

not, however, whether the Commission *could* apply the *TOPUC* principle to TRS, but whether the rule the Commission did adopt for TRS (requiring payments into the Fund based on international revenues) is reasonable and in the public interest. Accordingly, Telco Group's request for a declaratory ruling excluding international services revenue from the interstate contribution base is denied. Telco Group also asserts that because it does not *receive* any TRS funds, and does minimal business in the United States, it should not have to pay into the Fund based on international revenues "in return for 'benefits' largely and primarily enjoyed by other carriers." Telco Reply Comments at 3–4. The obligation to pay into the Fund, however, is not tied to particular benefits contributors may receive from the Fund. Under the rules, a broad range of interstate telecommunications carriers are required to pay into the Fund, regardless of whether they also provide relay services paid for by the Fund or otherwise "benefit" directly from the provision of relay service. *See* 47 CFR 64.604(c)(5)(iii)(A) of the Commission's rules.

Telco Group's request for waiver of the interstate TRS assessment on its international services revenue is also denied. Although the Commission may waive a provision of its rules for "good cause shown," 47 CFR 1.3 of the Commission's rules; *see generally* 2004 TRS Report and Order, 19 FCC Rcd at 12520, paragraph 110 (discussing standard for waiving Commission rules), Telco Group's argument rests on the fact that a high percent of its revenues derive from international services and therefore its TRS payment is substantially higher than it would be if international revenues were not included and burdensome. *See also* *Petition* at 9–10. As noted above, however, because the Fund supports both international and interstate TRS, TRS assessments are based on both international and interstate revenues, and the fact that some contributors have

relatively more international revenues, or more interstate revenues, is not relevant to ensuring adequate funding for these services.

Congressional Review Act

The Commission will not send a copy of the *Declaratory Ruling on Reconsideration* pursuant to the Congressional Review Act because the adopted rules are rules of particular applicability. *See* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to the authority contained in Section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, and §§ 0.141, 0.361, and 1.108 of the Commission's rules, 47 CFR 0.141, 0.361, and 1.108, the *Declaratory Ruling on Reconsideration* is hereby denied.

Federal Communications Commission.

Monica S. Desai,

Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 06–6012 Filed 6–30–06; 12:30 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. No. 060204C]

Endangered and Threatened Species: Final Listing Determinations for Elkhorn Coral and Staghorn Coral; Correction

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

ACTION: Final rule; correction.

SUMMARY: We, the National Marine Fisheries Service, are correcting a previously published **Federal Register** rule that contained incorrect data. On June 2, 2006, a correction was published in the **Federal Register** to add citations

for elkhorn and staghorn corals to the published table of threatened species. The effective date for this correction was inadvertently set for a date prior to the effective date of the final rule to list these corals as threatened under the Endangered Species Act. In addition, the citation for the North American green sturgeon was inadvertently omitted from the table. This rule therefore serves to correct the effective date of the June 2, 2006 rule and to add the citation for green sturgeon to the table of threatened species.

DATES: This correction is effective on July 7, 2006.

FOR FURTHER INFORMATION CONTACT: Marta Nammack or Lisa Manning, (301)713–1401.

SUPPLEMENTARY INFORMATION: In the May 9, 2006, issue of the **Federal Register**, we published a final rule to implement our determination to list elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals as threatened species under the Endangered Species Act (ESA) of 1973. The table printed in this rule contained inadequate data and was subsequently corrected in a June 2, 2006 **Federal Register** Notice. The effective date of this correction, however, was June 2, 2006, which was prior to the effective date for the final rule to list elkhorn and staghorn corals. In addition, the June 2, 2006, correction omitted the citation for the Southern distinct population segment (DPS) of the North American green sturgeon from the table. Therefore in this rule, we seek to correct the effective date of the June 2, 2006 correction and revise the table of threatened species.

