

PART 594—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR part 594 be amended as follows:

1. The authority citation for part 594 would continue to read as follows:

Authority: Pub. L. 100-562, 15 U.S.C. 1401, 1407; delegation of authority at 49 CFR 1.50

§ 594.5 [Amended]

2. In § 594.6(a) introductory, (b), (d), (h), and (i), the year "1991" would be revised to read to "1993".

3. Section 594.9(c) would be revised to read:

§ 594.9 Fee for reimbursement of bond processing costs.

(c) The bond processing fee for each vehicle imported on and after October 1, 1993, for which a certificate of conformity is furnished, is \$4.95.

Issued on July 30, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-18635 Filed 8-4-93; 8:45 am]

BILLING CODE 4910-63-G

INTERSTATE COMMERCE COMMISSION**49 CFR Part 1312**

[Ex Parte No. MC-180 (Sub-No. 2)]

Rulemaking—Payment of Discounts by Motor Carriers of Property to the Nonpayer of Freight Charges

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking; extension of comment due date.

SUMMARY: By notice served June 4, 1993 (58 FR 32340, June 9, 1993), the Commission instituted a proceeding to determine whether off-bill discounting does or may result in a misrepresentation of shipping charges that should be found to be an unreasonable practice or unlawful. Written comments were sought by August 9, 1993.

By letters filed July 27, 1993, the National Small Shipments Traffic Conference and the National Industrial Transportation League requested an extension of the comment due date until after Congress has completed its legislative agenda on a pending undercharge bill. The request is reasonable and will be granted.

DATES: Comments must be received by October 15, 1993.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 180 (Sub-No. 2) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Charles E. Langyher III, (202) 927-5160 or Ronald A. Hall, (202) 927-5595. [TDD for the hearing impaired: (202) 927-5721].

Decided: July 30, 1993.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-18729 Filed 8-4-93; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AB68

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of the Hawaiian Hawk From Endangered to Threatened Status

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reclassify the Hawaiian hawk (*Buteo solitarius*) from endangered to threatened status. This action is the result of information gained during recovery activities, such as conducting censuses, which resulted in substantial improvement in the knowledge of the distribution of this species, indicating that the bird was more numerous than reported when it was listed in 1967. Islandwide surveys estimate the total population size has remained at the minimum recovery goal for threatened status identified in the Hawaiian Hawk Recovery Plan. In addition, whereas the species was once thought to be restricted to undisturbed native habitat, it is now known to occupy disturbed habitat and also exploit alien prey species as a food resource. This rule is proposed under the Endangered Species Act of 1973, as amended (Act), and is based on a thorough review of all information currently available for the species. The proposed change in classification reflects an improvement in status and will not significantly alter the protection of this species under the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by October 4, 1993. Public hearing requests must be received by September 20, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Field Supervisor, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 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: Robert P. Smith at the above address (808/541-2749).

SUPPLEMENTARY INFORMATION:**Background**

The Hawaiian hawk or io (*Buteo solitarius*) is the only member of the family Accipitridae found in the Hawaiian Islands (Berger 1981). This endemic hawk is restricted to the island of Hawaii, although vagrant individuals have been recorded from the other Hawaiian Islands (Banko 1980), and fossil remains have been found on the island of Molokai (Olson and James 1982). The Hawaiian hawk occupies a variety of habitats, including lowland agricultural areas and forests dominated by alien plant species to mid-elevation pasture lands and native rain forests (Griffin 1985). The species is generally solitary except in the breeding season, when pairs build nests and lay eggs. Although this species was first described in the late 1800's, until recently the breeding biology and habitat use of this species was very poorly understood.

The Hawaiian hawk was added to the List of Endangered and Threatened Wildlife on March 11, 1967 (32 FR 4001). At the time of listing, the population was believed to number in the low hundreds (Berger 1981). Extensive habitat modification caused by logging and grazing of nonnative ungulates was assumed to be a direct threat to the existence of the species. Shooting was also reported to be a factor contributing to the low number of individuals.

