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**Date:** Fri, Sep 15, 2017 at 5:04 PM  
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**To:** Ann Navaro <[Ann.Navaro@sol.doi.gov](mailto:Ann.Navaro@sol.doi.gov)>

Hi Ann,  
This draft report was prepared by NOAA for DOC, and DOC shared it with DOI. Have you seen it? It contains factual information on Rose Atoll and PRIM.  
--Kristen

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Draft Review of Marine National  
Monuments  
Pursuant to Executive Order 13792

July 2017

Prepared by

National Oceanic and Atmospheric Administration

U.S. Department of Commerce

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## Introduction and Purpose

Presidential Executive Order 13792, Review of Designations Under the Antiquities Act, dated April 26, 2017 (EO), directs the Secretary of the Interior (Secretary) to conduct a review of Presidential National Monument designations or expansions of designations under the Antiquities Act made since January 1, 1996, where the designation covers more than 100,000 acres; where the designation after expansion covers more than 100,000 acres; or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders.

The EO further directs the Secretary to provide two reports summarizing his review:

- (1) an Interim Report under section 2(d), due within 45 days of the date of the EO, addressing the Bears Ears National Monument established by Proclamation No. 9558, dated December 28, 2016, and "such other designations as the Secretary determines to be appropriate for inclusion"; and
- (2) a Final Report under section 2(e), due within 120 days of the date of the EO, summarizing the findings of the review for all other monument designations covered by the EO.

The EO also directs the Secretary to include recommendations in both reports for "Presidential actions, legislative proposals, or other actions consistent with law" to conform designations to the policy set forth in the EO. The Secretary provided the Interim Report to the President on June 10, 2017, regarding Bears Ears National Monument.

The five marine national monuments (MNM) the National Oceanic and Atmospheric Administration (NOAA) co-manages with the Department of the Interior (DOI) included in this review are: Marianas Trench MNM; Northeast Canyons and Seamounts MNM; Pacific Remote Islands MNM; Papahānaumokuākea MNM; and Rose Atoll MNM. DOI requested NOAA prepare the review of these five MNM. NOAA staff in the Pacific and North Atlantic regions were asked to compile all relevant information for this report. NOAA staff also coordinated with DOI regional staff in preparing the information.

The attached report contains NOAA's review of the five MNM, which were each analyzed based on the seven factors found in Section 2 of the EO:

- (1) The requirements and original objectives of the Antiquities Act (Act), including the Act's requirements that reservations of land not exceed "the smallest area compatible with the proper care and management of the objects to be protected";
- (2) whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest";
- (3) the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and

Management Act,<sup>1</sup> as well as the effects on the available uses of Federal lands beyond the monument boundaries;

(4) the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries;

(5) concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities;

(6) the availability of Federal resources to properly manage designated areas; and

(7) such other factors as the Secretary deems appropriate.

In addition to the review criteria above, Section 1 of the EO outlines the policy of this Administration and emphasizes the value of public outreach and proper coordination. Designations of national monuments “have a substantial impact on the management of Federal lands and the use and enjoyment of neighboring lands. Such designations are a means of stewarding America’s natural resources, protecting America’s natural beauty, and preserving America’s historic places. *Monument designations that result from a lack of public outreach and proper coordination with State, tribal, and local officials and other relevant stakeholders may also create barriers to achieving energy independence, restrict public access to and use of Federal lands, burden State, tribal, and local governments, and otherwise curtail economic growth.* Designations should be made in accordance with the requirements and original objectives of the Act and appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities.”

DOI released a Federal Register notice on May 1, 2017, seeking public comment on the review of 27 national monuments that meet the criteria in the EO. By the close of the comment period on July 10, DOI had received more than 1.4 million public comments on regulations.gov. The majority of the comments received focused on the Bears Ears National Monument and the neighboring Grand Staircase-Escalante National Monument. DOI and NOAA also conducted outreach to Governors of affected states and territories, affected Members of Congress and Federally-recognized tribes. At this time, NOAA does not have an estimate of how many of those comments address marine national monuments. The public comments considered in the preparation of this report are limited to those submitted directly to NOAA. DOI is conducting a separate analysis of public comments submitted via regulations.gov.

This report contains five separate analyses for each of the MNMs addressing the criteria mentioned above. We provide the following note regarding the commercial fishing information contained in each site analysis. The fishing information and data presented in each of the five site analyses represent the best available information to staff at the time of preparing this report. In most, if not all cases, data are not available to differentiate between fishing that occurred within what is now the monument boundaries from activity beyond the monument boundaries. Where possible, such distinctions are noted. Additionally, the estimates of economic value of the commercial fishing activity prior to designation presented in this report are the estimates of economic activity based on gross revenue, not net revenue.

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<sup>1</sup> Section 102(a)(7) of the Federal Land Policy and Management Act (FLPMA) provides that it is the policy of the United States that “goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law.” 43 U.S.C. § 1701(a)(7). FLPMA defines the “public lands” subject to its requirements as excluding “lands located on the Outer Continental Shelf.” *Id.* at § 1702(e)(1).

# Marianas Trench MNM

## Introduction

On January 6, 2009, President George W. Bush designated Marianas Trench Marine National Monument by Presidential Proclamation 8335, encompassing three units: the Trench, Volcanic and Island units. Located in the Marianas Archipelago, east of the Philippine Islands and southeast of Japan, the Marianas Trench is approximately 940 nautical miles (nm) long and 38 nm wide within the U.S. Exclusive Economic Zone (EEZ) and contains the deepest known points in the global ocean. The total monument area consists of approximately 95,216 square miles of submerged lands and waters of the Mariana Archipelago. The monument has not been expanded to date. In 2016, the submerged lands and waters of the monument's Islands Unit extending 3 nm seaward from Uracas, Maug and Asuncion were transferred to the Commonwealth of the Government of the Northern Marianas Islands (CNMI), as directed by Presidential Proclamation 9077 (January 2014). Under the terms of the transfer Memorandum of Agreement (signed by the CNMI Government, DOI and Department of Commerce (DOC) on September 22, 2016), the U.S. Fish and Wildlife Service (USFWS) and NOAA are managing the conveyed submerged lands for the benefit of the CNMI people and in consultation with the CNMI government.

**Criterion I: the requirements and original objectives of the Antiquities Act (Act), including the Act's requirement that reservations of land not exceed "the smallest areas compatible with the proper care and management of the objects to be protected"; and**

**Criterion II: whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest"**

The Proclamation creates three separate units—Trench, Volcanic and Islands units—to compose Marianas Trench Marine National Monument. There are important geologic features within each of these units all largely driven by the subduction of the Pacific Plate beneath the Philippine Sea Plate. The Trench Unit, the largest of the three units, protects the Earth's longest and deepest submarine trench. The Volcanic Unit encompasses only the submerged lands of 19 active, submerged volcanic areas. The Islands Unit encompasses the waters and submerged lands around only three of the many islands within the Marianas archipelago. The Proclamation describes many of the geological and biological features conserved within this monument—from pools of liquid sulfur, to active hydrothermal vents, to volcanoes erupting nearly pure carbon dioxide, as well as the healthy marine ecosystems surrounding the islands and their nearby reef systems. The boundaries for all three units were drawn to protect only those attributes targeted in the Proclamation. For instance, a one-mile radius is protected around the elements of the

Volcanic Unit, and three of the islands are included and protected in the Islands Unit, whereas about a dozen other islands were not included in the Proclamation.

The Proclamation identifies “the submerged volcanic areas of the Mariana Ridge, the coral reef ecosystems of the waters surrounding the islands of Farallon de Pajaros, Maug and Asuncion in the Commonwealth of the Northern Mariana Islands, and the Mariana Trench” as “other objects of historic or scientific interest” worthy of protection. The area encompassed within the monument contains some of the most distinctive biological and geological systems and structures in the world, including the deepest location on Earth, the largest active mud volcanoes on Earth, and intense species diversity. President Bush’s 2009 designation objectives were intended to provide broad scale protections to the scientific objects and marine ecosystems identified in the Trench, Volcanic and Island units. As stated in the Proclamation, it is in the public interest to preserve and protect the Marianas Trench, the known volcanic areas within and the marine environment around the islands of Farallon de Pajaros, Maug and Asuncion in CNMI. The islands, waters and airspace of the monument are also of particular importance to the national security of the United States.

**Criterion III: the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land and Policy Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries; and**

**Criterion IV: the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries**

The Proclamation either prohibits or allows certain uses or activities by permit. The following section addresses the effects of the proclamation on three uses of the monument’s designated Federal lands, Federal lands beyond the monument’s boundaries and non-Federal lands within or beyond the monument’s boundaries: 1) commercial fishing; 2) non-commercial fishing; and 3) exploration and research. None of the prohibitions required by the Proclamation, and described herein, apply to activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard (USCG). The Proclamation only states that the U.S. Armed Forces ensure, by the adoption of appropriate measures not impairing operations or operation capabilities, that its vessels and aircraft act in a manner consistent, so far as is reasonable and practicable, with the objectives of the Proclamation.

Although the Proclamation does not include a specific prohibition on actions such as energy or mineral exploration and development or recreational activities (except non-commercial fishing), the Proclamation broadly states: “the Secretaries of the Interior and Commerce shall not allow or permit any appropriation, injury, destruction, or removal of any feature of this monument except as provided for by this proclamation or as otherwise provided for by law.”

Regarding the monument's management, Proclamation 8335 promotes "public education programs and public outreach regarding the coral reef ecosystem and related marine resources and species of the monument and efforts to conserve them; and "traditional access by indigenous persons, as identified by the Secretaries in consultation with the Government of the Commonwealth of the Northern Mariana Islands, for culturally significant subsistence, cultural and religious uses within the monument." Additionally, the Proclamation does not prohibit vessel transit or innocent passage through the monument or otherwise restrict navigations or overflights.

The human uses that took place in the monument before designation include a limited amount of commercial and non-commercial fishing activity and research and monitoring through the NOAA Fisheries Rapid Assessment and Monitoring Program and limited research by international partners. The post-proclamation activities have been limited to research and monitoring through the NOAA Fisheries Rapid Assessment and Monitoring Program and limited research by international partners.

#### (1.) Commercial fishing

Proclamation 8335 required the Secretary of Commerce to prohibit commercial fishing within the Islands Unit of the monument. On June 3, 2013, NOAA Fisheries issued regulations prohibiting commercial fishing in accordance with the Proclamation (50 C.F.R. Part 665, Subpart G). Because only the sea floor was designated in the Volcanic and Trench units, the prohibition on commercial fishing is applicable only in the Islands Unit.

NOAA Fisheries' Pacific Islands Fisheries Science Center data records for fishing activity in the CNMI prior to monument designation in 2009 indicate that a single longline vessel occasionally operated from Guam and four longline vessels operated from CNMI; however, none of the vessels were able to sustain a meaningful profit as there was no viable market for the fish. The four CNMI longliners then experimented with deep-water crustacean fishing, but lost too much gear/traps to make it economically viable. Immediately prior to the 2009 Proclamation, bottomfishing was limited to two active bottomfish boats that occasionally departed from Saipan to the northern islands, but the significant distance to the fishing grounds and associated fuel cost prevented profitable operations.

Additional research uncovered accounts of 129 trips to the Islands Unit waters spanning the years 1939 to 2009. From 1979 to 2009, this would be an average of 3.8 trips per year. The accounts included descriptions of 16 different vessels that traveled to the Islands Unit. Accounts of fishing in the northern islands indicate that these trips were rarely wholly commercial in nature. While many operations described in the northern islands intended to make a profit and sell a large portion of their fish, nearly all operations had the practice of giving a good deal of the catch away to family, friends and the local community, now known as "customary exchange."

Despite the fact that many fishing trips did not realize a profit, individuals and companies continued to fund a limited number of fishing trips to the waters of the Islands Unit. The oral histories collected for this research indicate that fishing trips to the Islands Unit waters were conducted as much for the experience of traveling to the islands themselves and fishing in the surrounding waters as for a chance of

gaining profit. Due to distance, trips to the monument were rare, but culturally significant events that provided residents from Guam and CNMI with connections to their indigenous roots.

### (2.) Non-commercial fishing

The Proclamation requires the Secretary of Commerce to “ensure that sustenance, recreational, and traditional indigenous fishing shall be managed as a sustainable activity consistent with other applicable law and after due consideration with respect to traditional indigenous fishing of any determination by the Government of the Commonwealth of the Northern Mariana Islands,” subject to any terms and conditions necessary for the care and management of the objects of the Islands Unit. On June 3, 2013, NOAA Fisheries issued regulations that established management measures for non-commercial and recreational fishing in the Islands Unit (50 C.F.R. Part 665, Subpart G). CNMI attained the authority to define local permitting requirements with the conveyance of their submerged lands.

Under NOAA Fisheries’ regulations, community residents of CNMI and Guam may apply for non-commercial permits to fish in the Islands Unit. Charter businesses established legally under the laws of Guam or the CNMI may also apply for recreational charter permits to fish in the Islands Unit. Permit holders who harvest fish under a non-commercial fishing permit may engage in customary exchange, which helps to preserve traditional, indigenous and cultural fishing practices on a sustainable basis; however, fish harvested under a recreational charter fishing permit may not be used for the purposes of customary exchange. Under 50 C.F.R. § 665.12, customary exchange means the non-market exchange of marine resources between fishermen and community residents, including family and friends of community residents, for goods and/or services for cultural, social or religious reasons. Customary exchange may include cost recovery through monetary reimbursements and other means for actual trip expenses, including but not limited to ice, bait, fuel or food, that may be necessary to participate in fisheries in the western Pacific.

Since commercial fishing was prohibited and non-commercial fishing regulations went into effect in 2013 in the Islands Unit, NOAA Fisheries has not received any applications for non-commercial fishing permits (i.e., sustenance, recreational and traditional indigenous fishing). According to the resident fishing community, the lack of interest in non-commercial fishing in the Islands Unit can be attributed to the fact that the cost of gas far exceeds the ability to cover expenses. Depending on the type of vessel used, it may take 1-2.5 days to get to the monument and, with current gas prices and the size of vessel tanks, costs range from \$7,000-\$15,000 and \$20,000-\$40,000 to charter a vessel.

### (3.) Exploration and research

Under Proclamation 8335, exploration and research is not prohibited and a permit is only required for applicants other than the Departments of Commerce and the Interior. Specifically, the proclamation states that:

“Subject to such terms and conditions as the Secretary deems necessary for the care and management of the objects of this monument, the Secretary of the Interior may permit scientific

exploration and research within the monument, including incidental appropriation, injury, destruction or removal of features of this monument for scientific study, and the Secretary of Commerce may permit fishing within the monument for scientific exploration and research purposes to the extent authorized by [the Magnuson-Stevens Fishery Conservation and Management Act] MSA. The prohibitions required by this 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.”

As such, except for research by or for NOAA and USFWS, a Federal research permit is required in the Trench, Volcanic and Islands units. Currently, research permits are issued by USFWS under the authority of the National Wildlife Refuge System Administration Act, Special Use Permit, in coordination and review with NOAA and the CNMI Government, in the Trench and Volcanic units. Draft regulations are in development to authorize USFWS to issue permits for the Islands Unit also under the authority of the Refuge System and in coordination and review with NOAA and the CNMI Government. The Commonwealth requires a research permit in its territory’s waters. This requirement existed prior to the monument’s establishment.

Prior to monument designation, limited research was conducted in the three units primarily by NOAA Fisheries’ Pacific Islands Fisheries Science Center, NOAA Pacific Marine Environmental Laboratory and the University of Hawaii, in collaboration with national partners that includes the Hawaii Undersea Research Laboratory, Woods Hole Oceanographic Institute, Scripps Institution of Oceanography, Oregon State University, University of Victoria (Canada) and Japan Agency for Marine-Earth Science and Technology. Since the monument was designated, research interest and collaboration activity has increased due to the monument status, and to interest in the drivers of subduction zones, earthquakes, tsunamis, chemosynthesis, carbon sequestration, ocean acidification and the very origins of life.