In rule document 06–4988 beginning on page 31965 in the issue of Friday, June 2, 2006, make the following corrections:

- 1. On page 31965, in the third column, under the **DATES** heading, "June 2, 2006" should read "July 7, 2006".
§ 223.102 [Corrected]
- 2. On pages 31966 through 31977, correct the table in § 223.102 to read as follows:

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(a) <i>Marine Mammals</i> (1) Guadalupe fur seal	<i>Arctocephalus townsendi</i>	Wherever found U.S.A. (Farallon Islands of CA) south to Mexico (Islas Revillagigedo)	50 FR 51252; Dec 16, 1985	NA
(2) Steller sea lion	<i>Eumetopias jubatus</i>	Eastern population, which consists of all Steller sea lions from breeding colonies located east of 144° W. longitude	55 FR 13488; Apr 10, 1990 55 FR 50006; Dec 4, 1990 62 FR 30772; Jun 5, 1997	58 FR 45278; Aug 27, 1993 64 FR 14067; Mar 23, 1999

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(b) <i>Sea Turtles</i> (1) Green turtle ²	<i>Chelonia mydas</i>	Wherever found, except where listed as endangered under §224.101(c); circumglobal in tropical and temperate seas and oceans	43 FR 32808; Jul 28, 1978	63 FR 46701; Sep 2, 1998 64 FR 14067; Mar 23, 1999
(2) Loggerhead turtle ²	<i>Caretta caretta</i>	Wherever found; circumglobal in tropical and temperate seas and oceans	43 FR 32808; Jul 28, 1978	NA
(3) Olive ridley turtle ²	<i>Lepidochelys olivacea</i>	Wherever found, except where listed as endangered under §224.101(c); circumglobal in tropical and temperate seas.	43 FR 32808; Jul 28, 1978	NA
(c) <i>Fishes</i> (1) Green sturgeon - southern DPS	<i>Acipenser medirostris</i>	U.S.A., CA. The southern DPS includes all spawning populations of green sturgeon south of the Eel River (exclusive), principally including the Sacramento River green sturgeon spawning population.	71 FR 17757; April 7, 2006; 71 FR 19241; April 13, 2006	
(2) Gulf sturgeon	<i>Acipenser oxyrinchus desotoi</i>	Wherever found.	56 FR 49653; Sep 30, 1991	68 FR 13370; Mar 19, 2003
(3) Ozette Lake sockeye	<i>Oncorhynchus nerka</i>	U.S.A.- WA, including all naturally spawned populations of sockeye salmon in Ozette Lake and streams and tributaries flowing into Ozette Lake, Washington, as well as two artificial propagation programs: the Umbrella Creek and Big River sockeye hatchery programs.	64 FR 14528; Mar 25, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
(4) Central Valley spring-run Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.- CA, including all naturally spawned populations of spring-run Chinook salmon in the Sacramento River and its tributaries in California, including the Feather River, as well as the Feather River Hatchery spring-run Chinook program.	64 FR 50394; Sep 16, 1999 70 FR 37160; Jun 28, 2005	70 FR 52488; Sep 2, 2005
(5) California Coastal Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.-CA, including all naturally spawned populations of Chinook salmon from rivers and streams south of the Klamath River to the Russian River, California, as well as seven artificial propagation programs: the Humboldt Fish Action Council (Freshwater Creek), Yager Creek, Redwood Creek, Hollow Tree, Van Arsdale Fish Station, Mattole Salmon Group, and Mad River Hatchery fall-run Chinook hatchery programs.	64 FR 50394; Sep 16, 1999 70 FR 37160; Jun 28, 2005	70 FR 52488; Sep 2, 2005

