

**RECORD OF DECISION  
for the  
FINAL ENVIRONMENTAL IMPACT STATEMENT  
on the  
Designation of Papahānaumokuākea National Marine Sanctuary**

**National Oceanic and Atmospheric Administration  
Office of National Marine Sanctuaries**

**January 2025**

**I. Introduction**

This document comprises the National Oceanic and Atmospheric Administration's (NOAA's) Record of Decision (ROD) for the final environmental impact statement (EIS) published on December 13, 2024 for the Papahānaumokuākea National Marine Sanctuary designation. This ROD includes a description of what the decision is, descriptions of all alternatives considered, a description of the environmentally preferable alternative, and a discussion of factors and considerations balanced by NOAA in making its decision.

This ROD is issued consistent with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR Parts 1500-1508, and NOAA's procedures for implementing NEPA set forth in NOAA Administrative Order (NAO) 216-6A and the NOAA NEPA Companion Manual.

**II. Decision**

This ROD documents NOAA's decision to designate Papahānaumokuākea National Marine Sanctuary (PNMS or sanctuary). NOAA is selecting Alternative 1 to designate PNMS and manage this special place as part of the National Marine Sanctuary System to protect nationally significant biological, cultural, and historical resources and to address threats and discrepancies in existing management. The sanctuary consists of an area of approximately 582,570 square miles (439,910 square nautical miles) of Pacific Ocean waters surrounding the Northwestern Hawaiian Islands and the submerged lands thereunder, and is coextensive with the marine portions of Papahānaumokuākea Marine National Monument (PMNM) and the Monument Expansion Area (MEA). This decision is based on the analyses in the published final EIS, as described below.

The designation of the sanctuary would not replace the area's current status as a marine national monument. Executive Order 13178, Presidential Proclamations 8031, 8112, and 9478, and regulations implementing Presidential Proclamations 8031 at 50 CFR Part 404—which currently guide Monument management—served as benchmarks for drafting the rule for the sanctuary. The regulations at 50 CFR Part 404 only apply to PMNM, that is, the part of the monument designated by Presidential Proclamation 8031, which consists of the marine environment from the shoreline of the islands and atolls seaward to 50 nautical miles. The sanctuary designation would only add to, and would not diminish, the management measures and protections provided by these benchmarks. In the final sanctuary regulations, NOAA has adopted management measures from these benchmarks. In some places, NOAA has added to or made minor changes

to those measures to allow for consistency in the management of resources throughout the two zones of the sanctuary, PMNM and the MEA (collectively the “Monument”).

In making this decision, NOAA has considered all of the alternatives, information, analyses, and comments submitted by the State of Hawai‘i, cooperating agencies, the Monument co-trustees, the Western Pacific Regional Fishery Management Council, the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council, and the public. This decision is based on the analyses in the accompanying final EIS and sanctuary designation documents, as described in detail below.

### **III. Alternatives Considered**

In the final EIS, NOAA considered four alternatives; these included a “no action” alternative, in which the area would not be designated as a national marine sanctuary; and three action alternatives. Each action alternative included (1) a boundary component, (2) a regulatory component, and (3) a management plan component. The three action alternatives each considered a different set of boundaries for the sanctuary, but included the same regulations and management plan. The final EIS identified NOAA’s Final Preferred Alternative as Alternative 1.

#### *No Action Alternative*

Under the No Action Alternative, NOAA would not move forward with the designation of PNMS. The Monument’s existing operations and management would continue, providing protection and management of resources at the current management direction and level of management intensity under existing federal authorities and programs, and would not be strengthened by supplementary sanctuary regulations or management activities.

