

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 02-43, adopted February 20, 2002, released March 1, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Channel 270A at Milan.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 030702C]

RIN 0648-AM97

#### Fisheries of West Coast States and in the Western Pacific; Fishery Management Plan

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of a fishery management plan; request for comments.

**SUMMARY:** NMFS announces that the Western Pacific Fishery Management Council (Council) has submitted a Coral Reef Ecosystems Fishery Management Plan for the Western Pacific Region (CREFMP) for Secretarial review under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The CREFMP, an ecosystem-based plan, is intended to conserve and manage the coral reef ecosystems and associated habitats in the U.S. exclusive economic zones (EEZ) around American Samoa, Guam, Hawaii, Commonwealth of the Northern Mariana Islands (CNMI), and the remote U.S. Pacific island areas (PRIAs) in the Pacific Ocean. Its goal is to maintain sustainable coral reef fisheries while protecting stocks, habitat, protected species, and coral reef ecosystems from adverse impacts.

**DATES:** Comments on the CREFMP must be received no later than 5 p.m., Hawaii Standard Time May 17, 2002.

**ADDRESSES:** Written comments should be sent to Dr. Charles Karnella, Administrator, Pacific Islands Area Office, NMFS, 1161 Kapiolani Blvd, Suite 110, Honolulu, HI 96815. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, at (808) 522-8220. The CREFMP is available at the Council's website, [www.wpcouncil.org](http://www.wpcouncil.org).

**SUPPLEMENTARY INFORMATION:** As authorized under the Magnuson-Stevens Act, the Council has developed and submitted for Secretarial review a CREFMP and associated amendments to the fishery management plans for western Pacific bottomfish and seamount groundfish fisheries

(Amendment 7), crustacean fisheries (Amendment 11), precious coral fisheries (Amendment 5,) and pelagic fisheries (Amendment 10). The CREFMP is an ecosystem-based fishery management plan that covers the coral reef ecosystems and adjacent marine habitats in the EEZ around American Samoa, Guam, Hawaii (main and Northwestern Hawaiian Islands or NWHI), CNMI, and the mostly uninhabited PRIAs. The PRIAs consist of Johnston and Palmyra Atolls, Kingman Reef, Jarvis, Howland, Baker and Wake Islands, and Midway Atoll. The vast majority of the total area covered by coral reefs under U.S. jurisdiction is located in the western Pacific region and would be covered by this FMP.

Development of the CREFMP began in 1996. The Council held scoping hearings in June 1999 to obtain public input on a new fishery management plan. On January 10, 2001, NMFS published a Notice of Availability (66 FR 1945) of a draft CREFMP. Public meetings and hearings were held on the draft CREFMP between January 16 and February 5, 2001. At its 110th meeting (June 21, 2001), the Council took final action on the FMP and approved its submission to NMFS for Secretarial review.

The conservation and management measures would: (1) Establish no-take marine protected areas (MPAs) (where the harvest of any management unit species listed under any FMP is prohibited) within Federal waters from 0-50 fathoms (fm) (0-50 91.5 m) (around French Frigate Shoals and Laysan Island (NWHI), Rose Atoll (American Samoa), the north half of Midway Atoll, Jarvis, Howland, and Baker Islands, and Kingman Reef (PRIAs), and from 0-10 fm throughout the remaining NWHI, except around Midway Atoll; (2) establish low-use MPAs (where the harvest of CREFMP management unit species is allowed on a case-by-case basis only after a review and determination that proposed activities would not harm the ecosystem) within Federal waters from 10-50 fm (18.3 m-91.5 m) around all other NWHI, and from 0-50 fm (0-91.5 m) around Palmyra, Johnston, and Wake, and the south half of Midway Atoll; (3) require special permits for the harvesting of any CREFMP management unit species in low-use MPAs, and for the harvesting of Potentially Harvested Coral Reef Taxa throughout the EEZ, except for (a) Incidental harvests by other western Pacific fisheries management plan permit holders and, (b) any harvest within three nautical miles (nm) of the CNMI; (4) restrict the use of fishing gear

