

[Federal Register: December 27, 1994]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding
for a Petition to List As Endangered or Threatened the Contiguous
United States Population of the Canada **Lynx**

agency: Fish and Wildlife Service, Interior.

action: Notice of 12-month petition finding.

summary: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to add the contiguous United States population of the Canada **lynx** (**Lynx canadensis**) to the List of Threatened and Endangered Species. The Service finds the petitioned action of listing the Canada **lynx** in the 48 contiguous States is not warranted.

dates: The finding announced in this document was made on December 20, 1994.

addresses: Information, comments, or questions concerning this petition should be submitted to the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. The petition, 12-month finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

for further information contact: Ralph Morgenwick, Regional Director, Region 6, telephone (303) 236-8189.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b) (3) (B) of the Endangered Species Act (Act) of 1973 as amended (16 U.S.C. 1531 et seq.), requires that, for any petition to revise the List of Threatened and Endangered Species that contains substantial scientific or commercial information indicating that the petitioned action may be warranted, a finding must be made within 12 months of the date of receipt of the petition on whether the petitioned action is (i) not warranted, (ii) warranted, or (iii) warranted but precluded by the efforts to revise the list and expeditious progress is being made in listing and delisting species. Upon making the finding, a notice shall be promptly published in the Federal Register. With this notice, the Service announces its 12-month finding on the petition to list the Canada **lynx** is not warranted. This finding is based on various documents, including published and unpublished studies, agency files, field survey records, and consultations with other Federal and State

agencies. This notice summarizes information contained in the 12-month finding and represents the conclusion of the Service's status review.

In August 1991, the U.S. Fish And Wildlife Service (Service) received a petition from several conservation organizations requesting that the Service list the **lynx** of the North Cascades ecosystem as an endangered species and designate critical habitat.

On October 6, 1992, the Service published a notice of a petition finding indicating that there was not substantial information to indicate that listing the North Cascades population of the Canada **lynx** as endangered may be warranted (57 FR 46007). On July 9, 1993, the Service published a notice of a second finding on the North Cascades petition after evaluating new information and again found that there was not substantial information to indicate that listing the population may be warranted (58 FR 36924).

Following publication of the notice, the petitioners filed suit challenging the finding. A settlement agreement was reached on November 30, 1993, where the Service agreed to conduct a full status review of the **lynx** throughout its range in the lower 48 States and to determine whether it qualified as endangered or threatened pursuant to 16 U.S.C. Part 1533(a). On February 2, 1994, the Service published a notice (59 FR 4887) announcing continuation of a status review initiated in 1982. The Service reviewed and considered public comments during its evaluation of the status of the **lynx** in the contiguous U.S.

A petition dated April 23, 1994, was received by the Service from the Biodiversity Legal Foundation on April 27, 1994. The petition requested that the conterminous U.S. population of the North American **lynx** (*Felis lynx canadensis*) be listed as a threatened or endangered species. The petition provided numerous reasons for why the Canada **lynx** population in the contiguous U.S. should be added to the List of Threatened and Endangered Species. The petitioners also requested that the southern Rocky Mountain population of the **lynx** be protected by emergency listing because it is severely imperiled, the population level is low, and it is reproductively isolated.

Notice of a 90-day finding published in the August 26, 1994, Federal Register (59 FR 44123) found that there was substantial information to indicate that listing the contiguous population of the Canada **lynx** may be warranted. However, the notice also indicated that the petition did not present substantial information to indicate the emergency listing of the Canada **lynx** in the southern Rockies is warranted.

The **lynx**, generally considered rare because of its secretive nature, is actually common throughout its Northern American range. **Lynx** occupy the boreal regions of North America, commonly referred to as the Canadian and Hudsonian Life Zones. These habitats are characterized by dense coniferous forests and wet bogs. Cold climates, deep snow, and wildfire are major influences on these habitats. **Lynx** are found within these habitats from Newfoundland, Labrador, and Quebec on the east to Alaska and British Columbia on the west; from the Arctic treeline south into portions of the contiguous U.S. (Brittell et al. 1989).

Specific to the U.S., **lynx** distribution represents the fringe of the population occurring in its historic range. Consequently, the **lynx** does not commonly occur within this southern limit of its range due to the lack of favorable habitats. Favorable habitat conditions for the **lynx** dissipate with decreasing latitude. Thus, the **lynx** is restricted to higher elevations the more southern the latitude. The most southern range extensions for the species are found in the Rocky Mountains and associated high elevations. The distribution and population numbers of the **lynx** closely follow that of the snowshoe hare, its primary food item. During population highs, snowshoe hare may occupy marginal habitats thereby, allowing the **lynx** to widen their distribution

(Brittall et al. 1989). During years of abundance, **lynx** may extend their distribution and occur in higher densities along the southern extension of their range. This fluctuation of population size and distribution is attributed to dispersal of predominately young animals from the resident Canadian population. Local ``irruptions'' or invasions of **lynx** have been reported in the northern U.S. following population highs further north in Canada. Population cycles may not be as noticeable in the southern extremes of the **lynx** range because such habitat is not an important part of its range and U.S. resident populations are initially low.

