DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17
[FWS–R7–ES–2009–0051; 9221050083]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Pacific Walrus as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Pacific walrus (Odobenus rosmarus divergens) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act), and to designate critical habitat. Following a review of the petition, we find that the petition presents substantial scientific or commercial information indicating that listing this subspecies may be warranted. Therefore, with the publication of this notice, we are initiating a status review to determine if listing the Pacific walrus is warranted. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the Pacific walrus. We are seeking information regarding:

1. Information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 et seq.), which are:
   a. The present or threatened destruction, modification, or curtailment of the species’ habitat or range;
   b. Overutilization for commercial, recreational, scientific, or educational purposes;
   c. Disease or predation;
   d. The inadequacy of existing regulatory mechanisms; or
   e. Other natural or manmade factors affecting its continued existence.

2. The historical and current status of the population, including distribution, abundance, trends in abundance, population dynamics, taxonomy, and stock structure.

3. Habitat selection and use, including both sea-ice and terrestrial haulouts; disturbance at haulouts; food habits; and effects of disease, competition, and predation on Pacific walruses.

4. The effects of climate and environmental changes, sea-ice changes, and ocean acidification on the distribution, abundance, and life history of Pacific walruses and their principal prey over the short and long term.

5. Information on the effects of ongoing conservation measures for the species and its habitat on the distribution and abundance of Pacific walruses and their principal prey over the short and long term.

If we determine that listing the Pacific walrus is warranted, it is our intent to propose critical habitat to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, with regard to areas within the geographical range currently occupied by the Pacific walrus, we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species that are essential to the conservation of the species. Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of the Act.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be informative to us in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made “solely on the basis of the best scientific and commercial data available.” Based on the status review, we will issue a 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act. You may submit your information concerning this status review by one of the methods listed in the ADDRESSES section.

If you submit information via http://www.regulations.gov, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on http://www.regulations.gov.

Information and materials we receive, as well as supporting documentation we used in preparing this finding, will be...
available for public inspection on
http://www.regulations.gov, or by
appointment during normal business
hours at the Alaska Regional Office (see
FOR FURTHER INFORMATION CONTACT).

Background

Section 4(b)(3)(A) of the Act requires
that we make a finding on whether a
petition to list, delist, or reclassify a
species presents substantial scientific or
commercial information indicating that the
petitioned action may be warranted. We are
to base this finding on information
provided in the petition, supporting
information submitted with the petition,
and information otherwise available in our files. To the maximum
extent practicable, we are to make this
finding within 90 days of our receipt of
the petition and publish our notice of
the finding promptly in the
Federal Register.

Our standard for substantial scientific
or commercial information within the
Code of Federal Regulations (CFR) with
regard to a 90-day petition finding is
“that amount of information that would
lead a reasonable person to believe that
the measure proposed in the petition
may be warranted” (50 CFR 424.14(b)).
If we find that substantial scientific or
commercial information was presented,
we are required to promptly commence
our 90-day finding procedure under the
Endangered Species Act and that we
designate critical habitat. The petition clearly identified
the petitioned action may be warranted.
We are to base this finding on
information provided in the petition,
supporting information submitted with
the petition, and information otherwise
available in our files. To the maximum
extent practicable, we are to make this
finding within 90 days of our receipt of
the petition and publish our notice of
the finding promptly in the
Federal Register.

Species Information

The family Odobenidae is represented
by a single modern species, Odobenus
rosmarus, of which two subspecies are
generally recognized: The Atlantic
walrus (O. r. rosmarus) and the Pacific
walrus (O. r. divergens). The two
subspecific pinnipeds occur in
geographically isolated populations.

The Pacific walrus is a large, heavy-
bodied pinniped that has thick, rough,
creased skin; a wide head and muzzle;
small, protruding eyes; hundreds of
forward-facing, short, stiff, vibrissae,
and upper canine teeth that develop
into long tusks (Jefferson et al. 2008, pp.
376–377).

Pacific walrus use floating sea ice as
a substrate for birthing and nursing
calves, for resting, for isolation from
predators, and for passive transport to
new feeding areas (Fay 1974, pp. 393–
394). Pacific walrus is thus identified as
an ice-associated species. They range
throughout the continental shelf waters
of the Bering and Chukchi Seas and can
be found in low numbers in the East
Siberian Sea and the Beaufort Sea. In
winter and early spring, walruses
concentrate in the Bering Sea pack ice
where open leads, polynyas, or thin ice
allow access to water (Fedoseev 1982,
p. 2 of translation; Fay 1982, p. 21).

