

<http://www.sciencenews.org/view/generic/id/32155>[Home](#) / [News](#) / [News item](#)**POLAR BEARS LISTED****Overdue decision makes polar bears a "threatened species"**

By Susan Milius

Web edition : Wednesday, May 14th, 2008

[Enlarge](#)

LISTED

The polar bear made it onto the US endangered species list as "threatened."  
U.S. FWS

The polar bear made it onto the U.S. endangered species list May 14 with an unusual flurry of administrative guidance, rule making and grumbling.

The species will be classified as "threatened" because its Arctic ice habitat is melting, said Secretary of the Interior Dirk Kempthorne at a press conference. He noted that last summer the Arctic ice cover shrank to the skimpiest remnant on record and that computer analyses predict even more drastic melting ahead.

Even though the polar bear population throughout the Arctic has grown from some 12,000 animals in the late 1960s to around 25,000 today, Kempthorne said, the U.S. Geological Survey last year projected that the vanishing ice would reduce the numbers of bears again. "They are likely to become endangered in the foreseeable future," he said, clarifying that he meant within 45 years.

That's weighty phrasing because "becoming endangered in the foreseeable future" is the essence of the definition of a threatened species on the U.S. list.

The Endangered Species Act, said Kempthorne, is "perhaps the least flexible law Congress has ever passed."

"The administration did the right thing," says Sue Lieberman, a tropical biologist based near Geneva, Switzerland, who directs species conservation programs at WWF-International. "They listened to the science."

She adds, though, that she is "quite concerned" about some of Kempthorne's other announcements and wants to see details.

Kempthorne said he is accompanying the listing with administrative guidance and a new rule "to protect the polar bear while limiting the unintended harm to the society and economy of the United States."

The proposal to list the polar bear as threatened, published in January 2007 after environmentalists sued, ignited debate over whether listing would create legal requirements that U.S. businesses and citizens cut their emissions of greenhouse gases to stave off the loss of the polar bear's icy habitat.

In finalizing the listing, Kempthorne warned that the Endangered Species Act is "not the right tool to set climate policy." He said his administrative guidance will explicitly state that regulators are not to tie possible harming of bear habitat to a particular facility such as a power plant. The new listing "should not open the door to use the Endangered Species Act to regulate greenhouse gas emissions from automobiles, power plants and other sources," Kempthorne said.

Regardless of the caveats, the Western Business Roundtable based in Washington, D.C., issued a statement calling the decision "a new legal sledgehammer" that environmentalists will use to force restrictions on industries.

Sledgehammer power remains to be determined, but there probably will be legal challenges to the provisions, according to Kassie Siegel of the Tucson, Ariz.-based Center for Biological Diversity. The Center was one of the plaintiffs in a string of lawsuits calling for protections for polar bears. "We'll keep fighting," Siegel says. "The administration's attempts to reduce protection to the polar bear from greenhouse gas emissions are illegal and won't hold up in court."

In another unusual amendment to a listing, Kempthorne also announced a new rule specifying that the Marine Mammal Protection Act would trump the Endangered Species Act in defining what activities will be permitted in bear habitat. The marine mammal requirements for protection are "more stringent," he said.

Lieberman says this ruling strikes her as "fishy." Other endangered marine mammals are covered by both laws but don't have any special rules putting provisions of one law above the other. People and businesses are expected to obey both. "Why did they have to make a rule?" she says.

Marine mammals besides the polar bear use that shrinking sea ice, says marine biologist Brendan Kelly, associate vice president of research for the University of Alaska system.

Ringed seals depend on ice for dens, which bears stomp through to hunt pups, and walrus ride along the ice edge as it expands and contracts over their hunting ground. "Polar bears are just one species in a whole ecosystem," he says, and other residents could be in need of protection too. For other species though, "the data are much sparser," Kelly says. Putting together any case for listing them could be difficult.

Even with what Kelly calls "unusually good" data on polar bears, the decision process dragged on for months. The Department of the Interior announced a proposal more than a year ago to add the polar bear to the federal list in the threatened species category. The timetable for listing allows a year for deliberations. When January 2008 arrived, though, DOI's Fish and Wildlife Service said that it needed more time. On April 28, Judge Claudia Wilken, of the U.S. District Court for the Northern District of California, set May 15 as the

deadline for announcing the decision.

Federal protection for polar bears is also under consideration in Canada, says Peter Ewins of the WWF-Canada, in Toronto. Scientists' recommendations are under preparation for submission in August for consideration under the country's 5-year-old Species at Risk Act.