



**WESTERN  
PACIFIC  
REGIONAL  
FISHERY  
MANAGEMENT  
COUNCIL**

## **Frequently Asked Questions**

January 25, 2005

Contact: [info@wpcouncil.org](mailto:info@wpcouncil.org)  
or fax 808 522-8285

### **Process for Drafting Fishing Regulations for the Proposed Northwestern Hawaiian Islands National Marine Sanctuary**

*[Note: Underlined documents are posted on the Internet at [www.wpcouncil.org](http://www.wpcouncil.org)]*

#### **What is the federal process for drafting fishing regulations for a National Marine Sanctuary during the designation process?**

Section 304(a)(5) of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1434, states:

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301 (a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

#### **Is the Western Pacific Fishery Management Council preparing an Environmental Impact Statement on the recommended fishing regulations?**

As noted in the article "Fishing Regulations for the Proposed NWHI Sanctuary" (page 2) in the Winter 2004 Pacific Islands Fishery News (the Council's newsletter), the Council

believes that an environmental impact statement (EIS) should be completed prior to its recommending fishing regulations for the proposed Sanctuary. Therefore, the Council in early 2004 requested to the National Marine Sanctuary Program (NMSP), National Ocean Service (NOS) that the drafting of the regulations be a part of the EIS process required under the NMSA, Sec. 304 (a) (2) Sanctuary Designation Documents. The Council argued that, without an EIS, it is being forced to make a decision to recommend fishery regulations without full understanding of the effects of the regulations on the environment and fishery participants. However, the national and Pacific Islands Regional Office of NOAA Fisheries as well as the National Ocean Service (NOS) and the NMSP supported neither the Council's drafting of the fishing regulations as part of the EIS process to be undertaken by NOS or for the Council to conduct an EIS on its own. NOAA Fisheries informed the Council that an EIS was not required for the Council's recommendation.

To ameliorate this situation, the Council decided to undertake a comprehensive analysis of the alternatives for recommended fishing regulations for the proposed sanctuary as well as to conduct a series of public meetings January 24-28, 2005, throughout the State of Hawaii to elicit public comment on these alternatives and others.

#### **Why weren't the public hearings announced in the *Federal Register*?**

The Council did not announce the January 24-28 public meetings in the *Federal Register* because these meetings are not meetings of the full Council (i.e., the Council members) nor are they scoping hearings for an EIS, and there is no *Federal Register* notice requirement under the law. The Council has submitted a notice to the *Federal Register* to publicize its 126<sup>th</sup> Council Meeting, which will include a public hearing. The Council will also provide additional public notice about the 126<sup>th</sup> Council Meeting through a paid display ad and other venues.

#### **How has the Council informed the public about the January 24-28 public hearings to receive public comment on the alternatives for recommended fishing regulations for the proposed NWHI NMS?**

The Council provided public notice of these public meetings through the following:

- Winter 2004 *Pacific Islands Fishery News* article (page 2). Distribution of 6,000 copies at the end of December 2004, and 2<sup>nd</sup> run and distribution of about 1,000 in early January.
- Flyers, 6,000 copies made of which 5,600 copies were distributed by mail in early January to persons, businesses and organizations in Hawaii, including the Hawaii Division of Aquatic Resources information officers throughout Hawaii and the West Hawaii Fishery Council with request that they distribute the flyer to others.
- 30-second public service announcement to run January 19-26 on the following stations, space available: KCCN 100.3 FM, KRTR 96.3 FM, KINE 105.1 FM,

KHPW 104.3 FM and Cox's newly acquired AM stations 630 and 940 on the dial. Car radios on Maui and Big Isle can pick up some of these Oahu stations.

- Press release sent to 20 local media outlets, as well as the Hawaii Congressional officers, chairs of pertinent committees of the Hawaii State Legislature, the Governor's office, Hawaii-based Council members and their designees, NOAA Pacific Islands Fisheries Science Center, NOAA Pacific Islands Regional Office, NOAA General Counsel and Hawaii Department of Land and Natural Resources. [Resulting in "Proposed rules to be outlined for NW Hawaiian Islands Fishery," by Jan TenBruggencate, *Honolulu Advertiser*, 21 January 2005, page B-3.]
- Paid display ads to run Friday, January 19, in the *Maui News* and *Garden Island* newspaper (for meetings on Monday, January 24, and Tuesday, January 25); Sunday, January 23 *Honolulu Advertiser* (for meeting on Oahu, on Wednesday, January 26); and Monday, January 24, in the *West Hawaii Today* and *Hawaii Tribune-Herald* (for meetings in Hilo and Kona on Thursday, January 27, and Friday, January 28). The dates were chosen based on experience that shows that meeting notices more than a week in advance are often ineffective.
- Posting of the press release, flyer and *Draft Summary of a Comprehensive Analysis of Alternatives for Recommended Fishing Regulations for the Proposed Northwestern Hawaiian Islands National Marine Sanctuary* on the Council website.
- *Hawaii Fishing News* article in February issue (at press on January 20).

### **How can I get my comments to the Council if I wasn't able to attend one of the public hearings in January?**

The Council will be accepting written comment until **February 18, 2005**. This deadline was announced in the notices for the January meetings appearing in paid advertisements, news articles, flyers, Internet postings, etc. Written comments can be faxed to 808 522-8285, emailed to [comments.wpcouncil@noaa.gov](mailto:comments.wpcouncil@noaa.gov) or mailed to Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Ste. 1400, Honolulu, HI 96813.

In addition, the public will have an opportunity to testify at a public hearing at the 126<sup>th</sup> Council Meeting, **March 14-17, 2005**, at the Ala Moana Hotel, Honolulu.

### **If I have issues with the process for drafting the fishing regulations for the proposed Sanctuary, who should I contact?**

As noted, the Council believes that the process for designating the fishing regulations for the proposed NWHI NMS is flawed in that it requires the Council to make a decision prior to the drafting of an EIS. Moreover, under the regulations governing the process for implementing section 304(a)(5) of the National Marine Sanctuaries Act, regional fishery

management councils are provided only 120 days to draft fishing regulations, a time period that significantly truncates the Council process, which typically takes nine months to a year or more to address sensitive and complex subjects affecting livelihoods, public use and national security as well as ecosystem concerns.

The Council has made its concerns known to NOAA, NOS and NOAA Fisheries. If you have concerns about the process, please contact the following persons at the fax numbers provided:

- Vice Admiral Lautenbacher, NOAA Under Secretary, 202 408-9674
- Jordan St. John, Director, NOAA Public Affairs, 202 482-3154
- Michael Weiss, NOS National Marine Sanctuary Program, 301 713-0404
- Rebecca Lent, NMFS Deputy Director for regulatory affairs, 301 713-1940
- Bill Robinson, NOAA Fisheries, Pacific Islands Regional Administrator, 808 973-2941
- Aulani Wilhelm, NWHI Coral Reef Ecosystem Reserve, 808 397-2662