

# CHAPTER 4

## THE PUBLIC SCOPING PROCESS AND POTENTIALLY SIGNIFICANT ENVIRONMENTAL, SOCIAL AND ECONOMIC ISSUES

### 4.1 Development of the EIS

Federal regulations promulgated by the Council on Environmental Quality define the EIS preparation process and their contents (40 CFR 1501-1502). First, the lead agency must publish a Notice of Intent (NOI) in the Federal Register. Next, the lead agency begins scoping. Scoping is “an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action” (40 CFR 1501.7). It can also be used to identify new alternatives that will be considered in the EIS. Scoping is generally accomplished through written communications, statements at public meetings, or formal and informal consultation with agency officials, interested individuals, organizations, and groups.

The EIS is prepared in two stages. A draft EIS (DEIS) is prepared, based on the scope of issues identified during the scoping process. The DEIS should to the fullest extent possible conform to the required content for an EIS, as summarized in federal regulations. Therefore, it must evaluate the important social, economic, and environmental impacts that may result from the proposed action and the alternatives. It focuses on cause and effect relationships, providing sufficient evidence and analysis to determine the magnitude of impacts and ways to minimize harm to the environment. The DEIS should include a full and fair discussion of significant environmental impacts and inform decision-makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts, or enhance the quality of the human environment.

Upon publication of the DEIS, the lead agency must publish a notice of availability (NOA) in the Federal Register summarizing the EIS and stating how a copy may be obtained. The DEIS must also be filed with the EPA and is typically distributed to agencies, organizations and other interested parties. (The EPA publishes a separate NOA on receipt of the DEIS.) A minimum 45-day public comment period then ensues, and a public hearing is conducted to provide an opportunity for interested parties to provide oral comments on the DEIS. Verbal and written comments received are considered and the DEIS is revised as appropriate. NMFS is required to specifically address each substantive comment received and include copies of the comments in the final EIS (FEIS). Once the FEIS is completed, it is published and available for a minimum 30-day public comment period. Public comments received on the FEIS are collected and considered by the lead agency prior to making a final decision.

Following the completion and submission of the FEIS and the public comment period, a Record of Decision (ROD) is prepared by the lead agency. The ROD: (1) states what the decision was in regard to the proposed action; (2) identifies alternatives considered in reaching the decision; and,

(3) states whether all practicable means have been employed to avoid or minimize the environmental harm from the alternative selected and if not, why not.

## 4.2 EIS Public Scoping Process

The scoping process began with a review of existing documentation and reports of advisory body meetings held during the FMP preparation process. The process included opportunities for the public to comment on the proposed actions and their environmental concerns stemming from these actions. The following public meetings were held:

Public Scoping Hearing - Honolulu (Council meeting)	16 June 1999
Public Scoping Hearing - Honolulu (Plan Team meeting)	15 July 1999
Public Scoping Hearing - Guam	28 July 1999
Public Scoping Hearing - CNMI	29 July 1999
Public Scoping Hearing - Honolulu (Ecosystem and Habitat Advisory Panel (EHAP) meeting)	5 August 1999
Public Scoping Hearing - American Samoa	19 August 1999
Public Scoping Hearing - Kona, Hawaii	31 August 1999
Public Hearing - Honolulu (Plan Team and EHAP meeting)	17 September 1999
Public Scoping Hearing - Honolulu (SSC meeting)	12 October 1999
Public Scoping Hearing - Honolulu (Council meeting)	18 October 1999
Public Meeting - American Samoa	20 December 1999
Public Meeting - Guam	28 December 1999
Public Meeting - Kona, Hawaii	28 December 1999
Public Meeting - Commonwealth of the Northern Mariana Islands	29 December 1999
Public Meeting - Hilo, Hawaii	29 December 1999
Public Meeting - Kahului, Maui	4 January 2000
Public Meeting - Haleiwa, Oahu	5 January 2000
Public Meeting - Lihue, Kauai	6 January 2000
Public Meeting - Waianae, Oahu	10 January 2000
Public Meeting - Lanai City, Lanai	11 January 2000
Public Meeting - Molokai	12 January 2000
Public Meeting - Honolulu	13 January 2000
Public Meeting - Honolulu (Hawaii Plan Team and Advisory Panel meeting)	26-28 January 2000
Public Meeting - Honolulu (Council meeting)	28 Feb - Mar 2 2000
Public Meeting - Honolulu (Plan Team meeting)	25 April 2000
Public Meeting - Honolulu (Joint Plan Team and Advisory Panel meeting)	26 April 2000
Public Meeting - Honolulu (SSC meeting)	16 - 18 May 2000
Public Meeting - Maui (Council meeting)	14 - 16 June 2000
Public Meeting - Honolulu (Council meeting)	10 - 12 July
Public Meeting - Honolulu (SSC meeting)	12 October 2000
Public Meeting - Honolulu (Council meeting)	1 December 2000