#### *Elements Common to All Action Alternatives*

Under all action alternatives, regulations include site-specific definitions, cooperative management, access provisions, prohibited or otherwise regulated activities, and permit procedures. In addition, applicable sections of the National Marine Sanctuary Program Regulations (15 CFR part 922) Subpart A—Regulations of General Applicability and Subpart D—National Marine Sanctuary Permitting would apply within the sanctuary. Under all action alternatives, regulations promulgated under the NMSA would largely be consistent with existing regulations for the Monument. Minor changes have been presented in the sanctuary regulations to remove discrepancies and gaps in prohibitions, regulated activities, and permitting across the area of the sanctuary.

Sanctuary designation also provides new authorities afforded by the NMSA and 15 CFR part 922, allowing ONMS to supplement existing authorities through: 1) emergency regulations; 2) penalties; and 3) authorities to respond to and hold financially liable those responsible for destruction or loss of, or injury to sanctuary resources. Emergency regulations provide the authority to implement immediate temporary regulations where necessary to prevent or minimize the loss or injury to a sanctuary resource. A penalty schedule provides law enforcement with a new tool for violations of sanctuary regulations, potentially improving compliance. The response cost and damage regulation make any person (or vessel) who destroys, causes the loss of, or injures any sanctuary resource liable for response costs and damages resulting from such destruction, loss, or injury. In addition, funds collected from response costs and damages would

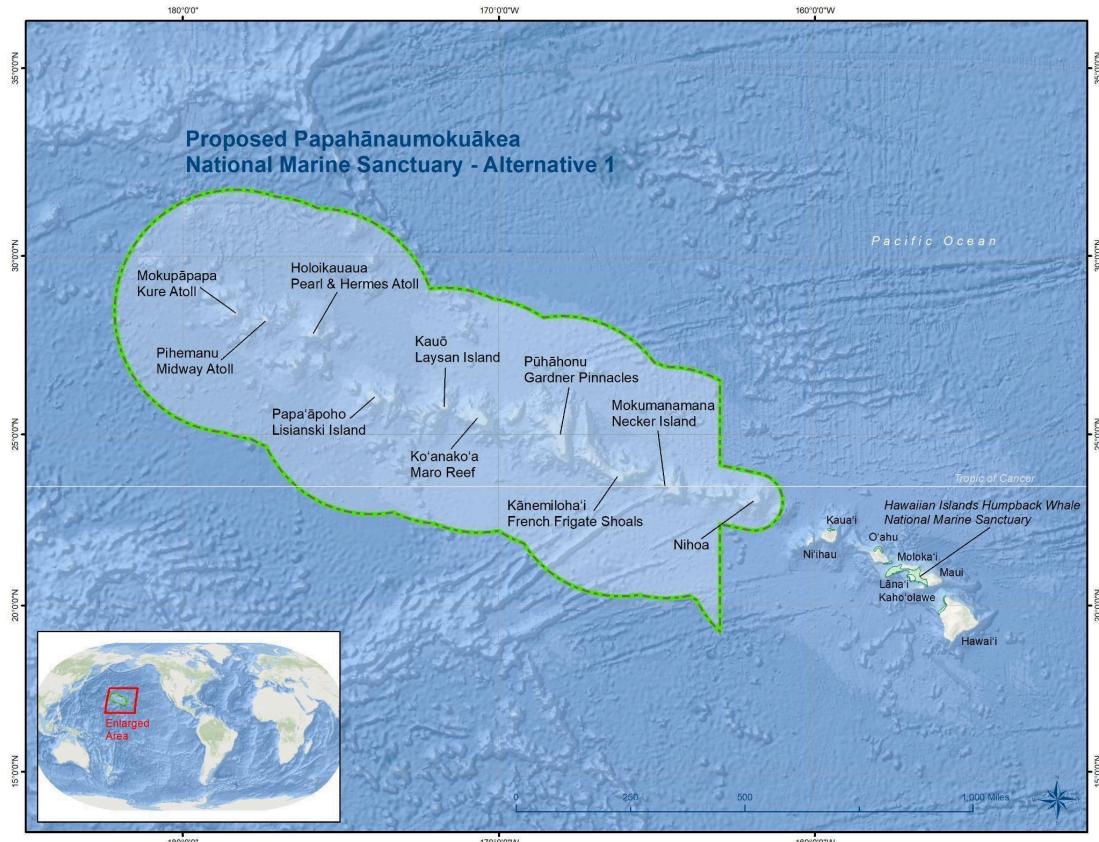
be available to conduct restoration for damaged resources within the sanctuary. These additional authorities provide NOAA with new tools to improve management and compliance and by creating a stronger deterrent to permit and regulatory violations.

