

December 8, 1997. Ten (10) winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard.

61. The lower 230 channels in the 800 MHz SMR band are divided between General Category channels (the upper 150 channels) and the lower 80 channels. The auction of the 1,053 800 MHz SMR geographic area licenses (1,050—800 MHz licenses for the General Category channels, and 3—800 MHz licenses for the upper 200 channels from a previous auction) for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. At the close of the auction, 1,030 licenses were won by bidders. Eleven (11) winning bidders for geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. The auction of the 2,800 800 MHz SMR geographic area licenses for the lower 80 channels of the 800 MHz SMR service began on November 1, 2000, and was completed on December 5, 2000. Nineteen (19) winning bidders for geographic area licenses for the lower 80 channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. In addition, there are numerous incumbent site-by-site SMR licensees on the 800 and 900 MHz bands. The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years.

#### *D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements*

62. This NPRM neither proposes nor anticipates any additional reporting, recordkeeping or other compliance measures.

#### *E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

63. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from

coverage of the rule, or any part thereof, for small entities.

64. In our September 1999 *First Biennial Review Order*, we concluded that retention of the CMRS spectrum cap and cellular cross-interest rule serves the public interest. We found that the benefits of these bright-line rules in addressing concerns about increased spectrum aggregation continued to make these approaches preferable to exclusive reliance on case-by-case review under section 310(d). By setting bright lines for permissible ownership interests, we found that the rules continued to benefit both the telecommunications industry and subscribers, including small businesses, by providing regulatory certainty and facilitating more rapid processing of transactions. Specifically, we noted that case-by-case review is especially expensive and time-consuming for small businesses, which often do not have the requisite resources.

65. In our 2000 biennial regulatory review pursuant to section 11, we here reexamine our findings and determinations in September 1999. Since that time, there have been international and economic developments that have significantly affected CMRS markets. For example, consolidation within the CMRS industry in an effort to create national service footprints has tended to reduce the number of smaller entities providing broadband CMRS on a purely local level. As part of this 2000 biennial review, we seek to develop a record regarding whether the CMRS spectrum cap and cellular cross-interest rule continue to make regulatory and economic sense in CMRS markets in the current-, mid-, and long-term. In doing so, we generally request comment on whether retention, modification, or elimination of the CMRS spectrum cap and/or cellular cross-interest rule is appropriate with respect to small businesses that are licensees in the cellular, broadband PCS and/or SMR services. We seek comment on whether there continues to be a need for these rules to ensure that new entrants, including small businesses, have access to spectrum licenses both at auction and in the secondary market. We inquire whether these bright-line rules continue to create efficiencies and reduce transaction costs for small business. We consider the impact on small businesses if we were to adopt alternative approaches that rely more heavily on case-by-case review. We also seek specific comment on various aspects of these rules that particularly affect small business, such as the whether our September 1999 decision to increase

attribution standards to 40 percent has benefited small businesses.

#### *F. Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rules*

66. None.

#### **VI. Ordering Clauses**

67. Accordingly, *It Is Ordered*, pursuant to the authority of sections 1, 4(i), 11, 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(g), and 303(r), that this Notice of Proposed Rulemaking is *Adopted*.

68. *It Is Further Ordered* that the Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**RIN 1018-AG38**

#### **Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period and Notice of Availability of Draft Economic Analysis for Proposed Critical Habitat Determination for the Spruce-Fir Moss Spider**

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

**ACTION:** Proposed rule; notice of reopening of public comment period and availability of draft economic analysis.

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**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of the draft economic analysis for the proposed designation of critical habitat for the spruce-fir moss spider (*Microhexura montivaga*). We also provide notice that the public comment period for the proposal is reopened to allow all interested parties to submit written comments on the proposal and the draft economic analysis. Comments previously submitted during the comment period need not be resubmitted as they will be incorporated into the public record and

will be fully considered in the final determination on the proposal.

**DATES:** The original comment period closed on December 5, 2000. The comment period is hereby reopened until April 13, 2001. We must receive comments from all interested parties by the closing date. Any comments that we receive after the closing date will not be considered in the final decision on this proposal.

**ADDRESSES:** Copies of the draft economic analysis are available on the Internet at [http://southeast.fws.gov/hotissues/hot\\_index.html](http://southeast.fws.gov/hotissues/hot_index.html) or by writing to or calling the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801; telephone 828/258-3939.

If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.
2. You may hand-deliver written comments to our Asheville Field Office, at the above address or fax your comments to 828/258-5330.
3. You may send comments by electronic mail (e-mail) to [john\\_fridell@fws.gov](mailto:john_fridell@fws.gov). For directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section.

Comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** John A. Fridell, Fish and Wildlife Biologist (see **ADDRESSES** section).

**SUPPLEMENTARY INFORMATION:**

**Background**

The spruce-fir moss spider is the smallest of the mygalomorph spiders, with adults measuring only 2.5 to 3.8 millimeters (0.10 to 0.15 inch) in length (Coyle 1981, Service 1995). The species' coloration ranges from light brown to a darker reddish brown, and there are no markings on the abdomen (Harp 1992). *Microhexura montivaga* is known from only the highest mountain peaks (at and above 1,646 m (5,400 ft) in elevation) in the Southern Appalachian Mountains of North Carolina and Tennessee.

Recent and ongoing surveys funded by the National Park Service, U.S. Forest Service, and us indicate that reproducing populations of the spruce-fir moss spider still survive on

Grandfather Mountain in North Carolina (Harp 1992; pers. observation 1995; Jane Thompson, The Nature Conservancy, pers. comm. 1997); Mount LeConte in Tennessee (Coyle 1997); and Mount Buckley (Coyle, pers. comm. 2000) and Roan Mountain in North Carolina and Tennessee (Coyle 1999). The Mount Mitchell population is believed to be extirpated (Harp 1992), and both the Mount Collins and Clingmans Dome populations, if still present, are extremely small, with only one spruce-fir moss spider having been found at each of these two sites in recent years (Harp 1991, 1992).

The microhabitat of the spruce-fir moss spider appears to be virtually restricted to certain areas of rock outcrops and boulders in Fraser fir and/or fir-dominated spruce-fir forests. The primary threat to, and reason for, the recent decline of the spruce-fir moss spider at all of the sites from which it has been recorded appears to be associated with the loss of suitable moss habitat, due primarily to the loss of mature Fraser firs (Coyle, *in litt.*, 1991, 1999; Harp 1991, 1992; Service 1998).

On February 6, 1995, we listed the spruce-fir moss spider as endangered (60 FR 6968) under the Endangered Species Act of 1973, as amended (Act). The primary threat to the species was identified as deterioration of the spider's high-elevation forest habitat due primarily to exotic insects and possibly to past land use history, air pollution, and other factors not yet fully understood. On October 6, 2000, we published in the **Federal Register** a proposal to designate critical habitat for this species (65 FR 59798). The proposal includes: (1) Areas at and above 1,646 meters (m) (5,400 feet (ft)) in elevation in the Great Smoky Mountains National Park (GSMNP) on and/or in the vicinity of Mount LeConte in Sevier County, Tennessee, and Mount Collins, Clingmans Dome, and Mount Buckley in Swain County, North Carolina, and Sevier County, Tennessee; (2) areas at and above 1,646 m (5,400 ft) in elevation at Grandfather Mountain in Avery, Caldwell, and Watauga Counties, North Carolina; and (3) portions at and above 1,646 m (5,400 ft) in elevation at Roan Mountain, Avery and Mitchell Counties, North Carolina, and Carter County, Tennessee. All of the areas on or in the vicinity of Mount LeConte, Mount Collins, Clingmans Dome, and Mount Buckley that are proposed for critical habitat designation are within the boundaries of the GSMNP; all of the areas of Roan Mountain that are proposed for critical habitat designation are within the boundaries of the Pisgah National Forest in North Carolina and

the Cherokee National Forest in Tennessee; and the areas of Grandfather Mountain that are proposed for critical habitat designation are privately owned.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. Consequently, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment at the above Internet and mailing addresses.

**Public Comments Solicited**

We solicit comments on the draft economic analysis described in this notice, as well as any other aspect of the proposed designation of critical habitat for the spruce-fir moss spider. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received by the date specified above. All previous comments and information submitted during the comment period need not be resubmitted. Written comments may be submitted to the State Supervisor (see **ADDRESSES** section).

Please submit electronic comments as an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: [RIN number]" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Asheville Field Office (see **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from

individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### References Cited

A complete list of all references cited in this document is available upon request from the Asheville Field Office (see ADDRESSES section).

#### Author

The primary author of this document is John A. Fridell (see ADDRESSES section).

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

Dated: January 18, 2001.