During spring, most of the population,
including females and calves, migrates
from the Bering Sea into the Chukchi
Sea, where they form mixed groups
along the southern edge of the pack ice.
As summer sea ice recedes, walruses
may haul out on shore on Wrangel and
other islands and along the Chukchi Sea
coast. The number of walruses using
coastal haulouts in Chukotka are highly
variable among years and seasons (see
Fay et al. 1984 for summary up through the
1970s, pp. 270–271). Many adult
males remain in the Bering Sea for the
summer, using coastal haulout sites in
the Gulf of Anadyr, Bering Strait region,
and in Bristol Bay (Fay 1982, p. 14). In
the fall, walruses that summered in the
Chukchi Sea follow the formation of sea
ice as they migrate south through the
Bering Strait and back into the Bering
Sea. Walruses feed on a broad array of
benthic invertebrate prey, including sea
anemones, worms, sea cucumbers,
tunicates, snails, and clams (Sheffield et
al. 2001, p. 311). Occasionally, walruses
consume large nonbenthic organisms
such as fish, birds, or seals (summarized
in Sheffield et al. 2001, p. 311).

Although capable of diving to deeper
depths, walruses usually feed in
shallow waters of 100 meters (328 feet)
or less (Fay 1982, p. 163; Fay and Burns

The current size and trend of the
Pacific walrus population is unknown.
Between 1975 and 1990, cooperative,
contemporaneous, visual aerial surveys
were carried out by the United States
and the former Soviet Union at 5-year
intervals, producing population
estimates ranging from about 170,000 to
250,000 individuals (see Gilbert 1999
for review, pp. 76–79). Observers
counted or estimated numbers of
walruses hauled out on pack ice and
land, but could not accurately detect or
quantify walruses that were swimming
in the water. Surveyed areas included
all known terrestrial haulout sites, but
were limited to an unknown but very
small percentage of available ice
habitats. Efforts to survey the Pacific
walrus population were suspended by
both countries after 1990, due to
unresolved problems with survey
methods that produced population
estimates with unknown bias and large
or unknown, but presumably large,
variances that severely limited their
utility (Gilbert et al. 1992, p. 1; Gilbert
1999, p. 82). The population estimates
generated from these surveys are
considered minimum values that cannot
be used for detecting trends in
population size (Hills and Gilbert 1994,
p. 205).

During 2002–2005, the Service and
Russian partners developed a survey
method that uses thermal imaging
systems to reliably detect walrus groups
hauled out on sea ice (Burn et al. 2006,
p. 54; Udevitz et al. 2008, pp. 63–64).
At the same time, the U.S. Geological
Survey developed satellite transmitters
that record information on the haulout
status of individual walruses (Jay et
al. 2006, p. 231), which can be used to
estimate the proportion of the walrus
population in the water. These
technological advances led to a joint
United States-Russia aerial survey in
March and April of 2006, to estimate the
size of the Pacific walrus population
(USFWS and USGS 2006, p. 7). Analysis
of data collected during the 2006 walrus
survey is ongoing. Final results are
expected in late 2009.
Threats Evaluation

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR Part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information regarding threats to the Pacific walrus, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species’ Habitat or Range

The petition asserts that the Pacific walrus’ sea-ice habitats in the Bering and Chukchi Seas are disappearing and being degraded by global climate change (Petition, pp. 26–63). It states that the Arctic is warming faster than other regions of the globe (p. 31; Anisimov et al. 2007, p. 656), and that Arctic summer sea ice, including the ice of the Chukchi Sea, is predicted to disappear or nearly disappear between 2012 and 2030 (p. 27; Amos 2007, p. 1; Stroeve et al. 2008, p. 14). By 2050, the Bering Sea is predicted to lose about 40 percent of its winter sea ice unless emissions scenarios change (Overland and Wang 2007, p. 1).

The petition states that global warming will impact the Pacific walrus by degrading and eliminating critical sea-ice habitats, decreasing prey availability, altering interactions with predators and disease, and increasing human disturbance throughout the range (Petition, p. 58). It claims that, without sea ice, the Pacific walrus will be forced into a shore-based existence for which it is not adapted (Petition, p. 27).

After reviewing the supporting references cited in the petition, we find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to effects on walruses resulting from changes in climate and sea-ice habitats.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition does not claim that overutilization of Pacific walruses for commercial, recreational, scientific, or educational purposes is taking place or will take place, and does not provide any evidence that this factor is impacting or will impact Pacific walruses. We do not have substantial information in our files to suggest that overutilization for commercial, recreational, scientific, or educational purposes may threaten the Pacific walrus. However, all factors, including threats from utilization for commercial, recreational, scientific, or educational purposes, will be evaluated when we conduct our status review.

C. Disease or Predation

The petition asserts that global warming is likely to markedly increase predation and disease occurrence in the Pacific walrus population (Petition, p. 64), but does not support this statement with any evidence that this factor is impacting or will impact Pacific walruses. We do not have substantial information in our files to suggest that disease or predation may threaten the Pacific walrus. However, all factors, including threats from disease and predation, will be evaluated when we conduct our status review.