The core elements and framework for the sanctuary management plan were designed in coordination with the Monument's co-trustees, in order to ensure concurrence of plans between the sanctuary and the monument. The core elements of the sanctuary management plan—vision, mission, principles, and goals—are the same as those that have been developed by the co-trustees for the monument management plan update. The strategies identified in the sanctuary management plan entail actions already being conducted by ONMS as a Monument co-manager, many in coordination with other Monument co-managers.

#### *Action Alternatives*

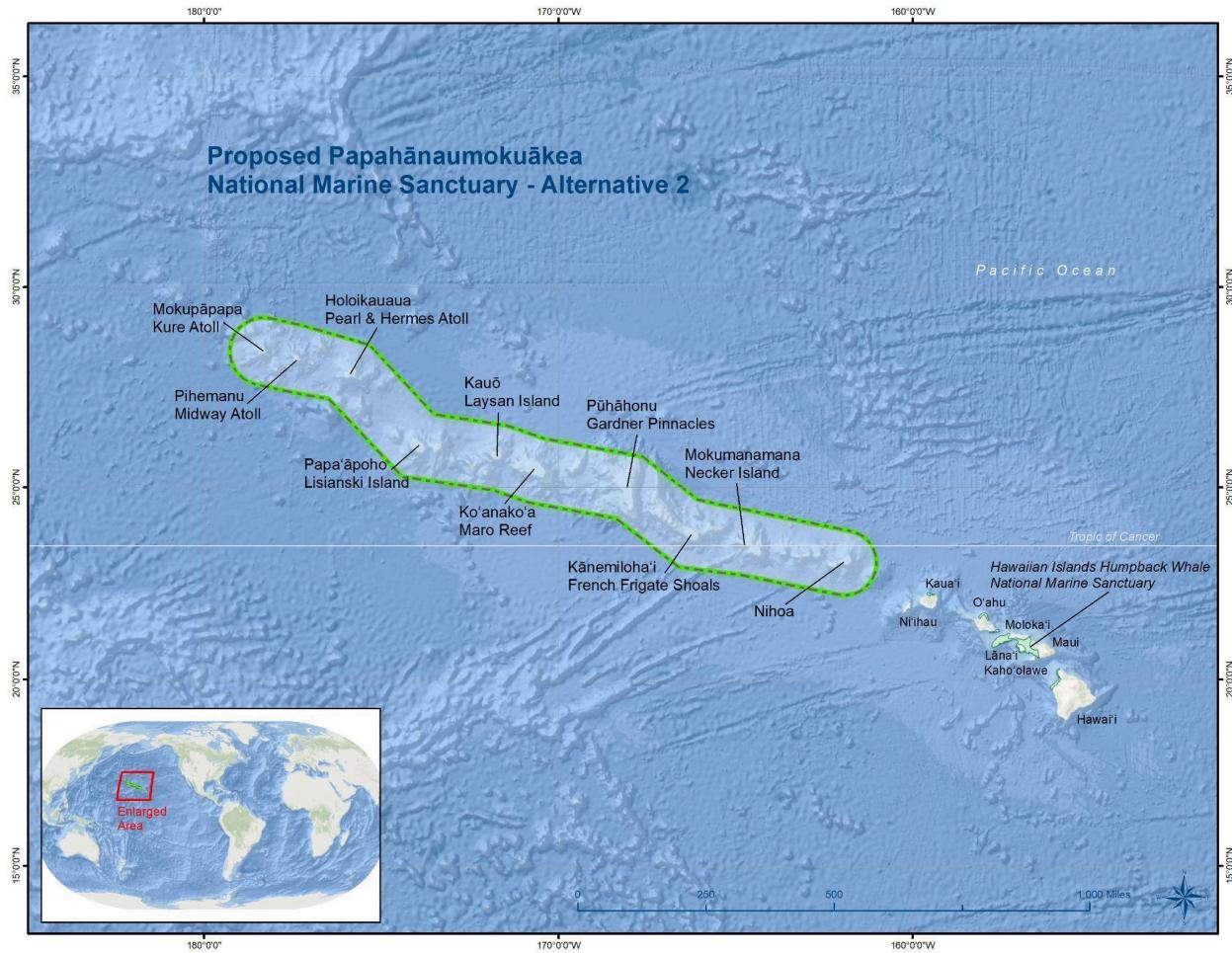
Under Alternative 1, the sanctuary would be coextensive with the marine portions of the Monument. The boundary would include the marine environment surrounding the Northwestern Hawaiian Islands from the shoreline of the islands and atolls seaward to 200 nautical miles, including all State waters and waters of the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, Midway Atoll and Hawaiian Islands national wildlife refuges, the Battle of Midway National Memorial, and the State of Hawai‘i Northwestern Hawaiian Islands Marine Refuge. The area encompassed in Alternative 1 would be approximately 582,570 square miles (439,910 square nautical miles).

