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Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Petition To List the Polar Bear as Threatened

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 polar bear (*Ursus maritimus*) as threatened under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action of listing the polar bear may be warranted. We, therefore, are initiating a status review of the polar bear to determine if listing under the Act is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: We must receive your comments on or before April 10, 2006.

ADDRESSES: If you wish to comment, you may submit your comments and/or information concerning this species and the status review by any one of the following methods:

1. You may submit written comments and information to the Supervisor, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503.
2. You may hand-deliver written comments to our office at the address given above.
3. You may send your comments by electronic mail (e-mail) directly to the Service at AK_Polarbear@fws.gov, or to the Federal eRulemaking Portal at <http://www.regulations.gov>. Your submission must include "Attn: Polar Bear" in the beginning of your message, and you must not use special characters or any form of encryption. Electronic attachments in standard formats (such as .pdf or .doc) are acceptable, but please name the software necessary to open any attachments in formats other than those given above. Also, please include your name and return address

in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please submit your comments in writing using one of the alternate methods described above. In the event that our Internet connection is not functional, please submit your comments by one of the alternate methods mentioned above.

FOR FURTHER INFORMATION CONTACT:

Scott Schliebe (see **ADDRESSES**), telephone, 907-786-3800; facsimile, 907-786-3816.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this status review will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party. We are opening a 60-day public comment period to allow all interested parties an opportunity to provide information on the status of the polar bear throughout its range, including:

- (1) Information on taxonomy, distribution, habitat selection (especially denning habitat), food habits, population density and trends, habitat trends, and effects of management on polar bears;
- (2) Information on the effects of climate change and sea ice change on the distribution and abundance of polar bears and their principal prey over the short- and long-term;
- (3) Information on the effects of other potential threat factors, including oil and gas development, contaminants, hunting, poaching, and changes of the distribution and abundance of polar bears and their principal prey over the short and long term;
- (4) Information on management programs for polar bear conservation, including mitigation measures related to oil and gas exploration and development, hunting conservation programs, anti-poaching programs, and any other private, tribal, or governmental conservation programs which benefit polar bears, and
- (5) Information relevant to whether any populations of the species may qualify as distinct population segments.

We will base our finding on a review of the best scientific and commercial information available, including all information received during the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review

during regular business hours.

Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

All comments and materials received will be available for public inspection, by appointment, during normal business hours at our Anchorage, Marine Mammals Management Office (see **ADDRESSES**).

Background

We received a petition from the Center for Biological Diversity dated February 16, 2005, to list the polar bear as threatened throughout its range with critical habitat in the United States. The petition, which was clearly identified as such, contained detailed information on the natural history and biology of the polar bear, and the current status and distribution of the species. It also contained information on what they reported as potential threats to the species from climate change, oil and gas development, contaminants, hunting, and poaching. The petition also discussed existing regulatory mechanisms and their perceived inadequacy. In a letter dated July 5, 2005, the petitioners informed us that two additional parties were joining as petitioners: The Natural Resources Defense Council and Greenpeace, Inc. In the same letter, the petitioners informed us of two new scientific articles, Henson *et al.* 2005, and Stroeve *et al.* 2005, that they wanted us to take into consideration when conducting our evaluation on the petition to list the polar bear. The petitioner further submitted new information in a letter received on December 27, 2005, to be considered, along with the information in the initial petition, in making our 90-day finding.

Subsequent to the filing of the initial petition with the Service, a petitioner may submit additional information relevant to the petitioned action. If the petitioner requests that the Service consider the information in making the 90-day finding on the petition, the Service will treat the new information,

together with the information in the initial petition, as a new petition filed on the date that the new information is received. In such case, the Service will consider the initial petition to be withdrawn by the petitioner. This has the effect of "resetting the clock" for the purpose of calculating the statutory deadlines under section 4(b)(3) of the Act. Applying this reasoning to the Center for Biological Diversity's petition regarding the polar bear, we consider the petition to have been received on December 27, 2005.

On the basis of information provided in the petition we have determined that the petition presents substantial scientific or commercial information

that listing the polar bear as threatened may be warranted. Therefore, we are initiating a status review to determine if listing the species is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species. Under section 4(b)(3)(B) of the Act, we are required to make a finding as to whether listing the polar bear is warranted by December 27, 2006.

The petitioners also requested that critical habitat be designated for this species. We always consider the need for critical habitat designation when listing species. If we determine in our 12-month finding that listing the polar

bear is warranted, we will address the designation of critical habitat in a subsequent proposed rule.

Author

The primary author of this document is Scott Schliebe, Polar Bear Project Leader, Marine Mammals Management Office, U.S. Fish and Wildlife Service, Anchorage, Alaska.

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

Dated: February 3, 2006.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

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