Public Scoping Hearing - Agana, Guam	16 January 2001
Public Scoping Hearing - Saipan, CNMI	17 January 2001
Public Scoping Hearing - Kahului, Maui	19 January 2001
Public Scoping Hearing - Kaunakakai, Molokai	22 January 2001
Public Scoping Hearing - Kona, Hawaii	23 January 2001
Public Scoping Hearing - Hilo, Hawaii	24 January 2001
Public Scoping Hearing - Lihue, Kauai	25 January 2001
Public Scoping Hearing - Lanai City, Lanai	26 January 2001
Public Scoping Hearing - Honolulu, Oahu	29 January 2001
Public Meeting - Honolulu (SSC Meeting)	1 February 2001
Public Scoping Hearing - Fagatogo, American Samoa	5 February 2001
Public Meeting - Honolulu (Council meeting)	15 February 2001
Public Meeting - Honolulu (Joint Coral Reef Ecosystem Plan Team and Ecosystem and Habitat Advisory Panel meeting)	8 March 2001
Public Meeting - Honolulu (Council meeting)	13 March 2001
Public Meeting - Honolulu (Coral Reef Ecosystem Plan Team meeting)	11 - 12 April 2001
Public Meeting - Honolulu (SSC meeting)	17 May 2001
Public Meeting - Honolulu (Council meeting)	21 June 2001

The scoping process concluded with a review of issues arising from public meetings and documentation review to determine which were potentially significant.

#### **4.2.1 Issues Raised During Scoping and Addressed in the FMP and EIS**

The comments made during scoping may be consolidated into several themes, which are presented here. Generally, the management implications stemming from these issues are addressed in the FMP, while the EIS analyzes impacts. All of the comments raised during scoping are listed in Chapter 9, along with responses addressing each comment.

1. Inter-jurisdictional boundaries and consistency in management: Many of the existing problems and threats to coral reef resources occur in territorial waters, but the CRE-FMP would regulate 3-200 nm from shore in most areas. Inconsistent management resulting from much stricter regulations in the EEZ compared to territorial waters could increase pressures on reefs under local jurisdiction. Jurisdiction is particularly troublesome in the CNMI, where both local and federal governments claim authority over the EEZ.
2. Diverse uses of and impacts on coral reef resources: The FMP can only regulate fisheries, but numerous other ecological, aesthetic, economic, and cultural benefits of coral reefs should be considered, as well as the impacts of non-fisheries uses.
3. Coral Reef Ecosystem, Bottomfish and Crustacean FMPs are interdependent: Species managed on the sustainable yield principle under other FMPs (i.e., Bottomfish and Seamount Groundfish; Crustaceans) are part of coral reef ecosystems but they are explicitly excluded from the CRE-FMP. The FMPs are interdependent, yet there is no

meaningful connection between the Coral Reef, Crustacean and Bottomfish Plan Teams. How will plan teams incorporate each other's information and how will differing positions be resolved?

