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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 224 and 226

[Docket No. 140930817-4817-01]

RIN 0648-XD533

Endangered and Threatened Wildlife and Plants; Technical Corrections for the Hawaiian Monk Seal

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

ACTION: Direct final rule.

SUMMARY: We, the National Marine Fisheries Service, announce the revised taxonomy of Monachus schauinslandi (Hawaiian monk seal) under the Endangered Species Act of 1973, as amended (ESA). We are revising the Enumeration of endangered marine and anadromous species and Critical habitat for Hawaiian monk seals to reflect the scientifically accepted taxonomy and nomenclature of this species. We revise the scientific name of the species as follows: Neomonachus schauinslandi (= M. schauinslandi).

DATES: This rule is effective [Insert date 60 days after date of publication in the FEDERAL REGISTER] without further action, unless significant adverse comment is received by [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, information, or data on this document, identified by NOAA–NMFS–2014–0128, by any of the following methods:

- **Electronic Submissions:** Submit all electronic comments via the Federal eRulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0128, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Regulatory Branch Chief, Protected Resources Division, Pacific Islands Regional Office, NMFS Protected Resources Division, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent us from contacting you if we have difficulty retrieving your submission. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jean Higgins, NMFS, Pacific Islands Regional Office, 808-725-5151; or Marta Nammack, NMFS, Office of Protected Resources (301) 427-8469.

SUPPLEMENTARY INFORMATION:

Purpose of This Rule

The purpose of our direct final rule is to notify the public that we are revising the Enumeration of endangered marine and anadromous species and the Critical habitat for Hawaiian monk seals to reflect the scientifically accepted taxonomy and nomenclature of one mammal species listed under section 4 of the ESA (16 U.S.C. 1531 et seq.). The changes to the Enumeration of endangered marine and anadromous species (50 CFR 224.101(h)) and Critical habitat for Hawaiian monk seals (50 CFR 226.201) reflect the most recently accepted scientific name in accordance with 50 CFR 224.101 (e).

We are publishing this rule without prior proposal because this is a noncontroversial action that does not change the listing status of the species and, in the best interest of the regulated public, should be undertaken in as timely a manner as possible. This rule will be effective, as published in this document on the effective date specified in DATES, unless we receive significant adverse comments on or before the comment due date specified in DATES. Significant adverse comments are comments that provide strong justification as to why our rule should not be adopted or why it should be changed.

If we receive significant adverse comments, we will publish a document in the Federal Register withdrawing this rule before the effective date, and we will engage in the normal rulemaking process to promulgate these changes to 50 CFR 224.101 and 50 CFR 226.201.

Background

Under section 224.101 (e) of title 50 of the Code of Federal Regulations (CFR) we use the most recently accepted scientific name of any species that we have determined to be an endangered or threatened species. Using the best available scientific

information, our direct final rule documents a taxonomic change (scientific name) to the Hawaiian monk seal (50 CFR 224.101(h); 226.201). The basis for the taxonomic change is supported by a published study in a peer-reviewed journal. We revise the scientific name of this species under section 4 of the ESA (16 U.S.C. 1531 et seq.) as follows: Neomonachus schauinslandi (= Monachus schauinslandi). We make this change to the Enumeration of endangered marine and anadromous species (50 CFR 224.101(h)) and to Critical habitat for Hawaiian monk seals (50 CFR 226.201) to reflect the most recently accepted scientific name in accordance with 50 CFR 224.101 (e).