**Criterion V: concerns of State, tribal and local governments affected by a designation, including the economic development and fiscal conditions of affected States, tribes and localities**

Prior to monument designation, public engagement and solicitation for comments was conducted in Guam, the CNMI Pacific Region and Washington, D.C. The public was invited to participate in roundtable format conversations about the scientific, historical and cultural resources, and the potential for protection and coordinated management of marine areas in the Pacific, as well as to provide comments during a formal 60-day public comment period (i.e., August 25, 2008 to October 25, 2008). The Chairman of the Council on Environmental Quality; and other Federal representatives from NOAA and the Department of the Interior were included in the meetings. The public meeting held in Saipan was one of the largest and most attended public meetings in CNMI history. Information and comments received at these open houses and during the public comment period were taken into consideration for the final monuments designation.

Additionally, more than 100 non-Federally hosted meetings and forums were held by the CNMI Council for the Humanities, Saipan Chamber of Commerce, Northern Marianas College and the Friends of the monument prior to designation on January 6, 2009. A community outreach campaign by the Friends of the Monument reached nearly every citizen in the Northern Mariana Islands. They published more than 100 letters to the editor and collected more than 6,000 petition signatures in favor of monument designation. Formal endorsements on monument designation include those made by CNMI Governor Benigno Fitial, the Saipan Chamber of Commerce and former First Lady Laura Bush. The Western Pacific Fishery Management Council formally opposed the monument proposal due to the economic impact the proposal would have on fishermen and indigenous communities; however, a greater portion of the public community supported it.

Prior to designation, initial proposals suggested prohibiting commercial fishing in the Trench, Volcanic and Islands units of the monument which raised concerns from the CNMI Governor Fitial. The governor then expressed support once the Trench and Volcanic units water columns were not included in the final monument designation. The Governor was also pleased that the non-commercial fishing regulations were established largely through Western Pacific Fishery Management Council processes which included many public meetings and opportunities for the CNMI and Guam fishermen to express their concerns and recommendations.

In the recent request by DOI for public comment on the monument designations, Governor Eddie B. Calvo of Guam wrote requesting the revocation of Marianas Trench Marine National Monument on the grounds that it would improve food security, sustain cultural fishing practices and promote economic development in the local communities. Governor Lolo M. Moliga of American Samoa wrote requesting revocation of Pacific monuments or revocation of fishing regulations within Pacific monuments, on the grounds that it has negatively impacted the local tuna industry and that existing fishing regulatory processes are adequate. Governor Moliga, Governor Calvo and Governor Ralph D.C. Torres of CNMI also wrote a joined letter requesting that fishing provisions applicable to all marine national monuments be removed, on the grounds that the monument restrictions are unnecessary and impede their local socioeconomic and cultural stability. The Western Pacific Fishery Management Council sent a letter requesting that monument designations in the western Pacific are unnecessary and fishing restrictions should be vacated. Members of Congress Bishop of Utah and Radewagen of American Samoa wrote a letter requesting that all marine national monument fishing restrictions be vacated. Members of Congress Bordallo and Sablan of CNMI sent a letter in support of the monument citing the importance of the monument to Guam's tourism economy but asked that the management plan be finalized as soon as possible. Senate and House Minority Leadership sent a letter requesting that all national monuments' boundaries remain intact based on the environmental and economic benefits they provide. *(Please note, the comments highlighted in this section are only reflective of those sent directly to DOC/NOAA as of July 20, 2017 and not those collected by DOI through the online regulations.gov portal.)*

**Criterion VI: the availability of Federal resources to properly manage designated areas**

Within existing appropriations for fisheries research and management, NOAA currently allocates approximately \$3 million dollars annually for science and management activities in the Pacific marine national monuments designated in 2009 (Marianas Trench, Pacific Remote Islands, Papahānaumokuākea and Rose Atoll). Determining the exact amount of money spent for each site on management and research is difficult since projects and cruises are sometimes combined with similar efforts and cross multiple sites. Since the monument was designated, NOAA Fisheries established eight full-time (four Pacific Islands Regional Office and four Pacific Islands Fisheries Science Center) staff positions and four part-time staff positions (one Pacific Islands Regional Office and three Pacific Islands Fisheries Science Center) to provide for the management and research within the four Pacific marine national monuments (Marianas Trench, Pacific Remote Islands, Papahānaumokuākea and Rose Atoll). Duties are shared among the personnel who work with the local governments in American Samoa, Saipan and Hawaii.

In addition to NOAA, USFWS received \$1.8 million in congressionally directed funds for Fiscal Year 17 for all USFWS managed marine national monuments in the Pacific. This funding has assisted the management of the monument through staffing, logistics and planning efforts. USFWS has established one permanent position to manage the monument and plans to fill a temporary position to assist with outreach and education in the near future.

Compliance of applicable laws in monument waters are enforced by a collaboration between the NOAA Office of Law Enforcement (OLE), USFWS's Office of Law Enforcement, CNMI's Department of Land and Natural Resources, Division of Fish and Wildlife and USCG to ensure compliance with applicable laws in monument waters. Satellite-based vessel monitoring systems (VMS), dockside inspections, at sea and aircraft patrols are used in the U.S. EEZ of the Pacific to monitor and enforce commercial U.S. fisheries laws and regulations, illegal, unreported and unregulated fishing, laws and regulations governing living marine resources, threatened and endangered species, and the protection of marine mammals. The resources expended to enforce waters in the monuments come from the general NOAA OLE Enforcement and Surveillance budget. These resources support a basic surveillance capability to monitor compliance with the directives in the Presidential Proclamations or public laws.

The amount of funding expended for activities in Marianas Trench Marine National Monument varies annually. Additional funding for research and management has been leveraged by using funds from other NOAA programs that have complementary interests and goals for exploration, research and management activities in the monuments. Significant funding from the Coral Reef Conservation Program and the Pacific Islands Fisheries Science Center have been used to monitor and explore the shallow coral reef areas in the Pacific Islands region including all of the monuments. NOAA partners provide tremendous benefit to overall research and management of the monuments, particularly due to their very remote locations and travel costs to conduct exploration, research and monitoring.

Annually, grants have been awarded by NOAA in order to pursue management objectives. Historically, grants have been for the purposes of research and monitoring and education and outreach, and vary in amount and availability each year.

# Northeast Canyons and Seamounts MNM

## **Introduction**

On September 15, 2016, President Barack Obama designated Northeast Canyons and Seamounts Marine National Monument by Presidential Proclamation 9496 to preserve the waters and the submerged lands within the area proclaimed as objects of historical and scientific significance. This is the first marine national monument on the Atlantic Coast. It is composed of two subunits entirely within Federal waters, the Canyons Unit and the Seamounts Unit. The Canyons Unit is approximately 941 square miles and incises the continental shelf. The westerly deep sea Seamounts Unit is approximately 3,972 square miles, for a total of approximately 4,913 square miles. The monument has not been expanded since designation. The monument encompasses the distinct geological features of Oceanographer, Gilbert and Lydonia canyons and Bear, Mytilus, Physalia and Retriever seamounts, which support vulnerable ecological communities. The monument is situated approximately 130 miles southeast of Cape Cod, Massachusetts, in the Northwest Atlantic Ocean.

**Criterion I: the requirements and original objectives of the Act, including the Act’s requirement that reservations of land not exceed “the smallest areas compatible with the proper care and management of the objects to be protected”; and**

**Criterion II: whether designated lands are appropriately classified under the Act as “historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest”**

The Proclamation created two separate Canyons and Seamounts units with narrow boundaries encompassing the geological features of each unit to ensure the area under monument designation included only that necessary to protect the identified objects in accordance with the Act. The specific objects identified within the Proclamation to be protected are “the canyons and seamounts themselves, and the natural resources and ecosystems in and around them.” This language ensures that matter within the boundary area of the monument designation are the “objects to be protected,” including the geologic features, the sessile and mobile species and the water column.

The Proclamation classifies the resources to be protected as objects of historic or scientific interest. These canyons and seamounts are home to many objects of historic and scientific interest, including at least 54 species of deep-sea corals, which live at depths of at least 3,900 meters below the sea surface and some of which belong to communities that are hundreds or thousands of years old. The corals, together with other structure-forming fauna, such as sponges and anemones, create a foundation for dynamic deep-sea ecosystems, providing food, spawning habitat and shelter for an array of fish and invertebrate species.

These habitats are extremely sensitive to disturbance from extractive activities. Because of the steep slopes of the canyons and seamounts, oceanographic currents that encounter them create localized eddies and result in upwelling. Currents lift nutrients, like nitrates and phosphates, critical to the growth of phytoplankton from the deep to sunlit surface waters. These nutrients fuel an eruption of phytoplankton and zooplankton that form the base of the food chain. Aggregations of plankton draw in large schools of small fish and then larger animals that prey on these fish, such as seabirds, whales, dolphins and sea turtles, as well as highly migratory fish such as tunas, billfish and sharks. Together the geology, currents and productivity create diverse and vibrant ecosystems that are currently and historically of scientific interest.

The objectives of the monument designation are to: 1) support research and scientific exploration to further the understanding of the North Atlantic Ocean ecosystem; 2) further the educational value of the monument that will assist in the site's conservation and management; and 3) protect the geology and biodiversity and its supporting habitat within the waters and submerged lands in and around the deep-sea canyons and seamounts, much of which is unique and not known to be found anywhere else on Earth.

**Criterion III: the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land and Policy Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries; and**

**Criterion IV: the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries**

The Proclamation either prohibits certain uses or allows certain uses or activities by permit. The following section addresses the effects of the Proclamation on seven uses of the monument's designated Federal lands, Federal lands beyond the monument's boundaries and non-Federal lands within or beyond the monument's boundaries: 1) energy and mineral exploration or development and dredging and construction, including submarine cables; 2) commercial fishing; 3) non-commercial fishing; 4) exploration and research; 5) vessel transit/innocent passage; 6) education; and 7) recreation. None of the prohibitions required by the Proclamation, and described herein, apply to activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard (USCG). The Proclamation only states that the U.S. Armed Forces ensure, by the adoption of appropriate measures not impairing operations or operation capabilities, that its vessels and aircraft act in a manner consistent, so far as is practicable, with the objectives of the Proclamation.

(1.) Energy and mineral exploration or development and dredging and construction, including submarine cables

The Proclamation prohibits exploring for, developing or producing oil, gas or minerals, or undertaking any other energy exploration or development activities within the monument. Altering the monument's

submerged lands (e.g., dredging, construction) or constructing, placing or abandoning anything on the submerged lands is also prohibited. However, the placement of scientific instruments and the construction or maintenance of submarine cables is exempted and may be allowed by permit. Using or attempting to use poisons, electrical charges or explosives is similarly prohibited throughout the entire monument.

## (2.) Commercial fishing

The Proclamation prohibits commercial fishing or possessing commercial fishing gear in the monument except when stowed and not available for immediate use during passage without interruption through the monument, except for the red crab and American lobster fisheries. Pursuant to the Proclamation, commercial fishing for red crab and American lobster may continue in the monument for a period of not more than seven years from the date of monument designation, in accordance with applicable fishery management plans and other regulations, and under permits in effect on the date of the monument designation.

According to vessel trip reports and seafood dealer data reported to NOAA Fisheries, over the 10-year period from 2005 to 2014, fish valued at approximately \$12 million was landed from 38 different fisheries within the monument and surrounding area. This figure does not include landings of lobster or Jonah crab from the area. The vast majority, if not the entirety, of those landings were reported from the shelf landward of the Canyons subunit of the monument, as most fishing in the area occurs above 200 meters (with the exception of lobster which often is fished down to approximately 600 meters, red crab which is often fished down to approximately 800 meters). Generally, fishing effort was not occurring within the Seamounts subunit prior to monument designation.

Other than shellfish, the most valuable species caught in this area all belong to the highly migratory species complex. Between 2006-2014, highly migratory species landings from vessels using pelagic longline gear totaled to \$4,538,474. This value is included in the above described \$12 million figure. Fishing effort for these species is expected to be displaced to the northeast and southwest of the Canyons subunit given that fishermen were already permitted to fish in broad areas outside of the monument's boundaries; accordingly, there is no evidence to suggest that this will impact catch rates. The impacts of displacement would vary depending on the rate of movement of highly migratory species to and from the monument area and the surrounding area and where they may continue to be caught, pursuant to relevant fishery regulations.

The fisheries most impacted by the monument are the lobster and red crab fisheries. Prior to monument designation, estimates for the lobster fishery (including catch of Jonah crab) in the monument area were between 13 and 14.3% of the regional effort and 12.2 to 14.3% of the fishery's total revenue, representing \$2.4 to 2.8 million in annual lobster and Jonah crab revenue. This represents approximately twice the value of all other fish species from the area combined. Lobster catches from this area were landed primarily in Massachusetts (66.9%), followed by Rhode Island (24.6%) and New Hampshire (8.6%), with no landings reported from other states. Approximately 80% of the landings come from only a few vessels that fish almost exclusively inside the monument. The monument area also contained approximately 15% of the red crab fishery effort over the last 10 years. Generally, this fishing effort is expected to be

displaced to the surrounding area outside the monument's boundaries, given that lobster and crab fishermen were already permitted to fish in broad areas outside the monument's boundaries. The lobster boats currently fishing in the monument are permitted to fish anywhere within the offshore lobster management area, which follows the U.S. Exclusive Economic Zones (EEZ) in offshore areas from Maine to Cape Hatteras; and the red crab fishery operates along the edge of the continental shelf off southern New England and the Mid-Atlantic Bight. The impacts of displacement would vary depending on the rate of movement of lobster and crabs to and from the monument area and the surrounding area and where they may continue to be caught, pursuant to relevant fishery regulations.

### (3.) Non-commercial fishing

The Proclamation allows the Secretaries, pursuant to their respective authorities, to permit recreational fishing in accordance with applicable fishery management plans and other applicable laws and other requirements.

No analysis has been conducted on the level of recreational fishing occurring within the monument. Specifically, data have not yet been prepared at the monument scale. Given its offshore location and anecdotal information, most of the recreational effort in the monument area is most likely focused on highly migratory species, with the most common recreational targets along the Outer Continental Shelf almost exclusively within the Canyons subunit.

### (4.) Exploration and research

The Proclamation allows the Secretaries, pursuant to their respective authorities, to permit research and scientific exploration designed to further understanding of monument resources and qualities or knowledge of the North Atlantic Ocean ecosystem and resources. To date, NOAA has not compiled any information regarding research in and around the monument. The Canyons subunit has been included in many regional studies, including benthic and marine mammal surveys. A number of exploratory studies focusing on deep-sea corals also included areas in and around the monument prior to designation. Within the Canyons subunit, the NOAA Fisheries Northeast Fisheries Science Center (NEFSC) has historically conducted bottom trawl sampling to depths of approximately 250 meters and scallop dredge sampling to approximately 100 meters as part of standard annual resource surveys and plankton sampling throughout the Outer Continental Shelf. Over the past 10 years, a total of 46 bottom trawls, six scallop dredges and 45 plankton tows have been conducted. NEFSC has no similar monitoring activities around the Seamounts subunit.

### (5.) Vessel transit/innocent passage

The Proclamation does not prohibit or regulate vessel transit or innocent passage in or through the monument.

### (6.) Education

The Proclamation allows the Secretaries to permit activities that will further the educational value of the monument or will assist in the conservation and management of the monument. To date, NOAA has not compiled any information regarding educational activities in and around the monument; however, given the offshore distance of the monument on the Outer Continental Shelf, we do not anticipate the monument designation will have a negative impact on educational activities in the area.

#### (7.) Recreation

The Proclamation allows for “other activities that do not impact monument resources, such as sailing or bird and marine mammal watching so long as those activities are conducted in accordance with applicable laws and regulations, including the Marine Mammal Protection Act.” Although these “other activities” are listed in the Proclamation among those that may be permitted by the Secretaries, the Proclamation specifically states: “Nothing in this proclamation is intended to require that the Secretaries issue individual permits in order to allow such activities.”