4. The process of developing the FMP may stimulate the types of unregulated activities that it seeks to prevent: Leaving coral reef resources exposed for a year before the FMP is in place would violate the precautionary principal. (*Note: A moratorium alternative was examined, as a possible action separate from the FMP process and as a measure within the draft FMP.*)
5. Small-scale, sustainable domestic Fisheries in the U.S. Pacific Islands will be penalized for the destructive, illegal and non-sustainable harvesting practices employed by foreign and large-scale fisheries.
6. Designation of and jurisdiction over marine protected areas (MPAs): MPAs are considered essential for coral reef ecosystem management, but there is resistance to federal designation in many island areas. Fishermen in Hawaii have already been excluded from many areas. It is premature to designate MPAs in the CNMI because of conflicting jurisdictional claims. Closure of EEZ banks off American Samoa and Guam is viewed as penalizing domestic fishermen. Existing National Wildlife Refuges in the NWHI and some of the remote U.S. island possessions already function as *de facto* MPAs, which could be reinforced by the FMP without changing jurisdictional authority over the areas. The total area of MPAs should be a large enough percentage of the total area of EEZ reef to protect overall biodiversity and ecosystem structure and function.
7. Stony coral/live rock harvest restrictions: Some commentators see the need for an almost complete prohibition on take to conserve a non-renewable resource and to conform to national and international initiatives. Others describe scenarios in which harvest would not harm the resource (e.g., in areas to be filled or dredged, collection of broken pieces after typhoons, collection of fragments of faster-growing species). Wild stock will play an integral role in developing a coral and live rock aquaculture industry.
8. Exploratory fishing permit period and conditions: A one-year permit is insufficient to allow for mobilization of a new fishing enterprise. Permit conditions and reporting requirements should be more reasonable. One commentator proposed a cap on cumulative harvest under the permit system and cautioned that the cumulative effects of subsistence fishing (exempted from permits) could be substantial.
9. Performance standards for controlling fishing gear, and adding or removing gear types from a list of those allowed for use: According to one commentator, the problem with a prohibited gear list is that it cannot anticipate new kinds of gear. An allowed gear list, on the other hand, does not create incentives for innovative solutions. Another commentator suggested: (1) adding manned submersibles and remotely operated vehicles to allowed gear types, and (2) a case-by-case review of the use of intoxicating substances through the

permitting process because some may be demonstrated to be harmless (e.g., clove oil). Consider allowing more selective methods of gill netting in which fish are herded rather than gilled.

10. Impacts on threatened or endangered species degradation of wilderness resources, especially in the NWHI and PRIAs: The Hawaiian Islands National Wildlife Refuge provides critical habitat for a variety of protected species, including the Hawaiian monk seal, migratory seabirds, and sea turtles. It is also the largest tract of relatively undisturbed coral reef in the US. The cumulative effect of the No-action Alternative (1), or actions stemming from the FMP, might contribute to loss of critical habitat, increased interactions with fishing gear, marine debris, and undesirable changes in this ecosystem, including loss of rare species.
11. Degradation of water quality: Good water quality is crucial for coral reef habitats. The cumulative effect of the No Action alternative, or actions stemming from failure to implement the FMP, might contribute to increased sedimentation, turbidity, nutrient loading.
12. Displacement of traditional fisheries: Harvesting of coral reef resources is a traditional and valued part of Pacific Islanders' heritage. The cumulative effect of actions taken under the FMP might contribute to displacement of traditional fisheries.
13. Reduced ocean access: The FMP proposes designation of marine protected areas in the EEZ. The cumulative effect of this action may contribute to reduced fishing access for the general public.
14. Restrictions on harvesting underutilized marine resources: The FMP proposes to regulate fishing for coral reef resources in the EEZ. This action may restrict fishing for resources that are underutilized because they are below Optimum Yield.
15. Inequity for indigenous fishermen: Pacific Islanders are under-represented in commercial fisheries. The CRE-FMP proposes to limit fishing for coral reef resources in the EEZ and its cumulative effect may provide further disincentives to indigenous-owned fishing enterprises.

