



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 240213-0047]

RIN 0648-BL33

Papahānaumokuākea National Marine Sanctuary; Final Regulations

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; notification of availability of final management plan and Record of Decision.

SUMMARY: NOAA is designating Papahānaumokuākea National Marine Sanctuary (sanctuary) to protect nationally significant biological, cultural, and historical resources and to manage this special place as part of the National Marine Sanctuary System. The sanctuary consists of an area of approximately 582,570 square statute miles (439,910 square nautical miles) of Pacific Ocean waters surrounding the Northwestern Hawaiian Islands and the submerged lands thereunder. NOAA is establishing the terms of designation for the sanctuary and the regulations to implement the national marine sanctuary designation. NOAA has also published a final environmental impact statement (final EIS) in coordination with the State of Hawai‘i, final management plan, and Record of Decision.

DATES: *Effective Date:* Pursuant to section 304(b) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(b)), the designation and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress, beginning on the date on which this Federal rulemaking is published, which is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. During that review period, the Governor of the State of Hawai‘i may certify to the Secretary of Commerce that the designation or any of its

terms is unacceptable, in which case the designation or any unacceptable term shall not take effect in State waters of the sanctuary. The public can track days of Congressional session at the following website: <https://www.congress.gov/days-in-session>. NOAA will publish an announcement of the effective date of the final regulations in the *Federal Register*.

ADDRESSES: Copies of the final environmental impact statement (EIS) and management plan described in this rule and the record of decision (ROD) are available at <https://sanctuaries.noaa.gov/papahanaumokuakea/>

FOR FURTHER INFORMATION CONTACT: Eric Roberts, Papahānaumokuākea Marine National Monument Superintendent, at Eric.Roberts@noaa.gov or 808-294-7470.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The NMSA (16 U.S.C. 1431 *et seq.*) authorizes the Secretary of Commerce to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary of Commerce to NOAA. The primary objective of the NMSA is to protect the resources of the National Marine Sanctuary System. NOAA is designating marine portions of the Papahānaumokuākea Marine National Monument as a national marine sanctuary to provide comprehensive and coordinated management of the marine areas of Papahānaumokuākea to protect nationally significant biological, cultural, and historical resources. The original Papahānaumokuākea Marine National Monument (PMNM, 0-50 nm), and the Monument Expansion Area (MEA, 50-200 nm), (collectively “Monument”), located around the Northwestern Hawaiian Islands, were established under the Antiquities Act of 1906 (54 U.S.C. 320301 *et seq.*) through, respectively, Presidential Proclamation 8031 of June 15, 2006; as amended by Presidential Proclamation 8112 of February 28, 2007; and Presidential

Proclamation 9478 of August 26, 2016. The Monument is administered jointly by four co-trustees—the Department of Commerce (DOC), the Department of the Interior (DOI), the State of Hawai‘i, and the Office of Hawaiian Affairs (OHA).

The 2000 Amendments to the NMSA authorized designation of a Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve) to be managed by the Secretary of Commerce. In December 2000, President Clinton issued Executive Order 13178 that began the public process to establish the Reserve, and directed the Secretary of Commerce to initiate the process to designate the Reserve as a national marine sanctuary. In January 2001, President Clinton issued Executive Order 13196 finalizing the establishment of the Reserve.

In 2006, President Bush established PMNM through Proclamation 8031 to protect and preserve the marine area of the Northwestern Hawaiian Islands and certain lands as necessary for the care and management of the historic and scientific objects therein. The Federal land and interests in land reserved included approximately 139,793 square miles of emergent and submerged lands and waters of the Northwestern Hawaiian Islands. NOAA and the United States Fish and Wildlife Service (USFWS) promulgated implementing regulations at 50 CFR part 404 for PMNM.

In 2016, President Obama established the MEA through Proclamation 9478, which included the waters and submerged lands seaward of the PMNM to the extent of the seaward limit of the United States Exclusive Economic Zone (U.S. EEZ) west of 163° West Longitude. The MEA includes an additional 442,781 square miles. Presidential Proclamation 9478 also directed the Secretary of Commerce to consider initiating the process to designate the MEA and PMNM 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. On December 27, 2020, the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021, further directed NOAA to initiate the process to designate the Monument as a national marine sanctuary.

The sanctuary consists of a total area of approximately 582,570 square miles (439,910 square nautical miles). The precise boundary coordinates are defined in Appendix A to the regulations at 15 CFR part 922, subpart W. The sanctuary boundary encompasses the submerged lands, seamounts, and Pacific Ocean waters from the shoreline seaward to approximately 200 nautical miles west of 163° West Longitude surrounding the Northwestern Hawaiian Islands, which consist of the islands, atolls, and emergent lands stretching from Nihoa in the southeast to Kure Atoll in the northwest. The adjoining marine waters east of 163° West Longitude surrounding Nihoa extend seaward from the shoreline to approximately 50 nautical miles.

The sanctuary is a place of unique environmental resources that provide large-scale ecosystem services for both the region and the world. The marine habitat includes several interconnected ecosystems, including coral islands surrounded by shallow reef, deeper reef habitat characterized by seamounts, banks, and shoals, mesophotic reefs with extensive algal beds, pelagic waters connected to the greater North Pacific Ocean, and deep-water habitats such as abyssal plains 5,000 meters below sea level. These ecosystems are connected as essential habitats for rare species such as the threatened green turtle and the endangered Hawaiian monk seal, as well as over 14 million seabirds that forage in the pelagic waters to nourish the chicks they are raising on the tiny islets. These waters are home to 20 cetacean species protected by the Marine Mammal Protection Act, with some listed as endangered under the Endangered Species Act. The importance of these waters to the Hawaiian humpback whale is only recently becoming understood. At least a quarter of the nearly 7,000 known marine species found in the region are found nowhere else on Earth.

The area of the sanctuary is also a sacred place to Native Hawaiians, who regard the islands and wildlife as kūpuna, or ancestors. The region holds deep cosmological and traditional significance for the people of Hawai‘i and the Native Hawaiian culture. Papahānaumokuākea is as much a spiritual space as it is a physical geographical area, deeply rooted in Native Hawaiian creation and settlement stories. Since Native Hawaiian culture considers nature and culture to be

one and the same, the protection of one of the last nearly pristine, natural, marine ecosystems in the archipelago is seen as being akin to preserving the living culture.

The area of the sanctuary also includes the location of the Battle of Midway, a turning point in World War II for the allies in the Pacific Theater. Research indicates that there are 60-80 sunken military vessels and hundreds of sunken military aircraft on the seafloor. In addition to Navy steamers and aircraft, there are whaling ships, ancient Japanese sailing ships known as junks, motorized East Asian style fishing vessels known as Hawaiian fishing sampans, Pacific colliers, and other vessels from the 19th and 20th centuries. Of these, the locations of more than 30 vessel wreck sites have been confirmed by diving or bathymetric surveys, with only a handful of those identified by vessel name or otherwise evaluated.

B. Purpose and Need for Action

The NMSA (16 U.S.C. 1431 *et seq.*) authorizes the Secretary of Commerce to designate national marine sanctuaries to meet the purposes and policies of the NMSA, including:

- to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;
- to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;
- to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archaeological resources of the National Marine Sanctuary System” (16 U.S.C. 1431(b)(4));
- “to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas” (16 U.S.C. 1431(b)(5)); and
- “to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant

to other authorities” (16 U.S.C. 1431(b)(6)).

NOAA is designating the marine areas of the Monument as a national marine sanctuary. The purpose of this action is to provide comprehensive and coordinated conservation and management of the marine areas of Papahānaumokuākea to protect nationally significant biological, cultural, and historical resources. Additionally, the purpose of the designation is to implement the provisions of Executive Order 13178, Presidential Proclamation 9478, and the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021.

Accordingly, NOAA is designating this area as a national marine sanctuary to:

- Develop objectives and actions that ensure lasting protection consistent with the existing Monument proclamations;
- Safeguard natural and cultural values of the marine environment;
- Apply additional regulatory and non-regulatory tools to augment and strengthen existing protections for Papahānaumokuākea ecosystems, wildlife, and cultural and maritime heritage resources;
- Authorize NOAA to exercise enforcement authorities, including the assessment of civil penalties for violations of provisions of the NMSA and regulations and permits issued pursuant to the NMSA (16 U.S.C. 1437);
- impose liability for destruction, loss of, or injury to sanctuary resources and provide natural resource damage assessment authorities for destruction, loss of, or injury to any sanctuary resource; and
- require interagency consultation for any Federal agency action that is likely to destroy, cause the loss of, or injure any sanctuary resource.

C. Designation Process

1. Notice of Intent to Designate a National Marine Sanctuary

On November 19, 2021, NOAA initiated the process to designate marine portions of the Monument as a national marine sanctuary by publishing a Notice of Intent to Conduct Scoping

and to Prepare an Environmental Impact Statement for the Proposed Designation of a National Marine Sanctuary within Papahānaumokuākea Marine National Monument (86 FR 64904). The notice of intent stated that NOAA would prepare a draft EIS per the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and the NMSA. The notice of intent also announced NOAA's intent to fulfill its responsibilities under the National Historic Preservation Act (NHPA; 54 U.S.C. 300101 *et seq.*). The State of Hawai'i published its EIS preparation notice on December 8, 2021. Following publication of these notices, NOAA conducted four virtual public scoping meetings. During the 74-day public comment period from November 19, 2021 through January 31, 2022, 73 individuals and organizations provided written input. An estimated 165 people attended the four scoping meetings, with 9 people providing oral comments. The Summary of Scoping Input on the Notice of Intent and EIS Preparation Notice and State of Hawai'i Responses to Public Scoping Comments are included in the final EIS as Appendix F.

2. Public Comment on Draft Designation Materials

On March 1, 2024, NOAA published a notice of proposed rulemaking and a notice of availability of the draft EIS (89 FR 15272) to release a proposed rule, draft EIS, and draft sanctuary management plan; and to request public comments on the proposed sanctuary designation documents. On March 8, 2024, the State of Hawai'i also informed the public about the availability of the draft EIS through an announcement in its bulletin, The Environmental Notice, per the Hawai'i Environmental Policy Act (HEPA), Hawai'i Revised Statutes (HRS) Chapter 343- 3(c). The USFWS, the State of Hawai'i, and the Department of the Navy served as cooperating agencies in reviewing and assisting with the development of the draft EIS.

The public comment period took place over the course of 68 days from March 1 to May 7, 2024. Public meetings were held to provide additional information and to receive public input in the form of oral and written comments. Comments were accepted in both English and 'ōlelo Hawai'i during 11 public meetings, held between April 6–18, 2024, including two virtual and

nine in-person public meetings on O‘ahu, Kaua‘i, Hawai‘i Island, Maui, and Moloka‘i.

Comments were also accepted through the Federal eRulemaking portal and by traditional mail through May 7, 2024, both in English and ‘ōlelo Hawai‘i. An estimated 237 people attended the 11 public meetings and 61 individuals provided oral comments. During the public comment period, 488 written comments and 13,385 form letters were received from individuals, organizations, and agencies. A total of 13,934 comments were received, with the overwhelming majority in support of sanctuary designation.

Major themes of comments included sanctuary access, permitting, prohibitions, enforcement, Native Hawaiian indigenous rights and cultural integration, fishing, co-management, resource protection, education and outreach, partnerships, and community participation. After the public comment period closed, the comments were carefully reviewed and cataloged by substantive issues contained in the comments. In preparing the final EIS, final sanctuary management plan, and final rule, NOAA and the State of Hawai‘i considered comments received on the draft designation documents, identified substantive comments, and provided responses to these comments. A summary of these comments and the corresponding responses from NOAA are provided in the final EIS Appendix K and in Section V of this rulemaking. In response to these substantive comments, NOAA clarified information and made changes to this final rule, the final EIS, and the final sanctuary management plan, as described further below.

3. Development of Terms of Designation and Regulations

Section 304(a)(4) of the NMSA requires that the terms of designation include: (1) the geographic area that is included within the sanctuary; (2) the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value; and (3) the types of activities that would be subject to regulation by the Secretary to protect these characteristics. Section 304(a)(4) of the NMSA also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made.

The purpose and need for the sanctuary provide the overarching basis for developing the regulations. The designation of the sanctuary will not replace the area's current status as a marine national monument. Existing authorities, including management authorities of all Monument co-trustees, will remain in effect. Sanctuary designation will supplement the existing provisions for management of the Monument and protect resources in the Northwestern Hawaiian Islands. To develop these regulations, NOAA reviewed the following, which currently guide Monument management:

- Executive Order 13178 -- Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, December 4, 2000;
- Presidential Proclamation 8031 -- Establishment of the Northwestern Hawaiian Islands Marine National Monument, June 15, 2006;
- Presidential Proclamation 8112 -- Amending Proclamation 8031 of June 15, 2006 to Read "Establishment of the Papahānaumokuākea Marine National Monument," February 29, 2007;
- Regulations implementing Presidential Proclamations 8031 and 8112 at 50 CFR part 404; and
- Presidential Proclamation 9478 -- Papahānaumokuākea Marine National Monument Expansion, August 26, 2016.

These executive orders, presidential proclamations, and regulations served as benchmarks for drafting the rule for the sanctuary. Sanctuary designation will only add to, and will not diminish, Monument management measures and protections. NOAA has adopted the management measures from these benchmarks, and, in a few areas, added onto those measures to achieve consistency in regulation and management across the sanctuary. The final rule unifies management of the area by removing discrepancies and gaps in prohibitions, regulated activities, and permit criteria, providing clarity and comprehensive protection for the sanctuary.

In developing this final rule and the sanctuary terms of designation, NOAA also

considered: (1) information received through public scoping and public review of the draft designation documents, cooperating agency review, and coordination with the Monument co-trustees through the seven-member Monument Management Board, which consists of NOAA ONMS, NOAA Fisheries, USFWS Ecological Services, USFWS Refuges, Hawai‘i Department of Land and Natural Resources (DLNR) Division of Aquatic Resources, DLNR-Division of Forestry and Wildlife, and OHA; and (2) information from analysis of issues in the EIS, interagency coordination, and internal staff analysis and expertise. NOAA also consulted with the Western Pacific Regional Fishery Management Council as required under the NMSA.

Following publication of the proposed rule, in consideration of public comments and further review, NOAA made minor changes to the terms of designation and the regulations which are described in detail in Section III of this final rule. NOAA provides a detailed discussion of the final regulations in Section IV, subsection A through O, of this rule. The text of the final regulations is presented at the end of this rule.

4. Development of Final Management Plan

A final sanctuary management plan has been prepared in accordance with NMSA section 304(a)(2)(C). Management plans are site-specific documents that ONMS uses to manage individual sanctuaries. The final sanctuary management plan: (1) articulates the sanctuary’s vision, mission, goals, and objectives; (2) describes the management activities and initiatives that NOAA will conduct; and (3) provides strategies and assessment measures to guide the sanctuary’s short- and mid-range management. In response to public comments, NOAA made minor changes to the final sanctuary management plan, which is included as Appendix A to the final EIS.

5. Final Environmental Impact Statement

In accordance with NEPA (42 U.S.C. 4321 *et seq.*), the NMSA, and HEPA (HRS Chapter 343, HAR Chapter 11-200.1), NOAA and the State of Hawai‘i released a final EIS for the national marine sanctuary designation in advance of the publication of this final rule. NOAA is

the lead Federal agency in the preparation of the final EIS. The USFWS, State of Hawai‘i, the Department of the Navy, and OHA were cooperating agencies for the final EIS. The final EIS describes the purpose and need for the proposed action of designating a national marine sanctuary, identifies a range of alternatives including the preferred alternative, provides an assessment of resources and uses in the area, and evaluates the potential environmental consequences of the designation including by comparing the beneficial and adverse impacts among alternatives. NOAA has provided a section in the final EIS (see Section 1.5) to outline the substantive changes made between the draft EIS and final EIS.

The final EIS analyzes four alternatives; including a “no action” alternative, in which the area would not be designated as a national marine sanctuary; and three boundary alternatives:

- Alternative 1 is coextensive with the marine portions of the Monument. The boundary includes the marine environment surrounding the Northwestern Hawaiian Islands from the shoreline of the islands and atolls seaward to 200 nautical miles, including all State waters and waters of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, Midway Atoll and Hawaiian Islands National Wildlife Refuges, the Battle of Midway National Memorial, and State of Hawai‘i Northwestern Hawaiian Islands Marine Refuge. The area encompassed in Alternative 1 is approximately 582,570 square miles (439,910 square nautical miles).
- Alternative 2 includes the marine environment from the shoreline of the islands and atolls seaward to 50 nautical miles. This alternative includes all State waters and waters of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, Midway Atoll and Hawaiian Islands National Wildlife Refuges, the Battle of Midway National Memorial, and State of Hawai‘i Northwestern Hawaiian Islands Marine Refuge. This alternative does not include the MEA. The area encompassed in Alternative 2 is approximately 139,782 square miles (105,552

square nautical miles).

- Alternative 3 has the same boundaries as Alternative 1, but excludes waters within the Midway Atoll and Hawaiian Islands National Wildlife Refuges and the Battle of Midway National Memorial. These excluded waters include portions of the State of Hawai‘i Northwestern Hawaiian Islands Marine Refuge and the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve that overlap with national wildlife refuge waters. The area encompassed in Alternative 3 is approximately 581,263 square miles (438,923 square nautical miles).

5. Final Preferred Alternative

In accordance with NEPA (42 U.S.C. 4321 *et seq.*) and based on public comments on the draft designation materials and further review, NOAA has maintained Alternative 1 as the agency-preferred alternative (preferred alternative) based on its comparative merits; this alternative serves as the foundation of this final rule (Section 3.4 of the final EIS presents a map and details of this alternative). NOAA selected its final preferred alternative after considering input from the Monument Management Board, the State of Hawai‘i, cooperating agencies, other agencies consulted, and public comments provided on the draft designation documents. Through the analysis in the final EIS, NOAA has determined that the final preferred alternative would provide numerous beneficial impacts, including increased protection and conservation of resources, and improved coordination of conservation and management. NOAA has also considered the potential adverse impacts of the final preferred alternative and anticipates that there would be no significant adverse impacts to biological and physical resources, cultural and historic resources, or socioeconomic resources.

NOAA's identification of Alternative 1 as the final preferred alternative is based on the need for additional resource protection, scientific research, and public education in areas that would be excluded by selecting the boundaries of Alternatives 2 or 3. Alternative 1 includes the MEA, an area which would benefit from the establishment of a NOAA permitting process, and

the promulgation of sanctuary regulations to protect resources. Alternative 1 also includes the waters of Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, which are the areas of the sanctuary subject to the highest level of human activity.

II. Terms of Designation for Papahānaumokuākea National Marine Sanctuary

Section 304(a)(4) of NMSA as amended, 16 U.S.C. 1434(a)(4), requires that the terms of designation be described at the time a new sanctuary is designated, including the geographic area to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation to protect those characteristics.

The following represents the terms of designation:

Preamble

Under the authority of the National Marine Sanctuaries Act, as amended (the “Act” or “NMSA”), 16 U.S.C. 1431 *et seq.*, approximately 582,570 square mi (439,910 square nmi) of the waters of the Pacific Ocean surrounding the Northwestern Hawaiian Islands are hereby designated as a national marine sanctuary for the purpose of providing long-term protection and management of the ecological, cultural, and historical resources and the conservation, recreational, scientific, educational, and esthetic qualities of the area.

Article I: Effect of Designation

The NMSA authorizes the issuance of such regulations as are necessary and reasonable to implement the designation, including managing and protecting the ecological, cultural, and historical resources and the conservation, recreational, scientific, educational, and esthetic qualities of Papahānaumokuākea National Marine Sanctuary (the “sanctuary”). Section 1 of Article IV of these terms of designation lists those activities that may be regulated on the effective date of designation, or at some later date, in order to protect sanctuary resources and qualities. Listing an activity does not necessarily mean that it will be regulated. However, if an activity is not listed it may not be regulated, except on an emergency basis, unless Section 1 of

Article IV is amended by the same procedures by which the original sanctuary designation was made.

Article II: Description of the Area

The sanctuary encompasses the submerged lands, seamounts, and Pacific Ocean waters from the shoreline seaward to approximately 200 nautical miles west of 163° West Longitude surrounding the Northwestern Hawaiian Islands which consist of the islands, atolls, and emergent lands stretching from Nihoa in the southeast to Hōlanikū (Kure Atoll) in the northwest. The marine waters east of 163° West Longitude surrounding Nihoa extend seaward from the shoreline to approximately 50 nautical miles. The total area of the sanctuary comprises approximately 582,570 square miles (439,910 square nautical miles). The precise boundary coordinates are defined in Appendix A to the regulations at 15 CFR part 922, subpart W.

Article III: Special Characteristics of the Area

Papahānaumokuākea is a place of special national significance that provides large-scale ecosystem services for the region and the world. The marine habitat includes several interconnected ecosystems, including coral islands surrounded by shallow reef, deeper reef habitat characterized by seamounts, banks, and shoals scattered across the area of the sanctuary, mesophotic reefs with extensive algal beds, pelagic waters connected to the greater North Pacific Ocean, and deep-water habitats and abyssal plains 5,000 meters below sea level. These connected ecosystems provide essential habitats for rare species such as the threatened green sea turtle and the endangered Hawaiian monk seal, as well as habitat for more than 14 million seabirds that forage in the pelagic waters to nourish the chicks they are raising on the tiny islets. Papahānaumokuākea is home to 20 cetacean species, protected by the Marine Mammal Protection Act, with some listed as endangered under the Endangered Species Act. At least a quarter of the nearly 7,000 known marine species in the region are found nowhere else on Earth.

The area of the sanctuary is also a place of historical and cultural significance. The area of the sanctuary includes the location of the Battle of Midway, a turning point in World War II

for the allies in the Pacific Theater. Research indicates that 60-80 sunken military vessels and hundreds of sunken military aircraft are scattered across the seafloor. In addition to Navy steamers and aircraft, there are whaling ships, ancient Japanese sailing ships known as junks, motorized East Asian style fishing vessels known as Hawaiian fishing sampans, Pacific colliers, and other vessels from the 19th and 20th centuries.

Papahānaumokuākea is also a sacred place to Native Hawaiians, who regard the islands and wildlife as kūpuna, or ancestors. The region holds deep cosmological and traditional significance to the people of Hawai‘i and the Native Hawaiian culture, and contains a host of intact and significant archaeological sites found on the islands of Nihoa and Mokumanamana, both of which are on the National Register of Historic Places and Hawai‘i Register of Historic Places. Papahānaumokuākea is as much a spiritual space as it is a physical geographical area, rooted deep in Native Hawaiian creation and settlement stories.

Article IV: Scope of Regulations

Section 1. Activities Subject to Regulation

The following activities are subject to regulation, including prohibition, as may be necessary to ensure the protection and effective management of the ecological, cultural, historical, conservation, recreational, scientific, educational, or esthetic resources or qualities of the area:

1. Access to the sanctuary;
2. Ship reporting, ship routeing, and other shipping activities;
3. Vessel monitoring;
4. Vessel discharge;
5. Exploring for, developing, or producing oil, gas, or minerals, or any energy development activities;
6. Using or attempting to use poisons, electrical charges, or explosives in the collection or harvest of a sanctuary resource;

7. Introducing or otherwise releasing an introduced species from within or into the sanctuary;
8. Deserting a vessel;
9. Commercial fishing;
10. Non-commercial fishing;
11. Possessing fishing gear;
12. Anchoring on or having a vessel anchored on any living or dead coral with an anchor, anchor chain, or anchor rope;
13. Drilling into, dredging, or otherwise altering the submerged lands; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands;
14. Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving sanctuary resource;
15. Attracting any living sanctuary resource;
16. Touching coral, living or dead;
17. Swimming, snorkeling, or closed or open circuit SCUBA diving;
18. Discharging or depositing any material or other matter, or discharging or depositing any material or other matter outside of the sanctuary that subsequently enters the sanctuary;
19. Anchoring a vessel;
20. Native Hawaiian practices;
21. Research and scientific exploration;
22. Scientific research and development by Federal agencies;
23. Activities that will further the educational value of the sanctuary or will assist in the conservation and management of the sanctuary;
24. Recreational activities; and

25. Interfering with, obstructing, delaying, or preventing an investigation, search, seizure, or disposition of seized property in connection with enforcement of the NMSA or any regulation or permit issued under the NMSA.

Listing an activity here means that the Secretary of Commerce can regulate the activity, after complying with all applicable laws, without going through the designation procedures required by paragraphs (a) and (b) of section 304 of the NMSA. No term of designation issued under the authority of the NMSA may take effect in Hawai‘i state waters within the sanctuary if the Governor of Hawai‘i certifies to the Secretary of Commerce that such term of designation is unacceptable within the review period specified in the NMSA.

Section 2. Emergencies

Where necessary to prevent or minimize the destruction of, loss of, or injury to a sanctuary resource or quality, or to minimize the imminent risk of such destruction, loss, or injury, any and all activities, including those not listed in Section 1, are subject to immediate temporary regulation, including prohibition.

Article V: Alteration of This Designation

The terms of designation, as defined under section 304(a)(4) of the NMSA, may be modified only by the same procedures by which the original designation is made, including public hearings, consultations with interested Federal, Tribal, State, regional, and local authorities and agencies, review by the appropriate Congressional committees, and approval by the Secretary of Commerce, or his or her designee.

III. Changes from Proposed to Final Regulations

Based on public comments received between March 1 and May 7, 2024, internal deliberations, consultations, engagement with cooperating agencies, and meetings with constituents, NOAA has made the following changes to the proposed rule and corresponding changes to the final EIS and sanctuary management plan.

A. Definitions

NOAA added the term “categories of hazardous cargoes” to 15 CFR 922.24, the site-specific definitions. “Categories of hazardous cargoes” is defined in PMNM regulations, 50 CFR 404.3, and is added to the final regulations for consistency with existing regulations for ship reporting. Defining “categories of hazardous cargoes” provides clarity to the public on what information must be reported when conducting passage without interruption to comply with the ship reporting requirements, as specified in the sanctuary regulations at 15 CFR 922.243.

NOAA has made a minor revision to the term “recreational activity,” by striking “within the Midway Atoll Special Management Area” from the definition, making it consistent with the definition provided in Presidential Proclamation 8031 establishing the Monument.

B. Cooperative Management

In response to public comments, NOAA has clarified how the sanctuary will be managed in partnership with other Federal and State agencies. In the proposed rule, NOAA proposed that the sanctuary would be co-managed with the State of Hawai‘i. In the proposed regulations, NOAA identified the role that states may have in co-managing a sanctuary pursuant to the National Marine Sanctuaries Act, if all or part of the proposed sanctuary is within the territorial limits of any state. Recognition of the State of Hawai‘i as a sanctuary co-manager was not meant to exclude the other Monument co-trustees, DOI and OHA. To the contrary, partnerships with other Federal and State agencies with overlapping jurisdiction are critical to the success of the National Marine Sanctuary System and the protection of marine areas of special national significance.

In the final regulations, NOAA has renamed 15 CFR 922.242 “Cooperative Management” and added new text regarding how NOAA will manage the sanctuary in partnership with USFWS and OHA in addition to the State of Hawai‘i. In doing so, NOAA reaffirms that the existing co-management structure of the Monument is critical to the success of the sanctuary. NOAA will work in cooperation with Monument co-trustees to update the Memorandum of Agreement for Promoting Coordinated Management of Papahānaumokuākea

Marine National Monument with the State of Hawai‘i, DOI, and OHA that reflects the addition of the sanctuary, and specifically addresses how the addition of a sanctuary will supplement and complement, and not supplant, the existing Monument management framework.

In the final regulations, NOAA recognizes USFWS’s management authority over Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge. NOAA also clarifies that nothing in the regulations or establishment of the national marine sanctuary shall diminish USFWS’s authority to administer Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act, as amended, and other USFWS authorities. Where Papahānaumokuākea National Marine Sanctuary overlays Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, NOAA will implement the NMSA to provide supplemental authority to protect resources. NOAA and USFWS are developing an agreement to provide details on the execution of sanctuary management where the national marine sanctuary overlaps with Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge.

C. Access

In the proposed regulations, NOAA stated that a vessel may pass without interruption through the sanctuary without requiring a permit as long as the vessel does not stop, anchor, or engage in any prohibited activities. In the final regulations, NOAA has made a minor revision to 15 CFR 922.243(a)(5)(b), removing the word “anchor” from this statement. The removal of “anchor” is a technical revision because anchoring a vessel is already listed as a prohibited or otherwise regulated activity. In 15 CFR 922.243(c)(7), NOAA has added clarification on the events that would trigger “further reports,” including “pollution incidents and goods lost overboard.” This addition will help address potential threats and impacts to sanctuary resources in a timely manner from vessels transiting within the reporting area.

In the proposed regulations, NOAA stated that access is prohibited except under certain circumstances. NOAA has clarified that the prohibition on access does not restrict scientific

exploration or research activities by or for the Secretary of Commerce or the Secretary of the Interior when the activity occurs within the Outer Sanctuary Zone, consistent with the exception provided in 15 CFR 922.244(f).

Finally, in 15 CFR 922.243(c), NOAA has also made technical revisions, removing the list of vessels for which the ship reporting requirements do not apply. This information is redundant of the exceptions provided in 15 CFR 922.243(a)(1) through (a)(4).

D. Prohibited or Otherwise Regulated Activities

NOAA has added a prohibition on failing to comply with vessel monitoring systems requirements in violation of 15 CFR 922.246; and a prohibition on failing to comply with ship reporting requirements in violation of 15 CFR 922.243. NOAA made these technical revisions to clarify for the public the full scope of activities listed that are prohibited or otherwise regulated within the sanctuary.

NOAA has also made technical revisions and clarifications to the prohibition on discharging or depositing any material or other matter into the sanctuary, or discharging or depositing any material or other matter outside of the sanctuary that subsequently enters the sanctuary and injures or has the potential to injure any resources of the sanctuary. Specifically, NOAA has clarified the list of exceptions to this prohibition for consistency with Presidential Proclamation 8031, the implementing regulations at 50 CFR part 404, and other applicable law such as the Clean Water Act. For example, consistent with existing law in the Monument, NOAA has clarified that this prohibition does not apply to fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activities, provided that such discharge or deposit is during the conduct of lawful fishing activities within the Sanctuary. In addition, NOAA has clarified that the exceptions for “discharge incidental to vessel operations,” and the discharges within Special Preservation Areas or the Midway Atoll Special Management Area may only be conducted in accordance with other applicable law, such as the Clean Water Act and its implementing regulations.

In the proposed rule, NOAA provided exceptions to vessel discharge when conducting passage without interruption under 15 CFR 922.243, but did not clarify that this exception also applies to the discharge prohibition under 15 CFR 922.244. NOAA has made these revisions in 15 CFR 922.244 to provide clarity to resource managers and the public, and consistency with existing Monument management. NOAA has made corresponding changes to the regulations at 15 CFR 922.243, removing the list of vessel discharge exceptions from this section. This revision is not substantive.

E. Exemption for Non-commercial Fishing

In the proposed rule, NOAA proposed that eight prohibited or otherwise regulated activities in 15 CFR 922.244 would not apply to non-commercial fishing activities in the Outer Sanctuary Zone authorized by regulations promulgated pursuant to the Magnuson–Stevens Fishery Conservation and Management Act (MSA), provided that no sale of harvested fish occurs. In response to comments of concern for this exemption, NOAA has made changes to ensure that a non-commercial fishing permit authorized pursuant to the MSA is only exempt from a limited subset of prohibited or otherwise regulated activities in the Outer Sanctuary Zone, which may only be conducted as incidental to and necessary to conduct lawful non-commercial fishing activity.

First, NOAA has removed the exemption for “touching coral, living or dead,” as this activity is not expected to occur as incidental to a lawful non-commercial fishing activity.

Second, NOAA has removed the exemption for “discharging or depositing any material or other matter into the sanctuary, or discharging or depositing any material or other matter outside of the sanctuary that subsequently enters the sanctuary and injures or has the potential to injure any resources of the sanctuary, with exceptions.” NOAA has determined that non-commercial fishing activities authorized under the MSA do not require a broad exemption for discharge, and should be held to similar standards as other vessels. As described above, NOAA has also clarified the types of discharge that would not be regulated, including “fish, fish parts, or

chumming materials (bait) used in or resulting from lawful fishing activity, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary.” This exception is consistent with Presidential Proclamation 8031, and the existing regulations for PMNM at 50 CFR 404.7.

Third, NOAA has removed the exemption for anchoring a vessel. NOAA has concluded that this activity should not occur as incidental to a lawful non-commercial fishing activity in the Outer Sanctuary Zone. Anchoring a vessel in the Outer Sanctuary Zone would not be practical given the average ocean depths within this area of the sanctuary.

NOAA has also clarified that this exemption from the sanctuary’s permitting requirements is only applicable provided that the fish harvested, either in whole or in part, are neither intended to enter commerce nor enter commerce through sale, barter, or trade, and that the resource is managed sustainably, consistent with Presidential Proclamation 9478. Moreover, consistent with the outcome of the NMSA Section 304(a)(5) process, for the exemption to apply, the 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. Finally, NOAA has clarified that the activities under paragraph (a)(9) through (12), and (a)(14) may only be conducted as incidental and necessary to conduct lawful non-commercial fishing activities.

F. Permit procedures and criteria.

In the proposed regulations, NOAA proposed two new general permit categories specific to the sanctuary: (i) Native Hawaiian Practices; and (ii) Recreation. In the final regulations, NOAA maintains these two general permit categories in 15 CFR 922.30. For ease of reference, NOAA has moved the additional permit issuance criteria and requirements to the site-specific regulations for the proposed sanctuary at 15 CFR 922.245. This revision is not substantive. NOAA has also made a revision to the additional permit issuance criteria for Recreation permits. NOAA has amended the permitting criteria at 15 CFR 922.245 to clarify that a “recreational activity” may only be permitted within the Midway Atoll Special Management Area, consistent

with existing regulations for the Monument.

Finally, as described below, NOAA moved the Vessel Monitoring System (VMS) requirements from 15 CFR 922.245 to a standalone section at 15 CFR 922.246. NOAA retained, with minor edits, the requirement to outfit a vessel with a NOAA Office of Law Enforcement (OLE) type-approved VMS unit, as a condition of a permit. This is consistent with the regulations implementing Presidential Proclamation 8031 at 50 CFR part 404, and specifically, the permitting findings that must be made under 50 CFR 404.11(d).

G. Vessel Monitoring System

In the proposed rule, NOAA proposed, as a part of the permit procedures and criteria under 15 CFR 922.245, that an owner or operator of a vessel that has been issued a sanctuary general permit or special use permit must ensure that such vessel has a NOAA OLE type-approved VMS on board when operating within the sanctuary. In the final regulations, NOAA has moved the VMS requirements to a standalone section at 15 CFR 922.246 for consistency with the regulations implementing Presidential Proclamation 8031 at 50 CFR part 404. NOAA also made non-substantive technical changes to the VMS requirements to more closely align with the Monument's implementing regulations, specifically 50 CFR 404.5.

H. Sunken Military Craft

NOAA has added new text regarding the Sunken Military Craft Act acknowledging that sunken military craft in the sanctuary will continue to be administered by the respective Secretary concerned pursuant to the Sunken Military Craft Act. NOAA will enter into a Memorandum of Agreement with the appropriate agencies regarding collaboration on implementing the Sunken Military Craft Act.

I. Emergency Regulations

NOAA has added information to Section IV of this final rule describing emergency regulations. This is a technical clarification of a regulatory provision that applies to all national marine sanctuaries, pursuant to the National Marine Sanctuary Program Regulations at 15 CFR

922 subpart A - Regulations of General Applicability. Adding this to the final rule provides clarity to the public on a supplemental authority that is provided through sanctuary designation.

J. Technical Edits

In addition to the changes discussed above, NOAA has made technical edits throughout this final rule. Many of these technical edits are necessary to conform with revisions to 15 CFR part 922 that became effective on October 16, 2024. These technical edits are not substantive.

NOAA has also made two minor changes to the terms of designation that were included in the proposed rule. First, NOAA has added more detail to one sentence describing the special characteristics of the area. Second, NOAA has added “ship reporting, ship routeing, and other shipping activities” to the list of activities subject to regulation in Article IV of the terms of designation to reflect the full scope of activities that may be regulated. In the draft terms of designation, NOAA only included “ship reporting.”