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(6) Upper Willamette River Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.- OR, including all naturally spawned populations of spring-run Chinook salmon in the Clackamas River and in the Willamette River, and its tributaries, above Willamette Falls, Oregon, as well as seven artificial propagation programs: the McKenzie River Hatchery (Oregon Department of Fish and Wildlife (ODFW) stock #24), Marion Forks/ North Fork Santiam River (ODFW stock #21), South Santiam Hatchery (ODFW stock #23) in the South Fork Santiam River, South Santiam Hatchery in the Calapooia River, South Santiam Hatchery in the Mollala River, Willamette Hatchery (ODFW stock # 22), and Clackamas hatchery (ODFW stock #19) spring-run Chinook hatchery programs.	64 FR 14308; Mar. 24 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
(7) Lower Columbia River Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.- OR, WA, including all naturally spawned populations of Chinook salmon from the Columbia River and its tributaries from its mouth at the Pacific Ocean upstream to a transitional point between Washington and Oregon east of the Hood River and the White Salmon River, and includes the Willamette River to Willamette Falls, Oregon, exclusive of spring-run Chinook salmon in the Clackamas River, as well as seventeen artificial propagation programs: the Sea Resources Tule Chinook Program, Big Creek Tule Chinook Program, Astoria High School (STEP) Tule Chinook Program, Warrenton High School (STEP) Tule Chinook Program, Elochoman River Tule Chinook Program, Cowlitz Tule Chinook Program, North Fork Toutle Tule Chinook Program, Kalama Tule Chinook Program, Washougal River Tule Chinook Program, Spring Creek NFH Tule Chinook Program, Cowlitz spring Chinook Program in the Upper Cowlitz River and the Cispus River, Friends of the Cowlitz spring Chinook Program, Kalama River spring Chinook Program, Lewis River spring Chinook Program, Fish First spring Chinook Program, and the Sandy River Hatchery (ODFW stock #11) Chinook hatchery programs.	64 FR 14308; Mar. 24, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(8) Puget Sound Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.- WA, including all naturally spawned populations of Chinook salmon from rivers and streams flowing into Puget Sound including the Straits of Juan De Fuca from the Elwha River, eastward, including rivers and streams flowing into Hood Canal, South Sound, North Sound and the Strait of Georgia in Washington, as well as twenty-six artificial propagation programs: the Kendal Creek Hatchery, Marblemount Hatchery (fall, spring yearlings, spring subyearlings, and summer run), Harvey Creek Hatchery, Whitehorse Springs Pond, Wallace River Hatchery (yearlings and subyearlings), Tulalip Bay, Issaquah Hatchery, Soos Creek Hatchery, Icy Creek Hatchery, Keta Creek Hatchery, White River Hatchery, White Acclimation Pond, Hupp Springs Hatchery, Voights Creek Hatchery, Diru Creek, Clear Creek, Kalama Creek, George Adams Hatchery, Rick's Pond Hatchery, Hamma Hamma Hatchery, Dungeness/Hurd Creek Hatchery, Elwha Channel Hatchery Chinook hatchery programs.	64 FR 14308; Mar. 24, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
(9) Snake River fall-run Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.- OR, WA, ID, including all naturally spawned populations of fall-run Chinook salmon in the mainstem Snake River below Hells Canyon Dam, and in the Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River, as well as four artificial propagation programs: the Lyons Ferry Hatchery, Fall Chinook Acclimation Ponds Program, Nez Perce Tribal Hatchery, and Oxbow Hatchery fall-run Chinook hatchery programs.	57 FR 14653; Apr 22, 1992 57 FR 23458; Jun 3, 1992 70 FR 37160; Jun 28, 2005	58 FR 68543; Dec 28, 1993
(10) Snake River spring/summer-run Chinook	<i>Oncorhynchus tshawytscha</i>	U.S.A.- OR, WA, ID, including all naturally spawned populations of spring/summer-run Chinook salmon in the mainstem Snake River and the Tucannon River, Grande Ronde River, Imnaha River, and Salmon River subbasins, as well as fifteen artificial propagation programs: the Tucannon River conventional Hatchery, Tucannon River Captive Broodstock Program, Lostine River, Catherine Creek, Lookingglass Hatchery, Upper Grande Ronde, Imnaha River, Big Sheep Creek, McCall Hatchery, Johnson Creek Artificial Propagation Enhancement, Lemhi River Captive Rearing Experiment, Pahsimeroi Hatchery, East Fork Captive Rearing Experiment, West Fork Yankee Fork Captive Rearing Experiment, and the Sawtooth Hatchery spring/summer-run Chinook hatchery programs.	57 FR 14653; Apr 22, 1992 57 FR 23458; Jun 3, 1992 70 FR 37160; Jun 28, 2005	58 FR 68543; Dec 28, 1993 64 FR 57399; Oct 25, 1999