### **4.3 Screening Process to Identify Potentially Significant Issues**

This section identifies the potentially significant issues from a full array of environmental impact categories. Issues are considered potentially significant if they arose during public scoping or if the comparison of FMP management alternatives predicted adverse effects for any category of the impacts considered. Table 4.1 summarizes the screening process. Any issue in the table that is definitely significant (“yes”) or that “may be” significant due to implementation of the FMP is analyzed in Chapter 5 to define baseline criteria for significance and to assess the environmental consequences of the alternative control measures considered in the FMP. The screening reveals that the following topics are potentially significant issues:

#### **Biological/Ecological Resources**

1. Target fishery resources
2. Non-target fishery resources
3. Protected species and wilderness resources
4. Corals, live rock, essential fish habitat, reef ecosystems and biodiversity
5. Exotic species

#### **Physical Resources**

6. Coastal water quality

#### **Social and Economic Factors**

7. Cultural resources
8. Native cultures
9. Sustained participation by fishing communities
10. Fairness and equity to fishermen
11. Search for promising new medicines
12. Non-consumptive values and uses
13. Administration and enforcement of regulations

During development of the EIS it became evident that coastal water quality, which rated a “maybe” in the scoping process, was not a significant issue in federal waters. Almost all water quality problems derive from land-based sources. Coral reef resources managed under the FMP are in federal waters. Thus, they are generally more than three nautical miles from shore and away from inhabited areas, where coastal water quality is most severely degraded. In some remote areas federal waters do extend to the shoreline, and land-based sources of pollution are

minimal or non-existent in these areas. In addition, the scope of management measures that could be included in an FMP cannot directly address land-based pollution sources originating from non-fishing activities. Although water quality problems derived from land-based sources do not appear to be a problem for coral reef resources in federal waters, all waters are part of the ecosystem and impacts in one area can affect another. Therefore, there is a need to manage the coral reef resources as an entire ecosystem, and the EFH-related consultative process will allow NMFS and the Council to make recommendations on land-based actions that may affect EFH.

The introduction of exotic species is considered a significant issue. However, rather than being considered in a separate section in Chapter 5, impacts are considered under other biological/resource categories.

**Table 4.1: Screening process to identify potentially significant issues.**

General Topic	Potential Issue	Is Issue Significant Due to Implementation of FMP?	Is Issue Significant When Implementation of FMP is Considered With Cumulative Effects?
<b>I. BIOLOGICAL/ECOLOGICAL RESOURCES</b>			
Target resources	Will implementation of FMP affect the populations of target resources? Yes.	<b>Yes.</b> Coral reef resources already harvested in EEZ but not regulated under other FMPs would be managed to prevent overfishing. New and poorly understood resources not previously harvested would be managed with caution until sustainable yield can be assessed. Reservoirs of spawning biomass would be protected within no-take marine protected areas (MPAs).	<b>Yes.</b> Could add to (or reduce) spawning stocks of heavily fished species, provide "insurance" against (or increase risk of ) recruitment failure. Could control (or not control) harvest of new, poorly understood resources at safe levels until sustainable yields are better known. Redirection of fishing effort to areas already heavily exploited could cause local overfishing.
Non-target resources	Will implementation of FMP affect the populations of non-target resources? Yes.	<b>Yes.</b> Coral reef resources already harvested incidentally in EEZ but not regulated under other FMPs would be managed to minimize bycatch. New and poorly understood resources not previously harvested would be managed with caution until level of bycatch can be assessed. Reservoirs of spawning biomass would be protected within no-take marine protected areas (MPAs).	<b>Yes.</b> Could add to (or reduce) spawning stocks of non-target species, provide "insurance" against (or increase risk of ) recruitment failure, control (or not control) incidental harvest of new, poorly understood resources at safe levels until sustainable yields are better known.
Protected species and areas (e.g., wildlife refuges, wilderness resources)	Will implementation of FMP affect the populations of protected species or other wilderness resources? Yes, in NWHI, remote islands.	<b>Yes.</b> Could affect interactions with Hawaiian monk seal, green sea turtle populations, habitats. Controls proposed by FMP could extend protected areas, screen out potentially damaging fishing activities, reduce risk of vessel groundings, scrutinize potential impacts of non-fishing activities on EFH.	<b>Yes.</b> Could reduce (or add to) other pressures on Hawaiian monk seal, green turtle populations, habitats and other wilderness resources.



