Response: The Service acknowledges that there may be limitations on the available fisheries data because some takings could occur and may not be observed or reported. However, protocols for necropsies and assigning probable cause of death categories are reviewed thoroughly. Table 1 of this SAR shows watercraft as the only human related deaths. The only possible evidence for commercial fisheries interaction would be within the 34 percent undetermined cause of death (COD) category. Undetermined COD means that assessment of a natural or human related cause was negative (no evidence that COD can be assigned to any of the available categories, either natural or human related). In addition, we believe that manatees injured by commercial fisheries interactions would most likely present signs of the activity and every necropsy includes a specific evaluation of human interactions. From 1990–2008, only one manatee had COD related to commercial fisheries interaction. In 2006, one freshly dead manatee was found with its right flipper entangled in monofilament and still this COD was deemed undetermined. In accordance with the previous statements and the presence of current bans and restrictions prohibiting the use of nets in coastal Puerto Rican waters, the Service believes that incidental mortality and serious injury related to commercial fisheries in Puerto Rico and the U.S. Virgin Islands should be considered minimal or approaching zero.

Comment 7: The SAR should provide at least some summary information to indicate the type(s) of habitat degradation adversely affecting manatees.

Response: We have revised the SAR to include examples of habitat degradation.

Comment 8: The commenter recommended that the Puerto Rico manatee stock be considered separately from the Florida manatees in terms of recommendation for down-listing.

Response: The Service acknowledges the comment made; however, the SAR is conducted according to the MMPA and does not address issues under Section 4 of the ESA.

Comment 9: The commenter opposed any efforts to down-list the status of manatees from endangered to threatened.

Response: The Service acknowledges the comment made; however, the SAR is conducted according to the MMPA and does not address issues under Section 4 of the ESA.

Comment 10: The commenter is concerned about the lack of reliable data on abundance and mortality.

Response: The Service acknowledges the commenter's concern and is currently evaluating aerial census methods to establish more reliable population estimates. We do not believe that mortality records lack reliability. As provided in our response to Comment 5 above, CSN had been documenting manatee mortalities in Puerto Rico since 1990. Although the DNER MMSP took over these duties in 2006, the program is implemented with assistance from the CSN, the Puerto Rico Zoo, and commonwealth law enforcement officials. We believe that the manatee death reports provided by the DNER MMSP, with all assistance of these partners, are a consistent and reliable manner to gather mortality data.

Comment 11: The commenter asked why so many released manatees have died in Puerto Rico.

Response: After reviewing the data received by the CSN, we recognized there was an error and have revised the SAR accordingly. From 1990 to 2005, a total of 23 manatees were rescued by the CSN. Of these, two were rehabilitated and released, two were released immediately after rescue, 17 died in rehabilitation, one died in transport, and one is currently in rehabilitation. Of the four manatees that were released, one died one year after its release.

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West Indian Manatee in Puerto Rico

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Sloan, D.H., J.P. Reid, R.K. Bonde, S.M. Butler, and B.M. Stith. 2006. Summary of the West Indian manatee (*Trichechus manatus*) tracking by USGS–FISC Sirenia Project in Puerto Rico. Report Prepared for the U.S. Fish and Wildlife Service. 9 pp.

Authority: The authority for this action is the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et al.*).

Dated: December 14, 2009.

Sam Hamilton,

Director, Fish and Wildlife Service.

[FR Doc. E9–30900 Filed 12–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2009–N234; 71490–1351–0000–M2–FY10]

Marine Mammal Protection Act; Stock Assessment Report

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of final 2009 revised marine mammal stock assessment reports for the Pacific walrus stock and two stocks of polar bears; response to comments.

SUMMARY: In accordance with the Marine Mammal Protection Act of 1972, as amended (MMPA), and its implementing regulations, we, the U.S. Fish and Wildlife Service (Service), announce that we have revised our stock assessment reports (SARs) for the Pacific walrus (*Odobenus rosmarus divergens*) stock and for each of the two polar bear (*Ursus maritimus*) stocks in Alaska: The Southern Beaufort Sea polar bear stock and the Chukchi/Bering Seas polar bear stock, including incorporation of public comments. We now make these three final 2009 revised SARs available to the public.

