United States (US) Footnotes

* * * * *

USxxx In Hawaii, the frequencies 120.65 MHz and 127.05 MHz may be authorized to non-Federal aircraft stations for air-to-air communications as specified in 47 CFR 87.187.

* * * * *

PART 87—AVIATION SERVICES

3. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

4. Amend § 87.187 by adding new paragraphs (gg) and (hh) to read as follows:

§ 87.187 Frequencies.

* * * * *

(gg)(1) The frequency 120.650 MHz is authorized for air-to-air communications for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Maui.

(2) The frequency 121.950 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Molokai.

(3) The frequency 122.850 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Oahu.

(4) The frequency 122.850 MHz is authorized for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Hawaii when aircraft are south and east of the 215 degree radial of very high frequency omni-directional radio range of Hilo International Airport.

(5) The frequency 127.050 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the shoreline of the Hawaiian Island of Hawaii when aircraft are north and west of the 215 degree radial of very high frequency omni-directional radio range of Hilo International Airport.

(6) The frequency 127.050 MHz is authorized for air-to-air use for aircraft over and within five nautical miles of the Hawaiian Island of Kauai.

(hh)(1) The frequency 121.95 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

33–46–00 N. Lat.; 118–27–00 W. Long.
33–47–00 N. Lat.; 118–12–00 W. Long.
33–40–00 N. Lat.; 118–00–00 W. Long.
33–35–00 N. Lat.; 118–08–00 W. Long.
34–00–00 N. Lat.; 118–26–00 W. Long.

(2) The frequency 122.775 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

34–22–00 N. Lat.; 118–30–00 W. Long.
34–35–00 N. Lat.; 118–15–00 W. Long.
34–27–00 N. Lat.; 118–15–00 W. Long.
34–16–00 N. Lat.; 118–35–00 W. Long.
34–06–00 N. Lat.; 118–35–00 W. Long.
34–05–00 N. Lat.; 118–50–00 W. Long.

(3) The frequency 123.30 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

34–08–00 N. Lat.; 118–00–00 W. Long.
34–10–00 N. Lat.; 117–08–00 W. Long.
34–00–00 N. Lat.; 117–08–00 W. Long.
33–53–00 N. Lat.; 117–42–00 W. Long.
33–58–00 N. Lat.; 118–00–00 W. Long.

(4) The frequency 123.50 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

33–53–00 N. Lat.; 117–37–00 W. Long.
34–00–00 N. Lat.; 117–15–00 W. Long.
34–00–00 N. Lat.; 117–07–00 W. Long.
33–28–00 N. Lat.; 116–55–00 W. Long.
33–27–00 N. Lat.; 117–12–00 W. Long.

(5) The frequency 123.50 MHz is authorized for air-to-air communications for aircraft within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

33–50–00 N. Lat.; 117–48–00 W. Long.
33–51–00 N. Lat.; 117–41–00 W. Long.
33–38–00 N. Lat.; 117–30–00 W. Long.
33–30–00 N. Lat.; 117–30–00 W. Long.
33–30–00 N. Lat.; 117–49–00 W. Long.

5. Amend § 87.215 by revising paragraph (b) to read as follows:

§ 87.215 Supplemental Eligibility.

* * * * *

(b) Only one unicom will be authorized to operate at an airport which does not have a control tower, RCO or FAA flight service station that effectively controls traffic at the airport (*i.e.*, where the unicom frequency is not the published common traffic advisory frequency). At an airport which has a part-time or full-time control tower, RCO or FAA flight service station that effectively controls traffic at the airport, the one unicom limitation does not apply and the airport operator and all aviation services organizations may be licensed to operate a unicom on the assigned frequency.

* * * * *

[FR Doc. E6–20451 Filed 12–5–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: 90-Day Finding on a Petition To List the Upper Tidal Potomac River Population of the Northern Water Snake (Nerodia sipedon) as an Endangered Distinct Population Segment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the distinct vertebrate population segment (DPS) of the northern water snake (*Nerodia sipedon*) in the upper tidal Potomac River as endangered under the Endangered Species Act of 1973, as amended (Act). We find the petition does not provide substantial scientific or commercial information indicating that the petitioned action is warranted. Therefore, we will not initiate a further status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of this population of the northern water snake or threats to it.

DATES: The finding announced in this document was made on December 6, 2006.