Population records of the Hawaiian hawk are nonexistent prior to European exploration of the Hawaiian Islands that began in 1778. Between the late 1700's and the early 1900's, records from five naturalists indicate that the species was a resident in all major districts on the island of Hawaii and occupied a broad range of elevations (Banko 1980). In an attempt to establish population trends, Banko (1980) compiled all historical records of the hawk and compared them

to recent records. Although the hawk had been recorded recently in all districts where it had been present 80 or more years ago, close examination of the data, according to Banko (1980), suggested a long-term population decline. Other authors also depict the hawk as declining in numbers during recent times (Berger 1981, Munro 1944). However, Banko (1980) indicated that conclusions based on these relatively scattered records and the lack of complete knowledge on the breeding biology must be considered tentative. In fact, Morrison (1969), who compiled site records for 1967 and 1968 in Volcanoes National Park, concluded that the hawk could be found in woody vegetation anywhere in the park. Although the data compiled by Morrison (1969) documented a relatively small but stable population in a protected habitat and was based mostly on incidental observations, this was one of the first surveys that had been completed for this species at that time. Tomich (Banko 1980) suggested that in the late 1960's and early 1970's the population in one of the districts in Hawaii was more numerous than in earlier years. Tomich (Banko 1980) and Morrison's (1969) surveys may have been the first indications that the Hawaiian hawk was indeed more numerous than previously reported.

Beginning in 1980 and continuing through 1982, a study was initiated to determine the distribution, habitat, reproductive biology, and breeding and foraging behaviors of the Hawaiian hawk (Griffin 1985). Griffin's study represents the first comprehensive work on the hawk. The authors of the Hawaiian Hawk Recovery Plan relied extensively on the data that Griffin collected (USFWS 1984).

Prior to Griffin's (1985) study, the hawk population was believed to be severely reduced in numbers due to habitat encroachment by humans. Both urban development and agricultural practices of land-clearing for grazing and logging were determined to be the factors leading to the hawk's decline (Berger 1981). As with many other native species of Hawaiian birds, the hawk was presumed to rely exclusively on native habitats so that loss of habitat would naturally lead to decline. Moreover, the introduction and proliferation of alien mammals (e.g., rats (*Rattus sp.*), mongooses (*Herpestes auropunctatus*), feral domestic cats (*Felis catus*)) that prey upon many native species' nests were assumed to be a factor in the hawk's reproductive success.

According to Griffin (1985), the Hawaiian hawk has adapted adequately

to increased habitat modification and the introduced predators. The hawk has been found in a variety of habitats including lowland agricultural areas and forests dominated by alien plants to mid-elevation pasture land and native rainforests (Griffin 1985). Although all habitats were not sampled, nest sites were equally divided among all habitats with no differences in nest success reported (Griffin 1985). A wide variety of nest tree species were reported, with the native *Metrosideros polymorpha* ('ohia) being the most common, but several types of large alien tree species were also used for nesting.

When the Hawaiian hawk first colonized the Hawaiian Islands, it undoubtedly specialized on bird prey since no native land mammals (with the exception of the Hawaiian hoary bat (*Lasiurus cinereus semotus*)), reptiles, or amphibians were present. After the introduction of small mammals (e.g., rats, house mice (*Mus musculus*)) and some alien bird species (e.g., common myna (*Acridotheres tristis*), Japanese white-eye (*Zosterops japonicus*)) to Hawaii, the variety of available prey increased dramatically. However, it was not known until recently that the introduced species of mammals and birds were actually exploited by the hawk as prey. Griffin (1985) reports that the hawk is very adaptable and versatile in its feeding habits and exploits introduced species as food items. Prey selection varies with habitat type, with the hawk feeding on birds in the forested and agricultural areas that it frequents and primarily on mammals in pasture lands.

The Hawaiian Hawk Recovery Plan (1984) includes the following prime objective:

"To ensure a self-sustaining '10 population in the range of 1,500 to 2,500 adult birds in the wild, as distributed in 1983, and maintained in stable, secure habitat. For purposes of tracking the progress of recovery, 2,000 will be used as a target to reclassify to threatened status. Criteria for complete delisting will be further developed."

Based on the best current estimates available, the Service believes that the breeding population on the island of Hawaii numbers between 1,400 and 2,500 individuals distributed as in 1983 (Griffin 1985, Scott *et al.* 1986). With regard to securing habitat, the recovery plan includes a goal to maintain optimum or suitable habitat for feeding/nesting, which includes the conservation of forest habitat and the protection of occupied territories in nonnative forests and agricultural areas. The Service believes that enough secure habitat is presently available for

reclassification of the species to threatened status, but not enough for delisting.

Summary of Factors Affecting the Species

The Service proposes to reclassify the Hawaiian hawk (*Buteo solitarius*) from endangered to threatened status. The Service's listing regulations (50 CFR part 424) provide for a review of five factors when reclassifying (or listing or delisting) a species (§ 424.11). The Service has studied the relevant information available for the Hawaiian hawk in Hawaii and summarizes this information for each of these five factors below:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Historically, the Hawaiian hawk was probably more widespread than it is today and habitat loss or modification certainly contributed to the decline. Colonization of the Hawaiian Islands by both Polynesian and European settlers undoubtedly contributed to at least partial curtailment of its range. The species may have occurred on other islands, certainly on the island of Molokai (Olson and James 1982); however, the distribution of the hawk is currently limited to the island of Hawaii. At the time of listing, the species was estimated to number somewhere in the low hundreds, although that figure may have been an underestimate.

