

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG71, 1018-AH70, 1018-AH08, 1018-AH09, 1018-AH02, and 1018-AI24

Endangered and Threatened Wildlife and Plants; Designations and Non-designations of Critical Habitat for Plant Species From the Islands of Kauai, Niihau, Maui, Kahoolawe, Molokai, Northwestern Hawaiian Islands, HI, and Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; reopening of comment periods, extension of comment period, availability of draft economic analyses.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of the reopening of the comment periods for the proposed designations and non-designations of critical habitat for plant species on the islands of Kauai, Niihau, Molokai, Maui, Kahoolawe, Northwestern Hawaiian Islands, Hawaii, and Oahu. The new comment periods will allow all interested parties to submit written comments on these proposals simultaneously. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed critical habitat designations. Comments already submitted on the proposed critical habitat designations and associated draft economic analyses need not be resubmitted as they will be fully considered in the final determinations.

DATES: The comment periods for the proposed designations and non-designations of critical habitat for plant species on the islands of Kauai, Niihau, Molokai, Maui, Kahoolawe, Northwestern Hawaiian Islands, Hawaii, and Oahu now close on September 30, 2002. Any comments received by the closing date will be considered in the final decisions on these proposals.

ADDRESSES: Comments and materials concerning these proposals should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu, HI 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address, phone 808/541-3441, facsimile 808/541-3470.

SUPPLEMENTARY INFORMATION:**Background**

On January 28, 2002, April 3, 2002, April 5, 2002, and May 14, 2002, the Service published revised proposed critical habitat designations and non-designations for plant species listed under the Endangered Species Act of 1973, as amended (Act), known historically from the islands of Kauai and Niihau, Maui and Kahoolawe, Molokai, and the Northwestern Hawaiian Islands respectively (67 FR 3940, 67 FR 15856, 67 FR 16492, and 67 FR 34522). The original comment periods closed on March 29, 2002, June 3, 2002, June 4, 2002, and July 15, 2002, respectively. The comment periods for the proposed critical habitat designations and non-designations for plant species known historically from Kauai and Niihau, Maui and Kahoolawe, Molokai, and the Northwestern Hawaiian Islands now close on September 30, 2002.

On July 15, 2002 (67 FR 46450), the Service reopened the comment period and announced the public hearing on the proposed critical habitat designation and non-designation for plant species known historically from Lanai. The public hearing was held on August 1, 2002, at the Lanai Public Library Meeting Room, Fraser Avenue, Lanai City, Lanai. The comment period for the proposed critical habitat designation and non-designation for plant species known historically from Lanai closes on August 30, 2002.

The Service published proposed critical habitat designations and non-designations for plant species listed under the Act, known historically from the islands of Hawaii and Oahu on May 28, 2002 (67 FR 36968 and 67 FR 37108). The original comment periods closed on July 29, 2002. The comment periods on these two proposals now close on September 30, 2002.

The proposed rules propose designation of critical habitat for 83 plant species from Kauai and Niihau; 61 plant species from Maui and Kahoolawe; 46 plant species from Molokai; 5 plant species from the Northwestern Hawaiian Islands; 47 plant species from the island of Hawaii; and, 99 species from Oahu. Some of these species are historically known from more than one island. Critical habitat was not proposed for seven species of loulu palm (*Pritchardia affinis*, *P. aylmer-robinsonii*, *P. kaalae*, *P. napaliensis*, *P. munroi*, *P. schattaueri*, and *P. viscosa*) because the designation

of critical habitat would likely increase the threats from vandalism or collection of these species on the islands on which they occur. Critical habitat was not proposed for six species (*Acaena exigua*, *Cenchrus agrimonoides* var. *laysanensis*, *Cyanea copelandii* ssp. *copelandii*, *Cyrtandra crenata*, *Melicope quadrangularis*, and *Ochrosia kilaueaensis*) which had not been seen recently in the wild and for which no viable genetic material of these species was known to exist.