ADDRESSES: The complete file for this finding is available for public inspection, by appointment, during normal business hours, at the Chesapeake Bay Field Office, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401. Submit new information, materials, comments, or questions to us at the above address.

FOR FURTHER INFORMATION CONTACT: John Wolflin, Field Supervisor, Chesapeake Bay Field Office (see **ADDRESSES**) (telephone 410–573–4574; facsimile 410–269–0832).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and information available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information is presented, we are required to promptly commence a status review of the species.

In making this finding, we relied on information provided by the petitioner and evaluated this information in accordance with 50 CFR 424.14(b). Our process of making a 90-day finding under section 4(b)(3)(A) of the Act and § 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold.

On November 7, 2000, we received a formal petition dated November 1, 2000, from Dr. Richard M. Mitchell requesting that we emergency list the northern water snake population found in the upper tidal Potomac River as a distinct population segment (DPS) under the Act. The petition included a report from a study performed by Dr. James M. Beers and Dr. Mitchell from July to September, 2000, entitled ''A Herpetofaunal Survey of the Upper Tidal Potomac River and its Associated Estuaries.''

Action on the petition was precluded by court orders and settlement agreements for other listing actions that required nearly all of our listing funds for fiscal year 2001. However, the Service did evaluate the need for emergency listing based on the information provided in the initial petition and its attached report and determined that the threats described did not appear to constitute immediate threats of a magnitude that would justify emergency listing. A letter was sent to the petitioner on January 23, 2001, explaining this determination.

Species Information

The northern water snake was first described by Linnaeus in 1758. The species is widely distributed in eastern North America, from southern Canada south through the Carolina and Georgia Piedmont, to the Gulf of Mexico, and west to eastern Colorado (Conant 1975, p. 145). This species occurs in most freshwater habitats within its range, inhabiting natural water bodies, wetlands, and even manmade impoundments (Dorcas and Gibbons 2004, p. 183). Northern water snakes tend to exhibit high site fidelity, although snakes in linear habitats such as rivers tend to wander more than snakes in discrete habitats such as ponds (Fraker 1990, pp. 666–669). The northern water snake is found in a diversity of habitats, and likewise consumes a diversity of prey. In fact, Gibbons and Dorcas (2004, p. 186) state, ''the documented diversity of prey species consumed by *N. sipedon* is greater than for any other water snake * * * [this] clearly indicates that *N. sipedon* is primarily an aquatic-feeding generalist that in most instances probably eats whatever is readily available.''

The northern water snake is a moderately sized, nonvenomous water snake, and is highly variable in both dorsal and ventral color patterns (Dorcas and Gibbons 2004, p. 178). Selective pressure, namely predation, determines which banding patterns are exhibited in specific populations (Camin and Ehrlich 1958 in Beatson 1975, p. 241). This natural selection results in individuals with cryptic coloration that is highly specialized for their habitat. Coloration, when broken down into the most basic classes, ranges from the regularly banded morph, to a reduced pattern morph, to a uniformly unbanded morph (King and Lawson 1995, p. 885). Most northern water snakes meet the standard description (*i.e.*, the regularly banded morph); however, ''the range of variability cannot be overstated'' (Dorcas and Gibbons 2004, p. 179).

Focusing on the geographic area of the petitioned action, the northern water snake is found throughout Maryland and Virginia, and its distribution in the Washington DC Metropolitan area of the Potomac River appears concentrated from just north of Great Falls National Park southward to just north of Indianhead, Maryland (Mitchell 1994, p. 237).

Distinct Vertebrate Population Segment

We consider a species for listing under the Act if available information indicates such an action might be warranted. ''Species'' is defined by the Act as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). We, along with the National Marine Fisheries Service (now the National Oceanic and Atmospheric Administration—Fisheries), developed the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722; February 7, 1996), to help us in determining what constitutes a DPS. The policy identifies three elements that are to be considered regarding the status of a possible DPS. These elements include: (1) The discreteness of the population in relation to the remainder of the species to which it belongs; (2) the significance of the population to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing. The following is our evaluation of these elements in relation to the petitioned entity, the upper tidal Potomac River population of the northern water snake.