ADDRESSES: To obtain the SARs for the Pacific walrus or either polar bear stock, see Document Availability under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Rosa Meehan, Marine Mammals Management Office, (800) 362–5148 (telephone) or *r7_mmm_comment@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Background

Under the MMPA (16 U.S.C. 1361 *et seq.*) and its implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 18, we regulate the taking, transportation, purchasing, selling, offering for sale, exporting, and importing of marine mammals. One of the MMPA's goals is to ensure that stocks of marine mammals occurring in waters under U.S. jurisdiction do not experience a level of human-caused mortality and serious injury that is likely to cause the stock to be reduced below its *optimum sustainable population level* (OSP). OSP is defined as ''the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.''

To help accomplish the goal of maintaining marine mammal stocks at

their OSPs, section 117 of the MMPA requires us and the National Marine Fisheries Service (NMFS) to prepare a SAR for each marine mammal stock that occurs in waters under U.S. jurisdiction. A SAR must be based on the best scientific information available; therefore, we prepare it in consultation with established regional scientific review groups. Each SAR must include: (1) A description of the stock and its geographic range; (2) a minimum population estimate, maximum net productivity rate, and current population trend; (3) an estimate of human-caused mortality and serious injury; (4) a description of commercial fishery interactions; (5) a categorization of the status of the stock; and (6) an estimate of the *potential biological removal* (PBR) level. The PBR is defined as ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP.'' The PBR is the product of the minimum population estimate of the stock (N_{min}); one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size (R_{max}); and a recovery factor (F_r) of between 0.1 and 1.0, which is intended to compensate for uncertainty and unknown estimation errors.

Section 117 of the MMPA also requires us and NMFS to review the SARs (a) at least annually for stocks that are specified as strategic stocks, (b) at least annually for stocks for which significant new information is available, and (c) at least once every 3 years for all other stocks.

A *strategic stock* is defined in the MMPA as a marine mammal stock (a) for which the level of direct human-caused mortality exceeds the PBR; (b) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; ESA), within the foreseeable future; or (c) which is listed as a threatened or endangered species under the ESA, or is designated as depleted under the MMPA.

Before releasing our draft SARs for public review and comment, we submitted them for technical review internally and also for scientific review by the Alaska Regional Scientific Review Group, which was established under the MMPA. In a June 18, 2009 (74 FR 28946), **Federal Register** notice, we made available our draft SARs for the MMPA-required 90-day public review and comment period. Following the close of the comment period, we revised the SARs based on public comments we received (*see* below) and prepared the final 2009 revised SARs. Between publication of the draft and final SAR for the Pacific walrus, the estimate of walrus population size resulting from the 2006 survey was completed, and we revised the SAR using the new information. We have not revised the status of the Pacific walrus stock itself (*i.e.,* strategic). However, as a result of the new analyses, we estimate the size of the Pacific walrus population as 129,000 individuals within the surveyed area. This estimate does not account for areas not surveyed, and is therefore negatively biased to an unknown degree. To compensate for this bias, we are using our estimate of population size, 129,000, as N_{min}. In response to a comment, we revised F_r to 0.50. Therefore, the updated estimate of PBR is 2,580. We addressed other concerns identified in the public comments in the following section or by adding text to the SAR for clarity. Between publication of the draft and final SARs for both polar bear stocks, we also have not revised the status for either, *i.e.,* both are strategic. We addressed the public comments received in the following section or by adding text to the SAR for clarity.

The following table summarizes the final 2009 revised SARs for the Pacific walrus, the Southern Beaufort Sea polar bear, and the Chukchi/Bering Seas polar bear stocks, listing each stock's N_{min}, R_{max}, F_r, PBR, annual estimated human-caused mortality and serious injury, and status.

