§ 5124. Section may be subject to additional
continues to conduct hazardous
A respondent that
Materials Operations.
proceeding was filed; and
Code under which the bankruptcy
debtor in a case under chapter 11, title 11, United
proceeding is filed;
state of the proceeding, (i.e.,
the full outstanding balance of the civil
penalty).
(c) The cessation of hazardous
materials operations order will be
delivered to the respondent’s designee
(announcement made in accordance with
§ 105.40 of this subchapter).
Issued in Washington, DC, on September
16, 2013, under authority delegated in 49
CPR Part 106.
Madjy El-Sibaie,
Associate Administrator for Hazardous
Materials Safety, Pipeline and Hazardous
Materials Safety Administration.
[FR Doc. 2013–22952 Filed 9–23–13; 8:45 am]
BILLING CODE 4910–60–P
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17
003 0115]
Endangered and Threatened Wildlife
and Plants; 90-Day Finding on a
Petition To List 10 Sturgeon Species
as Endangered or Threatened
AGENCY: Fish and Wildlife Service,
Interior.
ACTION: Notice of 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 10
sturgeon species as endangered or
threatened under the Endangered
Based on our review, we find that the
petition presents substantial scientific
classification of the petitioned action may
be warranted. Therefore, with the
publication of this notice, we are
initiating a review of the status of these
to determine if listing these 10
species. To ensure that this
status review is comprehensive, we
request scientific and commercial data
and other information regarding these
species. At the conclusion of this
review, we will issue a 12-month
findings on the petition, as provided in
section 4(b)(3)(B) of the Act.
DATES: To allow us adequate time to
conduct this review, we request that we
receive information on or before
November 25, 2013. After this date, you
must submit information directly to the
office listed in the FOR FURTHER
INFORMATION CONTACT section below.
Please note that we may not be able to
address or incorporate information that
we receive after the above requested
date.
ADDRESSES: You may submit
information by one of the following
methods:
• Electronically: Go to the Federal
eRulemaking Portal: http://
www.regulations.gov. In the Search
field, enter Docket No. FWS–HQ–ES–
2013–0051, which is the docket number
for this action. Then click on the Search
button. You may submit a comment by
clicking on “Comment Now!” If your
comments will fit in the provided
comment box, please use this feature of
http://www.regulations.gov, as it is most
compatible with our comment review
procedures. If you attach your
comments as a separate document, our
preferred file format is Microsoft Word.
If you attach multiple comments (such
as form letters), our preferred format is a
spreadsheet in Microsoft Excel.
• By Hard Copy: U.S. mail or hand-
delivery: Public Comments Processing,
Attn: FWS–HQ–ES–2013–0051,
Division of Policy and Directives
Management; U.S. Fish and Wildlife
Service; 4401 N. Fairfax Drive, MS
2042–PDM; Arlington, VA 22203.
We will not accept comments by
email or fax. We will post all comments
on http://www.regulations.gov. This
generally means that we will post any
personal information you provide us
(see the Information Requested section,
below, for more information).
FOR FURTHER INFORMATION CONTACT:
Janine Van Norman, Chief, Branch of
Foreign Species, Endangered Species
Program, U.S. Fish and Wildlife Service,
4401 N. Fairfax Drive, Room 420,
Arlington, VA 22203; telephone
703–358–2171; facsimile
703–358–1735. If you use a telecommunications
device for the deaf (TDD), call the Federal
Information Relay Service (FIRS) at
800–877–8339.
SUPPLEMENTARY INFORMATION:
Information Requested
For the status review to be complete and
based on the best available
scientific and commercial information,
we request information on 10 sturgeon species (see list in Table 1, below) from government agencies (including foreign national and provincial governments within the range of each of these species), the scientific community, industry, and any other interested parties. We seek information on:

(1) Each species’ biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;
(b) Genetics and taxonomy;
(c) Historical and current range, including distribution patterns, particularly regarding their seasonal migrations;
(d) Historical and current population levels, and current and projected population trends;
(e) Potential threats to each species such as harvest or other threats not identified; and
(f) Past and ongoing conservation measures for each species or its habitat.