Alternative 1 would result in direct, long-term, moderate beneficial impacts on physical, biological, and maritime heritage resources, as well as on laws and existing management of the area, and minor beneficial impacts to cultural resources due to the added protection afforded by the NMSA's authorities, sanctuary regulations and permitting, and a comprehensive sanctuary management plan. The sanctuary's resources would include several interconnected ecosystems, including coral islands surrounded by shallow reef, deeper reef habitat characterized by seamounts, banks, and shoals scattered across the area of the sanctuary, mesophotic reefs with extensive algal beds, pelagic waters connected to the greater North Pacific Ocean, and deep-water habitats and abyssal plains 5,000 meters below sea level. The shallow-water coral reefs and nearshore habitat support sea turtles and monk seals, schools of apex predatory fish, and many other species. Deeper waters overlying algal beds and non-photosynthetic corals occur seaward of the shallow reefs, where pelagic fish migrate and monk seals and seabirds forage. Deep offshore waters of the MEA contain numerous offshore banks and seamounts. The sanctuary would also include the location of the Battle of Midway, where research indicates many sunken military vessels and sunken aircraft are scattered across the seafloor. In addition to Navy steamers and aircraft, sunken wrecks located in the Alternative 1 area include whaling ships, ancient Japanese sailing ships known as junks, motorized east Asian style fishing vessels known as Hawaiian fishing sampans, Pacific colliers, and other vessels from the 19th and 20th centuries. The area of the sanctuary is also a sacred place to Kānaka ‘Ōiwi (Native Hawaiians), who regard the islands and wildlife as kūpuna, or ancestors. The region holds deep cosmological and traditional significance to living Native Hawaiian culture. Indirect, minor adverse impacts on socioeconomics and human uses would occur through the expansion of implementing regulations and permitting in the Outer Sanctuary Zone, the area of the sanctuary that overlaps with the MEA.



