



U.S. FISH AND WILDLIFE SERVICE

Region 7 - Alaska

1011 East Tudor Road

Anchorage, Alaska 99503

(907)786-3309 (TDD Available)

News

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Contact: Bruce Woods (907) 786-3695

U.S. Fish and Wildlife Service Announces Final Polar Bear Special Rule

Final rule avoids redundant regulations, maintains protections that have effectively protected species since it was first listed

The U.S. Fish and Wildlife Service has completed a Special Rule establishing how activities that may harm the threatened polar bear will be managed under the Endangered Species Act (ESA). The Final Special Rule effectively maintains the management and conservation framework that has been in effect for the polar bear since it was first protected under the ESA in 2008.

The Final Special Rule, issued under Section 4(d) of the ESA, avoids redundant regulation under the ESA by adopting the longstanding and more stringent protections of the Marine Mammal Protection Act of 1972 (MMPA) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as the primary regulatory provisions for this threatened species.

“This rule effectively continues management of polar bears under the same guidelines that have been in place since the original listing in 2008,” said U.S. Fish and Wildlife Service Alaska Regional Director Geoff Haskett. “By maintaining the stricter MMPA incidental take prohibition, which include provisions stricter than those imposed by the ESA, we can assure protection of this iconic species while continuing to allow those who live and work in polar bear habitat to employ practices that will reduce bear/human interactions for the benefit of both polar bears and people.”

On May 15, 2008, the Service protected the polar bear as a threatened species under the ESA, based on the agency’s determination that the species is likely to become endangered in the foreseeable future due to the accelerating loss of its summer sea ice habitat. For threatened species, section 4(d) of the ESA authorizes the Service to tailor protective regulations that are necessary and advisable for the conservation of a particular threatened species and that include prohibitions that apply to endangered species only as appropriate. Under this authority, the Service issued an interim Special Rule for the polar bear at the time of listing that continues to govern management of the species.

The Final Special Rule does not affect the continued subsistence harvest or the production and sale of polar bear handicrafts by Alaska Natives. Those activities are already exempted under the ESA and the MMPA. The rule does enable the continued noncommercial export of Native handicrafts made from polar bear parts and cultural exchange that would otherwise require an ESA permit as a result of the polar bear listing.

Potential harm to polar bears that is incidental to onshore and offshore oil and gas exploration, development, and production activities in Alaska has been effectively governed for decades under the

more stringent MMPA provisions. Under this Special Rule, the Department of the Interior will continue to primarily rely on the more stringent provisions of the MMPA to control such activities.

In addition, this Special Rule does not effect in any way the interagency consultation obligations of federal agencies under section 7 of the ESA.

The Final Special Rule will publish in the *Federal Register* on February 20, 2013. The final Environmental Assessment (EA) analyzing that rule will be available at <http://www.regulations.gov> under Docket No. [FWS-R7-ES-2012-0009].

The Service previously issued a Final Special Rule on December 16, 2008. On November 18, 2011, the District Court for the District of Columbia vacated the December 2008 Rule and remanded it to the Service to conduct additional National Environmental Policy Act analysis for the 4(d) rule. At the same time the District Court ordered that the May 2008 interim Special Rule remain in effect until superseded by a new Final Special Rule.

On April 19, 2012, the Service published in the *Federal Register* a proposed Special Rule designed to replace the interim rule, as well as a draft environmental assessment (EA) analyzing the proposed rule. At the completion of the 60-day public comment period, the Service considered all public comments and determined that finalizing the rule as proposed was appropriate. This Final Special Rule remains unaltered from the proposed rule, and will take effect in 30 days on March 22, 2013.

To download a copy of the Final Special Rule, final EA (on Feb. 20) and learn about other issues on polar bear conservation, please visit <http://alaska.fws.gov/fisheries/mmm/polarbear/esa.htm>.

For further information contact Charles Hamilton, Marine Mammals Management Office, U.S. Fish and Wildlife Service, Region 7, 1011 East Tudor Road, MS 341, Anchorage, Alaska 99503, telephone 907-786-3800. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

The ESA provides a critical safety net for America's native fish, wildlife, and plants. The Service is working to actively engage conservation partners and the public in the search for improved and innovative ways to conserve and recover imperiled species. To learn more about the Endangered Species Program, visit <http://www.fws.gov/angered/>.

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals and commitment to public service. For more information on our work and the people who make it happen, visit www.fws.gov. Connect with our Facebook page at www.facebook.com/usfws, follow us on Twitter at www.twitter.com/usfwshq, watch our YouTube Channel at <http://www.youtube.com/usfws> and download photos from our Flickr page at <http://www.flickr.com/photos/usfwshq>.