TABLE 1—SUMMARY: FINAL REVISED STOCK ASSESSMENT REPORTS FOR THE PACIFIC WALRUS, SOUTHERN BEAUFORT SEA POLAR BEAR, AND CHUKCHI/BERING SEAS POLAR BEAR

Stock	N_{min}	R_{max}	F_r	PBR	Annual estimated average human-caused mortality and serious injury	Stock status
Pacific Walrus	129,000	0.08	0.5	2,580	4,963–5,460	Strategic.
Southern Beaufort Sea Polar Bear	1,397	0.0603	0.5	22	33 (Alaska) 21 (Canada)	Strategic.
Chukchi/Bering Seas Polar Bear	2,000	0.0603	0.5	30	37 (Alaska) —(Russia)	Strategic.

Document Availability

Final Revised SARs for Pacific Walrus, Southern Beaufort Sea Polar Bear, and Chukchi/Bering Seas Polar Bear

You may obtain copies by any one of the following methods:

- *Internet: http://alaska.fws.gov/fisheries/mmm/walrus/reports.htm* (for the walrus stock) and *http://alaska.fws.gov/fisheries/mmm/polarbear/reports.htm* (for both polar bear stocks).
- Write to or visit (during normal business hours from 8 a.m. to 4:30 p.m. Monday through Friday) the Chief, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, AK 99503; telephone: (800) 362–3800.

Responding to Public Comments

Pacific Walrus

We received five sets of comments on the draft Pacific walrus SAR (74 FR 28946). We present issues raised in those comments, along with our responses, below.

Comment 1: The Service should complete analysis of the 2006 walrus survey data as soon as possible, and use a final estimate of Pacific walrus population size for the stock assessment report.

Response: The estimate of walrus population size resulting from the 2006 survey has been completed, and the stock assessment report has been revised using the new information.

Comment 2: The population estimate will not be meaningful without accounting for the numbers of walrus in areas not surveyed, hauled out on land, and in the water, and the SAR should state that the estimate ''is negatively biased to an unknown degree,'' and that the bias is most likely quite large.

Response: The estimate of walrus population size resulting from the 2006 survey accounts for individuals in the water. During April, when the aerial survey took place, virtually the entire population of Pacific walrus uses sea ice habitats, and few if any haul out on land

at that time. The 2006 estimate does not account for areas not surveyed, and the Service therefore recognizes that the estimate is negatively biased to an unknown degree. This is stated in the stock assessment report.

Comment 3: If a final estimate of population size resulting from a complete analysis of the 2006 survey data is not available, the ''Minimum Population Estimate'' section should read as follows: ''A reliable minimum population estimate (N_{min}) for this stock can not presently be determined because current reliable estimates of abundance are not available.''

Response: Results of the 2006 survey are now available. An estimated 129,000 Pacific walrus were found within the surveyed area. This estimate does not account for areas not surveyed, and is therefore negatively biased to an unknown degree. To counterbalance this bias, we are using our estimate of population size, 129,000, as N_{min} for the Pacific walrus stock assessment report. This provides reasonable assurance that the stock size is equal to or greater than the estimate.

Comment 4: The use of a recovery factor of 1.0 is too high, and assumes the stock is stable; a recovery factor of 0.50 for unknown status should be used instead.

Response: Results of the 2006 walrus survey, in combination with other estimates of walrus population size and sources of information on walrus, do not provide a definitive basis for determining Pacific walrus population status. We agree that status of the population should be considered ''unknown,'' and have reduced the recovery factor to 0.50.

Comment 5: If a final estimate of population size resulting from a complete analysis of the 2006 survey data is not available, the ''Potential Biological Removal'' section should read as follows: ''However, because a reliable estimate of minimum abundance (N_{min}) is currently not available, the PBR for this stock is unknown.''

Response: The Service used the 2006 estimate of population size of 129,000 for $N_{min.}$ This provides reasonable assurance that the stock size is equal to or greater than the estimate, and is therefore a reasonable basis for estimating PBR.

