



Draft Management Report

- NOAA Fisheries' ongoing assessment to determine whether to list 82 Caribbean and Indo-Pacific coral species under the Endangered Species Act (ESA) is the most complex listing process NOAA has ever undertaken.
- We are taking additional time to publicly review the information gathered in our two reports to ensure that our findings and future decisions are based on the best available science.
- During this time, NOAA Fisheries will develop and execute a robust engagement process – and then use this additional input to develop our 12-month finding.
- All public submission of additional information or comments should be submitted by July 31, 2102. Information on how to submit information is available on the web at http://www.nmfs.noaa.gov/stories/2012/04/4_13_12corals_petition.html.

Overview of the Draft Management Report

The draft report was developed by staff within NOAA Fisheries Pacific Regional Office. The report evaluates (1) existing regulatory mechanisms to address the threats to the 82 coral species and (2) conservation efforts undertaken by both governmental and non-governmental organizations that may eliminate or reduce threats or otherwise improve the status of the 82 coral species. Existing regulatory mechanisms evaluated in the draft Management Report include international treaties, laws, decrees, executive orders, rules and/or regulations enacted and being implemented by some governing body or official, whether they are international organizations, national governments, state and local authorities, heads-of-state, or other so empowered officials. Conservation efforts evaluated in the draft report include actions, activities, and programs undertaken by both governmental and non-governmental organizations.

Normally, a 'Management Report' would be part of the larger Status Review. In the instance of corals, however, the Biological Review Team did not feel it had the expertise to compile and review regulatory mechanisms. Therefore, others experts within NOAA Fisheries prepared this draft Management Report as a separate document. Collectively these two reports constitute the best available scientific and commercial information that we have compiled to date.

Please note that releasing these documents is not a part of the normal rulemaking process – it is only an engagement process that allows us to be transparent and open in our decision making. Should NOAA Fisheries determine that a listing is warranted, it will publish a proposed rule in December 2012 for additional public comment.

Management Report for 82 Corals Status Review under the Endangered Species Act:

Existing Regulatory Mechanisms

(per Endangered Species Act § 4(a)(1)(D), 16 U.S.C. § 1533(a)(1)(D))

and Conservation Efforts

(per Endangered Species Act § 4(b)(1)(A), 16 U.S.C. § 1533(b)(1)(A))

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Coral bleaching, Guam

By David Burdick, NOAA Photo Library

**Pacific Islands Regional Office
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Commerce**

1. Introduction

On October 20, 2009, the National Marine Fisheries Service (NMFS) received a petition from the Center for Biological Diversity (CBD) to list 83 species of coral as either threatened or endangered under the Endangered Species Act (ESA). In response, NMFS issued a 90-day finding (75 FR 6616, February 10, 2010), which determined that the petition contained substantial information indicating listing may be warranted for all of the petitioned species except *Oculina varicosa* (see the 90-day finding for information included in the petition). Thus, NMFS initiated a status review of the remaining 82 species of corals; *O. varicosa* will not be considered further. NMFS convened a Coral Biological Review Team (BRT) to assess the biological status of each of the 82 corals, and threats to these species with regard to the factors listed under section 4(a)(1) of the ESA. The BRT's Status Review Report (hereafter "BRT Report", cited as Brainard *et al.* 2011) evaluated the status of these species and the risk of extinction faced by each using the best available scientific and commercial data and analyses, including the best available climate change and ocean acidification scenarios. In addition, the Pacific Islands Regional Office (PIRO) staff developed this report on management actions relevant to the species across their their range, including existing regulatory mechanisms and conservation efforts (hereafter "Management Report"). The BRT Report and this Management Report together constitute the comprehensive status review for the 82 coral species.

The purposes of . . . [the ESA] are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of . . . [Section 2 of the ESA, 16 U.S.C. § 1531(a)], 16 U.S.C. § 1531(b). The U.S. Fish and Wildlife Service (USFWS) and NMFS share responsibility for administering the ESA; NMFS is responsible for determining whether marine, estuarine or anadromous species, subspecies, or distinct population segments are threatened or endangered under the ESA. : *"The term 'species' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature."* 16 U.S.C. § 1532(16). *"The term 'endangered species' means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man."* 16 U.S.C. § 1532(6). *"The term 'threatened species' means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.* 16 U.S.C. § 1532(20).

The process for determining whether a species should be listed as threatened or endangered is based upon "the best scientific and commercial data available . . ." 16 U.S.C. § 1533(b)(1)(A). Section 4(a)(1) of the ESA states that:

[t]he Secretary shall . . . determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) the present or threatened destruction, modification, or curtailment of its habitat or range;

(B) overutilization for commercial, recreational, scientific, or educational purposes;

(C) disease or predation;

(D) the inadequacy of existing regulatory mechanisms; or

(E) other natural or manmade factors affecting its continued existence.

16 U.S.C. § 1533(a)(1). In addition, Section 4(b)(1)(A) of the ESA requires NMFS to take into account conservation efforts being made to protect a species that has been petitioned for listing. § 1533(b)(1)(A). Factors A, B, C, and E above were considered in the BRT Report (Brainard *et al.* 2011). Factor D, and conservation efforts were not considered by the BRT in its report, because a determination whether a species warrants listing under the ESA is the ultimate determination that involves applying the management judgment of the agency (including legal and policy dimensions) to the best available science. Thus, these factors are identified and summarized in this Management Report. Therefore, this report covers existing regulatory mechanisms (factor D) and conservation efforts (section 4(b)(1)(A)).

Existing regulatory mechanisms summarized in this Management Report include international treaties, laws, decrees, executive orders, rules and/or regulations enacted and being implemented by some governing body or official, whether they are international organizations, national governments, state and local authorities, heads-of-state, or other so empowered official, affecting the status of the 82 coral species. Conservation efforts summarized in this report include actions, activities, and programs undertaken by both governmental and non-governmental organizations (“NGOs,” e.g., conservation groups, private companies, academia, etc.) that may eliminate or reduce threats or otherwise improve the status of the 82 coral species identified by the BRT Report.

The first purpose of this report is to identify existing regulatory mechanisms as per ESA Section 4(a)(1)(D) that are or may be affecting the threats contributing to extinction risk for the 82 coral species, to determine whether regulatory mechanisms themselves are inadequate such that they are contributing to the species’ endangerment. This is accomplished by: (1) identification of existing regulatory mechanisms directly or indirectly addressing the most important threats to the 82 species in general; and (2) identification of existing regulatory mechanisms directly or indirectly addressing the local threats to the 82 species in general. The second purpose of this report is to identify conservation efforts with regard to the status of the 82 coral species as per ESA Section 4(b).