



## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**[Docket No. FWS-R2-ES-2010-0041]**

**[MO 92210-0-0008]**

**RIN 1018-AV97**

### **Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination for the Proposed Listing of the Dunes Sagebrush Lizard as Endangered**

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the final determination of whether to list the dunes sagebrush lizard (*Sceloporus arenicolus*) (lizard) as endangered and reopen the comment period on the

proposed rule to list the species. We are taking this action because there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing rule, making it necessary to solicit additional information by reopening the comment period for 45 days.

**DATES:** The comment period end date is [INSERT DATE 45 DAYS AFTER DATE OF FEDERAL REGISTER PUBLICATION]. We request that comments be submitted by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. Search for Docket No. FWS–R2–ES–2010–0041, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2010–0041; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. 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:** Wally Murphy, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Office, 2105 Osuna NE, Albuquerque, NM 87113; telephone (505-761-4781). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800-877-8339).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On December 14, 2010, we published a proposed rule (75 FR 77801) to list the dunes sagebrush lizard, a lizard known from southeastern New Mexico and adjacent west Texas, as endangered under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.). For a description of previous Federal actions concerning the dunes sagebrush lizard (formerly known as the sand dunes lizard), please refer to the proposed rule. In addition to the original comment period associated with the publication of the proposed rule, we held two public meetings in April 2011 and reopened the comment period to accept additional public comments (76 FR 19304, April 7, 2011). That comment period closed on May 9, 2011.

Section 4(b)(6) of the Act 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.

Since the publication of the proposed rule, there has been substantial disagreement regarding the interpretation of the limited surveys used to determine the dunes sagebrush lizard's status and trends. This has led to a significant disagreement regarding the current conservation status of the species in New Mexico and Texas. In addition, there was sparse information on the dunes sagebrush lizard's presence in Texas, leading to substantial disagreement on the accuracy of our analysis of the status of the lizard in Texas.

Therefore, in consideration of the disagreements surrounding the lizard's status, we are extending the final determination for 6 months in order to solicit information that will help to clarify these issues.

## **Public Comments**

We will accept written comments and information during this reopened comment period on our proposed listing for the dunes sagebrush lizard that was published in the **Federal Register** on December 14, 2010 (75 FR 77801). We will consider information and recommendations from all interested parties. We intend that any final action resulting from this proposal be as accurate as possible and based on the best available scientific and commercial data.

Therefore, in consideration of the disagreements surrounding the lizard's status, we are extending the final determination for 6 months in order to solicit information that will help to clarify these issues. We are particularly interested in new information regarding:

- (1) Population estimates of the dunes sagebrush lizard in New Mexico and Texas.
- (2) Data that quantify the current amount of habitat and the loss of habitat.
- (3) Survey information, including maps, throughout the dunes sagebrush lizard's range, especially for Texas.

In addition to our request for new information, we are also reopening the comment period to ensure the public has full access to and an opportunity to comment on all the available information we have received since the second comment period closed. We have received new survey information for the lizard in New Mexico and Texas and an unsolicited peer review study on our proposed rule. We are soliciting input from concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule in light of this additional information.

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination

concerning this proposed listing will take into consideration all written comments and any additional information we received.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments **only** by the methods described in **ADDRESSES**.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. We will post all hardcopy comments on <http://www.regulations.gov> as well. 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.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on <http://www.regulations.gov> at Docket No. FWS–R2–ES–2010–0041, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at <http://www.regulations.gov> at Docket No. FWS–R2–ES–2010–0041, or by mail from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this notice are the staff of the U.S. Fish and Wildlife Service.

**Authority**

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

Date: November 22, 2011

Daniel M. Ashe

Director, U.S. Fish and Wildlife Service

**Billing Code 4310-55-P**

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