

Western Broadcasting Co., Mesabi Western Corp., Enterprise Broadcasting, Inc. and Holland Broadcasting, Inc.
 RCA Global Communications, Inc.
 RCA Corporation
 Broadcast Financial Management Association
 Litton Microwave Cooking
 Broadcast licensees (McKenna, Wilkinson & Kittner)
 Microband Corp. of America
 Broadcast licensees (Wilkinson, Cragur & Barker)
 National Telephone Cooperative Association
 American Cable & Radio Corp.
 Colt Communications, Inc.
 Electronic Product Testing, Inc.

[Gen. Docket No. 78-316; FCC 79-68]
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 BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 17 and 222

Caribbean Monk Seal; Listing as an Endangered Species

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce and the U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Final Regulation.

SUMMARY: The National Marine Fisheries Service ("NMFS") has determined the Caribbean monk seal (*Monachus tropicalis*) to be an endangered species throughout its range, pursuant to Section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (the "Act"). This species is added to the List of Endangered and Threatened Wildlife found in 50 CFR 17.11 and 50 CFR 222.23.

EFFECTIVE DATE: April 10, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Oceanic and Atmospheric Administration, Washington D.C. 20235 (202-634-7461).

SUPPLEMENTARY INFORMATION:

Background

On February 16, 1977, NMFS/FWS published a proposal to list the Caribbean monk seal as an endangered species under the Act (42 FR 9402). This action was taken pursuant to Section 4(a) of the Act which states:

The Secretary shall by regulation determine whether any species is an endangered species or a threatened

species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

With the exception of enforcement responsibilities for certain plants, the Act defines "Secretary" to mean either the Secretary of the Interior or the Secretary of Commerce. Most marine species, including the Caribbean monk seal, are the sole responsibility of the Secretary of Commerce. The authority of the Secretary has been delegated to the Assistant Administrator for Fisheries, NMFS. An extensive aerial survey of the Caribbean monk seal's former habitat in the Gulf of Mexico and Caribbean Sea was conducted by Karl W. Kenyon for the Department of the Interior during March 1973. While this survey indicates that the species may be extinct, in the event that some remnant members of the Caribbean monk seal species do exist in remote parts of its range, NMFS believes it should be listed and thereby provided protection under the Act. A paper entitled "Caribbean Monk Seal, *Monachus tropicalis*"

(IUCN Supplementary Paper No. 39, April 1973) by Dale W. Rice, NMFS, provided the basis for most of the statements and facts cited below.

The findings in support of the Assistant Administrator's determination are summarized herein and described under each of the five criteria of Section 4(a) of the Act.

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* The former distribution of this species encompassed shores and islands of the Caribbean Sea and Gulf of Mexico, from the Bahamas west (including the Florida Keys and Cuba) to the Yucatan Peninsula, south along the east coast of Central America and through the western Caribbean Sea, and eastward in the northern Caribbean as far as the northern Lesser Antilles. It was known to occur in Jamaican waters and on the Seranilla Bank in the western Caribbean as late as 1952. Seclusion from areas frequented by man would, in all probability, be characteristic of the location of any surviving Caribbean monk seals. It is believed that the habitat requirements of this species are quite similar to those of the Hawaiian

monk seal—shallow lagoons and reefs for feeding areas; sandy beaches for hauling-out grounds (i.e., areas used by the seals for resting); and permanent islets or beaches above high tide, and adjacent to shallows, for pupping areas. Although Caribbean monk seals are seemingly tame and allow a close approach, the seal historically has abandoned habitat utilized by man for fishing or other purposes. Thus, reduction in suitable habitat due to man's encroachment has contributed to the decline or extinction of this species.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* A major factor responsible for the severe reduction or extinction of the Caribbean monk seal has been exploitation by man. These animals are sluggish, apparently unsuspecting, and not easily alarmed. Their hauling-out beaches are low and sandy. Because such beaches may accommodate small boat landings, the Caribbean monk seal can be readily approached and easily killed. Reports indicate that this species has been exceedingly scarce and indiscriminately killed since early Spanish exploration of the western hemisphere. They have been exploited commercially for their hides and oil.