Comments from the public regarding these proposed rules are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent as provided by section 4 of the Act and 50 CFR 424.12(a)(1);

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species, as critical habitat is defined by section 3 of the Act (16 U.S.C. 1532 (5));

(3) Specific information on the amount, distribution, and quality of habitat for the species, and what habitat is essential to the conservation of the species and why;

(4) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low income households, and local governments;

(6) Economic and other potential values associated with designating critical habitat for the above plant species such as those derived from non-consumptive uses (e.g., hiking, camping, birding, enhanced watershed protection, increased soil retention, "existence values", and reductions in administrative costs);

(7) The appropriate methodology for determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat under section 4(b)(2) of the Act;

(8) The effects of critical habitat designation on Department of Defense lands, and how it would affect military activities; whether there will be a significant impact on military readiness or national security if we designate critical habitat on Department of Defense lands; and whether these lands should be excluded from the designation under section 4(b)(2) of the Act;

(9) Whether Department of Defense lands should be excluded from critical habitat based on an approved Integrated

Natural Resource Management Plan (INRMP);

(10) Whether areas which are managed for the conservation of the species should not be included in critical habitat because such areas do not meet the definition of critical habitat contained in section 3(5)(A)(i) of the Act;

(11) Whether areas covered by an approved conservation plan (*e.g.*, Habitat Conservation Plans, Conservation Agreements, Safe Harbor Agreements) should be excluded from critical habitat and if so, by what mechanism; and

(12) Whether areas should be excluded under section 4(b)(2) of the Act because critical habitat designation will impact other types of existing or future conservation partnerships that are beneficial to the species.

In addition, we are seeking comments or suggestions on the associated draft economic analyses of the proposed critical habitat designations and non-designations for plant species from Kauai, Niihau, and Molokai. The draft economic analyses can be obtained from the Pacific Islands Office (see **ADDRESSES** section). We will solicit public review and comment on the associated draft economic analyses of the proposed critical habitat designations and non-designations for plant species from Maui and Kahoolawe, Northwestern Hawaiian Islands, Oahu, and the island of Hawaii in subsequent **Federal Register** notices.

Reopening of the comment periods simultaneously will provide the public an opportunity to evaluate and comment on all of the areas proposed as critical habitat for each species, particularly the species located on more than one island. The comment periods for the proposed critical habitat designations for plant species known historically from Kauai and Niihau, Maui and Kahoolawe, Molokai, Northwestern Hawaiian Islands, island of Hawaii, and Oahu now close on September 30, 2002. The comment period for the proposed critical habitat designation for plant species known historically from Lanai closes on August 30, 2002 (67 FR 46450). Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Christa Russell (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 15, 2002.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600 and 679

[Docket No. 020801186-2186-01; I.D. 053102D]

RIN 0648-AQ09

Pacific Halibut Fisheries; Subsistence Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to authorize a subsistence fishery for Pacific halibut in waters off Alaska. These regulations are necessary to allow qualified persons to practice the long-term customary and traditional harvest of Pacific halibut for food in a non-commercial manner. This action is intended to meet the conservation and management requirements of the Northern Pacific Halibut Act of 1982 (Halibut Act) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received at the following address not later than September 25, 2002.

ADDRESSES: Comments may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel-Durall. Hand or courier deliveries of comments may be sent to NMFS, Alaska Region, 709 West 9th Street, Room 453, Juneau, AK 99801. Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer). Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the environmental assessment/regulatory impact review (EA/RIR) prepared for this action are available from NMFS at the above

address or by calling the Sustainable Fisheries Division, Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907-586-7172 or jay.ginter@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Management of the Pacific halibut (hereafter halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, titled the "Convention between United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada, on March 2, 1953, and amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. This Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Halibut Act. Generally, fishery management regulations governing the halibut fisheries are developed by the IPHC and recommended to the U.S. Secretary of State. When approved, these regulations are published by NMFS in the **Federal Register** as annual management measures. For 2002, the annual management measures were published March 20, 2002 (67 FR 12885).

The Halibut Act also provides for the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations, in its geographic area of concern that would apply to nationals or vessels of the U.S. (Halibut Act, section 773(c)). Such an action by the Council is limited only to those regulations that are in addition to and not in conflict with IPHC regulations, and they must be approved and implemented by the U.S. Secretary of Commerce (Secretary). Any allocation of halibut fishing privileges must be fair and equitable and consistent with other applicable Federal law. This is the authority under which the Council acted in October 2000, to adopt a subsistence halibut policy.

The Council does not have a "fishery management plan" (FMP) for the halibut fishery. Hence, halibut fishery management regulations developed by the Council do not follow the FMP or FMP amendment procedures set out in the Magnuson-Stevens Act. Instead, a regulatory amendment process is followed. This process requires submission of the Council recommendation to the Secretary as a