The Proclamation’s inclusion of other activities suggests that visitors to the area might engage in sailing, whale watching and seabird viewing as recreational activities that do not require a permit; however, given the offshore location of the monument, it is unlikely these activities occurred in the area with any great density prior to designation, as each is more commonly undertaken much closer inland given travel time and fuel and vessel maintenance costs for businesses and patrons.

### **Criterion V: concerns of State, tribal and local governments affected by a designation, including the economic development and fiscal conditions of affected States, tribes and localities**

Prior to the designation, NOAA held a town hall in Providence, Rhode Island, on September 15, 2015, to solicit comment on potential permanent protections for the three deep-sea canyons and four seamounts that were later protected in the monument designation. This meeting was announced on the NOAA website on September 3, 2015, in which the opportunity was also offered to submit public comments via email by September 15, 2015, to accommodate those unable to attend the meeting. Subsequently, senior Obama Administration Officials visited the northeast region multiple times to engage with elected officials and stakeholders, including meeting locally with members of the commercial fishing industry, to gather data and information and to understand the potential impacts of permanently protecting marine areas. NOAA continued to receive additional public comments informally throughout the remaining year until the time of monument designation and shared them as appropriate with the Council on Environmental Quality.

Prior to monument designation, NOAA received the following comments both in support and in opposition to an Atlantic marine monument. These comments were received via email, letters transmitted to the Department of Commerce, letters transmitted to the President and shared with the Department of

Commerce and verbally. Given that there was no formal solicitation for public comment and not all comments shared with the President were necessarily routed through the Department of Commerce, these may not be comprehensive to what the public submitted to government officials:

Comments submitted in support of an Atlantic marine monument by:

- All 7 members of the U.S. Congressional Connecticut delegation;
- Three members of the New Hampshire House of Representatives and Senate;
- Nineteen members and former members of the Maine House of Representatives and Senate;
- Twenty-three members of the Massachusetts House of Representatives;
- Eighteen members of the Rhode Island House of Representatives;
- The Maliseet Indian Tribe; and
- Numerous non-governmental and educational organizations and aquaria and individual private scientists in the region.

These comments generally indicated that, in addition to the conservation value of the area, a monument could support healthy economies by providing opportunities for additional scientific research and increased tourism, particularly for whale watching and seabird viewing.

Comments submitted in opposition to an Atlantic marine monument by:

- The Governor of Maine;
- One member of the Massachusetts State Senate;
- One U.S. Senator from Maine;
- One U.S. Senators from Rhode Island;
- One member of the U.S. House of Representatives from Maine;
- The Mayor of Gloucester, Massachusetts;
- New England Fishery Management Council (NEFMC); and
- Numerous fishing alliances and associates, sportsman groups and individual fishermen.

These comments focused on the lack of a transparent, public process and a specific area proposal to inform their comments. Commenters also noted that several methods exist to protect marine areas that include a robust public process. Comments also stated that NEFMC has the authority and duty to manage fishing and already had several actions in progress to limit fishing in some areas. NEFMC has repeatedly voiced that the monument process does not consider their efforts to protect trust resources, which consistently includes the process of providing many opportunities for public comment. (We note: Currently, NEFMC has an action underway to protect deep sea corals throughout their jurisdiction, focusing on the areas along the shelf out to the U.S. Exclusive Economic Zone. This area will overlap with the monument area.) Sport fishermen expressed concerns that a monument might prevent recreational fishing and indicated that limiting recreational fishing opportunities might have a negative impact on that industry. The comments also expressed fear that displacing fishermen from any areas might have a negative impact on fisheries and fishing quotas, which would result in a negative economic impact. Additionally, the Governor of Massachusetts, Charles D. Baker, and five members of the State's congressional delegation wrote to President Obama expressing their concern over the inadequacy of the

public engagement conducted while designation was being considered, noting that the September 15, 2015, town hall meeting was the only substantive public meeting held with regard to this designation.

The Obama Administration expressed that as a result of the above-mentioned public engagement, the designation was designed to recognize the unique role that fishing plays in the region's economy and culture. Specifically:

- The geographic boundaries of the monument were narrowly tailored based on the best available science and stakeholder input.
- Recreational fishing is allowed within the boundaries of the monument.
- Red crab and lobster fisheries were provided with seven years before being required to exit the monument area, to allow these fixed-gear fisheries to transition their operations.
- Other commercial fishing operators did not have to change their practices immediately and had 60-days to transition from the monument area.

During the recent request by DOI for public comment on the monument designations, letters were submitted supporting the monument designation, including those from U.S. Congressional Representatives Niki Tsongas of Massachusetts and Ann McLane Kuster and Carol Shea-Porter of New Hampshire and U.S. Senator Richard Blumenthal of Connecticut, on the grounds that the area's ecology and biodiversity are significant and that there was substantial and adequate public outreach conducted throughout the designation process. Senate and House Minority Leadership sent a letter requesting that all national monuments' boundaries remain intact based on the environmental and economic benefits they provide.

Letters were also submitted supporting revocation of the monument designation and/or the regulations monument designation imposed within its boundaries. Governor Baker wrote reiterating his initial concerns expressed in 2015 to President Obama, also noting the lack of transparency of the science, information and analysis used in his decision making process. He also requested that should the designation of Northeast Canyons and Seamounts Marine National Monument be revisited, that information regarding the original designation be made available, and that comprehensive stakeholder engagement be conducted in the affected local area. Governor Paul R. LePage of Maine wrote expressing similar concerns, requesting rescission of the monument itself or at minimum its fishing regulations imposed by designation. NEFMC wrote to reiterate their initial concerns expressed in 2015 to President Obama, on the grounds that monument designation has a negative impact on the fishing industry and undermines their regulatory management under the Magnuson-Stevens Fishery Conservation and Management Act. They also requested if the monument status is to be maintained that the limitations it places on fishing activity be rescinded. Governor Moliga of American Samoa, Governor Eddie B. Calvo of Guam and Governor Ralph D.C. Torres of CNMI wrote a joined letter requesting that fishing provisions applicable to all marine national monuments be removed, on the grounds that the monument restrictions are unnecessary and impede their local socioeconomic and cultural stability. Members of Congress Bishop of Utah and Radewagen of American Samoa wrote a joint letter requesting that all marine national monument fishing restrictions be vacated. *(Please note, the comments highlighted in this section are only reflective of those sent directly to DOC/NOAA as of July 20, 2017, and not those collected by DOI through the online regulations.gov portal.)*

**Criterion VI: the availability of Federal resources to properly manage designated areas**

Due to the recent designation of the monument, limited financial resources have been expended in managing the designated area, and future resources are difficult to estimate. No money has been allocated and no grants have been obtained. NOAA Fisheries Offices of the Greater Atlantic Region (GARFO) and Highly Migratory Species and U.S. Fish and Wildlife Service (USFWS) are currently assigning existing staff to coordinate and develop a management plan. No additional staff have been hired to date. No publicly available management plans, action plans or budget tables that discuss or characterize the budgetary impacts of this monument designation have been created.

Additionally, no additional Federal resources have been expended to enforce the monument prohibitions or regulated activities to date, as NOAA GARFO already regularly monitors a series of fishery management closed areas in the same vicinity as the monument. Upon vessel entry into the monument area, a Vessel Monitoring System message is transmitted by NOAA stating the monument restrictions. When USCG patrols identify a vessel in the monument boundaries, they provide the same message. Due to the area's offshore location, USFWS has not participated in law enforcement activities regarding the monument. There has not been any activity to date that would indicate a greater enforcement presence is required.

# Pacific Remote Islands MNM

## Introduction

On January 6, 2009, President George W. Bush designated Pacific Remote Islands Marine National Monument by Presidential Proclamation 8336 encompassing seven islands located south and southwest of Hawaii. The monument boundaries encompassed 86,888 square miles, comprised of rectangular areas that extended approximately 50 nautical miles (nm) (57.14 statute miles) from the mean low water lines of Howland, Baker and Jarvis islands, Johnston, Wake and Palmyra atolls and Kingman Reef. President Barack Obama expanded the monument on September 25, 2014, through Presidential Proclamation 9173, extending the boundary from the 50 nm boundary to the 200 mile seaward limit of the U.S. Exclusive Economic Zone (EEZ) around Jarvis Island and Johnston and Wake atolls, adding approximately 408,301 square miles to the existing monument, for a total monument area of 495,189 square miles. The rectangular boundaries around Howland and Baker islands and Palmyra Atoll and Kingman Reef remained unchanged.

**Criterion I: the requirements and original objectives of the Act, including the Act’s requirement that reservations of land not exceed “the smallest areas compatible with the proper care and management of the objects to be protected”; and**

**Criterion II: whether designated lands are appropriately classified under the Act as “historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest”**

The original designation of Pacific Remote Islands Marine National Monument focused on seven islands and atolls southwest of Hawaii as outlined in Proclamation 8336 signed by President George W. Bush in 2009. The Pacific Remote Islands area consists of Wake, Baker, Howland and Jarvis islands and Johnston and Palmyra atolls, and Kingman Reef. Except for Wake Island, each of these islands is administered as national wildlife refuges. Wake Island is the northernmost atoll in the Marshall Islands geological ridge and perhaps the oldest living atoll in the world. Johnston Atoll is likely one of the oldest in the Pacific Ocean and, as the Proclamation calls it “a genetic and larval stepping stone from the Remote Islands to the Hawaiian Islands for invertebrates, other reef fauna, corals, and dolphins.” Additionally, research surveys that preceded monument designation showed Johnston Atoll supports the deepest reef building corals on record. Palmyra Atoll and Kingman Reef are among the most pristine coral reefs in the world.

A central purpose of the monument designation was to protect the coral reef and associated species surrounding these islands, including the high diversity and abundance of fish. In particular, the monument

contains an extremely high abundance of predatory fish, which are generally removed or not a part of reefs adjacent to more populated areas. Furthermore, numerous seabirds and shorebirds are residents on these islands and several other, with very high population sizes, overwinter on these islands and forage in the surrounding waters. Several marine mammals species—large whales and several dolphin species—are also found in the monument. Additionally, Kingman Reef contains a sheltered lagoon that served as a way station for flying boats on Hawaii-to-American Samoa flights during the late 1930s, and the Department of Defense historically maintained facilities, defensive areas and airspace reservations at Wake Island and Johnston Atoll.

Under Proclamation 9173, President Obama expanded the monument from 50 nm around the islands and atolls to 200 nm around Jarvis Island and Johnston and Wake atolls in 2014. Expansion allowed for the conservation of additional areas important to the pelagic species in the original monument, as well as the conservation of numerous seamounts and other benthic features. In particular, the monument expansion added 132 seamounts to the original 33 seamounts. As recognized in Proclamation 9173, seamounts provide important opportunities for scientific exploration and study, including the discovery of currently unknown species that may present new possibilities for research, medicines and other important uses. Approximately 15 to 44% of the species on a seamount or seamount group are found nowhere else on Earth. Moreover, the adjacent areas account for the foraging habitat for several of the world's largest remaining colonies of seabird species like Sooty Terns, Lesser Frigatebirds, Red-footed Boobies and Red-tailed Tropicbirds. The islands of Jarvis, Howland and Baker were also the location of notable bravery and sacrifice by a small number of voluntary Hawaiian colonists, known as Hui Panala'au, who occupied the islands from 1935 to 1942 to help secure the U.S. territorial claim over the islands.

The purpose of the monument designation and expansion, as laid out in the 2009 and 2014 Proclamations, is to preserve the marine environment around Wake, Baker, Howland and Jarvis islands and Johnston and Palmyra atolls, and Kingman Reef for the care and management of the historic and scientific objects therein, which include the coral reefs, the diverse assemblage of fish and invertebrates on the reefs, marine mammals, sea turtles and seabirds, many of which are endemic, as well as benthic resources such as numerous seamounts.

**Criterion III: the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land and Policy Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries; and**

**Criterion IV: the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries**

Proclamations 8336 and 9173 either prohibit or allow certain uses or activities by permit. Although both Proclamations are largely consistent in what activities are prohibited or allowed in both the original and expanded monument, there are a few distinctions between the two areas. The following section addresses

the effects of both Proclamations on three uses of the monument's designated Federal lands, Federal lands beyond the monument's boundaries and non-Federal lands within or beyond the monument's boundaries: 1) commercial fishing; 2) non-commercial fishing; and 3) exploration and research. None of the prohibitions required by either Proclamation, and described herein, applies to activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard (USCG). The proclamation only states that the U.S. Armed Forces ensure, by the adoption of appropriate measures not impairing operations or operation capabilities, that its vessels and aircraft act in a manner consistent, so far as is reasonable and practicable, with the objectives of each Proclamation.

Although the Proclamation does not include a specific prohibition on actions, such as energy or mineral exploration and development or recreational activities (except non-commercial fishing), the Proclamation broadly states: "the Secretaries of Commerce and the Interior shall not allow or permit any appropriation, injury, destruction, or removal of any feature of this monument except as provided for by this proclamation or as otherwise provided for by law."

The primary human uses that took place in the monument before designation included commercial and non-commercial fishing activity and research and monitoring through the bi-annual/tri-annual NOAA Fisheries Rapid Assessment and Monitoring Program, the Palmyra Area Research Consortium and limited research by international partners. Additionally, Wake Atoll is used for military operations, and Johnston Atoll is a deactivated military installation and managed by the U.S. Fish and Wildlife Service (USFWS). Again, the Proclamations have no effect on Armed Forces' activities, including those carried out by the USCG. The U.S. Air Force and Missile Defense Agency both have active operational missions at Wake Atoll. The U.S. Air Force maintains Wake Atoll as a national historic landmark. Many of the islands contain formerly used military sites with historical significance. Some islands also contain formerly used defense sites where remedial actions and base closure monitoring are ongoing.

Lastly, there are no indigenous populations on the islands that make up Pacific Remote Islands Marine National Monument, and with the exceptions of the military presence at Wake Island and the research and support staff at Palmyra Atoll, there are no long-term residents on any of these islands. Accordingly, cultural or tribal groups are not known to be affected by the monument designation or subsequent expansion.

#### (1.) Commercial fishing

Both Proclamations require the Secretary of Commerce to prohibit commercial fishing within the monument. On June 3, 2013, NOAA Fisheries promulgated regulations under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) prohibiting commercial fishing in accordance with the Proclamation (50 C.F.R. Part 665, Subpart H). NOAA Fisheries amended the regulations in 2015 to apply to the expansion area (80 Fed. Reg. 15,693 (March 25, 2015)).

Prior to monument designation, there were no established bottomfish fisheries operating in the Pacific Remote Islands Area (PRIA) EEZ, although several vessels were known to occasionally fish for bottomfish in Federal waters around the PRIA. Low levels of commercial fishing have occurred at

Palmyra and Kingman Reef, and recreational fishing through the Nature Conservancy and USFWS at Palmyra. As an example, the 2009 Western Pacific Fishery Management Council Fisheries Ecosystem Plan for the Pacific Remote Island Areas (FEP) stated that in 1998, two Hawaii-based troll and handline vessels and one demersal longline vessel targeting sharks fished in U.S. EEZ waters around Palmyra and Kingman Reef. These vessels targeted both pelagic and bottomfish species, including deep slope snappers, yellowfin and bigeye tuna, wahoo, mahi-mahi and sharks.

The largest volume of fish commercially harvested from the PRIA is pelagic fish caught by longline vessels home ported in Hawaii and tuna purse seiners home ported in American Samoa. Between 1991 and 2007, Hawaii longline vessels caught on average about 1.24 million pounds of fish from the U.S. EEZ around Johnston, Kingman and Palmyra and Jarvis islands, with about 60% coming from the U.S. EEZ around Kingman and Palmyra and most of the remainder from the U.S. EEZ around Johnston. U.S. purse seine vessels fished in the U.S. EEZ of the equatorial located PRIA between 1997 and 2007, with 25% of their total catch coming from the PRIA in 1997, mainly from the U.S. EEZ around Howland and Baker islands, when about 35,000 metric tons of fish was taken within the U.S. EEZ. According to recent estimates, the value of tuna caught by U.S. purse seine vessels operating in the Western and Central Pacific Ocean likely exceeds \$500 million annually. Indirect benefits of the purse seine fishery are estimated to exceed \$1 billion. This is especially important to the economy of the Territory of American Samoa, which is heavily dependent on the operation of these purse seine fishing vessels and the associated tuna canneries and other industries.