Alternative 1 sanctuary boundary (marine areas only). Image: NOAA

Under Alternative 2, the sanctuary would include the marine environment from the shoreline of the islands and atolls seaward to 50 nautical miles. The boundary would include all State waters and waters of the Reserve, Midway Atoll and Hawaiian Islands national wildlife refuges, the Battle of Midway National Memorial, and State of Hawai‘i Northwestern Hawaiian Islands Marine Refuge. The area encompassed in Alternative 2 would be approximately 139,782 square miles (105,552 square nautical miles). The primary difference between Alternative 1 and Alternative 2 is that the latter does not include the MEA. The exclusion of the MEA from the Alternative 2 boundary area reduces the beneficial impact of protection for physical, biological, maritime heritage and cultural resources compared to Alternative 1. However, as human use and ecological threats to resources are much lower in the MEA than in the shallow waters of PMNM, sanctuary designation still imparts a moderate benefit to physical and biological resources within the Alternative 2 boundary area. Under Alternative 2, the benefits for laws and existing management under Alternative 1, such as new tools to improve management and compliance, would not carry over to the pelagic realm of the MEA. By contrast, the minor adverse impacts to socioeconomic resources and human uses described in Alternative 1 would not apply to Alternative 2, as they are related to new operational requirements (i.e. VMS requirements and discharge restrictions) for the MEA.

