



Frequently Asked Questions: 12-month Finding on Petition to List the Berry Cave Salamander (*Gyrinophilus gulolineatus*)

Updated: February 23, 2011

Q1: What is a petition?

A1: A petition is a request filed under the Endangered Species Act of 1973, as amended (Act) by an interested party asking that a species be listed on, delisted from, or reclassified (i.e., from threatened to endangered or from endangered to threatened) on the Federal List of Endangered and Threatened Wildlife and Plants.

Q2: What is a 12-month finding?

A2: Section 4(b) of the Act requires the Service to make a finding on whether a petition presents substantial scientific or commercial information to indicate that the petitioned action may be warranted; this is referred to as a 90-day finding. If the Service finds the petitioned action may be warranted the Act requires the Service to initiate a formal review to determine if the action is warranted and, if so, how it intends to proceed. This second determination is referred to as a 12-month finding, and is normally made 12 months following the receipt of the petition.

Q3: Who petitioned the Service and what did they request?

A3: On January 22, 2003, the Service received a petition requesting that it list the Berry Cave salamander as endangered under the Act. The petition was submitted by Dr. John Nolt, on behalf of University of Tennessee-Knoxville, and included supporting information regarding the potential causes of decline for the Berry Cave salamander. In December 2009, the Service received a 60-day notice of intent to sue from Center for Biological Diversity for failing to make a timely 90-day finding. A 90-day substantial finding was published in the *Federal Register* on March 18, 2010.

Q4: Why was there a delay in processing the petition to list the Berry Cave salamander?

A4: Funding constraints precluded the Service from initiating the processing of the petition in a timely manner. This notice constitutes the Service's 12-month finding in response to the petition to list the Berry Cave salamander by Dr. John Nolt on January 22, 2003.

Q5: What options did the Service have when making the 12-month finding?

A5: The Service considered one of three possible determinations:

1. Listing is not warranted, in which case no further action is taken.
2. Listing as threatened or endangered is warranted. In this case, the Service publishes a proposal to list, solicits independent scientific peer review of the proposal, seeks input from the public, and considers the input before a final decision about listing the species is made. In general, there is a one-year period between the time a species is proposed and the final decision.
3. Listing is warranted, but precluded by other, higher priority activities. This means the species is added to the Federal list of candidate species, and the proposal to list is deferred while the Service works on listing proposals for other species that are at greater risk. A warranted but precluded finding requires subsequent annual reviews of the finding until such time as either a listing proposal is published, or a not warranted finding is made based on new information.

Q6: What did the Service conclude?

A6: After a thorough review of best available scientific and commercial information, the Service found that the listing of the Berry Cave salamander as threatened or endangered under the Act is warranted but precluded by higher priority listing actions.

Q7: What did the Service consider in reaching its conclusion and finding?

A7: In making this finding, the Service conducted a thorough status review using the best available scientific and commercial information in accordance with the Code of Federal Regulations (CFR): 50 CFR 424.14(c). This included any new data or information provided during the public comment period.

Q8: What is the next step?

A8: The process of making a listing determination of warranted but precluded under section 4(b)(3)(A) of the Act and section 424.14(b)(3)(iii) of the Service's regulations requires that it annually make a petition finding on whether listing continues to be warranted. The Service will annually monitor threats and revisit the listing status of the Berry Cave salamander as appropriate. However, the Service is not required to reassess whether the petition meets the "substantial information" threshold.

Q9: Where can I find more information on the Berry Cave salamander or the listing process?

A9: Visit the Service's web site at <http://www.fws.gov/cookeville/> or call 931/528-6481.