

Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

### Background

On May 24, 1996, we designated 3,887,800 acres (ac) (1,573,340 hectares (ha)) as critical habitat for the marbled murrelet in Washington, Oregon, and California. On July 31, 2008, we published a proposed rule in the **Federal Register** (73 FR 44678) to revise critical habitat for the marbled murrelet. Under the proposed revised designation of critical habitat, we would remove approximately 254,070 ac (102,820 ha) in northern California and Oregon from the 1996 designation, based on new information indicating that these areas do not meet the definition of critical habitat. This action, if adopted in its entirety, would result in a revised designation of approximately 3,633,800 ac (1,470,550 ha) as critical habitat for the marbled murrelet. In the proposed rule, we also proposed a taxonomic revision of the scientific name of the marbled murrelet from *Brachyramphus marmoratus marmoratus* to *Brachyramphus marmoratus*. We are reopening the comment period to accept peer review comments into the administrative record; however, all interested parties may submit comments and materials on the proposed revised designation of critical habitat for the marbled murrelet. Previously submitted comments for this proposed rule need not be resubmitted. Those comments have been incorporated into the public record and will be fully considered in our final determination.

### Author

The primary authors of this document are the staff members of the Division of Endangered Species, Pacific Region, U.S. Fish and Wildlife Service.

### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: February 4, 2009.

### Jane Lyder,

Assistant Deputy Secretary, Department of the Interior.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R1-ES-2007-0024; 92220-1113-0000-C6]

RIN 1018-AU96

### Endangered and Threatened Wildlife and Plants; Removing the Hawaiian Hawk From the Federal List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of availability of draft post-delisting monitoring plan; reopening of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft post-delisting monitoring plan (draft PDM Plan) for the Hawaiian hawk (*Buteo solitarius*) and the reopening of the public comment period for the proposed rule to remove (delist) the Hawaiian hawk from the Federal List of Endangered and Threatened Wildlife. If the proposed rule to delist the Hawaiian hawk is made final, we intend to monitor the hawk, in cooperation with the State of Hawaii and other conservation partners, through island-wide surveys every 5 years for a period of 20 years, from 2012 to 2032. We are soliciting review and comment on this draft PDM plan from local, State, and Federal agencies, and the public. We are also reopening the comment period on the proposed rule to ensure that the public has full access to the draft PDM Plan while commenting on the proposed rule.

**DATES:** Comments from all interested parties on the Hawaiian hawk draft PDM Plan and proposed rule must be received on or before April 13, 2009.

**ADDRESSES:** The draft PDM Plan may be downloaded from our Web site at <http://www.fws.gov/pacificislands>. To request a copy of the draft PDM Plan, write to our Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Rm. 3-122, Box 50088, Honolulu, Hawaii 96850; or call 808-792-9400, or send an e-mail request to [karen\\_marlowe@fws.gov](mailto:karen_marlowe@fws.gov). Specify whether you want to receive a hardcopy by U.S. mail or an electronic copy by e-mail.

You may submit comments by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **U.S. mail or hand-delivery:** Public Comments Processing, Attn: RIN 1018-AU96; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

Although you may request a copy of the draft PDM plan via e-mail or fax, we will not accept comments on the draft PDM or the proposed rule via e-mail or fax. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

#### FOR FURTHER INFORMATION CONTACT:

Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office, P.O. Box 50088, Honolulu, HI 96850; (telephone 808-792-9400). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339, 24 hours a day, 7 days a week.

#### SUPPLEMENTARY INFORMATION:

### Background

We published the proposed rule to delist the Hawaiian hawk, due to recovery, on August 6, 2008, with a 60-day comment period that closed on October 6, 2008 (73 FR 45680). Several studies have shown that range-wide population estimates have been stable for at least 20 years and this species is not threatened with becoming endangered throughout all or a significant portion of its range in the foreseeable future.

Section 4(g)(1) of the ESA requires that we implement a system, in cooperation with the States, to effectively monitor, for not less than 5 years, the status of all species that have been recovered and delisted. Additionally, we are to make prompt use of the emergency listing authority under section 4(b)(7) of the ESA if the recovered species is presented with significant risk to its well being. In order to meet the ESA's monitoring requirements, and to facilitate that efficient collection of data, we have designed a draft plan to detect changes in the status of the Hawaiian hawk.

The Hawaiian hawk draft PDM Plan was developed in cooperation with the Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), the National Park Service (NPS), and the U.S. Geological Survey, Biological Resources Discipline (USGS-BRD). Our Pacific Islands Fish and Wildlife Office (PIFWO) will have the lead agency responsibility for this monitoring effort, and will coordinate

all phases of implementation of the plan and ensure that monitoring requirements outlined within the plan are accomplished. The draft PDM Plan proposes to conduct monitoring via island-wide variable circular plot (VCP) surveys every 5 years for a period of 20 years, from 2012 to 2032. Before conducting the VCP surveys, we intend to conduct a brief playback response study in 2010 to better define the hawk's response to call playbacks, which will lead to more accurate hawk density and population estimates. Details on the monitoring methods being proposed are available in the draft PDM plan (available online at: <http://www.fws.gov/pacificislands>).

#### Viewing Documents

Comments and materials we receive, as well as supporting documentation we used in preparing the draft PDM Plan and proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours at the U.S. Fish and Wildlife Service Pacific Islands Fish and Wildlife

Office, 300 Ala Moana Boulevard, Room 3-122, Honolulu, HI 96813 (808-792-9400).

#### Public Comments Solicited

We intend that any final action resulting from the proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule. If you previously submitted comments on the proposed delisting rule, please do not resubmit them, as we have already incorporated them into the public record and will fully consider them in our final decision.

We also request comments on the Hawaiian hawk draft PDM Plan. We will take into consideration the substantive comments that we receive by the comment due date indicated above in the **DATES** section. These comments and any additional information received, may lead us to adopt a final PDM Plan that differs from this draft PDM Plan.

Comments merely stating opposition to the draft PDM Plan without providing supporting data are not as helpful.

#### Public Availability of Comments

Before including your address, phone number, electronic mail address, or other personal identifying information in your comment, you should be aware that your entire document—including your personal identifying information—may be publicly available at any time. While you may request at the top of your document that we withhold this information from public review, we cannot guarantee that we will be able to do so.

#### Authority

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

Dated: February 2, 2009.

**Kenneth Stansell,**

*Acting Director, U.S. Fish and Wildlife Service.*

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