The 2009 FEP also identified several PRIA troll/handline/bottomfish fishing permits issued by NOAA Fisheries in 2006 and 2007; however, to date, only one has been used. Since the implementation of the Precious Corals Fishery Management Plan in 1980, no Federal permits have been issued to harvest precious corals from the U.S. EEZ surrounding the monument.

The same Hawaii-based troll and handline vessels, and one demersal longline vessel targeting sharks have fished in EEZ waters outside of the monument around Palmyra and Kingman Reef. These vessels continue to target both pelagic and bottomfish species, including deep slope snappers, yellowfin and bigeye tuna, wahoo, and mahi-mahi and sharks.

Fishing efforts that occurred within both the monument's original and expansion area are expected to be displaced to the surrounding fisheries not included in the monument boundary, as fishermen were already permitted to fish in broad areas outside of the monument's boundaries; accordingly, there is no evidence to suggest that this will impact catch rates. The impacts of displacement would vary depending on the rate of movement of species to and from the monument area and the surrounding area and where they may continue to be caught, pursuant to relevant fishery regulations. Not only will it take time for these impacts to materialize, there are numerous outside factors that make access to the U.S. EEZ "more valuable" from one year to the next. Among the most important factors are the climate variability when the warm pool shifts with the El Niño from the Southwest Pacific to the U.S. EEZ in the Central Pacific. The loss of access to the now productive U.S. controlled grounds (up to 25% of the total purse seine catch in the 1997 El Niño year), combined increased search distances and time and increased competition with foreign fleets for grounds outside of the U.S. EEZ, which will increase operational costs. This impact was

lessened some by not expanding the monuments to the full extent of the U.S. EEZ at Howland and Baker islands and at Palmyra Atoll and Kingman Reef.

### (2.) Non-commercial fishing

In regards to non-commercial fishing, both proclamations state: “The respective Secretaries may permit non-commercial fishing upon request, at specific locations in accordance with this proclamation. Non-commercial fishing opportunities currently allowed by the U.S Fish and Wildlife Service at Palmyra may continue unless the Secretary of the Interior determines such fishing would not be compatible with the purposes of Palmyra Atoll National Wildlife Refuge.” On June 3, 2013, NOAA Fisheries issued regulations under the authority of MSA that established management measures for non-commercial and recreational fishing in the monument (50 C.F.R. Part 665, Subpart H). NOAA Fisheries amended the regulations in 2015 to apply to the expansion area. The regulations allow non-commercial and recreational fishing by permit within the monument, except that non-commercial fishing is prohibited within 12 nm of emergent land within the monument, unless authorized by USFWS, in consultation with NOAA Fisheries and the Western Pacific Fishery Management Council. To date, the only non-commercial fishing permits applied for and granted were for NOAA vessels operating within the monument.

USFWS issues non-commercial fishing permits at Palmyra within 12 nm of the shoreline. Pre-designation, USFWS issued non-commercial fishing permits from 0 to 3 nm. Post-designation, this distance was expanded to 12 nm in accordance with Proclamation 8336. Other than the non-commercial fishing that takes place at Palmyra and Wake, USFWS has not issued non-commercial fishing permits at the other Pacific Remote Islands.

There is minimal sustenance fishing that has taken place and continues to take place at Wake Island, prior to and after monument designation and expansion. These activities are carried out under the purview of the Department of Defense and are not impacted by the original monument designation or expansion.

At Wake Island and Palmyra Atoll, the primary method of sustenance and recreational fishing was rod-and-reel. Although non-commercial fishing is permitted, due to the distance to these uninhabited islands in the Pacific, non-commercial fishing within the waters of Pacific Remote Islands Marine National Monument is limited.

### (3.) Exploration and research

Neither the original or expansion Proclamation prohibit or regulate exploration or research in the monument. Moreover, exploration and research are cited in the proclamation as objectives to benefit the science, management and local, national and international communities. Specifically, both Proclamations state that:

“Subject to such terms and conditions as the respective Secretary deems necessary for the care and management of the objects of this monument, the Secretary of the Interior may permit

scientific exploration and research within the monument, including incidental appropriation, injury, destruction, or removal of features of this monument for scientific study, and the Secretary of Commerce may permit fishing within the monument for scientific exploration and research purposes to the extent authorized by the Magnuson-Stevens Fishery Conservation and Management Act. The prohibitions required by this 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.”

Prior to monument designation, exploration and research were conducted primarily by NOAA Fisheries’ Pacific Islands Fisheries Science Center and at Palmyra through The Nature Conservancy, who established the Palmyra Atoll Research Consortium (PARC) in July 2004. PARC fosters collaborative multi- and interdisciplinary research. PARC includes scientists from around the globe, including those from Stanford University, Scripps Institution of Oceanography, American Museum of Natural History in New York City, California Academy of Sciences, University of California at Santa Barbara, University of California at Irvine, University of Hawaii, U.S. Geological Survey and Victoria University of Wellington in New Zealand. Ultimately, Palmyra functions as a living laboratory for terrestrial and marine ecosystems for scientists who are researching everything from the ocean currents to the various organisms that live there. The research conducted on coral reefs, marine restoration and invasive species at Palmyra serves to inform conservation strategies for island ecosystems throughout the Pacific and around the world.

Since monument designation, research interest and collaboration activity has increased commensurate with the monument status to seek answers to the drivers of ecosystem productivity, subduction zones, earthquakes, ocean acidification and many more questions.

**Criterion V: concerns of State, tribal and local governments affected by a designation, including the economic development and fiscal conditions of affected States, tribes and localities**

Prior to monument designation, public engagement and solicitation for comments was conducted in Honolulu, Hawaii, as well as in Washington, D.C. The public was invited to participate in roundtable format conversations about the scientific, historical and cultural resources and the potential for protection and coordinated management of marine areas in the Pacific, as well as to provide comments during a formal 60-day public comment period (August 25, 2008 to October 25, 2008). The Chairman of the Council on Environmental Quality and other Federal representatives from NOAA and Department of the Interior participated in the public meetings. Information and comments received at the open houses and during the public comment period were taken into consideration for the final monuments designation.

Comments received during the public outreach included those received from Marine Conservation International and Environmental Defense Fund that supported protections for Pacific Remote Islands and Rose Atoll.

Prior to the expansion of Pacific Remote Islands Marine National Monument, a public comment period was open from January 14 to February 13, 2015. In July 2014, the Council on Environmental Quality held a listening session with the fishing industry leaders in Washington, D.C. On August 11, 2014, a public meeting in Honolulu, Hawaii solicited comments on the proposal to expand the monument. Overall, the majority of comments on the proposed expansion were from fishermen and the public, with fishermen opposing the proposal and the general public in support of the proposal. At the August 11, 2014, public meeting, of those who commented, 34 supported and 19 opposed the proposal.

Cultural or tribal groups are not affected by the monument designation or subsequent expansion as all the islands are uninhabited but for military operations at Wake Atoll. During the scoping period for the expansion, Native Hawaiians raised concerns regarding the Hawaiian men that helped the U.S. government claim the Pacific Remote Islands under U.S. control during World War II and the Japanese military advancement in the Pacific. From 1935-1942, the U.S. government had the assistance of 130 mainly Hawaiian men participate in the Hui Panala'au project. The men colonized the Islands of Howland, Baker and Jarvis in teams of five for three months at a time to show U.S. presence in the Pacific. The descendants of these men wanted to ensure that the ultimate sacrifice of three men who lost their lives while on these islands was remembered.

In this most recent request for public comment, Governor Lolo M. Moliga of American Samoa wrote requesting revocation of Pacific monuments or revocation of fishing regulations within Pacific monuments, on the grounds that it has negatively impacted the local tuna industry and that existing fishing regulatory processes are adequate. Governor Eddie G. Calvo of Guam wrote supporting the Governor Moliga's request for revocation of fishing regulations within Pacific Remote Islands Marine National Monument. Governor Moliga, Governor Eddie B. Calvo and Governor Ralph D.C. Torres of CNMI also wrote a joined letter requesting that fishing provisions applicable to all marine national monuments be removed, on the grounds that the monument restrictions are unnecessary and impede their local socioeconomic and cultural stability. The Western Pacific Fishery Management Council also sent a letter requesting that monument designations in the western Pacific are unnecessary and fishing restrictions should be vacated. Members of Congress Bishop of Utah and Radewagen of American Samoa wrote a joint letter requesting that all marine national monument fishing restrictions be vacated. Senate and House Minority Leadership sent a letter requesting that all national monuments' boundaries remain intact based on the environmental and economic benefits they provide. *(Please note, the comments highlighted in this section are only reflective of those sent directly to DOC/NOAA as of July 20, 2017, and not those collected by DOI through the online regulations.gov portal.)*

#### **Criterion VI: the availability of Federal resources to properly manage designated areas**

Within existing appropriations for fisheries research and management, NOAA currently allocates approximately \$3 million dollars annually for science and management activities in the Pacific marine national monuments designated in 2009 (Marianas Trench, Pacific Remote Islands, Papahānaumokuākea and Rose Atoll). Determining the exact amount of money spent for each site on management and research is difficult since projects and cruises are sometimes combined and cross multiple sites. Since the monument was designated, NOAA Fisheries established eight full-time (four Pacific Islands Regional Office and four Pacific Islands Fisheries Science Center) staff positions and four part-time staff positions (one Pacific Islands Regional Office and three Pacific Islands Fisheries Science Center) to provide for the management and research within the four Pacific marine national monuments (Marianas Trench, Pacific Remote Islands, Papahānaumokuākea and Rose Atoll).

In addition to NOAA, USFWS received \$1.8 million in congressionally directed funds for Fiscal Year 17 for all USFWS managed marine national monuments in the Pacific. This funding has assisted the management of the monument through staffing, logistics and planning efforts. USFWS has not established new positions for the monument, but has restructured existing staff to cover monument management duties.

The NOAA Office of Law Enforcement (OLE), USFWS's Office of Law Enforcement and the Commonwealth of the Northern Mariana Islands, Department of Land and Natural Resources, Division of Fish and Wildlife work in collaboration with USCG to ensure compliance with applicable laws in monument waters. Satellite-based vessel monitoring systems (VMS), dockside inspections, and at sea and aircraft patrols are used in the U.S. EEZ of the Pacific to monitor and enforce commercial U.S. fisheries laws and regulations, illegal, unreported and unregulated fishing, laws and regulations governing living marine resources, threatened and endangered species and the protection of marine mammals. The resources expended to enforce waters in the monuments come from the general NOAA OLE Enforcement and Surveillance budget. These resources support a basic surveillance capability to monitor compliance with the directives in the Presidential Proclamations or public laws.

Due to a variety of factors, the amount of funding expended for activities in Pacific Remote Islands Marine National Monument varies annually. Depending on a given year, additional funding support may be provided by several sources in the NOAA annual appropriations to implement exploration, research and management activities in the monuments. For instance, in the past, funding from the NOAA Coral Reef Conservation Program and the NOAA Fisheries Pacific Islands Fisheries Science Center has been allocated to monitor and explore the shallow coral reef areas in the Pacific Islands region, including all of the monuments. Additionally, NOAA partners provide tremendous benefit to overall research and management of the monuments, particularly due to their very remote locations and travel costs to conduct exploration, research and monitoring.

No external grants have been obtained for work in Pacific Remote Islands Marine National Monument. Annually, grants have been awarded by NOAA in order to pursue management objectives. Historically, grants have been for the purposes of research and monitoring and education and outreach, and vary in amount and availability each year.

# Papahānaumokuākea MNM

## Introduction

On June 15, 2006, President George W. Bush designated what was initially called the Northwestern Hawaiian Islands Marine National Monument (NWHI) by Presidential Proclamation 8031. On February 28, 2007, President Bush renamed NWHI Marine National Monument to Papahānaumokuākea Marine National Monument (PMNM) by Presidential Proclamation 8112. The name Papahānaumokuākea commemorates the union of two Hawaiian ancestors—Papahānaumoku and Wakea—who gave rise to the Hawaiian archipelago, the taro plant and the Hawaiian people. This area also encompasses a number of Federal conservation areas, including the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, Midway Atoll National Wildlife Refuge, Battle of Midway National Memorial and Hawaiian Islands National Wildlife Refuge.

On August 26, 2016, President Barack Obama expanded the monument by Presidential Proclamation 9478 extending it to the seaward limit of the U.S. Exclusive Economic Zone (EEZ), adding 442,781 square miles for a total 582,574 square miles of submerged lands and waters.

**Criterion I: the requirements and original objectives of the Act, including the Act’s requirement that reservations of land not exceed “the smallest areas compatible with the proper care and management of the objects to be protected”; and**

**Criterion II: whether designated lands are appropriately classified under the Act as “historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest”**

The original Proclamation reserved a national monument approximately 1,200 miles of the NWHI archipelago, out to a distance of 50 nautical miles (nm) from the approximate geographic center of 10 islands, atolls and reefs within the archipelago. This included approximately 139,793 square miles of emergent and submerged lands and waters of the NWHI. Within those 139,793 square miles, approximately 1,016 square miles are subject to State jurisdiction. Within the original designated monument, the State of Hawaii’s managed waters (Northwestern Hawaiian Islands Marine Refuge) extend 3 miles seaward of any coastline from Nihoa Island to Kure Atoll (with the exception of Midway Atoll). The State of Hawaii also manages Kure Atoll (Kure Atoll State Wildlife Sanctuary). The U.S. Fish and Wildlife Service (USFWS) is responsible for managing Midway Atoll National Wildlife Refuge (MANWR) (inclusive of waters extending 12 miles from the coastline) and Hawaiian Islands National Wildlife Refuge (HINWR) in which USFWS claims portions of waters surrounding the islands/atolls

within HINWR (islands/atolls from Nihoa Island to Pearl and Hermes Atoll). USFWS also manages the Battle of Midway National Memorial, which exists within MANWR. NOAA is responsible for managing all other marine areas within the monument.

Proclamation 8031 stated that the area reserved is the smallest area compatible with the proper care and management of the objects to be protected. Among the objects to be protected, the Proclamation identifies coral islands, seamounts, banks and shoals, which support a dynamic reef ecosystem with more than 7,000 marine species, of which approximately half are unique to the Hawaiian Island chain. This diverse ecosystem is home to many species of coral, fish, birds, marine mammals, and other flora and fauna, including the endangered Hawaiian monk seal, the threatened green sea turtle, and the endangered leatherback and hawksbill sea turtles. In addition, this area has great cultural significance to Native Hawaiians and a connection to early Polynesian culture worthy of protection and understanding.

Proclamation 9478 signed by President Barack Obama expanded Papahānaumokuākea Marine National Monument to protect an additional 75 seamounts, a non-volcanic ridge and the diverse biodiversity found on these important features of the seafloor surrounding the archipelago. It also sought to protect the foraging areas for numerous species such as endangered Hawaiian Monk seals, wide-ranging seabird species, five species of protected sea turtles and 24 species of marine mammals. The Proclamation cited research to show that many species identified as objects in Proclamation 8031 inhabit previously unknown geographical ranges that span beyond the original monument designation and can also provide important foraging habitat for the same species.