IV. Summary of Final Regulations

A. Adding New Subpart W

NOAA is amending 15 CFR part 922 by adding a new subpart (subpart W) that contains site-specific regulations for the sanctuary. This subpart will include the boundary, contain definitions of common terms used in the new subpart, identify prohibited activities and exceptions, and establish procedures for permitting otherwise prohibited activities. The regulations will be applied in accordance with generally recognized principles of international law and in accordance with treaties, conventions, and other agreements to which the United States is a party, consistent with sections 305(a) and 307(k) of the NMSA and the NMSA’s Regulations of General Applicability at 15 CFR 922.1(b). No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States unless in accordance with generally recognized principles of international law, or applicable treaties, conventions, and other agreements.

B. Sanctuary Boundary

NOAA’s designation of Papahānaumokuākea National Marine Sanctuary consists of the marine environment surrounding the Northwestern Hawaiian Islands from the shoreline of the islands and atolls seaward to 200 nautical miles, including all waters of the Monument. NOAA estimates the area encompassed in the designation is approximately 582,570 square miles (439,910 square nautical miles).

C. Definitions

This rule incorporates and adopts common terms defined in the national regulations at 15 CFR 922.11. In addition, NOAA is including 20 site-specific definitions. To the extent that a term appears at 15 CFR 922.11 and the definitions section of the final rule, the definition in the final rule would govern.

- The definitions for “Bottomfish Species” and “Pelagic Species” are adopted from regulations for Fisheries in the Western Pacific, 50 CFR 665.201 and 50 CFR 665.800.
- “Ecological integrity”, “Midway Atoll Special Management Area”, “Native Hawaiian practices”, “Pono”, “Recreational activity”, “Special Preservation Area (SPA)”, “Stowed and not available for immediate use”, “Sustenance fishing”, and “Vessel monitoring system or VMS”, are adopted from Presidential Proclamation 8031.
- “Commercial fishing” and “Non-commercial fishing” are adopted from the MSA and, in part, from regulations for Fisheries in the Western Pacific, 50 CFR 665.12.
- “Particularly Sensitive Sea Area (PSSA)” is adopted from International Maritime Organization (IMO) Resolution A.982(24), December 1, 2005.
- “Areas to be avoided (ATBA)”, “Categories of hazardous cargoes” and “Office of Law Enforcement” are adopted from Papahānaumokuākea Marine National Monument regulations, 50 CFR 404.3.
- “Outer Sanctuary Zone” refers to the area of the sanctuary that would extend from approximately 50 nautical miles from all the islands and emergent lands of the Northwestern Hawaiian Islands to the extent of the seaward limit of the United States

Exclusive Economic Zone west of 163° West Longitude. This area of the sanctuary would correspond with the area designated as a marine national monument by Presidential Proclamation 9478, referred to as the “Papahānaumokuākea Marine National Monument Expansion” or MEA. NOAA provides this definition to provide clarity to the public where there is a regulation that only applies to this area of the sanctuary, and not the entire sanctuary. Note that the MEA and the Outer Sanctuary Zone are coextensive. In this final rule, when describing the sanctuary regulations, the term “Outer Sanctuary Zone” is used, and when describing the directives of Presidential Proclamation 9478, the term “MEA” is used.

- “Reporting Area” refers to the area of the sanctuary that extends outward ten nautical miles from the PSSA boundary, as designated by the IMO, and excludes the ATBAs that fall within the PSSA boundary. The reporting area is defined by the coordinates set forth in Appendix E to the final rule. NOAA defines the “reporting area” to clarify which areas of the sanctuary apply to ship reporting requirements.
- “Scientific instrument” is a term used in Presidential Proclamation 9478, but the term was not defined. Specifically, Presidential Proclamation 9478 prohibits “drilling into, dredging, or otherwise altering the submerged lands, or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands, except for scientific instruments”. NOAA defines “scientific instrument” to clarify what activities may be conducted pursuant to a permit. NOAA defines “scientific instrument” to mean “a device, vehicle, or tool used for scientific purposes and is inclusive of structures, materials, or other matter incidental to proper use of such device, vehicle, or tool.” In defining “scientific instrument,” NOAA’s definition provides for the inclusion of “structures, materials, or other matter incidental to proper use of such device, vehicle, or tool” because, based on the type of activities previously permitted in the Monument, proper deployment and use of most scientific instruments requires more than the

instrument itself. For example, there may be incidental ballast discharge associated with the use of a scientific instrument like a remotely operated vehicle, or ROV. A narrower definition of “scientific instrument” could unduly restrict NOAA’s ability to permit activities in the area of the sanctuary that overlaps with the MEA. NOAA believes a narrower definition would be inconsistent with the intent of Presidential Proclamation 9478, which states “Undisturbed seamount communities in the adjacent area are of significant scientific interest because they provide opportunities to examine the impacts of physical, biological, and geological processes on ecosystem diversity, including understanding the impacts of climate change on these deep-sea communities. These seamounts and ridges also provide the opportunity for identification and discovery of many species not yet known to humans, with possible implications for research, medicine, and other important uses. Recent scientific research, utilizing new technology, has shown that many species identified as objects in Proclamation 8031 inhabit previously unknown geographical ranges that span beyond the existing Monument, and in some cases the adjacent area also provides important foraging habitat for these species.” These statements clearly demonstrate the significant scientific value of the MEA and underscore the opportunities for research and discovery to occur in the sanctuary.

D. Cooperative Management of the Sanctuary

Pursuant to the NMSA, states may choose to have a role in co-managing a sanctuary if all or part of the sanctuary is within the territorial limits of any state. As the sanctuary includes state waters, NOAA will co-manage the sanctuary with the State of Hawai‘i. NOAA establishes the framework for co-management in section 922.242 of the final regulations NOAA and the State of Hawai‘i may update existing agreements or develop additional agreements as necessary to provide details on the execution of sanctuary management, such as activities, programs, and permitting that can be updated to adapt to changing conditions or threats to the sanctuary resources.

NOAA and the State of Hawai‘i will manage the sanctuary in partnership with the USFWS and OHA consistent with the management of the Monument. The existing co-management structure of the Monument will be critical to the success of the sanctuary. NOAA will work in cooperation with the Monument co-trustees to update the Memorandum of Agreement for Promoting Coordinated Management of Papahānaumokuākea Marine National Monument with the State of Hawai‘i, DOI, and OHA that reflects the addition of the sanctuary, and specifically addresses how the addition of a sanctuary will supplement and complement, and not supplant, existing Monument management. This is consistent with the existing Memorandum of Agreement, which includes a provision that states that “in the event of the designation of the Monument or any portion of the Monument as a National Marine Sanctuary under the National Marine Sanctuaries Act, nothing herein shall be construed as automatically terminating or otherwise amending this Agreement.” NOAA may enter into additional Memorandums of Agreement with the Monument co-trustees regarding this collaboration that may address, but not be limited to, sanctuary resource protection, educational programs, permitting, enforcement, research activities, development, and threats to resources. Any future proposed changes to sanctuary regulations or boundaries would be coordinated with the State and other Monument co-trustees and subject to public review as mandated by the NMSA and other Federal statutes.

The Secretary of the Interior, through the USFWS, has sole responsibility for management of the areas of the Monument that overlay the Midway Atoll National Wildlife Refuge, the Battle of Midway National Memorial, and the Hawaiian Islands National Wildlife Refuge, and exercises that responsibility in consultation with the Secretary of Commerce. Nothing in these regulations or establishment of the national marine sanctuary shall diminish USFWS’s authority to administer Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act as amended, and other USFWS authorities. Where Papahānaumokuākea National Marine Sanctuary overlays Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife

Refuge, NOAA will implement the NMSA to provide supplemental authority to protect resources.

NOAA, in exercising its management authority under National Marine Sanctuaries Act Section 304(d), recognizes USFWS' management authority over Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act.

The Director of the USFWS has agreed that Papahānaumokuākea National Marine Sanctuary will provide supplemental authorities where the sanctuary overlays the Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge. NOAA and USFWS are developing an agreement to memorialize this decision, and to provide details on the execution of sanctuary management where the national marine sanctuary overlaps with Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, consistent with the spirit of cooperative management of the area and recognizing USFWS has sole authority in Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge pursuant to the National Wildlife Refuge System Administration Act.

Implementation of NOAA and USFWS authorities shall not enlarge or diminish the jurisdiction of the State of Hawai'i, including the State's responsibilities and requirements to manage Kure Atoll Wildlife Sanctuary and the State of Hawai'i Northwestern Hawaiian Islands Marine Refuge.

E. Access

In PMNM, pursuant to Presidential Proclamation 8031, access is prohibited except under the following circumstances: (1) for emergency response and law enforcement purposes; (2) for activities and exercises of the Armed Forces; (3) for persons who have been issued Monument permits; and (4) for passage without interruption. For consistency, and to protect sanctuary resources, NOAA extends the access restrictions which apply to the area of the sanctuary that overlaps the PMNM to the area of the sanctuary that overlaps with the MEA as follows:

Access to the sanctuary is prohibited and thus unlawful except under the following circumstances: (1) for emergency response actions, law enforcement activities, and activities and exercises of the Armed Forces; (2) pursuant to a sanctuary permit; (3) when conducting non-commercial fishing activities in the Outer Sanctuary Zone authorized under the MSA in accordance with 15 CFR 922.244 (d); (4) when conducting scientific exploration or research activities by or for the Secretary of Commerce or the Secretary of the Interior when the activity occurs within the Outer Sanctuary Zone); and (5) when passing through the sanctuary without interruption.

A vessel may pass without interruption through the sanctuary without requiring a permit as long as the vessel does not stop or engage in prohibited activities within the sanctuary. A vessel passing through the sanctuary without interruption may be subject to the ship reporting system, as described below.

The access restrictions will be applied in accordance with generally recognized principles of international law and in accordance with treaties, conventions, and other agreements to which the United States is a party, consistent with sections 305(a) and 307(k) of the NMSA and the NMSA's Regulations of General Applicability at 15 CFR 922.1(b). No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States unless in accordance with generally recognized principles of international law, or applicable treaties, conventions, and other agreements.

F. Ship Reporting

The final rule includes regulations to implement the ship reporting system (CORAL SHIPREP) adopted by the IMO, which require entrance and exit notifications for vessels that pass without interruption through the sanctuary areas contained within a reporting area. Requiring vessels to notify NOAA immediately upon entering the reporting area will help make the vessel operators aware that they are traveling through a fragile area with potential navigational hazards, such as the extensive coral reefs found in many shallow areas of the

sanctuary contained within the reporting area.

The ship reporting requirements apply to vessels that pass through the sanctuary without interruption. Conversely, the ship reporting requirements do not apply to vessels covered by an exemption at 15 CFR 922.243(a)(1) through (a)(4), or to sovereign immune vessels, which are specifically exempted from the reporting requirement in the ship reporting system adopted by the IMO. Furthermore, the ship reporting requirements will be applied in accordance with generally recognized principles of international law and in accordance with treaties, conventions, and other agreements to which the United States is a party, consistent with sections 305(a) and 307(k) of the NMSA and the NMSA's Regulations of General Applicability at 15 CFR 922.1(b). No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States unless in accordance with generally recognized principles of international law, or applicable treaties, conventions, and other agreements.

NOAA defines the reporting area as "the area of the sanctuary that extends outward ten nautical miles from the PSSA [Particularly Sensitive Sea Area] boundary, as designated by the IMO, and excludes the ATBAs [Areas to be avoided] that fall within the PSSA boundary." The reporting area is further defined by the coordinates set forth in Appendix E to the final rule. Appendix E includes a coordinates table for the "Reporting Area Outer Boundary," which contains the reporting area's boundary surrounding the PSSA. Appendix E also includes coordinate tables for the "Inner Reporting Area Boundary" for each of the four ATBAs that fall within the PSSA, but which are not part of the reporting area.

The reporting area for the sanctuary will not include the four voluntary ATBAs adopted by the IMO that are also within the PSSA. An ATBA is an area within which either navigation is particularly hazardous or it is exceptionally important to avoid casualties. While ATBAs can be mandatory (i.e., vessels are required by applicable law to avoid and operate outside of the area) most are voluntary and vessels may travel through them. Because the four ATBAs in the PSSA are voluntary, as adopted by the IMO and implemented by these regulations, the ATBAs are

outside of the reporting area. Nonetheless, by virtue of entering or exiting an ATBA, vessels would also be departing or entering the reporting area, and, therefore be subject to the reporting area's requirements four times: (1) once when it enters the reporting area; (2) once when it leaves the reporting area to enter the ATBA; (3) once when it exits the ATBA and enters the reporting area on the other side of the ATBA; and (4) once when it again leaves the reporting area. The potential burden of reporting four times is justified by the navigational hazards that exist within the ATBAs. The reporting area also includes three large areas within the PSSA that are not within the ATBAs. These breaks between the four ATBAs allow for north-south passages through the sanctuary areas contained within the reporting area that can be utilized for navigation to avoid ATBAs. Vessels passing through the sanctuary in these areas would only send e-mail notification twice: once upon entering the reporting area, and again upon leaving the reporting area.

NOAA will implement CORAL SHIPREP's requirements under the NMSA in keeping with the United States' and IMO's long-standing interest in providing additional protection to the natural, cultural, and historic resources in PMNM through ship reporting requirements. In June 2006, Presidential Proclamation 8031 directed the Secretary of Commerce and Secretary of Interior to require notification from any person passing through PMNM without interruption at least 72 hours, but no longer than 1 month, prior to the entry date, and within 12 hours of departure. Presidential Proclamation 8031 further indicated the specific types of information that must be provided in the notification. These notification requirements were subsequently codified in 50 CFR 404.4. Presidential Proclamation 8031 also directed the Secretary of State, in consultation with the Secretary of Commerce and Secretary of Interior, to seek the cooperation of other governments and international organizations in furtherance of the purposes of the proclamation and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.

Following Executive Order 13178 and Presidential Proclamation 8031, in April 2007 the

United States proposed to the IMO that PMNM be designated as a PSSA to protect the attributes of the fragile and integrated coral reef ecosystem from potential hazards associated with international shipping activities. The U.S. noted in its proposal that the proposed PSSA and its associated protective measures would result in a minimal burden to international shipping, would significantly further increase maritime safety, would protect of the fragile environment, would preserve cultural resources and areas of cultural importance significant to Native Hawaiians, and would facilitate responses to developing maritime emergencies. On April 3, 2008, the IMO designated the PMNM as a PSSA. As part of the PSSA designation process, the IMO adopted U.S. proposals for associated protective measures. These measures included expanding and consolidating the six existing recommendatory ATBAs in the PMNM into four larger areas and enlarging the class of vessels to which they apply. In addition, the IMO adopted a ship reporting system for vessels transiting the PMNM, which is mandatory for ships 300 gross tons or greater that are entering or departing a U.S. port or place and recommended for other ships. The system requires that ships notify the U.S. shore-based authority (*i.e.*, the U.S. Coast Guard; NOAA will be receiving all messages associated with this program on behalf of the Coast Guard) at the time they begin transiting the reporting area and again when they exit. In December 2008, NOAA and the USFWS published final regulations to establish a ship reporting system for PMNM, which implemented measures adopted by the IMO requiring notification by ships passing through PMNM without interruption (73 FR 73592). These regulations modified the previous notification requirements at 50 CFR 404.4.

NOAA will implement the ship reporting system as adopted by the IMO and establish the reporting area using the boundary coordinates in Appendix E to this final rule to provide additional protection to the natural, cultural, and historic resources in the sanctuary. Accordingly, NOAA's regulations build upon the requirements outlined in Presidential Proclamation 8031, and reflect additions made through the IMO's adoption of a ship reporting system and the implementation of that system in 50 CFR 404.4. NOAA provides minor language changes from

the process adopted by IMO Resolution MEPC.171(57) and IMO Resolution MSC.279(85) to provide clarity to the public on which vessels are required to participate in ship reporting and the type of information that should be reported.

G. Activities that are prohibited or otherwise regulated

NOAA will supplement and complement existing management of this area through prohibited or otherwise regulated activities in section 922.244. Presidential Proclamations 8031, 8112, and 9478, and regulations implementing Presidential Proclamations 8031 and 8112 at 50 CFR part 404 provide the foundation for the prohibitions. However, minor changes are made to remove discrepancies and gaps in prohibitions and regulated activities between PMNM and the MEA in order to allow for consistency in management across the sanctuary.

Within PMNM, the prohibitions in section 922.244 are already effectively in place under 50 CFR part 404, except for prohibitions 1 and 4 (detailed below). Minor changes are made to prohibitions 1 and 4 to remove discrepancies across the two zones (PMNM and MEA). Regulations implementing Presidential Proclamation 9478 have not been promulgated for the MEA. Many of the prohibitions adopted in the rule are identified in Presidential Proclamation 9478, which established the MEA. Any prohibitions for the area of the sanctuary that overlaps with the MEA that are not adopted directly from Presidential Proclamation 9478 are identified below.

1. Prohibition on exploring for, developing, or producing oil, gas, or minerals, or any energy development activities

Consistent with the presidential proclamations establishing the Monument, NOAA prohibits exploring for, developing, or producing oil, gas, or minerals to protect sanctuary resources and create a seamless management area throughout the sanctuary. The addition of the prohibition on “any energy development activities” would be new for PMNM, and was added to further the underlying intent of the prohibition on oil, gas, and mineral development by accounting for technological advances in other forms of energy development.

In addition to creating consistency across the two zones, this prohibition will help advance the sanctuary's goals and objectives by protecting sensitive marine ecosystems such as fragile coral reefs and deep-sea corals, benthic habitat, and seamounts. Prohibiting oil, gas, and mineral development reduces the risk of offshore spills, such as the Deepwater Horizon oil spill, that could significantly harm sanctuary resources. Deep seabed mining, oil and gas drilling, and other energy development activities, such as renewable energy system installation, destroys fragile benthic habitat, releases sequestered carbon, and spreads sediment plumes that can suffocate both sensitive shallow and deep-sea coral reefs, which negatively impacts nursery and foraging habitat for fish, and reduces the ecosystem's overall resilience.

2. Prohibition on using or attempting to use poisons, electrical charges, or explosives in the collection or harvest of a sanctuary resource

This prohibition is consistent with prohibitions identified in the presidential proclamations establishing the Monument.

3. Prohibition on introducing or otherwise releasing an introduced species from within or into the sanctuary

This prohibition is consistent with prohibitions identified in the presidential proclamations establishing the Monument.

4. Prohibition on deserting a vessel

Deserting a vessel is currently a regulated activity (allowed only with a permit) in PMNM pursuant to Presidential Proclamation 8031. Deserting a vessel is a prohibited activity in the MEA pursuant to Presidential Proclamation 9478. Based on NOAA's experience in managing national marine sanctuaries, NOAA does not see a need to permit this activity. Prohibiting this activity will create consistency in management across the sanctuary and help to prevent desertion of a vessel following a sinking, grounding, or other incident. Prevention is much less expensive than responding to a deserted vessel and can optimally prevent impacts and damage to sanctuary resources as well as to private property.

5. *Prohibition on anchoring on or having a vessel anchored on any living or dead coral with an anchor, anchor chain, or anchor rope*

This prohibition is consistent with prohibitions identified in the presidential proclamations establishing the Monument.

6. *Prohibition on commercial fishing or possessing commercial fishing gear except when stowed and not available for immediate use*

Presidential Proclamation 8031 provided that commercial fishing for bottomfish and pelagic fish in PMNM that was permitted by NOAA prior to June 16, 2006 was allowed to continue for 5 years from the date of the proclamation, until June 15, 2011. After that date, Presidential Proclamation 8031 prohibited commercial fishing for bottomfish and associated pelagic species in PMNM. Presidential Proclamation 9478 also prohibits commercial fishing, as well as possessing commercial fishing gear except when stowed and not available for immediate use during passage without interruption in the MEA. With these sanctuary regulations, NOAA provides a sanctuary-wide prohibition on commercial fishing or possessing commercial fishing gear except when stowed and not available for immediate use to be consistent with the presidential proclamations establishing the Monument.

7. *Prohibition on failing to comply with vessel monitoring systems requirements in violation of § 922.246.*

This prohibition is consistent with requirements identified in Presidential Proclamation 8031. The VMS requirement for permittees operating within the areas of the sanctuary that overlap with the MEA would be a new requirement. Further discussion of the VMS requirements is included within Section IV. L. of this final rule.

8. *Prohibition on failing to comply with ship reporting requirements in violation of § 922.243*

This prohibition is consistent with the requirements of the ship reporting system (CORAL SHIPREP), as adopted by the IMO and implemented in PMNM under 50 CFR 404.4. Further

discussion of the ship reporting system requirements is included within Section IV.F of this final rule.

9. Prohibition on non-commercial fishing or possessing non-commercial fishing gear except when stowed and not available for immediate use

The presidential proclamations establishing the Monument broadly restrict the harvest of fishery resources by prohibiting removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving monument resource, as well as attempts to do the same, except as may be allowed with a permit. As noted above, Presidential Proclamations 8031 and 9478 further specify prohibitions on commercial fishing and the possession of commercial fishing gear. The presidential proclamations also identify certain types of non-commercial fishing that may be regulated (*i.e.*, allowed pursuant to a permit or incidental to a permitted activity). Presidential Proclamation 8031, for example, authorizes sustenance fishing incidental to an activity permitted in PMNM. Presidential Proclamation 9478, for example, provides that non-commercial fishing is a regulated activity (*i.e.*, allowed only with a permit) in the MEA. In the sanctuary, for consistency with the proclamations, NOAA will prohibit “non-commercial fishing” unless conducted pursuant to a sanctuary permit or, as discussed below, authorized under the MSA in the Outer Sanctuary Zone. The final rule adopts the definition of “non-commercial fishing” from the regulations for Fisheries in the Western Pacific, which is defined as “fishing that does not meet the definition of commercial fishing in the MSA, and includes, but is not limited to, sustenance, subsistence, traditional indigenous, and recreational fishing.” 50 CFR 665.12.

The final rule also provides that “possessing non-commercial fishing gear except when stowed and not available for immediate use” is prohibited unless conducted pursuant to a sanctuary permit or, as discussed below, authorized under the MSA in the Outer Sanctuary Zone. Presidential Proclamation 8031 includes “possessing fishing gear,” as a regulated activity (allowed only with a permit) in PMNM. Presidential Proclamation 9478 prohibits possessing

commercial fishing gear. The final rule creates continuity between the two areas, and aims to prevent non-commercial gear from being utilized in an unauthorized manner that could lead to injury to sanctuary resources.

10. Prohibition on drilling into, dredging, or otherwise altering the submerged lands; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands

This activity is a regulated activity (*i.e.*, allowed only with a permit) in PMNM under Presidential Proclamation 8031. In the MEA, Presidential Proclamation 9478 prohibits this type of activity, except when conducted for the use of scientific instruments, which is allowed only with a permit, subject to such terms and conditions as the Secretaries deem appropriate. In the sanctuary, these activities are prohibited unless conducted pursuant to a sanctuary permit. In the Outer Sanctuary Zone, such a permit may only be issued for scientific instruments.

11. Prohibition on removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving sanctuary resource

These activities are prohibited unless conducted pursuant to a sanctuary permit, consistent with the presidential proclamations establishing the Monument.

12. Prohibition on attracting any living sanctuary resource

This activity is prohibited unless conducted pursuant to a sanctuary permit. This prohibition is consistent with a regulated activity identified in Presidential Proclamation 8031 for PMNM. This prohibition is new in the area of sanctuary that overlaps with the MEA. Prohibiting this activity is intended to address the potential for harassment and disturbance from human interactions with living sanctuary resources.

13. Prohibition on touching coral, living or dead

This activity is prohibited unless conducted pursuant to a sanctuary permit. This prohibition is consistent with a regulated activity (*i.e.*, allowed only with a permit) identified in

Presidential Proclamation 8031 for PMNM. This prohibition would be new for the area of sanctuary that overlaps with the MEA. However, prohibition 10 (above) effectively includes this activity, as touching coral is considered a disturbance which may cause injury or damage. Therefore, regulating this activity in the Outer Sanctuary Zone is primarily a technical addition which provides clarity to the public and resource managers.

14. Prohibition on swimming, snorkeling, or closed or open circuit SCUBA diving

These activities are prohibited unless conducted pursuant to a sanctuary permit. This prohibition is consistent with a regulated activity identified in Presidential Proclamation 8031 for any Special Preservation Area or the Midway Atoll Special Management Area. This prohibition would be new for areas of PMNM that fall outside of any Special Preservation Area or the Midway Atoll Special Management Area, and for the MEA. Expanding this regulated activity to the entire area of the proposed sanctuary allows NOAA to ensure that all in-water activities are done in compliance with the permit findings criteria and requirements, and are consistent with the care and management of sanctuary resources.

15. Prohibition on discharging or depositing any material or other matter into the sanctuary, or discharging or depositing any material or other matter outside of the sanctuary that subsequently enters the sanctuary and injures or has the potential to injure any resources of the sanctuary, with exceptions

These activities are prohibited unless conducted pursuant to a sanctuary permit. This prohibition is consistent with regulated activities identified in Presidential Proclamation 8031 for PMNM. The sanctuary regulations provide an exception to this activity, for “discharge incidental to vessel operations such as approved marine sanitation device effluent, cooling water, and engine exhaust”. Within Special Preservation Areas or the Midway Atoll Special Management Area, discharge is limited to “vessel engine cooling water, weather deck runoff, and vessel engine exhaust”. The exceptions to this otherwise regulated activity must be conducted in accordance with other Federal statutes and regulations, such as section 312 of the

Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. In addition, and consistent with exceptions identified in Presidential Proclamation 8031 for PMNM, the sanctuary regulations provide an exception for “fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity, provided that such discharge or deposit is during the conduct of lawful fishing activity within the sanctuary”.

While this prohibition is technically new for the area of the sanctuary that overlaps with the MEA, Presidential Proclamation 9478 effectively includes this activity. Regulating this activity for the Outer Sanctuary Zone provides clarity to the public and resource managers. Further, the prohibition on discharges within or into the sanctuary is provided in recognition that various substances can be discharged from vessels or from infrastructure or individuals along the shoreline that can harm sanctuary resources or qualities. Establishing a cohesive regulatory framework across the sanctuary would benefit sanctuary resources and sanctuary users.

16. Prohibition on anchoring a vessel

This activity is prohibited unless conducted pursuant to a sanctuary permit. While this activity may be permitted via a sanctuary permit, anchoring on living or dead coral may never be permitted, as noted above under prohibition 5. NOAA is regulating anchoring a vessel for consistency with a regulated activity identified in Presidential Proclamation 8031 for PMNM and because there is the potential for sanctuary resources, other than corals, to be impacted by anchoring. This prohibition is new for the area of the sanctuary that overlaps with the MEA. NOAA is including this prohibition on anchoring a vessel throughout the sanctuary to provide clarity to the public, resource managers, and enforcement personnel that all users of the sanctuary are subject to the same prohibition on anchoring a vessel unless conducted pursuant to a sanctuary permit.

H. Exemptions for Emergencies

Consistent with existing management of this area, the prohibitions for the sanctuary would not apply to any activity necessary to respond to emergencies that threaten life, property, or the environment, or to activities necessary for law enforcement purposes.

I. U.S. Armed Forces Exemption

Consistent with existing management of this area, NOAA provides a broad exemption to allow activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard. NOAA recognizes that this broad exemption is necessary to ensure military readiness for the Department of Defense to conduct existing training, operations, and military readiness activities in the area of the sanctuary. The United States military has been able to maintain readiness and conduct training and other operations in other national marine sanctuaries based on similar broad exemptions.

All activities and exercises of the Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on sanctuary resources and qualities. For any actions of the Armed Forces that are likely to destroy, cause the loss of, or injure sanctuary resources, the Armed Forces must comply with the Interagency Cooperation requirements outlined in section 304(d) of the NMSA, regardless of whether those actions are exempted from the sanctuary's prohibitions.

J. Exemption for Non-Commercial Fishing

NOAA exempts non-commercial fishing authorized under the MSA in the Outer Sanctuary Zone from needing a sanctuary permit for certain regulated activities provided under paragraph (a)(9) through (12), and (a)(14) in the final rule, provided that certain requirements are satisfied. Those requirements are that the fish harvested, either in whole or in part: (1) are not intended to enter commerce and shall not enter commerce through sale, barter, or trade, and that the resource is managed sustainably; and (2) are not intended to be sold and shall not be sold for any purposes, including, but not limited to, cost-recovery.

In addition, the exempted activities under paragraph (a)(9) through (12), and (a)(14) must only be conducted as incidental to and necessary to conduct lawful non-commercial fishing activity. NOAA will prepare a separate proposed rule under the MSA, which shall serve as the primary mechanism for authorizing non-commercial fishing activities in the Outer Sanctuary Zone. NOAA will periodically evaluate the effect of non-commercial fishing activities on sanctuary resources. Such evaluations would take into consideration the best scientific information available and evaluate whether additional actions are necessary for the proper care and management of sanctuary resources, including fishery resources, consistent with goals and objectives of the sanctuary. This exemption only applies to the Outer Sanctuary Zone.

K. Sanctuary Permit Procedures and Criteria

1. Sanctuary General Permits

NOAA provides the authority to issue sanctuary general permits to allow certain activities that would otherwise violate prohibitions in paragraphs (a)(9) through (15). The sanctuary permitting system was developed to allow for integration with the Monument permitting system, to ensure a continued joint permitting system administered by Monument co-managers. NOAA may, in cooperation with the Monument co-trustees, modify the existing memorandum of agreement or develop a new memorandum of agreement to add further clarification on joint permitting.

National marine sanctuary program-wide regulations at 15 CFR 922.30 describe various purposes for which a sanctuary general permit can be issued. Three of these which would apply to this sanctuary are:

- Research—activities that constitute scientific research or scientific monitoring of a national marine sanctuary resource or quality;
- Education—activities that enhance public awareness, understanding, or appreciation of a national marine sanctuary or national marine sanctuary resource or quality; and

- Management—activities that assist in managing a national marine sanctuary.

NOAA adds two additional permit categories to 15 CFR 922.30 under which a sanctuary general permit could be issued in the sanctuary:

- Native Hawaiian Practices—activities that allow for Native Hawaiian practices within the sanctuary; and
- Recreation—recreational activities within the sanctuary, but limited to the Midway Atoll Special Management Area.

The Native Hawaiian Practices general permit category is consistent with the types of activities permitted for the PMNM. Presidential Proclamation 9478 provided Native Hawaiian practices as a regulated activity. For consistency in management across the proposed sanctuary, and to protect sanctuary resources while facilitating responsible user access, NOAA would apply this general permit category across the sanctuary.

The Recreation general permit category is consistent with the types of activities permitted for PMNM, specifically within the Midway Atoll Special Management Area. For consistency with existing Monument management, this general permit category would continue to be limited to recreational activities within the Midway Atoll Special Management Area.

The general regulations in 15 CFR part 922, subpart D relating to the permit application process, review procedures, amendments, and other permitting stipulations would apply. These national permitting regulations include a list of factors NOAA considers in deciding whether or not to issue the permit, such as whether the activity must be conducted within the sanctuary, and whether the activity will be compatible with the primary objective of protection of sanctuary resources and qualities. NOAA will be able to impose specific terms and conditions through a permit as appropriate. The general regulations' permitting review criteria is largely consistent with the permitting findings established by Presidential Proclamation 8031 for PMNM, and implemented through 50 CFR 404.11.

In addition to permit review procedures and evaluation criteria in 15 CFR 922.33, some additional permit review criteria apply in the sanctuary, including additional criteria specific to Native Hawaiian Practices permits and Recreation permits. NOAA is providing these additional permit criteria in 15 CFR 922.245 to be consistent with the permit criteria for PMNM.

2. Special Use Permits

NOAA has the authority to issue special use permits (SUPs) in national marine sanctuaries, as established by section 310 of the NMSA (16 U.S.C. 1441) and by 15 CFR 922 subpart D. SUPs can be used to authorize specific activities in a sanctuary if such authorization is necessary to establish conditions of access to, and use of, any sanctuary resource or to promote public use and understanding of a sanctuary resource. Section 310 of the NMSA establishes four requirements for SUPs: (1) activities must be compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources; (2) SUPs shall not authorize the conduct of any activity for a period of more than five years unless otherwise renewed; (3) activities carried out under the SUP must be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and (4) permittees are required to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the SUP and to agree to hold the United States harmless against such claims. The NMSA authorizes NOAA to assess and collect fees for the conduct of any activity under a SUP, including costs incurred, or expected to be incurred, in issuing the permit and the fair market value use of sanctuary resources. Implementing regulations at 15 CFR 922.35 provide additional detail on assessment of fees for SUPs. Like with sanctuary general permits, NOAA can place conditions on SUPs specific to the activity being permitted. NOAA shall provide appropriate public notice before identifying any category of activity subject to a special use permit.

NOAA is not adding any new SUP category as part of this designation. In evaluating applications for special use permits, NOAA will consider all applicable permitting requirements,

including permitting procedures and criteria under the Monument's existing management framework. For example, certain activities may be subject to the requirements of special ocean use permits, as authorized by Presidential Proclamation 8031, and issued by Monument managers in the PMNM via 50 CFR 404.11. Special ocean use permit requirements were modeled after the NMSA's authority for SUPs, but also include a few additional requirements. For example, one of the requirements for special use permits outside Midway Atoll National Wildlife Refuge is that the activity does not involve the use of a commercial passenger vessel. For special use permits in Midway Atoll National Wildlife Refuge, an additional requirement is that the Director of the USFWS or their designee determines that the activity is compatible with the purposes for which the Midway Atoll National Wildlife Refuge was designated.

3. Sustenance Fishing

NOAA may authorize sustenance fishing outside of any Special Preservation Area as a term or condition of any sanctuary permit. Sustenance fishing in the Midway Atoll Special Management Area shall not be allowed unless the activity has been determined by the Director of the USFWS or their designee to be compatible with the purposes for which the Midway Atoll National Wildlife Refuge was established. Sustenance fishing is fishing for bottomfish or pelagic species in which all catch is consumed within the sanctuary. Sustenance Fishing is allowed incidental to an activity permitted in the PMNM under Presidential Proclamation 8031, and in regulations at 50 CFR part 404. Sustenance fishing was not specifically identified in Presidential Proclamation 9478 governing the MEA, but is allowable, consistent with proper care and management of monument objects. For consistency in management and permitting, NOAA is allowing for this activity as a term or condition of a general permit or special use permit.

L. Vessel Monitoring System

To complement existing management and provide consistency across the entirety of the sanctuary, an owner or operator of a vessel that has been issued a general permit or special use permit under 15 CFR part 922 subpart D must ensure that such vessel has a NOAA Office of

Law Enforcement (OLE)–approved Vessel Monitoring System (VMS) on board when operating within the sanctuary. Presidential Proclamation 8031 requires an owner or operator of a vessel that has been issued a permit for accessing the PMNM to have an OLE–approved VMS on board. Such a requirement was not included in Presidential Proclamation 9478. For consistency in permitting, and for the reasons identified below, NOAA implements this requirement across the sanctuary.

This requirement supports monitoring and surveillance, enforcement, and other incidental uses, consistent with the long-standing history of using vessel monitoring systems in the remote and vast area of the sanctuary, beginning with Executive Order 13178 in 2000. In directing the Secretary of Commerce to manage the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, section 5(b) of Executive Order 13178, indicated that priority management issues and actions must include enforcement and surveillance, including the use of new technologies, as well as the use of vessel monitoring systems, if warranted. The 2005 Final Reserve Operations Plan included an Enforcement Action Plan with strategies to investigate innovative technology that would be effective for enforcement and surveillance activities within this large, remote area, as well as to implement VMS.

In 2006, Presidential Proclamation 8031, as noted above, required an OLE–approved VMS on vessels with permits to access the PMNM. VMS is currently being used in the PMNM and is part of the Monument Management Plan’s Enforcement Action Plan. The Monument Management Plan highlights, as an example, that when the 85-foot longliner *Swordman I*, carrying more than 6,000 gallons of diesel fuel and hydraulic oil, ran aground at Pearl and Hermes Reef in 2000, vessel monitoring system technology allowed agents to track the disaster and quickly send out equipment for an extensive cleanup. Further, the Monument Management Plan recognizes that the Monument’s remote location presents unique surveillance and enforcement challenges, which a mandatory vessel monitoring system is critical to addressing.

In designating a sanctuary in the remote and vast area of the Monument and Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, NOAA recognizes the need to overcome these natural barriers to surveillance and enforcement through the use of VMS.

