

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

○ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

Comments and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov>.

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Federal Communications Commission.

Jane E. Jackson,

Associate Chief, Wireless Telecommunications Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[CG Docket 05-231, ET Docket No. 99-254; DA 10-2050]

Consumer and Governmental Affairs Bureau Seeks To Refresh the Record on Notices of Proposed Rulemaking Regarding Closed Captioning Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau (Bureau), seeks to refresh the record on issues pertaining to closed captioning that were raised in Notices of Proposed Rulemaking (NPRMs) released by the Commission in 2005 and 2008. Given the time that has elapsed and various technological developments that have occurred in the field of closed captioning since these NPRMs were

released, the Bureau believes that a refreshed record will better educate the Commission regarding the issues raised for comment in the pending proceedings.

DATES: Comments are due on or before November 24, 2010. Reply comments are due on or before December 9, 2010.

ADDRESSES: Interested parties may submit comments identified by [CG Docket No. 05-231 and ET Docket No. 99-254], and by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): <http://www.fcc.gov/cgb/ecfs>, or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments, and transmit one electronic copy of the filing to each docket number referenced in the caption, which in this case is CG Docket No. 05-231 and ET Docket No. 99-254. For ECFS Filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. Because two docket numbers appear in the caption of this Notice, filers must submit two additional copies for the additional docket number. In addition, parties must send one copy to the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Washington, DC 20554. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8 a.m. to 7 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be

addressed to 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Amelia Brown, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418-2799 (voice), (202) 418-7804 (TTY), or e-mail: Amelia.Brown@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 10-2050, released October 25, 2010 in CG Docket No. 05-231 and ET Docket No. 99-254. The full text of DA 10-2050 and any subsequently filed documents in this matter will be available for public inspection and copying via ECFS (insert [CG Docket No. 05-231 or ET Docket No. 99-254] into the Proceeding block) and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They 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 (800) 378-3160, or via its Web site, <http://www.bcpweb.com>. DA 10-2050 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/caption.html>.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Pursuant to 47 CFR 1.1206, these proceedings will be conducted as permit-but-disclose proceedings in which *ex parte* communications are subject to disclosure.

Synopsis

In DA 10-2050, the Bureau seeks to refresh the record on issues pertaining to closed captioning that were raised in NPRMs released by the Commission on July 21, 2005, and November 7, 2008. See *Closed Captioning of Video Programming, Telecommunications for the Deaf, Inc., Petition for Rulemaking*, CG Docket No. 05-231, Notice of Proposed Rulemaking, published at 70 FR 56150, September 26, 2005; and *Closed Captioning of Video Programming, Closed Captioning Requirements for Digital Television Receivers*, CG Docket No. 05-231, ET Docket No. 99-254, Declaratory Ruling, Order and Notice of Proposed Rulemaking, published at 74 FR 1594, January 13, 2009 and 74 FR 1654, January 13, 2009 (2008 *Closed Captioning Declaratory Ruling, Order*

and NPRM). More than five years have passed since the Commission sought comment on several important matters relating to the quality and implementation of closed captioning of video programming, and a variety of changes in the closed captioning landscape warrant a refresh of the record created in response to that proceeding. For example, the benchmarks for 100% captioning of nonexempt new English and Spanish language programming have passed, the transition to digital television occurred on June 12, 2009, and advances in captioning technology and availability have occurred. The Bureau also believes that a refreshed record will help it to better understand the issues that were raised for comment in the *2008 Closed Captioning Declaratory Ruling, Order and NPRM*. Because, in the *2008 Closed Captioning Declaratory Ruling, Order and NPRM*, the Commission adopted requirements for video program distributors to make contact information available to consumers, and requirements concerning the process for filing and handling closed captioning complaints, the Commission does not seek to refresh the record with regard to those matters.

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 0912161432-0453-02]

RIN 0648-XT37

Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for the Hawaiian Insular False Killer Whale Distinct Population Segment

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

ACTION: Proposed rule; request for comments.

SUMMARY: We, the NMFS, have completed a comprehensive status review of the Hawaiian insular false killer whale (*Pseudorca crassidens*) under the Endangered Species Act (ESA) in response to a petition

submitted by the Natural Resources Defense Council (NRDC) to list the Hawaiian insular false killer whale as an endangered species. After reviewing the best scientific and commercial information available, we have determined that the Hawaiian insular false killer whale is a distinct population segment (DPS) that qualifies as a species under the ESA. Moreover, after evaluating threats facing the species, and considering efforts being made to protect the Hawaiian insular DPS, we have determined that the DPS is declining and is in danger of extinction throughout its range. We propose to list it as endangered under the ESA. Although we are not proposing to designate critical habitat at this time, we are soliciting information to inform the development of the final listing rule and designation of critical habitat in the event the DPS is listed.

DATES: Comments on this proposal must be received by February 15, 2011. A public hearing will be held on Oahu, Hawaii, on Thursday, January 20, 2011, 6:30 p.m. to 9 p.m., at the McCoy Pavilion at Ala Moana Park, 1201 Ala Moana Blvd., Honolulu, HI 96814. NMFS will consider requests for additional public hearings if any person so requests by January 31, 2011. Notice of the location and time of any such additional hearing will be published in the **Federal Register** not less than 15 days before the hearing is held.

ADDRESSES: You may submit comments identified by 0648-XT37 by any one 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.
- *Mail or hand-delivery:* Submit written comments to Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, Attn: Hawaiian insular false killer whale proposed listing.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. Comments will be posted for public viewing after the comment period has closed. 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. We 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 petition, status review report, and other reference materials regarding this determination can be obtained via the NMFS Pacific Islands Regional Office Web site: http://www.fpir.noaa.gov/PRD/prd_false_killer_whale.html or by submitting a request to the Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, Attn: Hawaiian insular false killer whale proposed listing.

FOR FURTHER INFORMATION CONTACT:

Krista Graham, NMFS, Pacific Islands Regional Office, 808-944-2238; Lance Smith, NMFS, Pacific Islands Regional Office, 808-944-2258; or Dwayne Meadows, NMFS, Office of Protected Resources, 301-713-1401.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2009, we received a petition from the NRDC requesting that we list the insular population of Hawaiian false killer whales as an endangered species under the ESA and designate critical habitat concurrent with listing. According to the draft 2010 Stock Assessment Report (SAR) (Carretta *et al.*, 2010) (available at <http://www.nmfs.noaa.gov/pr/pdfs/sars/>) that we have completed as required by the Marine Mammal Protection Act (MMPA), false killer whales within the United States (U.S.) Exclusive Economic Zone (EEZ) around the Hawaiian Islands are divided into a Hawaii pelagic stock and a Hawaii insular stock. The petition considers the insular population of Hawaiian false killer whales and the Hawaii insular stock of false killer whales to be synonymous. On January 5, 2010, we determined that the petitioned action presented substantial scientific and commercial information indicating that the petitioned action may be warranted, and we requested information to assist with a comprehensive status review of the species to determine if the Hawaiian insular false killer whale warranted listing under the Endangered Species Act of 1973 (ESA) (75 FR 316).

ESA Statutory Provisions

The ESA defines "species" to include subspecies or a DPS of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(16)). The U.S. Fish and Wildlife Service (FWS) and NMFS have adopted a joint policy describing what