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(11) Southern Oregon/ Northern California Coast coho	<i>Oncorhynchus kisutch</i>	U.S.A.- CA, OR, including all naturally spawned populations of coho salmon in coastal streams between Cape Blanco, Oregon, and Punta Gorda, California, as well three artificial propagation programs: the Cole Rivers Hatchery (ODFW stock # 52), Trinity River Hatchery, and Iron Gate Hatchery coho hatchery programs.	62 FR 24588; May 6, 1997 70 FR 37160; Jun 28, 2005	64 FR 24049; May 5, 1999
(12) Lower Columbia River coho	<i>Oncorhynchus kisutch</i>	U.S.A.- OR, WA, including all naturally spawned populations of coho salmon in the Columbia River and its tributaries in Washington and Oregon, from the mouth of the Columbia up to and including the Big White Salmon and Hood Rivers, and includes the Willamette River to Willamette Falls, Oregon, as well as twenty-five artificial propagation programs: the Grays River, Sea Resources Hatchery, Peterson Coho Project, Big Creek Hatchery, Astoria High School (STEP) Coho Program, Warrenton High School (STEP) Coho Program, Elochoman Type-S Coho Program, Elochoman Type-N Coho Program, Cathlamet High School FFA Type-N Coho Program, Cowlitz Type-N Coho Program in the Upper and Lower Cowlitz Rivers, Cowlitz Game and Anglers Coho Program, Friends of the Cowlitz Coho Program, North Fork Toutle River Hatchery, Kalama River Type-N Coho Program, Kalama River Type-S Coho Program, Lewis River Type-N Coho Program, Lewis River Type-S Coho Program, Fish First Wild Coho Program, Fish First Type-N Coho Program, Syverson Project Type-N Coho Program, Eagle Creek National Fish Hatchery, Sandy Hatchery, and the Bonneville/Cascade/Oxbow complex coho hatchery programs.	70 FR 37160; Jun 28, 2005	NA
(13) Columbia River chum	<i>Oncorhynchus keta</i>	U.S.A.- OR, WA, including all naturally spawned populations of chum salmon in the Columbia River and its tributaries in Washington and Oregon, as well as three artificial propagation programs: the Chinook River (Sea Resources Hatchery), Grays River, and Washougal River/Duncan Creek chum hatchery programs.	64 FR 14508; Mar. 25, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(14) Hood Canal summer-run chum	<i>Oncorhynchus keta</i>	U.S.A.- WA, including all naturally spawned populations of summer-run chum salmon in Hood Canal and its tributaries as well as populations in Olympic Peninsula rivers between Hood Canal and Dungeness Bay, Washington, as well as eight artificial propagation programs: the Quilcene NFH, Hamma Hamma Fish Hatchery, Lilliwaup Creek Fish Hatchery, Union River/Tahuya, Big Beef Creek Fish Hatchery, Salmon Creek Fish Hatchery, Chimacum Creek Fish Hatchery, and the Jimmycomelately Creek Fish Hatchery summer-run chum hatchery programs.	64 FR 14508; Mar. 25, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
(15) South-Central California Coast Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in streams from the Pajaro River (inclusive), located in Santa Cruz County, California, to (but not including) the Santa Maria River.	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005
(16) Central California Coast Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in streams from the Russian River to Aptos Creek, Santa Cruz County, Californian (inclusive), and the drainages of San Francisco and San Pablo Bays eastward to the Napa River (inclusive), Napa County, California. Excludes the Sacramento-San Joaquin River Basin of the Central Valley of California.	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005
(17) California Central Valley Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries, excluding steelhead from San Francisco and San Pablo Bays and their tributaries.	63 FR 13347; Mar. 19, 1998 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005
(18) Northern California Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in California coastal river basins from Redwood Creek in Humboldt County, California, to the Gualala River, inclusive, in Mendocino County, California.	65 FR 36074; June 7, 2000 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005
(19) Upper Willamette River Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- OR, including all naturally spawned populations of winter-run steelhead in the Willamette River, Oregon, and its tributaries upstream from Willamette Falls to the Calapooia River, inclusive.	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005