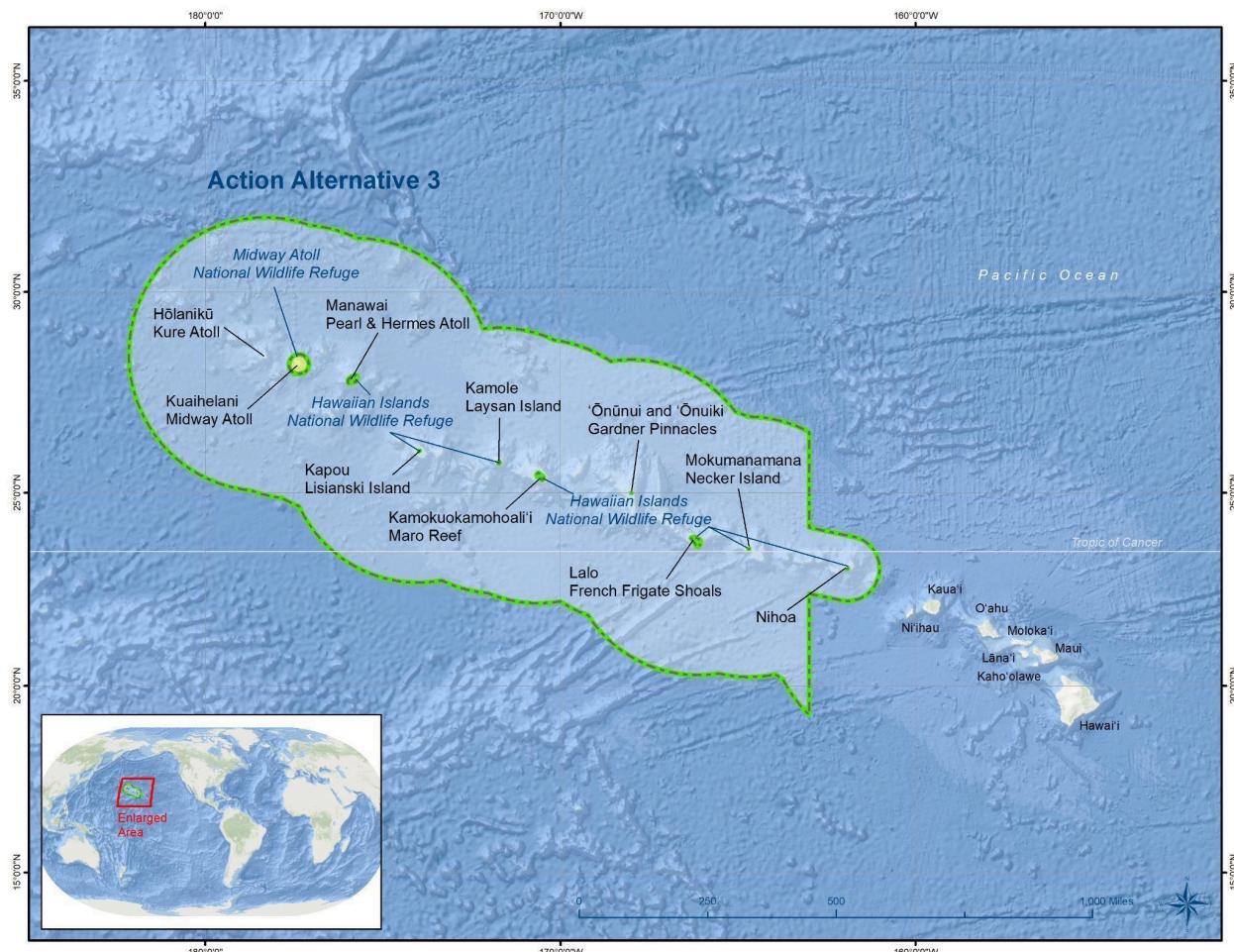


Alternative 2 sanctuary boundary (marine areas only). Image: NOAA

Under Alternative 3, the sanctuary would have boundaries very similar to Alternative 1, but would exclude waters within the Midway Atoll and Hawaiian Islands national wildlife refuges and the Battle of Midway National Memorial. These excluded waters include portions of the State of Hawai‘i Northwestern Hawaiian Islands Marine Refuge and the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve that overlap with national wildlife refuge waters. The area encompassed in Alternative 3 would be approximately 581,263 square miles (438,923 square nautical miles). Under Alternative 3, the boundary would exclude waters of Midway Atoll National Wildlife Refuge (from land to 12 nautical miles, totaling 907.4 square miles of marine waters) and exclude waters of Hawaiian Islands National Wildlife Refuge (from land to a boundary which varies by islet, estimated to total 400.2 square miles of marine waters).

Alternative 3 would exclude nearshore waters where the most human activity occurs, including a significant amount of the coral reef habitat of Papahānaumokuākea. Many of the non-military heritage sites, including the significant whaling shipwreck sites, are in shallow waters, possibly within national wildlife refuge boundaries. Compared to Alternative 1, Alternative 3 imparts the same beneficial and adverse impacts except within national wildlife refuge waters, where no benefits of sanctuary designation will be realized. Under Alternative 3, there will be minor adverse impacts to laws and management due to the potential ambiguity of where NMSA regulations can be enforced, specifically within and adjacent to the Hawaiian Islands National

Wildlife Refuge. Because the Alternative 3 boundary area excludes the shallow reef habitat of the national wildlife refuges, where natural resources are highest and threats have the greatest potential for impact, Alternative 3 imparts only minor benefits on physical and biological resources. Alternative 3 would provide the same socioeconomic beneficial and adverse impacts as described in Alternative 1.



Alternative 3 sanctuary boundary (marine areas only). The map illustrates approximate seaward boundaries of the Midway Atoll and Hawaiian Islands national wildlife refuges.

#### *Alternatives Considered, but not Carried Forward*

NOAA also considered, but did not carry forward for analysis, several alternatives that were suggested during the scoping process and public comment period on the draft EIS. Specifically, these include: larger boundary configurations, a sanctuary boundary that would include additional areas of Middle Bank, a landward boundary defined to the mean high tide line, a regulatory alternative that would consider prohibiting non-commercial fishing within the MEA, and a regulatory alternative that would consider not regulating discharge within the MEA. These alternatives were carefully considered, but ultimately eliminated from detailed study for various reasons, including lack of feasibility and not meeting the purpose and need. A detailed description of alternatives considered but eliminated from detailed study is provided in the final EIS.

#### **IV. Environmentally Preferable Alternative**

Alternative 1 is the environmentally preferable alternative because it would protect the largest marine area and provide comprehensive resource protection, scientific research, and public education in areas that would be excluded by selecting the boundaries of Alternatives 2 or 3.

Alternative 1 includes the MEA, an area which would benefit from the establishment of a NOAA permitting process, and the promulgation of sanctuary regulations to protect resources. The MEA encompasses 442,781 square miles of marine waters, which include numerous seamounts, known and undiscovered maritime heritage resources, and a vast unexplored abyss. Under Alternative 2, supplemental authority under the National Marine Sanctuaries Act would not be available to protect marine resources in these excluded waters.

