



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Office of National Marine Sanctuaries
1305 East-West Highway
Silver Spring, Maryland 20910

November 19, 2021

ATTN: Taotasi Archie Soliai
Western Pacific Regional Fishery Management Council
1164 Bishop Street, Suite 1400
Honolulu, HI 96813

Dear Chairperson Soliai:

On November 19, 2021, National Oceanic and Atmospheric Administration (NOAA), Office of National Marine Sanctuaries published a notice of intent in the Federal Register to initiate the process to consider designating marine portions of Papahānaumokuākea Marine National Monument as a national marine sanctuary (86 FR 64904). This letter provides the Western Pacific Regional Fishery Management Council (Council) with the opportunity under section 304(a)(5) of the National Marine Sanctuaries Act (NMSA, 16 U.S.C. § 1434(a)(5)) to prepare draft fishing regulations for the proposed sanctuary within Papahānaumokuākea Marine National Monument. While the national standards set forth in section 301(a) of the Magnuson-Stevens Fishery Conservation and Management Act shall serve as guidance to the Council, the goals and objectives of the sanctuary designation (see enclosed), together with the purposes and policies of the National Marine Sanctuaries Act, as well as the existing Presidential Proclamations 8031, 8112, and 9478 specific to Papahānaumokuākea Marine National Monument, are the benchmarks against which the Council's action shall ultimately be measured.

The Council may choose one of three available actions:

1. recommend draft fishing regulations for the proposed sanctuary;
2. recommend that fishing regulations are not necessary; or
3. choose not to act (at all or in a timely manner).

Draft regulations prepared by the Council shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of the National Marine Sanctuaries Act and the goals and objectives of the proposed sanctuary designation. The Secretary shall prepare the fishing regulations if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Consistent with the National Marine Sanctuaries Act regulations and to provide adequate time for council meetings, NOAA is providing 120 days to conduct the 304(a)(5) consultation and requests that the Council make its recommendations, and if appropriate, prepare draft fishery regulations no later than **March 31, 2022**.

The Office of National Marine Sanctuaries has completed an initial review of Proclamations 8031, 8112 and 9478, the current fishing regulations under 50 CFR Part 404, and the goals and objectives for the proposed sanctuary. NOAA believes the Magnuson-Stevens Fishery




Conservation and Management Act is the appropriate statute for managing fishing within the proposed sanctuary.

For the area designated by Proclamation 8031, NOAA believes the current Magnuson-Stevens Fishery Conservation and Management Act regulations under 50 CFR 404 are consistent with both the relevant provisions of Proclamations 8031 and 8112 and the goals and objectives for the proposed sanctuary. However, in order to rely on Magnuson-Stevens Fishery Conservation and Management Act authority for sanctuary purposes within the Monument Expansion Area designated by Proclamation 9478, NOAA recommends the Council propose regulations for the Monument Expansion Area that are consistent with both the fishing provisions of Proclamation 9478, and the goals and objectives of the proposed sanctuary.

In order to provide both long term protection under a proposed national marine sanctuary and primary management under the Magnuson-Stevens Fishery Conservation and Management Act, NOAA may adopt a joint regulatory approach. Under this approach, National Marine Sanctuaries Act and Magnuson-Stevens Fishery Conservation and Management Act regulations would be identical, and as long as the Magnuson-Stevens Fishery Conservation and Management Act regulations remain in effect, the National Marine Sanctuaries Act regulations would not be activated.

NOAA believes this approach would allow the Magnuson-Stevens Fishery Conservation and Management Act to provide the predominant management function for fishing while assuring that NOAA continues to meet its independent obligation under the NMSA to protect sanctuary resources. However, to provide the predominant management function, the Magnuson-Stevens Fishery Conservation and Management Act regulations would have to be in place prior to the national marine sanctuary designation and be accepted by NOAA as consistent with the relevant fishing provisions of Proclamation 9478 and with the goals and objectives of the proposed sanctuary.

In summary, we appreciate the time and effort of the Council on this matter and look forward to receiving periodic updates, and ultimately your response. Please feel free to contact Athline Clark at 808-725-5800 or Athline.Clark@noaa.gov if you have any questions or require more information.

Sincerely,

John Armor
Director

Cc: Kitty Simonds, Executive Director, WPRFMC
Michael Tosatto, Regional Administrator, NMFS-PIRO
Kristina Kekuewa, Regional Director, ONMS-PIR
Athline Clark, Superintendent, PMNM

Enclosures: (1) NMSA 304(a)(5) Regulations
(2) Sanctuary Goals and Objectives

Enclosure (1)

National Marine Sanctuaries Act

Title 16, Chapter 32, Sections 1431 et seq. USC, as amended by Public Law 106-513,
November 2000

PROCEDURES FOR DESIGNATION AND IMPLEMENTATION SEC 304(a)(5) FISHING
REGULATIONS

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

Enclosure (2)

Sanctuary Goals

Goal 1. Resource Protection & Conservation

Ensure the long-term viability and resilience of Papahānaumokuākea by protecting, preserving, enhancing and restoring its cultural and natural resources, with a focus on ocean and island health and human well-being.

Goal 2. Research & Monitoring

Support, promote, conduct, and coordinate research and monitoring, incorporating multiple forms of knowledge to increase understanding of Papahānaumokuākea's cultural and natural resources, and to improve management decisions.

Goal 3. Governance & Operations

Provide the necessary policy, programs, structure, and processes to ensure effective, integrated management and fulfill the kuleana of shared stewardship for Papahānaumokuākea.

Goal 4. Partnerships & Constituent Engagement

Pursue, build, and maintain partnerships that generate active and meaningful involvement, with a commitment to incorporate traditional values and stewardship ethics, to strengthen world class conservation, community engagement, constituent support, and connection of people to place.

Goal 5. Education, Mentoring & Interpretation

Inspire current and future generations to mālama Papahānaumokuākea's cultural and biological resources through excellence in education and mentorship.

Sanctuary Objectives

Objective 1.

Provide long term lasting protection of Papahānaumokuākea consistent with and reinforcing the provisions outlined in Executive Order (EO) 13178, Presidential Proclamations 8031, 8112, 9478, and the regulations at 50 CFR § 404 through the designation of a national marine sanctuary.

Objective 2.

Augment and strengthen existing protections for Papahānaumokuākea ecosystems, living resources, and cultural and maritime heritage resources through the addition of National Marine Sanctuaries Act regulations.

Objective 3.

Support and maintain existing co-management functions within the Papahānaumokuākea Monument Management Board to ensure unified governance in the spirit of seamless integrated stewardship.

Objective 4.

Provide a pu'uhonua to protect key habitats, vulnerable, endangered and threatened species and highly mobile marine species that regularly move across the boundaries of Papahānaumokuākea.

Objective 5.

Manage the sanctuary as a sacred site consistent with Native Hawaiian traditional knowledge, management concepts, and principles articulated within Mai Ka Pō Mai.

Objective 6.

Enhance community engagement and involvement, including engagement of the Indigenous Hawaiian community in the development and execution of management of the sanctuary.

Objective 7.

Enhance resource protection, increase regulatory compliance, ensure enforceability and provide for consultation through National Marine Sanctuaries Act authorities and regulations.

Objective 8.

Conduct, support and promote research, characterization and long-term monitoring of marine ecosystems and species and cultural and maritime heritage resources.