

review report was completed by the BRT (Kelly *et al.*, 2010), on December 10, 2010, we made a 12-month finding and proposed to list the Arctic (*Phoca hispida hispida*), Baltic (*Phoca hispida botnica*), Okhotsk (*Phoca hispida ochotensis*), and Ladoga (*Phoca hispida ladogensis*) subspecies of ringed seals as threatened (75 FR 77476). We published our 12-month finding for bearded seals as a separate notification concurrently with this finding (75 FR 77496; December 10, 2010).

The proposed rule announced a 60-day comment period to close on February 8, 2011. On February 8, 2011, we extended the comment period 45 days to March 25, 2011 (76 FR 6754). Three public hearings were held in Alaska in Anchorage, Barrow, and Nome (76 FR 9733, February 22, 2011; 76 FR 14882, March 18, 2011).

In accordance with our July 1, 1994, Interagency Cooperative Policy on Peer Review (59 FR 34270), we requested the expert opinion of four independent scientists with expertise in seal biology and/or Arctic sea ice and climate change regarding the pertinent scientific data and assumptions concerning the biological and ecological information used in the proposed rule. The purpose of the review was to ensure that the best biological and commercial information was used in the decision-making process, including input of appropriate experts and specialists. We received comments from three of these reviewers.

Two of the reviewers questioned the magnitude and immediacy of the threats posed to Arctic ringed seals by the projected changes in sea ice habitat, in particular on-ice snow cover. Public comments raised similar concerns, including from the State of Alaska; certain Tribal governments, Alaska Native organizations, and organizations representing the Inuit in Canada; Canada's Department of Fisheries and Oceans; and Greenland's Department of Fisheries, Hunting, and Agriculture. We have considered these comments, and we find that for Arctic ringed seals substantial disagreement exists concerning the sufficiency or accuracy of the analysis of model projections of future sea ice habitat, in particular on-ice snow cover, and related impacts. This disagreement extends to the magnitude and immediacy of the threats posed to this population by the projected habitat changes.

Extension of Final Listing Determination

The ESA, section 4(b)(6), requires that we take one of three actions within 1 year of a proposed listing: (1) Finalize the proposed listing; (2) withdraw the

proposed listing; or (3) extend the final determination by not more than 6 months, if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination, for the purposes of soliciting additional data.

In consideration of the disagreement related to the model projections and analysis of future sea ice habitat, in particular snow cover, for Arctic ringed seals, we are extending the timeline for the final determination by an additional 6 months (until June 10, 2012) to resolve the disagreement. We believe that the solicitation of additional data through special independent peer review of this aspect of the status review report will better inform our final determination on the proposed listing rule and will address the disagreement. We are therefore conducting this additional review in accordance with our Policy on Peer Review, and we will provide an opportunity for the public to comment on the peer review report. The additional 6 months will allow time for us to evaluate and assess the special independent peer review comments and make the peer review report available for comment. We do not anticipate that this additional time will appreciably impact any of the four subspecies of the ringed seal we proposed to list as threatened.

The reopening of the public comment period will be announced in the **Federal Register** when the availability of the peer review report compiling the special independent review comments is known. At that time, instructions for obtaining a copy of the peer review report will also be announced.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: December 6, 2011.

Samuel D. Rauch III,
*Deputy Assistant Administrator for
 Regulatory Programs, National Marine
 Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

RIN 0648-XA768

Endangered and Threatened Species; Initiation of Status Review for Ribbon Seal

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Initiation of status review and solicitation of information.

SUMMARY: We, NMFS, under the authority of the Endangered Species Act of 1973, as amended (ESA), announce the initiation of a status review for the ribbon seal (*Histiophoca fasciata*). We conduct status reviews to determine whether the entity should be listed as threatened or endangered under the ESA. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species (see below).

DATES: Information and comments on the subject action must be received by February 13, 2012.

ADDRESSES: Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2011-0248, by any one of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2011-0248 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

Mail: Submit written comments to P.O. Box 21668, Juneau, AK 99802.

Fax: (907) 586-7557.

Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered.