Comment 6: The draft report contained a population estimate that was only a snapshot of walrus population size in a certain area in a certain period of time, and does not support determination of PBR.

Response: The Service acknowledges the shortcomings of the 2006 estimate of Pacific walrus population size. However, the 2006 estimate remains the best scientific information available at this time, as specified under Section 117 of the MMPA.

Comment 7: The PBR value of 607 is so low in relation to harvested numbers that it cannot be correct, or there would be no walrus remaining.

Response: We recalculated an estimate for PBR using the revised N_{min} of 129,000 and revised F_r of 0.50. The estimate of R_{max} remained the same at 0.08. These revisions yielded an estimated PBR of 2,580, which is greater than the preliminary estimate in the draft stock assessment report. Estimated total human-caused removals of 4,963–5,460 walrus per year are higher than estimated PBR. However, estimated PBR is not the appropriate mechanism for assessing the sustainability of the subsistence harvest.

Comment 8: Take is above PBR, so the Service should promptly begin a status review of the Pacific walrus under 16 U.S.C. 1383b(a) to determine whether the stock may warrant listing as ''depleted,'' and whether rulemaking pursuant to 16 U.S.C. 1371(b) is warranted.

Response: In February 2008, the Service received a petition to list the Pacific walrus as threatened or endangered under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The 90-day finding on this petition was published in the **Federal Register** on September 10, 2009 (74 FR 46548), and found that there was substantial information in the petition to indicate that listing the Pacific walrus under the ESA may be warranted. The Service has initiated a status review of the Pacific walrus to determine whether the stock should be listed under the ESA. If the species is listed under the ESA, it is considered depleted under the MMPA. The finding on the merits of the listing petition will be published in the **Federal Register** on or before September 10, 2010.

Comment 9: The Pacific walrus should not be declared a ''strategic'' stock until a final estimate of walrus population size is completed.

Response: The estimate of walrus population size resulting from the 2006 survey has been completed, and we revised the stock assessment report using the new information. PBR was re-estimated using the revised N_{min} of 129,000; the revised F_r of 0.50; and the same estimate of $R_{max,}$ 0.08. The revisions yielded an estimated PBR of 2,580. The estimated level of total direct human-caused mortality is 4,963–5,460 walrus per year, which exceeds the estimated PBR level. Therefore, the Pacific walrus is classified as strategic as defined under the MMPA.

Comment 10: Information provided in Garlich-Miller *et al.* (2006) regarding the use of population information derived from harvested walruses (*e.g.*, age at harvest, fecundity, age at first reproduction) to evaluate population status should be included in the assessment of population status.

Response: Information provided in Garlich-Miller *et al.* 2006 is equivocal regarding population status, and text has been updated in the stock assessment to make this clearer.

Comment 11: The Service should state the variances and biases of all walrus surveys from 1975 through 1990 in the SAR.

Response: Many scientific articles have been published on estimating walrus population size, including survey methods, sources of variation, and sources of bias. Surveys from 1975, 1980, 1985, and 1990 do not have estimates of variance associated with the total population estimate, because part of each estimate was derived from highest counts of walruses using terrestrial haulouts, for which variance cannot be estimated. Biases for most surveys are simply unknown. For the interested reader, Table 1 in the SAR cites the original sources of literature for each U.S.-Russia joint estimate of walrus population size. Other summary works are cited in the ''Population Size'' section of the SAR.

Comment 12: How many walrus were not counted in the unsurveyed areas?

Response: To date, the Service has not attempted to estimate the number of walrus in areas that were not surveyed in 2006. However, the Service is considering how this might be done. Once completed, this analysis would be used to update future Pacific walrus SARs.

Comment 13: The new method used to count walrus and make an estimate is no better than the method used before.