M. Scientific Exploration and Research by the Department of Commerce and the Department of the Interior

Presidential Proclamation 9478, which designated the MEA, stipulates that the prohibitions required by the proclamation “shall not restrict scientific exploration or research activities by or for the Secretaries and nothing in this proclamation shall be construed to require a permit or other authorization from the other Secretary for their respective scientific activities.” Presidential Proclamation 9478 further highlights the significant scientific value of the MEA and underscores the opportunities for research and discovery to occur in that area, including understanding the impacts of climate change on deep-sea communities and identifying new species. NOAA exempts the Department of Commerce’s and Department of the Interior’s scientific exploration or research activities from the sanctuary’s prohibitions and permitting requirements within the Outer Sanctuary Zone to be consistent with Presidential Proclamation 9478. However, such activities must still comply with other Federal laws such as the NEPA, the Endangered Species Act, the National Marine Sanctuaries Act section 304(d), and the Marine Mammal Protection Act.

N. Sunken Military Craft

NOAA is also adding language regarding the Sunken Military Craft Act of 2004 (SMCA; Pub. L. 108-375, Title XIV, sections 1401 to 1408; 10 U.S.C. 113 note) that acknowledges that sunken military craft in the sanctuary will continue to be administered by the respective Secretary concerned pursuant to the SMCA. NOAA will enter into a Memorandum of Agreement with the appropriate agencies regarding collaboration on implementing the SMCA. See section *VI.H* for more information.

O. Emergency Regulations

NOAA is not including any sanctuary-specific regulation to allow for development of emergency regulations to address urgent threats to sanctuary resources. Rather, the emergency regulation provision included in the regulations of general applicability, which apply to all national marine sanctuaries (see 15 CFR 922.7), would also apply to Papahānaumokuākea National Marine Sanctuary. Emergency regulations are used when there is an imminent risk to sanctuary resources and a temporary regulation or prohibition is necessary to prevent or minimize the destruction or loss of those resources, or otherwise minimize the imminent risk of such destruction, loss, or injury.

P. Other Conforming Amendments

The regulations related to National Marine Sanctuary Permitting, 15 CFR part 922, subpart D, are amended so that the regulations are accurate and up-to-date. The modified sections to conform to adding a new sanctuary are as follows:

- Section 922.30 National Marine Sanctuary general permits;
- Section 922.33 Review procedures and evaluation; and
- Section 922.37 Appeals of permitting decisions.

Notably, NOAA amends 15 CFR 922.37 “Appeals of permitting decisions,” to reflect that the general appeals process for sanctuary permits will not apply to permit applications for the sanctuary. Consistent with the current interagency permitting system that has been in place for the Monument, there would be no appeals process for the sanctuary. Should a permit applicant want NOAA and the other agencies to reconsider a permitting decision, they would need to file a new permit application.

V. Response to Comments

All comments were considered by NOAA and the State and, where appropriate, modifications were made to the final EIS, sanctuary management plan, and sanctuary rule. NOAA and the State’s responses to comments address significant issues and concerns raised by members of the public, government agencies, stakeholder groups, non-profit organizations, and

Kānaka ‘Ōiwi community groups. For a full scope of all of the comments received on the draft designation documents, including the draft EIS and the draft management plan, and their responses, please review the final EIS Appendix K. This final rule includes NOAA’s responses to comments that address the significant issues raised in public comments within the scope of the proposed rule specifically, and offer additional information about why certain changes were made to the rule, the terms of designation, or the regulations. The final rule retains the numbering/naming of the comment from the final EIS Appendix K so readers can track the comments that have been included in this preamble and more efficiently find other related comments/responses in the Appendix K that have not been included in this preamble. As such, cross-references have been retained here for completeness.

1. A-1 Comment: The majority of comments NOAA received supported the proposed sanctuary designation, including Alternative 1 (NOAA’s Preferred Alternative), and encouraged NOAA to proceed with the designation process. Commenters who support the designation cited reasons including:

- Additional regulations, protections, enforcement, and programmatic and legal benefits for Papahānaumokuākea under the National Marine Sanctuaries Act;
- Enhancing long-term protections for biological, cultural, and historical resources;
- Comprehensive and coordinated management of the marine areas of Papahānaumokuākea;
- Preserving Native Hawaiian culture, traditional practices, sacredness of waters, and connections to place for current and future generations;
- Safeguarding marine biodiversity; coral reefs, pelagic, and deep-ocean ecosystems; and endemic, threatened, and endangered species;
- Regulating, mitigating, or preventing threats such as invasive species, overfishing, illegal fishing, deep-sea mining, military activities, pollution, oil spills, marine debris, erosion, and climate change;

- Additional sources of funding to support operations, research, emergency response, citizen science, education, and outreach; and
- Opportunities for recreation and tourism;

Response: NOAA agrees that these are some of the main benefits of designating the marine areas of the Monument as a national marine sanctuary. NOAA notes that many of these comments specifically indicate a preference for Alternative 1, and NOAA has considered this in carrying Alternative 1 forward in the final EIS as the Final Agency-Preferred Alternative.

2. A-2 Comment: A minority of commenters expressed opposition to sanctuary designation, citing concerns that designating a sanctuary:

- Is an overreach by the Federal government;
- Is an act of colonialism and/or infringes on the rights of Indigenous peoples;
- Would come at a cost to Native Hawaiian, American Samoan, and/or Pacific Islander well-being, including loss of the ability to practice cultural traditions and connections to ocean resources;
- Would limit access to the ocean and resources for food, livelihood, and cultural sustenance, and limit Indigenous rights and their ability to freely fish in local waters;
- Would decrease the amount of fishing waters across the Pacific;
- Would lead to overfishing;
- Adds unnecessary layers of bureaucracy, as the existing Monument management and protections are extensive and sufficient for the area, and that if new protections/management is needed, these should be enacted through the Monument;
- Would relinquish the Monument title and co-management framework;
- Would weaken current protections, and allow the Department of Commerce to violate protections, opening the doors to deep-sea mining and recreational tourism, and taking away human and financial resources needed to manage the area; and
- Would be redundant of current management of the Monument, and therefore

unnecessary. Some commenters also expressed that they felt current Monument management to be poor, or that current management capacity is lacking; and that a sanctuary would not improve this.

Response: Through the public sanctuary designation process, and from public input received during scoping and the proposed designation stage, NOAA has determined that this action responds to the need to address threats to and discrepancies in management of nationally significant resources. NOAA has also determined that the current management regime will benefit from additional regulatory tools, as well as the first set of implementing regulations for the MEA. Chapter 2 of the final EIS and Section I.B of the final rule preamble describes the purpose and need for the sanctuary.

NOAA respects the views of the commenters, including those who expressed concern that sanctuary designation is an overreach by the Federal government; is an act of colonialism; would impact the livelihood of Pacific Islanders and/or limit Indigenous rights. NOAA seeks to support the rights of Kānaka ‘Ōiwi and Pacific Islanders, and to support biocultural conservation and restoration work by growing collective kuleana and affirming respect and reciprocity for the place and people. The sanctuary management plan (final EIS Appendix A) objectives include managing the area as a sacred site consistent with Kānaka ‘Ōiwi traditional knowledge, management concepts, and principles articulated within [*Mai Ka Pō Mai*](#). Kānaka ‘Ōiwi culture is foundational in the co-management legacy of Papahānaumokuākea (see final EIS, sections 1.2.4 and 4.5.1), and the designation aims to ensure ecological integrity and achieve strong, long-term protection and perpetuation of Northwestern Hawaiian Island ecosystems, Kānaka ‘Ōiwi culture, and maritime heritage resources for current and future generations. Native Hawaiian access will continue under sanctuary designation. See also the responses to comments C.1, C.2, and E.7.

Regarding commenters who expressed concerns with the impact of sanctuary designation on the existing Monument, existing regulations, and or existing management of the area, see also the responses to E.1 and E.2. Regarding commenters who expressed concerns with the impact of

sanctuary designation on fishing, see also the comments D.1, D.3, and D.5. NOAA also recognizes that some comments raise concerns that are outside the scope of this designation, including the ongoing process to designate a proposed national marine sanctuary in the Pacific Remote Islands. The underlying concerns of these comments were still considered in the context of Papahānaumokuākea National Marine Sanctuary. Detailed responses to specific points of concern and opposition are addressed in the subsequent responses.

3. B-1 Comment: Commenters expressed opposition to for-profit activities in the sanctuary. One commenter recommended that no human activity should be allowed in the sanctuary.

Response: The sanctuary regulations were drafted to supplement and complement existing management of the area. The existing Monument management regime allows for some for-profit activities such as professional film-making, and activities such as wildlife management, research, and Native Hawaiian practices. All are subject to permitting requirements. Consistent with the existing management of the area, NOAA will allow for regulated access to the sanctuary for these types of activities. As in the Monument, in order to receive a permit for a regulated activity, a number of findings criteria need to be met, including that the proposed activity is conducted consistent with the primary objective of protection of sanctuary resources.

4. B-2 Comment: Commenters expressed concern regarding access to Papahānaumokuākea, noting that the area can currently only be experienced by a select group of scientists, Native Hawaiian cultural practitioners, and wealthy individuals.

Response: The sanctuary regulations and permit categories were drafted to supplement and complement existing management of the area. Consistent with the presidential proclamations designating the PMNM and MEA, and the Monument implementing regulations at 50 CFR part 404, NOAA will allow for regulated access. Anyone may apply for a permit to access the sanctuary. There are six categories of permitted activities: research, recreation, education, Native Hawaiian practices, conservation and management, and special use. In addition, a vessel may

pass without interruption through the sanctuary without requiring a permit as long as the vessel does not stop or engage in prohibited activities within the sanctuary.

Additionally, the sanctuary management plan describes strategies to engage and support diverse communities who care for Papahānaumokuākea, including Indigenous and underserved communities. NOAA recognizes the constraints imposed by the vastness and remote nature of the proposed sanctuary (nearly 300 miles at its closest point from the main Hawaiian Islands), and therefore strives to provide education and outreach that brings the place to the people.

Through the Mokupāpapa Discovery Center and collaborations with other interpretive centers, organizations, business agencies, and others, NOAA has expanded a network serving both local, regional, and international audiences.

5. B-3 Comment: Commenters provided recommendations that permits be easy to acquire through a streamlined process to minimize barriers and reduce redundant reviews under various authorities and regulations. One commenter suggested that the process to acquire a sanctuary or Monument Native Hawaiian practices permit, specifically, should be prioritized and streamlined.

Response: The Monument joint permitting process has been in place and permits have been issued by the co-trustees since 2007. The sanctuary includes a permitting system modeled after the existing Monument permitting system, and was developed to allow for integration with the Monument permitting system, to ensure continued joint permitting administered by Monument co-trustees. See final EIS Section 3.3.1 for an updated description of the permitting process.

Through sanctuary designation, NOAA strives to conduct seamless, integrated management, such that sanctuary permits, including Native Hawaiian practices permits, will go through the same streamlined process as currently exists for the Monument.

6. B-4 Comment: Commenters expressed concerns regarding activities that take place in the Northwestern Hawaiian Islands under claims of innocent passage, and requested that all activities in the area of the proposed sanctuary comply with the United Nations Convention on

the Law of the Sea, which the U.S. recognizes as customary international law, and applicable international treaties.

Response: In the preamble of the proposed rule, NOAA specified that the proposed access and ship reporting regulations would be applied in accordance with generally recognized principles of international law, in accordance with sections 305(a) and 307(k) of the NMSA and the NMSA Regulations of General Applicability at 15 CFR 922.1(b). That is, no regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States unless in accordance with generally recognized principles of international law. In accordance with 15 CFR 922.1(b), NOAA has long interpreted the text of NMSA Section 305(a) as encompassing international law, including customary international law.

In the preamble of this final rule, NOAA has clarified its intention that all regulations will be applied in accordance with generally recognized principles of international law, as well as in accordance with treaties, conventions, and other agreements to which the United States is a party.

7. B-5 Comment: A commenter provided a recommendation that the IMO's designation of the Monument as a PSSA apply to the MEA. The commenter also recommended that NOAA should determine, as part of the sanctuary designation process, if additional regulatory and management controls are necessary.

Response: The IMO process for designating an area as a PSSA is outside the scope of this action. If the U.S. Government determines at a future time that designation of some or all of the Monument as a PSSA is warranted, the IMO process would remain available. Through sanctuary designation, NOAA will implement the ship reporting system (CORAL SHIPREP), which was adopted by the IMO as an associated protective measure to the designation of the Monument as a PSSA. The ship reporting system's reporting area extends outward 10 nautical miles from the PSSA boundary, as designated by the IMO, and therefore includes some portions of the MEA waters. After thorough analysis, NOAA concluded that additional regulatory measures are not

necessary at this time, beyond the sanctuary regulations for ship reporting, access, and prohibited or otherwise regulated activities. Section IV.F of this final rule preamble provides details of the ship reporting system.

8. B-6 Comment: Commenters expressed support for access for recreational activities, including snorkeling and scuba diving; and allowing opportunities for the public to interact with Papahānaumokuākea in a safe and responsible manner. Commenters stated that allowing access for recreational activities may lead to increased awareness and support for the National Marine Sanctuary System. Commenters also provided recommendations for regulating recreational activities.

Other commenters expressed concern for the potential negative impacts to resources from allowing visitation, recreation, and tourism activities in the sanctuary, specifically Midway Atoll. A few commenters opposed recreational access to the sanctuary, noting that access should be limited to research and conservation activities and/or to the Midway Atoll Special Management Area.

Response: For the sanctuary, consistent with existing regulations for PMNM, recreational activity will be defined as activities conducted for personal enjoyment that do not result in the extraction of sanctuary resources and that do not involve a fee-for-service transaction. This includes, but is not limited to, wildlife viewing, scuba diving, snorkeling, and boating. Recreation can provide significant educational opportunities, build constituencies, and provide assistance to natural resource managers. However, these activities can also lead to wildlife disturbance, habitat degradation, and pollution. It is a goal of the Monument to prevent, avoid, or minimize negative human impacts associated with recreation by allowing access only for those activities that do not threaten the natural character or biological integrity of the Monument or Native Hawaiian cultural, historic, or maritime heritage resources.

Midway Atoll Special Management Area is the only area of the Monument where recreational activities are permitted. Thus, while the sanctuary will allow for recreational

activities via a permit, permits will only be issued for the Midway Atoll Special Management Area within the sanctuary, in coordination with the Monument Management Board and consistent with permitting for the existing Monument. Consistent with permit criteria for recreational activities within the Monument, recreation permits will not be issued for activities associated with any for-hire operation or for activities that involve extractive use.

9. B-7 Comment: Commenters expressed support for allowing a fee-for-service transaction for public visitation and recreational activities at Midway Atoll National Wildlife Refuge, and pointed out the existing authority of the USFWS to charge fees for public visitation. Commenters requested that the EIS recognize the authority of the USFWS to charge fees for services.

Response: Consistent with existing permit criteria and regulations for recreational activities within the Monument, recreation permits will not be issued for activities associated with any for-hire operation, and recreational activities are defined as activities conducted for personal enjoyment that do not result in the extraction of sanctuary resources and that do not involve a fee-for-service transaction. However, NOAA acknowledges that the USFWS has the authority to charge fees for services including public visitation (50 CFR Part 25 Subpart E; [Refuge Rules and Policies](#)). Sanctuary designation will not change this authority, and the USFWS will still be able to charge fees for services, including public visitation to Midway Atoll. See also the response to E.3.

The EIS has been revised to acknowledge that the USFWS has the authority to charge fees for services including public visitation. See sections 3.2 and 4.6.2 of the final EIS.

10. B-8 Comment: Commenters requested that the USFWS consider a visitation program at Midway Atoll; and/or expressed support for recreation and visitation to Midway Atoll. Comments also requested that the final EIS describe the sanctuary permit process for public visitation and recreational activities at Midway Atoll National Wildlife Refuge.

Response: A visitation program to Midway Atoll is outside the scope of this action. NOAA will share these comments with the USFWS, a cooperating agency for this action, who has operated a

Visitor Services Program for Midway Atoll. The USFWS' Midway Atoll Comprehensive Master Plan (2022) affirms the goals, objectives, and strategies of the previous 2008 Midway Atoll Visitor Services Plan, and USFWS' intent to implement a Visitor Services Program.

11. B-9 Comment: A commenter suggested that standards for permitting should be strengthened significantly, prioritizing Native Hawaiian practices without opening the door to other types of activities.

Response: Consistent with the presidential proclamations designating PMNM and the MEA, and PMNM implementing regulations at 50 CFR part 404, NOAA will allow for regulated access to the sanctuary. The sanctuary regulations include a permitting system modeled after the existing Monument permitting system, which was developed to allow for integration with the Monument permitting system to ensure continued joint permitting administered by the Monument Management Board (MMB). The final rule adopts the same permit criteria as currently required for Monument permits, including the additional criteria for Native Hawaiian practices and recreation permits. For additional information regarding Native Hawaiian practices permitting, see the responses to B.14 and C.1.

12. B-10 Comment: Commenters recommended that NOAA hold mandatory public hearings for all permit applications, that there should be a permanent public record for all permits granted, and that there should be no multiple-year permits allowed.

Response: The sanctuary regulations include a permitting system modeled after the existing Monument permitting system, and was developed to allow for integration with the Monument permitting system to ensure continued joint permitting administered by MMB. Therefore, NOAA intends to continue with the existing public notification process for the Monument, which does not include mandatory public hearings for all permit applicants. Instead, the existing permit system for the Monument includes a [*Permit Application Unified Public Notification Policy*](#) to engage and inform the public of activities proposed to occur within the Monument. Posting of a permit application does not equate to permit approval. After posting, each application is

thoroughly reviewed by the MMB. Final permitted activities may differ from the proposed activities. Some of the public notification practices for the existing Monument include:

- Within 10 calendar days of receipt of an application, a summary of an applicant's proposed activities is posted for public viewing.
- Within 40 calendar days of receipt of an application, a full permit application is posted for public viewing.
- Permit applications that include proposed activities within the Northwestern Hawaiian Islands State Marine Refuge are also posted to the Board of Land and Natural Resources (BLNR) website for seven days prior to the scheduled BLNR meeting as part of the overall BLNR submittal process. The BLNR hearings and review process are open to the public.

All information provided in the application is reviewed by the Monument co-trustees to evaluate the potential benefits of the activity, determine whether the proposed methods will achieve the proposed results, evaluate any possible detrimental environmental impacts, and determine if issuance of a permit is appropriate. Factored in is a consideration of whether the timeframe of the proposed action is appropriate. Actions occurring within State waters are subject to a maximum permit duration of one year, while multi-year permits may only be issued outside of State waters. Therefore, consistent with existing management, multi-year permits may be granted in areas of the sanctuary that do not overlap with state waters.

Additionally, permits granted are documented within an annual permitted activities report, published by the Monument. Reports for previous years may be viewed on the Permitted Activities Annual Reports [website](#).

13. B-11 Comment: Commenters recommended that independent cumulative impact assessments be required for all permit applications.

Response: Permit decisions are Federal actions which are subject to NEPA, 42 U.S.C. 4321 *et seq.* In accordance with NEPA, NOAA considers possible cumulative environmental impacts when considering Federal actions, including a decision of whether to issue a permit.

14. B-12 Comment: Commenters expressed concern that a special use permit would introduce commercial activities.

Response: In the Monument, some forms of commercial activity are currently permitted under special ocean use permits. The existing regulations at 50 CFR 404 for PMNM include permit criteria and regulations for special ocean use, which means an activity or use of the Monument that is engaged in to generate revenue or profits for one or more of the persons associated with the activity or use, and does not destroy, cause the loss of, or injure Monument resources. This includes ocean-based ecotourism and other activities such as educational and research activities that are engaged in to generate revenue, but does not include commercial fishing.

Likewise, before issuing a SUP in the sanctuary, NOAA will also ensure, among other things, that the requested activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources, and is conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources (16 U.S.C. 1441(c)). NOAA can place conditions on SUPs specific to the activity being permitted. Individual permit applications that would require a SUP are also reviewed with respect to all other pertinent regulations and statutes, including NEPA (42 U.S.C. 4321 *et seq.*), and any required consultations, permits, or authorizations. Accordingly, there are sufficient safeguards in place for any activity proposed for a SUP in the sanctuary, whether of a commercial or non-commercial nature.

In addition, NOAA is not proposing any new SUP categories as part of this designation. In order to do so, NOAA would be required to provide appropriate public notice before identifying a new category of activity subject to a SUP (16 U.S.C. 1441(b)).

15. B-13 Comment: Commenters asked why the sanctuary permit would not allow for appeals of permit decisions.

Response: The permitting system for the sanctuary is modeled after the existing Monument permitting system. The permitting system would not supplant the joint permitting system for the Monument, and was developed to ensure a continued joint permitting system administered by the MMB. The existing permit system for the Monument does not include a process to appeal a permit decision. Instead, a permit applicant may seek reconsideration of a permitting decision by filing a new permit application that redresses the issue(s) in the initial application that caused the denial. To ensure consistency with the existing permit system for the Monument, the National Marine Sanctuary Program regulations at 15 CFR 922.37 for appeals of permitting decisions will not apply to Papahānaumokuākea National Marine Sanctuary. This will ensure that permit decisions are not made solely by NOAA, but in consideration with the other Monument co-trustees. See the final EIS, Section 3.3.1 and Section IV.P of this final rule for discussion of appeals of permitting decisions.

16. B-14 Comment: A commenter stated that the proposed rule’s definition of “Native Hawaiian Practices” provides a solid foundation, but is concerned that “Native Hawaiian” is not defined. The commenter requested that the definition should narrowly reference indigenous practices and only those practices of the kānaka maoli, who lived and thrived in Hawai‘i prior to European and American arrival.

Response: NOAA will not define “Native Hawaiian” in the sanctuary regulations because the issuance of Native Hawaiian practices permit is based on evaluating the activity against the permit criteria. To be consistent with the types of activities permitted for the Monument, and allow for an integrated permit process, NOAA will issue Native Hawaiian practices permits based on the same permit review procedures and additional evaluation criteria as those used for the Monument:

- The activity is non-commercial and will not involve the sale of any organism or material collected;

- The purpose and intent of the activity is appropriate and deemed necessary by traditional standards in the Native Hawaiian culture (pono), and demonstrates an understanding of, and background in, the traditional practice and its associated values and protocols;
- The activity benefits the resources of the Northwestern Hawaiian Islands and the Native Hawaiian community;
- The activity supports or advances the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the Northwestern Hawaiian Islands; and
- Any living sanctuary resource harvested under this permit will be consumed or utilized in the sanctuary.

The permitting system for the sanctuary is modeled after the existing Monument permitting system. The permitting system will not supplant the joint permitting system for the Monument, and was developed to ensure a continued joint permitting system administered by the MMB. The existing permit system for the Monument does not define Native Hawaiian, and instead provides a specific set of findings criteria for a Native Hawaiian practice permit. The criteria for the Monument Native Hawaiian practice permit were developed following a workshop in 2004 facilitated by Kia'i Kai, a graduate program at the Kamakakūokalani Center for Hawaiian Studies at the University of Hawai'i at Mānoa, collecting input from Native Hawaiian cultural practitioners, fishermen, and others to create criteria for culturally-appropriate activities in Papahānaumokuākea. Presidential Proclamation 8031 subsequently applied these criteria in providing for additional findings for Native Hawaiian practice permits, as did the Monument's implementing regulations at 50 CFR part 404.

However, while Native Hawaiian is not defined in the regulations, the final EIS, recognizes a definition for the term Native Hawaiian per existing Federal law as important background information for the reader. See also the response to C.8.

17. B-15 Comment: Commenters requested that wind turbine activity, in addition to mining and exploratory activities related to energy development, be prohibited.

Response: Consistent with the presidential proclamations establishing the Monument, NOAA will prohibit exploring for, developing, or producing oil, gas, or minerals to protect sanctuary resources. NOAA will also prohibit “any energy development activities” to further the underlying intent of the prohibition on oil, gas, and mineral development by accounting for technological advances in other forms of energy development. This includes, but is not limited to, wind turbines and exploratory mining activity.

18. B-16 Comment: Commenters requested that submarine activity be prohibited, with several comments specifically requesting prohibitions on military submarine use.

Response: Access to the sanctuary, and therefore submarine use within the sanctuary, would be prohibited and thus unlawful except under the following circumstances: for emergency response actions, law enforcement activities, and activities and exercises of the Armed Forces; pursuant to a sanctuary permit; when conducting scientific exploration or research activities by or for the Secretary of Commerce and/or the Secretary of the Interior in the Outer Sanctuary Zone; and when passing through the sanctuary without interruption. Further, all regulations will be applied in accordance with generally recognized principles of international law, as well as in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law, or applicable treaties, conventions, and other agreements.

The sanctuary regulations allow activities and exercises of the U.S. Armed Forces. This is consistent with the existing management of the Monument, as both Presidential Proclamation 8031 and Presidential Proclamation 9478 provided broad exemptions for activities of the U.S. Armed Forces. However, all activities and exercises of the Armed Forces must be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on sanctuary resources and qualities.

19. B-17 Comment: Commenters expressed concern regarding the potential spread of invasive species and diseases from vessel transit and biofouling, and requests that the prohibition on introducing invasive species apply to all vessels, including those passing without interruption.

Response: The sanctuary regulations will prohibit introducing or otherwise releasing an introduced species from within or into the sanctuary. The sanctuary regulations would also prohibit discharging or depositing any material or other matter into the sanctuary. These prohibitions are consistent with prohibitions identified in the presidential proclamations establishing the Monument. These prohibitions would apply to all vessels, including those passing without interruption. A vessel may only pass without interruption through the sanctuary without requiring a permit, as long as the vessel does not stop or engage in prohibited activities within the sanctuary.

20. B-18 Comment: Commenters stated that the provisions of Presidential Proclamation 8031, 50 CFR 404, Executive Order 13178 for the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, and the State of Hawai'i Northwestern Islands Marine Refuge should be applied to the sanctuary regulations for the Monument Expansion Area and the full sanctuary, and specifically the prohibitions regarding fishing. Commenters also stated that Presidential Proclamation 9478 is too weak and provides "loopholes."

Response: In drafting the sanctuary regulations, NOAA reviewed the executive orders, presidential proclamations, and regulations that currently guide Monument management. NOAA adopted the management measures from these benchmarks, and, in a few areas, added to those measures to allow for consistency in regulation and management across the sanctuary. The sanctuary regulations are largely consistent with Executive Order 13178, establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve). Where the sanctuary regulations do not align with Executive Order 13178, the regulations comply with other applicable law including Presidential Proclamations 8031 and 9478 establishing PMNM and MEA, respectively, which succeeded the 2000 executive order establishing the Reserve. For

example, while Executive Order 13178 sets caps on commercial fishing, the sanctuary regulations prohibit commercial fishing across the sanctuary, consistent with the presidential proclamations. In addition, the MEA's location outside the reserve, and other applicable law for that area such as Presidential Proclamation 9478, account for differences in management, including for non-commercial fishing.

NOAA also considered that while the Monument is managed as a unit, several State and Federal conservation areas exist within it, where specific authorities apply. For example, the State of Hawai'i has primary responsibility for managing the State waters of the Monument, including the State of Hawai'i Northwestern Islands Marine Refuge. These existing authorities will still remain in effect. The State of Hawai'i also served as a cooperating agency for the EIS, allowing consideration and input into the draft documents. Further, as the sanctuary overlaps with State waters, the State will co-manage the sanctuary with NOAA, and the governor of Hawai'i will also review NOAA's designation documents before the sanctuary designation is final.

21. B-19 Comment: A commenter expressed support for the prohibition on altering the seabed by modification or placement of materials, except for scientific instruments, providing new protections for the limited and sensitive habitats of the Outer Sanctuary Zone. The commenter noted that access through permitting would allow managers to review methodologies and monitor permittees, and that while minimal user contact with the seafloor occurs or is anticipated in the Outer Sanctuary Zone, these resources are rare and extremely vulnerable to disturbance.

Response: NOAA agrees. In the MEA, Presidential Proclamation 9478 prohibits this type of activity, except for when conducted for the use of scientific instruments, which is allowed only with a permit, subject to such terms and conditions as the Secretaries of Commerce and Interior deem appropriate. Therefore, in the sanctuary, these activities are prohibited unless conducted pursuant to a sanctuary permit, and in the Outer Sanctuary Zone, such a permit may only be issued for scientific instruments.

22. B-20 Comment: A commenter expressed concern for the prohibition on anchoring a vessel, noting that for safety reasons, there are some scenarios when a vessel should be able to anchor.

Response: Anchoring a vessel is prohibited unless conducted pursuant to a sanctuary permit.

While this activity may be permitted via a sanctuary permit, anchoring on living or dead coral may never be permitted. NOAA will regulate anchoring a vessel for consistency with a regulated activity identified in Presidential Proclamation 8031 for PMNM and because there is the potential for sanctuary resources, other than corals, to be impacted by anchoring. This prohibition is new for the area of the sanctuary that overlaps with the MEA. NOAA recognizes that there may be scenarios where anchoring a vessel is necessary for safety. Consistent with existing management of this area, the prohibitions for the sanctuary, including the prohibitions on anchoring, will not apply to any activity necessary to respond to emergencies that threaten life, property, or the environment, or to activities necessary for law enforcement purposes.

23. B-21 Comment: Commenters expressed concerns regarding the sufficiency of enforcement in the sanctuary and the need for improved monitoring and enforcement to protect sanctuary resources. Some commenters specifically pointed out the need for increased monitoring of pollution to prevent entanglement of marine life. Suggestions and recommendations included improved or expanded monitoring and surveillance, use of technology to aid enforcement including Automatic Information Service and satellite monitoring, promulgation of strict regulations, dedicated funding, a risk assessment framework for vulnerable ecosystems, and increased collaboration with the National Environmental Satellite, Data, and Information Service and the State of Hawai‘i for satellite management. Commenters also requested that enforcement be conducted by traditional vessels or new technologies to eliminate noise pollution that may impact marine life.

Response: With sanctuary designation, the NMSA provides various regulatory tools and authorities for the protection of sanctuary resources. This includes the authority to conduct enforcement activities; assess civil penalties for violations of sanctuary regulations or permits;

impose liability for destruction, loss of, or injury to sanctuary resources and provide natural resource damage assessment authorities for destruction, loss of, or injury to any sanctuary resource; and issue emergency response regulations. In addition, consistent with the existing management of the Monument, the sanctuary implements regulations requiring VMS units for an owner or operator of a vessel that has been issued a permit, as well as a ship reporting system for vessels that pass without interruption through the reporting areas. Both regulatory tools are intended to increase monitoring, in order to assist enforcement activities by the U.S. Coast Guard and NOAA's Office of Law Enforcement and further the protection of sanctuary resources. Additionally, as described in the sanctuary management plan (final EIS, Appendix A), NOAA will continue to monitor ecosystems and seek out and develop new tools and technologies for resource protection and monitoring (Strategy 1.2, Strategy 2.2, Strategy 2.3); and to work with the existing interagency Law Enforcement Coordination Team to enhance communication and coordination among enforcement personnel in order to facilitate responses to incidents and uphold sanctuary regulations and policies (Strategy 1.9).

NOAA will continue to actively work and advocate inside the ecosystem protection framework established for the Monument to minimize risks and damages to sanctuary resources. For example, ongoing research aims to identify derelict fishing gear and other marine debris through unique spectral signatures that can be visualized from space to record locations and provide that information back to partners for removal. This technology has the potential to greatly reduce the effort to locate these hazards so that they can be removed from the environment. Some broad risk assessment investigations have been conducted by the Monument co-trustees (e.g., the Papahānaumokuākea Marine National Monument Climate Change Vulnerability Analysis (2014)), however, much more remains to be done. Challenges include the vast geographic extent of ecosystems and seasonal access limitations. Conducting such assessments will require substantial time, as well as the participation of all Monument co-trustee agencies.

Regarding reducing noise pollution from vessels to minimize wildlife disturbances, uncrewed surface vehicle (USV) technology is constantly improving and NOAA is exploring ways to utilize sail drones and other vessel systems in order to maintain a physical presence in sanctuary waters without having to dedicate staffed assets. These uncrewed platforms can utilize satellites to transmit location, vessel identification, and photographic evidence back to law enforcement officials in order to expand the geographic capacity of their limited resources.

24. B-22 Comment: Commenters recommended harsh penalties for those who violate the regulations, including requests for permit violators to be banned from receiving future permits.

Response: The NMSA authorizes NOAA to assess civil penalties for violations of provisions of the NMSA, including sanctuary regulations and permits. Each violation of the NMSA, any NMSA regulation, or any permit issued pursuant thereto, is subject to a civil penalty. Each day of a continuing violation constitutes a separate violation. The NMSA has a statutory maximum of \$216,972 per violation, per the December 27, 2023 annual adjustment for inflation (see 88 Federal Register 89300).

Additionally, the NMSA regulations provide a list of findings, in addition to site-specific permit review criteria, which must be made before issuing a permit, such as whether the activity will be compatible with the primary objective of protection of sanctuary resources and qualities. The NMSA regulations also provide for the denial of a permit application based on various determinations, including that the applicant has acted in violation of the terms and conditions of a permit in a sanctuary in which the proposed activity is to take place, or has acted in violation of any sanctuary regulation, or for other good cause.

25. C-1 Comment: Commenters expressed support for Native Hawaiian rights, including statements that access to the sanctuary should be allowed for Native Hawaiians to connect with ancestors and ‘āina and to perpetuate cultural practices based on pilina (relationships), kuleana (responsibilities), and genealogical connections to Papahānaumokuākea. This includes voyaging, which is vital for health, well-being, and in keeping Hawaiian culture and language alive.

Commenters also stated that the allowance of Native Hawaiian traditional and customary practices should not be diminished or limited through sanctuary designation.

Response: NOAA recognizes the importance of Native Hawaiians' access to the sanctuary.

Consistent with the presidential proclamations designating the Monument, NOAA will allow for regulated access to the sanctuary. Access will continue through a permit process. The sanctuary includes a permitting system modeled after the existing Monument permitting system, and was developed to allow for integration with the Monument permitting system, to ensure continued joint permitting administered by the MMB. The sanctuary has adopted the same permit criteria as currently required for the Monument, including for Native Hawaiian practices permits. See also the response to B.14.

The criteria for the Monument Native Hawaiian practices permit were developed following a workshop in 2004 facilitated by Kia'i Kai, a graduate program at the Kamakūokalani Center for Hawaiian Studies at the University of Hawai'i at Mānoa, collecting input from Kānaka 'Ōiwi cultural practitioners, fishermen, and others to create criteria for culturally-appropriate activities in Papahānaumokuākea. For more than 20 years, the Papahānaumokuākea Native Hawaiian Cultural Working Group (CWG) has provided guidance and advice. The CWG is a group of Kānaka 'Ōiwi kūpuna (elders), researchers, cultural practitioners, educators, and community members that have deep connections and historical ties to Papahānaumokuākea through a living pilina (relationship), bound by genealogy, cultural protocols, and values building contemporary multi-disciplinary research and practice. Although the group is not a formalized advisory body, the CWG and many of its members have been involved for over two decades since the establishment of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve in 2000, and provide an important Kānaka 'Ōiwi perspective that continues to inform Monument management. Since 2007, there have been 34 Native Hawaiian practices permits issued to perpetuate cultural practices ranging from traditional voyaging navigator apprenticeship and training, Hawaiian-led archaeological and cultural resource

research, integrated cultural and scientific ecosystem monitoring, resource gathering including bird feathers/bones, and subsistence harvesting of fish, algae, and invertebrates. The growing number of Native Hawaiian permits submitted and issued provides significant support for and interest in conducting Hawaiian cultural practices, with at least eight ongoing cultural initiatives occurring on 27 separate expeditions.

26. C-7 Comment: A commenter expressed concern that the findings of the Cultural Impact Assessment *E Hoi I Ke Au A Kanaloa* were not integrated in the draft EIS and the Western Pacific Regional Fishery Management Council's (WPRFMC) draft fishing regulations.

Response: Findings of the Cultural Impact Assessment *E Hoi I Ke Au A Kanaloa* relating to the sanctuary proposal were addressed in Section 2.3.2, and more extensively in Chapter 5, of the draft EIS. NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA. Therefore, development and analysis of non-commercial fishing regulations for the MEA is not part of this action and was not analyzed in the draft or final EIS. NOAA and the State encourage commenters to participate in the future public review process for non-commercial fishing regulations in the MEA under the authority of the MSA, and any associated NEPA and/or other environmental compliance documentation.

27. C-8 Comment: A commenter expressed concern that "Native Hawaiian" is not defined. The commenter recommended the following language and definition be adopted and integrated into the final EIS: Native Hawaiian is defined as "any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai'i." The commenter also recommended the incorporation of other self-identification names, including but not limited to Kānaka Maoli, Kānaka 'Ōiwi, and indigenous peoples or indigenous Native Hawaiians.