All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain

anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT:

Tamara Olson, NMFS Alaska Region, (907) 271-5006; Kaja Brix, NMFS Alaska Region, (907) 586-7235; or Marta Nammack, Office of Protected Resources, Silver Spring, MD (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 2007, we received a petition from the Center for Biological Diversity (CBD) to list the ribbon seal as a threatened or endangered species under the ESA, primarily due to concern about threats to this species' habitat from climate warming and loss of sea ice. The Petitioner also requested that critical habitat be designated for ribbon seals concurrently with listing under the ESA. On March 28, 2008, we published a 90-day finding (73 FR 16617) in which we determined that the petition presented substantial information indicating that the petitioned action may be warranted and initiated a status review of the ribbon seal.

On December 30, 2008, we published our 12-month finding that listing of the ribbon seal was not warranted (73 FR 79822). In this finding we concluded that although ribbon seal population abundance is likely to decline gradually for the foreseeable future, primarily from slight but chronic impacts on reproduction and survival caused by reduced frequency of years with sea ice of suitable extent, quality, and duration of persistence, it is not in danger of extinction or likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

On September 3, 2009, CBD and Greenpeace, Inc. (collectively, "Center") filed a complaint in U.S. District Court challenging our 12-month finding. On December 21, 2010, after considering cross-motions for summary judgment, the Court denied the Center's motion for summary judgment and granted NMFS' cross-motion. The Center filed a notice of appeal of this judgment to the Ninth Circuit Court of Appeals on January 18, 2011.

Information has become available since publication of the December 30, 2008, 12-month finding that may have implications for the status of the ribbon

seal relative to the listing provisions of the ESA, including new data on ribbon seal movements and diving, as well as a modified threat-specific approach to analyzing the foreseeable future which we used in the spotted (*Phoca largha*), ringed (*Phoca hispida*), and bearded seal (*Erignathus barbatus*) status reviews completed subsequent to the ribbon seal status review (75 FR 65239, October 22, 2010; 75 FR 77476 and 75 FR 77496, December 10, 2010). In consideration of this information, we entered a settlement agreement with the Center on August 30, 2011, under which we agreed to initiate a new status review and issue a 12-month finding on whether listing the ribbon seal as threatened or endangered is warranted and submit the determination to the Office of the **Federal Register** by December 10, 2012. This document initiates a new status review for the ribbon seal.

You may obtain copies of previous Federal actions relating to the ribbon seal from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

ESA Statutory Provisions and Policy Considerations

There are two key tasks associated with an ESA status review. The first is to delineate the taxonomic group under consideration and the second is to conduct an extinction risk assessment to determine whether the petitioned species is threatened or endangered.

Under the ESA, a listing determination can address a species, subspecies, or a distinct population segment (DPS) of a vertebrate species (16 U.S.C. 1532 (16)). The term "distinct population segment" (DPS) is not commonly used in scientific discourse, so the USFWS and NMFS developed the "Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act" to provide a consistent interpretation of this term for the purposes of listing, delisting, and reclassifying vertebrates under the ESA (61 FR 4722; February 7, 1996). We will use this policy to guide our determination of whether DPSs exist in ribbon seals.

The ESA defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range." A threatened species is defined as a species that is "likely to become an endangered species within the

foreseeable future throughout all or a significant portion of its range." Under section 4(a)(1) of the ESA, a species may be determined to be threatened or endangered as a result of any one of the following factors: (1) Present or threatened destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are based solely on the best scientific and commercial data available, after conducting a review of the status of the species and taking into account efforts made by any state or foreign nation to protect such species.

Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial information, we are opening a 60-day public comment period to solicit information from the public, government agencies, Alaska Natives, the scientific community, industry, and other interested parties on the status of the ribbon seal throughout its range. We are seeking:

- (1) Information on taxonomy, abundance, reproductive success, age structure, distribution, habitat selection, food habits, population density and trends, habitat trends, and effects of management on ribbon seals;
- (2) Information on the effects of climate change and sea ice change on the distribution and abundance of ribbon seals and their principal prey over the short- and long-term;
- (3) Information on the effects of other potential threat factors, including oil and gas exploration and development, contaminants, hunting, and poaching, on the distribution and abundance of ribbon seals and their principal prey over the short- and long-term;
- (4) Information on management programs for ribbon seal 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 ribbon seals; and
- (5) Information relevant to population structure of ribbon seals.

We request that all data and information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. Please submit any comments to the **ADDRESSES** listed above. 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.

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

Dated: December 6, 2011.

Samuel D. Rauch III,
*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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