Response: The 2006 walrus survey covered more area than earlier surveys, more accurately estimated numbers of walrus in groups, accounted for the probability of detecting groups of different sizes, accounted for the proportion of the population that was in the water, and fully quantified the uncertainty associated with the estimation process. It produced the most accurate estimation of Pacific walrus population size to date. However, other longstanding issues were still problematic, such as the extreme spatial and temporal aggregation of this species on ice, the vast ice-covered area it inhabits, and severity of weather.

Discussions of methods for future efforts to estimate Pacific walrus population size are ongoing.

Comment 14: Destruction of walrus by the U.S. Navy is not being regulated.

Response: The Service is not aware of any cases of walrus destruction by the U.S. Navy.

Comment 15: The estimates of take by commercial fisheries identified in the SAR are inaccurate by at least 50 percent because we do not receive reports from Russian commercial fisheries.

Response: In accordance with the MMPA, NMFS is required to place all U.S. commercial fisheries into one of three categories based on the level of serious injury and mortality of marine mammals that occur incidental to that fishery. Any vessel owner or operator or gear owner or operator participating under these categories must report to NMFS all incidental injuries and mortalities that occur during commercial fishing operations. The Service used information from these reports, which are provided to us by NMFS, to estimate take by commercial fisheries in the preparation of the SAR for the Alaska stock of Pacific walrus. We acknowledge the limitations of the data; however, this constitutes the best available scientific information. A complete list of fisheries and marine mammal interactions is published annually by NMFS, the most recent of which was published on December 1, 2008 (73 FR 73032).

Comment 16: The Service should explain the calculations for estimating the total number harvested in more detail.

Response: Information about the subsistence harvest is collected through several observer programs. We have added information to the SAR to clarify this point.

Comment 17: The Service should state that Fay *et al.* (1994) used data collected between 1952 and 1972, and that changes may have occurred over the last 35 years that would result in the need to re-evaluate the struck and lost rate of 42 percent.

Response: We agree with this comment, and the stock assessment text has been revised accordingly. However, we continue to use the value of 42 percent estimated by Fay *et al.* (1994) because it is the only estimate available and, therefore, the best available scientific information for preparation of the SAR.

Polar Bear

We received four sets of comments on the draft polar bear SARs (74 FR 28946). We present issues raised in those comments, along with our responses, below.

Southern Beaufort Sea Polar Bear

Comment 1: The Service should reassess all relevant data on polar bear distribution and movements to determine the eastern boundary of the Southern Beaufort Sea stock in the most scientifically credible manner and then reassess the minimum population estimate to account for the new stock boundary.

Response: A new population estimate could be determined once the new eastern boundary for the Southern Beaufort Sea is determined and agreed upon by the Board of Commissioners for the Inuvialuit/Inupiat Agreement. However, this decision has not been made and given the current staffing and previous commitments by the polar bear program of U.S. Geological Survey, Alaska Science Center, a new analysis cannot be done in a timely manner. In addition, boundaries for many of the polar bear populations may be changing in response to changes in the sea ice habitat. Thus we chose to use the old boundary for the Southern Beaufort Sea SAR at this time.

Comment 2: The Service should revise downward its estimate of maximum net productivity rate for this population to reflect ongoing and predicted changes in polar bear habitat that will prevent polar bear stock from achieving growth rates that might be expected in a favorable environment.

Response: Currently there is not enough data to estimate maximum net productivity rate (R_{max}) based on ongoing and predicted changes in the sea ice habitat. Thus we used the best scientific information available for $R_{max.}$

Comment 3: The Service should work with the North Slope Borough, the Inuvialuit Game Council, and the Canadian authorities to review whether the current harvest limits for this population are sustainable and consider whether they should be reduced.

Our Response: We have made recommendations that the current harvest limits should be reduced.

Comment 4: The second paragraph states that the boundaries delineated by Bethke et al. (1996) will continue to be used for the Southern Beaufort Sea SAR. However, prior to that statement there is substantial information presented pertinent to boundary considerations, yet Bethke *et al.* is not mentioned.

