Update on Precious Corals Essential Fish Habitat Amendment

181st Council Meeting
March 9-12, 2020
Lanikea YWCA, Honolulu, Hawaii

Introduction and Background
In June 2019 at its 178th meeting in Honolulu, the Council took final action to recommend a revision to the Essential Fish Habitat (EFH) for Precious Corals in the Hawaii Archipelago Fishery Ecosystem Plan (FEP). The proposed amendment would designate specific areas as EFH under the plan, providing refinement to the existing EFH designations.

Existing regulations within the FEP designates permit areas as either “established,” “conditional,” “refugia,” or “exploratory” based on the amount of information available for those areas. The only Established Beds for precious coral are the Makapuu Bed and the Auau Channel Bed. The new areas being proposed under the EFH revisions are part of the Exploratory Permit Area, which has a 1,000 kg harvest limit. After review with NMFS staff and NOAA General Counsel, there was discussion regarding the location of these new precious coral EFH areas.

NOAA GC was concerned that if Exploratory Area permits issued, along with the harvest limit, how could NMFS prevent over harvesting within these new precious coral EFH areas, given that the limit is 1,000 kg (for any species within the Exploratory Area). The use of the Exploratory Area permit would not allow NMFS to prevent overharvesting of the new coral beds and the action would be inconsistent with the MSA. The Precious Coral Working Group that provided the information to the Council identified the new Precious Coral EFH areas as Precious Coral beds, supporting the need for regulations to designate these areas as “Established Beds” under the FEP.

Issues of Concern
The purpose of this document is to provide the Council an update on the EFH amendment and a background on what may be holding up implementation of the Council action. The Council needs to consider whether the Precious Coral EFH areas
warrants the need to designate these new areas as Conditional or Established beds based on this new information.

**Potential Options for Council Direction**

1. **Use existing regulations to manage the revised coral EFH through the use of the exploratory permit.**

   Utilizing the existing regulatory framework for designation of EFH may require additional NEPA coverage. Currently the document would be excluded from NEPA through a Categorical Exclusion as was used for the revision to the Bottomfish fishery EFH. However, the new areas may not have been evaluated in the NEPA for the existing regulatory framework. The development of an Environmental Assessment would need to provide how overfishing is prevented, given that the 1,000 kg quota on the exploratory area may focused in these new areas that may not even have 1,000 kg of harvestable precious coral.

2. **Develop regulations and identify beds with MSY, etc.**

   Another option would be to designate the new EFH areas as Conditional or Established Beds under the Hawaii FEP. In order to do this, there will need to be a reassessment of the Makapuu Bed, as the formulas for determining quotas for the bed are based on using Makapuu as a proxy. Once that bed is reassessed, the Council would then need to determine the quotas for each of the new areas, which would then be included as Annual Catch Limits under the FEP as well.

3. **No Action**

   The no action option would be to do nothing and hang onto the current EFH amendment.