Alternative 1 also includes the waters of Midway Atoll National Wildlife Refuge and Hawaiian Islands National Wildlife Refuge, which are the areas that would benefit from supplemental authority provided by the National Marine Sanctuaries Act to protect resources. The waters of Midway Atoll National Wildlife Refuge have experienced the highest levels of human activity in the Monument, and therefore, human-caused impacts—accidental, intentional, or unavoidable—including vessel groundings, water quality issues, invasive species introduction, and wildlife disturbance, have altered the ecosystem and continue to have a higher likelihood of occurring in and around the atoll. The shallow waters within the Hawaiian Islands National Wildlife Refuge boundary encompass a significant amount of the coral reef habitat, as well as areas where Hawaiian monk seals, sea turtles, seabirds, and other species forage. It includes much of the designated Hawaiian monk seal critical habitat in Hawai‘i. Because of the high density and diversity of natural resources, the shallow waters of Hawaiian Islands National Wildlife Refuge experiences a relatively high amount of human activity, such as marine debris removal, protected species management, and climate resilience research. Many of the non-military heritage sites, including the significant whaling shipwreck sites, are in shallow waters, possibly within the Hawaiian Islands National Wildlife Refuge boundaries. Under Alternative 3, supplemental authority under the National Marine Sanctuaries Act would not be available to protect marine resources in these excluded waters.

Overall, NOAA determined that implementing Alternative 1 as the environmentally preferable alternative, would have direct, long-term, moderate beneficial impacts for laws and management, physical, biological, and maritime heritage resources; direct, long-term, minor beneficial impacts for cultural resources; and indirect, long-term, minor adverse impacts for socioeconomic resources and human uses.

#### **V. Rationale for Selection of Alternative 1**

NOAA selected Alternative 1 after considering input on the draft designation documents from the Monument co-trustees and Monument Management Board, the State of Hawai‘i, cooperating agencies, other agencies consulted, and the public. Through the analysis in the final EIS, NOAA has determined that Alternative 1 would provide numerous beneficial impacts, including increased protection and conservation of resources, and improved coordination of conservation and management. NOAA has also considered the potential adverse impacts of Alternative 1 and anticipates that there would be no significant adverse impacts to biological and physical resources, cultural and historic resources, or socioeconomic resources.

NOAA selected Alternative 1 because it meets all goals and objectives, including designating a national marine sanctuary that would complement and supplement existing federal and State resource protection laws to manage nationally significant resources. The alternative was selected because it includes State waters as requested by the State; provides the first set of implementing regulations for the MEA, as directed in Presidential Proclamation 9478 (in contrast to Alternative 2, where the MEA is excluded); and provides new tools to protect shallow habitats where threats are highest (in contrast to Alternative 3, where the NWRs are excluded from the proposed sanctuary). It is also responsive to public comments throughout the sanctuary nomination and designation process, and supplements and complements management of the Monument. NOAA has considered the minor adverse impacts of Alternative 1 on socioeconomics and human uses in conjunction with Alternative 1's beneficial impacts on laws and management, physical, biological, cultural, and maritime heritage resources. On balance, NOAA finds that the minor adverse impacts to socioeconomic resources and human uses that may occur due to regulation of activities in the area of the sanctuary that overlaps with the MEA are warranted given Alternative 1's numerous beneficial impacts to the area's resources as well as to laws and existing management.

In selecting Alternative 1, NOAA has adopted all practicable means to avoid or minimize environmental harm, including implementing regulatory prohibitions and a permitting system, consistent with existing regulations for the area, that are intended to avoid or minimize any direct impacts on sanctuary resources. The final EIS did not identify any specific mitigation measures for this action, and a mitigation monitoring plan is not required. Information regarding additional regulatory consultations is included in the final EIS and final rule for PNMS.

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Date