Response: In the final EIS, NOAA recognizes a definition for the term Native Hawaiian as it is commonly defined per existing Federal law as any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now

constitutes the State of Hawai‘i. See Section 1.2.4. Throughout the EIS, NOAA also uses Kānaka ‘Ōiwi and/or Kānaka Maoli as terms that refer to Native Hawaiians.

28. D-1 Comment: Commenters expressed opposition to any new fishing closures, citing reasons that included:

- Fishing becomes more difficult and expensive for fishermen, including the Hawai‘i longline fishery. The small boat fishing industry will slowly go away;
- No scientific evidence that large marine reserves provide conservation benefits to fish stocks;
- Fishing areas should be managed under Magnuson-Stevens Fishery Conservation and Management Act (MSA), and closures do not support MSA Standard 1: Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry;
- Fishing closures do not meet the administration's mandate for equity and justice for underserved communities;
- Fishing closures affect food security and well-being of Native Hawaiians;
- Intergenerational transmission of fishing traditions will be impeded or lost;
- Native Hawaiians should be able to fish for food; and
- Sanctuaries and fishing should be able to coexist.

Response: NOAA is not establishing any new fishing closures through sanctuary designation.

The sanctuary regulations regarding commercial and non-commercial fishing are consistent with the existing Monument and its management of the area. The presidential proclamations establishing the Monument broadly restrict the harvest of fishery resources by prohibiting removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving Monument resource, as well as attempts to do the same, except as may be allowed with a permit. Presidential Proclamations 8031 and 9478 further specify prohibitions on commercial fishing and the possession of commercial fishing gear. The presidential proclamations also

identify certain types of non-commercial fishing that may be regulated (i.e., allowed pursuant to a permit or incidental to a permitted activity). Presidential Proclamation 8031, for example, authorizes sustenance fishing incidental to an activity permitted in PMNM. Presidential Proclamation 9478, for example, provides that non-commercial fishing is a regulated activity (i.e., allowed only with a permit) in the MEA.

In the sanctuary, the fishing regulations included in the final rule are consistent with Presidential Proclamation 9478 and the existing management of the area. This includes prohibiting commercial fishing and regulating non-commercial fishing pursuant to a sanctuary permit or authorized under the MSA in the Outer Sanctuary Zone. The final rule provides the first set of implementing regulation consistent with directives in Presidential Proclamation 9478, which has the force of law.

29. D-2 Comment: Commenters provided suggestions and recommendations that appropriately regulated and monitored commercial fishing, including longline fishing and trolling, should be allowed in the sanctuary, as well as the “small boat community.” One commenter stated that regulated traditional small boat fisheries should have a place. One commenter also inquired whether opportunities/mechanisms for future re-evaluation and allowance of commercial fishing in the sanctuary exist. One commenter also stated that there should be fishing line limits to reduce overfishing.

Response: In the sanctuary, fishing regulations are consistent with existing applicable law in the Monument. Existing applicable law in the area of the sanctuary prohibits commercial fishing. Presidential Proclamation 8031, and its implementing regulations at 50 CFR part 404, prohibits commercial fishing for bottomfish and associated pelagic species in the Monument after June 15, 2011. Presidential Proclamation 9478 also prohibits commercial fishing in the MEA. Therefore, any consideration of regulations allowing commercial fishing in the sanctuary would not alter existing fishing prohibitions in the area. See the response to D.1 for more detail.

30. D-3 Comment: Commenters expressed opposition to allowing commercial fishing in Papahānaumokuākea.

Response: For consistency with existing regulations and the presidential proclamations establishing the Monument, regulations include a sanctuary-wide prohibition on commercial fishing. See also the responses to D.1 and D.2.

31. D-4 Comment: Commenters requested increased support for monitoring and enforcing fishing prohibitions, and requesting that international fishing vessels be prohibited.

Response: Existing applicable law in the area of the sanctuary prohibits commercial fishing. NOAA and the State agree that monitoring and enforcement of fishing prohibitions is critical to protecting sanctuary resources. NOAA's Office of Law Enforcement and the U.S. Coast Guard support enforcement efforts across the National Marine Sanctuary System. To assist in this coordinated effort for Monument enforcement, ONMS facilitates a Monument Law Enforcement Coordination Team which is composed of law enforcement representatives from NOAA, USFWS, U.S. Coast Guard, and Hawai'i Division of Conservation and Resource Enforcement. This group meets regularly to coordinate joint enforcement efforts in the Monument.

The designation of a national marine sanctuary provides the first set of implementing regulations for the directives in Presidential Proclamation 9478, including the prohibition on commercial fishing and regulation on non-commercial fishing. By establishing these new implementing regulations, NOAA will have new tools for enforcement, including the enforcement of fishing regulations. Sanctuary designation imparts a specific set of new benefits afforded by the NMSA, including the authorization to assess civil penalties for violations of the NMSA, including sanctuary regulations and permits.

Additionally, foreign fishing has remained prohibited in U.S. waters since the introduction of the Magnuson-Stevens Fishery Conservation and Management Act of 1976. This prohibition was enacted on February 28, 1977 and remains in effect today with limited

exceptions related to international fishery agreements that predated the MSA. There are no such allowances for foreign fishing activities within the U.S. EEZ that surrounds Hawai‘i.

Regarding monitoring, see also the responses to B.21 and K.2.

32. D-5 Comment: Commenters expressed opposition to allowing non-commercial fishing and to the exemption (for non-commercial fishing in the MEA) in the proposed sanctuary rule, based upon biological, cultural, or co-management considerations. Out of concern for the proposed exemption of non-commercial fishing permits, one commenter suggested that non-commercial fishing permits should only be rarely granted, and carry strict catch limits.

Response: The presidential proclamations that established the Monument (8031 and 9478) served as benchmarks for drafting regulations for the sanctuary. The presidential proclamations identify certain types of non-commercial fishing that may be regulated (i.e., allowed pursuant to a permit or incidental to a permitted activity). Presidential Proclamation 8031 authorizes sustenance fishing incidental to an activity permitted in PMNM. Presidential Proclamation 9478 provides that non-commercial fishing is a regulated activity (i.e., allowed only with a permit) in the MEA, provided that the fish harvested, either in whole or in part, cannot enter commerce through sale, barter, or trade, and that the resource is managed sustainably. In the sanctuary, for consistency with the proclamations, “non-commercial fishing” is prohibited unless conducted pursuant to a sanctuary permit or through an exemption for non-commercial fishing authorized under the MSA in the Outer Sanctuary Zone (the area that overlaps with the MEA).

In response to comments of concern for this exemption, NOAA has made changes to the exemption for non-commercial fishing to ensure that a non-commercial fishing permit authorized under the MSA is only exempt from a limited subset of prohibited or otherwise regulated activities, and that these exempted activities are only conducted as incidental to and necessary to a lawful non-commercial fishing activity. NOAA has also clarified that this narrow exemption from the sanctuary’s permitting requirements is only applicable provided that the fish harvested, either in whole or in part, are neither intended to enter commerce nor enter commerce through

sale, barter, or trade and that the resource is managed sustainably, consistent with Presidential Proclamation 9478. Moreover, for the exemption to apply, the fish harvested, either in whole or in part, must not be intended to be sold and shall not be sold for any purposes, including, but not limited to, cost-recovery. Corresponding changes have been made in the final EIS Section 3.3.1.

NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, and will invite the public to provide comments on the proposed non-commercial fishing regulations for the MEA. NOAA and the State encourage commenters to participate in the future public review process for non-commercial fishing regulations in the MEA under the authority of the MSA, including on the issuance of permits and catch limits, as those are outside the scope of this action.

33. D-6 Comment: Some commenters stated that fishing should not be restricted for Native Hawaiians and Indigenous populations and/or cultural practices. One commenter emphasized that it is culturally important to be able to bring fish home to share with family.

Response: Consistent with the existing management of the Monument and the proclamations that established the Monument, NOAA would continue to allow for regulated access to the sanctuary. Kānaka ‘Ōiwi and Indigenous communities may apply for a permit to fish within the sanctuary. For consistency with the proclamations that established the Monument, “non-commercial fishing” is prohibited in the Sanctuary unless conducted pursuant to a sanctuary permit or authorized under the MSA in the Outer Sanctuary Zone. See the response to D.5. In the Outer Sanctuary Zone, the sanctuary regulations will not restrict the sharing of fish from non-commercial fishing activities authorized under the MSA.

34. D-7 Comment: A commenter requested that sustenance fishing be the only form of fishing allowed in the proposed sanctuary; and that there be a requirement that fish caught be consumed within the sanctuary, and not taken outside of the sanctuary. Others requested that sustenance fishing be allowed conditionally. Suggested conditions include by location; by permit type, and by sustainability criteria: 1) the activity must be “pono;” 2) the activity must benefit the

resources of the Northwestern Hawaiian Islands and the Native Hawaiian community; and 3) any resource harvested from the Monument must be consumed in the Monument. Finally, one commenter supported defining sustenance fishing as a Native Hawaiian practice.

Response: Sustenance fishing is currently allowed incidental to an activity permitted in PMNM, pursuant to Presidential Proclamation 8031, and the implementing regulations at 50 CFR part 404. Sustenance fishing was not specifically identified in Presidential Proclamation 9478 governing the MEA, but is considered a form of non-commercial fishing which may be regulated. For consistency in management and permitting, NOAA will manage this activity as a term or condition of a general permit or special use permit for the sanctuary, outside of any special preservation area. NOAA's sanctuary permit will follow the conditions of the existing Monument permitting system, including the considerations that sustenance fishing must be conducted only for the purpose of providing sustenance in support of activities otherwise allowed under an established permit and that the harvested resource must be consumed within the Monument.

In the Outer Sanctuary Zone, other types of non-commercial fishing may be allowed, consistent with the proper care and management of sanctuary resources and monument objects. Sanctuary designation provides the first set of implementing regulations for many of the directives in Presidential Proclamation 9478, including the regulation of non-commercial fishing in the MEA. Presidential Proclamation 9478 stated that non-commercial fishing may be regulated "provided that the fish harvested, either in whole or in part, cannot enter commerce through sale, barter, or trade, and that the resource is managed sustainably." Consistent with this proclamation, some forms of non-commercial fishing beyond sustenance fishing may be allowed in the MEA/Outer Sanctuary Zone.

NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, and will invite the public to provide comments on the

proposed non-commercial fishing regulations for the MEA. NOAA and the State encourage commenters to participate during that process.

35. D-8 Comment: Some commenters suggested that only subsistence fishing be allowed in the proposed sanctuary.

Response: In State of Hawai‘i waters, extending three miles seaward of any coastline (excluding Midway Atoll), Native Hawaiian subsistence fishing, as defined by the State of Hawai‘i, may be allowed. NOAA acknowledges that the Monument’s managing agencies define sustenance and/or subsistence fishing in different ways. Regardless, in PMNM, all fish caught shall be consumed within the Monument. Within the sanctuary, sustenance fishing would continue to be allowed (outside of the special preservation areas) to provide sustenance in support of activities otherwise allowed under an established permit.

36. D-9 Comment: Commenters asked why regulations have not been issued for the MEA to manage non-commercial fishing.

Response: President Obama issued Presidential Proclamation 9478 on August 31, 2016, which established the MEA. On September 23, 2016, NOAA Fisheries requested that the Western Pacific Regional Fishery Management Council (WPRFMC) develop recommendations to establish fishing regulations under the MSA, including the prohibition on commercial fishing and the regulation of non-commercial fishing within the MEA. However, no further action was taken by the WPRFMC in response to Presidential Proclamation 9478 at that time. NOAA cannot speculate as to why WPRFMC decided not to take action at that time.

NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA to reflect the outcome of the WPRFMC recommendation and the NMSA Section 304(a)(5) process. Appendix C to the final EIS provides further details of this consultation process.

37. D-10 Comment: Commenters expressed concern regarding the exemption of non-commercial fishing in the MEA, and that the issuance of non-commercial fishing permits will

open the door to other types of fishing in Papahānaumokuākea. Commenters also expressed concern that a sanctuary designation would remove existing protections that prohibit various forms of fishing. One commenter recommended removing the exemption of non-commercial fishing to allow for more dialogue with the Native Hawaiian community.

Response: See the responses to D.5 and F.4. Sanctuary designation does not remove any existing protections that prohibit fishing. For consistency with the presidential proclamations establishing the Monument and the regulations at 50 CFR part 404, the sanctuary regulations will authorize limited forms of fishing.

38. D-11 Comment: Commenters expressed support for allowing recreational fishing, to sustain the community and to allow for cultural and traditional practices. One commenter recommended that recreational fishing be monitored and regulated; that recreational fishers be required to attend courses to receive permits; and that NOAA and the State of Hawai‘i update methods of data collection for recreational fishing. Another commenter suggested imposing fees for recreational fishing. Other commenters requested that NOAA implement measures to prevent recreational fishers from targeting “trophy” fish, and to limit fishing in general, to stem overfishing.

Response: For consistency with the proclamations, “non-commercial fishing” is prohibited in the Sanctuary unless conducted pursuant to a sanctuary permit or, as discussed below, through an exemption for non-commercial fishing authorized under the MSA in the Outer Sanctuary Zone. The final rule adopts the definition of “non-commercial fishing” from the regulations for fisheries in the Western Pacific, which is defined as “fishing that does not meet the definition of commercial fishing in the Magnuson–Stevens Fishery Conservation and Management Act, and includes, but is not limited to, sustenance, subsistence, traditional indigenous, and recreational fishing” (50 CFR 665.12). NOAA will periodically evaluate the effect of non-commercial fishing activities on sanctuary resources. Such evaluations would take into consideration the best scientific information available and evaluate whether additional actions are necessary for the

proper care and management of sanctuary resources, including fishery resources, consistent with goals and objectives of the sanctuary.

Any requirements for non-commercial fishing permits authorized by NOAA Fisheries under the MSA are outside the scope of this action. NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, and will invite the public to provide comments on the proposed non-commercial fishing regulations. NOAA and the State encourage commenters to provide input during the public review process for non-commercial fishing in the MEA.

39. D-12 Comment: A commenter expressed opposition to the issuance of permits for recreational fishing in the MEA.

Response: Please see the response to D.11. As required by Section 304(a)(5) of the NMSA, NOAA consulted with the WPRFMC to recommend any draft fishing regulations it deemed necessary to implement the sanctuary designation. The WPRFMC determined it was necessary to develop non-commercial fishing regulations, including for recreational fishing, for the area of the proposed sanctuary that overlaps with the MEA

40. D-13 Comment: Commenters expressed support for non-commercial fishing in the MEA proposed by WPRFMC, including allowing sale and/or cost recovery.

Response: In accordance with Section 304(a)(5) of the NMSA, NOAA provided the WPRFMC with the opportunity to recommend any draft fishing regulations it deemed necessary to implement the proposed sanctuary designation. NOAA accepted the majority of the WPRFMC's recommendation, including those parts that were found to fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation. However, the WPRFMC's recommendation providing Native Hawaiian subsistence practices fishing permit applicants the ability to request limited cost recovery by selling their catch failed to fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation (see NOAA Response Letter dated on May 31, 2023, in the final EIS Appendix C.1).

NOAA is preparing a separate proposed rule under the MSA to reflect the outcome of the NMSA Section 304(a)(5) consultation process. Appendix C to the final EIS provides further details on this consultation process.

41. D-14 Comment: Commenters expressed opposition to the annual catch limits proposed by WPRFMC. Several comments expressed concern that it does not align with Native Hawaiian cultural or subsistence practices. One commenter suggested additional involvement from the Native Hawaiian community and the Office of Hawaiian Affairs (OHA) on this matter.

Response: Any requirements and conditions for non-commercial fishing permits authorized by the MSA are outside the scope of this action. NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, and will invite the public to provide comments on the proposed non-commercial fishing regulations, including the catch limits. NOAA and the State encourage commenters to participate in the future public review process for non-commercial fishing in the MEA.

42. D-15 Comment: Commenters expressed opposition to any sale, barter, or trade and the cost recovery mechanism proposed by WPRFMC. Comments also expressed concern regarding WPRFMC's definition of "customary exchange" and that it does not align with Native Hawaiian cultural or subsistence practices.

Response: NOAA agrees with some aspects of this comment. See the response to D.13 for information on NOAA's consideration of the WPRFMC's recommended fishing regulations, and the response to D.5 for details of the exemption for non-commercial fishing. NOAA has narrowed this exemption, making it only applicable provided that the fish harvested, either in whole or in part, are neither intended to enter commerce nor enter commerce through sale, barter, or trade and that the resource is managed sustainably, consistent with Presidential Proclamation 9478. Moreover, for the exemption to apply, the 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. See the final EIS, Section 3.3.1. The WPRFMC's final recommendation ([April 23,](#)

[2023](#)) did not include a definition of “customary exchange”, and NOAA ONMS has not included a definition of customary exchange in the sanctuary regulations.

43. D-16 Comment: Commenters requested that NOAA reject the proposed non-commercial fishing regulations by NOAA Fisheries and WPRFMC.

Response: NOAA accepted the majority of the WPRFMC’s recommendation as it was found to fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation. However, NOAA did reject a portion of the WPRFMC’s recommendation that would have allowed sale of catch under a Native Hawaiian subsistence fishing practices permit, as it was not found to fulfill the goals and objectives of the sanctuary designation. See the response to D.13, as well as Appendix C to the final EIS, for further details of this consultation process.

44. D-17 Comment: Commenters expressed concern for a portion of the WPRFMC’s recommendation on “research fishing,” and definition that would include “research fishing” as a form of non-commercial fishing.

Response: NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, based on the WPRFMC’s recommendations. NOAA and the State encourage commenters to provide additional input, including on research fishing, to the future public review process for non-commercial fishing regulations in the MEA.

45. D-18 Comment: A commenter expressed concern that while resources in the Monument are a co-management trust responsibility, the proposed fishing regulations for the MEA have been developed without adequate inclusion of the perspectives of the Monument co-managers.

Response: NMSA Section 304(a)(5) required NOAA to consult with the WPRFMC to recommend any draft fishing regulations it deemed necessary to implement the sanctuary designation. The State of Hawai‘i maintains voting seats, and the USFWS maintains non-voting seats on the WPRFMC. The WPRFMC determined it was necessary to develop non-commercial fishing regulations under the MSA, for the area of the proposed sanctuary that overlaps with the

MEA. In accordance with the Section 304(a)(5) process, NOAA accepted those parts of the WPRFMC's recommendation that fulfilled the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation, and rejected those parts that did not. Under the MSA's rulemaking process, the WPRFMC will transmit its recommendation to NOAA Fisheries, who will then prepare a proposed rule for non-commercial fishing regulations in the MEA under the MSA.

46. D-19 Comment: Commenters expressed concern regarding the separation of the NOAA Fisheries fishing regulations from the sanctuary designation process, which lacks transparency and thorough analysis of potential impacts. Commenters also requested an additional EIS and a public review of the proposed fishing regulations for the MEA. Commenters expressed concern that the proposed fishing regulations were developed in an improper sequence and there was no timeline included. Commenters also stated that impacts of WPRFMC's proposed non-commercial fishing regulations should have been analyzed within the draft EIS.

Response: NOAA acknowledges the confusion regarding the timeline of proposed fishing regulations for the MEA. NOAA Fisheries is responsible for fisheries management under the MSA and is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA. NOAA Fisheries will analyze the environmental impacts of the non-commercial fishing regulations in the MEA under the authority of the MSA in a manner consistent with NEPA. NOAA has made revisions in sections 1.4 and 3.7.2 of the final EIS to clarify this. NOAA and the State encourage commenters to participate in the future public review process for non-commercial fishing regulations in the MEA under the authority of the MSA.

47. D-23 Comment: A commenter recommended that any activity relating to the extraction of fish be led by Native Hawaiians.

Response: The permitting system and regulations for the sanctuary is modeled after the existing Monument regulations and permitting system. The permitting system would not supplant the joint permitting system for the Monument, and was developed to ensure a continued joint

permitting system administered by the MMB. While the presidential proclamations establishing the Monument broadly restrict the harvest of fishery resources, and identify certain types of non-commercial fishing that may be regulated (i.e., allowed pursuant to a permit or incidental to a permitted activity), there are no restrictions as to who may apply for a permit. Sanctuary designation will not change this.

48. D-24 Comment: Commenters expressed opposition to allowing any form of fishing in the proposed sanctuary. Some associated comments stated opposition to the removal of any wildlife from the proposed sanctuary.

Response: See the response to D.1. The presidential proclamations establishing the Monument broadly restrict the harvest of fishery resources and further specify prohibitions on commercial fishing and identify certain types of non-commercial fishing that may be regulated. In the sanctuary, regulations for fishing are consistent with the proclamations and existing management of the area.

49. D-25 Comment: A commenter requested that, in the event of a natural disaster occurring with severe impacts to the food supply of Hawai'i, the proposed sanctuary should allow for sustenance fishing and sharing of fish with community.

Response: NOAA cannot speculate about how the NMSA and other authorities may or may not be used in the future scenario described by the commenter. However, in the Outer Sanctuary Zone (MEA), the sanctuary regulations will not restrict the sharing of fish from non-commercial fishing activities authorized under the MSA.

50. D-26 Comment: A commenter emphasized that new sanctuary regulations should be limited to those relating to the seafloor and islands within the MEA, as the MSA already provides for the management of fisheries in all U.S. waters.

Response: NOAA may regulate fishing under the MSA and the NMSA. See also the response to D.9. While NOAA may regulate fishing under NMSA, and regulates fishing in the sanctuary consistent with the existing management of the area, per section 304(a)(5) of the NMSA, NOAA

also provided the WPRFMC with the opportunity to recommend any draft fishing regulations it deemed necessary to implement the proposed sanctuary designation. NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA to reflect the outcome of the NMSA section 304(a)(5) process.

51. D-27 Comment: A commenter expressed opposition to any prohibitions that may affect existing community-based subsistence fishery areas, and requested that NOAA incorporate language that explicitly includes community- and cultural-based subsistence-based fishing practices as part of protected Native Hawaiian customs and practices.

Response: Community-based subsistence fishery areas are locally based, legally designated areas in the Main Hawaiian Islands where communities and the state government work together to protect and support traditional Hawaiian fishing practices. To date, there have been no community-based subsistence fishery areas established within Papahānaumokuākea. Since these areas are typically initiated at the local level by communities seeking enhanced protection of their nearshore resources, the future establishment of a community-based subsistence fishery area within Papahānaumokuākea is unlikely. As such, a discussion of such areas is beyond the scope of this action. For a description of how culturally-based subsistence fishing practices are addressed within the sanctuary, please see the response to D.8.

52. E-1 Comment: Commenters asked how a proposed sanctuary would modify the existing co-management structure for the Monument. Commenters requested articulation of roles of OHA, USFWS, and the State of Hawai‘i, specifically who has jurisdiction in which areas, as well as requested that the EIS provide a detailed governance framework and a dispute resolution process for the proposed sanctuary. Commenters also stated that the draft EIS and/or draft sanctuary management plan did not clearly articulate how the sanctuary would function in coordination with the existing Monument, nor articulate how the Monument co-trustee’s authorities could be used to supplement and complement NOAA authorities. One commenter suggested that NOAA provide a graphic depicting the relationship of the proposed sanctuary with existing Monument

management. Finally, some commenters questioned if there are deficiencies in the existing Monument management framework, while one commenter stated that the proposed sanctuary rule has led to confusion over the legitimacy of the Monument co-management framework.

Response: The existing Monument is jointly administered by the four co-trustees (DOC, DOI, State of Hawai‘i, and OHA) through the seven-member MMB. ONMS and NOAA Fisheries collaborate to fulfill DOC’s co-trustee responsibilities under the Monument, and ONMS serves on the seven-member MMB. A graphic of the existing management structure is described in the final EIS Section 3.2. Sanctuary designation will not change the existing management structure, and ONMS’ role within the management framework will remain, with the added authority provided by the NMSA. Additional information has been added to the sanctuary management plan in sections 1 (About This Document) and 2 (Cooperative and Coordinated Management) and Acknowledgements to clarify this. NOAA has also made revisions to the description of the No Action Alternative in Section 3.2 of the final EIS to better articulate the existing roles of each Monument co-trustee, including their jurisdiction and authorities that guide their role in managing the Monument. Existing authorities, including management authorities of all Monument co-trustees, will remain in effect under all action alternatives.

As a result of the existing Monument management framework, of which ONMS is a critical part, the final rule and sanctuary management plan have been specifically designed to be consistent with the current management framework, and to allow for seamless operations between the Monument and sanctuary. The sanctuary will supplement and complement existing management of the Monument, and not replace or diminish the existing management of the Monument. In accordance with the NMSA, in designating a sanctuary, NOAA determines if existing authorities should be supplemented to ensure coordinated and comprehensive conservation and management of the area.

NOAA has provided additional details clarifying consistency with the management framework in Section 3.3.1 of the final EIS. Specifically, NOAA will work in cooperation with

the Monument co-trustees to update the existing MOA for the Monument with the State of Hawai‘i, DOI/USFWS, and OHA to reflect the addition of the sanctuary. Further, the existing Monument MOA includes a provision that states that “in the event of the designation of the Monument or any portion of the Monument as a National Marine Sanctuary under the National Marine Sanctuaries Act, nothing herein shall be construed as automatically terminating or otherwise amending this Agreement.”

53. E-2 Comment: Commenters expressed concerns regarding the exclusion of some of the Monument co-trustee agencies from co-management of the sanctuary. Commenters requested that NOAA co-manage the sanctuary with all of the Monument co-trustees (DOI, OHA, and the State of Hawai‘i), and that NOAA should receive approval from and/or collaborate with the other co-trustees regarding decision making for the sanctuary. Commenters also requested that a MOA be developed to articulate the governance framework for the sanctuary, and any co-management agreement.

Response: NOAA has clarified in the final rule and the final EIS (see final EIS Section 3.3.1, final rule Section IV.D, and sanctuary management plan Section 2) how the sanctuary will be managed in partnership with USFWS and OHA. In the proposed rule, NOAA proposed that the sanctuary would be co-managed with the State of Hawai‘i. Recognition of the State of Hawai‘i as a co-manager was not meant to exclude the other Monument co-trustees, USFWS and OHA. To the contrary, partnerships with other Federal and State agencies with overlapping jurisdiction are critical to the success of the National Marine Sanctuary System. In the proposed regulations, NOAA was trying to explain the role that states may have in co-managing a sanctuary under the NMSA if all or part of the proposed sanctuary is within the territorial limits of any state. In the final regulations and management plan, NOAA has added new text regarding how NOAA will manage the sanctuary in partnership with the other Monument co-trustees, DOI/USFWS and OHA, as the existing co-management structure of Papahānaumokuākea Marine National Monument is critical to the success of the sanctuary.

NOAA intends to, in cooperation with the Monument co-trustees, update the existing MOA for the Monument between the State of Hawai‘i, DOI/USFWS, and OHA to reflect the addition of the sanctuary. NOAA is developing an MOU with the USFWS to provide details on using supplemental authority under the NMSA to protect resources where the sanctuary overlaps with national wildlife refuges. Finally, the sanctuary management plan was developed in consultation with the State, USFWS, and OHA to explicitly ensure concurrence of plans between the sanctuary and the Monument. Additional language has been added to the sanctuary management plan (Appendix A) to better reflect the goal of cooperative management with the Monument co-trustees.

54. E-3 Comment: Commenters requested that the final EIS should include a clear description of the permitting system for the proposed sanctuary and how it would relate to the existing Monument permitting system, including how sanctuary permits would be reviewed, approved, and conditioned. Commenters expressed that NOAA should not have sole authority over permitting for activities in the area of the sanctuary and Monument; that only one permitting system should apply to the area; that permits should be approved by all Monument co-trustees; and that the Monument permit process should be amended to include sanctuary permitting. One commenter expressed concern regarding the proposed special use permit, which allows for fee collection for permit processing. The commenter questioned how this would work alongside the Monument permit process, and asked if NOAA would keep fees internally, or divide fees received equitably amongst Monument co-managers.

Response: The Monument’s joint permitting system has been in place and permits have been issued by the co-trustees since 2007. The unified Monument permitting process includes a unified Monument permit application, instructions, and template (see final EIS Section 3.2). All permitted activities in PMNM are authorized under the issuance of a single Monument permit signed by the USFWS, NOAA, and the State of Hawai‘i, in cooperation with OHA. The sanctuary permitting system would complement the existing Monument permitting system, and

was developed to allow for integration with the Monument permitting system, to ensure continued joint permitting administered by the MMB, which includes ONMS. The sanctuary permitting system would not supplant the joint permitting system for PMNM. The sanctuary permit categories were designed to provide the same management function and permittee interface as the current Monument permit categories. The sanctuary adopts the same permit criteria as currently required for Monument permits, including the additional criteria for Native Hawaiian practices and recreation permits. To provide more clarity, NOAA has updated its description of the sanctuary permitting process in the final EIS, Section 3.3.1.

Prior to sanctuary designation, regulations to issue permits in the MEA had not been established and activities in the MEA have been approved via a Letter of Authorization signed by USFWS. The co-trustees agreed to implement this USFWS process as an interim measure. Sanctuary designation provides the first set of implementing regulations consistent with directives in Presidential Proclamation 9478, including regulations for permitting, in addition to governing the sanctuary.

Regarding special use permits, NOAA intends for any issuance of special use permits to be done so in coordination with the existing permit process. NOAA points out that while the Monument is jointly administered, some areas are also guided by other specific authorities. For example, USFWS has the authority to charge fees for services including public visitation (50 CFR Part 25 Subpart E) in areas of the Monument that also fall within a national wildlife refuge. NOAA's authority to collect fees for special use permits provides Monument managers with a larger area, beyond the national wildlife refuges, for which permit fees may be collected for specific activities. In accordance with the NMSA, NOAA may recover administrative costs for staff time to review and take action on the permit, and for a fair market value for use of the sanctuary. While this authority may be used, the collection of fees is not required. Further, NOAA is not proposing any new category of activity subject to a special use permit as part of

this designation, and due to the existing regulations for the Monument and the sanctuary, the issuance of special use permits is expected to be limited.

55. E-4 Comment: Commenters expressed concern regarding the proposed process for permitting non-commercial fishing in the MEA. Commenters specifically stated that any fishing permits should also require a consistency review by the Monument co-managers. Some commenters suggested that non-commercial fishing in the MEA should be part of a single permitting process for the sanctuary and/or Monument, and not done through a separate process, noting that any permits that authorize resource extraction should be reviewed by the MMB.

Response: NOAA's ONMS will not issue non-commercial fishing permits as part of the sanctuary regulations, but will allow sustenance fishing as a term or condition of a permit, consistent with existing management of the Monument. In response to a recommendation for fishing regulations in the MEA by the WPRFMC, NOAA Fisheries is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, will complete the environmental compliance requirements, and will accept public comment on the proposal. NOAA and the State of Hawai'i encourage the commenter to review and participate in the future public review process for the proposed rule and any associated NEPA and/or other environmental compliance documentation for non-commercial fishing regulations in the MEA.

56. E-5 Comment: Commenters expressed concern regarding potential conflicts between the proposed sanctuary permitting process and permitting authorized by the USFWS for the Midway Atoll and Hawaiian Islands National Wildlife Refuges. One commenter stated that the USFWS has an existing process to review and issue permits to regulate use of the national wildlife refuges for research, education, management, and recreation. A commenter suggested the development of a MOU among USFWS, NOAA, and the State of Hawai'i to clarify the permit process, which should include provisions for dispute resolution and for emergency situations when actions are necessary to protect human health and safety on Midway Atoll. Commenters also expressed concern regarding the permitting of activities in the MEA, including questioning

why NOAA does not recognize DOI's authority to issue permits in the MEA, and requested that any new permitting in the MEA should be done following agreement with the MMB. Finally, one commenter questioned if the USFWS would need to acquire permits from NOAA for management activities in the national wildlife refuge waters.

Response: NOAA has added additional clarification in the final rule and the final EIS (see Section 3.3.1 and Section IV.D in the preamble of the final rule) regarding how the sanctuary will be managed in partnership with other agencies. In addition to co-management with the State, NOAA will manage the sanctuary in partnership with the USFWS and OHA consistent with the management of the Monument. NOAA will work in cooperation with Monument co-trustees to update the memorandum of agreement for the Monument with the State of Hawai'i, DOI/USFWS, and OHA that reflects the addition of the sanctuary, and specifically addresses how the addition of a sanctuary will supplement and complement, and not supplant, the existing Monument management framework. NOAA and USFWS are developing an agreement to provide details on the execution of sanctuary management where the national marine sanctuary overlaps with Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, and will consider if provisions are needed for dispute resolution and for emergency situations when actions are necessary to protect human health and safety on Midway Atoll.

Management of the MEA is governed by Presidential Proclamation 9478. Prior to sanctuary designation, regulations to issue permits in the MEA had not yet been established and activities in the MEA have been approved via a Letter of Authorization signed by USFWS. The co-trustees agreed to implement this USFWS process as an interim measure. Sanctuary designation provides the first set of implementing regulations, including regulations for permitting, in the MEA.

57. E-6 Comment: Commenters requested that NOAA co-manage the sanctuary specifically with the USFWS, and/or that NOAA consult with USFWS for decision making and environmental analysis in the proposed sanctuary. Some commenters also requested that NOAA

recognize the authority of the USFWS, that NOAA not supersede the authority of the USFWS, and that NOAA acknowledge that the USFWS has sole authority for certain decisions in the national wildlife refuges. Some commenters expressed concern that the proposed sanctuary would give NOAA and the State of Hawai‘i precedence over USFWS management of refuge waters. One commenter recommended that a MOA be developed and signed by the Secretaries of Interior and Commerce, and that a 3rd party neutral facilitator be selected to oversee implementation of the MOA. The commenter specified that the MOA should be reviewed and updated, as needed, every five years.

Response: NOAA will manage the sanctuary in partnership with the USFWS. Nothing in the establishment of the national marine sanctuary will diminish USFWS’s authority to administer Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act. Where Papahānaumokuākea National Marine Sanctuary overlays Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, NOAA will implement the National Marine Sanctuaries Act to provide supplemental authority to protect resources.

In other sanctuary sites, when there is jurisdictional overlap between NOAA and USFWS, the agencies have worked to implement their respective authorities in a manner that complements, but does not diminish or interfere with, existing authorities and strengthens existing protections and management. NOAA and USFWS are developing an agreement to provide details on the execution of sanctuary management where the national marine sanctuary overlaps with Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge. Any agreement developed between NOAA and the USFWS will be updated as needed, as determined by the agencies.

58. E-7 Comment: Commenters requested that NOAA co-manage the sanctuary specifically with OHA. Commenters emphasized that excluding OHA would be akin to suppressing Native Hawaiian voices and/or usurping the sovereignty of OHA. Commenters requested that NOAA

consider temporarily halting sanctuary designation until Federal law allows for explicit co-management structures that include native governing bodies as equal decision-makers, and requested that NOAA work with OHA and the Native Hawaiian community to achieve the ability for Indigenous governing bodies to be eligible to be named as co-managers for marine sanctuaries under the NMSA. One commenter also pointed out that for National Marine Sanctuary of American Samoa, the American Samoa Department of Commerce has been designated as a co-manager to assist NOAA with the administration of the sanctuary, and therefore, OHA should be able to serve as a co-manager of the proposed sanctuary.

Response: NOAA will manage the sanctuary in partnership with the OHA, consistent with the management of the Monument. The existing co-management structure of the Monument and cooperation with OHA is critical to the success of the sanctuary. NOAA will work in cooperation with Monument co-trustee to update the Memorandum of Agreement for Promoting Coordinated Management of Papahānaumokuākea Marine National Monument with the State of Hawai‘i, DOI/USFWS, and OHA that reflects the addition of the sanctuary, and specifically addresses how the addition of a sanctuary will supplement and complement, and not supplant, the existing Monument management framework. Under Monument management, OHA has primary responsibility for representing the interests of the Kānaka ‘Ōiwi community in the perpetuation of Hawaiian cultural resources and practices. Sanctuary designation will not change this, and NOAA intends to consult with OHA on all matters related to the perpetuation of Hawaiian cultural resources and practices.

Pursuant to the NMSA, a “state” as defined under the act, may have a role in co-managing a sanctuary if all or part of the proposed sanctuary is within the territorial limits of any state. For this reason, NOAA will co-manage the sanctuary with the State of Hawai‘i. In addition, pursuant to the NMSA, the “state” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or

possession of the United States. As the NMSA also defines “state” to include American Samoa, they may be a co-manager of National Marine Sanctuary of American Samoa, and the American Samoa Department of Commerce acts as the lead territorial agency.