Taxonomy Classification

Neomonachus schauinslandi

The scientific name change of Neomonachus schauinslandi (Hawaiian monk seal) from Monachus schauinslandi is supported by genetic, temporal, and morphological evidence (Scheel et al., 2014), which indicates a closer relationship between the Hawaiian monk seal and M. tropicalis (Caribbean monk seal), as well as significant divergence between these two species and the endangered M. monachus (Mediterranean monk seal). For the first time, Scheel et al. (2014) used molecular data from Caribbean monk seal skins to better describe the relationship of this extinct species to the two living monk seal species (Mediterranean and Hawaiian). Phylogenetic analysis and divergence time estimation revealed that the Caribbean and Hawaiian monk seal species form a monophyletic clade and that the common ancestor of these two species likely diverged from the Mediterranean monk seal lineage over 6 million year ago (Scheel et al., 2014). Morphological examinations of specimens of the three species also indicate distinctions between the Mediterranean monk seal and the Caribbean and Hawaiian species, which

indicate variation in body size, pelage, dentition, as well as bone form and structure (Scheel et al., 2014). The morphological distinctions and evolutionary divergence described by Scheel et al. (2014) is equivalent to or greater than levels of molecular and morphological divergence between other sister phocid genera, and recognition of the divergence between the two extant species better describes their evolutionary, ecomorphological, and taxonomic uniqueness. Because the Caribbean and Hawaiian monk seal species form a monophyletic clade that has no previously proposed genus-level name, the generic name Neomonachus was prescribed by Scheel et al. (2014) as a reference to the new genus within the monk seals and its “New World” (Western Hemisphere) distribution. Within this newly recognized structure the genus species name of the Hawaiian monk seal and the Caribbean monk seal are Neomonachus schauinslandi and Neomonachus tropicalis, respectively.

These changes result in technical revisions to provisions related to monk seals in 50 CFR 224.101(h) and 226.201. The taxonomic change for the Hawaiian monk seal is catalogued in ZooBank, the official register for the International Commission on Zoological Nomenclature, and has been recognized by NMFS and will be incorporated into all new NMFS publications pertaining to the species. This species will continue to be listed as endangered and is subject to the same protections as existed prior to these changes, and no other aspect of the entry for this species in 50 CFR 224.101(h) will change as a result of this rule.

Required Determinations

The Assistant Administrator for Fisheries finds that good cause exists to waive the requirement for prior notice and opportunity for public comment, pursuant to 5 U.S.C.

553(b)(B). Such procedures would be unnecessary as the taxonomic changes made in this rule are technical and reflect decisions already taken in the scientific community. This rule does not change the listing status of the Hawaiian monk seal under the ESA, and therefore does not alter the scope of the regulated community, or add any new requirements.

This action is not subject to review under Executive Order 12866. Because a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., are inapplicable.

This final rule does not contain policies with federalism implications under Executive Order 13132.

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This final rule simply makes taxonomic changes relative to a previous listing determination under the ESA, and does not change the listing status of the Hawaiian monk seal. Per NAO 216-6, section 6.03e, we have concluded that ESA listing determinations are exempt from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

References Cited

Scheel, D.M., et al., 2014. Biogeography and taxonomy of extinct and endangered monk seals illuminated by ancient DNA and skull morphology. ZooKeys, 1.

List of Subjects

50 CFR Part 224

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

50 CFR Part 226

Endangered and threatened species.

Dated: November 12, 2014.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, we amend parts 224 and 226, subchapter C of chapter II, title 50 of the Code of Federal Regulations, as set forth below:

PART 224 – ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 et seq.

2. Revise the Hawaiian monk seal entry under § 224.101(h) to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) The endangered species under the jurisdiction of the Secretary of Commerce are:

Species ¹					
Common name	Scientific name	Description of listed entity	Citation(s) for listing determination(s)	Critical habitat	ESA rules
Marine Mammals					
*	*	*	*	*	* *
Seal, Hawaiian monk	<u>Neomonachus schauinslandi</u> (= <u>Monachus schauinslandi</u>)	Entire Species	41 FR 51611 Nov 23, 1976	226.201	NA
*	*	*	*	*	* *

¹Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

PART 226 – DESIGNATED CRITICAL HABITAT

3. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

4. Revise the heading of the Hawaiian monk seal entry under § 226.201 to read as follows:

§ 226.201 Critical habitat for Hawaiian monk seals.

HAWAIIAN MONK SEAL

(Neomonachus schauinslandi (= Monachus schauinslandi))

[FR Doc. 2014-27181 Filed 11/14/2014 at 8:45 am; Publication Date: 11/17/2014]