(3) *Disease or predation.* The Caribbean monk seal has evolved on remote islands where they have not been subject to terrestrial predators. In the water, however, predation by sharks may be a factor, although this is not believed to have caused significant mortality in this species. Disease is not known to be a factor in reduction or extinction of this species.

(4) *The inadequacy of existing statutory mechanisms.* Caribbean monk seals are protected under the Marine Mammal Protection Act of 1972, as amended, but that Act makes no provision for protection of habitat considered critical to the species.

(5) *Other natural or man-made factors affecting its continued existence.* There are no other known factors significantly affecting this species.

SUMMARY OF COMMENTS AND RECOMMENDATIONS:

No comments were received by NMFS pertaining to the proposed listing.

Effect of This Rulemaking

Section 9(a) of the Act sets forth a series of general prohibitions which apply to all endangered species of fish and wildlife.

With respect to any endangered species listed pursuant to Section 4 of the Act, it is unlawful for any person subject to the jurisdiction of the United States to:

(1) Import any such species into, or export any such species from, the United States;

(2) Take any such species within the United States or the territorial sea of the United States;

(3) Take any such species upon the high seas;

(4) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of (2) or (3) above;

(5) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(6) Sell or offer for sale in interstate or foreign commerce any such species; or

(7) Violate any regulations pertaining to such species and promulgated by the Secretary pursuant to authority provided by the Act.

The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Section 4(a)(1), as amended on November 10, 1978, also states that "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be

critical habitat." Since the very existence of the Caribbean monk seal is now open to doubt, no critical habitat can presently be designated for this species. Section 3(5)(A), as amended on November 10, 1978, limits "critical habitat" to "specific areas within the geographical area occupied by the species at the time it is listed * * *" or "specific areas outside the geographical area occupied by the species at the time it is listed * * *". Because the Caribbean monk seal is not known to presently inhabit any geographical area, it is impossible to specify any critical habitat. If the location of a population of Caribbean monk seal is discovered, the Assistant Administrator for Fisheries may propose critical habitat in the future, as appropriate. NMFS invites the submission to it of any and all information, including maps, concerning the existence of the Caribbean monk seal or the location of its critical habitat. Any information submitted on these matters will be considered.

National Environmental Policy Act

The Assistant Administrator has determined that the proposed designation of the Caribbean monk seal as an endangered species is not a major Federal action which would significantly affect the quality of the human

environment within the meaning of the National Environmental Policy Act of 1969. An environmental assessment pertaining to this determination is available for public review in the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. or may be obtained by writing the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Executive Order 12044

The Assistant Administrator has made an initial determination that this rulemaking is not significant in accordance with established agency criteria and that preparation of regulatory analysis is not required.

Regulation Promulgation

Accordingly, 50 CFR Chapter I, Part 11 and Chapter II, Part 222, are amended as follows:

§ 17.11 [Amended]

(1) The list of endangered and threatened wildlife in 50 CFR 17.11 is amended by adding the Caribbean monk seal under the class entitled "mammals" and immediately before "Seal, Hawaiian monk", as follows:

Species		Range					Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered					
Seal: Caribbean monk	<i>Monachus tropicalis</i>	N/A	Caribbean Sea and Gulf of Mexico	Entire		E		N/A	

§ 222.23 [Amended]

(2) 50 CFR 222.23(a) is amended by adding "Caribbean monk seal (*Monachus tropicalis*)" immediately before "Hawaiian monk seal (*Monachus*

schauinslandi)" in the second sentence.

Dated: February 6, 1979.

Jerry L. Leitzell,
Assistant Administrator for Fisheries, National Marine Fisheries Service.

Lynn A. Greenwalk,
Director, U.S. Fish and Wildlife Service.
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