59. E-8 Comment: Commenters requested that NOAA co-manage the sanctuary with Native Hawaiians, noting that it is critical for Native Hawaiians to be present, participatory, and empowered in all decision-making aspects regarding Papahānaumokuākea. Commenters requested that Native Hawaiians should direct and oversee plans for the sanctuary, and that NOAA should defer to opinions of Native Hawaiian groups and agencies. Some commenters suggested that management with Native Hawaiians go beyond co-management with OHA.

Response: See the response to E.7, regarding how NOAA will manage the sanctuary in partnership with OHA, but NOAA also agrees that there are opportunities for co-stewardship with the Kānaka ‘Ōiwi community beyond OHA. NOAA agrees that it is important to have Kānaka ‘Ōiwi expertise in management, including in leadership roles and that growing long-lasting partnerships with existing Kānaka ‘Ōiwi community partners is integral to management of the sanctuary (see the responses to C.2 and K.1).

NOAA has a responsibility to, and takes opportunities to work through equitable partnerships with all Indigenous Peoples. The [*Imila-alpa Commitments*](#) demonstrate ONMS’ dedication to strengthening partnerships with Indigenous governments, organizations, and communities and ensuring that ONMS’ intentions align with its actions. The commitments also state that ONMS will work to implement White House and NOAA guidance on integrating Indigenous knowledge into processes and approaches.

60. E-9 Comment: Commenters suggested or requested that the Native Hawaiian CWG be granted authority in reviewing and approving permits to access Papahānaumokuākea and/or be granted authority to vet the permit applications. Some commenters suggested that the Native Hawaiian Cultural Working Group should be included as a fifth co-trustee of the Monument.

Response: For more than 20 years, the CWG, which advises OHA as a co-trustee of the Monument, has provided guidance and an important Native Hawaiian perspective to inform Monument management. The CWG is a group of Kānaka ‘Ōiwi kūpuna (elders), researchers, cultural practitioners, educators, and community members that have deep connections and historical ties to Papahānaumokuākea through a living pilina (relationship) bound by genealogy, cultural protocols, and values building contemporary multi-disciplinary research and practice. The CWG and many of its members have been involved since ONMS created the CWG following the establishment of the Northwest Hawaiian Islands Coral Reef Ecosystem Reserve in 2000. The CWG has a permit subcommittee that reviews Monument permits and provides input to OHA, a Monument co-trustee who also sits on the Monument permit working group. The sanctuary permitting system will complement the existing Monument permitting system, and was developed to allow for integration with the Monument permitting system, to ensure continued joint permitting administered by the MMB. Therefore, NOAA intends for the CWG to continue to provide advice and guidance on permitting for Papahānaumokuākea.

Consideration of the CWG as a co-trustee of the Monument is outside the scope of the action to designate a national marine sanctuary, because a sanctuary designation would not alter the underlying Monument management structure.

61. E-10 Comment: Commenters expressed concerns regarding NOAA being the primary manager of the proposed sanctuary, and questioned what role the State of Hawai‘i had in developing the proposed sanctuary. One commenter requested that there be a checks and balance system with the State of Hawai‘i and Native Hawaiian groups when reviewing the objectives, actions, regulations, exceptions, permits, and penalties.

Response: The NMSA provides authority for NOAA, among other things, to designate a sanctuary and promulgate regulations implementing the designation. Pursuant to the NMSA, states may choose to have a role in co-managing a sanctuary if all or part of the proposed sanctuary is within the territorial limits of any state. As the sanctuary includes state waters,

NOAA will co-manage the sanctuary with the State of Hawai‘i. NOAA establishes the framework for co-management in Section 922.242 of the final rule and may update existing agreements or develop additional agreements with the State of Hawai‘i to clarify the terms of co-management. Any future proposed changes to sanctuary regulations or boundaries would be coordinated with the State and subject to public review as mandated by the NMSA and other Federal statutes.

The State of Hawai‘i also supports the sanctuary proposal. While NOAA was the lead Federal agency in the preparation of the EIS, the State of Hawai‘i served as a cooperating agency and co-developed the draft EIS and final EIS, which was also developed in accordance with the Hawai‘i Environmental Policy Act (HEPA, Chapter 343 HRS, HAR Chapter 11-200.1). The State of Hawai‘i also co-developed the sanctuary management plan.

62. F-1 Comment: Some commenters opposed the exemption for “scientific exploration or research activities by or for the Secretary of Commerce or the Secretary of the Interior when the activity occurs in the Outer Sanctuary Zone.” Commenters stated that the exemption may provide a loophole to permit large-scale take/extraction of resources. Commenters felt that the Department of Commerce and the Department of the Interior should still be required to obtain sanctuary permits.

Response: Presidential Proclamation 9478, which designated the MEA, specifically states that the prohibitions “shall not restrict scientific exploration or research activities by or for the Secretaries and nothing in this proclamation shall be construed to require a permit or other authorization from the other Secretary for their respective scientific activities.” Presidential Proclamation 9478 further highlights the significant scientific value of the MEA and underscores the opportunities for research and discovery to occur in that area, including understanding the impacts of climate change on deep-sea communities and identifying new species. NOAA is exempting scientific exploration or research activities from the sanctuary’s prohibitions and permitting requirements for both the Department of Commerce and the Department of Interior

within the Outer Sanctuary Zone, to be consistent with Presidential Proclamation 9478.

However, such activities must still comply with other Federal environmental laws such as the NEPA, the Endangered Species Act, the NMSA section 304(d), and the Marine Mammal Protection Act

63. F-2 Comment: Commenters requested that Hawaiian-focused research conducted by Hawaiians be prioritized by providing an exemption for these activities.

Response: The sanctuary permitting system and the exemptions were modeled after the existing Monument permitting system. The sanctuary permitting system would not supplant the existing permitting system for the Monument and was developed to ensure a continued joint permitting system administered by the MMB. Therefore, rather than introducing a new exemption, NOAA and the State will work to prioritize Hawaiian-focused research through other practices, as described in the draft sanctuary management plan (final EIS Appendix A), including:

- supporting and facilitating Kānaka ‘Ōiwi (Native Hawaiian) access and research (Strategy 2.6);
- weaving together multiple knowledge systems, values, practices, and methods, in science and research (Strategy 2.7); and
- supporting research initiatives that focus on next-generation capacity building for leadership succession of Kānaka ‘Ōiwi (Native Hawaiian) and Pacific Islanders who are severely underrepresented in STEM and ocean sciences (Strategy 2.8).

64. F-3 Comment: Some commenters opposed the exemption for the activities and exercises of the U.S. Armed Forces, noting specific concern for military sonar activity.

Response: The sanctuary regulations and both Presidential Proclamations 8031 and 9478 include a broad exemption to allow activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard. The sanctuary regulations specify that all activities and exercises of the Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on sanctuary resources

and qualities. For any Federal agency actions, including actions of the Armed Forces that are likely to destroy, cause the loss of, or injure sanctuary resources, the Armed Forces must comply with the consultation requirements outlined in Section 304(d) of the NMSA, regardless of whether those actions are exempted from the sanctuary's regulations.

65. F-4 Comment: Commenters expressed opposition to the exemption for non-commercial fishing activities authorized under the MSA. Commenters stated that non-commercial fishing permit holders should not have exemptions to conduct the otherwise prohibited and regulated activities of the sanctuary and that any non-commercial fishing activities should still require a separate sanctuary permit. One commenter stated that ONMS should promulgate regulations under the National Marine Sanctuaries Act as a backstop and not rely solely on the Magnuson-Stevens Fishery Conservation and Management Act application. Commenters stated that the exemption for non-commercial fishing is counter to Mai Ka Pō Mai. Commenters also requested that NOAA gather more input from the Native Hawaiian community, including the OHA and the Native Hawaiian Cultural Working Group on this topic.

Response: As required by Section 304(a)(5) of the NMSA, NOAA provided the WPRFMC with the opportunity to recommend any draft fishing regulations it deemed necessary to implement the proposed sanctuary designation. NOAA participated in six public meetings hosted by the WPRFMC on November 1st, 3rd, 4th, 5th, 8th, and 10th of 2022, which were focused on the development of fishing regulations for the area of the proposed sanctuary that overlaps with the MEA. In December 2022, the WPRFMC provided a recommendation for non-commercial fishing regulations for the area of the proposed sanctuary that overlaps with the MEA. NOAA accepted the majority of the WPRFMC's recommendations, as they were found to fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation. However, the WPRFMC's recommendation to provide Native Hawaiian subsistence practices fishing permit applicants the ability to request limited cost recovery by selling their catch in the permit application process through a statement of need for cost recovery along with

expected costs, failed to fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation. Additionally, NOAA found that the allowance of “sale” under a Native Hawaiian subsistence practices fishing permit is inconsistent with the State’s constitutional protection of Native Hawaiian traditional and customary rights.

Accordingly, the sanctuary regulations proposed that prohibitions in paragraphs (a)(7) through (14) in Section 922.244 would not apply to non-commercial fishing activities in the Outer Sanctuary Zone authorized under the MSA, provided that no sale of harvested fish occurs. In response to comments of concern for this exemption, NOAA has made changes to ensure that a non-commercial fishing permit authorized under the MSA is only exempt from a limited subset of prohibited or otherwise regulated activities that may only be conducted as incidental to and necessary to a lawful non-commercial fishing activity. NOAA has also clarified that this narrow exemption from the sanctuary’s permitting requirements is only applicable provided that the fish harvested, either in whole or in part, are neither intended to enter commerce nor enter commerce through sale, barter, or trade and that the resource is managed sustainably, consistent with Presidential Proclamation 9478. Moreover, consistent with the outcome of the NMSA Section 304(a)(5) process, for the exemption to apply, the 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. See the final EIS, Section 3.3.1.

NOAA is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA, and will accept public comment on the proposal. NOAA and the State of Hawai‘i encourage the commenter to participate in the future public review process for the proposed rule and any associated NEPA and/or other environmental compliance documentation for non-commercial fishing regulations in the MEA. Until a public process is conducted, and a final rule is issued for fishing regulations under the authority of the MSA, non-commercial fishing permits will not be issued for the MEA/Outer Sanctuary Zone. Consistent

with existing Monument management, the sanctuary may authorize sustenance fishing outside of any special preservation area as a term or condition of any sanctuary permit.

66. F-5 Comment: Commenters requested a prohibition on mining, and/or stating opposition to mining activities, or any exemption allowing them.

Response: Consistent with the presidential proclamations establishing the Monument, NOAA will prohibit exploring for, developing, or producing oil, gas, or minerals to protect sanctuary resources. NOAA will also prohibit “any energy development activities” to further the underlying intent of the prohibition on oil, gas, and mineral development by accounting for technological advances in other forms of energy development. Likewise, NOAA is not providing an exemption for mining activities.

67. F-6 Comment: A commenter stated that scientific or management activities undertaken by the USFWS within the Monument are not subject to any additional sanctuary requirements or authorization from NOAA.

Response: Nothing in the establishment of the national marine sanctuary will diminish USFWS’s authority to administer Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act. Where Papahānaumokuākea National Marine Sanctuary overlays Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, NOAA will implement the National Marine Sanctuaries Act to provide supplemental authority to protect resources. In other sanctuary sites when there is jurisdictional overlap between NOAA and USFWS, the agencies have worked to implement their respective authorities in a manner that complements, but does not diminish or interfere with, existing authorities and would strengthen existing protections and management. NOAA and USFWS are developing an agreement to provide details on the execution of sanctuary management where the national marine sanctuary overlaps with Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge.

The sanctuary permitting system was modeled after the existing Monument permitting system to ensure a single joint permitting system continues to be administered by the MMB. In addition, this final rule does not include authorization authority for the sanctuary. Consistent with Presidential Proclamation 9478, the sanctuary regulations exempt both the DOC/NOAA and the DOI/USFWS from the prohibitions, including the need to obtain a permit or authorization from the Secretary of Commerce in order to conduct scientific exploration or research activities in the MEA. NOAA has clarified the proposed framework for management and permitting in partnership with USFWS and the other Monument managers in the final EIS, Section 3.3.1.

68. G-1 Comment: Some commenters requested an extension of the public comment period and/or additional virtual public meetings. Some commenters expressed concern that there was not adequate public education, engagement, and notification for the public comment period and meetings; that the methods for comment were not accessible for all and/or not an adequate way to gauge support or opposition; and that all communities, specifically the fishing community, were not properly engaged in the comment period. One commenter expressed concern that the public meetings did not allow for agency responses or answers to oral testimony and requested that the NOAA website provide responses to frequently asked questions from the public meetings.

Response: NOAA followed the designation processes and procedures as required pursuant to the NMSA and NEPA, both of which require broad public participation, as well as the Administrative Procedure Act's notice requirements. The public comment period took place over the course of 68 days from March 1 to May 7, 2024. NOAA accepted public comments through the Federal eRulemaking Portal and by traditional mail. NOAA also encouraged public comments in both English and 'Ōlelo Hawai'i (Hawaiian language). NOAA and the State held 11 public comment meetings (nine in-person and two virtual). Additionally, prior to the public comment meetings, the State of Hawai'i Division of Aquatic Resources held a virtual public informational meeting to engage the public. NOAA and the State of Hawai'i provided question

and answer sessions at the in-person public meetings, prior to and following the formal oral comment portion of the meeting.

NOAA also posted sanctuary designation process information and [FAQs](#) on the ONMS website in response to questions received during public meetings. NOAA believes that it has fairly engaged with and considered input from local communities, Kānaka ‘Ōiwi, government, and other stakeholders through extensive consultations, meetings, and discussions about sanctuary designation, and that draft designation documents and process steps have complied with applicable laws and policies, including the NMSA, NEPA, Administrative Procedure Act, and Section 106 of the National Historic Preservation Act. For more details regarding the public engagement process, see the final EIS, sections 1.3.1 and 1.3.2.

NOAA also specifically engaged with the fishing community and consulted with the WPRFMC as required by Section 304(a)(5) of the NMSA. Through this consultation, NOAA provided the WPRFMC with the opportunity to recommend any draft fishing regulations it deemed necessary to implement the proposed sanctuary designation. NOAA and the State of Hawai‘i also participated in six public meetings hosted by the WPRFMC on November 1st, 3rd, 4th, 5th, 8th, and 10th of 2022, which were focused on the development of fishing regulations for the area of the proposed sanctuary that overlaps with the MEA.

69. H-2 Comment: A commenter recommended that, in describing the purposes and policies of the NMSA, and specifically, 16 U.S.C 1431 (b)(4), NOAA should define "sustainable use" as “to provide enhanced protections for pristine marine waters,” and prohibit use of the waters or marine ecosystems.

Response: The NMSA authorizes the Secretary of Commerce to designate national marine sanctuaries that meet the purposes and policies of the NMSA, including 16 U.S.C. 1431(b)(4), which focuses, in part, on the sustainable use of the marine environment. The sanctuary regulations build upon the existing protections for the Northwestern Hawaiian Islands, which provide for both restricted access to the area and responsible use subject to strict permitting

terms and conditions. Given this management model, NOAA does not see a need for the sanctuary regulations to define “sustainable use” at this time.

70. I-1 Comment: Some commenters recommended that NOAA select Alternative 3, a boundary which excludes the waters of Midway Atoll and Hawaiian Islands National Wildlife Refuges. Commenters provided several reasons for supporting Alternative 3, including that the USFWS should have sole jurisdiction to manage the national wildlife refuges; that a sanctuary that overlaps with the national wildlife refuges would be inconsistent with presidential proclamations that created the Monument; that a sanctuary that overlaps with the national wildlife refuges would not comply with the National Wildlife Refuge System Administration Act; and that a sanctuary that overlaps with the national wildlife refuges may negatively impact the USFWS management of the national wildlife refuges.

Response: NOAA identified Alternative 1 (which would include the waters of Midway Atoll and Hawaiian Islands National Wildlife Refuges in the proposed sanctuary) as the Agency-Preferred Alternative based on its comparative merits. Nothing in the establishment of the national marine sanctuary will diminish USFWS’s authority to administer Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act. Where Papahānaumokuākea National Marine Sanctuary overlays Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, NOAA will implement the NMSA to provide supplemental authority to protect resources. NOAA and USFWS are developing an agreement to provide details on the execution of sanctuary management where the national marine sanctuary overlaps with Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge.

In addition, the existing Monument is already jointly administered through a seven-member Monument Management Board, which includes NOAA’s ONMS. ONMS and the USFWS have been cooperatively managing the area of the proposed sanctuary for nearly 20 years. As a result of the existing Monument management framework, of which ONMS is a

critical part, this sanctuary rule has been specifically designed not to create any regulatory inconsistencies, and to ensure consistent management between the Monument, the national wildlife refuges, and the sanctuary.

Further, both NOAA and the State disagree that the designation is inconsistent with the directives that established the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve and the Monument. In part, the purpose of the designation is to specifically implement the provisions of Executive Order 13178, Presidential Proclamation 9478, and the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021, that directed NOAA to consider initiating the sanctuary designation process.

71. I-2 Comment: Commenters expressed opposition to any sanctuary that would include additional portions of Middle Bank, beyond the areas that are included in the Monument.

Response: NOAA considered designating a sanctuary that expanded beyond the southeastern portion of the Monument boundary to include Middle Bank. However, NOAA eliminated this alternative from detailed study, as described in the draft and final EIS, Section 3.7.

72. I-3 Comment: Commenters requested that NOAA consider including most or all of Middle Bank in the proposed sanctuary boundary, because of the scientific, ecological, and commercial benefits of the area. Commenters also requested that NOAA consider expanding the boundary to include more area.

Response: NOAA identified Alternative 1 (which is coextensive with marine portions of the Monument) as the Agency-Preferred Alternative based on its comparative merits, and therefore does not include all of Middle Bank or any additional areas that are not part of the Monument. This is consistent with the defined purpose and need and with the provisions of Executive Order 13178, Presidential Proclamation 8031, Presidential Proclamation 9478, and the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2021.

Although NOAA considered sanctuary boundary alternatives that included Middle Bank, NOAA concluded that aligning the boundary of the sanctuary with that of the Monument best

fulfills the purposes and policies of the NMSA. In addition, the NMSA directs NOAA that it may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if it is determined that the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

NOAA concluded that any boundary alternative that expands beyond the existing boundaries of PMNM and the MEA would not be practicable in light of the need for comprehensive and coordinated management in a manner which complements the existing Monument management framework. NOAA has added these clarifications to the draft and final EIS, Section 3.7.1.

73. I-4 Comment: Commenters recommended Alternative 2, a boundary which excludes the MEA, as the preferred alternative. Some commenters expressed support for this alternative, emphasizing that excluding the MEA may allow for more fishing, including commercial fishing, in that area.

Response: NOAA identified Alternative 1 as the Agency-Preferred Alternative, which includes the MEA, based on its comparative merits. This final rule implements and is consistent with directives in Presidential Proclamation 9478, which has the force of law. Presidential Proclamation 9478, which designated the MEA, prohibits commercial fishing and provides that non-commercial fishing may be a regulated activity (i.e., allowed only with a permit). Selection of Alternative 2 would not alter the directives provided in Presidential Proclamation 9478, including the prohibition on commercial fishing in the MEA.

74. I-5 Comment: A commenter requested the inclusion of a legal definition of shoreline delineation in relation to iron seawall ruins and rubble at Tern Island, and questioned if the seawall and debris would be included in the sanctuary boundary.

Response: The shoreline in the State of Hawai‘i as defined by the Hawai‘i Department of Land and Natural Resources is “the upper reaches of the wash of the waves, other than storm or seismic waves, at high tide during the season of the year in which the highest wash of the waves occur, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the

wash of the waves” (HAR §13-222). The Coastal Lands Program of the Hawai‘i Department of Land and Natural Resources, Office of Conservation and Coastal Lands maintains the State of Hawaii Shoreline Certification Program (see Shoreline Certification Rules in HAR §13-222). It is this program that would determine where the shoreline is delineated in the location of the iron seawall on Tern Island when necessary. Therefore, under the current definitions, any debris or rubble or portion of the Tern Island iron seawall that occurs seaward of this shoreline as defined by the State of Hawai‘i will be within the sanctuary, and that which occurs upland of the shoreline will be outside the sanctuary.

75. I-6 Comment: A commenter requested that the shoreward boundary be extended to the mean high tide.

Response: NOAA considered an alternative that designated the mean high tide line as the shoreward boundary, but eliminated this alternative from detailed study (see Section 3.7.1 of the EIS). NOAA typically uses the shoreline as legally defined by the State within which the national marine sanctuary occurs, because the shoreline delineates the boundary between public and private land. The shoreline in the State of Hawai‘i as defined by the Hawai‘i Department of Land and Natural Resources is “the upper reaches of the wash of the waves, other than storm or seismic waves, at high tide during the season of the year in which the highest wash of the waves occur, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves” (HAR §13-222). NOAA strives to designate a sanctuary which supplements and complements existing authorities, and this designation adheres to both the State’s definition as well as the current landward boundary designation of the Monument.

76. J-12 Comment: Commenters expressed concerns regarding the lack of analysis and description on NOAA's ability to issue "emergency regulations" to prevent or minimize the loss or injury to a sanctuary resource. The commenter stated that the regulations issued jointly by NOAA and USFWS in 2006 for the original Monument contain an exemption from prohibitions for emergency actions, and that Presidential Proclamation 9478 specifically exempts from

prohibitions activities “necessary to respond to emergencies threatening life, property, or the environment, or to activities necessary for law enforcement purposes.” The commenters questioned why sanctuary authority to issue sanctuary regulations is necessary given existing provisions and regulations for the Monument.

Response: NOAA acknowledges that the existing management of the area includes exemptions for any activity necessary to respond to emergencies that threaten life, property, or the environment, or to activities necessary for law enforcement purposes. These exemptions are also included in the sanctuary regulations. However, NOAA’s references to “emergency regulations” throughout the EIS are not referring to this exemption, but to NOAA’s authority pursuant to 15 CFR 922.7, which states that “where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all such activities are subject to immediate temporary regulation, including prohibition.” This authority may be useful in implementing immediate temporary regulations to protect resources following incidents of resource damages, such as vessel groundings or disease. NOAA has added information regarding emergency regulations in the final rule, Section IV.O.

77. K-6 Comment: Commenters suggested that scientific research should not be conducted in a way that would harm resources. Commenters also expressed concerns about the use of remotely operated vehicles (ROVs) and other scientific instruments on the seafloor.

Response: The sanctuary includes a permitting system modeled after the existing Monument permitting system, such that there are sufficient safeguards in place that apply to the permit review process for all activities, including for scientific research and ROVs. The sanctuary has adopted the same permit criteria as currently required for Monument permits, including that the proposed activity will be conducted in a manner compatible with resource protection. In addition, conditions can be placed on the permit specific to the activity being permitted and permit applications would be reviewed with respect to all other pertinent regulations and statutes,

including NEPA, 42 U.S.C. 4321 *et seq.*, and any required consultations, permits, or authorizations.

78. K-8 Comment: A commenter suggested that NOAA leave Battle of Midway vessels and aircraft undisturbed to be respectful of the war and preserve the materials for future archaeological purposes.

Response: NOAA's management principles emphasize an *in-situ* management approach for the long-term protection of site information and integrity, as well as other preservation methods and activities outlined in the ONMS policy guidance document *Monitoring and Management of Tangible Maritime Heritage Resources*. The Sunken Military Craft Act of 2004 preserves and protects all sunken military craft that are owned by the U.S. government, as well as foreign sunken military craft that lie within U.S. waters, from unauthorized disturbances.

79. K-10: Commenters expressed concerns regarding the impacts of sonar activity and underwater detonations to marine mammals, fish, sea turtles, and sea invertebrates. Commenters specifically expressed concern with impacts from sonar activity and testing by the military. One commenter recommended mid-frequency active sonar as an alternative technology.

Response: Consistent with the presidential proclamations establishing the Monument, NOAA will prohibit "using or attempting to use poisons, electrical charges, or explosives in the collection or harvest of a sanctuary resource." NOAA will also prohibit, unless conducted pursuant to a permit "removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving sanctuary resource." The use of sonar by U.S. Armed Forces is a lawful Armed Forces activity and the use has been analyzed by the U.S Navy within prior environmental planning documents (HSTT, 2018) and is subject to other applicable laws, permits, and authorizations, including the MMPA.

NOAA provides a broad exemption to allow activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard, to be consistent with existing

management of this area, as provided for the Monument by Presidential Proclamations 8031 and 9478. However, all activities and exercises of the Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on sanctuary resources and qualities. See also the F.3 response.

80. K-11 Comment: A commenter recommended protections for koholā (humpback whale) that are similar to the protections included in Hawaiian Islands Humpback Whale National Marine Sanctuary, including vessel rules, restrictions on sonar, and maintaining a minimum distance away from koholā.

Response: NOAA will prohibit several activities in the sanctuary that are responsive to this comment, consistent with the presidential proclamations establishing the Monument. The prohibitions most relevant for the protection of humpback whales include prohibitions on “removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving sanctuary resource” and “attracting any living sanctuary resource.” The use of sonar by the U.S. Armed Forces is a lawful activity of the Armed Forces, but is subject to other applicable laws, permits, and authorizations, including the MMPA.

81. K-12 Comment: A commenter requested that the Outer Sanctuary Zone be named “pu‘uhonua,” which means a place of safety and refuge. Another commenter asked if there would be a process for naming this area of the sanctuary.

Response: NOAA will give further consideration to this and would like to ensure an inclusive process that allows for additional input and discussion from all stakeholders and Monument co-trustees regarding a name for the Outer Sanctuary Zone. The proposed name and the process of naming this Outer Sanctuary Zone will be discussed within the Papahānaumokuākea Native Hawaiian CWG, facilitated by OHA.

82. L-5 Comment: A commenter requested that the rule language be revised to allow for an ongoing process for updating the sanctuary regulations. Specifically, the commenter suggested

replacing the words "as may be necessary," in the Terms of Designation, Activities Subject to Regulation section, with "on an ongoing basis."

Response: The terms of designation, as defined under section 304(a)(4) of the NMSA, may be modified only by the same procedures by which the original designation is made, including public hearings, consultations with interested Federal, Tribal, State, regional, and local authorities and agencies, review by the appropriate Congressional committees, and approval by the Secretary of Commerce, or his or her designee. Any future proposed changes to sanctuary regulations or boundaries would be subject to public review as mandated by the NMSA and other Federal statutes.

83. L-6 Comment: A commenter provided questions and suggestions regarding perceived data anomalies in the boundary description, including:

- “The proposed SMA and SPA boundaries do not coincide with the boundaries as described in Presidential Proclamation 8031 nor do they coincide with the proclamation’s SMA and certain SPA boundaries as charted on ENC’s that are larger scale than Band 2 (General Navigational Purpose). It appears that the coordinates of the proposed boundaries may have been derived from the SMA and SPA boundaries of the national monument as depicted on the Band 2 ENC’s.
- Appendix A to Subpart W, Points 610-662 - Papahānaumokuākea National Marine Sanctuary Boundary: Points 610 through 662 form the easternmost extent of the proposed sanctuary boundary. However, these points are coincident with a portion of the Inner Reporting Area Boundary Around Nihoa ATBA. Should Points 610 through 662 be coincident with the Reporting Area Outer Boundary instead of the Inner Reporting Area Boundary?
- Pages 15302 - 15303, Appendix D to Subpart W - Unnamed, unnumbered table: ONMS did not designate a table number and name for the first set of coordinates that encompasses Kure Atoll.

- Pages 15306 - 15307, Appendix E to Subpart W, Table 1 - Ship Reporting Area (Reporting Area Outer Boundary): According to FR page 15278, Column 1: “NOAA proposes to establish this reporting area, which would be defined as “the area of the proposed sanctuary that extends outward ten nautical miles from the PSSA [Particularly Sensitive Sea Area] boundary, as designated by the IMO...” The coordinates for the Reporting Area Outer Boundary of Appendix E / Table 1 do not completely coincide with a 10-NM buffer (geodesic) from the PSSA boundary per the International Maritime Organization (IMO). I recommend a re-evaluation of the boundary points for the Reporting Area Outer Boundary.”

Response: The boundary discrepancies in the special management area and special preservation areas have been corrected and the updated coordinate tables, appended to this final rule, will correspond to the coordinates as described in Presidential Proclamation 8031.

Regarding the outer boundary of the Reporting Area, NOAA will define the Reporting Area as was defined by IMO Resolution MSC.171(57) and the subsequent amendment IMO Resolution MSC.279(85) adopted in December 2008. This boundary has been corrected and is now described citing the geographic coordinates of the outer boundary of the “CORALSHIPREP” reporting area of IMO Resolution MSC.279(85).

Regarding the missing designation of a table number and name for the first set of coordinates that encompass the Kure Atoll Special Preservation Area, after investigating the issue, NOAA determined that the table did in fact have a name and number as referenced at the [web address](#) and therefore no corrective action was necessary.

Regarding the portion of the proposed sanctuary boundary identified as being coincident with the Inner Ship Reporting Area Boundary around the Nihoa Area to be Avoided, NOAA determined that this portion of the boundary was the same as that used for both the original and expanded marine national monument, and intends that it will also be used for this portion of the national marine sanctuary boundary. Therefore, no edits were necessary.

VI. Classification

A. National Marine Sanctuaries Act

NOAA consulted with the WPRFMC as required by section 304(a)(5) of the NMSA. Through this consultation, NOAA provided the WPRFMC with the opportunity to recommend any draft fishing regulations it deemed necessary to implement the proposed sanctuary designation. NOAA initiated the consultation on November 19, 2021. On March 22, 2022, the WPRFMC agreed to develop draft fishing regulations for the proposed sanctuary. NOAA participated in six public meetings hosted by the WPRFMC on November 1st, 3rd, 4th, 5th, 8th, and 10th of 2022, which were focused on the development of fishing regulations for the area of the proposed sanctuary that overlaps with the MEA. At its 193rd meeting in December of 2022, the WPRFMC provided a final recommendation. NOAA found that the final recommendation, in part, did not fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed designation. The WPRFMC amended their recommendation during their 194th meeting in March of 2023, and submitted a revised final recommendation to NOAA on April 14, 2023.

In May of 2023, NOAA accepted the majority of the WPRFMC's recommendation as it fulfilled the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary designation. However, the WPRFMC's recommendation for the disposition of Native Hawaiian Subsistence Practices Fishing catch, which would provide permit applicants the ability to request limited cost-recovery by selling their catch, was rejected by NOAA in a decision letter dated May 31, 2023. As NOAA explained in the letter, any recommendation for the allowance of "sale" is inconsistent with the goals and objectives of the proposed sanctuary designation. To reflect the outcome of the NMSA 304(a)(5) process, NOAA has prepared this final rule under the NMSA, and is preparing a separate proposed rule for regulations governing fishing in the MEA under the authority of the MSA.

Pursuant to section 304(a)(1)(C) of the NMSA, the Committee on Natural Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of Hawai‘i will have the opportunity to review this final action.

B. National Environmental Policy Act

As described in Section I above, NOAA and the State of Hawai‘i prepared a final EIS to evaluate the impacts of designating a national marine sanctuary, which considered four alternatives for the designation of a national marine sanctuary in marine portions of the Monument. Copies of the final EIS, final management plan, and Record of Decision are available at the website listed in the **ADDRESSES** section of this final rule.

C. Executive Orders 12866: Regulatory Impact, 13563 Improving Regulation and Regulatory Review, and 14094: Modernizing Regulatory Review

The Office of Management and Budget (OMB) has determined this final rule to be significant under Executive Order 12866, “Regulatory Planning and Review,” 58 FR 190 (Oct 4, 1993), as supplemented by Executive Order 14094, “Modernizing Regulatory Review,” 88 FR 21879 (April 6, 2023). NOAA prepared an analysis of the potential costs and benefits associated with this action, which is available at <https://sanctuaries.noaa.gov/papahanaumokuakea/>.

The final rule is largely consistent with the existing management framework for the Monument. Because the site-specific regulations finalized under the NMSA have been crafted to ensure consistency with Presidential Proclamations 8031, 8112, and 9478, the overall management framework for the area will largely remain unchanged. The designation would clarify aspects of existing Monument management and add to that management framework in ways that would have a limited effect on the public given that access to and activity within the Monument is already highly regulated and requires a permit in most instances. In most cases, permit applicants would be subject to substantially similar findings criteria and permitting requirements as currently required within the Monument. Further, the area of the sanctuary is extremely remote, nearly 300 miles at its closest point from the main Hawaiian Islands, and very

few entities operate there. Limited activities are expected to continue. Therefore, the quantifiable benefits and costs associated with the site-specific regulations are limited. The primary benefits of sanctuary designation are provided by the supplemental authorities provided through the NMSA and National Marine Sanctuary Program regulations.

D. Executive Order 13132: Federalism Assessment

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132 because NOAA supplements and complements State and local laws under the NMSA rather than supersedes or conflicts with them. This final rule will not have substantial direct effects on State or local governments. NOAA has coordinated closely with State partners throughout the development of this final rule and, where applicable and practicable, the final rule aligns with existing State regulations. In addition, the State of Hawai‘i served as a cooperating agency and co-developed the draft EIS and final EIS, which was also developed in accordance with the Hawai‘i Environmental Policy Act (HEPA, Chapter 343 HRS, HAR Chapter 11-200.1). The State of Hawai‘i also co-developed the sanctuary management plan. NOAA has aimed for consistent regulations throughout sanctuary waters including those within State and Federal jurisdiction.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*) requires Federal agencies to prepare an analysis of a rule’s impact on small entities whenever the agency is required to publish a rulemaking, unless the agency certifies, pursuant to 5 U.S.C. 605, that the action will not have significant economic impact on a substantial number of small entities. The RFA requires agencies to consider, but not necessarily minimize, the effects of rules on small entities. The goal of the RFA is to inform the agency and public of expected economic effects of the rule and to ensure the agency considers alternatives that minimize the expected economic effects on small entities while meeting applicable goals and objectives. Pursuant to section 605(b) of the RFA,

the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule would not have a significant economic impact on a substantial number of small entities. The purpose, context, and statutory basis for this action is described above and not repeated here. The rationale for that certification was set forth in the preamble of the proposed rule (89 FR 15272, March 1, 2024), and NOAA's analysis stands.

This final rule is not expected to place a substantial number of small entities at a significant competitive disadvantage to large entities, and would not significantly reduce profits for a substantial number of small entities operating in the area of the sanctuary, as the overall management framework for the area will largely remain unchanged. The final rule would be largely consistent with the existing management framework for the Monument, which was established by Presidential Proclamation 8031 and 8112 (PMNM, 0-50 nm), and by Presidential Proclamation 9478 (MEA, 50 - 200 nm). The existing management framework established by these Presidential Proclamations has the force of law, and includes a permitting system, under which all entities are subject to the same reporting requirements. Further, very few entities operate in the area of the sanctuary, as the area of the sanctuary is extremely remote, nearly 300 miles at its closest point from the main Hawaiian Islands. The number of permits issued for the Monument annually ranged from 9 to 21 between 2018 and 2022.

Through this final rule, permit applicants, including applicants for activities in the area of the sanctuary that overlaps with the MEA, would be subject to substantially similar findings criteria and permitting requirements as currently required for PMNM. Based on the NOAA Monument manager's site knowledge and experience, the final rule is not expected to result in an increase in the number of permit requests, as the majority of users operate in the area of the sanctuary that overlaps with PMNM, and do not solely operate in the area of the sanctuary that overlaps with the MEA. Therefore, these additional permitting requirements will not significantly reduce

profits for a substantial number of small entities because most entities are already subject to such requirements.

NOAA does not charge a fee for review and issuance of general permits, and there are minimal, indirect costs associated with the time for an individual to complete a permit application and respond to any follow-up questions from NOAA. While NOAA may assess fees for the conduct of any activity authorized under a special use permit, fees are not required and decisions are made on a case-by-case basis. No unique professional skills are necessary to meet these reporting requirements.

Although NOAA has made minor technical changes and clarifications to the regulations from the proposed rule to the final rule, none of the changes alter the initial determination that this rule will not have a significant impact on a substantial number of small entities. NOAA also did not receive any comments relevant to the analysis or conclusions of this determination. Therefore, the determination that this rule will not have a significant economic impact on a substantial number of small entities remains unchanged. As a result, a final regulatory flexibility analysis was not required and none was prepared.

