

**Special Rule for the Polar Bear
and Environmental Assessment
Under Section 4(d) of the Endangered Species Act
Questions and Answers**

What action is being taken by the U.S. Fish & Wildlife Service?

The U.S. Fish and Wildlife Service (Service) is publishing in the *Federal Register* a Special Rule for the polar bear under section 4(d) of the Endangered Species Act (ESA) and making available an Environmental Assessment (EA) prepared under the requirements of the National Environmental Policy Act (NEPA) analyzing the special rule and three alternatives.

Why is the Service taking this action?

Polar bears in the U.S. are managed under three Federal laws: the ESA, the Marine Mammal Protection Act (MMPA) of 1972 (as amended), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) signed in 1973. At the same time the Service listed the polar bear as threatened, the agency issued an interim Special Rule for the polar bear, which was refined and finalized as a final Special Rule on December 16, 2008.

On November 18, 2011, in response to litigation, the District Court for the District of Columbia (District Court) vacated the December 2008 rule and remanded it to the Service. At the same time the District Court ordered that the May 2008 interim Special Rule remain in effect until superseded by a new Special Final Rule for the polar bear. This Final Special Rule will publish in the *Federal Register* on February 20, 2013, and take effect in 30 days on March 22, 2013.

Will the Special Rule affect subsistence harvest?

The Special Rule does not affect the continued subsistence harvest or the production and sale of polar bear handicrafts by Alaska Natives. The Special Rule does allow the continued noncommercial export of Alaska Native handicrafts made from polar bear parts.

Will the Special Rule affect oil and gas exploration?

Onshore and offshore oil and gas exploration, development, and production activities in Alaska have been effectively governed for decades under the MMPA. 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. However, the overlay of provisions of the ESA, such as the consultation requirements of section 7 of the ESA, will still apply.

Section 7 of the ESA requires Federal agencies to ensure that the activities they authorize, fund or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify any designated critical habitat. If a federal action may affect a listed species, such as the polar bear, the permitting or action agency must enter into consultation with the Service. This requirement remains unchanged with the Special Rule.

How is this final Special Rule different from the proposed rule published in the *Federal Register* on April 19, 2012?

At the completion of the 60-day comment period, the Service considered all public comments and determined that finalizing the rule as proposed was appropriate.

Where can more information be found?

The Final Special Rule as well as the final EA may be found by visiting the Federal eRulemaking Portal: <http://www.regulations.gov>; search for Docket No. [FWS-R7-ES-2012-0009].

For more information about the Final Special Rule, final EA and other issues on polar bear conservation, please visit <http://alaska.fws.gov/fisheries/mmm/polarbear/esa.htm>.