General Topic	Potential Issue	Is Issue Significant Due to Implementation of FMP?	Is Issue Significant When Implementation of FMP is Considered With Cumulative Effects?
Corals, live rock, essential fish habitat (EFH), reef ecosystem, biodiversity	Will implementation of FMP affect corals, EFH, reef ecosystems, biodiversity? Yes.	<b>Yes.</b> A major purpose of FMP is to protect corals, reef ecosystems, biodiversity and EFH from degradation. Controls proposed by FMP could extend protected areas, screen out potentially damaging fishing activities, reduce risk of vessel groundings, scrutinize potential impacts of non-fishing activities on EFH.	<b>Yes.</b> Could reduce (or add to) local human stressors on coral reefs, ecosystems, biodiversity, EFH. Little effect on global stressors, however.
Exotic species, disease	Will implementation of FMP affect introduction of any new/noxious species or diseases? Yes.	<b>Yes.</b> Controls proposed by FMP could extend protected areas, screen out potentially damaging fishing activities, reduce risk of vessel groundings, scrutinize potential impacts of non-fishing activities on EFH. Inter-agency and inter-regional management to avoid problem (e.g., through marine debris) could improve.	<b>Yes.</b> Could affect sources of marine debris from outside U.S. Pacific Islands.
<b>II. PHYSICAL RESOURCES</b>			
Air quality	Will implementation of FMP affect air quality. No.	No. No change from existing conditions.	No. No change from existing conditions.
Climate	Will implementation of FMP affect the climate. No.	No. No change from existing conditions.	No. No change from existing trends (globally, marine environment is becoming increasingly hostile to coral).
Geology, landscapes	Will implementation of FMP increase reef or coastal erosion or alter unique landscapes or oceanscapes? No.	No. No change from existing conditions.	No. No change from existing conditions.
Water quality	Will implementation of FMP affect coastal water quality? Maybe.	<b>Maybe.</b> Focus of regulation through FMP is the EEZ, not coastal waters. EFH consultation would encourage better scrutiny of potential impacts of non-fishing activities.	<b>Maybe.</b> EFH consultation could address sedimentation, nutrient loading impacts from non-fishing activities in inshore areas not directly regulated through FMP.
Flooding	Will implementation of FMP increase risk of flooding in coastal areas? No.	No. No change from existing conditions.	No. No change from existing conditions (globally, reef erosion may be reducing shore protection against storm waves).

General Topic	Potential Issue	Is Issue Significant Due to Implementation of FMP?	Is Issue Significant When Implementation of FMP is Considered With Cumulative Effects?
Groundwater	Will implementation of FMP affect groundwater quality? No.	No. No change from existing conditions.	No. No change from existing conditions.
Noise	Will implementation of FMP increase noise levels? No.	No. No change from existing conditions.	No. No change from existing conditions.
<b>III. CULTURAL RESOURCES</b>			
Archaeological features, historic places, National Landmarks	Will implementation of FMP affect archaeological/historic sites? No.	No. No change from existing conditions.	No. No change from existing conditions.
Native cultures	Will implementation of FMP affect native cultures? Yes.	<b>Yes.</b> No-take MPAs are proposed for some submerged lands for which the claims of indigenous people are not yet resolved. Gear controls proposed by FMP could displace traditional fishing methods.	<b>Yes.</b> New restrictions on indigenous people could add to a series of previous displacements.
<b>IV. HAZARDS</b>			
Navigation and vessel safety	Will implementation of FMP interfere with vessel navigation and safe anchorage? Maybe in no anchoring zones.	No. Maritime law allows vessel anchoring in emergencies, even in no-anchoring zones proposed by FMP.	No. Minimal change from existing conditions.
<b>V. INFRASTRUCTURE</b>			
Harbors	Will implementation of FMP create demand for new harbor facilities? No.	No. No change from existing conditions.	No. No change from existing conditions.
Underwater cables, construction	Will implementation of FMP interfere with existing or proposed underwater communication cables? No.	No. No change from existing conditions.	No. No change from existing conditions.