Proclamation 9478 also found that the area is of cultural significance stating it is:

“An integral part of cultural identity for the Native Hawaiian community. The deep sea, the ocean surface, the sky, and all the living things in the area adjacent to the Monument are important to this culture and are deeply rooted in creation and settlement stories. Native Hawaiian culture considers the Monument and the adjacent area a sacred place. This place contains the boundary between Ao, the world of light and the living, and Pō, the world of the gods and spirits from which all life is born and to which ancestors return after death. Long distance voyaging and wayfinding is one of the most unique and valuable traditional practices that the Native Hawaiian community has developed and continues to advance. Once on the verge of cultural extinction, new double-hulled sailing canoes, beginning with the Hōkūle‘a in the 1970s, are bringing voyaging and wayfinding to new generations. This traditional practice relies on celestial, biological, and natural signs, such as winds, waves, currents and the presence of birds and marine life. The open ocean ecosystem and its natural resources in the adjacent area play an important role within the cultural voyaging seascape within the Hawaiian Archipelago.”

The objectives of the original monument designation and its later expansion are to support non-commercial fishing, scientific research and development, and activities that will further the educational value of the monument; protect and preserve the marine area of the NWHI and the historic and scientific objects therein; and support Native Hawaiian exercise of traditional, customary, cultural, subsistence, spiritual and religious practices. Protection is focused on objects of scientific interest and include the reef

ecosystem with more than 7,000 marine species, of which approximately one quarter are unique to the Hawaiian Islands, including many species of coral, fish, birds, marine mammals, and other flora and fauna, including the endangered Hawaiian monk seal, the threatened green sea turtle, the endangered leatherback and hawksbill sea turtles, and numerous benthic seamounts.

Some of the monument's most recognized historical objects are the Battle of Midway's historical artifacts and remembrances. Midway is a circular-shaped atoll with three small islets. While its land area is small, about 1,535 acres, the atoll has approximately 85,929 acres of reef area. During World War II, Midway served as an important naval air station and submarine refit base. The atoll was attacked twice, first on December 7, 1941, and again during the pivotal Battle of Midway on June 4-6, 1942. American intelligence enabled U.S. forces to surprise and defeat a Japanese invasion bound for the atoll. Many interpret this battle as the watershed moment in the the Pacific War. In 2000, Secretary of the Interior Bruce Babbitt designated Midway Atoll National Wildlife Refuge as the Battle of Midway National Memorial, making it the first national memorial designated on a national wildlife refuge. All of the shipwrecks, including the recently discovered location of the USS *Yorktown* and plane-wrecks of the Battle of Midway, are found to the northwest of the original PMNM in the Midway Atoll Special Management Area and the expanded monument boundaries.

**Criterion III: the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land and Policy Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries; and**

**Criterion IV: the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries**

Proclamations 8031 and 9478 either prohibit or allow certain uses or activities by permit. Although both proclamations are largely consistent in what activities are prohibited or allowed in both the original and expanded monument, there are a few distinctions between the two areas. The following section addresses the effects of both proclamations on eight uses of the monument's designated Federal lands, Federal lands beyond the monument's boundaries and non-Federal lands within or beyond the monument's boundaries: 1) energy and mineral exploration or development, dredging and construction; 2) commercial fishing; 3) non-commercial fishing; 4) exploration and research; 5) vessel transit/innocent passage; 6) Native Hawaiian cultural practices and use; 7) education; and 8) recreation.

None of the prohibitions required by either Proclamation, and described herein, apply to activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard (USCG). The proclamation only states that the U.S. Armed Forces ensure, by the adoption of appropriate measures not impairing operations or operation capabilities, that its vessels and aircraft act in a manner consistent, so far as is practicable, with the objectives of each proclamation.

(1.) Energy and mineral exploration or development and dredging and construction

Both Proclamations prohibit exploring for, developing or producing oil, gas or minerals within the monument; the expansion Proclamation adds that “any energy development” is also prohibited. Altering the monument’s submerged lands (e.g., dredging, construction) and explosives are similarly prohibited through the entire monument.

(2.) Commercial fishing

Historically, there were three commercial fisheries operating in the waters of the Northwestern Hawaiian Islands: the lobster fishery, bottomfish fisheries and pelagic fisheries, including the Hawaii longline fishery. In 1991, the Hawaii longline fishery was prohibited from fishing within 50 nm around the NWHI as it was designated by the Western Pacific Fishery Management Council and NOAA Fisheries as a protected species zone (PSZ). The NWHI PSZ was roughly the same area later designated in the Coral Reef Ecosystem Reserve and in the original monument proclamation. The non-longline pelagic fisheries continued in the area until the monument designation. The NWHI lobster fishery operated almost exclusively within 50 nm of the Hawaiian Archipelago. At the time of the monument’s designation, the NWHI bottomfish fishery was divided into two zones: the Ho’omalulu Zone and the Mau Zone, which were both limited-entry fisheries with permits that allowed the holder access only to one of the two zones.

From 1998 to 2003, there was an average of 13 bottomfish vessels working in the Northwestern Hawaiian Islands. In 2003, the bottomfish fleet landed approximately 350,000 pounds, with a market value in excess of \$1 million. From 1984-1990, annual landings of spiny lobster averaged about one million pounds, but during the subsequent period from 1991-1999, landings never exceeded 350,000 pounds, with the landings for the last two years of that period being at historically low levels. In 2000, NOAA Fisheries took the precautionary step of suspending the Northwestern Hawaiian Islands lobster fishery by setting the annual catch limit (ACL) to zero while improving stock assessment methods. Proclamation 8031 required that any commercial lobster fishing permit shall be subject to a zero annual harvest limit effectively making the temporary closure permanent. Fishing for bottomfish and pelagic species became a restricted activity, which was allowed to continue for no more than five years.

In 2007, the Consolidated Appropriations Act of 2007 appropriated approximately \$6.7 million as compensation for fishermen in the lobster and bottomfish fisheries affected by the prohibition of commercial fishing within the original monument. NOAA Fisheries then proposed an approach to identify eligible fishermen to receive compensation. As a result of this process, a total of eight permit holders from the bottomfish fishery and 15 permit holders from the lobster fishery surrendered their permits and were compensated.

Proclamation 9478 directs the Secretaries to prohibit commercial fishing in the expansion area and to prohibit possessing commercial fishing gear in the expansion area except when stowed and not available for immediate use during passage without interruption through the expansion area. Historically in the expansion area, longline fishing, limited bottom fishing and seamount groundfish fishing were the primary commercial fisheries. Both shallow and deep-set longline fishing took place throughout the

monument expansion area. Bottomfish fishing primarily took place in the southeast end of the archipelago, and still occurs at Middle Bank and to the areas surrounding the monument's unchanged easternmost boundary. The seamount groundfish fishery occurred largely at Hancock Seamount to the northwest of Kure Atoll, but has been prohibited by moratorium for over twenty years. NOAA Fisheries reported that from 2010 to 2015, direct fishing revenues in the expansion area were approximately \$7.8 million per year, and that indirect revenues were \$9.1 million in industry and \$4.3 million in household income which equated with 75 jobs and \$561,000 in tax revenue. This was identified as the upper bounds of the potential economic impacts. While it is difficult to quantify the direct and indirect economic impacts since it will take time for these impacts to materialize, factors such as the loss of access to known seasonal and productive grounds, increased search distance and time, and increased competition with foreign fleets for grounds outside of U.S. EEZ may increase operational costs.

### (3.) Non-commercial fishing

Prior to the original monument designation, non-commercial fishing was principally in the Southeast end of the archipelago and decreased with the distance from the Main Hawaiian Islands. The original Proclamation allows the Secretaries to permit sustenance fishing under certain conditions. The 2006 Proclamation states: "Sustenance fishing means fishing for bottomfish or pelagic species that are consumed within the monument, and is incidental to an activity permitted under this proclamation." However, the Secretaries may not permit sustenance fishing in the Midway Atoll Special Management Area unless the USFWS determines it 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 the designation Proclamation. NOAA Fisheries and USFWS issued regulations in 2006 to manage sustenance fishing in accordance with the Proclamation (71 Fed. Reg. 51,134 (August 29, 2006)).

Proclamation 9478 allows the Secretaries to permit non-commercial fishing in the expansion area, 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. To date, neither NOAA Fisheries nor USFWS has issued regulations governing non-commercial fishing in the expansion area.

### (4.) Exploration and research

According to Proclamations 8031 and 9478, the Secretaries of Commerce and the Interior may issue a permit for research that is "designed to further the understanding of monument resources and qualities." Research in the monument has crossed most disciplines including oceanographic, geological, biological and atmospheric research. Despite the limited access to the area, there has been a wealth of research accomplished in the monument over time resulting in numerous discoveries of objects of historical and scientific interest.

Prior to designation, research in the monument was conducted primarily by NOAA's Southwest Fisheries Science Center and secondarily by domestic and foreign universities and research institutes. Between 2003 and 2006, a total of 23 research projects accessed the waters of the Northwestern Hawaiian Islands. Since the designation of the monument, 224 research permits have been issued.

(5.) Vessel transit/innocent passage

Prior to the original designation of the monument, there were no notification requirements for vessels transiting this area. For those vessels<sup>2</sup> transiting without interruption, Proclamation 8031 requires a minimum of 72 hours and a maximum of one month's notice to an official designated by the Secretaries; notification of departure within 12 hours is also required. During notification, vessels must provide: vessel position when making the notification; vessel name and International Maritime Organization identification number; name, address and telephone number of owner and operator; USCG documentation, State license or registration number; home port; intended actual route through the monument; general categories of hazardous cargo on boat; and length of the vessel and propulsion type.

In addition, all types of vessel transit in the original monument are subject to international standards. According to the International Maritime Organization (IMO), a Particularly Sensitive Sea Area (PSSA) is "an area that needs special protection through action by IMO because of its significance for recognized ecological or socio-economic or scientific reasons and which may be vulnerable to damage by international maritime activities." In 2008, IMO designated the original monument a PSSA for the dual purposes of protecting marine resources of ecological or cultural significance from damage by ships and keeping mariners safer. The PSSA established four special zones known as Areas to be Avoided on international nautical charts to direct ships away from coral reefs, shipwrecks and other ecologically or culturally sensitive areas that may pose a navigation hazard.

Conversely, vessel transit, including innocent passage, is not a prohibited or regulated activity under Proclamation 9478 for the expanded monument; therefore, vessel transit is not affected by the expansion.

(6.) Native Hawaiian cultural practices and use

Prior to the designation of the monument, there would have been limited opportunities for Native Hawaiians to visit the monument due to its distance from the Main Hawaiian Islands and the prohibitive cost of such an endeavor. Regardless, Native Hawaiian activities that took place before the designation and expansion of the monument were required to obtain a permit under the U.S. Fish and Wildlife Refuges Act for any activities occurring on land in either the Hawaiian Islands National Wildlife Refuge or the Midway Atoll National Wildlife Refuge. After the monument was designated in 2006, all Native Hawaiian cultural practices and uses that occur in the monument, including those types that took place before the monument's designation and expansion, require a Native Hawaiian permit according to the permit criteria set forth in both Proclamation 8031 and monument regulations. Under Proclamation 8031, Native Hawaiian practices are defined as "cultural activities conducted for the purpose 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."

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<sup>2</sup> Foreign flag vessels are not subject to the restrictions of Proclamation 8031 except as in accordance with international law.

Since establishment of the monument, there have been 25 permits issued for Native Hawaiian practices. Examples of Native Hawaiian cultural practices and uses are intertidal monitoring (conducted by the ‘Opihi Partnership, combined with a research permit); traditional Polynesian wayfinding (navigation, sometimes combined with an education permit); and summer solstice cultural research on Mokumanamana. In addition, the State’s Office of Hawaiian Affairs recently became a fourth management co-trustee of the monument, in support of the historical and cultural significance of the Northwestern Hawaiian Islands to the Native Hawaiian community and the need to conserve the landscape for current and future generations through the allowance of these types of activities to continue in the entire monument.

#### (7.) Education

Prior to the monument’s designation, there would have been limited opportunities for educational activities that could take place in the monument due to its distance from the Main Hawaiian Islands and the prohibitive cost of such an endeavor. Under Proclamation 8031, the Secretaries may issue a permit for education that “will further the educational value of the Monument.” Similarly, under Proclamation 9478, the Secretaries may issue a permit for education that “will further the educational value of the Monument Expansion.” Since the establishment of the monument there have been 22 education permits issued, including for online and streaming events that enable the world to connect with a unique, but otherwise remote and difficult to access location.

#### (8.) Recreation

Prior to the monument’s designation, there were a limited amount of recreational activities that took place in the monument, primarily at Midway Atoll where charter fishing operations were sporadically conducted. Numerous game fishing catch records were made there but most operators could not sustain a business in this remote location. Under Proclamation 8031, recreational activity permits may be issued for activities in the Midway Atoll Special Management Area; recreational activities are not authorized anywhere else in the original monument. As defined in Proclamation 8031, recreational activities, are those activities “conducted for personal enjoyment that does not result in extraction of Monument resources and that does not involve a fee-for service transaction.” Proclamation 9478 does not require authorization for many recreational activities in the monument expansion area.

Since the establishment of the monument, there have been six recreation permits issued authorizing access to the monument; however, no permits for recreational activities have been issued since mid-2012 when USFWS closed Midway Atoll to most activities. Prior to that, activities that were permitted under a recreation permit included bird watching, snorkeling and visiting the Battle of Midway National Memorial.

**Criterion V: concerns of State, tribal and local governments affected by a designation, including the economic development and fiscal conditions of affected States, tribes and localities**

PMNM is managed by four co-managing agencies: DOC, DOI, the State of Hawai'i, and the Office of Hawaiian Affairs. Through DOC, NOAA has primary responsibility regarding the management of the marine areas of the monument, in consultation with the Secretary of the Interior. Through DOI, USFWS has sole responsibility for 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, in consultation with DOC. Through the State of Hawai'i, the Department of Land and Natural Resources has primary responsibility for the Northwestern Hawaiian Islands Marine Refuge and State Seabird Sanctuary at Kure Atoll. Nothing in the Proclamation diminishes or enlarges the jurisdiction of the State of Hawai'i. The State's Office of Hawaiian Affairs became a fourth management co-trustee, underscoring the historical and cultural significance of the Northwestern Hawaiian Islands to the Native Hawaiian community and the need to conserve the landscape for current and future generations through the allowance of these types of activities to continue in the entire monument. The Office of Hawaiian Affairs, a constitutionally established body set as a separate state entity independent of the executive branch of the State of Hawai'i, is responsible for representing the interests of the Native Hawaiian community pertaining to activities in the monument, including Native Hawaiian customary and traditional rights and practices exercised for subsistence, cultural and religious purposes under the Hawaii Constitution. NOAA, USFWS and Hawaii developed a comprehensive Management Plan for the original PMNM (MMP) designation area, which was finalized in 2008 with substantial input from and collaboration with the public. The MMP guides the work of the co-managing agencies for a period of 15 years.

*Original Designation*

In May 2000, President William J. Clinton tasked the Departments of Commerce and the Interior to hold public meetings in order to obtain input on potential protections for this vast and remote place. Between July and August of 2000, a total of 435 people attended seven meetings.

Taking into account this public input, on December 4, 2000, President Clinton issued Executive Order 13178 establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, which includes the marine waters and submerged lands of the Northwestern Hawaiian Islands, extending approximately 1200 nm long and 100 nm wide. As part of the creation of the Reserve, the President established certain conservation measures that restrict activities throughout the Reserve and created Reserve Preservation Areas (RPAs) around various islands, atolls and banks within the reserve where consumptive or extractive uses were prohibited. The President initiated a 30-day period during which the public had the opportunity to submit comments on the conservation measures and his proposal to make the RPAs permanent. On behalf of the President, the Secretary of Commerce held seven public hearings in late 2000/early 2001 to accept written and oral comment. Approximately 8,400 comments were received and were a mix of original and form letter comments from around the country with a wide range of opinions. Using these comments as a guide, the proposed protections were made final via Executive Order 13196.

Executive Order 13196 required the Secretary of Commerce to initiate the process to designate the Reserve as a National Marine Sanctuary. In 2002, NOAA began holding public scoping meetings for the development of a Sanctuary Management Plan and Environmental Impact Statement. Over 14,000 comments were received during this public scoping process at seven locations in Hawaii and in Washington, D.C.

