

U.S. Department of the Interior
Fish and Wildlife Service
Region 7, Alaska

Finding of No Significant Impact (FONSI)

For Actions Analyzed In: “Environmental Assessment of Endangered Species Act 4(d) Regulations for Threatened Polar Bears”

U.S. Fish and Wildlife Service - February 2013

The Fish and Wildlife Service Manual, Part 550, Chapter 1 (National Environmental Policy Act - Policy and Responsibilities, and Chapter 2 (National Environmental Policy Act Compliance Guidance), and the Fish and Wildlife Service NEPA Reference Handbook provide guidance for determining the significance of the impacts of a proposed action. Additionally, the Council on Environmental Quality regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity”. Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the guidance documents referenced above.

1) Can the proposed action reasonably be expected to have adverse impacts on polar bears or polar bear habitat?

The proposed action is not expected to have adverse impacts to polar bears or polar bear habitat. On the contrary, the proposed action is expected to promote the survival of polar bears that come in close proximity to humans. The rule would provide the Service with the flexibility to continue MMPA-specific authorizations that have proven to be successful in preventing injury and death to polar bears, and have provided for the conservation of the polar bear by allowing non-lethal techniques to deter bears from property and away from people before situations escalate, thereby preventing unnecessary injury or death of polar bears. The proposed action has no effect on polar bear habitat

relative to the “no action” alternative.

2) Can the proposed action be expected to have an adverse impact on public health or safety?

The proposed action is not expected to have any adverse impact on public health or safety. On the contrary, the proposed action is more protective of public health and safety than is the “no action” alternative. The rule would enable the Service to continue MMPA-specific authorizations that have proven to be successful in preventing injury and death to both humans and polar bears, and allow non-lethal techniques to deter bears from property and away from people before situations escalate into more dangerous situations, potentially culminating in the death of a human or polar bear. Thus, the proposed action promotes public safety, and will have a beneficial public health impact on communities and regulated industries that are co-located with polar bears.

3) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

The purpose of this action is to protect threatened polar bears, by continuing the MMPA- and CITES-based regulatory framework and conservation programs that have been developed and implemented successfully over the past thirty years to manage the polar bear. The accompanying environmental assessment has shown that the proposed action will have a beneficial impact on polar bears. The action is not expected to affect other marine mammals or non-target species; nor will the action affect polar bear habitat relative to the “no action” alternative.

4) Are significant social or economic impacts interrelated with natural or physical environmental effects?

There are socioeconomic benefits associated with the proposed action, relative to the “no action” alternative. The proposed rule is beneficial from an environmental justice standpoint, because it promotes the continued subsistence use of the polar bear by Native peoples from Alaska and other Arctic countries in several ways. The rule would ensure that the traditional social and cultural uses of

the polar bear, as recognized under the ESA may continue consistent with the needs of Alaska Natives and as provided for under both the ESA and the MMPA. By aligning the ESA with MMPA and CITES provisions, the rule negates the need for the public to obtain duplicative ESA permits for activities currently authorized under the MMPA and CITES, thus minimizing ESA-related regulatory bureaucracy that would serve no conservation benefit for the polar bear.

5) Are the effects on the quality of the human environment likely to be highly controversial?

Our analysis of public comments has revealed that the only issue of substantial controversy regarding the 4(d) special rule concerns the primary threat to the polar bear (sea-ice loss related to climate change), and whether/how climate change should or should not be addressed by a 4(d) special rule. The proposed rule does not address climate change; thus it has no impact on polar bear habitat relative to the “no action” alternative. We acknowledge that there is political controversy regarding the interpretation of climate science data, especially regarding the causes of climate change, projected future rates of climate change-related impacts, and potential mitigation strategies. Nevertheless, this rule does not change the prohibition on incidental take of polar bear from climate change-related impacts to polar bear habitat should climate science data ever establish a causal connection between specific emissions and incidental take of polar bear on lands or waters of the United States or on the high seas; such take is prohibited under the MMPA.

6) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

The proposed action is not expected to impact unique environmental areas. The action beneficially affects both polar bear survival and socioeconomic interests of communities and regulated industries in the Arctic, but is not expected to impact the polar bear’s physical environment.

7) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The proposed action continues a regulatory framework under the MMPA and CITES that has been in place for over thirty-seven years, and has successfully provided for the conservation of the polar bear. Thus, the action poses no uncertain or unique risks relative to the “no action” alternative.

8) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

The environmental assessment examines the cumulative effects of the proposed action. The action will have a beneficial impact on polar bears, because it will promote the survival of polar bears that come in proximity to humans. As sea ice habitat continues to decline, human-bear interactions are expected to increase over time as polar bears spend more time on land. Thus, efficient, effective non-lethal methods to deter problem bears must continue to remain available, to protect both public safety and polar bears; this is accomplished under the proposed action. It is not possible for the Service to quantitatively predict how many polar bears will be saved by the proposed action; however, we can say that the proposed action will affirmatively contribute to the conservation of the polar bear.

9) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

The proposed action will not affect any significant scientific, cultural or historical resources.

10) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

The proposed action involves protection of threatened polar bears; it will not introduce or spread non-indigenous species.

11) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

The proposed action is being promulgated under the authority of the ESA. It can be amended at any time. If new information suggests that the 4(d) rule needs to be changed, the Service can and will proceed with a new rule making. Therefore, this action does not represent a precedent for future actions nor does it represent a decision in principle about future considerations. For example, if the status of the species were to change to endangered, the 4(d) rule would no longer be in effect.

12) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

The proposed action is consistent with and complements numerous federal, state, and local laws, many of which have been in existence for decades, and provides measures that are necessary and advisable for the conservation of the polar bear, while also including appropriate prohibitions from section 9(a)(1) of the ESA. The rule adopts the existing conservation regulatory requirements under the MMPA and CITES as the primary regulatory provisions for the polar bear, and aligns the ESA with those provisions.

DETERMINATION

In view of the information presented in this document and the analysis contained in the attached Environmental Assessment of Endangered Species Act 4(d) Regulations for Threatened Polar Bears, it is hereby determined that the proposed agency action analyzed therein will not significantly impact the quality of the human environment as described above and in the Environmental Assessment. All beneficial and adverse impacts of the proposed action have been addressed to reach a conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



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Regional Director

2-5-13

Date