The Hawaiian hawk population seems to have undergone periods of fluctuation; perturbation by humans may have had a particularly negative effect during the last two or three centuries. Habitat modification from logging and the grazing by nonnative ungulates reduced the quantity and quality of nesting habitat at least in terms of native forest reduction and modification. However, the hawk appears to have adapted to human colonization and at least some native habitat alteration (Scott *et al.* 1986). Recent studies have shown that the hawk will occupy nonnative areas (e.g., pasture lands, agricultural fields, forests dominated by alien plants) as nesting habitat. As these modified areas expand with an increasing human population, the hawk may be one of the few native Hawaiian birds with the versatility to adapt to a changing landscape.

Currently, the range of the hawk extends partially over private property that is used for grazing, logging, or agriculture. In some modified areas, densities of hawks are similar to native habitats, and the birds are able to

exploit introduced mammals as prey. However, these areas are not managed specifically for the hawk and the current land use could change to a habitat that is entirely unsuitable for the hawk (e.g., areas with no or few trees). In addition to habitat change, the prey densities or species could change and the hawk may not adapt quickly. Therefore, although modified habitat can be occupied by the hawk, managed native habitat is also a key to the recovery of the species. Hakalau National Wildlife Refuge, Hawaii Volcanoes National Park, and State of Hawaii Puu Waawaa Wildlife Sanctuary are sites that are managed for native bird populations. Given that the hawk shows site fidelity and maintains territories year-round, the importance of maintaining the necessary habitat requirements is significant.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Historically, some specimens of the hawk were taken for scientific collection and also may have been taken by the early Hawaiians for either food or feathers. Neither of these factors are considered to have had a significant impact on the hawk population. Currently, the species is not known to be taken or used for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

Prior to human colonization of the Hawaiian Islands, predation on the hawk population would have been relatively insignificant. With few co-existing native predators, the hawk was probably only vulnerable during the nesting season, when some eggs or young may have been taken by native Hawaiian crow (*Corvus hawaiiensis*) or Hawaiian owl (*Asio flammeus*).

With the introduction of nonnative potential predators, such as rats, mongooses, and domestic cats, many native Hawaiian forest birds have been virtually decimated by predation. However, there has been no evidence that the hawk has been significantly affected by any introduced mammals. Undoubtedly chicks or fledglings that fall out of the nest could succumb to one of the predators, but the number would be very small each breeding season.

Disease is a relatively unknown factor in the survival of the hawk. Recent studies have suggested that the hawk is probably somewhat resistant to diseases introduced to the Hawaiian Islands that have devastated many other endemic forest birds. Griffin (1985) has suggested that the hawk's immunogenetic

capability for avian malaria is sufficient to be unaffected by the disease. However, the testing methods in Griffin's study may not have been sensitive enough to detect either chronic low levels or to determine whether malaria was being actively transmitted in the sample area. Avian pox-like lesions have been reported for the hawk (Griffin 1985), but no studies have been conducted to determine whether this disease is common. Compared to other endemic forest birds that are extremely vulnerable to the two introduced avian diseases, neither disease appears to be a significant factor affecting the hawk population. However, further study of the effects of disease is recommended.

D. The Inadequacy of Existing Regulatory Mechanisms

This species is protected by the Endangered Species Act of 1973, as amended, and the Migratory Bird Treaty Act. It is also currently designated as endangered by the State of Hawaii. If the proposed reclassification to threatened status becomes final, no substantive change in the protection afforded this species under these regulatory mechanisms is anticipated. Existing regulatory mechanisms determined necessary to protect this species and its essential habitat will remain in effect.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Any endemic insular species is vulnerable to a variety of environmental and human-caused factors that could affect the species' survival. Because the hawk is found on only a single island, potential threats from disease or environmental catastrophes are such that there is no true source pool of individuals (at the species' range extremes for example) that would escape such threats. The island of Hawaii is relatively large, as is the hawk's range on the island, so the species is unlikely to suffer greatly from natural environmental catastrophes, although hurricanes can be considered potential threats.