Species ¹		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
(20) Lower Columbia River Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- OR, WA, including all naturally spawned populations of steelhead (and their progeny) in streams and tributaries to the Columbia River between the Cowlitz and Wind Rivers, Washington, inclusive, and the Willamette and Hood Rivers, Oregon, inclusive. Excluded are steelhead in the upper Willamette River Basin above Willamette Falls, Oregon, and from the Little and Big White Salmon Rivers, Washington.	63 FR 13347; Mar 19, 1998 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005
(21) Middle Columbia River Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- OR, WA, including all naturally spawned populations of steelhead in streams from above the Wind River, Washington, and the Hood River, Oregon (exclusive), upstream to, and including, the Yakima River, Washington. Excluded are steelhead from the Snake River Basin.	57 FR 14517; Mar 25, 1999 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005
(22) Snake River Basin Steelhead	<i>Oncorhynchus mykiss</i>	U.S.A.- OR, WA, ID, including all naturally spawned populations of steelhead (and their progeny) in streams in the Snake River Basin of southeast Washington, northeast Oregon, and Idaho.	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005
(d) <i>Marine Invertebrates</i>				
(1) Elkhorn coral	<i>Acropora palmata</i>	Wherever found. Includes United States Florida, Puerto Rico, U.S. Virgin Islands, Navassa; and wider Caribbean Belize, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Venezuela and all the islands of the West Indies.	71 FR 26852, May 9, 2006	NA
(2) Staghorn coral	<i>Acropora cervicornis</i>	Wherever found. Includes United States Florida, Puerto Rico, U.S. Virgin Islands, Navassa; and wider Caribbean Belize, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Venezuela and all the islands of the West Indies.	71 FR 26852, May 9, 2006	NA
(e) <i>Marine Plants</i>				
(1) Johnson's seagrass	<i>Halophila johnsonii</i>	Wherever found. U.S.A. - Southeastern FL between Sebastian Inlet and north Biscayne Bay.	63 FR 49035; Sep 14, 1998	65 FR 17786; Apr 5, 2000

¹ Species 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).

² Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

Dated: June 27, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 06–6017 Filed 7–5–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 051018271–6157–02; I.D. 101405C]

RIN 0648–AT84

Endangered and Threatened Species; Revision of Critical Habitat for the Northern Right Whale in the Pacific Ocean

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: We, the National Marine Fisheries Service (NMFS), issue a final rule to revise the current critical habitat for the northern right whale (*Eubalaena glacialis*) by designating additional areas within the North Pacific Ocean. Two specific areas are designated, one in the Gulf of Alaska and another in the Bering Sea, comprising a total of approximately 95,200 square kilometers (36,750 square miles) of marine habitat. As described in the impacts analysis prepared for this action, we considered the economic impacts, impacts to national security, and other relevant impacts and concluded that the benefits of exclusion of any area from the critical habitat designation do not outweigh the benefits of inclusion. As a result, we did not exclude any areas from the designation. We solicited information and comments from the public in a proposed rule. This final rule is being issued to meet the deadline established in a remand order of the United States District Court for the Northern District of California.

DATES: This rule becomes effective August 7, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment during

normal business hours at the National Marine Fisheries Service, Protected Resources Division, Alaska Region, 709 W. 9th Street, Juneau, AK. The final rule, maps, and other materials relating to this proposal can be found on the NMFS Alaska Region website <http://www.fakr.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Brad Smith, (907) 271–3023, or Marta Nammack, (301) 713–1401.