Response: We corrected the citation from Bethke *et al.* (1996) to Amstrup *et al.* (2000) and added a sentence referring to the southern boundary, which was based on Bethke *et al.* (1996).

Comment 5: For the Southern Beaufort Sea stock, revise the last sentence such that the estimate from Regehr et al. 2006 is recognized as the most current and valid estimate of abundance to use in calculating $N_{min.}$

Response: We revised the sentence accordingly. The discussion of N_{min} in the last paragraph in the ''Population Size'' section of the SAR clearly states that the population estimate of 1,526 was used in the calculation.

Comment 6: The last sentence in the Chukchi/Bering Seas SAR states that ''Harvest levels are not limited at this time.'' If this also applies to the Southern Beaufort Sea stock, it should be included; if it does not, the means by which the harvest is limited should be presented.

Response: The harvest for the Southern Beaufort Sea has been actively managed since the passage of the Polar Bear Agreement for the Southern Beaufort Sea between the Inuvialuit of Canada and the Inupiat in the United States (Alaska) in 1988. Using Maximum Sustained Yield Method (Taylor *et al.* 1987) and a two-to-one male-to-female sex ratio in the harvest, a sustainable yield was calculated for the Southern Beaufort Sea population. The average annual harvest level since 1988 (56.9) has been well below the sustainable harvest of 80 bears (40 for the United States and 40 for Canada) since 1988. To minimize confusion with the discussion of PBR, we did not include this information in the SAR.

Comment 7: The recent harvest levels are above PBR, and thus the Service should discuss the effects of the harvest on the population and the potential for recovery in the section *Conservation Issues and Concerns—Subsistence Harvest.* The Service should mention the management agreements that are in place to determine sustainable harvest levels if PBR is not used.

Response: We added a paragraph at the end of this section to clarify the concern of overharvest with a declining population and how the quota is managed relative to PBR. The estimated PBR is not the appropriate mechanism for assessing the sustainability of the subsistence harvest.

Chukchi/Bering Seas Polar Bear

Comment 8: The Service should give its highest priority to reaching an agreement with Russia on a joint strategy to determine the status of this stock, identify current levels of productivity in major denning areas, and establish a management and research program to monitor this stock.

Response: The first meeting of the commissioners for the U.S/Russia

Bilateral Agreement for the conservation of the polar bears occurred in Moscow, Russia in September, 2009. The Scientific Working Group, which is established under this Bilateral Agreement, will make recommendations on management and research needs to the four commissioners.

Comment 9: The Service should provide an explanation as to why it believes that 2,000 can be used as the best population estimate as well as the minimum population size.

Response: The population estimate of 2,000 is based on extrapolated den data and is over 10 years old. Although this number is not considered reliable for management purposes, it is currently the best scientific information available for these calculations.

Comment 10: The Service should revise downward its estimate of the maximum net productivity rate for this population to reflect ongoing and predicted changes in polar bear habitat that will prevent polar bear stocks from achieving growth rates that might be expected in a favorable environment.

Response: See response to Comment 2 for the Southern Beaufort Sea SAR.

Comment 11: The Service should use the first meeting of the United States–Russia Polar Bear Commission to address the over harvest of this stock.

Response: This is one of the action items assigned to the Scientific Working Group, which will make recommendations to the Bilateral Commission in 2010.

Comment 12: The Service should mention that since the stock is now considered depleted under the MMPA, the Federal Government now has authority to regulate harvest levels.

Response: Although we concur with the above statement, the Service would rather work through the U.S. Russia Bilateral Agreement for the Conservation of Polar Bears to develop management and research priorities, including guidelines for determining appropriate harvest levels for this population stock. We believe that working cooperatively with our Russian colleagues will result in a more effective management strategy for this population.

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Authority: The authority for this action is the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et al.*).

Dated: December 14, 2009.

Sam Hamilton,

Director, Fish and Wildlife Service.

[FR Doc. E9–30908 Filed 12–29–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTB07900 09 L10100000.PH0000 LXAMANMS0000]

Notice of Public Meeting, Western Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of