Shooting by people who considered the hawk to be a threat to small farm animals may have been a significant factor to the population in the past. Human disturbance at the nest site is also considered to reduce reproductive success where the disturbances occur. Nest site disturbance may increase with increased urbanization and modification of native habitat. Shooting is probably insignificant, given greater exposure of endangered species issues and public education.

Based on a careful assessment of the best scientific and commercial

information available regarding past, present, and future threats faced by this species, the preferred action is to reclassify the Hawaiian hawk from endangered to threatened status. The Service will recommend that this species be delisted when recovery criteria as outlined in the recovery plan are reached (see **SUPPLEMENTARY INFORMATION** (Background) section). For reasons discussed below, critical habitat is not being proposed at this time.

If made final, this rule would change the status of the Hawaiian hawk at 50 CFR 17.11 from endangered to threatened. This rule would formally recognize the relative security of this species from no longer being in imminent danger of extinction throughout a significant portion of its range. This proposed change in classification would not significantly alter the protection for this species under the Endangered Species Act. Anyone taking, attempting to take, or otherwise possessing a Hawaiian hawk in an illegal manner would still be subject to penalty under section 11 of the Act. There would be no difference in penalties for the illegal take of an endangered species versus a threatened species. Section 7 of the Act would also continue to protect this species from Federal actions that would jeopardize the continued existence of the species.

Critical Habitat

Section 4(a)(3) of the Act requires critical habitat to be designated to the maximum extent prudent and determinable at the time a species is listed as endangered or threatened. The Service has concluded that designation of critical habitat for the Hawaiian hawk is not prudent at this time. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when such designation would not be beneficial to the species. As discussed below, very few, if any, Federal agencies are involved with activities that would adversely affect the Hawaiian hawk. Consequently, critical habitat designation would offer little if any additional protection to the Hawaiian hawk. Furthermore, the Hawaiian hawk occupies a number of habitat types, including agricultural areas (where some trees remain) and forests dominated by alien plant species. Thus, a designation of critical habitat would not very likely offer additional benefits to the species. Landowners can be notified of the presence of the species and of the importance of maintaining certain habitat features. The recovery process will continue to be used to provide

protection to the Hawaiian hawk and its habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such activities would continue to be practiced for the Hawaiian hawk. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of listed species or result in destruction or adverse modification of critical habitat. If a proposed Federal agency action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The Hawaiian hawk occurs on Federal land owned by the U.S. Fish and Wildlife Service and National Park Service. The Forest Service provides technical assistance to private landowners on Hawaii.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, and economic hardship in certain circumstances.

Requests for copies of the regulations on listed wildlife and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, room 432, 4401 North Fairfax Drive, Arlington, Virginia 22203 (703/358-2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Hawaiian hawk;

(2) The location of any additional populations of this species; and the reasons why any habitat should be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Hearing requests must be filed within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental

Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

References Cited

- Banko, W.E. 1980. History of endemic Hawaiian birds. Part I. Population histories—species accounts. Forest birds: Hawaiian hawk (io). CPSU/UH Avian History Report 6A. Dept. of Botany, Univ. of Hawaii. 85 pp.
- Berger, A.J. 1981. Hawaiian Birdlife. The University Press of Hawaii. 260 pp.
- Griffin, C.R. 1985. Biology of the endangered Hawaiian hawk: Ecology, life history, and environmental pollution problems. Unpublished Final Project Report. Cooperative Agreement Contract 14-16-0009-80-933. U.S. Fish and Wildlife Service. 222 pp.
- Morrison, G.T. 1969. Hawaiian hawk. *Elepaio* 29(9):75-89.
- Munro, G.C. 1944. Birds of Hawaii. Tongg Publ. Co., Honolulu. 192 pp.
- Olson, S.L., and H.F. James. 1982. Prodomus of the fossil avifauna of the Hawaiian Islands. Smithsonian Contributions to Zoology, No. 365. 59 pp.
- Scott J.M., S. Mountainspring, F.L. Ramsey, and C.B. Kepler. 1986. Forest Bird Communities of the Hawaiian Islands: Their Dynamics, Ecology, and Conservation. Studies in Avian Biology No. 9. 431 pp.
- U.S. Fish and Wildlife Service. 1984. Hawaiian Hawk Recovery Plan. U.S. Fish and Wildlife Service, Honolulu. 48 pp.

Author

The primary author of this proposed rule is Mr. Scott Johnston, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

It is proposed to amend § 17.11(h) by revising the entry under BIRDS for "Hawk, Hawaiian" to read as "T" under "Status".

Dated: July 8, 1993.