(2) The factors that are the basis for making a listing determination for a species or subspecies 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 their habitat or range;
(b) Overutilization for commercial, recreational, scientific, or educational purposes, particularly data on hunting;
(c) Disease or predation;
(d) The inadequacy of existing regulatory mechanisms; or
(e) Other natural or manmade factors affecting their continued existence.

(3) The potential effects of climate change on each species and its habitat.

Please include sufficient information with your submission (such as full references) to allow us to verify any scientific or commercial information you include. Submissions merely stating scientific or commercial information indicating that the petitioned action may be warranted'' (50 CFR 424.14(b)). 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)).

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. If we find that substantial scientific or commercial information was presented, we are required to promptly initiate a species status review, which we subsequently summarize in our 12-month finding.

Petition History

On March 12, 2012, the National Marine Fisheries Service (NMFS) received a petition dated March 8, 2012, from WildEarth Guardians and Friends of Animals to list as endangered or threatened under the Act the following 15 sturgeon species: Adriatic sturgeon (Acipenser naccarii); Baltic sturgeon (A. sturio); Russian sturgeon (A. gueldenstaedtii); ship sturgeon (A. nudibranch); Persian sturgeon (A. persicus); Siberian sturgeon (A. baeri); Yangtze sturgeon (A. dabryanus); Chinese sturgeon (A. sinensis); Sakhalin sturgeon (A. mikadoi); Amur sturgeon (A. schrenckii); Kaluga sturgeon (Huso dauricus); Syr Darya sturgeon (Pseudoscaphirhynchus fedtschenkoi); dwarf sturgeon (P. hermannii); and Amu Darya sturgeon (P. kaufmanni). The petition states that all 15 petitioned sturgeon species are affected by similar threats, which are primarily: Both legal and illegal harvest for meat and/or roe; habitat loss and degradation including dams or dam construction, and water pollution. The petition is available at http://www.nmfs.noaa.gov/pr/pdfs/petitions/sturgeon15_petition2012.pdf.

NMFS acknowledged receipt of this petition in a letter dated April 14, 2012, and informed the petitioners that NMFS would determine, under section 4 of the Act, whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Although the petition was initially sent to NMFS, as a result of subsequent discussions between NMFS and the Service regarding the August 28, 1974, Memorandum of Understanding pertaining to “Jurisdictional Responsibilities and Listing Procedures Under the Endangered Species Act of 1973,” we have determined that 10 of the 15 petitioned sturgeon species are within the jurisdiction of the Service. Therefore, in April 2012, the Service notified WildEarth Guardians that we have jurisdiction over the 10 sturgeon species, listed below, that are the subject of this 90-day finding.

This 90-day finding considers whether the petitioned action may be warranted for the following 10 sturgeon species included in the petition: Siberian sturgeon (Acipenser baeri); Yangtze sturgeon (A. dabryanus), Russian sturgeon (A. gueldenstaedtii), ship sturgeon (A. nudibranch), Persian sturgeon (A. persicus), Amur sturgeon (A. schrenckii), stellate sturgeon (A. stellatus), Syr-Darya sturgeon (Pseudoscaphirhynchus fedtschenkoi), dwarf sturgeon (P. hermannii), and the Amu Darya sturgeon (P. kaufmanni). The best available information regarding the current ranges and population trends is summarized in Table 1, below.
TABLE 1—LIST OF SPECIES IN THIS 90-DAY FINDING

