

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: December 3, 2010.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 97-95; FCC 10-186]

Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41.5 GHz and 48.2-50.2 GHz Frequency Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** of November 22, 2010, concerning a request for comment on technical rules for satellite systems in the 37.5-42.5 GHz band. The document contained incorrect proceeding numbers and incorrect language regarding the filing of comments on information collection requirements.

DATES: The comment date for the proposed rule published November 22, 2010, 75 FR 71064, remains January 6, 2011, and reply comments remain due on or before February 7, 2011.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of November 22, 2010, on page 71064, correct the **ADDRESSES** caption to read:

ADDRESSES: You may submit comment, identified by IB Docket No. 97-95, by any of the following methods:

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

Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting comments.

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov, phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In the **Federal Register** of November 22, 2010, on page 71064-65, correct the "SUPPLEMENTARY INFORMATION" caption to read:

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Notice of Proposed Rulemaking (*Third Notice*) in IB Docket No. 97-95, adopted October 29, 2010 and released on November 1, 2010. The full text of the Notice of Proposed Rulemaking is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail FCC@BCPIWEB.com.

The *Third Notice* contains potential proposed new or modified information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13 (44 U.S.C. 3501-3520). The Commission invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in the *Third Notice*. These PRA comments are due on or before February 11, 2011. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. If the Commission adopts new or revised information collection requirements, the Commission will publish a separate notice in the **Federal Register** inviting the public to comment on the requirements before a submission is made to the OMB for approval of the information collection requirements.

In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission will seek specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

Dated: November 23, 2010.

Marlene H. Dortch,

Secretary.

[FR Doc. C1-2010-30984 Filed 12-10-10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 101124581-0584-01]

RIN 0648-XA046

Endangered and Threatened Species; 90-Day Finding on Petitions To Delist the Eastern Distinct Population Segment of the Steller Sea Lion

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

ACTION: Notice of 90-day petition finding; request for information.

SUMMARY: We (NMFS) announce a 90-day finding on two petitions to delist the eastern Distinct Population Segment (DPS) of the Steller Sea Lion (*Eumetopias jubatus*) under the Endangered Species Act of 1973, as amended (ESA). We find that the petitions present substantial scientific or commercial information indicating that the petitioned action may be warranted. We are continuing our status review of this DPS to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are again soliciting scientific and commercial information regarding this species from any interested party.

DATES: Information and comments must be submitted to NMFS by February 11, 2011.

ADDRESSES: You may submit comments, identified by RIN 0648-XA046, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Hand-delivery:* Assistant Regional Administrator, Protected Resources Division, NMFS, Alaska Regional Office, Attn: Ellen Sebastian, Juneau Federal Building, 709 West 9th Street, Room 420A, Juneau, AK 99802-1668.

- *Mail:* P.O. Box 21668, Juneau, AK 99802.

- *Facsimile (fax):* (907) 586-7557.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business

Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The petitions may be viewed at: <http://www.alaskafisheries.noaa.gov/protectedresources/stellers/edps/status.htm>.

FOR FURTHER INFORMATION CONTACT: Dr. Lisa Rotterman, NMFS, Alaska Region, (907) 271-1692; Kaja Brix, NMFS, Alaska Region, (907) 586-7235; or Lisa Manning, NMFS, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

ESA Statutory Provisions and Policy Considerations

The Administrative Procedure Act and ESA enable an interested person to petition for the listing or delisting of a species, subspecies, or DPS of a vertebrate species which interbreeds when mature (5 U.S.C. 553(e), 16 U.S.C. 1533(b)(3)(A)). ESA-implementing regulations issued by NMFS and the U.S. Fish and Wildlife Service (FWS) also establish procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of listed species (50 CFR 424.01).

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1533(b)(3)(A)) requires that the Secretary of Commerce (Secretary) make a finding as to whether a petition to delist a species presents substantial scientific or commercial information indicating the petitioned action may be warranted. ESA implementing regulations define "substantial information" as the amount of information that would lead a reasonable person to believe the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). In determining whether substantial information exists for a petition to list a species, we take into account several factors, including information submitted with, and referenced in, the petition and all other information readily available in our files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition (16 U.S.C. 1533(b)(3)(A)), and the finding is to be published promptly in the **Federal Register**. If the Secretary finds that a petition presents substantial information indicating that the requested action may be warranted, the Secretary must conduct a status review of the species concerned.

Section 4(b)(3)(B) requires the Secretary to make a finding as to whether or not the petitioned action is warranted within 12 months of the receipt of the petition. The Secretary has delegated the authority for these actions to the NOAA Assistant Administrator for Fisheries. In making the 12-month finding whether the petitioned action is warranted, we will also determine whether the eastern DPS continues to qualify as a threatened species.