Richard N. Smith,
Acting Director, Fish and Wildlife Service.
[FR Doc. 93-18626 Filed 8-4-93; 8:45 am]
BILLING CODE 4310-56-P

50 CFR Part 17

RIN 1018-AB97

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Dugong in the Trust Territory of the Pacific Islands, the Republic of Palau

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposed to extend endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for the dugong (*Dugong dugon*) throughout its range. Due to an inadvertent oversight, individuals of the dugong that occur in the United States, specifically those that occur in the Trust Territory of the Pacific Islands (Republic of Palau), are not officially listed as endangered; however, all individuals that occur in foreign countries are listed as endangered. The dugong population in the Republic of Palau currently numbers fewer than 200 individuals and is the most isolated dugong population in the world. The Palauan population is seriously threatened by poaching. This proposal, if made final, would implement the Federal protection and recovery provisions provided by the Act. Comments and materials related to this proposal are solicited from the public.

DATES: Comments from all interested parties must be received by October 4, 1993. Public hearing requests must be received by September 20, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 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: Karen W. Rosa at the above address (808/541-2749).

SUPPLEMENTARY INFORMATION:**Background**

The dugong (*Dugong dugon*) (Müller 1776, as cited by Eldredge 1991) is the only species in the genus *Dugong* and one of only four extant species in the order Sirenia. The dugong is a strictly marine species that inhabits shallow, coastal waters in tropical seas. It was once distributed from the east coast of Africa to Australia and the Western Pacific. It has been exterminated throughout much of this range, mostly from hunting by humans, and few insular populations remain. One remnant population is found in the coastal waters of the Trust Territory of the Pacific Islands (the Republic of Palau). Surveys were conducted by the Service in 1977, 1978, 1983, and 1991. Results from these surveys indicate that fewer than 200 dugongs remain in Palau, and their numbers are decreasing (Marsh et al. 1991). The decrease in dugong numbers is mainly attributable to illegal hunting for meat, jewelry, and sport. Poaching, coupled with the dugong's naturally low reproductive potential (about one calf every 3 years) (Brownell et al. 1988), may lead to the extinction of the Palauan population by the end of this century (Brownell et al. 1979).

Previous Federal Action

Currently, the dugong is listed as endangered throughout its range, except in the United States (50 CFR 17.11). The exclusion of protection in the United States stems from the Service's former practice of preparing a "Native" list and a "Foreign" list under the Endangered Species Conservation Act of 1969 (Pub. L. 91-135; 83 Stat. 275). Under this former Act, the Service listed the dugong on the "Foreign" list of protected species (35 FR 18320; December 2, 1970). When the Endangered Species Act of 1973 (Pub. L. 93-205; 87 Stat. 884) became effective on December 28, 1973, it supplanted the Endangered Species Conservation Act of 1969, and the "Native" and "Foreign" lists were combined to create one list of endangered and threatened species (39 FR 1171; January 4, 1974). When the lists were combined, the dugong was listed as endangered wherever found, including within the United States. This inclusion of the United States, however, was made without prior notice to the affected State (i.e., the Republic of Palau), which is required under section 4(b)(5) of the Act. When this oversight was discovered in 1988, the Service amended the Code of Federal Regulations (50 CFR 17.11), deleting the United States from the range within

which the dugong receives protection. Hence, the dugong population in Palau has been afforded no protection under the Act since 1988. Since the Republic of Palau has now been formally notified of this proposed action, the Service proposes to extend the Act's protection to the dugong within the United States.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the (*dugong dugon*) are as follows:

A. The Present or Threatened Destruction Modification or Curtailment of Its Habitat or Range

Habitat degradation associated with increased development and water projects in Palau could develop into a more serious threat as tourism and development in Palau continue to increase. Since the dugong is dependent on limited, near-shore waters with abundant sea grasses, any destruction or modification of these areas in Palau could have a serious effect on the already stressed dugong population.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Poaching of the dugong is the most serious threat to the species' survival. The animals are killed for their meat and hides and for creation of jewelry items crafted from the animal's ribs. Traditionally, the dugong was effectively conserved by the local chiefs of Palau. A bracelet made from the atlas vertebra of a dugong was worn only by chiefs. Now that the traditional role of chiefs in Palau has diminished, the species is afforded little protection from poaching, and people using speed boats, explosives, spear guns, and other items, are able to take much larger numbers of the animal than was possible in the past. Since the animals' habits are so well known and they stay in such close proximity to the shoreline to feed, they are easily located and hunted.

C. Disease or Predation

It is not known whether disease has been a factor in the decline of the dugong. However, given their low numbers and seclusion in the waters of Palau, any outbreak of disease could