

together. Given our limited budget for implementing section 4 of the Act, these actions described above collectively constitute expeditious progress.

The Berry Cave salamander will be added to the list of candidate species upon publication of this 12-month finding. We will continue to monitor the status of this species as new information becomes available. This review will determine if a change in status is warranted, including the need to make prompt use of emergency listing procedures.

We intend that any proposed listing action for the Berry Cave salamander will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

#### References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Tennessee Ecological Services Field Office (see ADDRESSES section).

#### Authors

The primary authors of this notice are the staff members of the Tennessee Ecological Services Field Office.

#### Authority

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

Dated: March 8, 2011.

**Rowan W. Gould,**

*Acting Director, Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 224

[Docket No. 100104003-1195-02]

RIN 0648-AY49

### Endangered and Threatened Species; Proposed Listing of Nine Distinct Population Segments of Loggerhead Sea Turtles as Endangered or Threatened

**AGENCIES:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; United States Fish and Wildlife Service (USFWS), Interior.

**ACTION:** Proposed rule; 6-month extension of the deadline for a final listing decision.

**SUMMARY:** We (NMFS and USFWS; also collectively referred to as the Services) are extending the date by which a final determination will be made regarding the March 16, 2010, proposed rule to list nine Distinct Population Segments (DPS) of loggerhead sea turtles, *Caretta caretta*, as endangered or threatened under the Endangered Species Act of 1973, as amended (ESA). We are taking this action because substantial disagreement exists regarding the interpretation of the existing data on status and trends and its relevance to the assessment of risk of extinction to the Northwest Atlantic Ocean DPS of the loggerhead turtle. Additionally, considerable disagreement exists regarding the magnitude and immediacy of the fisheries bycatch threat and measures to reduce this threat to the Northwest Atlantic Ocean DPS of the loggerhead turtle. We are soliciting new information or analyses that will help clarify these issues. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule. The Services believe that allowing an additional 6 months to evaluate and assess the best scientific and commercial data available would better inform our final determination on the listing status of the nine proposed DPSs of the loggerhead turtle.

**DATES:** All public comments must be received by April 11, 2011. A final

determination on this listing action will be made no later than September 16, 2011.

**ADDRESSES:** You may submit comments, identified by the RIN 0648-AY49, by any of the following methods:

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

- **Mail:** NMFS National Sea Turtle Coordinator, Attn: Loggerhead Proposed Listing Rule, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13657, Silver Spring, MD 20910 or USFWS National Sea Turtle Coordinator, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

- **Fax:** To the attention of NMFS National Sea Turtle Coordinator at 301-713-0376 or USFWS National Sea Turtle Coordinator at 904-731-3045.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. 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.

NMFS and USFWS 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 proposed rule and other materials relating to this proposal can be found on the NMFS Office of Protected Resources Web site at <http://www.nmfs.noaa.gov/pr/species/turtles/loggerhead.htm>.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

## Background

We issued a final rule listing the loggerhead sea turtle as threatened throughout its worldwide range on July 28, 1978 (43 FR 32800). On July 12, 2007, we received a petition from Center for Biological Diversity and Turtle Island Restoration Network to list the “North Pacific populations of loggerhead sea turtle” as an endangered species under the ESA. NMFS published a notice in the **Federal Register** on November 16, 2007 (72 FR 64585), concluding that the petition presented substantial scientific information indicating that the petitioned action may be warranted. Also, on November 15, 2007, we received a petition from Center for Biological Diversity and Oceana to list the “Western North Atlantic populations of loggerhead sea turtle” as an endangered species under the ESA. NMFS published a notice in the **Federal Register** on March 5, 2008 (73 FR 11849), concluding that the petition presented substantial scientific information indicating that the petitioned action may be warranted.

On March 12, 2009, the petitioners (Center for Biological Diversity, Turtle Island Restoration Network, and Oceana) sent a 60-day notice of intent to sue to the Services for failure to make 12-month findings on the petitions. The statutory deadlines for the 12-month findings were July 16, 2008, for the North Pacific petition and November 16, 2008, for the Northwest Atlantic petition. On May 28, 2009, the petitioners filed a Complaint for Declaratory and Injunctive Relief to compel the Services to complete the 12-month findings. On October 8, 2009, the petitioners and the Services reached a settlement in which the Services agreed to submit to the **Federal Register** a 12-month finding on the two petitions on or before February 19, 2010. On February 16, 2010, the United States District Court for the Northern District of California modified the February 19, 2010, deadline to March 8, 2010.

On March 16, 2010, the Services announced 12-month findings on the petitions to list the North Pacific populations and the Northwest Atlantic populations of the loggerhead sea turtle as DPSs with endangered status and included a proposed rule to designate nine loggerhead DPSs worldwide, seven as endangered (North Pacific Ocean DPS, South Pacific Ocean DPS, Northwest Atlantic Ocean DPS, Northeast Atlantic Ocean DPS, Mediterranean Sea DPS, North Indian Ocean DPS, and Southeast Indo-Pacific Ocean DPS) and two as threatened (Southwest Indian Ocean DPS and South Atlantic Ocean DPS).

## Extension of Final Listing Determination

The ESA, section 4(b)(6), requires that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination, for the purposes of soliciting additional data.

The Services proposed to list the Northwest Atlantic Ocean DPS of the loggerhead sea turtle as endangered. However, in preparing the final rule, there was substantial disagreement regarding the interpretation of the existing data on status and trends and its relevance to the assessment of extinction risk to the Northwest Atlantic Ocean DPS. There was also considerable disagreement regarding the magnitude and immediacy of the fisheries bycatch threat and measures to reduce this threat to the Northwest Atlantic Ocean DPS. The Services need to fully evaluate and assess the best scientific and commercial data available and ensure consistent interpretation of data and application of statutory standards for all of the nine proposed DPSs.

In consideration of the disagreement surrounding the population status and

the magnitude and immediacy of the threats for the proposed Northwest Atlantic Ocean DPS of the loggerhead turtle, we extend the timeline for the final determination for an additional 6 months (until September 16, 2011) to resolve the scientific disagreement.

## Information Solicited

We intend that any final action resulting from this proposal will be as accurate as possible and based on the best scientific and commercial data available. We are specifically soliciting new information or analyses from the public about the proposed Northwest Atlantic Ocean DPS regarding: (1) The relevance of the population size to the stability and resilience of the DPS; (2) the immediacy of the threats and risks, particularly the bycatch of loggerhead sea turtles in commercial fisheries, to the DPS; and (3) the timeframe over which the threats or risks may affect the DPS. In addition, we are seeking information on the consistency of our application of statutory standards for all of the nine proposed DPSs.

Previously submitted written comments on this proposal need not be resubmitted. In making any final decision on the proposed action, we will take into consideration the comments and any additional information we receive. We request that all data, information, and comments be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: March 16, 2011.

**Eric C. Schwaab,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

**Gregory E. Siekaniec,**

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

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