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Alaska Region



*NOAA Fisheries is considering the designation of critical habitat for Arctic ringed seals and Beringia DPS bearded seals. These species were listed as threatened under the ESA in December 2012. While these species presently exist in relatively high numbers, they face significant threats from climate change, including alteration of the sea ice habitat they rely upon for many aspects of their life cycles. The listing determinations, status review reports, and other background information is available via the "Find a Species" link at: [www.fisheries.noaa.gov](http://www.fisheries.noaa.gov)*

# Bearded Seals and Ringed Seals: Critical Habitat Under the Endangered Species Act

## QUESTIONS AND ANSWERS

### What is critical habitat?

Critical habitat is defined in the Endangered Species Act (ESA) as specific areas within the geographical area occupied by the species that contain physical or biological features essential to the conservation of a threatened or endangered species and that may require special management considerations or protection. Critical habitat may also include areas outside the geographical area occupied by the species upon a determination that such areas are essential for the conservation of the species.

### What habitat features are considered in determining critical habitat?

Critical habitat is identified based on physical or biological features that occur in specific areas and are essential to support the life-history needs of the species. These may include water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics.

### How is critical habitat designated?

NOAA Fisheries must use the best scientific information available, in an open public process, and within specific timeframes. Before designating critical habitat, the agency must consider economic impacts, impacts on national security, and other relevant impacts of the designation. The Secretary of Commerce may exclude any particular area from a critical habitat designation upon a determination that the benefits of such exclusion outweigh the benefits of specifying the particular area as part of the critical habitat. The Secretary, however, may not exclude any particular area if, based on the best scientific and commercial information available, it is determined that the failure to designate that area as critical habitat will result in the extinction of the species concerned.

### Why address critical habitat for bearded seals and ringed seals now?

NOAA Fisheries listed Arctic ringed seals and the Beringia Distinct Population Segment (DPS) of bearded seals in Alaska as threatened species under the ESA in December 2012. The ESA requires that NOAA Fisheries designate critical habitat at the time a species is listed or within one year if critical habitat is not determinable at that time. The agency was recently sued for not completing timely designation of critical habitat for these species. NOAA Fisheries entered into a settlement agreement (which was amended to extend the dates in the agreement) under which the agency committed to complete proposed determinations concerning the designation of critical habitat by March 15, 2021.

### **Who is affected by a critical habitat designation?**

The only direct regulatory effect of designation of critical habitat for an ESA-listed species is a requirement for federal agencies to consult with NOAA Fisheries to ensure any actions they authorize, fund, or undertake are not likely to destroy or adversely modify the value of the critical habitat as a whole for the conservation of the species. Such consultations would be combined with the existing requirement under section 7 of the ESA that federal agencies consult with NOAA Fisheries to ensure that their actions are not likely to jeopardize the continued existence of ESA-listed species. If a proposed federal action is likely to have an adverse effect on critical habitat and/or listed species, NOAA Fisheries would work with the action agency to incorporate measures into the proposed action to minimize those adverse effects. Consultation requirements do not apply to an activity that does not involve federal funding, permitting, or authorization.

### **Will critical habitat designations for ringed and bearded seals affect the subsistence harvest exemption for Alaska Natives under the ESA?**

No. Designation of critical habitat will not affect the continued subsistence harvest of these species.

### **What areas are proposed for critical habitat designation for ringed and bearded seals?**

The areas proposed for designation are located in the northern Bering, Chukchi, and Beaufort seas off the coast of Alaska. The essential features of critical habitat proposed for each species include: for ringed seal seals, sea ice suitable for pupping, nursing, basking, and molting, as well as primary prey resources; and for bearded seals, sea ice suitable for pupping, nursing, and molting, acoustic conditions that allow for effective communication by bearded seals for breeding purposes, and primary prey resources.

### **Ringed and bearded seals are associated with sea ice much of the year. Do the areas proposed as critical habitat remain critical habitat when sea ice is not present at any given time?**

Yes. The critical habitat designations would apply even when sea ice is absent. If a proposed action with Federal involvement would occur when sea ice is unlikely to be present, analysis of the potential effects of the action on critical habitat would take that expected absence of ice into consideration.

### **Will the public have an opportunity to comment on proposed critical habitat designations for bearded seals and ringed seals?**

Yes. Comments are being accepted for 60 days following publication in the Federal Register of the revised proposed rule to designate critical habitat for the ringed seal and the proposed rule to designate critical habitat for the bearded seal. Details on how to submit comments are provided in these proposed rules, which can be found on the NMFS website at:

[www.fisheries.noaa.gov/species/bearded-seal](http://www.fisheries.noaa.gov/species/bearded-seal) and [www.fisheries.noaa.gov/species/ringed-seal](http://www.fisheries.noaa.gov/species/ringed-seal).

### **Where can I find more information?**

Endangered Species Act: [www.fisheries.noaa.gov/topic/endangered-species-conservation](http://www.fisheries.noaa.gov/topic/endangered-species-conservation)

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