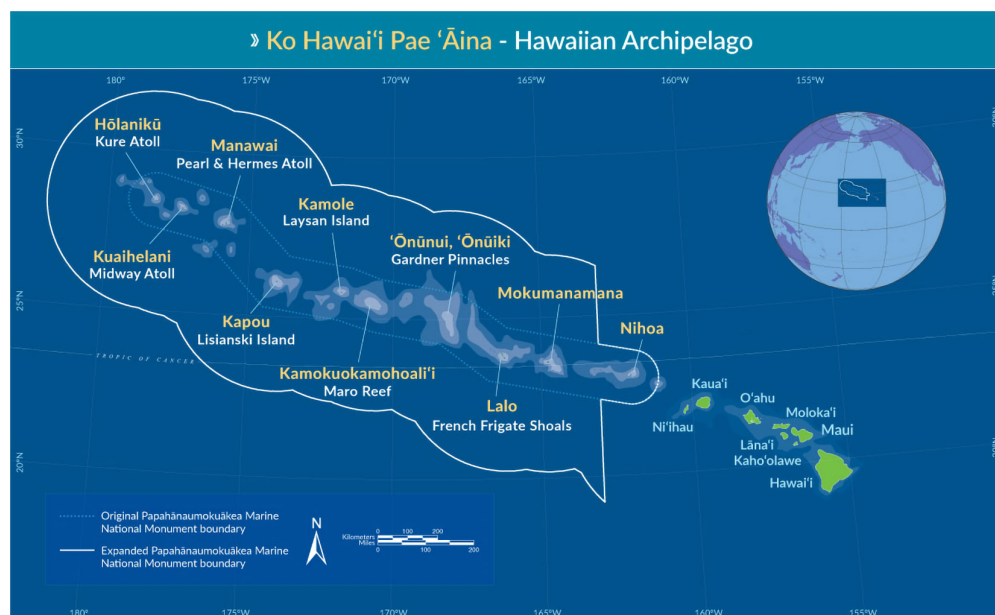




What is this Latest Sanctuary Designation Process for Hawai'i's Leeward Islands all About?

In fall 2020, a senate committee requested that the National Oceanic and Atmospheric Administration (NOAA) re-initiate the process to designate a national marine sanctuary in Hawai'i. Senator Brian Schatz (D-HI) says on his website that the act directs NOAA,

"...to commence the process to designate Papahānaumokuākea Marine National Monument as a National Marine Sanctuary. Following this initiation, NOAA can begin public meetings and the formal legal process to complete the requirements to finalize an official designation. Sanctuary status for the Monument would make it more difficult to weaken the protections in the Executive Orders signed by Presidents Obama and Bush."



Source: www.papahanaumokuakea.gov.

There was a clue that a national marine sanctuary process for Hawai'i has been under consideration. In 2016, President Obama through the authority of the Antiquities Act created the monument expansion area. The presidential proclamation included language directing the secretary of commerce to "...consider initiating the process under the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) to designate the Monument Expansion area and the Monument seaward of the Hawaiian Islands National Wildlife Refuge and Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial as a National Marine Sanctuary to supplement and complement existing authorities."

Since this presidential directive, the United States elected a new president who formally reviewed the monuments created during President Obama's tenure. In the end, the Trump Administration did not make any changes to the former Obama-related designations in the Pacific. However, changes were effected to other national sites. Schatz's statement indirectly alludes to these changes and the senator speaks to an underlying fear that a future U.S. president has the power to modify the existing marine national monuments in the region. Previously, presidential norms restrained such acts.

The Schatz provision focuses federal resources on designating a national marine sanctuary in the Northwestern Hawaiian Islands (NWHI). Most recall a similar public proposal that was seemingly laid to rest back in the 2000s. The Office of National Marine Sanctuaries (ONMS) engaged in another

high profile public process more recently and in the main Hawaiian Islands. In the mid-2010s, federal officials looked at expanding the purpose, scope and boundaries of the Humpback Whale National Marine Sanctuary. Lack of support from the public and State of Hawai'i ended that effort. For the third time in a row, with each new decade, Congress brings forth another sanctuary designation process for Hawai'i.

The First NWHI National Marine Sanctuary Designation Process

Let's turn our attention back to the NWHI and the sanctuary designation process from the early 2000s. That process began with the designation of the Coral Reef Ecosystem Reserve (NWHICRER). President Clinton unilaterally designated from state waters to 50 nautical miles around these islands as a marine protected area in 2000 with Executive Order 13178. The NWHICRER overlaid the Western Pacific Regional Fishery Management Council's protected species zone, supporting monk seals, turtles, birds and other vulnerable species, which was implemented nearly 10 years earlier in 1991. President Clinton's order also directed the commerce secretary to initiate a process to designate the reserve as a national marine sanctuary.

The sanctuary designation public process moved forward with federal staff presenting a draft management plan and draft environmental impact statement to the public in spring 2002. The public provided more than 14,000 comments in

response. In the end, the public process ended abruptly in 2006 when President Bush designated the region as a national marine monument (Presidential Proclamations 8031 and 8112).

