

subpopulations qualify as distinct population segments and, if so, whether they should be reclassified from threatened to endangered on the basis of the ESA's listing factors. NMFS found that the petition's request for emergency action was not warranted because the species was already afforded protection under the ESA. NMFS also noted that although designation of critical habitat is not subject to the ESA's petition provision, the ESA requires the Services, to the maximum extent prudent and determinable, to make a critical habitat designation concurrent with a listing determination. NMFS, therefore, solicited information and comments that would help identify areas for consideration as critical habitat for the Northern and Florida Panhandle subpopulations, should they be determined to warrant listing as DPSs.

Summary of Comments Received

NMFS received a total of 23 responses to its initial finding. These included responses from one Federal agency (the U.S. Army Corps of Engineers), two state agencies, four fishermen or fishing industry groups, four academics, five regional environmental groups, one representative of a consulting firm, and six non-affiliated citizens. Virtually all of the respondents provided additional information in the form of new data or a critique or analysis of existing data on the genetic identification of loggerhead subpopulations, the status of southeastern U.S. loggerheads, or the threats facing loggerheads in specific locations.

Of the 23 respondents, 19 expressed an opinion on the petitioned reclassification, the majority (11) of which supported reclassification. Most private citizens and environmental groups based their support for the petitioned action on their views regarding the need for enhanced protection of loggerheads in the water or on the nesting beaches, given their concerns about the vulnerability of these small subpopulations. Some researchers based their support on the genetic evidence for distinct subpopulations and the apparent demographic differences between certain subpopulations.

One respondent who opposed the petition challenged the equivocal nature of the existing scientific information regarding both genetic distinctness and population trends. All of the industry respondents opposed the petition, based on their view that there is a lack of sufficient data to support taking the requested action. The Federal agency, one state agency, and one environmental respondent did not

support reclassification, based on their view that there is a lack of sufficient data to support a DPS and listing change at this time. These respondents recommended that the loggerhead recovery team review the status of the subpopulations and possibly designate them as recovery units.

We have considered all of the comments and information that were submitted and included them in the administrative record for this decision. Some of the information submitted, especially new data and analyses, is explicitly cited in the discussion below.

Current Listing Status

We listed the loggerhead sea turtle as threatened under the ESA on July 28, 1978 (43 FR 32808), throughout its worldwide range. The species has a broad distribution, inhabiting continental shelves, bays, estuaries, and lagoons in temperate, subtropical, and tropical waters of the Atlantic, Pacific, and Indian Oceans. Adult females come ashore on beaches to lay eggs in nests they dig in the sand. Nesting generally occurs in temperate zones and subtropics, principally at the western rims of the Atlantic and Indian Oceans.

The U.S. jurisdiction over the species principally involves loggerheads in the Atlantic and Pacific populations. Although the Atlantic and Pacific populations are not formally recognized as different subspecies, the best available information indicates that the populations are separated across these large oceanic expanses. Given the need for management from the perspective of different ocean basins, separate recovery plans were prepared for the U.S. populations in the Atlantic and the Pacific. We published final recovery plans for the U.S. loggerhead sea turtle in the Atlantic in 1991 (NMFS and USFWS, 1991) and in the Pacific in 1998 (NMFS and USFWS, 1998). We also treat sea turtle populations in the Atlantic Ocean separately from those in the Pacific Ocean for the purposes of section 7 consultations under the ESA. Because of the separate conservation and management efforts already occurring for the Atlantic population of loggerheads, and because the petition focused on reclassifying two loggerhead subpopulations in the southeastern U.S., the background information for this 12-month finding is focused on loggerheads in the western North Atlantic.

Western North Atlantic Loggerhead Nesting Assemblages

The range of the loggerhead sea turtle in the western North Atlantic extends from Newfoundland to as far south as Argentina and Brazil. Within the

southeastern U.S., loggerheads nest from the coast of southern Virginia to the coast of Texas with the vast majority of nesting occurring from North Carolina through Florida. Elsewhere in the western North Atlantic, nesting has been reported along the Gulf coast of Mexico, in Cuba, Puerto Rico, Jamaica, Honduras, Nicaragua, Colombia, and Venezuela (Sternberg, 1981, as reported by the Turtle Expert Working Group (TEWG), 1998).

The 1991 recovery plan addresses loggerhead sea turtle conservation actions implemented under U.S. jurisdiction in the southeastern U.S., with an emphasis on the major nesting beaches in North and South Carolina, Georgia, and Florida. The plan established recovery objectives for nesting in each of these States. At the time the recovery plan was written, the known nesting in these States, taken collectively, was estimated to account for 35 to 40 percent of the known nesting of the species worldwide (NMFS and USFWS, 1991).

Since the adoption of the recovery plan for southeastern U.S. loggerheads in 1991, new information has become available on their population structure, status, and trends. Based on a review of available genetic studies of loggerheads in relation to mitochondrial DNA (mtDNA), which is inherited only from the mother, the Turtle Expert Working Group (TEWG, 1998; TEWG, 2000) and the NMFS Southeast Fisheries Science Center (NMFS SEFSC, 2001) identified five different nesting assemblages, also referred to as nesting subpopulations, in the western North Atlantic. Studies have confirmed the hypothesis that adult female loggerheads generally show natal homing (i.e., returning to the area of their natal beach to lay their eggs), and this behavior provides the key mechanism that has established and maintained the mtDNA differences among the nesting assemblages. The five nesting assemblages are the Northern subpopulation, occurring from North Carolina to northeast Florida; the South Florida subpopulation, occurring from 29° N. latitude on the east coast to Sarasota on the west coast; the Florida Panhandle subpopulation; the Yucatan subpopulation from the eastern Yucatan Peninsula, Mexico; and the Dry Tortugas subpopulation from the Dry Tortugas (located west of the Florida Keys), Florida. The Northern and Florida Panhandle subpopulations are the subject of the petition to be reclassified as endangered.

Status Summary

Due to the difficulty of conducting comprehensive population surveys