Discreteness: The DPS policy states that a population segment of a vertebrate species may be considered discrete if it satisfies either one of the following two conditions: (1) It must be markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors; or (2) it must be delimited by international governmental boundaries within which difference in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

The petitioner claims that the color pattern of the upper tidal Potomac River population of the northern water snake is different from dorsal patterns of other water snakes in Virginia. However, as referenced earlier, the northern water snake is highly variable in both dorsal and ventral color patterns (Dorcas and Gibbons 2004, p. 178). Therefore, color pattern alone does not provide sufficient information to support marked separation from other populations of the same taxon as a consequence of physical factors.

In summary, the petitioner does not present any evidence to indicate that the species is markedly separated from other populations of the same taxon by physical, physiological, ecological, or behavioral factors, nor is it delimited by an international governmental boundary. The northern water snake within the upper tidal Potomac River

therefore does not meet the ''discreteness'' criterion.

Significance: Pursuant to our DPS policy, in addition to our consideration that a population segment is discrete, we further consider its biological and ecological significance to the taxon to which it belongs, within the context that the DPS policy be used ''sparingly'' while encouraging the conservation of genetic diversity (61 FR 4722; February 7, 1996). This consideration may include, but is not limited to: (1) Evidence of the persistence of the discrete population segment in an ecological setting that is unique for the taxon; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

The petition does not address these factors. Therefore, based on the lack of information in the petition and the information readily available in our files, the upper tidal Potomac River population of the northern water snake is not significant in relation to the remainder of the taxon.

Finding

We reviewed the information presented in the petition, and evaluated that information in relation to information readily available in our files. On the basis of our review, we find that the petition does not provide substantial scientific or commercial information to indicate that the upper tidal Potomac River population of the northern water snake constitutes a valid DPS. This finding is based on the lack of substantial evidence indicating this population meets the discreteness element of the DPS policy and the lack of substantial scientific information that the upper tidal Potomac River population is significant in relation to the remainder of the taxon. Therefore, we conclude that the upper tidal Potomac River population of the northern water snake is not a listable entity pursuant to section 3(15) of the Act. We will not be commencing a status review in response to this petition. However, we encourage interested parties to continue to gather data that will assist with the conservation of the species. Information regarding this species may be submitted at any time to the Field Supervisor, Chesapeake Bay Field Office (see **ADDRESSES** section).

References Cited

A complete list of all references cited herein is available, upon request, from the Chesapeake Bay Field Office (see **ADDRESSES** section).

Author

The primary author of this notice is Charisa Morris, U.S. Fish and Wildlife Service, Chesapeake Bay Field Office (see **ADDRESSES** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 28, 2006.

Kenneth Stansell,

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

[FR Doc. E6–20542 Filed 12–5–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Cerulean Warbler (Dendroica cerulea) as Threatened With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of a 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the cerulean warbler (*Dendroica cerulea*) as threatened under the Endangered Species Act of 1973, as amended (Act). The petition also asked that critical habitat be designated for the species. After reviewing the best available scientific and commercial information, we find that the petitioned action is not warranted. We ask the public to submit to us any new information that becomes available concerning the status of, or threats to, the species. This information will help us monitor and encourage the conservation of this species.

DATES: The finding announced in this document was made on November 28, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the development of this 12-month finding, will be available for inspection, by appointment, during normal business hours at the Columbia Ecological Services Field Office, 101 Park DeVille Drive, Suite A, Columbia, Missouri 65203. Submit new information, materials, comments, or questions concerning this species to the Service at the above address.

FOR FURTHER INFORMATION CONTACT: Charles Scott, Supervisor (see **ADDRESSES**), by telephone at 573–234–2132, by facsimile at 573–234–2181, or by electronic mail at *charlie_scott@fws.gov.* Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that the petitioned action may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but that the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether any species is threatened or endangered, and expeditious progress is being made to add or remove qualified species from the List of Endangered and Threatened Species. Such 12-month findings are to be published promptly in the **Federal Register**. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded shall be treated as though resubmitted on the date of such finding, requiring a subsequent finding to be made within 12 months.

Previous Federal Actions

We added the cerulean warbler to our former Category 2 list of candidate species on November 21, 1991 (56 FR 58804). Category 2 candidate species were those species for which we possessed data indicating that proposing to list them as endangered or threatened was possibly appropriate, but for which conclusive data on biological vulnerability and threat were not available at that time to support proposed rules. Category 1 candidate species were those for which we