A twenty-year anniversary statement from the NWHICRER managers points us back to that time period: "The NWHICRER, which continues to exist as a political entity was overlaid by the creation of Papahānaumokuākea Marine National Monument, by President George W. Bush in 2006." The region was already heavily layered with resource protections on the national, local and international level for the

terrestrial and marine ecoregions. See the Council's timeline for a comprehensive depiction of place-based actions since 1983.

Now What? What's the Council's Role and What Does this Mean for our Fisheries?

NOAA's ONMS is in the initial stages of responding to Schatz and President Biden's requests to initiate a new designation process for a NWHI National Marine Sanctuary. As part of this process, the Council is afforded the opportunity to provide input and was briefed by ONMS staff at its June

2021 meeting. If fishing regulations are required by the proposed sanctuary goals and objectives, federal legislation says the Council gets the first crack at developing those regulations.

The Council's standard bottom-up process for fishery management provides the opportunity to discuss and suggest ways to improve our fisheries public policy in the proposed designation area. Get involved! Attend a Council and/or advisory body meeting and share your comments! Check our website for meeting announcements and links: www.wpcouncil.org. 🐟

The Western Pacific Regional Fishery Management Council has been at the forefront of conservation and management in the Northwestern Hawaiian Islands (NWHI)



1983 Precious Corals Fishery Management Plan (FMP) implemented and prohibited bottom trawling and other potentially destructive and non-selective gear, defines management unit species and area, and classifies known beds.

Crustaceans FMP implemented and established a minimum size limit and ban on the harvest of egg-bearing female spiny lobsters, a mandatory logbook program, and a requirement to carry a fishery observer. The plan had gear restrictions, such as trap design specifications and prohibition to certain gear



to minimize risk to Hawaiian monk seals. The FMP also established management measures for the NWHI, including federal permit requirements area closures of waters within 20 nautical miles of Laysan Island and all waters shallower than 10 fathoms.

1991 Pelagic FMP Amendment 2 implemented requirements for domestic pelagic longline fishing vessel operators to have federal permits to maintain fishing logbooks,

and, if wishing to fish within 50 nm of the NWHI, to have observers placed on board if directed by the National Marine Fisheries Service.

October 1, 1991 Pelagic FMP Amendment 2: Due to Hawai'i longline fishermen's concerns about possible interactions with monk seals in the NWHI, WPRFMC recommended a longline fishing exclusion zone within 50 nm of the NWHI to protect monk seals, turtles, birds and other vulnerable species.



1992 Bottomfish FMP moratorium on harvesting seamount groundfish from the Hancock Seamount was extended by six years.

Crustaceans FMP Amendment 7 establishes a NWHI limited access program, adjustable fleet-wide annual harvest guideline, and a closed season (January through June), limited entry to 15 permits (and vessels),

maximum trap limit per vessel (1,100), revisions to reporting requirements, and other provisions.

1994 Crustaceans FMP Amendment 8 eliminates the NWHI minimum landings requirements for permit renewal, allowed the catch per unit effort target that is used to set the harvest guideline to be changed through the framework process, and modified reporting requirements.

1999 Bottomfish FMP Amendment 5 established a limited entry program for the Mau Zone in the NWHI with non-transferable permits and landing requirements for permit



renewal. Included in requirements for permit issuance was attendance by the primary vessel operator at a protected species workshop. Amendment 5 also established a Community Development

Program under which 20% of Mau Zone permits are reserved for program participants, as well as instituting a maximum vessel length of 60' for replacement vessels in the Ho'omaluu or Mau Zones.



2000 President Clinton issued EOs No. 13178 and No. 13196 in December 2000 and January 2001, creating the NWHI Coral Reef Ecosystem Reserve. The reserve was created over the pre-existing longline exclusion zone out to 50 nm from the NWHI.



WPRFMC closes the NWHI lobster fishery as a precautionary measure to prevent overfishing. The closure continued through 2002 with a 2003 announcement that no harvest guideline would be published.

2005 Hawai'i State Governor Linda Lingle signs regulations establishing the NWHI Marine Refuge, including all state waters extending 3 nm seaward from any coastline.

2006 President Bush created the NWHI Marine National Monument (Presidential Proclamation 8031) on top of the footprint of President Clinton's NWHI Coral Reef Ecosystem Reserve using the Antiquities Act. Under the act, public process, Congressional action and scientific justification are explicitly not required. The proclamation prohibited commercial fishing for bottomfish and pelagic species after five years.



2007 President Bush issues Presidential Proclamation 8112, amending Proclamation 8031 to read, "establishment of the Papahānaumokuākea Marine National Monument." It also amends a section under Native Hawaiian Practice Permits to read, "Any living monument resource harvested from the monument will be consumed or utilized in the monument."

2016 President Obama issues Presidential Proclamation 9478 entitled, Papahānaumokuākea Marine National Monument Expansion, creating a second marine national monument in the region, adjacent to the PMNM and out to the full 200 nm exclusive economic zone westward from 163° West.

October 1, 1991

Pelagic FMP Amendment 2: Due to Hawai'i longline fishermen's concerns about possible interactions with monk seals in the NWHI, WPRFMC recommended a longline fishing exclusion zone within 50 nm of the NWHI to protect monk seals, turtles, birds and other vulnerable species.