In June 2006, President George W. Bush used his powers under the Antiquities Act to designate the NWHI as a marine national monument. The information contained in Proclamation 8031, which created Northwestern Hawaiian Islands Marine National Monument, was based on the draft Sanctuary Management Plan and prior public input. After establishment of the monument, public information meetings were held on all main Hawaiian Islands to inform the public of the establishment of the monument and regulations. A total of 471 people attended meetings.

Between April and June 2007, the Departments of Commerce and the Interior held public scoping meetings for the development of a draft Monument Management Plan. During this process 298 letters were received and a summary report of these comments was created, which identified issues that had not been raised throughout the previous public input processes. Public hearings on the draft PMNM Management Plan and associated Environmental Assessment were held between April and July 2008. A total of 231 attended the meetings and an additional 6,347 written comments were received during this process.

By the end of the public process and the final issuance of the Management Plan in December 2008, over 57,000 public comments were received and considered during the designation process.

### *Expansion*

On January 29, 2016, a group of Native Hawaiian leaders wrote to President Barack Obama and asked him to expand the PMNM. They described the cultural significance of NWHI, and emphasized its scientific importance as an intact large-scale ocean ecosystem that supported wildlife of many kinds, including endangered Hawaiian monk seals, sea turtles and sea birds. Culturally, Native Hawaiian beliefs identify this region as the place of creation; historically, the islands were used by Native Hawaiians. This group of Native Hawaiian leaders praised the initial establishment of the PMNM as a positive first step, but they advocated further action to preserve the region and proposed, generally, to expand the PMNM out to the full 200 nautical miles of the U.S. EEZ, except for the Main Hawaiian Islands (MHI).

This proposal drew support from the environmental and scientific communities, and the Pew Environmental Group developed a proposal that would expand PMNM's boundaries consistent with the request of the Native Hawaiian leaders. Fishermen and many community leaders opposed the proposal, including Hawaiian State Senator Kouchi who sent a letter on April 28, 2016, and County of Kauai Mayor Carvalho who sent his letter on May 5, 2016. Additionally, 30 members of the Hawaii State House of Representatives wrote a letter opposing the Native Hawaiian Proposal on May 3, 2016. Senator Kouchi, Mayor Carvalho, the State House Representatives and U.S. Senator Brian Schatz all requested

that Hawaii stakeholders and residents have an opportunity to engage and provide input to the expansion proposal and key stakeholder concerns were addressed before any decisions were made.

In May 2016, a delegation from Washington, D.C., which included representatives from the Council on Environmental Quality, NOAA, the Department of the Interior and the U.S. Navy met with a series of key constituents in Hawaii on the proposed expansion of PMNM. Meetings were held with the Governor of the State of Hawaii, the Mayor of the City and County of Honolulu, the Hawaii State Senate President, members of the Hawaii State House of Representatives, the fishing community, the Western Pacific Fishery Management Council, representatives of the Native Hawaiian community, researchers, and local and national non-governmental organizations to hear input from each of these organizations on the potential pros and cons of expansion; approximately 400 people were involved in these various meetings.

On August 1 and 2, 2016, two public meetings were held in Honolulu and Kauai to hear additional public input on a proposed plan for expansion that had been proposed by U.S. Senator Brian Schatz. A total of 118 public comments were received at meetings that were attended by approximately 450 people. In addition, 6,061 petitions were submitted in support as well as 696 written comments. The majority of the comments were supportive of the expansion.

On August 24, 2016, the Governor of the State of Hawaii, David Y. Ige, drafted a letter to President Barack Obama expressing support for the expansion of PMNM as proposed by Senator Schatz in his June 16, 2016 letter. Governor Ige acknowledged input from constituents, opponents and proponents in his letter as well as requested that the Office of Hawaiian Affairs be added as a fourth co-trustee of PMNM.

In August, 2016, the Mayor of County of Kauai, Bernard Carvalho Jr. and Hawaii Senate President, Ronald Kouchi, both sent letters to President Obama acknowledging that they had previously sent a letter in opposition to the expansion, but that after speaking with local fisherman and Kauai ocean users, were supportive of an expansion provided that it excluded any expansion of the current southeastern boundary east of the 163 degree West Longitude towards the Main Hawaiian Islands; this longitude was selected in response to public comments and fishing constituent concerns.

On August 26, 2016, the President issued Proclamation 9478, expanding the PMNM. Commercial fishing was prohibited in the expansion area; however, recreational fishing may be permitted pursuant to the Proclamation.

In the recent request by DOI for public comment on the monument designation and expansion, Governor Lolo M. Moliga of American Samoa wrote requesting revocation of Pacific monuments or revocation of fishing regulations within Pacific monuments, on the grounds that it has negatively impacted the local tuna industry and that existing fishing regulatory processes are adequate. Governor Moliga, Governor Eddie B. Calvo of Guam and Governor Ralph D.C. Torres of CNMI also wrote a collaborative letter requesting that fishing provisions applicable to all marine national monuments be removed, on the grounds that the monument restrictions are unnecessary and impede their local socioeconomic and cultural stability. The Western Pacific Fishery Management Council also sent a letter requesting that monument designations in the western Pacific are unnecessary and fishing restrictions should be vacated.

Members of Congress Bishop of Utah and Radewagen of American Samoa wrote a joint letter requesting that all marine national monument fishing restrictions be vacated. Other public comments submitted during this period were in support of the monument designation and expansion citing economic and environmental benefits as well as protections of cultural heritage. Letters of support for the PMNM came from Senator Schatz of Hawaii, Representative Hanabusa of Hawaii, House and Senate Minority Leadership, Governor Ige of Hawaii, State of Hawaii Office of Hawaiian Affairs, State of Hawaii Department of Land and Natural Resources and the Northwest Hawaiian Islands Coral Reef Ecosystem Advisory Council. Senate and House Minority Leadership sent a letter requesting that all national monuments' boundaries remain intact based on the environmental and economic benefits they provide. *(Please note, the comments highlighted in this section are only reflective of those sent directly to DOC/NOAA as of July 20, 2017 and not those collected by DOI through the online regulations.gov portal.)*

#### **Criterion VI: the availability of Federal resources to properly manage designated areas**

PMNM is managed by DOC and DOI in consultation with the State of Hawaii and the Office of Hawaiian Affairs. These co-managing agencies developed a comprehensive MMP for the original PMNM designation area, which was finalized in 2008 with substantial input from and collaboration with the public. The MMP guides the work of the co-managing agencies for a period of 15 years, and includes forecasts of projected costs associated with management. The Office of Hawaiian Affairs became the fourth co-management agency in 2017.

NOAA's Office of National Marine Sanctuaries (ONMS) budget funds most of the activities in the MMP. The ONMS budget funds 9 full-time staff positions, including one for the State of Hawaii's Department of Land and Natural Resources, and contract support to undertake the daily management activities and programs including resource protection, research, inter-agency coordination and education and outreach.

More broadly, within existing appropriations for fisheries research and management, NOAA currently allocates approximately \$3 million dollars annually for science and management activities in the Pacific marine national monuments designated in 2009 (Marianas Trench, Pacific Remote Islands, Papahānaumokuākea and Rose Atoll). For instance, funding from the NOAA Coral Reef Conservation Program has been used to monitor and explore the shallow coral reef areas in the Pacific Islands region, including all four of the Pacific marine national monuments. In addition, NOAA's Office of Marine and Aviation Operations has provided 610 ship days, worth approximately \$8.54 million, to conduct ONMS-sponsored research in the monument. The NOAA Pacific Islands Fisheries Science Center also invests funding toward research and monitoring for the Hawaiian monk seal and green sea turtles in PMNM. In summary, NOAA simultaneously maximizes the expenditure of appropriated funds and attainment of research and management objectives by working collaboratively with different parts of the agency.

In addition to NOAA, USFWS received \$1.8 million in congressionally directed funds for Fiscal Year 17 for all USFWS managed marine national monuments in the Pacific. This funding has assisted the

management of the monument through staffing, logistics and planning efforts. USFWS has not established new positions for the monument, but has restructured existing staff to cover monument management duties.

No external grants have been obtained for work in the monument. Annually, grants have been awarded by NOAA in order to pursue management objectives. Historically, grants have been for the purposes of research and monitoring and education and outreach, and vary in amount and availability each year.

Enforcement measures include infrequent (less than quarterly) randomly aerial patrols and surface patrols by USCG, electronic surveillance 24 hours per day by both USCG and NOAA Office of Law Enforcement, and formal permitting processes. All U.S. flagged vessels that are approved to enter the monument are required to carry vessel monitoring systems that track their access through the monument. Since June 2006, there have been approximately 5-8 fisheries enforcement actions in the original monument. NOAA has and will continue to seek out new technologies and collaboration opportunities to supplement existing enforcement capabilities. However, based on current fishing effort and an enforcement threat analysis, there is low risk of fishing violations in PMNM.

# Rose Atoll MNM

## Introduction

President George W. Bush designated Rose Atoll Marine National Monument (RAMNM) on January 6, 2009, by Presidential Proclamation 8337, which is located east of American Samoa. The monument was established for the purpose of protecting the dynamic reef ecosystem that is home to a very diverse assemblage of terrestrial and marine species, many of which are threatened or endangered. The monument was established in the interest of the public to preserve the lands, submerged lands and waters and environment around Rose Atoll for the care and management of the objects of historic and scientific interests.

Within the monument designation area, Rose Atoll is also designated as a National Wildlife Refuge, established on July 5, 1973, by cooperative agreement between the Government of American Samoa and the U.S. Fish and Wildlife Service (USFWS). Proclamation 8337 directed the Secretary of Commerce to initiate the process to add the marine areas of the monument to the Fagatele Bay National Marine Sanctuary in accordance with the National Marine Sanctuaries Act, including its provision for consultation with an advisory council, to further the protection of the objects identified in the proclamation. In 2012, the area was added to the National Marine Sanctuary of American Samoa, through a multi-year public process to review and update the sanctuary management plan. The monument is referred to as the sanctuary's Muliāva unit. Muliāva, part of the Kingdom of Manu'a, means end of the channel. Culturally, the name remains a reference to traditional knowledge of the ocean. Rose is the name appropriate for the color of the corals surrounding Rose Island. The atoll is known to Samoans as "Nu'u o Manu" or Village of Seabirds.

**Criterion I: the requirements and original objectives of the Act, including the Act's requirement that reservations of land not exceed "the smallest areas compatible with the proper care and management of the objects to be protected"; and**

**Criterion II: whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest"**

The Proclamation created a square boundary for the monument, the outer edges of which lie approximately 50 nautical miles (nm) from the mean lower water line of Rose Atoll. The square boundary aids mariners and others to discern the location of the boundary of the monument in an otherwise open ocean system. RAMNM encompasses 13,451 square miles of emergent and submerged lands and waters

around Rose Atoll. Except for the emergent lands and internal waters at Rose Atoll, which are also under the jurisdiction of the Government of American Samoa, the entire monument area designated is in Federal waters.<sup>3</sup>

The atoll is known to Samoans, as “Nu’u O Manu” (“Village of seabirds”). Few relatively undisturbed islands remain in the world, and Rose Atoll is a unique habitat for Central Pacific turtle and seabird species. The Proclamation designating RAMNM identifies the lands, submerged lands and waters and marine environment around Rose Atoll, which includes diverse and productive coral reefs and numerous pelagic and seabird species as “objects of historic or scientific interest” worthy of protection. Rose Atoll is known for the pink hue of fringing reef caused by the dominance of coralline algae, which is the primary reef-building species that dominates the reef and makes it distinctive and different from those found at other Samoan islands. The diverse assemblage of species found within RAMNM includes roughly 100 species of stony corals. Species that have faced depletion elsewhere, some of which have declined worldwide by as much as 98%, are found in abundance at Rose Atoll, including giant clams, Maori wrasse and large parrotfishes. Humpback whales, pilot whales and porpoise genus *Stenella* have all been spotted at Rose Atoll. The atoll also serves as nesting grounds for endangered marine turtle species and the marine waters are home to many large predators such as shark species, snappers, jacks and groupers. Rose Atoll and its surrounding waters also support critical populations of more than a dozen shorebirds and seabirds.

**Criterion III: the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land and Policy Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries; and**

**Criterion IV: the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries**

Proclamation 8337 either prohibits or allows certain uses or activities by permit. The following section addresses the effects of the Proclamation on four uses of the monument’s designated Federal lands, Federal lands beyond the monument’s boundaries and non-Federal lands within or beyond the monument’s boundaries: 1) commercial fishing; 2) non-commercial fishing; and 3) exploration and research; and 4) traditional Samoan cultural uses and practices. None of the prohibitions required by the Proclamation, and described herein, apply to activities and exercises of the U.S. Armed Forces, including those carried out by the U.S. Coast Guard (USCG). The Proclamation only states that the U.S. Armed

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<sup>3</sup> On February 1, 1975, President Gerald Ford, by Proclamation No. 4347, exempted Rose Atoll from a general conveyance of submerged lands around American Samoa to the American Samoa government. He stated the submerged lands around Rose Atoll would be under the joint jurisdiction of the Department of Commerce and the Department of the Interior.

Forces ensure, by the adoption of appropriate measures not impairing operations or operation capabilities, that its vessels and aircraft act in a manner consistent, so far as is practicable, with the objectives of the Proclamation.

Although the Proclamation does not include a specific prohibition on actions, such as energy or mineral exploration and development or recreational activities (except non-commercial fishing), it does state: “the Secretaries of Commerce and the Interior shall not allow or permit any appropriation, injury, destruction, or removal of any feature of this monument except as provided for by this proclamation or as otherwise provided for by law.”

#### (1.) Commercial fishing

Fishing in American Samoa is a mixture of commercial, subsistence, traditional and sport fishing. Commercial fisheries include spearfishing from boats, bottomfishing, trolling, mixed bottomfishing-trolling and longline fishing.

Proclamation 8337 requires the Secretary of Commerce to prohibit commercial fishing within the monument. On June 3, 2013, NOAA Fisheries issued regulations under the authority of the MSA, establishing requirements for fishing in RAMNM (78 Fed. Reg. 32,996 (June 3, 2013)), including a prohibition on commercial fishing in RAMNM (50 C.F.R. § 665.963).

The historical data on landings value have not been reported in such a way as to distinguish whether the catch was, or was not, caught inside of the boundaries of the monument. Catch and effort data has location information, but there are no estimates available for the portion taken within what is now RAMNM; therefore, there are no estimates to compare the amount of fish caught in the monument waters prior to designation.

Prior to 2001, the American Samoa longline fleet was comprised primarily of small, locally-built catamaran alias. In 2001, the fleet expanded markedly with the addition of 25 modern longline vessels. By March of 2002, approximately 48 alias and 28 large longline vessels were actively working out of Pago Pago Harbor on the island of Tutuila. The average annual gross revenue for the average American Samoa large longliner was estimated to be \$657,063, with an annual net revenue of \$177,207.20. In May 2005, a limited entry program was enacted for the American Samoa longline fishery, with a maximum of 60 permits which could be issued. The 60 permits were distributed among four vessel classes based on size: 22 in Class A (<40 feet [ft.]), 5 in Class B (40-50 ft.), 12 in Class C (50-70 ft.), and 22 in Class D (>70 ft.). In 2009, 50 permits were issued in the American Samoa longline fishery, and 26 boats were active in the fleet: one was Class A, five were Class C and 20 were Class D.

Prior to 2001, commercial landings and revenue in the longline fishery were less than \$2 million, and the primary source of landings was from the smaller-sized vessels. Between 2000 and 2010, the fishery landings varied, the first peak occurred in 2002 when the fleet generated 15.5 million pounds, valued at \$13.9 million; and a second peak in 2007 when the fleet generated 14.35 million pounds, valued at \$14.18 million. By this time, the alia fleet had dwindled to only a couple active vessels as some sought permits for larger, more profitable vessels while others were not able to continue operating on low profit margins.