<table>
<thead>
<tr>
<th>Species</th>
<th>IUCN Status</th>
<th>Population trend</th>
<th>Current range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Siberian sturgeon (<em>Acipenser baerii</em>)</td>
<td>Endangered</td>
<td>Decreasing</td>
<td>China; Kazakhstan; Mongolia; Russia.</td>
</tr>
<tr>
<td>Yangtze sturgeon (<em>Acipenser dabryanus</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>China.</td>
</tr>
<tr>
<td>Russian sturgeon (<em>Acipenser gueldenstaedti</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Azerbaijan; Bulgaria; Georgia; Iran; Kazakhstan; Moldova; Romania; Russia; Serbia; Turkey; Turkmenistan; Ukraine.</td>
</tr>
<tr>
<td>Ship sturgeon (<em>Acipenser ninivantis</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Azerbaijan; Georgia; Hungary; Iran; Kazakhstan; Russia; Serbia; Turkey.</td>
</tr>
<tr>
<td>Persian sturgeon (<em>Acipenser persicus</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Azerbaijan, Georgia, Iran, Kazakhstan, Russia, Turkey.</td>
</tr>
<tr>
<td>Amur sturgeon (<em>Acipenser schrencki</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>China; Russia.</td>
</tr>
<tr>
<td>Stellate sturgeon (<em>Acipenser stellatus</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Azerbaijan; Georgia; Hungary; Iran; Kazakhstan; Russia; Serbia; Turkey; Turkmenistan; Ukraine.</td>
</tr>
<tr>
<td>Syr Darya sturgeon (<em>Pseudoscaphirhynchus fedtschenkoi</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Kazakhstan, Tajikistan, Uzbekistan.</td>
</tr>
<tr>
<td>Dwarf sturgeon (<em>Pseudoscaphirhynchus hermanni</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Afghanistan, Turkmenistan, Uzbekistan.</td>
</tr>
<tr>
<td>Amu Darya sturgeon (<em>Pseudoscaphirhynchus kaufmanni</em>)</td>
<td>Critically Endangered</td>
<td>Decreasing</td>
<td>Turkmenistan, Uzbekistan.</td>
</tr>
</tbody>
</table>

Introduction

These 10 sturgeon species are either anadromous (spend part of their lives in salt water and return to rivers to breed) or live solely in fresh water. Many sturgeon species are prized for their roe, which is made into caviar. The primary factors indicated in the petition as affecting these species include overharvest and damming of rivers, which affect the continued survival of all the petitioned sturgeon with the exception, at least at present, of those in the Amur River basin.

In 1997, Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) agreed to include all sturgeon species not already in the CITES Appendices in Appendix II. The listing became effective in April 1998. All 10 species of sturgeon in this finding were included in CITES Appendix II at that time. Pursuant to Article II, paragraph 2(a) of CITES, Appendix II includes species that are not necessarily threatened now with extinction, but may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival. In addition, Appendix II also includes species that may be listed due to their similarity in appearance with other species that are regulated under the treaty (CITES Article II 2(b)). Some of the 10 species of sturgeon in this finding were listed in accordance with the CITES criteria under paragraph 2(a) of Article II, while others were listed based upon the similarity of appearance provision.

CITES is a multinational agreement between governments. CITES Parties (signatory countries) regulate and monitor international trade in CITES-listed species (that is, their import, export, and re-export) through a system of permits and certificates. CITES lists species in one of three appendices—Appendix I, II, or III.

Evaluation of Information for a 90-Day Finding on a Petition

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, 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 each species, 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 in Appendix A. The decision whether to list these species as endangered or threatened is based on the petition and the factors affecting the species in their current range.

Finding

On the basis of our review under section 4(b)(3)(A) of the Act, we determine that the petition presents substantial scientific or commercial information indicating that listing these 10 sturgeon species as endangered or threatened may be warranted. This finding is based on information provided in the petition regarding the five factors: The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A); overutilization for commercial, recreational, scientific, or educational purposes (Factor B); disease and predation (Factor C); the inadequacy of existing regulatory mechanisms (Factor D); and other natural or manmade factors affecting the species’ continued existence (Factor E).

The primary factors identified in the petition as affecting these species are dams constructed within their range that fragment their habitat (Factor A); pollution that causes health and reproduction issues (Factor A); severe levels of overharvest (Factor B); and the inadequacy of existing regulatory mechanisms (Factor D) to address those threats. The petitioners also note that all of the petitioned species are affected by more than one factor (Petition, p. 50).

These species occur in several countries, and the factors affecting these species are complex and interrelated. Because we have found that the petition presents substantial information indicating that listing these 10 sturgeon species may be warranted, we are initiating a status review to determine whether listing these 10 sturgeon species under the Act as endangered or threatened is warranted.

The “substantial information” standard for a 90-day finding differs from the Act’s “best scientific and commercial data available” standard.
that applies to a 12-month finding (status review) as to 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 result in a warranted finding.

References Cited
A complete list of all references cited in this 90-day finding is available on the Internet at http://www.regulations.gov at Docket No. FWS–HQ–ES–2013–0051 or upon request from the Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service (see FOR FURTHER INFORMATION CONTACT).

Author
The primary author of this finding is Amy Brisendine, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service.

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