#### H. Dale Hall,

*Acting Regional Director, Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[Docket No. 010118020-1020-01; I.D. 010801A]

RIN 0648-AO86

#### Endangered and Threatened Species: Threatened Status for One Evolutionarily Significant Unit of Steelhead in California and Oregon

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS' completed Endangered Species Act (ESA) status reviews for steelhead (*Oncorhynchus mykiss*) populations in Washington, Oregon, Idaho, and California resulted in proposed listings for several steelhead Evolutionarily Significant Units (ESUs), including a Klamath Mountains Province (KMP) steelhead ESU. Steelhead in this ESU inhabit coastal river basins between the Elk River in Oregon and the Klamath River in California, inclusive. After reviewing additional information, including biological data on the species' status and an assessment of protective efforts, NMFS concluded in 1998 that this ESU did not warrant listing. However, the U.S. District Court for the Northern District of California (Court) recently

overturned that decision and remanded the rule to the agency. The District Court concluded that NMFS erred in relying on the expected effects of future conservation measures when making its final listing determination. In light of the Court's order and of the need to formally solicit any new information regarding the status of KMP steelhead, the agency now re-proposes to list the KMP steelhead ESU as a threatened species under the ESA.

**DATES:** Public hearings on this proposal will be held on February 22, 2001, in Gold Beach, OR, and Eureka, CA. Comments on this proposal must be received no later than 5 p.m. Pacific time, on March 5, 2001. Comments will not be accepted if submitted via e-mail or the Internet.

**ADDRESSES:** Two public hearings on this proposal will be held: (1) on Thursday, February 22, 2001, from 6:30 p.m. to 9 p.m. at the Gold Beach City Hall, City Council Chambers, 29592 Ellensburg Avenue, Gold Beach, OR; and (2) on Thursday, February 22, 2001, from 6:30 p.m. to 9 p.m. at the Eureka Inn, 518 7th Street, Eureka, CA.

Comments on this proposed rule and requests for reference materials should be sent to the Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737. Comments may also be sent via facsimile (fax) to (503) 230-5435, but will not be accepted if submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

Garth Griffin, 503-231-2005, Craig Wingert, 562-980-4021, or Chris Mobley, 301-713-1401.

#### SUPPLEMENTARY INFORMATION:

#### Previous Federal ESA Actions Related to West Coast Steelhead

The first petition to address steelhead in the Klamath Mountains Province or "KMP" (named after a geological province in southwest Oregon and northwest California) was received on May 5, 1992, and dealt with winter steelhead in the Illinois River, a tributary to Oregon's Rogue River. The agency conducted a status review of this population (NMFS, 1993) and published a May 20, 1993, determination (58 FR 29390) wherein NMFS concluded that Illinois River winter steelhead did not warrant listing because they did not represent a "species" under the ESA. However, NMFS recognized that this population was part of a larger ESU whose extent had not yet been determined, but whose status might warrant listing because of declining trends in steelhead abundance observed in several southern Oregon streams.

In its May 20, 1993, finding regarding Illinois River winter steelhead, NMFS announced that it would conduct an expanded status review to identify all coastal steelhead ESUs within California, Oregon, and Washington and to determine whether any identified ESUs warranted listing under the ESA (58 FR 29390). Subsequently, on February 16, 1994, NMFS received a petition from the Oregon Natural Resources Council and from 15 co-petitioners to list all steelhead (or specific ESUs, races, or stocks) within the States of California, Oregon, Washington, and Idaho. In response to this petition, NMFS announced the expansion of its status review of steelhead to include inland steelhead populations occurring in eastern Washington and Oregon and the State of Idaho (59 FR 27527, May 27, 1994).

On March 16, 1995, NMFS identified a KMP steelhead ESU and published a proposed rule to list it as a threatened species under the ESA (60 FR 14253). The proposed ESU included steelhead populations inhabiting coastal river basins between the Elk River in Oregon and the Klamath River in California, inclusive. Subsequent to this proposal, the agency completed a coastwide status review of steelhead (NMFS, 1996a) that identified a total of 15 steelhead ESUs in the states of Washington, Oregon, Idaho, and California. By August 9, 1996, the agency had proposed 10 steelhead ESUs, including KMP steelhead, for listing as threatened or endangered under the ESA (61 FR 41541). While the agency had proposed listing KMP steelhead prior to the other ESUs, unresolved issues and practical considerations made it more prudent to consider a final determination on KMP steelhead in the context of final listing decisions for all West Coast steelhead ESUs.

On August 18, 1997, NMFS published a final rule listing five ESUs as threatened and endangered under the ESA (62 FR 43937). In a separate document published on the same day, NMFS determined that substantial scientific disagreement remained for five proposed ESUs, including the KMP steelhead ESU (62 FR 43974, August 18, 1997). In accordance with section 4(b)(6)(B)(i) of the ESA, NMFS deferred its decision on these five steelhead ESUs for 6 months for the purpose of soliciting additional data. During this 6-month period of deferral, NMFS' scientist evaluated new information regarding the status of these proposed steelhead ESUs. This new information resulted in the updating of status review documents for these five ESUs (NMFS, 1997; NMFS, 1998).