The American Samoa longline fleet principally fishes in the U.S. Exclusive Economic Zone (EEZ) around American Samoa except for a Large Vessel Prohibited Area around Tutuila and Swain's Island. The U.S. EEZ around American Samoa is bounded on all sides by the EEZs of other island nations (including Cook Islands, Tokelau, Samoa, Tonga and Niue) that are generally off-limits to American Samoa fishermen. In places, the shared U.S. EEZ boundaries with Pacific Island nations are less than 200 nm from American Samoa's shores, further limiting the area available to American Samoan longliners for fishing. In 2009, when the monument was established, the area available for the longline fishery was further reduced (2013 is when regulations were formally promulgated). The Proclamation did not restrict all commercial fishing activity in the Pacific Remote Islands Area EEZ but rather modified the spatial extent in which the fishery can occur. While it is difficult to quantify the direct and indirect economic impacts since it will take time for these impacts to materialize, factors such as the loss of access to known seasonal and productive grounds, increased search time and increased competition with other vessels operating in open areas of the U.S. EEZ will certainly be measurable over time. The impact was not immediately apparent and from 2008 to 2010, the longline fishery annually landed approximately 9.8 million, 10.6 million and 10.6 million pounds, respectively, with values of \$9.5 million, \$10.2 million and \$10.5 million, respectively. By the end of 2013, the majority of the vessels in the American Samoa longline fleet were not active in the fishery, due to a decline in the albacore catch-per-unit-effort, increasing fuel prices and a sharp drop in the market price for albacore tuna. In 2016, conditions improved slightly when NOAA Fisheries temporarily lifted restrictions in a portion of the Large Vessel Prohibited Area for American Samoa longliners. This relief ended when a Federal court vacated the rule (*American Samoa v. National Marine Fisheries Service*, Civ. No. 16-00095 LEK (D. Haw. March 20, 2017)); the litigation in this case is ongoing and has not reached a final disposition.

## (2.) Non-commercial fishing

Non-commercial fishing in American Samoa is a mixture of subsistence, traditional, recreational and sport fishing. Non-commercial fisheries include the use of spears and slings, rods and reels, bamboo poles, throw nets and gill nets.

Proclamation 8337 sets forth non-commercial and sustenance fishing as a management objective. Accordingly, non-commercial and sustenance fishing is allowed by permit; traditional indigenous fishing is also allowed, in consultation with the Government of American Samoa.

On June 3, 2013, NOAA Fisheries issued regulations under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) establishing requirements for fishing in RAMNM (78 Fed. Reg. 32,996 (June 3, 2013)), including provisions for non-commercial and recreational fishing. Under NOAA Fisheries' regulations (50 C.F.R. Part 665, Subpart I), community residents of American Samoa may apply for a non-commercial permit to fish in the monument. Charter businesses established legally under the laws of American Samoa may also apply for recreational charter permits to fish in the monument. However, all fishing is prohibited within 12 nm of emergent land within RAMNM. Permit holders who harvest fish resources under a non-commercial fishing permit may engage in customary exchange, which helps to preserve traditional, indigenous and cultural fishing practices, on a sustainable

basis; however, customary exchange by fishermen engaged in recreational fishing is not allowed. Customary exchange means the non-market exchange of marine resources between fishermen and community residents, including family and friends of community residents, for goods, and/or services for cultural, social or religious reasons. Customary exchange may include cost recovery through monetary reimbursements and other means for actual trip expenses, including but not limited to ice, bait, fuel or food, that may be necessary to participate in fisheries in the Western Pacific.

Since commercial fishing was prohibited and non-commercial fishing regulations went into effect in 2013, NOAA Fisheries has not received any non-commercial fishing permit applications for fishing within RAMNM. The distances from the main island of Tutuila (168 miles) and from the closest island Ta'u (81 miles) of the Manu'a group are prohibitive in terms of non-commercial fishing trips to the monument. Based on interviews done by the Samoa Studies Institute of the American Samoa Community College, which were part of a 2012 NOAA grant, all of the fishermen interviewed from the Manu'a Islands indicated that they had never been to the atoll, but that previous generations had made fishing trips to the island. Besides the distance to Rose Atoll, present-day fishermen also indicated that the designation of the atoll as a national wildlife refuge in 1973 also played a part in fishermen not making trips to the atoll.

### (3.) Exploration and research

Monument designation did not have any effect on exploration or research because neither the proclamation nor its enabling regulations prohibit those activities. Exploration and research are cited in the Proclamation as objectives to benefit the science, management and local, national and international communities.

Prior to monument designation, limited exploration and research was conducted primarily by NOAA Fisheries' Pacific Islands Fisheries Science Center and international institutes and universities. For instance, research and monitoring occurred through the bi-annual/tri-annual NOAA Fisheries Rapid Assessment and Monitoring Program. Since the monument was designated, research interest and collaboration activity has increased as management plans are implemented.

### (4.) Traditional Samoan cultural uses and practices

Proclamation 8337 does not prohibit or regulate traditional Samoan cultural uses or practices; however, it is important to note the benefits of monument designation cited by local Samoans.

**Criterion V: concerns of State, tribal and local governments affected by a designation, including the economic development and fiscal conditions of affected States, tribes and localities**

Prior to monument designation, public engagement and solicitation for comments was conducted in American Samoa and Washington, D.C. On October 9, 2008, the public was invited to participate in roundtable format conversations in both Pago Pago and Washington D.C. about the scientific, historical and cultural resources, and the potential for protection and coordinated management of marine areas in the Pacific. The public was also invited to provide comments during a formal 60-day public comment period (i.e., August 25, 2008 to October 25, 2008). The public meetings included the Chairman of the Council on Environmental Quality and other Federal representatives, including NOAA and USFWS. Public comments were submitted to and compiled by the Council on Environmental Quality, where any such record is likely housed. Notable public comments received included comments from Governor Togiola Tulafono of American Samoa, the Secretary of Samoan Affairs Tufele Liamatua and the Director of American Samoa Department of Commerce Faleseu Eliu Paopao, who voiced support for the designation of Rose Atoll as a monument. At the time, Tufele was the highest ranking chief from Ta'u, and Faleseu is also a chief from Ta'u, which is the closest island to Rose Atoll. Conversely, the Western Pacific Fishery Management Council, U.S. Congressman from American Samoa Eni Faleomavaega Hunkin and members of local longline fishing boat associations voiced concern with monument designation processes and associated prohibited activities anywhere in the Pacific.

After designation in November 2009, the RAMNM Intergovernmental Committee held a public meetings in Pago Pago, Ta'u and Ofu to provide information and answer questions on: USFWS responsibility to develop a Comprehensive Conservation Plan for Rose Atoll National Wildlife Refuge; NOAA's responsibility to develop non-commercial fishing regulations; NOAA's responsibility associated with designating the marine portion of Rose Atoll Marine National Monument as a national marine sanctuary; and how these three plans would be eventually merged into one "umbrella" document. The nature of the questions asked were focused on the opportunity for the management plans to offer education, science, research, recreation, enforcement and employment opportunities within the Manu'a Islands and Tutuila communities.

On November 21, 2009, Samoa News To'asavili published an article that described a stakeholder meeting by the Intergovernmental Committee for Rose Atoll to gain public input on management planning for the monument. Opposition to the monument was voiced by members of the public, lawmakers, and government leaders who expressed concerns over the lack of public engagement in the designation process, the prohibition on fishing within monument boundaries and the overreach of Federal government in designation of the monument.

In 2010, "Oral Traditions of Rose Atoll (Muliāva)," the Samoan Studies Institute researched the oral traditions of Rose Atoll by interviewing and surveying the American Samoan people of Manu'a Islands (population 1,143), who consider Muliava part of the islands that make up Manu'a. The study was in response to the opposition expressed due to the lack of inclusion of the American Samoan people at the first stakeholder meeting held after monument designation. A total of 265 Manu'a residents were surveyed; 45% responded that they disliked the idea of Rose Atoll (Muliāva) being declared a marine national monument, 42% responded that they liked the idea of monument designation, and 13% responded with "don't know."

In the recent request by DOI for public comment on the monument designations, Governor Lolo M. Moliga of American Samoa wrote requesting revocation of Pacific monuments or revocation of fishing regulations within Pacific monuments, on the grounds that it has negatively impacted the local tuna industry and that existing fishing regulatory processes are adequate. Governors Moligo, Eddie G. Calvo of Guam and Ralph D.G. Torres of the Commonwealth of the Northern Marianas Islands also wrote a collaborative letter requesting that fishing provisions applicable to all marine national monuments be removed, on the grounds that the monument restrictions are unnecessary and impede their local socioeconomic and cultural stability. The Western Pacific Fishery Management Council also sent a letter requesting that monument designations in the western Pacific are unnecessary and fishing restrictions should be vacated. Members of Congress Bishop of Utah and Radewagen of American Samoa wrote a joint letter requesting that all marine national monument fishing restrictions be vacated. Senate and House Minority Leadership sent a letter requesting that all national monuments' boundaries remain intact based on the environmental and economic benefits they provide. *(Please note, the comments highlighted in this section are only reflective of those sent directly to DOC/NOAA as of July 20, 2017 and not those collected by DOI through the online regulations.gov portal.)*

#### **Criterion VI: The availability of Federal resources to properly manage designated areas**

RAMNM is co-managed by NOAA and USFWS, in consultation with the Government of American Samoa Departments of Commerce and Marine and Wildlife Resources who collaborate in the stewardship of RAMNM. A specific monument management plan for RAMNM has not been prepared as there are overlapping management plans associated with the various management needs at the site: the Western Pacific Fishery Management Council American Samoa Fishery Ecosystem Plan; the National Marine Sanctuary of American Samoa Management Plan; and the USFWS Rose Atoll National Wildlife Refuge Comprehensive Conservation Plan. Members of the Intergovernmental Committee, which includes all co-managing agencies, are looking into potential management gaps between these plans and intend to develop necessary plans to cover those gaps, if needed.

Within existing appropriations for fisheries research and management, NOAA currently allocates approximately \$3 million dollars annually for science and management activities in the Pacific marine national monuments designated in 2009 (Marianas Trench, Pacific Remote Islands, Papahānaumokuākea and Rose Atoll). Since the four Pacific marine national monuments have been designated, NOAA Fisheries established eight full-time (four Pacific Islands Regional Office and four Pacific Islands Fisheries Science Center) staff positions and four part-time staff positions (one Pacific Islands Regional Office and three Pacific Islands Fisheries Science Center) to provide for the management and research within the monuments. Duties are shared among the personnel who work with the local governments in American Samoa, Saipan and Hawaii. NOAA also allocates funding from appropriations from the Office of National Marine Sanctuaries budget line to manage RAMNM and the encompassing National Marine Sanctuary of American Samoa. Those funds go towards hiring dedicated staff in American Samoa who focus on management, science and public awareness activities associated with RAMNM management needs.

Additionally, funding from the NOAA Coral Reef Conservation Program and the NOAA Fisheries Pacific Islands Fisheries Science Center have been used to monitor and explore the shallow coral reef areas in the Pacific Islands region, which includes all of the monuments. NOAA partners provide benefit to overall research and management of the monuments, particularly due to their very remote locations and travel costs to conduct exploration, research and monitoring.

In addition to NOAA, USFWS received \$1.8 million in congressionally directed funds for Fiscal Year 17 for all USFWS managed marine national monuments in the Pacific. This funding has assisted the management of the monument through staffing, logistics and planning efforts. USFWS has not established new positions for Rose Atoll, but has restructured existing staff to cover monument management duties.

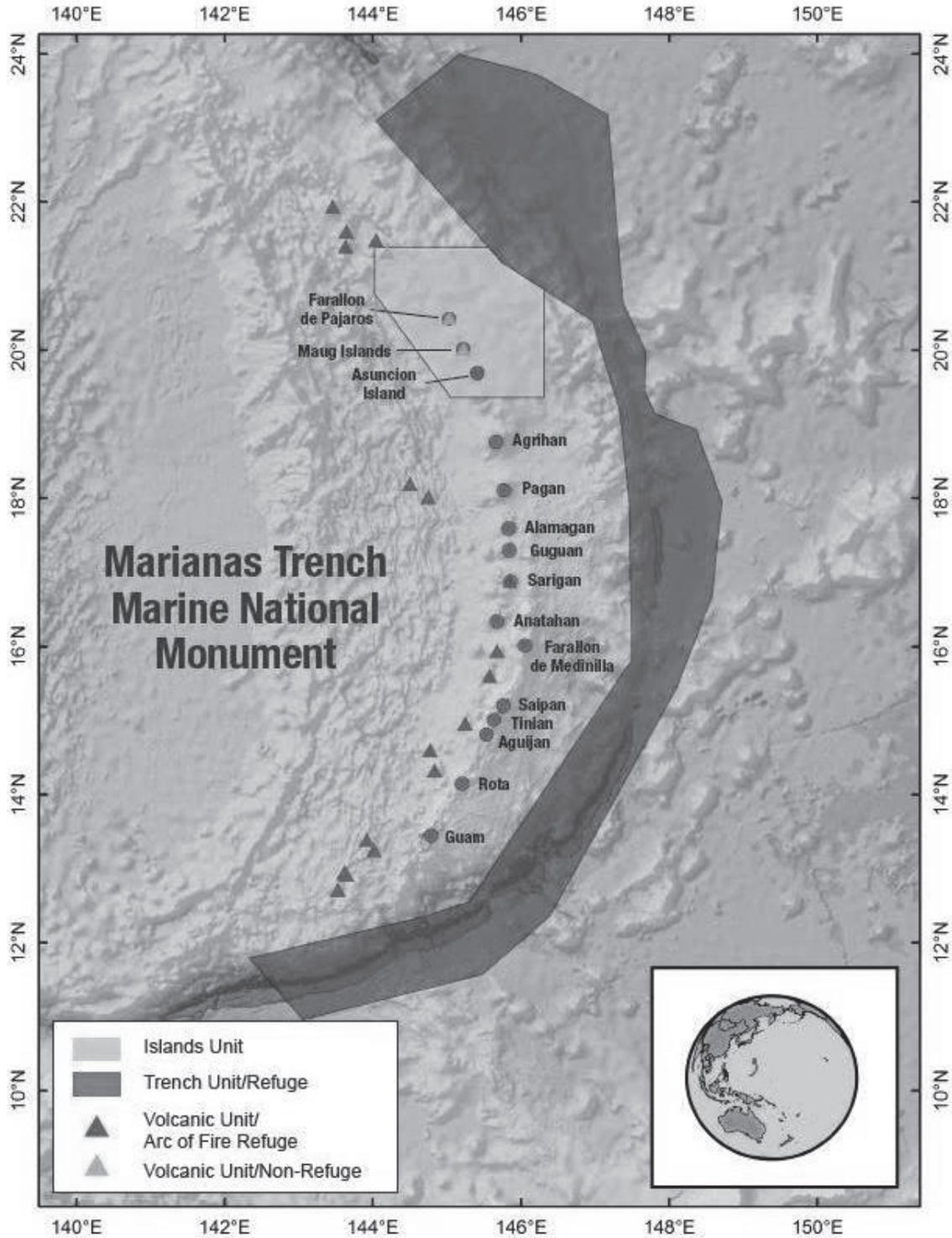
No external grants have been obtained for work in the monument. Annually, grants have been awarded by NOAA in order to pursue management objectives. Historically, grants have been for the purposes of research and monitoring and education and outreach, and vary in amount and availability each year.