F. Paperwork Reduction Act

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., unless that collection of information displays a currently valid OMB control number. NOAA plans to use an existing collection, Papahānaumokuākea Marine National Monument Permit Applications and Reports for Permits, currently approved under OMB Control Number 0648–0548 in association with this final rule. This information collection is currently used to determine whether to approve or deny a permit application for the Papahānaumokuākea Marine National Monument. Information collected includes such items as the professional qualifications and financial ability of the applicant (as related to the requested activity); the duration of the activity

and its effects; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; and the extent to which the conduct of the activity may diminish or enhance the qualities for which the Monument was designated. Some of the information collected may also be used to inform management actions or decision making after a final decision has been made. Additional information regarding this collection of information – including all background materials -- can be found at <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

NOAA believes designating a national marine sanctuary in the marine portions of the Monument will not result in a significant change to the burden, reporting, recordkeeping, and other compliance requirements as discussed in the preamble of the rule. To the extent compliance with this final rule would impose a burden on persons, including small businesses, NOAA believes this burden will be minimal. NOAA did not receive any comments in response to this determination at the proposed rule stage. Following sanctuary designation, NOAA may elect to re-visit the current collection to determine if additional changes are needed. Should NOAA, in consultation with the Department of Interior, the State of Hawaii, and the Office of Hawaiian Affairs, believe additional changes are needed to better facilitate implementation of sanctuary permitting and reporting, NOAA will publish a 60 day notice announcing potential revisions for public comment before submitting materials to OMB.

G. National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA, 54 U.S.C. 306108) requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (ACHP) the opportunity to comment with regard to the undertaking. “Historic property” means any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior. This term includes

artifacts, records, and material remains that are related to and located within such properties, including properties of traditional religious and cultural importance to an Indigenous nation or Tribe or Native Hawaiian organization (see 36 CFR 800.16(l)).

The regulations implementing section 106 of the NHPA (36 CFR part 800) establish a process requiring Federal agencies to: (1) determine whether the undertaking is a type of activity that could affect historic properties; (2) identify historic properties in the area of potential effects; (3) assess potential adverse effects; and (4) resolve adverse effects. The regulations require that Federal agencies consult with States, Tribes, and other interested parties when making their effect determinations.

NOAA has determined that the designation of a national marine sanctuary and related rulemaking for sanctuary-specific regulations meet the definition of an undertaking as defined at § 800.16(y). In fulfilling its responsibilities under section 106 of the NHPA, NOAA initiated consultation with the Hawai'i State Historic Preservation Division through the Hawai'i Cultural Resource Information System on November 21, 2021. NOAA also invited the Advisory Council on Historic Preservation (ACHP) to participate on November 21, 2021. NOAA further initiated an effort to identify consulting parties to participate in the Section 106 process through distribution of over 500 letters to individuals, organizations, and families. This included outreach to families with lineal and cultural connections to Papahānaumokuākea, cultural practitioners, Native Hawaiian Organizations, the fishing community (including subsistence, recreational, and commercial fishers), maritime heritage organizations, government agencies, and others. These letters solicited input regarding the identification of, and potential effects on, historic properties from the proposed sanctuary designation for the purpose of obtaining input for the Section 106 review and to additionally determine their interest in participating as a consulting party. Through this process NOAA identified 31 consulting parties.

NOAA subsequently hosted ten Section 106 consultation meetings with the consulting parties. Through these consultation meetings, NOAA further sought to invite consulting party

and public input regarding the identification of, and potential effects on, historic properties from the proposed sanctuary designation. Subsequently, pursuant to 36 CFR 800.4(d)(1) NOAA issued a Finding of No Historic Properties Affected for this undertaking (see final EIS Appendix C). The consulting parties have been notified of the finding and the finding was provided to the Hawai‘i State Historic Preservation Division for concurrence.

As the draft EIS was a joint Federal-State action, the State also prepared a Cultural Impact Assessment and Legal Analysis pursuant to the Hawai‘i Environmental Policy Act, Hawai‘i Revised Statutes (HRS) section 343, the corresponding Hawai‘i Administrative Rules (HAR) section 11-200.1, and the Environmental Council’s 1997 Guidelines for Assessing Cultural Impacts. Pursuant to HRS § 6E-8 and HAR § 13-275-3, the Hawai‘i Department of Land and Natural Resources (DLNR) submitted a written request to the State Historic Preservation Division (SHPD) for an agency determination letter. On June 7, 2024, SHPD concurred with DLNR’s determination of no historic properties affected. The concurrence letter from the State Historic Preservation Division is available at <https://sanctuaries.noaa.gov/papahanaumokuakea/>.

H. Sunken Military Craft Act

The Sunken Military Craft Act of 2004 (SMCA; Pub. L. 108-375, Title XIV, sections 1401 to 1408; 10 U.S.C. 113 note) preserves and protects from unauthorized disturbance all sunken military craft that are owned by the United States government, as well as foreign sunken military craft that lie within United States waters, as defined in the SMCA. Thousands of U.S. sunken military craft lie in waters around the world, many accessible to looters, treasure hunters, and others who may cause damage to them. These craft, and their associated contents, represent a collection of non-renewable and significant historical resources that often serve as war graves, carry unexploded ordnance, and contain oil and other hazardous materials. By protecting sunken military craft, the SMCA helps reduce the potential for irreversible harm to these nationally important historical and cultural resources.

Sunken military craft are administered by the respective Secretary concerned pursuant to the SMCA. The Secretary concerned is solely responsible for authorizing disturbance of sunken military craft under the SMCA, specifically for archaeological, historical, or educational purposes, and will consult with NOAA when considering permitting such activities. The Secretary concerned is also responsible for determinations of sunken military craft status and ownership, publicly disclosing the location of sunken military craft, and for determining eligibility and nominating sunken military craft as historic properties to the National Register of Historic Places. Any agreements with foreign sovereigns regarding sunken military craft in U.S. waters are negotiated by the Secretary of Defense, the Secretary of State, and the Secretary of the Navy, according to authorities vested in each by the SMCA. The Secretary concerned, or his or her designee, and NOAA will ensure coordination and foster collaboration on any research, monitoring, and educational activities pertaining to sunken military craft located within the sanctuary system.

The 1942 Battle of Midway occurred both at Midway Atoll as well as some 100-150 nautical miles north of the atoll in the northwestern portion of Papahānaumokuākea. Aircraft carriers from the historic conflict have been located in the deep ocean, and multiple aircraft and sunken military vessels have been surveyed within the Midway Atoll Special Management Area. Hundreds of aircraft and several other aircraft carriers and destroyers from the battle remain to be discovered in Papahānaumokuākea.

K. Coastal Zone Management Act (CZMA)

Section 307 of the Coastal Zone Management Act (CZMA; 16 U.S.C. 1456) requires Federal agencies to consult with a State's coastal program on potential Federal agency activities that affect any land or water use or natural resource of the coastal zone. Because the sanctuary lies partially within State waters, NOAA submitted its Federal consistency determination to the Hawai'i Coastal Zone Management Program of the Office of Planning and Sustainable Development. NOAA's analysis found the proposed action would be undertaken in a manner

consistent to the maximum extent practicable with the enforceable policies of the Hawai‘i Coastal Zone Management Program. NOAA’s Federal consistency determination, and the State of Hawai‘i May 17, 2024 concurrence letter, are included in the final EIS Appendix C1.

L. Executive Order 12898 and 14096: Environmental Justice

Executive Order 12898 and Executive Order 14096 direct Federal agencies to identify and address disproportionately high and adverse effects of their actions on human health and the environment of communities with environmental justice concerns. Additionally, Federal agencies are directed to better protect overburdened communities from pollution and environmental harms; strengthen engagement with communities and mobilize Federal agencies to confront existing and legacy barriers and injustices; promote the latest science, data, and research, including on cumulative impacts; increase accountability and transparency in Federal environmental justice policy; and honor and build on the foundation of ongoing environmental justice work. The designation of national marine sanctuaries by NOAA helps to ensure the enhancement of environmental quality for all populations in the United States. The sanctuary designation would not result in disproportionate negative impacts on any communities with environmental justice concerns. In addition, many of the potential impacts from designating the sanctuary would result in long-term or permanent beneficial impacts by protecting resources, which may have a positive impact on communities by providing employment and educational opportunities, and potentially result in improved ecosystem services.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure; Coastal zone; Cultural resources; Environmental; Protection; Fishing; Historic preservation; Marine protected areas; Marine resources; Natural resources; National marine sanctuaries; Penalties; Recreation and recreation areas; Reporting and recordkeeping requirements; Shipwrecks; Wildlife

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management,

National Ocean Service,

National Oceanic and Atmospheric Administration.

For the reasons set forth above, NOAA amends part 922, title 15 of the Code of Federal Regulations as follows:

PART 922 – NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. Amend § 922.30 by:

- a. Removing the word “and” at the end of paragraph (b)(6);
- c. Removing the period at the end of paragraph (b)(7) and adding “;” in its place; and
- d. Adding paragraphs (b)(8) and (9).

The additions read as follows:

§ 922.30 National Marine Sanctuary general permits

* * * * *

(b) * * *

(8) Native Hawaiian Practices - activities that allow for Native Hawaiian practices within Papahānaumokuākea National Marine Sanctuary; and

(9) Recreation - recreational activities within Papahānaumokuākea National Marine Sanctuary limited to the Midway Atoll Special Management Area.

3. Amend § 922.33 by:

- a. Removing the word “and” at the end of paragraph (a)(8);
- b. Removing the period at the end of paragraph (a)(9) and adding “; and” in its place; and
- c. Adding paragraph (a)(10).

The addition read as follows:

§ 922.33 Review procedures and evaluation.

(a) * * *

(10) For Papahānaumokuākea National Marine Sanctuary, there is no practicable alternative to conducting the activity within the sanctuary and the activity can be conducted with adequate safeguards for the resources and ecological integrity of the sanctuary. Further, for Native Hawaiian Practices and Recreation permits in Papahānaumokuākea National Marine Sanctuary, the activity meets the additional site-specific permit review criteria identified in §922.245.

* * * * *

4. Amend 922.37 by adding paragraph (g).

§ 922.37 Appeals of permitting decisions.

* * *

(g) Paragraphs (a) through (f) of this section do not apply to Papahānaumokuākea National Marine Sanctuary.

* * * * *

5. Add subpart W to read as follows:

Subpart W – Papahānaumokuākea National Marine Sanctuary

Sec.

922.240 Boundary.

922.241 Definitions.

922.242 Cooperative management.

922.243 Access.

922.244 Prohibited or otherwise regulated activities.

922.245 Permit procedures and criteria.

922.246 Vessel monitoring system.

922.247 Sunken military craft.

Appendix A to Subpart W of Part 922 — Papahānaumokuākea National Marine Sanctuary Boundary Description and Coordinates

Appendix B to Subpart W of Part 922 - Coordinates for the Outer Sanctuary Zone

Appendix C to Subpart W of Part 922 - Coordinates for the Midway Atoll Special Management Area

Appendix D to Subpart W of Part 922 - Coordinates for the Special Preservation Areas (SPAs)

Appendix E to Subpart W of Part 922 - Coordinates for the Ship Reporting Area

§ 922.240 Boundary.

Papahānaumokuākea National Marine Sanctuary consists of an area of approximately 582,570 square miles (439,910 square nautical miles) of Pacific Ocean waters surrounding the Northwestern Hawaiian Islands and the submerged lands thereunder. The precise boundary coordinates are listed in Appendix A to this subpart. The outer seaward sanctuary boundary begins approximately 200 nautical miles SW of Kure Atoll at Point 1 and continues from this point roughly north to each successive point in numerical order to Point 232 which is approximately 204 nautical miles north of Kure Atoll. From Point 232 the sanctuary boundary continues roughly ESE to each successive point in numerical order to Point 609 which is approximately 200 nautical miles NE of Necker Island. From Point 609 the sanctuary boundary continues south to Point 610 which is approximately 90 nautical miles ENE of Necker Island. From Point 610 the sanctuary boundary continues roughly east and then SE and south to Point 635 which is approximately 50 nautical miles east of Nihoa. From Point 635 the sanctuary boundary continues roughly south and then SW and west to each successive point in numerical order to Point 662 which is approximately 71 nautical miles SW of Nihoa. From Point 662 the sanctuary boundary continues south to Point 663 which is approximately 236 nautical miles SSW of Nihoa. From Point 663 the sanctuary boundary continues roughly NW to each successive point in numerical order to Point 703 which is approximately 200 nautical miles SSE of Necker Island. From Point 703 the boundary continues roughly NW to each successive point in numerical order to Point 1128 where it ends approximately 200 nautical miles SW of Kure Atoll. The inner landward boundary of the sanctuary follows the shoreline as defined by the State of Hawai‘i (HAR §13-222).

§ 922.241 Definitions.

In addition to those definitions found at § 922.11, the following definitions apply to this subpart. To the extent that a term appears in § 922.11 and this section, the definition in this section governs.

Areas to be avoided (ATBA) means the four areas, as adopted by the International Maritime Organization, that should be avoided by vessels that are conducting passage without interruption through the sanctuary. The precise boundary coordinates for the ATBAs are listed in Appendix E to this subpart.

Bottomfish species means all species of bottomfish as defined at 50 CFR 665.201.

Categories of hazardous cargoes means goods classified in the International Maritime Dangerous Goods (IMDG) Code; substances classified in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) and chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code); oils as defined in MARPOL Annex I; noxious liquid substances as defined in MARPOL Annex II; harmful substances as defined in MARPOL Annex III; and radioactive materials specified in the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Waste on Board Ships (INF Code).

Commercial fishing means, as defined in the Magnuson-Stevens Fishery Conservation and Management Act, fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter, or trade.

Ecological integrity means a condition determined to be characteristic of an ecosystem that has the ability to maintain the function, structure, and abundance of natural biological communities, including rates of change in response to natural environmental variation.

Midway Atoll Special Management Area means the area of the sanctuary surrounding Midway Atoll out to a distance of 12 nautical miles. The coordinates are listed in Appendix C to this subpart.

Native Hawaiian practices means cultural activities conducted for the purposes of perpetuating traditional knowledge, caring for and protecting the environment and strengthening cultural and spiritual connections to the Northwestern Hawaiian Islands that have demonstrable benefits to the Native Hawaiian community. This may include, but is not limited to, the non-commercial use of sanctuary resources for direct personal consumption while in the sanctuary.

Non-commercial fishing means fishing that does not meet the definition of commercial fishing in the Magnuson-Stevens Fishery Conservation and Management Act, and includes, but is not limited to, sustenance, subsistence, traditional indigenous, and recreational fishing.

Office of Law Enforcement (OLE) means NOAA, National Marine Fisheries Service, Office of Law Enforcement.

Outer Sanctuary Zone means the waters and submerged lands extending from approximately 50 nautical miles from all islands and emergent lands of the Northwestern Hawaiian Islands to the extent of the seaward limit of the United States Exclusive Economic Zone (U.S. EEZ) west of 163° West Longitude. The precise boundary coordinates for the Outer Sanctuary Zone are listed in Appendix B to this subpart.

Particularly Sensitive Sea Area (PSSA) means an area that needs special protection through action by the International Maritime Organization because of its significance for recognized ecological, socio-economic, or scientific attributes where such attributes may be vulnerable to damage by international shipping activities.

Pelagic species means Western Pacific Pelagic Management Unit Species as defined at 50 CFR 665.800.

Pono means appropriate, correct, and deemed necessary by traditional standards in Hawaiian culture.

Recreational activity means an activity conducted for personal enjoyment that does not result in the extraction of sanctuary resources and that does not involve a fee-for-service

transaction. This includes, but is not limited to, wildlife viewing, SCUBA diving, snorkeling, and boating.

Reporting area means the area of the sanctuary that extends outward ten nautical miles from the Particularly Sensitive Sea Area boundary, as designated by the International Maritime Organization, and excludes the Areas to be Avoided that fall within the Particularly Sensitive Sea Area boundary. The precise boundary coordinates for the reporting area are listed in Appendix E to this subpart.

Scientific instrument means a device, vehicle, or tool used for scientific purposes and is inclusive of structures, materials, or other matter incidental to proper use of such device, vehicle, or tool.

Special Preservation Area (SPA) means discrete, biologically important areas of the sanctuary within which uses are subject to certain conditions, restrictions, and prohibitions, including but not limited to access restrictions. The coordinates are listed in Appendix D to this subpart.

Stowed and not available for immediate use means not readily accessible for immediate use, e.g., by being securely covered and lashed to a deck or bulkhead, tied down, unbaited, unloaded, or partially disassembled (e.g., spear shafts being kept separate from spearguns).

Sustenance fishing means fishing for bottomfish or pelagic species in which all catch is consumed within the sanctuary, and that is incidental to an activity permitted under this part.

Vessel monitoring system (VMS) means a mobile transceiver unit as described in §922.246 and approved by NOAA's Office of Law Enforcement for use on vessels permitted to access the sanctuary, as required by this part.

§ 922.242 Cooperative management.

(a) NOAA has primary responsibility for the management of the sanctuary pursuant to the National Marine Sanctuaries Act. As the sanctuary includes State waters, NOAA will co-manage Papahānaumokuākea National Marine Sanctuary with the State of Hawai'i.

(b) NOAA will also manage the sanctuary in partnership with the U.S. Fish and Wildlife Service and the Office of Hawaiian Affairs.

(c) Nothing in these regulations or establishment of the national marine sanctuary shall diminish U.S. Fish and Wildlife Service's authority to administer Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act, as amended, and other U.S. Fish and Wildlife Service authorities. Where Papahānaumokuākea National Marine Sanctuary overlays Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, NOAA will implement the National Marine Sanctuaries Act to provide supplemental authority to protect resources.

(d) NOAA, in exercising its management authority under National Marine Sanctuaries Act Section 304(d), recognizes U.S. Fish and Wildlife Service's management authority over Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge under the National Wildlife Refuge System Administration Act, as amended.

§ 922.243 Access.

(a) Access to the Sanctuary is prohibited and thus unlawful except:

(1) When conducting emergency response actions, law enforcement activities, and activities and exercises of the Armed Forces in accordance with § 922.244(b) and (c);

(2) Pursuant to a permit issued under § 922.245;

(3) When conducting non-commercial fishing activities in the Outer Sanctuary Zone authorized under the Magnuson-Stevens Fishery Conservation and Management Act in accordance with § 922.244 (d);

(4) When conducting scientific exploration or research activities by or for the Secretary of Commerce or the Secretary of the Interior in the Outer Sanctuary Zone in accordance with § 922.244 (f).

(5) When conducting passage without interruption in accordance with paragraphs (b), (c),

and (d) of this section.

(b) A vessel may pass without interruption through the sanctuary without requiring a permit as long as the vessel does not stop or engage in the prohibited activities listed in § 922.244 within the sanctuary.

(c) For areas of the sanctuary that are contained within the reporting area surrounding the Particularly Sensitive Sea Area (PSSA) designated by the International Maritime Organization (IMO), a ship reporting system (CORAL SHIPREP) specified below shall be in effect. The coordinates for the Reporting Area are listed in Appendix E to this subpart.

(1) The following vessels, except vessels entitled to sovereign immunity under international law, passing through the reporting area of the sanctuary without interruption, must participate in the ship reporting system as specified in paragraphs (c)(2) through (6) of this section:

(i) Vessels of the United States of any size;

(ii) All other ships 300 gross tonnage or greater that are entering or departing a United States port or place; and

(iii) All other ships of any size entering or departing a United States port or place and experiencing an emergency while transiting through the reporting area.

(2) All vessels passing through the reporting area of the sanctuary without interruption other than those described in paragraph (c)(1) of this section are encouraged to participate in the ship reporting system set forth in paragraphs (c)(2) through (6) of this section.

(3) Immediately upon entering the reporting area, vessels described in paragraph (c)(1) of this section must provide the following information by e-mail sent to *nwhi.notifications@noaa.gov* in the IMO standard reporting format and data syntax shown in Appendix F to this subpart:

(i) Vessel name, call sign or ship station identity, flag, and IMO identification number if applicable, and either Federal documentation or State registration number if applicable;

- (ii) Date, time (UTC) and month of entry;
 - (iii) Position;
 - (iv) True course;
 - (v) Speed in knots and tenths;
 - (vi) Destination and estimated time of arrival;
 - (vii) Intended route through the reporting area;
 - (viii) Vessel draft (in meters);
 - (ix) Categories of hazardous cargoes on board;
 - (x) Any vessel defects or deficiencies that restrict maneuverability or impair normal navigation;
 - (xi) Any pollution incident or goods lost overboard within the PSSA, the reporting area, or the U.S. EEZ;
 - (xii) Contact information for the vessel's agent or owner;
 - (xiii) Vessel size (length overall, gross tonnage) and type; and
 - (xiv) Total number of persons on board.
- (4) Immediately upon leaving the reporting area, vessels described in paragraph (c)(1) of this section must provide the following information by e-mail sent to *nwhi.notifications@noaa.gov* in the IMO standard reporting format and data syntax shown in Appendix F to this subpart:
- (i) Vessel name, call sign or ship station identity, flag, and IMO identification number if applicable, and either Federal documentation or State registration number if applicable;
 - (ii) Date, time (UTC), and month of exit;
 - (iii) Position; and
 - (iv) Any pollution incident or goods lost overboard within the PSSA, the reporting area, or the U.S. EEZ.

(5) For vessels that are not equipped with on-board e-mail capability, advanced notice of entrance (as outlined in paragraph (c)(3) of this section) shall be provided at least 72 hours, but not more than one month, prior to entering the reporting area. Notification of departure (as outlined in paragraph (c)(4) of this section) must be provided within 12 hours of leaving the reporting area. Notification under this paragraph may be made by e-mail, telephone, or fax, by contacting:

- (i) E-mail: *nwhi.notifications@noaa.gov*;
- (ii) Telephone: 1-808-395-6944 or 1-866-478-6944; or
- (iii) Fax: 1-808-455-3093.

(6) Further reports shall be made by the vessels described in paragraph (c)(1) of this section, and are encouraged for the vessels described in paragraph (c)(2) of this section, whenever there is a change in navigation status or circumstances, particularly in relation to the intended route, defects or deficiencies, pollution incidents, or goods lost overboard.

§ 922.244 Prohibited or otherwise regulated activities.

(a) The following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the sanctuary, except as specified in paragraphs (b) through (f) of this section:

- (1) Exploring for, developing, or producing oil, gas, or minerals, or any energy development activities;
- (2) Using or attempting to use poisons, electrical charges, or explosives in the collection or harvest of a sanctuary resource;
- (3) Introducing or otherwise releasing an introduced species from within or into the sanctuary;
- (4) Deserting a vessel;
- (5) Anchoring on or having a vessel anchored on any living or dead coral with an anchor, anchor chain, or anchor rope;

(6) Commercial fishing, or possessing commercial fishing gear except when stowed and not available for immediate use;

(7) Failing to comply with the vessel monitoring system requirements in violation of § 922.246.

(8) Failing to comply with ship reporting requirements in violation of § 922.243.

(9) Non-commercial fishing, or possessing non-commercial fishing gear except when stowed and not available for immediate use;

(10) Drilling into, dredging, or otherwise altering the submerged lands; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands;

(11) Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving sanctuary resource;

(12) Attracting any living sanctuary resource;

(13) Touching coral, living or dead;

(14) Swimming, snorkeling, or closed or open circuit SCUBA diving;

(15) Discharging or depositing any material or other matter into the sanctuary, or discharging or depositing any material or other matter outside of the sanctuary that subsequently enters the sanctuary and injures or has the potential to injure any resources of the sanctuary, except for:

(i) Fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity, provided that such discharge or deposit is during the conduct of lawful fishing activity within the sanctuary;

(ii) Discharge incidental to vessel operations such as approved marine sanitation device effluent, cooling water, and engine exhaust, consistent with Federal statute or regulation; and

(iii) Within Special Preservation Areas or the Midway Atoll Special Management Area, discharging or depositing material or other matter is limited to vessel engine cooling water,

weather deck runoff, and vessel engine exhaust, consistent with Federal statute or regulation.

(16) Anchoring a vessel.

(b) The prohibitions in paragraph (a) of this section do not apply to activities necessary to respond to emergencies threatening life, property, or the environment, or to activities necessary for law enforcement purposes.

(c) The prohibitions in paragraph (a) of this section do not apply to activities and exercises of the U.S. Armed Forces (including those carried out by the U.S. Coast Guard). This includes the U.S. Armed Forces' response to emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution. All activities and exercises of the U.S. Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with operational requirements, adverse impacts on sanctuary resources and qualities. These regulations shall not limit or otherwise affect the U.S. Armed Forces discretion to use, maintain, improve, manage, or control any property under their administrative control or otherwise limit the availability of such property for military mission purposes, including, but not limited to, defensive areas and airspace reservations.

(d) The prohibitions in paragraph (a)(9) through (12), and (a)(14) of this section do not apply to non-commercial fishing activities in the Outer Sanctuary Zone authorized under the Magnuson-Stevens Fishery Conservation and Management Act provided that:

(1) 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;

(2) 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

(3) The activities under paragraph (a)(9) through (12), and (a)(14) are only conducted as incidental to and necessary to conduct lawful non-commercial fishing activity.

(e) The prohibitions in paragraphs (a)(9) through (16) of this section, do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a sanctuary general permit, or special use permit issued pursuant to subpart D of this part. In no event, may the Director issue a National Marine Sanctuary general permit or special use permit authorizing or otherwise approving activities listed in paragraph (a)(10) of this section for anything other than scientific instruments, when the activity occurs within the Outer Sanctuary Zone.

(f) The prohibitions in paragraph (a) of this section shall not restrict scientific exploration or research activities by or for the Secretary of Commerce or the Secretary of the Interior when the activity occurs within the Outer Sanctuary Zone.

§ 922.245 Permit procedures and criteria.

(a) A person may conduct an activity otherwise prohibited by § 922.244(a)(9) through (16), if such activity is specifically allowed by and conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and subpart D of this part, and any additional permit issuance criteria and requirements in paragraphs (a)(1) and (a)(2) of this section.

(1) Native Hawaiian Practices

(i) The activity is non-commercial and will not involve the sale of any organism or material collected;

(ii) The purpose and intent of this activity is appropriate and deemed necessary by traditional standards in the Native Hawaiian culture (pono), and demonstrates an understanding of, and background in, the traditional practice, and its associated values and protocols;

(iii) The activity benefits the resources of the Northwestern Hawaiian Islands and the Native Hawaiian community;

(iv) The activity supports or advances the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the Northwestern Hawaiian Islands; and

(v) Any living sanctuary resource harvested from the sanctuary will be consumed or utilized in the sanctuary.

(2) Recreation permits

(i) The activity is limited to the Midway Atoll Special Management Area.

(ii) The activity is for the purpose of recreational activities as defined in § 922.241;

(iii) The activity is not associated with any for-hire operation;

(iv) The activity does not involve any extractive use; and

(b) Applications for permits should be addressed to the NOAA Inouye Regional Center, Office of National Marine Sanctuaries; ATT: Permit Coordinator, Papahānaumokuākea, 1845 Wasp Blvd, Building 176, Honolulu, HI 96818.

(c) The Secretary of Commerce may authorize sustenance fishing outside of any Special Preservation Area as a term or condition of any general permit or special use permit issued under this section and subpart D of this part. Sustenance fishing in the Midway Atoll Special Management Area shall not be allowed unless the activity has been determined by the Director of the U.S. Fish and Wildlife Service or their designee to be compatible with the purposes for which the Midway Atoll National Wildlife Refuge was established. Sustenance fishing must be conducted in a manner compatible with this part, including considering the extent to which the conduct of the activity may diminish Sanctuary resources, qualities, and ecological integrity, as well as any indirect, secondary, or cumulative effects of the activity and the duration of such effects. The Secretary of Commerce may develop procedures for systematic reporting of sustenance fishing.

(d) In addition to other applicable permit issuance criteria and requirements, a permit may not be issued under this section unless the applicant's vessel has been outfitted with a VMS unit approved by OLE and the applicant complies with the requirements of § 922.246.

§ 922.246 Requirements for a vessel monitoring system.

(a) *Requirement for use.* An owner or operator of a vessel that has been issued a general permit or special use permit under § 922.245 and subpart D of this part must ensure that such vessel is operating a NOAA OLE type-approved VMS on board when operating within the sanctuary. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and OLE as provided by an OLE-approved communication service provider. As a condition of authorized access to the sanctuary, a vessel owner or operator subject to the requirements for a VMS in this section must allow OLE, the U.S. Coast Guard, and their authorized officers and designees access to the vessel's position data obtained from the VMS. NOAA may have access to, and use of, collected data for scientific, statistical, and management purposes, and to monitor implementation of this subpart.

(b) *Installing and activating the VMS.* (1) OLE has approval authority over the type of VMS used and the installation and operation of the VMS unit.

(2) The owner or operator of a vessel must coordinate with OLE to install and activate an approved VMS prior to operating within the sanctuary. For the purposes of this section, the following contact information applies:

(i) *OLE.* Address: 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone: 808-725-6100; facsimile: 808-725-6199; email: pidvms@noaa.gov; business hours: Monday through Friday, except Federal holidays, 8 a.m. to 4:30 p.m., Hawaii Standard Time.

(ii) *VMS Helpdesk.* Telephone: 888-219-9228; email: ole.helpdesk@noaa.gov; business hours: Monday through Friday, except Federal holidays, 7 a.m. to 11 p.m., Eastern Time.

(c) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly within the sanctuary, the owner or operator must immediately contact OLE, and follow instructions from that office. If notified by OLE that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating a vessel's location as directed by OLE; or exiting the sanctuary until the VMS is operable.

(d) *Activities Regarding VMS For Vessels Operating in the Sanctuary.* The following activities regarding vessel monitoring systems are prohibited and thus unlawful for any person to conduct or cause to be conducted:

- (1) Operating any vessel within the sanctuary without an OLE type-approved VMS;
- (2) Failing to install, activate, repair, or replace a VMS prior to entering the sanctuary;
- (3) Failing to operate and maintain a VMS on board the vessel;
- (4) Tampering with, damaging, destroying, altering, or in any way distorting, rendering useless, inoperative, ineffective, or inaccurate the VMS, or VMS signal, or attempting any of the same;
- (5) Failing to contact OLE or follow OLE instructions when automatic position reporting has been interrupted;
- (6) Registering a VMS to more than one vessel permitted to operate within the sanctuary at the same time;
- (7) Connecting or leaving connected additional equipment to a VMS unit without the prior approval of OLE; and
- (8) Making a false statement, oral or written, to an authorized officer regarding the installation, use, operation, or maintenance of a VMS unit-or communication service provider.

§ 922.247 Sunken military craft.

Sunken military craft are administered by the respective Secretary concerned pursuant to the Sunken Military Craft Act (Pub. L. 108-375, Title XIV, sections 1401 to 1408; 10 U.S.C. 113 note). The Director will enter into a Memorandum of Agreement regarding collaboration with other Federal agencies charged with implementing the Sunken Military Craft Act that may address aspects of managing and protecting sunken military craft. The Director will request approval from the Secretary concerned for any terms and conditions of ONMS permits that may involve sunken military craft.

Appendix A to Subpart W of Part 922 - Papahānaumokuākea National Marine Sanctuary

Boundary Description and Coordinates

[Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983]

Point No	Longitude	Latitude
1	180.00000	25.38976
2	179.99985	25.38982
3	179.96681	25.40451
4	179.93392	25.41950
5	179.90119	25.43478
6	179.86863	25.45034
7	179.83622	25.46619
8	179.78793	25.49050
9	179.75595	25.50707
10	179.72415	25.52391
11	179.69252	25.54104
12	179.66108	25.55844
13	179.62981	25.57612
14	179.59874	25.59408
15	179.56786	25.61231
16	179.53716	25.63081
17	179.50667	25.64959
18	179.47637	25.66863
19	179.44627	25.68794
20	179.41638	25.70751
21	179.38670	25.72735
22	179.35722	25.74745
23	179.32796	25.76781
24	179.28448	25.79883
25	179.25576	25.81983
26	179.22255	25.84463
27	179.18175	25.87583
28	179.15383	25.89770
29	179.12613	25.91982
30	179.09868	25.94218
31	179.07146	25.96479
32	179.03108	25.99915
33	179.00447	26.02235
34	178.97810	26.04578
35	178.93902	26.08137

36	178.91329	26.10537
37	178.88781	26.12961
38	178.86259	26.15407
39	178.82525	26.19117
40	178.80068	26.21618
41	178.77639	26.24141
42	178.75236	26.26685
43	178.71683	26.30540
44	178.69349	26.33136
45	178.65901	26.37068
46	178.63637	26.39715
47	178.61378	26.42409
48	178.59171	26.45096
49	178.56993	26.47801
50	178.54844	26.50526
51	178.52725	26.53270
52	178.49601	26.57420
53	178.46544	26.61611
54	178.44544	26.64427
55	178.41601	26.68685
56	178.39677	26.71544
57	178.37784	26.74421
58	178.35922	26.77314
59	178.34092	26.80223
60	178.30653	26.85803
61	178.28885	26.88744
62	178.26294	26.93185
63	178.24606	26.96164
64	178.22951	26.99158
65	178.21329	27.02166
66	178.19632	27.05394
67	178.17402	27.09774
68	178.15895	27.12831
69	178.14422	27.15901
70	178.12274	27.20529
71	178.10884	27.23631
72	178.08864	27.28305
73	178.06920	27.33006
74	178.05667	27.36154
75	178.03853	27.40896
76	178.02687	27.44071
77	178.01003	27.48851
78	177.99924	27.52051

79	177.98881	27.55259
80	177.97873	27.58477
81	177.96901	27.61703
82	177.95509	27.66559
83	177.94198	27.71432
84	177.93368	27.74690
85	177.92568	27.77984
86	177.91811	27.81256
87	177.90744	27.86176
88	177.90079	27.89464
89	177.89149	27.94406
90	177.88574	27.97707
91	177.88037	28.01014
92	177.87300	28.05982
93	177.86647	28.10959
94	177.86258	28.14281
95	177.85744	28.19271
96	177.85447	28.22601
97	177.85073	28.27600
98	177.84871	28.30936
99	177.84706	28.34273
100	177.84529	28.39281
101	177.84436	28.44291
102	177.84422	28.47631
103	177.84445	28.50971
104	177.84551	28.55981
105	177.84670	28.59348
106	177.84844	28.63098
107	177.85148	28.68101
108	177.85399	28.71434
109	177.85761	28.75561
110	177.86197	28.79830
111	177.86786	28.84813
112	177.87226	28.88131
113	177.87543	28.90360
114	177.87967	28.93173
115	177.88514	28.96554
116	177.89133	29.00123
117	177.90063	29.05066
118	177.90735	29.08379
119	177.91806	29.13300
120	177.92567	29.16572
121	177.93780	29.21468

122	177.94636	29.24722
123	177.95989	29.29590
124	177.96959	29.32896
125	177.97946	29.36122
126	177.98970	29.39340
127	178.00575	29.44148
128	178.01692	29.47341
129	178.03438	29.52113
130	178.04647	29.55280
131	178.06531	29.60012
132	178.08497	29.64717
133	178.09853	29.67840
134	178.11268	29.71000
135	178.13426	29.75642
136	178.15665	29.80255
137	178.17203	29.83313
138	178.19577	29.87875
139	178.21216	29.90921
140	178.22879	29.93930
141	178.25439	29.98416
142	178.27525	30.01949
143	178.29311	30.04905
144	178.31861	30.09001
145	178.34009	30.12350
146	178.35931	30.15271
147	178.38857	30.19588
148	178.41018	30.22681
149	178.43934	30.26737
150	178.47063	30.30946
151	178.49239	30.33792
152	178.51400	30.36556
153	178.54703	30.40666
154	178.57973	30.44608
155	178.60482	30.47552
156	178.62805	30.50216
157	178.65341	30.53061
158	178.68811	30.56854
159	178.71589	30.59815
160	178.75298	30.63662
161	178.77809	30.66199
162	178.80351	30.68713
163	178.84220	30.72443
164	178.88157	30.76121

165	178.90818	30.78543
166	178.94864	30.82133
167	178.97598	30.84496
168	179.00360	30.86835
169	179.04556	30.90297
170	179.07393	30.92578
171	179.11693	30.95947
172	179.14594	30.98161
173	179.18995	31.01433
174	179.21963	31.03582
175	179.26463	31.06757
176	179.29516	31.08855
177	179.34112	31.11928
178	179.38763	31.14941
179	179.41894	31.16915
180	179.45050	31.18861
181	179.49827	31.21728
182	179.54657	31.24532
183	179.57905	31.26365
184	179.61792	31.28512
185	179.65085	31.30287
186	179.70065	31.32895
187	179.73411	31.34598
188	179.77707	31.36728
189	179.81095	31.38371
190	179.86214	31.40779
191	179.89652	31.42346
192	179.94844	31.44640
193	179.98329	31.46131
194	-180.00000	31.46823
195	-179.96410	31.48309
196	-179.92880	31.49722
197	-179.89333	31.51105
198	-179.83980	31.53119
199	-179.78591	31.55062
200	-179.74978	31.56318
201	-179.71350	31.57542
202	-179.65880	31.59317
203	-179.62215	31.60460
204	-179.56692	31.62114
205	-179.51138	31.63695
206	-179.47371	31.64721
207	-179.41770	31.66179

