



## Review of Papahānaumokuākea National Marine Sanctuary Fishing Regulations

March 24, 2025

*Prepared by Council Staff for the 202<sup>nd</sup> Council Meeting*

The Western Pacific Regional Fishery Management Council (Council) made its final recommendations for fishing in the proposed Papahānaumokuākea National Marine Sanctuary (PNMS) at its 194<sup>th</sup> Council Meeting in March 2023. The recommendations included regulations for commercial, non-commercial, and Native Hawaiian (NH) subsistence fishing. The PNMS final rule was issued in January 2025 and became effective March 3, 2025. The final rule is under review by NOAA for consistency with existing Executive Orders. The Council's recommendations for fishing was reviewed by NOAA and found to be inconsistent with the PNMS final rule. The following table provides the differences between the Council's recommendations and the final PNMS fishing regulations.

Council Recommendation for Fishing	PNMS Fishing Regulations
Prohibits Commercial Fishing	Prohibits removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or non-living sanctuary resource (with exceptions for non-commercial fishing)
Allows Non-Commercial Fishing by permit <ul style="list-style-type: none"><li>Fish caught from within the MEA under this permit cannot enter commerce through sale, barter, or trade and may not recoup costs associated with the trip to the MEA.</li></ul>	Allows for Non-Commercial Fishing provided that: <ul style="list-style-type: none"><li>Fish harvested, either in whole or in part, are not intended to enter commerce and shall not enter commerce through sale, barter, or trade, and that the resource is managed sustainably;</li><li>Fish harvested, either in whole or in part, are not intended to be sold and shall not be sold for any purposes, including, but not limited to, cost-recovery; and</li><li>The exempted activities are only conducted as incidental to and necessary to lawful non-commercial fishing activity.</li></ul>

<p>Allows Native Hawaiian Subsistence Fishing by permit</p> <ul style="list-style-type: none"> <li>• An applicant for a Native Hawaiian Subsistence Practices Permit must complete and submit an application to NMFS that includes, but is not limited to, a statement describing the objectives of the fishing activity for which a permit is needed, including a general description of the expected disposition of the resources harvested under the permit.</li> <li>• Bottomfish MUS and Pelagic MUS legally caught by an individual holding a valid MEA Native Hawaiian Subsistence Practices fishing permit may bring catch back to the main Hawaiian Islands for consumption, including community sharing, barter and trade. <b>Additionally, permittees may request NMFS consider the ability to recover costs through sale of catch associated with the trip to the MEA.</b></li> </ul>	<p>Sustenance fishing is allowed incidental to an activity permitted in the PMNM; Otherwise, subsistence/NH fishing included in non-commercial fishing.</p>
<p>Allows for <i>consideration</i> of cost-recovery under the NH Subsistence Fishing Permit</p> <ul style="list-style-type: none"> <li>• If cost recovery is requested through sale, the application must include estimated costs for fuel and ice, and other trip costs to make a trip from the main Hawaiian Islands to the MEA along with a statement explaining why cost recovery is necessary for the intended action.</li> <li>• Reviews to be conducted by NMFS under consultation with ONMS, OHA, and DLNR</li> </ul>	<p>Specifically does not allow for cost-recovery;</p>
<p>Other Council recommendations:</p> <ul style="list-style-type: none"> <li>• Allowable species/gears</li> <li>• Catch Limits</li> <li>• Observer and VMS requirements</li> <li>• Recordkeeping</li> <li>• Notifications</li> </ul>	<p>Does not specify but defers to fishing regulations developed under MSA</p>

\*Note: The Council initially recommended the following for cost recovery at the 193<sup>rd</sup> Council Meeting in December 2022:

- Disposition of Native Hawaiian Subsistence Practices Catch: Bottomfish MUS and Pelagic MUS legally caught by an individual holding a valid MEA Native Hawaiian Subsistence Practices fishing permit may bring catch back to the main Hawaiian Islands for consumption, including customary exchange. Additionally, permittees may sell, barter or trade catch to recoup costs associated with the trip to the MEA, not to exceed the actual direct costs associated with the trip, subject to the limit below. Direct costs include costs of supplies such as bait, fuel or ice needed for the trip, but do not include purchase, berthing, or maintenance of vessels or other costs external to the trip. This restriction ensures that the activity is not for commercial purposes.
- NMFS and the Council would limit the total value of catch traded, bartered or sold not to exceed the cost for fuel and ice, and other trip costs to make a trip from the main Hawaiian Islands to the MEA and in no case exceed \$15,000 per trip. A permittee would also be required to document and report to NMFS, the direct costs associated with each trip conducted to the MEA and the amount and value of any catch that is sold, bartered or traded.