



INSPIRING AMERICANS TO PROTECT WILDLIFE FOR OUR CHILDREN'S FUTURE.

# Fact Sheet

GLOBAL WARMING

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## What Endangered Species Act Listing Means For the Polar Bear

### Action on Both Global Warming and Habitat Protection Is Needed To Save the Polar Bear From Extinction

- The chief threat to the polar bear is the loss of its sea ice habitat due to global warming. However, as the NWF fact-sheet on polar bear biology explains, the polar bear is also stressed by other human activity, particularly oil and gas development activities in its habitat.
- To save the polar bear from extinction, the U.S. must enact strong legislation that reduces the greenhouse gas emissions that cause global warming. Individuals can help by reducing their personal energy use and by advocating for legislative action on global warming at the federal, state and local levels. To avoid the worst impacts of global warming, lawmakers must enact policies that reduce U.S. global warming pollution 2% per year, leading to about an 80% reduction by mid-century.
- According to scientists, saving wildlife from the threat of global warming requires more than reducing global warming pollution. To help wildlife cope with the stress caused by climate change, natural resource managers must take action to reduce non-climatic stressors. In the case of the polar bear, this means that natural resource managers must limit oil and gas development in the polar bear's habitat. The Alaskan polar bear population relies heavily on the Arctic coastal plain for denning. It also relies on the ice on the Beaufort and Chukchi seas for both denning and hunting. Both of these habitat areas are threatened by increasing oil and gas development.

As Arctic sea ice disappears, the Arctic National Wildlife Refuge on the Arctic coastal plain will become increasingly important for the polar bear. The Refuge has the highest concentration of on-shore denning polar bears in the Alaskan Arctic. This area should not be opened to oil and gas or any other development that would degrade essential polar bear habitat.

### The Meaning of a Threatened Listing Under the Endangered Species Act

Listing a species as threatened or endangered under the Endangered Species Act (ESA) means that it is in need of protection from threats of extinction. The U.S. Fish and Wildlife Service (FWS) has proposed to list the polar bear as a threatened species, which means it is at risk of becoming endangered in the foreseeable future. If the polar bear's numbers continue to decline, it could become an endangered species within a few decades, which would mean that it is at risk of going extinct in the foreseeable future.

### Listing the Polar Bear as Threatened – A Crucial Part of the Solution for the Polar Bear

The ESA, enacted in 1973, is the nation's primary tool for conserving imperiled plants and animals. By listing the polar bear as threatened under the ESA, FWS will provide it with the legal protections it will need if it is to have any chance of surviving global warming. Those protections may be summarized as follows:



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## **The ESA Protects the Polar Bear's "Critical Habitat"**

The ESA requires that FWS designate (identify) "critical habitat," habitat that is essential to the conservation of a listed species, and it requires that all federal agencies ensure that the actions they permit, fund, or carry out do not destroy or adversely modify this habitat. FWS must designate this critical habitat within one year of listing. Once that designation is completed, any proponent of a federal project (including oil and gas lease sales proposed by the Bureau of Land Management in the National Petroleum Reserve on Alaska's north slope or proposed by the Minerals Management Service in the Beaufort and Chukchi Seas) must consult with FWS. Together they must ensure that critical habitat affected by project activities will not be destroyed or adversely modified. If such adverse consequences would result, the agency proponent and FWS must redesign the project in a way that avoids such consequences.

## **Federal Agencies Must Ensure That Their Actions Do Not Jeopardize the Existence of the Polar Bear**

Even if a federal project is outside designated critical habitat (or if a project is proposed before critical habitat is designated), the project proponent must consult with FWS about the project's impacts on the polar bear and its habitat, and together they must ensure that the project does not jeopardize the existence of the polar bear in the wild. Under ESA regulations, to jeopardize a species means to appreciably reduce the likelihood of its survival and recovery in the wild. As with adverse modification of critical habitat, if FWS finds that a proposed federal project will jeopardize the polar bear, the agency project proponent and FWS must work to design an alternative approach to the project that avoids violating the ESA. It is very rare for a project to be terminated or withdrawn due to jeopardy or adverse modification.

## **Prohibiting Take of the Polar Bear**

Section 9 of the ESA forbids any person (including any corporation, state or local governments) from taking an endangered animal species. If an animal species is listed as threatened, regulations promulgated by FWS pursuant to ESA section 4(d) likewise prohibit taking the species. The ESA's definition of taking includes not just actions intended to harm an animal, such as killing, but also actions that have the incidental effect of harming the animal or its habitat. Habitat destruction and modification by non-federal actors is prohibited only if it is likely to result in injury or death.



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If the polar bear is listed as threatened, FWS will have the discretion to tailor its regulations governing take to the bear's specific circumstances. However, any regulation governing take (known as a 4d rule) must be designed for the purpose of conserving the species.

### **Recovering the Polar Bear and Its Habitat**

The ESA's ultimate goal is to recover threatened and endangered species to the point where they no longer need the law's protections. Once the polar bear is listed, the ESA requires the FWS to develop and implement a recovery plan. (The law does not impose a deadline, however.) A recovery plan must provide the objective, measurable criteria that, if satisfied, would lead to recovery of the species. In essence, it provides a blueprint for private, federal and state cooperation in the conservation of the polar bear and its habitat.

The recovery plan for the polar bear must address climate change, the leading threat to the species' existence. Because the solutions to climate change are far beyond the expertise of FWS, FWS will need to enlist the assistance of other agencies. Presumably, once the federal government completes its plan for addressing global warming, the plan will serve as the template for recovering the other species likely to be listed as threatened or endangered by climate change in the future. Action on global warming by the federal government will be essential to prevent the extinction of not just the polar bear, but of numerous other wildlife species.

### **For more information, contact:**

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