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973, as amended [16 U.S.C. 1531, *et seq.*] (ESA), grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants, and habitats of such species that have been designated as critical. The U.S. Fish and Wildlife Service (FWS) and the NMFS share responsibility for administering the ESA. Endangered and threatened species under the jurisdiction of NMFS are found in 50 CFR 224.101 and 223.102, and include the endangered northern right whale.

Background and Previous Federal Actions

The northern right whale is a member of the family Balaenidae and is closely related to the right whales that inhabit the Southern Hemisphere. Right whales are large baleen whales that grow to lengths and weights exceeding 18 meters and 100 tons, respectively. They are filter feeders whose prey consists exclusively of zooplankton. Right whales attain sexual maturity at an average age of 8–10 years, and females produce a single calf at intervals of 3–5 years (Kraus *et al.*, 2001). Their life expectancy is unclear, but is known to reach 70 years in some cases (Hamilton *et al.*, 1998; Kenney, 2002).

Right whales are generally migratory, with at least a portion of the population moving between summer feeding grounds in temperate or high latitudes and winter calving areas in warmer waters (Kraus *et al.*, 1986; Clapham *et al.*, 2004). In the North Pacific, individuals have been observed feeding in the Gulf of Alaska, the Bering Sea and the Sea of Okhotsk. Although a general northward movement is evident in spring and summer, it is unclear whether the entire population undertakes a predictable seasonal migration, and the location of calving grounds remains completely unknown (Scarff, 1986; Scarff, 1991; Brownell *et al.*, 2001; Clapham *et al.*, 2004; Shelden *et al.*, 2005). Further details of occurrence and distribution are provided below.

In the North Pacific, whaling for right whales began in the Gulf of Alaska (known to whalers as the “Northwest Ground”) in 1835 (Webb, 1988). Right whales were extensively hunted in the western North Pacific in the latter half of the 19th century, and by 1900 were scarce throughout their range. Right whales were protected worldwide in 1935 through a League of Nations agreement. However, because neither Japan nor the USSR signed this agreement, both nations asserted authority to continue hunting right whales until 1949 when the newly-created International Whaling Commission (IWC) endorsed this ban. Despite this ban, a total of 23 North Pacific right whales were legally killed by Japan and the USSR under Article VIII of the International Convention for the Regulation of Whaling (1946), which permits the taking of whales for scientific research purposes. However, it is now known that the USSR illegally caught many right whales in the North Pacific (Doroshenko, 2000; Brownell *et al.*, 2001). In the eastern North Pacific, 372 right whales were killed by the Soviets between 1963 and 1967; of these, 251 were taken in the Gulf of Alaska south of Kodiak, and 121 in the southeastern Bering Sea (SEBS). These takes devastated a population that, while undoubtedly small, may have been undergoing a slow recovery (Brownell *et al.*, 2001).

As a result of this historic and recent hunting, right whales today are among the most endangered of all whales worldwide. Right whales were listed in 1970 following passage of the Endangered Species Conservation Act (ESCA) of 1969, and automatically granted endangered status when the ESCA was repealed and replaced by the ESA. Right whales are also protected under the Marine Mammal Protection Act of 1972. We issued a Recovery Plan for the northern right whale in 1991, which covered both the North Atlantic and North Pacific (NMFS, 1991). Some researchers consider the North Pacific right whale to exist in discrete eastern and western populations. Brownell *et al.* (2001) noted that there was no evidence for exchange between the western and eastern Pacific, and that the two populations had different recovery histories; consequently, they argued that these stocks should be treated as separate for the purpose of management, a division which we have acknowledged in Stock Assessment Reports (Angliss and Lodge, 2004).

In the western North Pacific (the Sea of Okhotsk and adjacent areas), current abundance is unknown but is probably in the low to mid-hundreds (Brownell *et*