

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 226**

RIN 0648-AX04

Endangered and Threatened Wildlife and Plants: Proposed Rulemaking to Designate Critical Habitat for the Threatened Southern Distinct Population Segment of North American Green Sturgeon

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

ACTION: Extension of public comment period on proposed rule.

SUMMARY: This notice extends for 45 days the public comment period on a proposed rule to designate critical habitat for the threatened Southern Distinct Population Segment of North American green sturgeon, as published on September 8, 2008, and corrected on October 7, 2008.

DATES: The deadline for comments on the proposed rule will be extended from November 7, 2008, to December 22, 2008. Comments must be received by 5 p.m. Pacific standard time on December 22, 2008.

ADDRESSES: You may submit comments on the proposed rule, identified by RIN 0648-AX04, by any 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.

- Fax: 1-562-980-4027, Attention: Melissa Neuman.

- Mail: Submit written comments to the Chief, Protected Resources Division, Southwest Region, National Marine Fisheries Service, 650 Capitol Mall, Sacramento, CA 95814-4706.

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 will accept anonymous comments (please 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 PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Melissa Neuman, NMFS, Southwest Region (562) 980-4115, or Lisa Manning, NMFS, Office of Protected Resources (301) 713-1401.

SUPPLEMENTARY INFORMATION:**Background**

The Southern Distinct Population Segment of North American green sturgeon (*Acipenser medirostris*; hereafter, "Southern DPS") was listed as threatened under the Endangered Species Act (ESA) on April 7, 2006 (71 FR 17757). A proposed rule to designate critical habitat for the Southern DPS of green sturgeon was published in the **Federal Register** on September 8, 2008 (73 FR 52084). On October 7, 2008, a notice was published in the **Federal Register** announcing a public workshop on October 16, 2008, and making a technical correction to the proposed rule concerning the map of proposed critical habitat for the Southern DPS in California (73 FR 58527). The areas proposed for designation include: coastal U.S. marine waters within 110 meters (m) depth from Monterey Bay, California (including Monterey Bay), north to Cape Flattery, Washington, including the Strait of Juan de Fuca, Washington, to its United States boundary; the Sacramento River, lower Feather River, and lower Yuba River in California; the Sacramento-San Joaquin Delta and Suisun, San Pablo, and San Francisco bays in California; the lower Columbia River estuary; and certain coastal bays and estuaries in California (Humboldt Bay), Oregon (Coos Bay, Winchester Bay, and Yaquina Bay), and Washington (Willapa Bay and Grays

Harbor). The areas proposed for designation comprise approximately 325 miles (524 km) of freshwater river habitat, 1,058 square miles (2,739 sq km) of estuarine habitat, 11,927 square miles (30,890 sq km) of coastal marine habitat, and 136 square miles (352 sq km) of habitat within the Yolo and Sutter bypasses (Sacramento River, CA).

Under section 7 of the ESA, Federal agencies are required to insure that any actions they carry out, authorize, or fund do not destroy or adversely modify designated critical habitat. A wide range of agency actions may be subject to the ESA section 7 consultation process including, but not limited to: the installation and operation of hydropower dams; the installation and operation of water diversions; in-water construction or alterations; dredging operations and disposal of dredge material; National Pollutant Discharge Elimination System permit activities and activities generating non-point source pollution (e.g., agricultural runoff); power plant operations; operations of liquefied natural gas projects; tidal or wave energy projects; discharges from desalination plants; commercial shipping (e.g., discharges, oil spills); aquaculture; bottom trawl fisheries; and habitat restoration activities.

The deadline for comments on the proposed rule was November 7, 2008. This extension of the comment period until December 22, 2008, is in response to requests made by the public. We solicit additional information and comments from the public concerning this proposed rule, including information and comments on the biological basis supporting the proposed rule; the benefits of the proposed critical habitat designation to the Southern DPS of green sturgeon; and the economic, national security, and other relevant impacts of the proposed designation.

Dated: October 28, 2008.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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