

## Advocacy Advises FWS to Address Additional Small Business Impacts in its Designation of Critical Habitat for the Canada Lynx

On October 3, 2006, the Office of Advocacy (Advocacy) filed a comment with the U.S. Fish and Wildlife Service (FWS), in response to a proposed rule and notice of availability of draft economic analysis that it recently published, *Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Contiguous United States Distinct Population Segment of Canada Lynx*. Advocacy recommended that FWS issue a supplemental Initial Regulatory Flexibility Analysis (IRFA) with a more thorough analysis of the economic impacts of this critical habitat designation (CHD) on small entities and available regulatory alternatives. A complete copy of Advocacy's letter to FWS may be accessed at <http://www.sba.gov/advo/laws/comments/>

- The Endangered Species Act requires FWS to designate critical habitat for endangered and threatened species to provide those species extra protection. Under critical habitat designations, a user of land that falls within a CHD is responsible for mitigation to prevent habitation loss for the threatened and endangered species. For developers, a consultation process is required.
- This proposed CHD covers 18,031 square miles, and includes Federal, State, tribal and private lands in Maine (10,633 square miles), Minnesota (3,546 square miles), Washington (303 square miles) and in the states of Idaho and Montana (3,549 square miles). An earlier CHD for this species included a larger area of 26,935 square miles, but areas in Washington, Idaho and Montana are excluded under the current proposed CHD.
- Pursuant to the Regulatory Flexibility Act (RFA), FWS is required to prepare an IRFA to assess the economic impact of a proposed rulemaking on small entities. Advocacy believes that the IRFA provided by FWS does not analyze the number of entities and the economic impact of this CHD on small entities in the development industry, such as builders and developers. Advocacy also believes that FWS's analysis underestimates the economic impacts of this CHD on small entities in the timber industry in Maine. Advocacy recommended that FWS publish a supplemental IRFA that includes important information.
- Advocacy also recommended that FWS give consideration to excluding high-cost areas from its final designation, such as the areas in Idaho, Montana and Washington that were identified for exclusion in FWS's proposed rule, and other high-cost areas in Maine and Minnesota.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advo>, or contact Assistant Chief Counsel Janis Reyes by email at [Janis.Reyes@sba.gov](mailto:Janis.Reyes@sba.gov) or by phone at 202-619-0312.