

(e) *Applicability to ticketing.* This section does not apply to a respondent who fails to pay a civil penalty assessed by a ticket issued pursuant to § 107.310 of this subchapter.

(f) *Applicability to debtors.* This section does not apply to a respondent who is unable to pay a civil penalty because the respondent is a debtor in a case under chapter 11, title 11, United States Code. A respondent who is a debtor in a case under chapter 11, title 11, United States Code must provide the following information to the agency decision maker identified in the original agency order or on its certificate of service.

(1) The chapter of the Bankruptcy Code under which the bankruptcy proceeding is filed;

(2) The bankruptcy case number;

(3) The court in which the bankruptcy proceeding was filed; and

(4) Any other information requested by the agency to determine a debtor's bankruptcy status.

(g) *Penalties for Prohibited Hazardous Materials Operations.* A respondent that continues to conduct hazardous materials operations in violation of this section may be subject to additional penalties, including criminal prosecution pursuant to 49 U.S.C. § 5124.

#### § 109.103 Notice of Nonpayment of Penalties.

(a) If a full payment of a civil penalty, or an installment payment as part of agreed upon payment plan, has not been made within 45 days after the date specified for payment by the final agency order, the agency may issue a cessation of hazardous materials operations order to the respondent.

(b) The cessation of hazardous materials operations order issued under this section shall include the following information:

(1) A citation to the statutory provision or regulation the respondent was found to have violated and to the terms of the order or agreement requiring payment;

(2) A statement indicating that if the respondent fails to pay the full outstanding balance of the civil penalty within 90 days after the payment due date, the respondent shall be prohibited from conducting any activity regulated under the Federal hazardous material transportation law, this subchapter or subchapter C of this chapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter C of this chapter;

(3) A statement describing the respondent's options for responding to

the order which will include an option to file an appeal for reconsideration of the cessation of operations order within 20 days of receipt of the order; and

(4) A description of the manner in which the respondent can make payment of any money due the United States as a result of the proceeding (i.e., the full outstanding balance of the civil penalty).

(c) The cessation of hazardous materials operation order will be delivered by personal service, unless such service is impossible or impractical. If personal service is impossible or impractical then service may be made by certified mail or commercial express service. If a respondent's principal place of business is in a foreign country, it will be delivered to the respondent's designated agent (as prepared in accordance with § 105.40 of this subchapter).

Issued in Washington, DC, on September 16, 2013, under authority delegated in 49 CFR Part 106.

**Magdy El-Sibaie,**

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-HQ-ES-2013-0051; 450 003 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 Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific and commercial information indicating that the petitioned action may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of these species to determine if listing these 10 species is warranted. 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 finding 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 support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

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 you submit a hard copy 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 hard copy submissions on <http://www.regulations.gov>.

Information and supporting documentation that we received and used in preparing this finding will be available to review at <http://www.regulations.gov>, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Endangered Species Program, Branch of Foreign Species (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 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. nudiventris*); Persian sturgeon (*A. persicus*); stellate sturgeon (*A. stellatus*); Siberian sturgeon (*A. baerii*); 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. hermanni*); 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](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 baerii*), Yangtze sturgeon (*A. dabryanus*), Russian sturgeon (*A. gueldenstaedtii*), ship sturgeon (*A. nudiventris*), Persian sturgeon (*A. persicus*), Amur sturgeon (*A. schrenckii*), stellate sturgeon (*A. stellatus*), Syr-Darya sturgeon (*Pseudoscaphirhynchus fedtschenkoi*), dwarf sturgeon (*P. hermanni*), 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

Species	IUCN Status	Population trend	Current range
Siberian sturgeon ( <i>Acipenser baerii</i> ) .....	Endangered .....	Decreasing .....	China; Kazakhstan; Mongolia; Russia.
Yangtze sturgeon ( <i>Acipenser dabryanus</i> ) .....	Critically Endangered	Decreasing .....	China.
Russian sturgeon ( <i>Acipenser gueldenstaedtii</i> ) .....	Critically Endangered	Decreasing .....	Azerbaijan; Bulgaria; Georgia; Iran; Kazakhstan; Moldova; Romania; Russia; Serbia; Turkey; Turkmenistan; Ukraine.
Ship sturgeon ( <i>Acipenser nudiventris</i> ) .....	Critically Endangered	Decreasing .....	Azerbaijan; Georgia; Hungary; Iran; Kazakhstan; Russia; Serbia; Turkey.
Persian sturgeon ( <i>Acipenser persicus</i> ) .....	Critically Endangered	Decreasing .....	Azerbaijan, Georgia, Iran, Kazakhstan, Russia, Turkey.
Amur sturgeon ( <i>Acipenser schrenckii</i> ) .....	Critically Endangered	Decreasing .....	China; Russia.
Stellate sturgeon ( <i>Acipenser stellatus</i> ) .....	Critically Endangered	Decreasing .....	Azerbaijan; Bulgaria; Iran; Kazakhstan; Moldova; Romania; Russia; Serbia; Turkey; Turkmenistan; Ukraine.
Syr Darya sturgeon ( <i>Pseudoscaphirhynchus fedtschenkoii</i> ).	Critically Endangered	Unknown .....	Kazakhstan, Tajikistan, Uzbekistan.
Dwarf sturgeon ( <i>Pseudoscaphirhynchus hermanni</i> ).	Critically Endangered	Decreasing .....	Afghanistan, Turkmenistan, Uzbekistan.
Amu Darya sturgeon ( <i>Pseudoscaphirhynchus kaufmanni</i> ).	Critically Endangered	Decreasing .....	Turkmenistan, Uzbekistan.

## 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. in Docket No. FWS–HQ–ES–2013–0051 on <http://www.regulations.gov>.

## 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.*).

Dated: September 9, 2013.

**Stephen D. Guertin,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2013-22879 Filed 9-23-13; 8:45 am]

**BILLING CODE 4310-55-P**