208	-179.38021	31.67109
209	-179.33210	31.68252
210	-179.28243	31.69383
211	-179.23675	31.70369
212	-179.19878	31.71149
213	-179.16071	31.71896
214	-179.10344	31.72953
215	-179.06516	31.73615
216	-179.00758	31.74546
217	-178.94983	31.75399
218	-178.90738	31.75980
219	-178.86874	31.76473
220	-178.82975	31.76934
221	-178.79099	31.77358
222	-178.75218	31.77748
223	-178.71332	31.78104
224	-178.67441	31.78425
225	-178.63547	31.78712
226	-178.59650	31.78964
227	-178.55749	31.79182
228	-178.51846	31.79366
229	-178.47941	31.79515
230	-178.43412	31.79649
231	-178.39504	31.79729
232	-178.35596	31.79775
233	-178.32396	31.79786
234	-178.28487	31.79769
235	-178.24553	31.79717
236	-178.20645	31.79631
237	-178.16738	31.79510
238	-178.12834	31.79354
239	-178.08931	31.79165
240	-178.05031	31.78940
241	-178.01134	31.78682
242	-177.97241	31.78389
243	-177.93351	31.78061
244	-177.89466	31.77699
245	-177.85585	31.77303
246	-177.81646	31.76865
247	-177.77776	31.76401
248	-177.73912	31.75902
249	-177.70055	31.75369
250	-177.66205	31.74802

251	-177.62362	31.74202
252	-177.58526	31.73567
253	-177.54140	31.72800
254	-177.50321	31.72097
255	-177.46512	31.71361
256	-177.42712	31.70592
257	-177.38921	31.69789
258	-177.35141	31.68952
259	-177.31372	31.68082
260	-177.27613	31.67179
261	-177.23866	31.66242
262	-177.20131	31.65273
263	-177.16094	31.64185
264	-177.12384	31.63149
265	-177.08687	31.62082
266	-177.04995	31.60978
267	-176.99406	31.60543
268	-176.95227	31.60174
269	-176.91352	31.59795
270	-176.87481	31.59382
271	-176.83616	31.58934
272	-176.79756	31.58453
273	-176.73979	31.57666
274	-176.70136	31.57100
275	-176.66300	31.56499
276	-176.60561	31.55534
277	-176.56718	31.54844
278	-176.52911	31.54125
279	-176.49114	31.53372
280	-176.45325	31.52586
281	-176.41282	31.51708
282	-176.37095	31.50759
283	-176.33338	31.49873
284	-176.29414	31.48910
285	-176.23818	31.47469
286	-176.20102	31.46467
287	-176.14552	31.44902
288	-176.10869	31.43818
289	-176.07199	31.42701
290	-176.03543	31.41553
291	-175.99902	31.40371
292	-175.94468	31.38539
293	-175.90865	31.37278

294	-175.87278	31.35985
295	-175.83644	31.34637
296	-175.80089	31.33281
297	-175.76551	31.31893
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300	-175.62462	31.30118
301	-175.58577	31.29962
302	-175.56300	31.29856
303	-175.50480	31.29533
304	-175.44667	31.29132
305	-175.38862	31.28654
306	-175.33066	31.28099
307	-175.27281	31.27467
308	-175.21509	31.26757
309	-175.15433	31.25928
310	-175.10019	31.25117
311	-175.05021	31.24316
312	-174.99307	31.23327
313	-174.93613	31.22261
314	-174.87938	31.21120
315	-174.82112	31.19865
316	-174.78357	31.19012
317	-174.74612	31.18126
318	-174.69017	31.16735
319	-174.65301	31.15766
320	-174.61598	31.14764
321	-174.57907	31.13730
322	-174.54229	31.12663
323	-174.48737	31.11001
324	-174.43277	31.09266
325	-174.39656	31.08069
326	-174.36049	31.06840
327	-174.32457	31.05579
328	-174.28881	31.04287
329	-174.25322	31.02962
330	-174.21779	31.01607
331	-174.16782	30.99630
332	-174.12317	30.97807
333	-174.08834	30.96342
334	-174.03646	30.94087
335	-174.00210	30.92545
336	-173.95092	30.90176

337	-173.91394	30.88410
338	-173.88027	30.86763
339	-173.83015	30.84236
340	-173.79699	30.82515
341	-173.74828	30.79912
342	-173.71286	30.77965
343	-173.67333	30.75735
344	-173.63202	30.73339
345	-173.60020	30.71444
346	-173.56860	30.69522
347	-173.52165	30.66586
348	-173.49065	30.64594
349	-173.45306	30.62120
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351	-173.37804	30.57004
352	-173.34479	30.54651
353	-173.30046	30.51431
354	-173.25673	30.48153
355	-173.22791	30.45935
356	-173.19936	30.43692
357	-173.15960	30.40490
358	-173.12000	30.37227
359	-173.09242	30.34897
360	-173.06512	30.32542
361	-173.02470	30.28965
362	-172.98494	30.25335
363	-172.95880	30.22886
364	-172.93295	30.20413
365	-172.89474	30.16662
366	-172.85721	30.12860
367	-172.83096	30.10131
368	-172.79458	30.06247
369	-172.77072	30.03631
370	-172.74717	30.00995
371	-172.71244	29.97001
372	-172.67843	29.92961
373	-172.65616	29.90243
374	-172.62336	29.86129
375	-172.60190	29.83362
376	-172.57892	29.80334
377	-172.55812	29.77530
378	-172.52756	29.73290
379	-172.50760	29.70441

380	-172.48798	29.67574
381	-172.46870	29.64690
382	-172.44976	29.61789
383	-172.42200	29.57406
384	-172.40392	29.54464
385	-172.37746	29.50021
386	-172.35178	29.45544
387	-172.33510	29.42540
388	-172.31074	29.38007
389	-172.29495	29.34967
390	-172.27193	29.30382
391	-172.25703	29.27308
392	-172.23535	29.22673
393	-172.22135	29.19567
394	-172.20103	29.14885
395	-172.18794	29.11749
396	-172.18269	29.10461
397	-172.14425	29.10857
398	-172.10644	29.11211
399	-172.06858	29.11531
400	-172.01172	29.11947
401	-171.95480	29.12286
402	-171.91682	29.12469
403	-171.87882	29.12618
404	-171.82179	29.12776
405	-171.78376	29.12839
406	-171.73360	29.12869
407	-171.67655	29.12830
408	-171.63852	29.12761
409	-171.60049	29.12658
410	-171.54349	29.12439
411	-171.50552	29.12249
412	-171.45928	29.11977
413	-171.42136	29.11719
414	-171.38347	29.11427
415	-171.32671	29.10925
416	-171.28892	29.10547
417	-171.25118	29.10135
418	-171.21350	29.09689
419	-171.17551	29.09204
420	-171.13794	29.08690
421	-171.10043	29.08142
422	-171.04430	29.07256

423	-171.00697	29.06623
424	-170.96972	29.05956
425	-170.93255	29.05256
426	-170.89547	29.04522
427	-170.85848	29.03755
428	-170.82159	29.02954
429	-170.78479	29.02120
430	-170.74809	29.01253
431	-170.69325	28.99890
432	-170.65683	28.98940
433	-170.60242	28.97453
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1004	-175.81731	23.13426
1005	-175.84877	23.15073
1006	-175.88005	23.16748
1007	-175.91116	23.18451
1008	-175.94209	23.20183
1009	-175.98815	23.22832
1010	-176.01862	23.24633
1011	-176.04891	23.26461
1012	-176.09398	23.29254
1013	-176.12379	23.31150
1014	-176.15339	23.33073
1015	-176.18280	23.35022
1016	-176.21200	23.36998
1017	-176.25542	23.40011
1018	-176.28410	23.42052
1019	-176.31256	23.44119
1020	-176.35486	23.47268
1021	-176.38278	23.49399
1022	-176.41048	23.51554
1023	-176.43795	23.53735
1024	-176.46520	23.55940

1025	-176.50563	23.59294
1026	-176.53229	23.61560
1027	-176.55872	23.63850
1028	-176.59790	23.67330
1029	-176.62372	23.69679
1030	-176.66199	23.73246
1031	-176.68719	23.75653
1032	-176.71213	23.78082
1033	-176.73682	23.80534
1034	-176.76125	23.83007
1035	-176.78542	23.85503
1036	-176.80933	23.88021
1037	-176.83297	23.90559
1038	-176.85635	23.93119
1039	-176.87945	23.95700
1040	-176.90229	23.98302
1041	-176.93602	24.02243
1042	-176.96913	24.06229
1043	-176.99085	24.08911
1044	-177.01229	24.11613
1045	-177.03344	24.14334
1046	-177.06462	24.18450
1047	-177.08505	24.21218
1048	-177.10518	24.24004
1049	-177.12502	24.26808
1050	-177.14456	24.29630
1051	-177.17331	24.33895
1052	-177.19210	24.36760
1053	-177.21058	24.39642
1054	-177.22875	24.42540
1055	-177.25544	24.46918
1056	-177.27284	24.49856
1057	-177.28992	24.52810
1058	-177.30670	24.55779
1059	-177.32315	24.58763
1060	-177.33929	24.61762
1061	-177.36249	24.66210
1062	-177.38606	24.67081
1063	-177.41985	24.68359
1064	-177.45352	24.69667
1065	-177.48704	24.71005
1066	-177.53706	24.73067
1067	-177.57023	24.74479

1068	-177.60325	24.75920
1069	-177.63612	24.77391
1070	-177.66883	24.78890
1071	-177.71760	24.81194
1072	-177.74992	24.82767
1073	-177.78207	24.84367
1074	-177.81404	24.85997
1075	-177.83690	24.87185
1076	-177.88667	24.87745
1077	-177.94111	24.88429
1078	-177.97195	24.88850
1079	-177.99642	24.89200
1080	-178.05062	24.90028
1081	-178.10469	24.90929
1082	-178.14066	24.91569
1083	-178.16577	24.92034
1084	-178.21953	24.93078
1085	-178.27313	24.94194
1086	-178.32655	24.95380
1087	-178.37978	24.96637
1088	-178.43281	24.97965
1089	-178.48563	24.99363
1090	-178.53822	25.00832
1091	-178.59058	25.02370
1092	-178.61445	25.03096
1093	-178.64360	25.04005
1094	-178.67821	25.05115
1095	-178.70077	25.05859
1096	-178.72148	25.06052
1097	-178.75794	25.06420
1098	-178.81257	25.07031
1099	-178.86732	25.07718
1100	-178.90360	25.08214
1101	-178.93984	25.08742
1102	-178.98140	25.09383
1103	-179.01755	25.09959
1104	-179.07166	25.10883
1105	-179.10765	25.11539
1106	-179.14357	25.12227
1107	-179.19731	25.13318
1108	-179.25088	25.14480
1109	-179.28649	25.15295
1110	-179.32201	25.16141

1111	-179.35744	25.17018
1112	-179.38198	25.17642
1113	-179.43515	25.19048
1114	-179.47030	25.20018
1115	-179.50534	25.21020
1116	-179.55771	25.22581
1117	-179.60982	25.24211
1118	-179.66167	25.25910
1119	-179.69609	25.27081
1120	-179.73039	25.28283
1121	-179.76456	25.29514
1122	-179.79860	25.30776
1123	-179.83251	25.32068
1124	-179.86628	25.33389
1125	-179.89991	25.34741
1126	-179.93340	25.36122
1127	-179.96674	25.37533
1128	-180.00000	25.38976

Appendix B to Subpart W of Part 922 - Coordinates for the Outer Sanctuary Zone

[Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983]

The boundaries for the areas listed in this appendix, unless otherwise described in this rule, begin at Point 1 as indicated in the particular area's coordinate table and continue to each successive point in numerical order until ending at the last point in the table.

Point No	Longitude	Latitude
1	180.00000	25.38976
2	179.99985	25.38982
3	179.96681	25.40451
4	179.93392	25.41950
5	179.90119	25.43477
6	179.86863	25.45034
7	179.83622	25.46619
8	179.78793	25.49050
9	179.75595	25.50707
10	179.72415	25.52391

11	179.69252	25.54104
12	179.66108	25.55844
13	179.62981	25.57612
14	179.59874	25.59408
15	179.56786	25.61231
16	179.53716	25.63081
17	179.50667	25.64959
18	179.47637	25.66863
19	179.44627	25.68794
20	179.41638	25.70751
21	179.38670	25.72735
22	179.35722	25.74745
23	179.32796	25.76781
24	179.28448	25.79883
25	179.25576	25.81983
26	179.22255	25.84463
27	179.18175	25.87583
28	179.15383	25.89770
29	179.12613	25.91982
30	179.09868	25.94218
31	179.07146	25.96479
32	179.03108	25.99915
33	179.00447	26.02235
34	178.97810	26.04578
35	178.93902	26.08137
36	178.91329	26.10537
37	178.88781	26.12961
38	178.86259	26.15407
39	178.82525	26.19117
40	178.80068	26.21618
41	178.77639	26.24141
42	178.75236	26.26685
43	178.71684	26.30540
44	178.69349	26.33136
45	178.65901	26.37068
46	178.63637	26.39715
47	178.61378	26.42409
48	178.59171	26.45096
49	178.56993	26.47801
50	178.54844	26.50526
51	178.52724	26.53270
52	178.49600	26.57420
53	178.46544	26.61611
54	178.44544	26.64427

55	178.41601	26.68685
56	178.39677	26.71544
57	178.37784	26.74421
58	178.35922	26.77314
59	178.34092	26.80223
60	178.30653	26.85803
61	178.28885	26.88744
62	178.26293	26.93184
63	178.24606	26.96164
64	178.22951	26.99158
65	178.21329	27.02166
66	178.19632	27.05394
67	178.17402	27.09775
68	178.15895	27.12831
69	178.14422	27.15901
70	178.12274	27.20530
71	178.10884	27.23631
72	178.08864	27.28305
73	178.06920	27.33006
74	178.05667	27.36154
75	178.03853	27.40896
76	178.02687	27.44071
77	178.01003	27.48851
78	177.99924	27.52051
79	177.98881	27.55259
80	177.97873	27.58477
81	177.96901	27.61703
82	177.95509	27.66559
83	177.94198	27.71432
84	177.93368	27.74690
85	177.92568	27.77984
86	177.91811	27.81256
87	177.90744	27.86176
88	177.90079	27.89464
89	177.89149	27.94406
90	177.88574	27.97707
91	177.88037	28.01014
92	177.87300	28.05982
93	177.86647	28.10958
94	177.86258	28.14281
95	177.85744	28.19271
96	177.85448	28.22601
97	177.85073	28.27601

98	177.84871	28.30936
99	177.84706	28.34273
100	177.84529	28.39281
101	177.84437	28.44291
102	177.84422	28.47631
103	177.84445	28.50971
104	177.84551	28.55981
105	177.84670	28.59348
106	177.84844	28.63098
107	177.85148	28.68101
108	177.85399	28.71434
109	177.85761	28.75561
110	177.86197	28.79830
111	177.86786	28.84813
112	177.87226	28.88131
113	177.87543	28.90359
114	177.87967	28.93174
115	177.88514	28.96554
116	177.89133	29.00123
117	177.90063	29.05066
118	177.90735	29.08379
119	177.91806	29.13300
120	177.92568	29.16572
121	177.93780	29.21468
122	177.94636	29.24723
123	177.95989	29.29590
124	177.96959	29.32896
125	177.97946	29.36123
126	177.98970	29.39340
127	178.00575	29.44148
128	178.01692	29.47341
129	178.03438	29.52113
130	178.04647	29.55280
131	178.06531	29.60012
132	178.08497	29.64717
133	178.09853	29.67840
134	178.11268	29.71000
135	178.13426	29.75642
136	178.15665	29.80255
137	178.17203	29.83313
138	178.19577	29.87875
139	178.21216	29.90921
140	178.22879	29.93930

141	178.25439	29.98416
142	178.27525	30.01949
143	178.29311	30.04905
144	178.31861	30.09002
145	178.34009	30.12350
146	178.35931	30.15271
147	178.38857	30.19588
148	178.41018	30.22681
149	178.43934	30.26737
150	178.47063	30.30946
151	178.49239	30.33792
152	178.51400	30.36556
153	178.54703	30.40666
154	178.57973	30.44608
155	178.60482	30.47552
156	178.62805	30.50217
157	178.65341	30.53062
158	178.68811	30.56854
159	178.71589	30.59815
160	178.75298	30.63662
161	178.77809	30.66199
162	178.80351	30.68714
163	178.84220	30.72443
164	178.88157	30.76121
165	178.90818	30.78543
166	178.94864	30.82133
167	178.97598	30.84496
168	179.00360	30.86835
169	179.04556	30.90298
170	179.07393	30.92578
171	179.11693	30.95947
172	179.14594	30.98161
173	179.18995	31.01433
174	179.21963	31.03582
175	179.26462	31.06757
176	179.29516	31.08855
177	179.34112	31.11929
178	179.38763	31.14941
179	179.41894	31.16915
180	179.45050	31.18861
181	179.49827	31.21728
182	179.54657	31.24532
183	179.57905	31.26365

184	179.61792	31.28512
185	179.65085	31.30287
186	179.70065	31.32895
187	179.73411	31.34597
188	179.77707	31.36728
189	179.81095	31.38371
190	179.86214	31.40779
191	179.89652	31.42346
192	179.94844	31.44640
193	179.98329	31.46131
194	-180.00000	31.46823
195	-179.96410	31.48309
196	-179.92880	31.49723
197	-179.89333	31.51105
198	-179.83980	31.53119
199	-179.78591	31.55062
200	-179.74978	31.56318
201	-179.71350	31.57542
202	-179.65880	31.59317
203	-179.62215	31.60460
204	-179.56691	31.62114
205	-179.51138	31.63695
206	-179.47371	31.64721
207	-179.41770	31.66178
208	-179.38021	31.67109
209	-179.33210	31.68252
210	-179.28243	31.69383
211	-179.23675	31.70369
212	-179.19878	31.71149
213	-179.16071	31.71896
214	-179.10344	31.72953
215	-179.06516	31.73615
216	-179.00758	31.74546
217	-178.94983	31.75399
218	-178.90738	31.75980
219	-178.86874	31.76473
220	-178.82975	31.76934
221	-178.79099	31.77358
222	-178.75218	31.77748
223	-178.71331	31.78104
224	-178.67441	31.78425
225	-178.63547	31.78712
226	-178.59650	31.78964

227	-178.55749	31.79182
228	-178.51846	31.79366
229	-178.47941	31.79515
230	-178.43412	31.79649
231	-178.39504	31.79729
232	-178.35596	31.79775
233	-178.32396	31.79786
234	-178.28487	31.79769
235	-178.24552	31.79717
236	-178.20645	31.79631
237	-178.16738	31.79510
238	-178.12834	31.79355
239	-178.08931	31.79165
240	-178.05031	31.78940
241	-178.01134	31.78682
242	-177.97241	31.78389
243	-177.93351	31.78061
244	-177.89466	31.77699
245	-177.85585	31.77303
246	-177.81646	31.76865
247	-177.77776	31.76401
248	-177.73912	31.75902
249	-177.70055	31.75369
250	-177.66205	31.74802
251	-177.62362	31.74202
252	-177.58526	31.73567
253	-177.54140	31.72800
254	-177.50321	31.72097
255	-177.46512	31.71361
256	-177.42712	31.70592
257	-177.38921	31.69788
258	-177.35141	31.68952
259	-177.31372	31.68082
260	-177.27613	31.67179
261	-177.23866	31.66242
262	-177.20131	31.65273
263	-177.16094	31.64185
264	-177.12384	31.63150
265	-177.08687	31.62082
266	-177.04995	31.60978
267	-176.99406	31.60543
268	-176.95227	31.60174
269	-176.91351	31.59795

270	-176.87481	31.59382
271	-176.83616	31.58934
272	-176.79756	31.58453
273	-176.73979	31.57666
274	-176.70136	31.57100
275	-176.66300	31.56499
276	-176.60561	31.55534
277	-176.56718	31.54844
278	-176.52911	31.54125
279	-176.49114	31.53372
280	-176.45325	31.52586
281	-176.41282	31.51708
282	-176.37095	31.50759
283	-176.33338	31.49873
284	-176.29414	31.48910
285	-176.23818	31.47469
286	-176.20102	31.46467
287	-176.14552	31.44902
288	-176.10869	31.43818
289	-176.07199	31.42701
290	-176.03543	31.41553
291	-175.99902	31.40371
292	-175.94468	31.38539
293	-175.90865	31.37278
294	-175.87278	31.35985
295	-175.83644	31.34637
296	-175.80089	31.33281
297	-175.76551	31.31893
298	-175.72777	31.30370
299	-175.67361	31.30264
300	-175.62462	31.30118
301	-175.58577	31.29962
302	-175.56300	31.29856
303	-175.50480	31.29533
304	-175.44667	31.29132
305	-175.38861	31.28654
306	-175.33066	31.28099
307	-175.27281	31.27467
308	-175.21509	31.26757
309	-175.15434	31.25928
310	-175.10019	31.25117
311	-175.05021	31.24316
312	-174.99307	31.23327

313	-174.93613	31.22261
314	-174.87938	31.21120
315	-174.82112	31.19865
316	-174.78357	31.19012
317	-174.74613	31.18126
318	-174.69017	31.16735
319	-174.65301	31.15766
320	-174.61598	31.14765
321	-174.57907	31.13730
322	-174.54229	31.12663
323	-174.48737	31.11001
324	-174.43277	31.09266
325	-174.39656	31.08069
326	-174.36049	31.06840
327	-174.32457	31.05579
328	-174.28881	31.04287
329	-174.25322	31.02962
330	-174.21779	31.01607
331	-174.16782	30.99630
332	-174.12317	30.97807
333	-174.08835	30.96342
334	-174.03646	30.94087
335	-174.00210	30.92545
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337	-173.91394	30.88410
338	-173.88027	30.86763
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340	-173.79699	30.82515
341	-173.74828	30.79912
342	-173.71286	30.77965
343	-173.67333	30.75735
344	-173.63202	30.73338
345	-173.60020	30.71444
346	-173.56860	30.69522
347	-173.52165	30.66586
348	-173.49065	30.64594
349	-173.45306	30.62120
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351	-173.37804	30.57004
352	-173.34479	30.54651
353	-173.30046	30.51431
354	-173.25673	30.48153
355	-173.22791	30.45935

356	-173.19936	30.43692
357	-173.15960	30.40490
358	-173.12000	30.37227
359	-173.09241	30.34897
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361	-173.02470	30.28965
362	-172.98494	30.25335
363	-172.95880	30.22886
364	-172.93295	30.20413
365	-172.89474	30.16662
366	-172.85721	30.12860
367	-172.83096	30.10131
368	-172.79458	30.06247
369	-172.77072	30.03631
370	-172.74717	30.00995
371	-172.71244	29.97001
372	-172.67843	29.92961
373	-172.65616	29.90243
374	-172.62336	29.86129
375	-172.60190	29.83362
376	-172.57892	29.80334
377	-172.55812	29.77530
378	-172.52756	29.73290
379	-172.50760	29.70441
380	-172.48798	29.67574
381	-172.46870	29.64690
382	-172.44976	29.61789
383	-172.42200	29.57406
384	-172.40392	29.54464
385	-172.37746	29.50021
386	-172.35178	29.45544
387	-172.33510	29.42540
388	-172.31074	29.38007
389	-172.29495	29.34967
390	-172.27193	29.30382
391	-172.25702	29.27308
392	-172.23535	29.22673
393	-172.22135	29.19567
394	-172.20103	29.14885
395	-172.18794	29.11749
396	-172.18269	29.10461
397	-172.14425	29.10857
398	-172.10644	29.11211

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401	-171.95480	29.12286
402	-171.91682	29.12469
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404	-171.82179	29.12776
405	-171.78376	29.12839
406	-171.73360	29.12869
407	-171.67655	29.12830
408	-171.63852	29.12761
409	-171.60049	29.12658
410	-171.54349	29.12439
411	-171.50552	29.12250
412	-171.45928	29.11977
413	-171.42136	29.11719
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415	-171.32671	29.10925
416	-171.28892	29.10547
417	-171.25118	29.10135
418	-171.21350	29.09689
419	-171.17551	29.09204
420	-171.13794	29.08690
421	-171.10043	29.08142
422	-171.04430	29.07256
423	-171.00697	29.06623
424	-170.96972	29.05956
425	-170.93255	29.05256
426	-170.89547	29.04522
427	-170.85848	29.03755
428	-170.82159	29.02954
429	-170.78479	29.02120
430	-170.74809	29.01253
431	-170.69325	28.99890
432	-170.65683	28.98940
433	-170.60242	28.97453
434	-170.56630	28.96421
435	-170.53030	28.95356
436	-170.49444	28.94259
437	-170.44089	28.92552
438	-170.40537	28.91374
439	-170.36999	28.90164
440	-170.33476	28.88922
441	-170.29968	28.87648

442	-170.24735	28.85678
443	-170.21266	28.84325
444	-170.16441	28.82380
445	-170.11868	28.81843
446	-170.06241	28.81110
447	-170.00627	28.80301
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1016	-174.70321	22.75837
1017	-174.73859	22.76479
1018	-174.77389	22.77154
1019	-174.82672	22.78224
1020	-174.86184	22.78978
1021	-174.89689	22.79763
1022	-174.93185	22.80580
1023	-174.96673	22.81429
1024	-175.00151	22.82308
1025	-175.03621	22.83220
1026	-175.07081	22.84163
1027	-175.10531	22.85136
1028	-175.13972	22.86141
1029	-175.17401	22.87178
1030	-175.20820	22.88244
1031	-175.24228	22.89342
1032	-175.27624	22.90471
1033	-175.31009	22.91630
1034	-175.34381	22.92820
1035	-175.37741	22.94040
1036	-175.41089	22.95290
1037	-175.44423	22.96571
1038	-175.47744	22.97882
1039	-175.51051	22.99222
1040	-175.54345	23.00593
1041	-175.57624	23.01993
1042	-175.60888	23.03422
1043	-175.64138	23.04881

1044	-175.67372	23.06370
1045	-175.70591	23.07887
1046	-175.73795	23.09434
1047	-175.76982	23.11009
1048	-175.81731	23.13426
1049	-175.84877	23.15073
1050	-175.88005	23.16748
1051	-175.91116	23.18451
1052	-175.94209	23.20183
1053	-175.98815	23.22832
1054	-176.01862	23.24633
1055	-176.04891	23.26461
1056	-176.09398	23.29254
1057	-176.12379	23.31150
1058	-176.15339	23.33073
1059	-176.18280	23.35022
1060	-176.21200	23.36998
1061	-176.25542	23.40011
1062	-176.28410	23.42053
1063	-176.31256	23.44120
1064	-176.35486	23.47268
1065	-176.38278	23.49399
1066	-176.41048	23.51554
1067	-176.43795	23.53735
1068	-176.46520	23.55940
1069	-176.50563	23.59294
1070	-176.53229	23.61560
1071	-176.55872	23.63850
1072	-176.59790	23.67330
1073	-176.62372	23.69679
1074	-176.66199	23.73246
1075	-176.68719	23.75653
1076	-176.71213	23.78082
1077	-176.73682	23.80534
1078	-176.76125	23.83007
1079	-176.78542	23.85503
1080	-176.80933	23.88021
1081	-176.83297	23.90559
1082	-176.85635	23.93119
1083	-176.87945	23.95700
1084	-176.90229	23.98302
1085	-176.93602	24.02243
1086	-176.96913	24.06229

1087	-176.99085	24.08911
1088	-177.01229	24.11613
1089	-177.03344	24.14334
1090	-177.06462	24.18451
1091	-177.08505	24.21218
1092	-177.10518	24.24004
1093	-177.12502	24.26808
1094	-177.14456	24.29630
1095	-177.17331	24.33895
1096	-177.19209	24.36760
1097	-177.21058	24.39642
1098	-177.22875	24.42540
1099	-177.25544	24.46918
1100	-177.27284	24.49856
1101	-177.28992	24.52810
1102	-177.30670	24.55779
1103	-177.32315	24.58763
1104	-177.33929	24.61762
1105	-177.36249	24.66210
1106	-177.38606	24.67081
1107	-177.41985	24.68359
1108	-177.45352	24.69667
1109	-177.48704	24.71005
1110	-177.53706	24.73067
1111	-177.57023	24.74479
1112	-177.60325	24.75920
1113	-177.63612	24.77391
1114	-177.66883	24.78891
1115	-177.71760	24.81195
1116	-177.74992	24.82767
1117	-177.78206	24.84367
1118	-177.81404	24.85996
1119	-177.83690	24.87185
1120	-177.88667	24.87745
1121	-177.94111	24.88429
1122	-177.97195	24.88850
1123	-177.99642	24.89200
1124	-178.05062	24.90028
1125	-178.10469	24.90929
1126	-178.14066	24.91569
1127	-178.16577	24.92034
1128	-178.21953	24.93078
1129	-178.27313	24.94194

1130	-178.32655	24.95380
1131	-178.37978	24.96637
1132	-178.43281	24.97965
1133	-178.48563	24.99363
1134	-178.53822	25.00832
1135	-178.59058	25.02370
1136	-178.61445	25.03096
1137	-178.64360	25.04005
1138	-178.67821	25.05115
1139	-178.70077	25.05859
1140	-178.72148	25.06052
1141	-178.75794	25.06420
1142	-178.81257	25.07031
1143	-178.86732	25.07718
1144	-178.90360	25.08214
1145	-178.93984	25.08742
1146	-178.98140	25.09382
1147	-179.01755	25.09959
1148	-179.07166	25.10883
1149	-179.10765	25.11539
1150	-179.14357	25.12227
1151	-179.19731	25.13318
1152	-179.25088	25.14480
1153	-179.28649	25.15295
1154	-179.32201	25.16140
1155	-179.35744	25.17018
1156	-179.38198	25.17642
1157	-179.43516	25.19048
1158	-179.47030	25.20018
1159	-179.50534	25.21020
1160	-179.55770	25.22581
1161	-179.60982	25.24211
1162	-179.66168	25.25911
1163	-179.69610	25.27081
1164	-179.73039	25.28283
1165	-179.76456	25.29514
1166	-179.79860	25.30776
1167	-179.83251	25.32068
1168	-179.86628	25.33389
1169	-179.89991	25.34741
1170	-179.93340	25.36122
1171	-179.96674	25.37533
1172	-180.00000	25.38976

Appendix C to Subpart W of Part 922 - Coordinates for the Midway Atoll Special Management Area

[Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983]

The boundaries for the areas listed in this appendix, unless otherwise described in this rule, begin at Point 1 as indicated in the particular area's coordinate table and continue to each successive point in numerical order until ending at the last point in the table.

Point No	Longitude	Latitude
1	-177.31267	27.99792
2	-177.36342	27.99124
3	-177.41762	27.99216
4	-177.47082	27.99962
5	-177.51875	28.01516
6	-177.55393	28.03661
7	-177.59424	28.06817
8	-177.62036	28.10572
9	-177.64395	28.14862
10	-177.65507	28.20134
11	-177.65600	28.21430
12	-177.65028	28.23674
13	-177.65187	28.25877
14	-177.63704	28.29735
15	-177.62519	28.31624
16	-177.60768	28.33804
17	-177.59529	28.36997
18	-177.56544	28.40418
19	-177.52661	28.43628
20	-177.49013	28.46044
21	-177.44568	28.47591
22	-177.42409	28.48231
23	-177.37872	28.48480
24	-177.32412	28.48128
25	-177.26570	28.46492
26	-177.21865	28.44274
27	-177.17255	28.41268
28	-177.13782	28.37680
29	-177.11574	28.33244

30	-177.08945	28.26879
31	-177.08725	28.21427
32	-177.08489	28.17927
33	-177.09363	28.15669
34	-177.10914	28.12595
35	-177.12481	28.09780
36	-177.15060	28.06781
37	-177.18677	28.03986
38	-177.22207	28.02105
39	-177.26492	28.00572
40	-177.31267	27.99792

Appendix D to Subpart W of Part 922 - Coordinates for the Special Preservation Areas (SPAs)

[Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983]

The boundaries for the areas listed in this appendix, unless otherwise described in this rule, begin at Point 1 as indicated in the particular area's coordinate table and continue to each successive point in numerical order until ending at the last point in the table.