The ESA defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range" (ESA section 3(6)). A threatened species is defined as a species that is "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range" (ESA section 3(19)). The basis for the determination of a species' status under the ESA is provided in section 4 of the ESA. Under the ESA, a listing determination can address a species, subspecies, or a DPS of a vertebrate species which interbreeds when mature (16 U.S.C. 1532 (16)). Under section 4(a)(1) of the ESA, a species may be determined to be threatened or endangered as a result of any one of the following factors:

(A) Present or threatened destruction, modification, or curtailment of habitat or range;

(B) Over-utilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) Inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

Regulations implementing the ESA instruct NMFS to consider these same factors when determining whether to delist a species, a subspecies, or a DPS (50 CFR 424.11(d)).

Listing determinations are made solely on the basis of the best scientific and commercial data available, after conducting a review of the status of the species and taking into account efforts made by any state or foreign nation to protect such species.

Regulations implementing the ESA provide the rules for revising the Lists of Endangered and Threatened Wildlife and Plants (50 CFR 424). The regulations provide criteria for determining species to be endangered or threatened. In addition to identifying the factors that NMFS should consider when determining whether to delist a species, a subspecies, or a DPS, the ESA implementing regulations state that a species may be delisted for one or more of the following reasons: The species is

extinct or has been extirpated from its previous range; the species has recovered and is no longer endangered or threatened; or investigations show the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)).

Background

The Steller sea lion (*Eumetopias jubatus*) was listed as a threatened species under the ESA on April 5, 1990 (55 FR 12645). Critical habitat was designated on August 27, 1993 (58 FR 45269), based on the location of terrestrial rookery and haulout sites, spatial extent of foraging trips, and availability of prey. In 1997, based on demographic and genetic dissimilarities, we designated two DPSs of Steller sea lions under the ESA: A western DPS and an eastern DPS (62 FR 24345, 62 FR 30772). Due to persistent decline, the western DPS was reclassified as endangered, while the increasing eastern DPS remained classified as threatened.

We completed the first recovery plan for Steller sea lions in December 1992. At that time, the entire species was listed as threatened under the ESA. Because that recovery plan became obsolete after the reclassification of Steller sea lions into two distinct population segments (DPS) in 1997, and because nearly all of the recovery actions contained in the first plan had been completed, NMFS assembled a new Steller Sea Lion Recovery Team (Team) in 2001 to assist NMFS in revising the Recovery Plan and further promote conservation of the species. In March, 2008, NMFS released a Revised Recovery Plan for the Steller Sea Lion: Eastern and Western Distinct Population Segments (Recovery Plan). The 2008 Recovery Plan states that, in 2002, the number of individuals in the eastern DPS was estimated to be between 46,000 and 58,000 and that this population had been increasing at approximately 3 percent per year since the late 1970s (Pitcher *et al.* 2007, as cited in NMFS 2008:x). The Executive Summary of the 2008 Recovery Plan states that the eastern DPS appears to have recovered from the predator control programs of the 20th century, which extirpated animals at rookeries and haulouts, no substantial threats are currently evident, and the population continues to increase at approximately 3 percent per year (NMFS 2008). The 2008 Recovery Plan also summarizes that:

"* * * no threats to continued recovery were identified for the eastern DPS. Although several factors affecting the western DPS also affect the eastern DPS (e.g., environmental

variability, killer whale predation, toxic substances, disturbance, shooting), these threats do not appear to be at a level sufficient to keep this population from continuing to recover, given the long term sustained growth of the population as a whole. However, concerns exist regarding global climate change and the potential for the southern part of the range (*i.e.*, California) to be adversely affected. Future monitoring should target this southern portion of the range” (NMFS 2008:xiii).”

It further states, “The primary action[s] [recommended] in the plan [are] to initiate a status review for the eastern DPS and consider removing it from the Federal List of Endangered Wildlife and Plants.” (NMFS 2008:xvi). The 2008 Recovery Plan identifies the following delisting criteria:

1. The population has increased at an average annual growth rate of 3 percent per year for 30 years.

2. The ESA listing factor criteria are met. NMFS (2008: viv). The Recovery Plan states that when the first of these criteria has been met, NMFS will evaluate the ESA listing factor criteria to determine whether to delist the eastern DPS.

On June 29, 2010, we provided notice of the initiation of a 5-year status review of the eastern DPS of Steller sea lion under the ESA and opened a public comment period (75 FR 37385, June 29, 2010; 75 FR 38979, Wednesday, July 7, 2010). The agency subsequently reopened a second public comment period (75 FR 53272, August 31, 2010). A 5-year status review is a periodic process conducted to ensure that the listing classification of a species is accurate, and it is based on the best scientific and commercial data available at the time of the review. On the basis of such reviews under section 4(c)(2)(B) of the ESA, we determine whether or not any species should be removed from the list (delisted), or reclassified from endangered to threatened or from threatened to endangered.

