

Monument Management Board Policy on Sustenance Fishing in Papahānaumokuākea Marine National Monument

March 4, 2010

(Revised 4 January 2012)

Proclamation 8031¹ (“Proclamation”) provides for sustenance fishing within Papahānaumokuākea Marine National Monument (“Papahānaumokuākea” or “Monument”). As defined in the Proclamation, “sustenance fishing means fishing for bottomfish or pelagic species that are consumed within the Monument, and that is incidental to an activity permitted” under the Proclamation.

The Proclamation also states, “The Secretaries may not permit sustenance fishing in the Midway Atoll Special Management Area unless the activity has been determined by the Director of the United States Fish and Wildlife Service (FWS) or his or her designee to be compatible with the purposes for which the Midway Atoll National Wildlife Refuge was established.” In December 2008, U.S. Fish and Wildlife Service Managers determined sustenance fishing to be a compatible activity with certain stipulations².

On 4 March 2010, the following Papahānaumokuākea-wide policy was implemented:

State waters

Sustenance fishing in State waters³ will continue to be prohibited.⁴

Federal waters (outside of Midway Atoll Special Management Area)

Sustenance fishing will no longer be allowed by permit, except when requested and approved in conjunction with a Native Hawaiian Practices permit.

Midway Atoll Special Management Area

Sustenance fishing will be permitted within the Midway Atoll Special Management Area (MASMA) in accordance with the following conditions, as outlined in the FWS Compatibility Determination for Sustenance Fishing within Midway Atoll National Wildlife Refuge/Battle of Midway National Memorial, Papahānaumokuākea Marine National Monument:

Consumption of Fish within MASMA:

1. All fishing will be conducted for sustenance of Midway residents or vessel communities at the common table. The term ‘Common table’ may be defined in three ways:
 - a. Common table for Midway (land)-based Co-Trustee agency personnel, volunteers, and contractors means Midway galley, such as the “Clipper House.”
 - b. Common table for vessel-based Co-Trustee agency personnel, volunteers, and contractors means the ship’s galley.
 - c. Common table for other permittees on their own vessel is the Midway galley.

¹ Proclamation No. 8031, 50 C.F.R. 404 (2006).

² USFWS Monument Management Plan Compatibility Determinations Dec. 12, 2008. Available at <http://www.fws.gov/midway/Midway%20CDs.pdf>. Midway Atoll Sustenance Fishing at pp. 136-144.

³ State of Hawai‘i waters, within Papahānaumokuākea, are defined as including “reefs, and shoals, and their appurtenant reefs and all state waters extending three miles seaward of any coastline beginning and including Nihoa Island and Kure Atoll, but excluding Midway Atoll.” (HAW. ADMIN. RULES § 13-60.5-2).

⁴ Subsistence fishing may be permitted as authorized under State law for subsistence, and traditional and customary practices by Native Hawaiians.

Catch Limits:

1. The quantity of fish taken will not exceed what can be consumed by Midway residents or visiting vessel occupants within a 2-day period. No fish will be frozen.
2. Total allowable take is a maximum of 300 fish per year.
 - a. Up to 208 fish annually by Midway Atoll residents.
 - i. Midway Atoll residents may take 26 boat trips per year with up to 6 people aboard, and may catch up to 6 fish per day.
 - b. Up to 92 fish annually by visiting vessels. Vessel-based sustenance will not take more than 4 fish per day total. Visiting vessels to include NOAA ships *Oscar Elton Sette* and *Hi'ialakai*, up to 15 private vessels (e.g., sailboats), and up to five contract vessels (e.g., barges) may troll for fish, if authorized, en route to or from Midway, but within Midway waters, each year.
 - c. Midway Atoll residents means permanent island residents such as FWS staff, their families, and contract employees. All fishing for Midway residents will be conducted from a federally owned, shore-based, power boat operated by an agency-certified boat operator.
 - d. Visiting vessel means any permitted vessel that comes into the Midway Atoll Special Management Area. Sustenance fishing for visiting vessels must be authorized in a Monument permit. Unless specifically authorized through their permit, other visitors to Midway (including recreational visitors) are not authorized to conduct sustenance fishing as an incidental activity.

Best Management Practices:

1. Sustenance fishing will be conducted by deploying 2-4 lines as vessels transit Midway waters.
2. Only artificial lures will be used. Lures will be trolled in a water depth of at least 200 feet, and at a speed of at least 7 knots.⁵
3. Use of wire line, down-riggers, planers, and heavy weights are not allowed.
4. Fishing for bottom fish is not allowed.
5. Vessels are required to navigate around aggregations of foraging (fishing) or resting seabirds, rather than navigate through them.
6. Fishing lines will be tended at all times and fish will be brought into the boat as quickly as possible.
7. Caught fish will be bled so the blood does not enter the ocean and attract sharks during the fishing activity.
8. All fish other than 'ahi (yellowfin tuna, *Thunnus albacares*), mahimahi (dolphinfish, *Coryphaena bippurus*), and ono (wahoo, *Acanthocybiurn solandri*) will be released unharmed.
9. All fishing gear will be cleaned using a mild bleach solution before use in the Monument and must also be cleaned according to Monument quarantine procedures. The bleach solution will be disposed of properly in accordance with all applicable federal and local regulations.
10. Fishing is only allowed during daylight hours to minimize risk to human safety.

⁵ Speeds of at least 7 knots prevent hooking albatrosses, boobies, and other seabirds that follow fishing boats. Seabirds are able to ingest lures trolled at slower speeds.

Reporting Requirements:

1. Midway residents and vessel based permittees must submit a sustenance fishing report to the Refuge Manager after each fishing trip. Vessel based permittees must also submit completed sustenance fishing reports in accordance with Monument permit conditions. Reports must include:
 - a. Record of all fish catch (including species, weights, lengths, and GPS location of catch), fishing effort, by-catch (including accidental catch of or interactions with seabirds, seals, turtles, sharks, nontarget fish, and other wildlife), and date of activity.
2. All catch data will be summarized quarterly by Midway Refuge Manager and reported annually to Monument managers to determine if catch levels are acceptable and the activity remains compatible.

Native Hawaiian Practices:

The above conditions for sustenance fishing within MASMA do not apply to harvesting Monument resources for consumption within the Monument that are requested and approved in conjunction with a Native Hawaiian Practices permit, or for Native Hawaiian cultural resource activities and practices requested and approved under the Monument Managers' permit.⁶

⁶ In December 2008, U.S. Fish and Wildlife Service managers determined cultural resource activities and practices, including fishing and gathering within MASMA, to be a compatible activity. (See "Compatibility Determination: Cultural Resource Activities and Practices at Midway Atoll National Wildlife Refuge/Battle of Midway National Memorial," Papahānaumokuākea Marine National Monument, executed Dec. 10, 2008).