Table 1—Coordinates for Hōlanikū (Kure Atoll) SPA

Point No	Longitude	Latitude
1	-178.42982	28.39284
2	-178.43641	28.39991
3	-178.44628	28.41516
4	-178.44829	28.43220
5	-178.44120	28.45537
6	-178.43083	28.47814
7	-178.41324	28.49646
8	-178.40698	28.50082
9	-178.39886	28.50648
10	-178.38081	28.51486
11	-178.35703	28.51998
12	-178.33482	28.52195
13	-178.33480	28.52195
14	-178.33096	28.52588
15	-178.32267	28.52960
16	-178.30753	28.54606

17	-178.29651	28.54402
18	-178.28574	28.52279
19	-178.28205	28.50290
20	-178.28203	28.50289
21	-178.27634	28.49938
22	-178.26090	28.48707
23	-178.25026	28.47569
24	-178.24590	28.47103
25	-178.23869	28.45022
26	-178.23126	28.41686
27	-178.23242	28.39706
28	-178.23826	28.37827
29	-178.24572	28.36305
30	-178.24663	28.36228
31	-178.24665	28.36227
32	-178.23880	28.35166
33	-178.22857	28.34386
34	-178.21418	28.34135
35	-178.21125	28.32830
36	-178.21580	28.32098
37	-178.22682	28.31875
38	-178.23360	28.32678
39	-178.26169	28.33216
40	-178.26256	28.34256
41	-178.26685	28.34603
42	-178.26983	28.34386
43	-178.28608	28.33631
44	-178.31541	28.33530
45	-178.36386	28.34022
46	-178.38109	28.34407
47	-178.40622	28.32394
48	-178.42837	28.32125
49	-178.43274	28.36763
50	-178.42982	28.39284

Table 2—Coordinates for Manawai (Pearl and Hermes Atoll) SPA

Point No	Longitude	Latitude
1	-176.03652	27.75775
2	-176.04088	27.76832
3	-176.04088	27.76832
4	-176.04830	27.77010

5	-176.06549	27.78232
6	-176.03704	27.84094
7	-176.03441	27.85558
8	-176.03489	27.87411
9	-176.02724	27.89274
10	-176.01285	27.89991
11	-175.98350	27.91077
12	-175.98347	27.91080
13	-175.97662	27.91971
14	-175.96741	27.92798
15	-175.95689	27.93510
16	-175.94636	27.93942
17	-175.93781	27.94332
18	-175.92692	27.95035
19	-175.90613	27.96355
20	-175.88894	27.97471
21	-175.87548	27.98165
22	-175.86046	27.98780
23	-175.83952	27.99711
24	-175.82333	28.00466
25	-175.81383	28.00844
26	-175.80379	28.01098
27	-175.79318	28.01152
28	-175.78174	28.01106
29	-175.77016	28.01031
30	-175.76421	28.00935
31	-175.76418	28.00935
32	-175.76189	28.01111
33	-175.73451	28.02165
34	-175.71502	28.00762
35	-175.70865	27.98973
36	-175.70863	27.98971
37	-175.69833	27.98219
38	-175.69171	27.97663
39	-175.68857	27.97399
40	-175.68160	27.96778
41	-175.67658	27.96256
42	-175.67240	27.95558
43	-175.66795	27.94587
44	-175.66433	27.93515
45	-175.66239	27.92393
46	-175.66156	27.91419
47	-175.66186	27.89972

48	-175.66410	27.88349
49	-175.66915	27.86916
50	-175.67268	27.85916
51	-175.67530	27.84825
52	-175.67894	27.83626
53	-175.68258	27.82801
54	-175.68899	27.81801
55	-175.69097	27.81125
56	-175.69321	27.80550
57	-175.69331	27.80524
58	-175.69713	27.79526
59	-175.70412	27.78375
60	-175.70943	27.77649
61	-175.71351	27.77101
62	-175.71352	27.77099
63	-175.71049	27.76347
64	-175.71993	27.75551
65	-175.72502	27.75516
66	-175.72955	27.74921
67	-175.73541	27.74444
68	-175.74364	27.73989
69	-175.75468	27.73513
70	-175.76640	27.73259
71	-175.77924	27.73129
72	-175.79543	27.73023
73	-175.81639	27.73105
74	-175.82556	27.73236
75	-175.83310	27.73358
76	-175.83756	27.73456
77	-175.84175	27.73504
78	-175.84594	27.73228
79	-175.85277	27.72748
80	-175.86185	27.72274
81	-175.87480	27.71713
82	-175.89491	27.70934
83	-175.91378	27.70257
84	-175.92997	27.69926
85	-175.94532	27.69745
86	-175.95649	27.69766
87	-175.96681	27.69937
88	-175.97685	27.70332
89	-175.98968	27.71026
90	-176.00334	27.72044

91	-176.01701	27.73237
92	-176.02593	27.74182
93	-176.02997	27.74680
94	-176.03178	27.74903
95	-176.03652	27.75775

Table 3—Coordinates for Kapou (Lisianski Island) SPA

Point No	Longitude	Latitude
1	-173.79069	25.94039
2	-173.79506	25.91077
3	-173.79506	25.91077
4	-173.85089	25.87148
5	-173.89161	25.87949
6	-173.94399	25.87998
7	-174.10879	25.96371
8	-174.12000	25.97958
9	-174.14257	26.00021
10	-174.15729	26.04055
11	-174.15482	26.12273
12	-174.13333	26.17497
13	-174.08554	26.21215
14	-174.05059	26.21724
15	-173.98290	26.21243
16	-173.93333	26.18331
17	-173.89656	26.14220
18	-173.86186	26.11938
19	-173.82229	26.08560
20	-173.79999	26.04164
21	-173.76666	26.00831
22	-173.75210	25.98825
23	-173.75283	25.97102
24	-173.79069	25.94039

Table 4—Coordinates for Kamole (Laysan Island) SPA

Point No	Longitude	Latitude
1	-171.65000	25.71667
2	-171.66667	25.70000
3	-171.70000	25.69167
4	-171.70833	25.70000

5	-171.73333	25.70000
6	-171.75000	25.69167
7	-171.78333	25.69167
8	-171.81667	25.70833
9	-171.85000	25.75833
10	-171.86667	25.79167
11	-171.87500	25.83333
12	-171.85000	25.86667
13	-171.83333	25.88333
14	-171.80000	25.90000
15	-171.76667	25.90000
16	-171.67500	25.88333
17	-171.62500	25.86667
18	-171.60000	25.83333
19	-171.59167	25.79167
20	-171.60000	25.76667
21	-171.61667	25.74167
22	-171.63333	25.72500
23	-171.65000	25.71667

Table 5—Coordinates for Kamokuokamohoali‘i (Maro Reef) SPA

Point No	Longitude	Latitude
1	-170.51714	25.56669
2	-170.40880	25.46669
3	-170.35047	25.37502
4	-170.40880	25.25835
5	-170.42547	25.25002
6	-170.54214	25.25835
7	-170.59214	25.28335
8	-170.65047	25.30002
9	-170.76714	25.31669
10	-170.80047	25.33335
11	-170.80880	25.35835
12	-170.86714	25.39169
13	-170.89214	25.45002
14	-170.90047	25.52502
15	-170.90047	25.55002
16	-170.87547	25.58335
17	-170.80881	25.62502
18	-170.77547	25.63335
19	-170.70880	25.63335

20	-170.68381	25.61669
21	-170.57547	25.59169
22	-170.51714	25.56669

Table 6—Coordinates for ‘Ōnūnui and ‘Ōnuiki (Gardner Pinnacles) SPA

Point No	Longitude	Latitude
1	-167.93207	25.06955
2	-167.92506	25.04175
3	-167.94165	25.01326
4	-167.94166	24.94164
5	-167.92273	24.90603
6	-167.90123	24.88174
7	-167.89166	24.84997
8	-167.89766	24.74763
9	-167.87266	24.62908
10	-167.87360	24.59072
11	-167.86659	24.56315
12	-167.87500	24.49164
13	-167.89063	24.44829
14	-167.90184	24.42844
15	-167.95440	24.41115
16	-167.98968	24.41979
17	-168.00369	24.43801
18	-168.01666	24.50831
19	-168.05000	24.57498
20	-168.08333	24.59164
21	-168.12500	24.69997
22	-168.13333	24.77497
23	-168.15000	24.81664
24	-168.15000	24.88331
25	-168.22500	24.94997
26	-168.26666	25.00831
27	-168.27799	25.06540
28	-168.26794	25.09301
29	-168.25089	25.10375
30	-168.22575	25.16587
31	-168.19632	25.18175
32	-168.14166	25.19164
33	-168.08636	25.19273
34	-168.04128	25.17404
35	-167.98333	25.12498

36	-167.93207	25.06955
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Table 7—Coordinates for Lalo (French Frigate Shoals) SPA

Point No	Longitude	Latitude
1	-165.58333	23.99997
2	-165.58333	23.49997
3	-166.75000	23.66664
4	-166.92817	23.68779
5	-166.92756	23.74082
6	-166.92417	24.03651
7	-166.75227	24.03400
8	-166.75000	24.16664
9	-165.58333	23.99997

Table 8—Coordinates for Mokumanamana (Necker) SPA

Point No	Longitude	Latitude
1	-164.55178	23.64216
2	-164.53515	23.61324
3	-164.53018	23.58826
4	-164.52734	23.55099
5	-164.50977	23.52283
6	-164.45148	23.49085
7	-164.44165	23.48045
8	-164.39327	23.46288
9	-164.36812	23.46322
10	-164.32711	23.44904
11	-164.30462	23.43128
12	-164.28233	23.39686
13	-164.27062	23.35708
14	-164.25021	23.30870
15	-164.25676	23.28970
16	-164.26716	23.27912
17	-164.27585	23.25682
18	-164.29815	23.23537
19	-164.33671	23.23253
20	-164.36910	23.23801
21	-164.39560	23.25619
22	-164.45702	23.26300
23	-164.47063	23.27037
24	-164.48333	23.29164

25	-164.52500	23.30831
26	-164.59613	23.30887
27	-164.63036	23.29942
28	-164.64112	23.30040
29	-164.63917	23.31377
30	-164.62971	23.32387
31	-164.61895	23.32681
32	-164.62156	23.34246
33	-164.60917	23.35387
34	-164.58863	23.40643
35	-164.57950	23.44490
36	-164.60558	23.45599
37	-164.60917	23.46675
38	-164.62260	23.47995
39	-164.65117	23.49002
40	-164.69597	23.49691
41	-164.73352	23.49654
42	-164.76980	23.48444
43	-164.78209	23.50277
44	-164.79929	23.50920
45	-164.81081	23.52337
46	-164.83255	23.53736
47	-164.84703	23.56743
48	-164.83436	23.60088
49	-164.81981	23.61619
50	-164.80110	23.62243
51	-164.76840	23.62148
52	-164.73854	23.63112
53	-164.68789	23.65058
54	-164.62458	23.66325
55	-164.57582	23.65644
56	-164.55178	23.64216

Table 9—Coordinates for Nihoa Island SPA

Point No	Longitude	Latitude
1	-161.97131	23.09961
2	-161.97057	23.10037
3	-161.96981	23.10112
4	-161.96904	23.10185
5	-161.96825	23.10258
6	-161.96745	23.10329
7	-161.96663	23.10399

8	-161.96580	23.10468
9	-161.96495	23.10535
10	-161.96409	23.10602
11	-161.96322	23.10667
12	-161.96234	23.10731
13	-161.96144	23.10793
14	-161.96053	23.10854
15	-161.95961	23.10914
16	-161.95867	23.10972
17	-161.95773	23.11029
18	-161.95677	23.11085
19	-161.95580	23.11139
20	-161.95482	23.11191
21	-161.95383	23.11242
22	-161.95283	23.11292
23	-161.95182	23.11340
24	-161.95080	23.11387
25	-161.94977	23.11432
26	-161.94874	23.11475
27	-161.94769	23.11517
28	-161.94664	23.11558
29	-161.94557	23.11597
30	-161.94450	23.11634
31	-161.94342	23.11670
32	-161.94234	23.11704
33	-161.94125	23.11736
34	-161.94015	23.11767
35	-161.93905	23.11796
36	-161.93794	23.11824
37	-161.93682	23.11850
38	-161.93570	23.11874
39	-161.93458	23.11897
40	-161.93345	23.11917
41	-161.93232	23.11937
42	-161.93118	23.11954
43	-161.93004	23.11970
44	-161.92890	23.11984
45	-161.92775	23.11996
46	-161.92661	23.12007
47	-161.92546	23.12016
48	-161.92431	23.12023
49	-161.92315	23.12029
50	-161.92200	23.12032
51	-161.92085	23.12035

52	-161.91969	23.12035
53	-161.91854	23.12034
54	-161.91739	23.12030
55	-161.91624	23.12026
56	-161.91509	23.12019
57	-161.91394	23.12011
58	-161.91279	23.12001
59	-161.91164	23.11989
60	-161.91050	23.11976
61	-161.90936	23.11961
62	-161.90823	23.11944
63	-161.90709	23.11925
64	-161.90597	23.11905
65	-161.90484	23.11883
66	-161.90372	23.11860
67	-161.90261	23.11835
68	-161.90150	23.11808
69	-161.90040	23.11779
70	-161.89930	23.11749
71	-161.89821	23.11717
72	-161.89713	23.11684
73	-161.89605	23.11649
74	-161.89520	23.11619
75	-161.89498	23.11612
76	-161.89401	23.11577
77	-161.89392	23.11574
78	-161.89287	23.11534
79	-161.89182	23.11493
80	-161.89079	23.11450
81	-161.88976	23.11405
82	-161.88874	23.11359
83	-161.88774	23.11311
84	-161.88674	23.11262
85	-161.88575	23.11212
86	-161.88477	23.11160
87	-161.88381	23.11107
88	-161.88285	23.11052
89	-161.88191	23.10995
90	-161.88097	23.10938
91	-161.88005	23.10878
92	-161.87915	23.10818
93	-161.87825	23.10756
94	-161.87737	23.10693

95	-161.87650	23.10628
96	-161.87564	23.10563
97	-161.87480	23.10495
98	-161.87397	23.10427
99	-161.87316	23.10358
100	-161.87236	23.10287
101	-161.87157	23.10215
102	-161.87080	23.10142
103	-161.87004	23.10067
104	-161.86930	23.09992
105	-161.86858	23.09916
106	-161.86787	23.09838
107	-161.86750	23.09796
108	-161.86718	23.09759
109	-161.86650	23.09679
110	-161.86584	23.09599
111	-161.86520	23.09517
112	-161.86457	23.09435
113	-161.86396	23.09351
114	-161.86337	23.09267
115	-161.86279	23.09181
116	-161.86224	23.09095
117	-161.86170	23.09008
118	-161.86117	23.08920
119	-161.86067	23.08832
120	-161.86018	23.08742
121	-161.85972	23.08653
122	-161.85927	23.08562
123	-161.85884	23.08470
124	-161.85842	23.08378
125	-161.85803	23.08286
126	-161.85766	23.08193
127	-161.85730	23.08099
128	-161.85697	23.08004
129	-161.85665	23.07910
130	-161.85635	23.07814
131	-161.85608	23.07719
132	-161.85582	23.07622
133	-161.85558	23.07526
134	-161.85536	23.07429
135	-161.85516	23.07332
136	-161.85499	23.07235
137	-161.85483	23.07137

138	-161.85469	23.07039
139	-161.85457	23.06941
140	-161.85447	23.06843
141	-161.85439	23.06744
142	-161.85433	23.06645
143	-161.85429	23.06547
144	-161.85428	23.06448
145	-161.85428	23.06349
146	-161.85430	23.06251
147	-161.85434	23.06152
148	-161.85440	23.06053
149	-161.85449	23.05955
150	-161.85459	23.05857
151	-161.85471	23.05758
152	-161.85485	23.05660
153	-161.85502	23.05563
154	-161.85520	23.05465
155	-161.85540	23.05367
156	-161.85562	23.05271
157	-161.85586	23.05174
158	-161.85612	23.05078
159	-161.85641	23.04982
160	-161.85671	23.04887
161	-161.85703	23.04791
162	-161.85736	23.04697
163	-161.85772	23.04603
164	-161.85810	23.04510
165	-161.85850	23.04417
166	-161.85891	23.04324
167	-161.85935	23.04233
168	-161.85980	23.04142
169	-161.86027	23.04051
170	-161.86076	23.03962
171	-161.86126	23.03873
172	-161.86179	23.03785
173	-161.86233	23.03698
174	-161.86289	23.03611
175	-161.86347	23.03525
176	-161.86407	23.03440
177	-161.86468	23.03357
178	-161.86531	23.03274
179	-161.86596	23.03191
180	-161.86662	23.03110

181	-161.86730	23.03031
182	-161.86800	23.02951
183	-161.86871	23.02873
184	-161.86943	23.02796
185	-161.87018	23.02720
186	-161.87094	23.02646
187	-161.87171	23.02572
188	-161.87250	23.02500
189	-161.87330	23.02428
190	-161.87412	23.02358
191	-161.87495	23.02290
192	-161.87579	23.02222
193	-161.87665	23.02156
194	-161.87752	23.02091
195	-161.87841	23.02027
196	-161.87931	23.01965
197	-161.88022	23.01903
198	-161.88114	23.01844
199	-161.88207	23.01786
200	-161.88302	23.01729
201	-161.88398	23.01673
202	-161.88494	23.01619
203	-161.88592	23.01567
204	-161.88691	23.01515
205	-161.88791	23.01466
206	-161.88892	23.01417
207	-161.88994	23.01371
208	-161.89097	23.01326
209	-161.89201	23.01282
210	-161.89306	23.01240
211	-161.89411	23.01200
212	-161.89517	23.01161
213	-161.89624	23.01123
214	-161.89732	23.01088
215	-161.89841	23.01054
216	-161.89950	23.01021
217	-161.90059	23.00990
218	-161.90170	23.00961
219	-161.90281	23.00934
220	-161.90392	23.00908
221	-161.90504	23.00884
222	-161.90617	23.00861
223	-161.90730	23.00840

224	-161.90843	23.00821
225	-161.90875	23.00816
226	-161.90956	23.00803
227	-161.91070	23.00788
228	-161.91185	23.00774
229	-161.91299	23.00761
230	-161.91366	23.00755
231	-161.91414	23.00751
232	-161.91529	23.00742
233	-161.91644	23.00734
234	-161.91759	23.00729
235	-161.91874	23.00725
236	-161.91990	23.00723
237	-161.92105	23.00723
238	-161.92221	23.00724
239	-161.92336	23.00727
240	-161.92336	23.00727
241	-161.92451	23.00732
242	-161.92566	23.00738
243	-161.92681	23.00747
244	-161.92796	23.00757
245	-161.92910	23.00768
246	-161.93024	23.00782
247	-161.93138	23.00797
248	-161.93252	23.00814
249	-161.93365	23.00832
250	-161.93478	23.00852
251	-161.93590	23.00874
252	-161.93702	23.00898
253	-161.93814	23.00923
254	-161.93924	23.00950
255	-161.94035	23.00978
256	-161.94144	23.01008
257	-161.94253	23.01040
258	-161.94362	23.01074
259	-161.94469	23.01109
260	-161.94576	23.01146
261	-161.94682	23.01184
262	-161.94788	23.01224
263	-161.94892	23.01265
264	-161.94996	23.01308
265	-161.95098	23.01352
266	-161.95200	23.01399

267	-161.95301	23.01446
268	-161.95401	23.01495
269	-161.95500	23.01546
270	-161.95597	23.01598
271	-161.95694	23.01651
272	-161.95790	23.01706
273	-161.95884	23.01762
274	-161.95977	23.01820
275	-161.96069	23.01879
276	-161.96160	23.01940
277	-161.96172	23.01948
278	-161.96189	23.01960
279	-161.96250	23.02001
280	-161.96338	23.02065
281	-161.96425	23.02129
282	-161.96510	23.02195
283	-161.96595	23.02262
284	-161.96677	23.02330
285	-161.96759	23.02400
286	-161.96839	23.02471
287	-161.96917	23.02543
288	-161.96995	23.02616
289	-161.97070	23.02690
290	-161.97144	23.02765
291	-161.97217	23.02842
292	-161.97287	23.02920
293	-161.97357	23.02998
294	-161.97424	23.03078
295	-161.97490	23.03159
296	-161.97555	23.03240
297	-161.97617	23.03323
298	-161.97678	23.03406
299	-161.97738	23.03491
300	-161.97795	23.03576
301	-161.97851	23.03662
302	-161.97905	23.03749
303	-161.97957	23.03837
304	-161.98008	23.03926
305	-161.98056	23.04015
306	-161.98103	23.04105
307	-161.98148	23.04196
308	-161.98191	23.04287
309	-161.98232	23.04379

310	-161.98271	23.04472
311	-161.98309	23.04565
312	-161.98344	23.04659
313	-161.98378	23.04753
314	-161.98409	23.04848
315	-161.98439	23.04943
316	-161.98467	23.05039
317	-161.98493	23.05135
318	-161.98516	23.05232
319	-161.98538	23.05329
320	-161.98558	23.05426
321	-161.98576	23.05523
322	-161.98592	23.05621
323	-161.98606	23.05719
324	-161.98618	23.05817
325	-161.98628	23.05915
326	-161.98635	23.06013
327	-161.98641	23.06112
328	-161.98645	23.06211
329	-161.98647	23.06309
330	-161.98647	23.06408
331	-161.98645	23.06507
332	-161.98640	23.06606
333	-161.98634	23.06704
334	-161.98626	23.06803
335	-161.98616	23.06901
336	-161.98603	23.06999
337	-161.98589	23.07097
338	-161.98573	23.07195
339	-161.98555	23.07293
340	-161.98535	23.07390
341	-161.98512	23.07487
342	-161.98488	23.07583
343	-161.98462	23.07680
344	-161.98434	23.07776
345	-161.98404	23.07871
346	-161.98372	23.07966
347	-161.98338	23.08061
348	-161.98302	23.08155
349	-161.98265	23.08248
350	-161.98225	23.08341
351	-161.98183	23.08433
352	-161.98140	23.08525

353	-161.98095	23.08616
354	-161.98048	23.08706
355	-161.97999	23.08796
356	-161.97948	23.08885
357	-161.97896	23.08973
358	-161.97841	23.09060
359	-161.97785	23.09147
360	-161.97727	23.09232
361	-161.97668	23.09317
362	-161.97606	23.09401
363	-161.97543	23.09484
364	-161.97479	23.09566
365	-161.97413	23.09647
366	-161.97345	23.09727
367	-161.97275	23.09806
368	-161.97204	23.09884
369	-161.97131	23.09961

Appendix E to Subpart W of Part 922 - Coordinates for the Ship Reporting Area

[Coordinates listed in this appendix are unprojected (Geographic) and based on the North American Datum of 1983]

The Reporting Area Outer Boundary is defined by the following geographic coordinates and description as outlined in IMO Resolution MSC.279(85) Appendix 1 -Outer Boundary adopted on 1 December 2008 that superseded and amended IMO Resolution MEPC.171(57) adopted on 4 April 2008.

The outer boundary of the CORALSHIPREP reporting area consists of lines connecting the following geographical positions:

Starting at	(1) 29° 24'.21 N,	178° 06'.45 W
A rhumb line to	(2) 29° 12'.16 N,	177° 04'.25 W
Then a rhumb line to	(3) 28° 43'.78 N,	175° 13'.76 W
Then a rhumb line to	(4) 27° 00'.28 N,	173° 25'.37 W
Then a rhumb line to	(5) 26° 44'.85 N,	171° 28'.22 W
Then a rhumb line to	(6) 26° 23'.95 N,	170° 20'.25 W
Then a rhumb line to	(7) 25° 56'.49 N,	167° 32'.03 W
Then a rhumb line to	(8) 24° 50'.23 N,	165° 58'.56 W
Then a rhumb line to	(9) 24° 02'.61 N,	161° 42'.30 W
Then an arc with a 60.25 nm radius centered at	(21) 23° 03'.61 N,	161° 55'.22 W
To a point	(10) 22° 04'.59 N,	162° 08'.14 W

Then a rhumb line to	(11) 22° 35'.32 N,	164° 53'.46 W
Then a rhumb line to	(12) 22° 47'.86 N,	166° 40'.44 W
Then a rhumb line to	(13) 24° 03'.30 N,	168° 27'.53 W
Then a rhumb line to	(14) 24° 26'.59 N,	170° 50'.37 W
Then a rhumb line to	(15) 24° 46'.49 N,	171° 52'.87 W
Then a rhumb line to	(16) 25° 07'.23 N,	174° 30'.23 W
Then a rhumb line to	(17) 27° 05'.50 N,	176° 35'.40 W
Then a rhumb line to	(18) 27° 15'.11 N,	177° 35'.26 W
Then a rhumb line to	(19) 27° 26'.10 N,	178° 32'.23 W
Then an arc with a 60.17 nm radius centered at	(20) 28° 25'.23 N,	178° 19'.51 W
Then to point	(1) 29° 24'.21 N,	178° 06'.45 W

The boundaries for the Inner Reporting Areas listed in this appendix, unless otherwise described in this rule, begin at Point 1 as indicated in the particular area's coordinate table and continue to each successive point in numerical order until ending at the last point in the table.

Table 1—Coordinates of the Inner Reporting Area Boundary around Hōlanikū (Kure Atoll), Kuaihelani (Midway Atoll), Manawai (Pearl and Hermes Atoll) Area to be Avoided (ATBA)

Point No	Longitude	Latitude
1	-175.78700	27.01217
2	-175.87900	27.01133
3	-175.96933	27.01817
4	-176.05883	27.03317
5	-176.14683	27.05567
6	-176.23183	27.08533
7	-176.31317	27.12283
8	-176.39000	27.16633
9	-176.46233	27.21700
10	-176.47833	27.22950
11	-176.49783	27.24600
12	-177.55517	27.41583
13	-178.49833	27.59783
14	-178.56550	27.61067
15	-178.62200	27.62550
16	-178.67750	27.64333
17	-178.73167	27.66417
18	-178.78417	27.68800
19	-178.83500	27.71483
20	-178.88383	27.74433
21	-178.93050	27.77650
22	-178.97483	27.81117

23	-179.01667	27.84817
24	-179.05650	27.88700
25	-179.09350	27.92817
26	-179.12683	27.97150
27	-179.15783	28.01683
28	-179.18500	28.06350
29	-179.20883	28.11183
30	-179.22917	28.16117
31	-179.24583	28.21167
32	-179.25900	28.26300
33	-179.26850	28.31517
34	-179.27417	28.36733
35	-179.27600	28.41200
36	-179.27617	28.42000
37	-179.27600	28.43017
38	-179.27400	28.47250
39	-179.26833	28.52483
40	-179.25900	28.57683
41	-179.24583	28.62817
42	-179.22900	28.67850
43	-179.20900	28.72800
44	-179.18550	28.77633
45	-179.15867	28.82317
46	-179.12833	28.86850
47	-179.09500	28.91200
48	-179.05850	28.95350
49	-179.01917	28.99300
50	-178.97700	29.03017
51	-178.93217	29.06500
52	-178.88500	29.09717
53	-178.83550	29.12667
54	-178.78400	29.15350
55	-178.73067	29.17733
56	-178.67567	29.19817
57	-178.61933	29.21583
58	-178.56183	29.23033
59	-178.50350	29.24167
60	-178.44433	29.24983
61	-178.38467	29.25467
62	-178.32483	29.25600
63	-178.26500	29.25417
64	-178.20533	29.24900
65	-178.14633	29.24050
66	-177.20117	29.05783

67	-177.12150	29.04250
68	-175.59117	28.64933
69	-175.57250	28.64450
70	-175.32900	28.58183
71	-175.17750	28.43733
72	-175.14917	28.41017
73	-175.15067	28.40883
74	-175.08183	28.33483
75	-175.03200	28.26750
76	-174.98883	28.19633
77	-174.95383	28.12150
78	-174.92800	28.04383
79	-174.91033	27.96400
80	-174.90083	27.88350
81	-174.90083	27.80200
82	-174.91033	27.72133
83	-174.92850	27.64133
84	-174.95533	27.56350
85	-174.99050	27.48833
86	-175.03383	27.41667
87	-175.08450	27.34883
88	-175.14317	27.28633
89	-175.20783	27.22883
90	-175.27783	27.17650
91	-175.35417	27.13133
92	-175.43483	27.09283
93	-175.51917	27.06100
94	-175.60667	27.03700
95	-175.69633	27.02150
96	-175.78700	27.01217

Table 2—Coordinates for the Inner Reporting Area Boundary around ‘Ōnūnui and ‘Ōnuiki (Gardner Pinnacles), Lalo (French Frigate Shoals), Mokumanamana (Necker)

ATBA

Point No	Longitude	Latitude
1	-168.00150	25.83633
2	-167.87767	25.82733
3	-167.87750	25.82833
4	-167.80583	25.81650
5	-167.61200	25.78483
6	-167.44133	25.66400

7	-167.32983	25.58500
8	-166.75000	25.17383
9	-166.05600	24.68183
10	-165.58317	24.59400
11	-164.51867	24.39633
12	-164.51900	24.39317
13	-164.49567	24.38850
14	-164.40867	24.36417
15	-164.32317	24.33500
16	-164.24267	24.29583
17	-164.16617	24.24983
18	-164.09483	24.19767
19	-164.03000	24.13833
20	-163.97050	24.07467
21	-163.92033	24.00450
22	-163.87650	23.93083
23	-163.84267	23.85283
24	-163.81633	23.77217
25	-163.79983	23.68950
26	-163.79267	23.60567
27	-163.79333	23.52117
28	-163.80467	23.43783
29	-163.82500	23.35567
30	-163.85233	23.27550
31	-163.89117	23.19933
32	-163.93583	23.12567
33	-163.98967	23.05767
34	-164.05017	22.99417
35	-164.11833	22.93783
36	-164.19150	22.88700
37	-164.26967	22.84333
38	-164.35267	22.80800
39	-164.43800	22.77883
40	-164.52667	22.75817
41	-164.61717	22.74717
42	-164.70850	22.74417
43	-164.79983	22.74867
44	-164.82533	22.75183
45	-164.85800	22.75650
46	-164.85883	22.75283
47	-165.58317	22.83767
48	-166.32717	22.92500
49	-166.38867	22.93217
50	-166.60000	22.95683

51	-166.75000	23.06250
52	-166.79083	23.09133
53	-168.38100	24.21167
54	-168.37967	24.21467
55	-168.45467	24.26750
56	-168.52767	24.31917
57	-168.59917	24.37117
58	-168.66567	24.42850
59	-168.72583	24.49183
60	-168.77717	24.56117
61	-168.82150	24.63433
62	-168.85767	24.71133
63	-168.88533	24.79083
64	-168.90467	24.87233
65	-168.91367	24.95533
66	-168.91583	25.03867
67	-168.90717	25.12167
68	-168.88867	25.20317
69	-168.86267	25.28317
70	-168.82667	25.35950
71	-168.78217	25.43233
72	-168.73100	25.50150
73	-168.67367	25.56483
74	-168.60867	25.62283
75	-168.53733	25.67483
76	-168.46133	25.72067
77	-168.38033	25.75950
78	-168.29600	25.79050
79	-168.20783	25.81317
80	-168.11817	25.82867
81	-168.02700	25.83517
82	-168.00150	25.83633

Table 3—Coordinates for Inner Reporting Area Boundary around the Kapou (Lisianski Island), Kamole (Laysan Island), Kamokuokamohoali‘i (Maro Reef), Raita Bank ATBA

Point No	Longitude	Latitude
1	-173.56150	26.85217
2	-173.51450	26.84583
3	-173.51317	26.84817
4	-171.62833	26.60000
5	-171.56400	26.59150

6	-171.51400	26.58500
7	-171.45833	26.56783
8	-171.41933	26.55583
9	-170.38400	26.23767
10	-169.81600	26.14483
11	-169.81717	26.13933
12	-169.76383	26.12700
13	-169.67617	26.10050
14	-169.59400	26.06617
15	-169.51517	26.02517
16	-169.44083	25.97750
17	-169.37233	25.92200
18	-169.31000	25.86117
19	-169.25317	25.79633
20	-169.20567	25.72567
21	-169.16550	25.65083
22	-169.13467	25.57283
23	-169.11267	25.49233
24	-169.09883	25.41017
25	-169.09400	25.32717
26	-169.09883	25.24417
27	-169.11100	25.16150
28	-169.13367	25.08083
29	-169.16600	25.00283
30	-169.20583	24.92767
31	-169.25233	24.85583
32	-169.30800	24.78950
33	-169.37033	24.72817
34	-169.43850	24.67233
35	-169.51300	24.62367
36	-169.59400	24.58333
37	-169.67767	24.55033
38	-169.76467	24.52233
39	-169.85133	24.50517
40	-169.94217	24.49467
41	-170.03017	24.49267
42	-170.07617	24.49350
43	-170.73983	24.59617
44	-170.79300	24.60483
45	-170.83950	24.61967
46	-170.86950	24.62933
47	-171.83650	24.93717
48	-174.41400	25.27683
49	-174.64083	25.49267

50	-174.70050	25.55467
51	-174.75333	25.62217
52	-174.79733	25.69467
53	-174.83417	25.77050
54	-174.86283	25.84883
55	-174.88183	25.93000
56	-174.89117	26.01183
57	-174.89350	26.09450
58	-174.88450	26.17650
59	-174.86800	26.25767
60	-174.84283	26.33667
61	-174.80733	26.41250
62	-174.76567	26.48583
63	-174.71600	26.55433
64	-174.65817	26.61850
65	-174.59383	26.67667
66	-174.52383	26.72917
67	-174.44783	26.77483
68	-174.36817	26.81500
69	-174.28383	26.84650
70	-174.19650	26.87000
71	-174.10717	26.88683
72	-174.01633	26.89567
73	-173.92467	26.89567
74	-173.83367	26.88817
75	-173.74300	26.87600
76	-173.65233	26.86417
77	-173.56150	26.85217

Table 4—Coordinates for the Inner Reporting Area boundary around Nihoa ATBA

Point No	Longitude	Latitude
1	-161.78483	23.88033
2	-161.74450	23.87317
3	-161.74233	23.88033
4	-161.68667	23.86833
5	-161.63200	23.85300
6	-161.57850	23.83467
7	-161.52633	23.81317
8	-161.47583	23.78883
9	-161.42700	23.76150
10	-161.38017	23.73133
11	-161.33550	23.69867
12	-161.29333	23.66333
13	-161.25350	23.62567

14	-161.21650	23.58567
15	-161.18217	23.54367
16	-161.15083	23.49983
17	-161.12250	23.45417
18	-161.09750	23.40700
19	-161.07567	23.35850
20	-161.05717	23.30867
21	-161.04217	23.25800
22	-161.03067	23.20650
23	-161.02250	23.15450
24	-161.01817	23.10217
25	-161.01717	23.04950
26	-161.01983	22.99700
27	-161.02617	22.94483
28	-161.03583	22.89300
29	-161.04917	22.84183
30	-161.06583	22.79167
31	-161.08583	22.74250
32	-161.10900	22.69450
33	-161.13550	22.64800
34	-161.16500	22.60317
35	-161.19750	22.56017
36	-161.23283	22.51900
37	-161.27083	22.48017
38	-161.31150	22.44350
39	-161.35433	22.40933
40	-161.39950	22.37767
41	-161.44667	22.34867
42	-161.49567	22.32250
43	-161.54633	22.29917
44	-161.59833	22.27883
45	-161.65167	22.26167
46	-161.70617	22.24750
47	-161.76133	22.23667
48	-161.81717	22.22883
49	-161.87350	22.22450
50	-161.93000	22.22333
51	-161.98633	22.22550
52	-162.04250	22.23083
53	-162.09083	22.23850
54	-162.09817	22.23950
55	-162.11467	22.24317
56	-162.20300	22.26450
57	-162.28850	22.29500

58	-162.37000	22.33283
59	-162.44733	22.37883
60	-162.51917	22.43133
61	-162.58483	22.49017
62	-162.64350	22.55467
63	-162.69533	22.62450
64	-162.73900	22.69883
65	-162.77450	22.77717
66	-162.80083	22.85800
67	-162.81817	22.94100
68	-162.82633	23.02500
69	-162.82483	23.10967
70	-162.81483	23.19350
71	-162.79500	23.27617
72	-162.76633	23.35600
73	-162.72917	23.43367
74	-162.68350	23.50667
75	-162.63050	23.57517
76	-162.56967	23.63767
77	-162.50300	23.69483
78	-162.42983	23.74533
79	-162.35183	23.78933
80	-162.26933	23.82583
81	-162.18317	23.85400
82	-162.09383	23.87400
83	-162.00417	23.88567
84	-161.91250	23.88933
85	-161.82133	23.88483
86	-161.78483	23.88033

**Appendix F to Subpart W of Part 922 - IMO Standard Reporting Format and Data Syntax
for Ship Reporting System**

Telegraphy	Function	Information required	Example field text
	System identifier	CORAL SHIPREP //	CORAL SHIPREP //
A	Ship	Vessel name/call sign/flag/IMO number/Federal documentation or State registration number if applicable //.	A/OCEAN VOYAGER/C5FU8/BAHAMAS/IMO 9359165/

B	Date, time (UTC), and month of entry.	A 6-digit group giving day of month (first two digits), hours and minutes (last four digits) in coordinated universal time, suffixed by the letter Z (indicating time in UTC), and three letters indicating month //.	B/271107Z DEC//
C	Position	A 4-digit group giving latitude in degrees and minutes, suffixed with the letter N (indicating north), followed by a single /, and a five-digit group giving longitude in degrees and minutes, suffixed with the letter W (indicating west) // [Report in the World Geodetic System 1984 Datum (WGS- 84)].	C/2728N/17356W//
E	True course	3-digit number indicating true course //	E/180//
F	Speed in knots and tenths.	3-digit group indicating knots decimal tenths //	F/20.5//
I	Destination and estimated time of arrival.	Name of port city/country/estimated arrival date and time group expressed as in (B) //.	I/SEATTLE/USA/311230Z DEC//
L	Intended route through the reporting area.	Route information should be reported as a direct rhumbline (RL) course through the reporting area and intended speed (expressed as in E and F) or a series of waypoints (WP). Each waypoint entry should be reported as latitude and longitude, expressed as in (C), and intended speed between waypoints (as in F) // (Note: As many "L" lines as needed may be used to describe the vessel's intended route.).	L/RL/215/20.5// -OR- L/WP/2734N/17352W/20.5// L/WP/2641N/17413W/20.5// L/WP/2605N/17530W/20.5//
O	Vessel draft in meters.	Maximum present static draft reported in meters decimal centimeters //.	O/11.50//
P	Categories of Hazardous Cargoes*.	Classification Code (e.g. IMDG, IBC, IGC, INF) / and all corresponding Categories of Hazardous Cargoes (delimited by commas) // Note: If necessary, use a separate "P" line for each type of Classification Code.	P/IMDG/1.4G,2.1,2.2,2.3,3,4.1,6.1,8,9//
Q	Defects or deficiencies**.	Brief details of defects, damage, deficiencies or limitations that restrict maneuverability or impair normal navigation // (If none, enter the number zero.).	Q/Include details as required//
R	Pollution incident or goods lost overboard**.	Description of pollution incident or goods lost overboard with- in the Monument, the Reporting Area, or the U.S. Exclusive Economic Zone// (If none, enter the number zero.).	R/0//
T	Contact information of ship's agent or owner.	Name/address/and phone number of ship's agent or owner //	T/JOHN DOE/GENERIC SHIPPING COMPANY INC, 6101 ACME ROAD, ROOM 123, CITY, STATE, COUNTRY 12345/123-123-1234//

U	Ship size (length overall and gross tonnage) and type.	Length overall reported in meters decimal centimeters/number of gross tons/type of ship (e.g. bulk carrier, chemical tanker, oil tanker, gas tanker, container, general cargo, fishing vessel, research, passenger, OBO, RORO) //.	U/294.14/54592/CONTAINER SHIP//
W	Persons.....	Total number of persons on board //	W/15//

TABLE NOTES

*Categories of hazardous cargoes means goods classified in the International Maritime Dangerous Goods (IMDG) Code; substances classified in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) and chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code); oils as defined in MARPOL Annex I; noxious liquid substances as defined in MARPOL Annex II; harmful substances as defined in MARPOL Annex III; and radioactive materials specified in the Code for the Safe Carriage of the Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes in Flasks on Board Ships (INF Code).

**In accordance with the provisions of the MARPOL Convention, ships must report information relating to defects, damage, deficiencies or other limitations as well as, if necessary, information relating to pollution incidents or loss of cargo. Safety related reports must be provided to CORAL SHIPREP without delay should a ship suffer damage, failure or breakdown affecting the safety of the ship (Item Q), or if a ship makes a marked deviation from a route, course or speed previously advised (Item L). Pollution or cargo lost overboard must be reported without delay (Item R).