D. The Inadequacy of Existing Regulatory Mechanisms

The petition presents information regarding existing and planned regulatory mechanisms, stating that the primary international regulatory mechanisms addressing greenhouse gas emissions and global warming, the United Nations Framework Convention on Climate Change and the Kyoto Protocol, are ineffective in mitigating many of the climate-based threats to the species (Petition, pp. 64–70). The petition claims that the ineffectiveness of these regulatory mechanisms is demonstrated by their failure to significantly reduce greenhouse gas emissions (Petition, pp. 69–70). See our analysis of Factor A above, where we found that the petitioned action may be warranted due to effects on walruses resulting from changes in climate and sea-ice habitats. The petition further claims that the existing regulatory mechanisms are inadequate to address impacts of oil and gas development, as made evident by the fact that important walrus habitats were not deleted from Minerals Management Service lease sales (Petition, pp. 70). It states that existing regulations both domestically and internationally are inadequate to protect Pacific walruses and their habitat from harm due to shipping and ocean acidification (Petition, pp. 71–72).

After reviewing the supporting references cited in the petition, we find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to inadequacy of existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting the Species’ Continued Existence

The petition claims that ocean acidification poses a profound threat to marine ecosystems due to impacts on photosynthesis of photoautotrophic microorganisms, reduced photosynthesis of phytoplankton, reduced metabolic rates of zooplankton and fish, oxygen supply of squid, reproduction of clams, nitrification by microorganisms, and the uptake of metals (Petition, p. 72; WBGU 2006, p. 69). The petition further claims that ocean acidification threatens the Pacific walrus because of its deleterious effects on walrus prey species (Petition, p. 72), including mollusk species that are similar to those species consumed by the Pacific walrus (Berge et al. 2005, p. 1; Gazeau et al. 2007, p. 1).

The petition claims that additional impacts on the Pacific walrus include threats from offshore oil and gas development in the United States, Canada, and Russia, which has the potential to negatively impact large portions of the Pacific walrus’ foraging and breeding habitat with oil and noise pollution (Petition, p. 73). The petition states that exposure to contaminants may also increase for Pacific walruses as a result of increasing precipitation and ice melt (Tynan and DeMaster 1997, p. 318). The petition also states that commercial fisheries pose a threat to the Pacific walrus by causing direct mortality through incidental take as fisheries bycatch (Woodley and Lavinge 1991, p. 12), and by depleting essential prey resources (Petition, p. 82).

After reviewing the supporting references cited in the petition, we find that some of the information provided in the petition, specifically information on threats due to ocean acidification, as well as other information in our files, present substantial scientific or commercial information indicating that the petitioned action may be warranted due to this factor. The petition does not
present substantial information, nor do we have substantial information in our files, to suggest that fisheries or oil and gas activities, with the possible exception of potential oil spills, may threaten the Pacific walrus. However, all factors will be evaluated when we conduct our status review.

Finding

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the Federal Register.

Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition presents “substantial scientific and commercial information,” which is interpreted in our regulations as “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). As described in our threats evaluation, above, the petition presents substantial information indicating that listing the Pacific walrus throughout its entire range may be warranted based on Factors A, D, and E. Based on our threats evaluation, the petition does not present substantial information indicating that Factors B and C may be a threat to this species.

Based on this review and evaluation, we find that the petition presents substantial scientific or commercial information indicating that listing the Pacific walrus throughout all or a significant portion of its range may be warranted due to current and future threats under Factors A, D, and E. Therefore, we are initiating a status review to determine whether listing the Pacific walrus under the Act is warranted.

The “substantial information” standard for a 90-day finding is not the same as the Act’s “best scientific and commercial data” standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will indicate that listing is warranted.

References Cited

A complete list of references cited is available on the Internet at http://www.regulations.gov and upon request from the Alaska Regional Office (see FOR FURTHER INFORMATION CONTACT).

Author

The primary authors of this notice are the staff members of the Alaska Regional Office (see FOR FURTHER INFORMATION CONTACT).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: September 1, 2009.

Sam D. Hamilton,
Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17


[MO 92210530083–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Amargosa Toad (Bufo nelsoni) as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90–day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90–day finding on a petition to list the Amargosa toad (Bufo nelsoni) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing this species may be warranted. Therefore, with the publication of this notice, we are initiating a status review to determine if listing the Amargosa toad is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species.

DATES: We made the finding announced in this document on September 10, 2009. To allow us adequate time to conduct this review, we request that we receive information on or before November 9, 2009.

ADDRESSES: You may submit information by one of the following methods:

• Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.


We will not accept e-mail or faxes. We will post all information received on http://www.regulations.gov. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review (12–month finding) is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the Amargosa toad. We request information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the Amargosa toad. We are seeking information regarding:

(1) The species’ historical and current status and distribution, its biology and ecology, and ongoing conservation measures for the species and its habitat.

(2) Information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 et seq.), which are: