

in 2005, six percent of drivers at any given moment were using hand-held cell phones.<sup>12</sup> The estimate is from the National Occupant Protection Use Survey (NOPUS), which is the only source of probability-based observed data on cell phone use by drivers in the United States.

For the above reasons, we conclude that there is no reason to believe that the rule requested by the petitioner would result in safety benefits. Accordingly, we are denying the petition.

We note that even putting aside the issue of drivers substituting portable devices for integrated devices, the information provided by CAS would not lead us to grant its petition.

In the rulemaking advocated by the petitioner, the agency would need to consider, among other things, the specific safety impacts associated with current integrated systems and reasonably foreseeable integrated systems. It would be necessary to consider reasonably foreseeable integrated systems given that the requested rule would prohibit all systems that can be used while the vehicle is in motion. CAS has not provided specific data or analysis along these lines.

We also note that in the rulemaking advocated by the petitioner, the agency would need to consider costs as well as benefits.

Given the lack of specific data and analysis and also considering the resources needed to conduct rulemaking, we would not initiate rulemaking in this area based on the information provided by CAS.

Finally, as noted earlier, CAS asked that NHTSA increase efforts to support state programs to limit cell phone use by drivers in moving vehicles in the same manner it supports state programs against drunk driving. This particular request is not amenable to being addressed by rulemaking.

States have recognized the need to discourage driver distractions such as cell phone use and texting and many State legislatures have taken action to restrict those practices.

While various legislative and educational approaches have been utilized, little evaluation has been completed and best practices have yet to be demonstrated. NHTSA has solicited potential options for a demonstration project in this area to begin in Fiscal Year 2008 or 2009.

Pursuant to Section 2003(d) of Public Law 109-59 (August 10, 2005), the Safe,

Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), NHTSA will be conducting multiple demonstration programs to evaluate new and innovative means of combating traffic system problems caused by distracted, inattentive or fatigued drivers.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on: May 27, 2008.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R6-ES-2007-0014; 92210-1117-0000-FY08-B4]

**RIN 1018-AT79**

#### **Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Salt Creek Tiger Beetle (*Cicindela nevadica lincolni*)**

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

**ACTION:** Proposed rule; reopening of comment period and announcement of a public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period and the scheduling of a public hearing on our December 12, 2007 proposed rule (72 FR 70715) to designate critical habitat for the Salt Creek tiger beetle (*Cicindela nevadica lincolni*) under the Endangered Species Act of 1973, as amended (Act). The December 12, 2007 **Federal Register** document also announced the availability of a draft economic analysis of the designation and a draft environmental assessment prepared in accordance with the National Environmental Policy Act of 1969. The reopened comment period will provide the public, other concerned governmental agencies, Tribes, and any other interested parties with an additional opportunity to submit written comments and information on this subspecies and associated habitat, the proposed critical habitat designation, draft economic analysis, and draft environmental assessment. Comments previously submitted need not be resubmitted as they have already been incorporated into the public record

and will be fully considered in any final decision.

**DATES:** *Written Comments:* The original comment period on the Salt Creek tiger beetle proposed critical habitat rule closed on February 11, 2008. We are reopening the comment period and will accept information from all interested parties at the public hearing or until July 11, 2008.

*Public Hearing:* We announce a public open house, followed by a public hearing, to be held on July 1, 2008, at the Lower Platte South Natural Resources District, 3125 Portia Street, Lincoln, NE 68501-3581. The public open house, open to all who wish to discuss the proposed critical habitat with the Service, will be held from 4 to 6 p.m., central time. The public hearing, open to all who wish to provide formal, oral comments regarding the proposed rule, will be held from 6 to 8 p.m., central time.

**ADDRESSES:** If you wish to comment on the proposed rule, draft economic analysis, or draft environmental assessment, you may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R6-ES-2007-0014; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

- *Public Hearing:* A public hearing will be held (see **DATES**) at the Lower Platte South Natural Resources District, 3125 Portia Street, Lincoln, NE 68501-3581.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

#### **FOR FURTHER INFORMATION CONTACT:**

Mike LeValley, Field Supervisor, Nebraska Ecological Services Field Office, Federal Building, Second Floor, 203 West Second Street, Grand Island, NE 68801; telephone (308) 382-6468. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Comments**

We intend that any final action resulting from the proposed rule will be as accurate and as effective as possible. Therefore, we request comments or

<sup>12</sup> "Driver Cell Phone Use in 2005—Overall Results," Research Note DOT HS 809 967, National Center for Statistics and Analysis, NHTSA, December 2005.

suggestions on this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh any threats to the subspecies caused by designation such that the designation is not prudent;

(2) Specific information on:

- The amount and distribution of Salt Creek tiger beetle habitat;

- What areas occupied at the time of listing and that contain features essential for the conservation of the subspecies we should include in the designation and why; and

- What areas not occupied at the time of listing are essential to the conservation of the subspecies and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other relevant impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments; and

(6) Economic data on the incremental costs of designating any particular area as Salt Creek tiger beetle critical habitat.

Previously submitted comments for this proposed rule need not be resubmitted. You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

## Background

On December 12, 2007, we published a proposed rule designating approximately 1,795 acres (727 hectares) of land in portions of Lancaster and Saunders Counties,

Nebraska, as critical habitat. The draft economic analysis estimates that, over the 20-year period from 2008 to 2027, post-designation costs for Salt Creek tiger beetle conservation-related activities would range between \$21.4 and \$25.5 million in undiscounted 2007 dollars. In discounted terms, we estimate potential post-designation economic costs to be \$19.9 to \$22.9 million (using a 3 percent discount rate) and \$18.5 to \$20.6 million (using a 7 percent discount rate). In annualized terms, potential impacts are expected to range from \$1.3 to \$1.5 million (annualized at 3 percent) and \$1.7 to \$1.9 million (annualized at 7 percent).

## Public Hearings

Section 4(b)(5)(E) of the Act requires a public hearing be held if any person requests it within 45 days of the publication of a proposed rule. In response to requests from the public, the Service will conduct a public hearing for this critical habitat proposal on the date and time and at the address identified in the **DATES** and **ADDRESSES** sections above.

Persons wishing to make an oral statement for the record are encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing, please contact the Nebraska Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Persons needing reasonable accommodations in order to attend and participate in the public hearings should contact Bob Harms, Nebraska Ecological Services Field Office, at (308) 382-6468, extension 17, as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date. Information regarding this notice is available in alternative formats upon request.

## Authority

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

Dated: May 21, 2008.

**Lyle Laverty,**

*Assistant Secretary for Fish, Wildlife, and Parks.*

[FR Doc. E8-12401 Filed 6-2-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

[Docket No. 080310408-8416-01]

RIN 0648-AW55

### Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** Pursuant to regulations governing the subsistence taking of northern fur seals, this document summarizes the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2005 to 2007 and proposes annual estimates of fur seal subsistence needs for 2008 through 2010 on the Pribilof Islands, AK. NMFS solicits public comments on the proposed estimates.

**DATES:** Written comments must be received at the address or fax number by July 3, 2008.

**ADDRESSES:** Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resource Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648 AW55" by any of the following methods:

Electronic Submissions: Submit electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;

Mail: Kaja Brix, Assistant Regional Administration, Protected Resource Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802;

Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;

Fax: 907 586 7557, Attention: Ellen Sebastian.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments.

Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) file formats to be accepted.