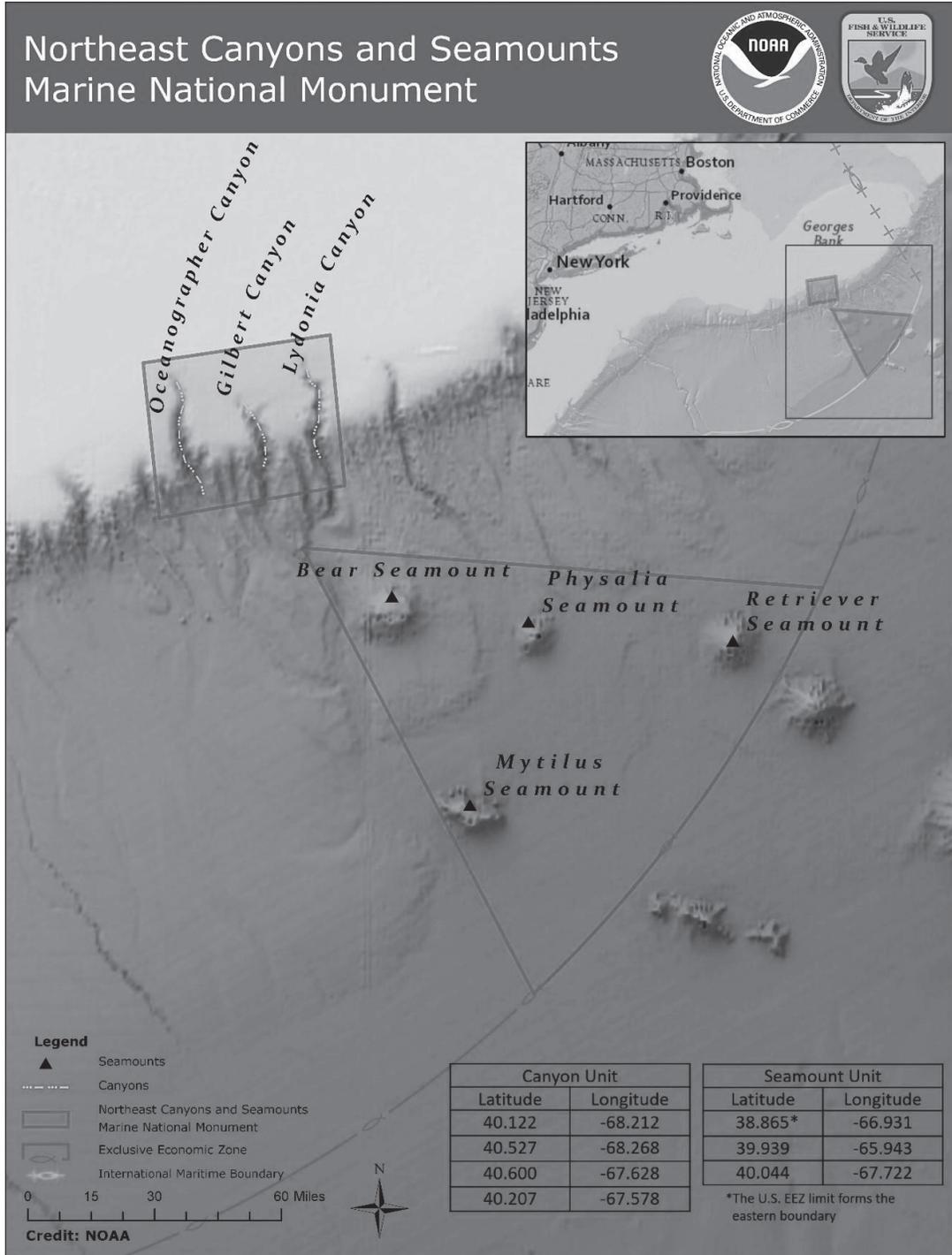
The resources expended to provide enforcement in monument waters come from the general NOAA Office of Law Enforcement (OLE) Enforcement and Surveillance budget. These resources support a basic surveillance capability to monitor compliance with the directives in the Presidential Proclamations or public laws. Additional investment in emerging surveillance technologies may improve the ability to provide protection to monument waters and those within the U.S. EEZ.

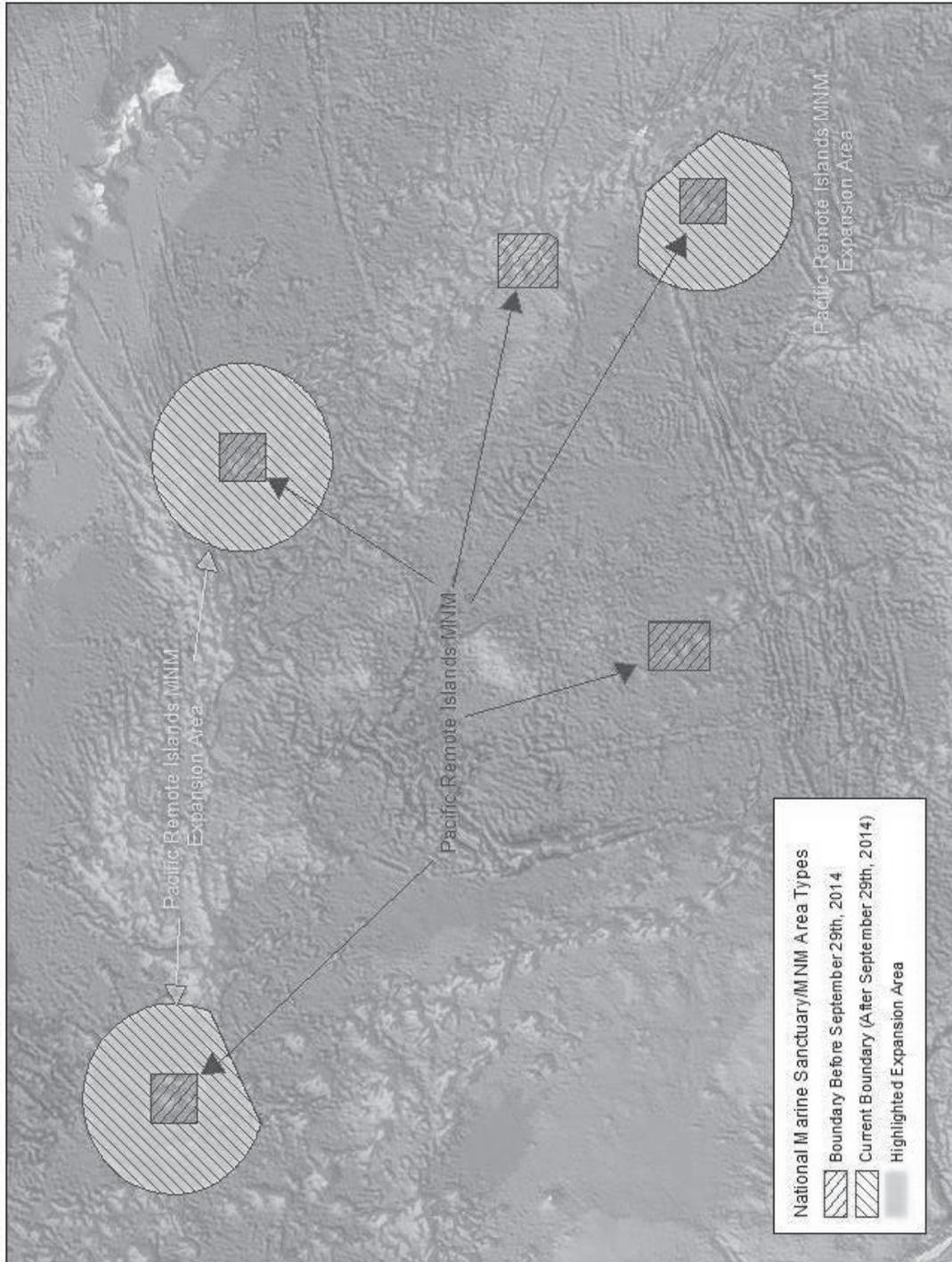
NOAA OLE, USFWS Office of Law Enforcement and the U.S. Coast Guard (USCG) work collaboratively to ensure compliance with applicable laws in monument waters. Satellite-based vessel monitoring systems (VMS), dockside inspections, at sea and aircraft patrols are used in the Pacific U.S. EEZ to monitor and enforce commercial U.S. fisheries laws and regulations, illegal, unreported and unregulated fishing, laws and regulations governing living marine resources, threatened and endangered species, and the protection of marine mammals.

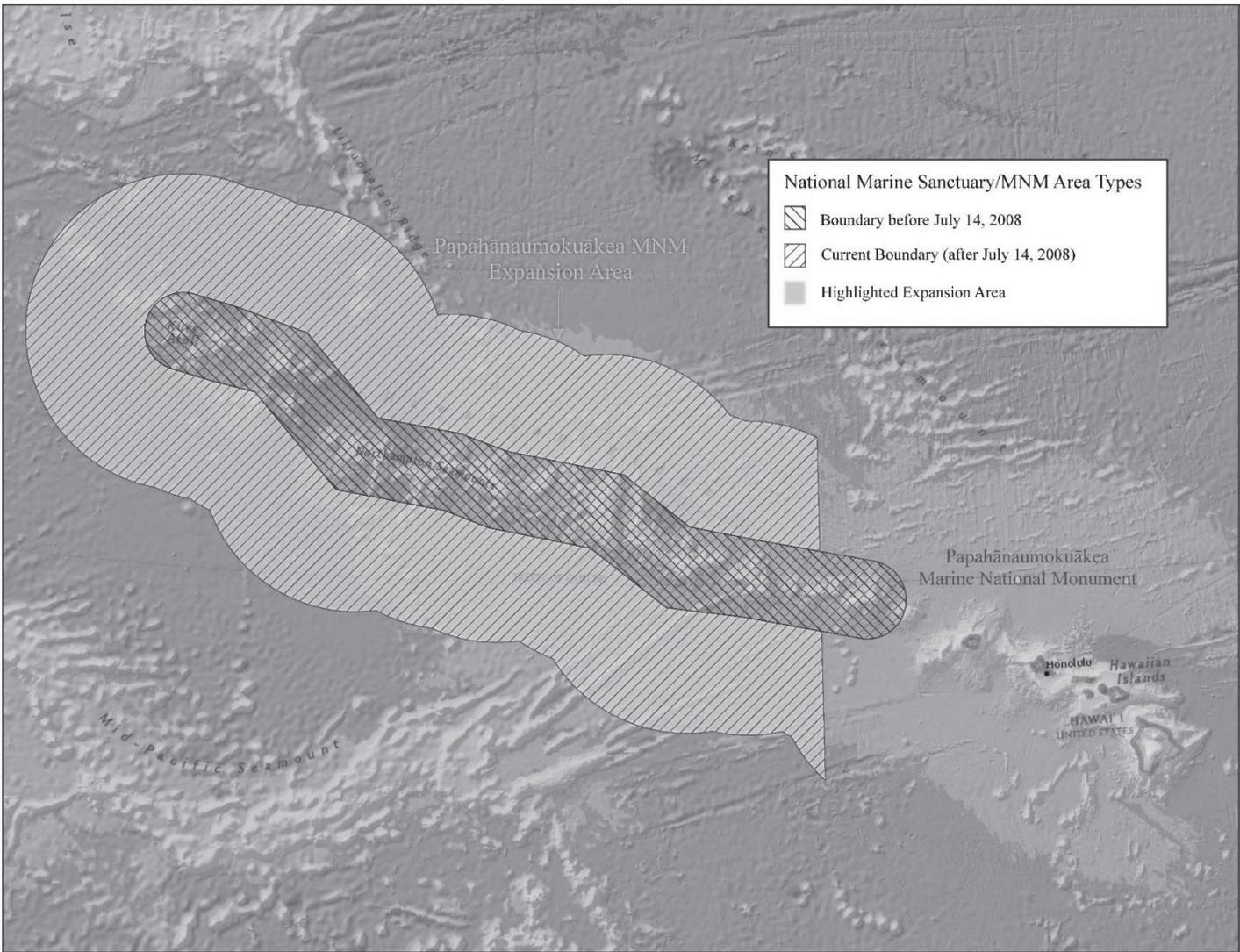
All large-scale U.S. commercial fishing vessels in the Western and Central Pacific must install a VMS device that transmits the vessel's movements and global position coordinates to a monitoring center, via secure satellite communication channels. Their travel patterns are then tracked by the NOAA OLE's Pacific Islands Division. This real-time data is also received and jointly monitored by USCG, which uses it to prioritize their surface-vessels and aircraft patrols of the monuments. Further, this VMS information is made available to authorized U.S. fishing vessel owners in the Pacific Islands Region who can use this near real-time positional data to supervise the movements of their vessels around the boundaries of the monuments, and areas closed to fishing.

## Site Maps

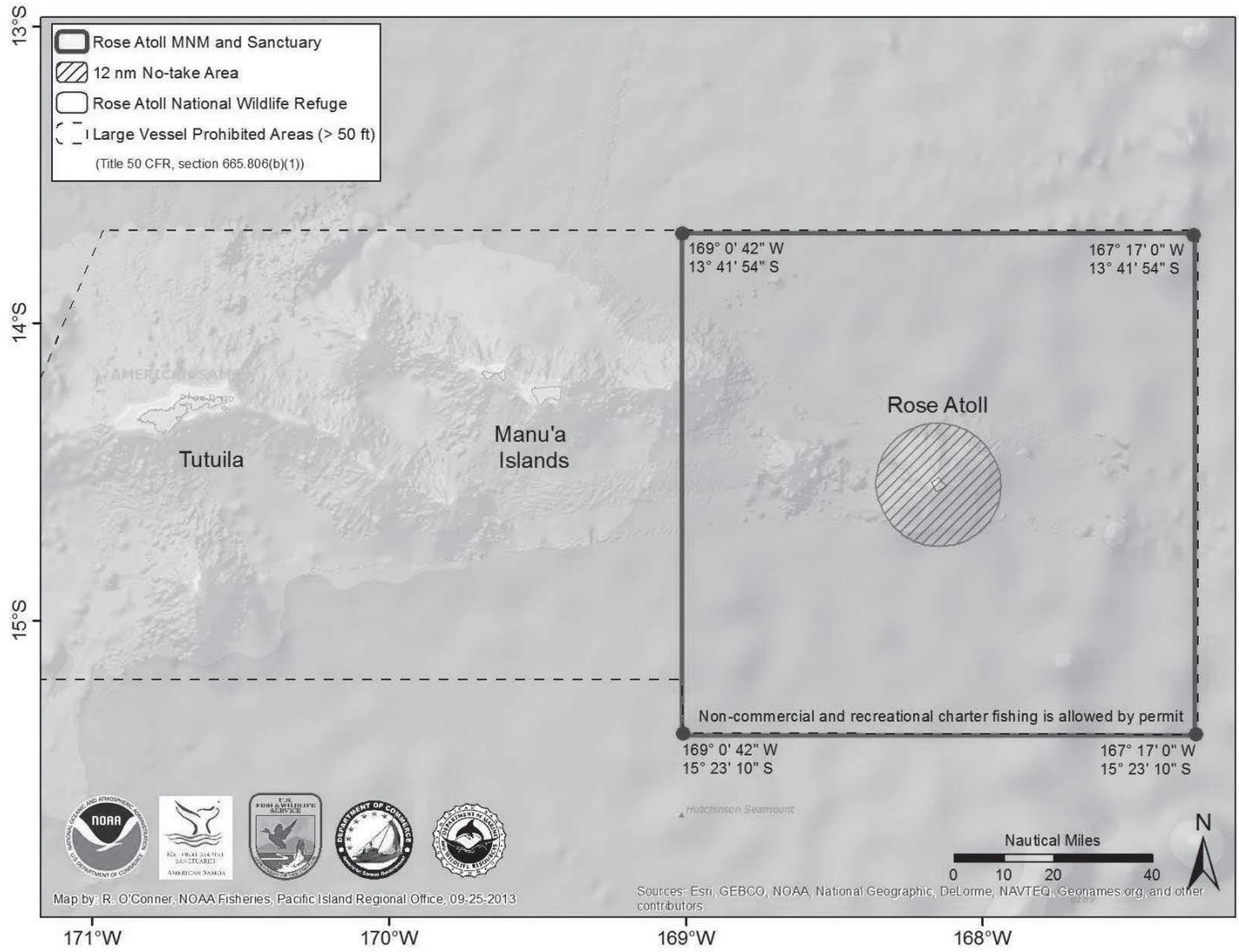








Draft Review of Marine National Monuments Pursuant to EO 13792 updated 7/28/17



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