

EPA is proposing to conditionally approve the air quality modeling submitted to demonstrate attainment of the 1997 PM<sub>2.5</sub> NAAQS. In order for EPA to fully approve the modeling analysis, ACHD must revise the modeling to ensure that the modeling results in the demonstration continue to be valid, considering the reductions from CSAPR that will replace CAIR in 2012, and PADEP must submit the revised modeling as a SIP revision to EPA within one year from the final conditional approval, after which EPA will conduct rulemaking to fully approve the revision. EPA is also proposing to approve the addition of the definition of PM<sub>2.5</sub>, the 1997 annual PM<sub>2.5</sub> standard of 15 µg/m<sup>3</sup>, the 24-hour standard of 35 µg/m<sup>3</sup>, and the related references into the ACHD regulations. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval of the Liberty-Clairton 1997 PM<sub>2.5</sub> attainment demonstration SIP and proposed conditional approval of the modeling portion of the attainment demonstration does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: October 31, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 226

**RIN 0648-BA81**

#### Endangered and Threatened Wildlife and Plants; Proposed Rulemaking To Revise Critical Habitat for Hawaiian Monk Seals

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

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We, National Marine Fisheries Service (NMFS), published a proposed rule in the **Federal Register** on June 2, 2011, proposing to revise critical habitat for the Hawaiian monk seal

under the Endangered Species Act and requesting information related to the proposed action. As part of that proposal, we provided a 90-day comment period, ending August 31, 2011. We have received requests for an extension of the public comment period. In response to these requests, NMFS is reopening the public comment period for the proposed action.

**DATES:** The comment period for the proposed rule published June 2, 2011, at 76 FR 32026, is reopened. Written comments on this proposed rule must be received by January 6, 2012. Comments received between the close of the first comment period on August 31, 2011, and the reopening of the comment period November 7, 2011 will be considered timely received.

**ADDRESSES:** You may submit written comments on the proposed rule identified by 0648-BA81 by any one of the following methods:

- **Electronic Submissions:** Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail or hand-delivery:** Submit written comments to Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, Attn.: Hawaiian monk seal proposed critical habitat.

**Instructions:** Comments must be submitted to one of these two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. We will accept anonymous comments (enter "NA" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. The petition, 90-day finding, 12-month finding, draft biological report, draft economic analysis report, draft ESA 4(b)(2) report, and other reference materials regarding this determination can be downloaded via the NMFS Pacific Islands Regional Office Web site: <http://www.fpir.noaa.gov/PRD/>

[prd\\_critical\\_habitat.html](#) or by submitting a request to the Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, Attn: Hawaiian monk seal proposed critical habitat. Background documents on the biology of the Hawaiian monk seal, the July 2, 2008, petition requesting revision of its critical habitat, and documents explaining the critical habitat designation process, can be downloaded from [http://www.fpir.noaa.gov/PRD/prd\\_critical\\_habitat.html](http://www.fpir.noaa.gov/PRD/prd_critical_habitat.html), or requested by phone or email from the NMFS staff in Honolulu (area code 808) listed under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Jean Higgins, NMFS, Pacific Islands Regional Office, (808) 944-2157; Lance Smith, NMFS, Pacific Islands Regional Office, (808) 944-2258; or Marta Nammack, NMFS, Office of Protected Resources (301) 427-8469.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 2, 2011, we published a proposed rule to revise the current critical habitat for the Hawaiian monk seal (*Monachus schauinslandi*) by extending the current designation in the Northwestern Hawaiian Islands (NWHI) out to the 500-meter (m) depth contour and including Sand Island at Midway Islands; and by designating six new areas in the main Hawaiian Islands (MHI), pursuant to section 4 of the Endangered Species Act (ESA). The proposed rule allowed for a 90-day public comment period, which ended on August 31, 2011.

NMFS subsequently received requests to extend the public comment period. These requests identified that additional time was needed to more fully consider the proposed rulemaking and provide comments on the proposed designation. In response to these requests, we are reopening the public comment period until January 6, 2012, to receive additional local and public information and comments that may be relevant to any aspect of the proposal. We will consider additional information received prior to making a final decision on critical habitat designation.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: November 2, 2011.

**James H. Lecky,**

Director, Office of Protected Resources,  
National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 101217620-1654-02]

RIN 0648-BA62

#### Amendments to the Reef Fish, Spiny Lobster, Queen Conch and Coral and Reef Associated Plants and Invertebrates Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 6 to the Fishery Management Plan (FMP) for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands, Amendment 5 to the FMP for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands, Amendment 3 to the FMP for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands, and Amendment 3 to the FMP for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands (2011 Caribbean ACL Amendment) prepared by the Caribbean Fishery Management Council (Council). This proposed rule would: Establish annual catch limits (ACLs) and accountability measures (AMs) for reef fish, spiny lobster, and aquarium trade species which are not determined to be undergoing overfishing; allocate ACLs among island management areas and, in Puerto Rico only, among commercial and recreational sectors; establish recreational bag limits for reef fish and spiny lobster; remove eight conch species from the queen conch FMP; and establish framework procedures for the spiny lobster and Caribbean corals and reef associated plants and invertebrates FMPs. The 2011 Caribbean ACL Amendment would also revise management reference points and status determination criteria for selected reef fish, spiny lobster, and aquarium trade species. The intended effect of the rule is to prevent overfishing of reef fish, spiny lobster, and aquarium trade species while maintaining catch levels consistent with achieving optimum yield (OY).

**DATES:** Written comments must be received on or before November 22, 2011.

**ADDRESSES:** You may submit comments on the proposed rule identified by “NOAA-NMFS-2011-0017”, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Miguel Lugo or Maria Lopez, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on “submit a comment,” then enter “NOAA-NMFS-2011-0017” in the keyword search and click on “search.” To view posted comments during the comment period, enter “NOAA-NMFS-2011-0017” in the keyword search and click on “search”. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of the 2011 Caribbean ACL Amendment, which includes an environmental impact statement (EIS), an initial regulatory flexibility analysis (IRFA), a regulatory impact review, and a fishery impact statement may be obtained from the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sf/pdfs/2011\\_ACL\\_Amendment\\_FEIS\\_102511.pdf](http://sero.nmfs.noaa.gov/sf/pdfs/2011_ACL_Amendment_FEIS_102511.pdf).

**FOR FURTHER INFORMATION CONTACT:** Miguel Lugo or Maria Lopez, Southeast Regional Office, NMFS, telephone: (727) 824-5305, or email: [Miguel.Lugo@noaa.gov](mailto:Miguel.Lugo@noaa.gov) or [Maria.Lopez@noaa.gov](mailto:Maria.Lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** In the exclusive economic zone (EEZ) of the U.S. Caribbean, the reef fish fishery is managed under the Fishery Management Plan (FMP) for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands, spiny lobster is managed under the FMP for the Spiny Lobster Fishery of Puerto Rico and the U.S.