Analysis of the Petitions

On August 30, 2010, we received a petition from the States of Washington and Oregon to delist the eastern DPS of Steller sea lion under the ESA. On September 1, 2010, the Secretary of Commerce received a petition from the State of Alaska to delist the eastern DPS of Steller sea lion. Both petitions contend that the eastern DPS of Steller sea lions has recovered, is not in danger of extinction now, and is not likely to be in danger in the foreseeable future. Because we received two petitions within a short period of time that requested the same action, we have considered the two petitions jointly in making our 90-day finding.

Both petitions make multiple references to statements, information, and conclusions from the aforementioned 2008 Revised Recovery Plan, and literature cited within this document. For example, the conclusion section of the State of Alaska petition states:

“In the 2008 Recovery Plan, NMFS concluded that “[n]o threats to recovery [of the Eastern DPS of the Steller sea lion] have been identified and the population has been increasing for over 25 years, new rookeries have been created, and the population is at historical high levels.” 2008 Recovery Plan at VII-7.”

Additionally, new information that was not available at the time of the 2008 Recovery Plan, but that was readily available in our files upon receipt of the petitions, was presented in the petitions. For example, the petition from the States of Oregon and Washington refers to a recently published paper when they state:

“Boyd (2010) concluded that “the eastern and western segments of the population have probabilities of persistence that mean they do not meet the criteria for classification as endangered and it would be reasonable to delist them.””

The State of Alaska’s petition cites new aerial survey information provided in a memorandum from the Alaska Fishery Science Center to the Alaska Region Protected Resources Division of NMFS. This memorandum reported that Steller sea lion pup production in Southeast Alaska (eastern DPS) totaled 7,462 pups in 2009, with 7,443 counted at the 5 major rookeries where 5,510 had been counted in 2005.

The petitions also present some new information that was not readily available in our files. For example, the petition from the States of Oregon and Washington cites unpublished data from studies of Steller sea lions by the Oregon and Washington Departments of Wildlife to support their conclusion that

“None of the potential natural or manmade causes for population decline examined in the western population range appear to be having negative impacts on eastern stock sea lions occurring in Oregon and Washington * * *.”

This petition also provides preliminary results of non-pup abundance survey data from 1976–2008 collected by the Oregon Department of Wildlife, and the Petitioners report that unpublished data from surveys conducted by the Washington Department of Fish and Wildlife (WDFW) along the Washington coast show both increasing Steller sea lion numbers at haulout areas as well as increasing numbers of newborn pups at several locations over recent years. The

Petitioners further contend that the available data demonstrate 31 years of population growth in the area of the primary Steller sea lion rookeries in U.S. waters south of Alaska (citing Pitcher *et al.*, 2007). Based on the information presented and referenced in the petition, as well as all other information readily available in our files, we find that the petitions present substantial information indicating that the petitioned action may be warranted.

Status Review and Solicitation of New Information

As a result of this finding, we will continue our ongoing status review to determine whether the delisting of the eastern DPS of Steller sea lion under the ESA is warranted. We intend that any final action resulting from this status review will be as accurate and as effective as possible. Therefore, to ensure that the status review is complete and based on the best available scientific and commercial information, we are opening another public comment period for 60 days to solicit comments, suggestions, data, and information from the public, concerned governmental agencies, Native American tribes, conservation groups, the scientific community, industry, and any other interested parties concerning the status of the eastern DPS of the Steller sea lion (*Eumetopias jubatus*) throughout its range, including, but not limited to information on:

(A) Species biology, including, but not limited to, population trends, distribution and abundance, demographics, habitat use and requirements, genetics, and foraging ecology; (B) habitat conditions, including, but not limited to, amount, distribution, and suitability of habitat; (C) the effects of conservation measures that have been implemented to benefit the species; (D) status and trends of threats; and (E) other new information, data, or corrections, including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the list, and improved analytical methods.

Upon completion of the status review, and within 12 months of our receipt of the first petition to delist this DPS, we must make one of the following findings: (1) The petitioned action is not warranted, in which case the Secretary shall promptly publish such finding in the **Federal Register** and so notify the petitioner; (2) the petitioned action is warranted, in which case the Secretary shall promptly publish in the **Federal Register** a proposed regulation to implement the action pursuant to 50 CFR 424.16; or (3) the petitioned action

is warranted, but that (A) the immediate proposal and timely promulgation of a regulation to implement the petitioned action is precluded because of other pending proposals to list, delist, or reclassify species, and (B) expeditious progress is being made to list, delist, or reclassify qualified species, in which case such findings shall be promptly published in the **Federal Register**

together with a description and evaluation of the reasons and data on which the finding is based.

We will base our findings on a review of the best scientific and commercial information available, including information received during the public comment periods opened during this status review.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: December 8, 2010.

Eric C. Schwaab,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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