types to allow only the following gears for the directed harvest of any CREFMP management unit species throughout the EEZ: Hand harvest, spear, slurp gun, hand/dip net, hoop net for Kona crab, throw net, barrier net for aquarium fish, surround/purse net for targeted schools (e.g., akule, baitfish, weke) with a minimum of bycatch, hook-and-line (including powered and unpowered handlines, rod and reel, and trolling), traps (with conditions), and remote operating vehicles/submersibles; (5) prohibit nighttime spearfishing for CREFMP management unit species with SCUBA/hookah in the EEZ around the NWHI and PRIAs; (6) require that nets be attended at all times, except hoop nets for Kona crabs; (7) require that all traps on board a vessel must be permanently and legibly marked to identify the owner; (8) prohibit the take of live rock or live coral throughout the western Pacific EEZ, except for (a) incidental take by other fishery management plan permit holders, (b) take by indigenous people for traditional or ceremonial use, (c) use by aquaculture operations as seed stock, (d) science and management, and (e) bio-prospecting (note: takes of live coral or live coral under exceptions (b)-(e) require special permits); (9) require that all fishing vessels (including those permitted under fishery management plans for bottomfish/seamount ground fish, crustaceans, precious corals, pelagic) carry insurance as a condition for transiting or operating in all MPAs; (10) establish a no-anchoring zone on Guam's offshore Southern banks by fishing vessels greater than 50 ft (15.24 m) in length; (11) establish Federal reporting requirements (daily reports on catch, effort, discards, etc.) for special permit holders and transhipment permit

holders, as well as notification requirements for vessel operators prior to entering any low-use MPA, or landing CREFMP management unit species harvested from these low-use MPAs; and (12) establish CREFMP framework procedures to facilitate implementation of future regulatory amendments.

The Council initially identified some measures for possible framework action: (a) Designating zones in the U.S. EEZ where mooring buoys will be installed to protect essential fish habitat (EFH) from anchor damage; (b) requiring fishing vessels to carry remote electronic vessel monitoring systems as part of an effective monitoring and enforcement system for State and Federal agencies; (c) requiring permits to fish for Currently Harvested Coral Reef Taxa throughout the EEZ, in the event that regional management is determined to be inadequate to protect the species and/or ecosystem; (d) transferring CREFMP management unit species from the Potentially Harvested Coral Reef Taxa list to the Currently Harvested Coral Reef Taxa list when sufficient information has been gathered; and (e) designating a percentage of low-use MPA waters for sole use by indigenous people.

The CREFMP also contains non-regulatory measures consistent with CREFMP objectives that would be undertaken by the Council outside of the regulatory regime. These include a process and criteria for EFH consultations; formal plan team coordination to identify and to address coral reef ecosystem impacts from existing fishery management plan fisheries; a system to facilitate consistent state and territorial level management; and research and education efforts.

[Note: Executive Order 13178 (December 4, 2000) and Executive Order 13196 (January 18, 2001) designated the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve) in those ocean waters that lie within 50 nm of the NWHI, excluding state waters and waters within the boundaries of the Hawaiian Islands National Wildlife Refuge and the Midway Atoll National Wildlife Refuge. In compliance with Executive Order 13178 and Executive Order 13196, within the Reserve, NOAA is implementing a comprehensive management regime to govern fishing and protect coral reef resources. Because the CREFMP contains management measures governing activity in, among other areas, the same geographic area as the Reserve and several of those measures conflict with the management regime already existing pursuant to the NWHI Reserve established by Executive Order 13178 and Executive Order 13196, the Secretary of Commerce is likely to partially disapprove those parts of the CREFMP that govern fishing in the NWHI.]

Public comments on CREFMP must be received by May 17, 2002, to be considered by NMFS in the decision whether to approve the CREFMP. A proposed rule to implement CREFMP has been submitted for Secretarial review and approval. NMFS expects to publish and request comments on the proposed regulations to implement CREFMP in the near future.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 12, 2002.

**Bruce C. Morehead,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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