General Topic	Potential Issue	Is Issue Significant Due to Implementation of FMP?	Is Issue Significant When Implementation of FMP is Considered With Cumulative Effects?
<b>VI. SOCIAL AND ECONOMIC FACTORS</b>			
Land use	Will implementation of FMP affect present land use? No.	No. No change from existing conditions.	No. No change from existing conditions.
Sustained participation by fishing communities	Will implementation of FMP interfere with sustained participation by fishing communities? Yes.	<b>Yes.</b> Established fisheries could be displaced. MPAs that could totally or partially restrict access for fishing are proposed by FMP. Permits and other FMP controls could discourage harvesting of underutilized marine resources and new entry.	<b>Yes.</b> Could add new restrictions to previous closures in EEZ and nearshore areas. Permits and other FMP controls could add to existing restrictions on reef-related fisheries. Relocation to areas already heavily fished could cause a decline in catch rates.
Fairness and equity to fishermen (including environmental justice E.O. 12898)	Will implementation of FMP have disproportionate impacts on low-income or indigenous populations? Yes.	<b>Yes.</b> Technically difficult and costly permit application and reporting requirements place unreasonable burdens on indigenous and other small-scale, poorly financed participants.	<b>Yes.</b> New restrictions on indigenous and other small-scale participants could add to a series of previous displacements.
Search for promising medicines	Will implementation of FMP interfere with the search for promising medicines? Yes.	<b>Yes</b> No-take MPAs are proposed by FMP.	<b>Yes</b> Would add to no-take coral reef areas worldwide.
Non-consumptive marine recreation	Will implementation of FMP affect non-consumptive marine recreation? Yes.	<b>Yes.</b> Controls on live coral take and MPAs proposed by FMP could improve (or degrade) non-consumptive recreational diving and underwater scenic opportunities.	<b>Yes.</b> Fishing controls proposed by FMP could improve (or degrade) environmental quality for non-fishery uses.

#### 4.4 Baseline Evaluation Criteria for Potential Impacts

Criteria for evaluating each of the 12 subject areas identified during scoping as possibly involving significant impacts are listed below in Table 4.2. The table also shows which section in Chapter 5 addresses the topic area. (During EIS development some of the topic areas were further subdivided, or in one case consolidated, and the section titles have been changed slightly to better reflect the nature of the analysis.)

**Table 4.2: Evaluation criteria for potential impacts.**

<b>Topic Area</b>	<b>Potentially Significant If:</b>	<b>Analyzed in Section:</b>
<b>Biological/Ecological Resources</b>		
1. Target resources	Overfishing.	5.2
2. Non-target resources	Large bycatch.	5.3
3. Protected species, wilderness resources	Loss of rare species, critical habitat; increased interactions with fishing gear, vessel operations, marine debris.	5.4, 5.5
4. Corals, live rock, essential fish habitat (EFH), reef ecosystem and biodiversity	Undesirable change in ecosystem structure or function, loss of rare species, live coral habitat, other EFH degradation.	5.6, 5.7
<b>Cultural Resources</b>		
5. Native cultures	Displacement of indigenous claims to submerged lands. Loss of existing/potential opportunities to collect coral reef resources for customary and traditional indigenous uses.	5.8
<b>Social and Economic Factors</b>		
6. Sustained participation by fishing communities	Displacement/relocation of established fisheries, with possible decline in catch rates. Fishing is restricted for resources that are not at or above sustainable yield.	5.9
7. Fairness and equity to fishermen	Unreasonable technical/cost burdens on indigenous and other small-scale, poorly financed fishermen for entry into fishery.	5.9
8. Search for promising new medicines	Loss of opportunity to make small collections for lab screening and future synthesis.	5.10
9. Non-consumptive uses of coral reefs	Loss of environmental quality.	5.11
10. Administration and enforcement of regulations	Multiple new and complex management responsibilities.	5.12