The historic range of the **lynx** in the contiguous U.S. has generally been recognized as including New England (Maine, New Hampshire, Vermont and New York), the Great Lakes (Michigan, Wisconsin and Minnesota), the Rocky Mountains (Idaho, Montana, Wyoming, Utah, and Colorado) and the Northwest Region (Washington and Oregon). There is evidence that presence of **lynx** in the contiguous U.S. corresponded to cyclic dispersals from Canada (particularly in the Great Lakes region). Thus, the Service believes that some of these States within the species' historic range never supported viable resident populations of **lynx** over time.

The Northeastern and Great Lakes forests are sub-boreal forests and therefore fire regimes, important for the creation of snowshoe hare habitat, do not function as in true boreal forests. Most of these original sub-boreal forests were destroyed by lumbering and agricultural activities by the late 1880's and early 1900's. The **lynx** was already extirpated from the New England States (except for Maine) by the turn of the century.

Lynx were extremely scarce in the first half of the century in Montana. By 1979, the population was estimated to be between 1800 and 2500 animals. Lumbering activities and wildfire of the early 1920's, has affected Montana's present population of **lynx** which is the largest in the contiguous U.S. Montana also has the largest amount of available habitat (Giddings 1994). In the Cascades (Northwest Region), **lynx** benefit from relative isolation of large undisturbed tracts of habitat (approximately 3,673 square miles) and in the State of Washington, there is about 6,500 square miles of **lynx** habitat (Brittall et al. 1989).

The Canada **lynx** (**Lynx canadensis**) is one and the same species (a monotypic species) throughout its entire range in North America. The term ``species'' under the Act includes any subspecies of fish, wildlife, and plants, and any distinct population segment of any species of vertebrate fish and wildlife which interbreeds when mature. The Service limited its status review of the **lynx** to the 48 contiguous States, as directed in the settlement agreement and requested in the petition.

Summary of Factors Affecting the Species

The following is a summary and discussion of the five factors set forth in section 4(a)(1) of the Act and their applicability to the current status of the Canada **lynx** in the contiguous 48 States.

A. Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The Canada **lynx** is widely distributed throughout the northern boreal forests of Canada and Alaska. Its extreme southern limits are the U.S./Canada border areas with the southern-most extensions found in the Rocky Mountains. Historically, **lynx** populations were minimal in the contiguous U.S. due to a lack of suitable habitat. During years of **lynx**

abundance in Canada increased densities of resident populations resulted along the southern boundary of its range. There is evidence that the increased presence of **lynx** in the contiguous U.S. corresponds to cyclic dispersals from Canada. At the turn of the century and especially in the Northeastern portion of the U.S., habitat loss due to human settlement and forest clearing reduced the southern range of the **lynx**. Since the 1970's, this trend has reversed in some States. Presently, Maine, Montana and Washington have resident **lynx** populations. In Montana prior to 1950, **lynx** were considered to be extremely rare. Today, however, an estimated 700 to 1,050 **lynx** could occupy approximately 37,000 square miles of montane forest habitat in Montana (Giddings 1994).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

In the contiguous U.S., **lynx** inhabit fairly remote, isolated areas. Before 1977, pelt prices were low, approximately \$12.00 a piece and **lynx** were harvested incidental to other furbearers. In 1977, all felids, including **lynx**, were listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Appendix II species may be internationally traded provided CITES export permits are issued. The issuance of permits provides a means of monitoring trade and determining if it is having a significant impact on the species. In conjunction with CITES, States are required to have a management program and a harvest season for the species. Presently only five States have a trapping season for **lynx**--Alaska, Idaho, Minnesota, Montana, and Washington. In 1984, Minnesota closed its **lynx** season and Washington followed suit in 1990. Presently only Idaho and Montana of the lower 48 States allow a limited annual harvest of two and three animals, respectively. These quotas include the incidental take of **lynx** by bobcat trappers. From 1982 to 1992, only three **lynx** were trapped in Idaho. From 1993 to 1994, only four animals were taken in Montana. These low harvest levels are contributed to the low level of hunting and trapping occurring in the remote areas inhabited by **lynx**. Hunting and trapping pressure on the **lynx** has been historically low in the U.S. and there is little evidence that these activities pose a threat to the continued existence of this species in the wild.

C. Disease or Predation

The Canada **lynx** could be displaced or eliminated by expansion of competitors such as the bobcat (**Lynx rufus**) or coyote (*Canis latrans*) into their present range. However, **lynx** are more restricted to areas that receive deep snow cover where they are more highly adapted than are bobcats. Neither disease nor predation is known to be a threat to the **lynx**.

D. The Inadequacy of Existing Regulatory Mechanism

The **lynx** is protected in each State where it occurs in the lower 48 contiguous States. Seven States classify it as threatened or endangered or a species of concern. Idaho and Montana have a trapping season with annual Statewide harvest quotas of two and three animals, respectively. Hunting and trapping with dogs and taking with firearms is illegal in every State except one in which the **lynx** occurs. Few if any States ever had a bounty system for the species. In addition to State protection, the **lynx** has been listed in Appendix II of CITES since 1977, and its status and harvest levels have been monitored by the Service's Office

of Scientific Authority.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Lynx distribution has not significantly changed from historic ranges except for periodic peripheral shifts of distribution with cyclical changes of its chief prey, the snowshoe or varying hare (*Lepus americanus*), and local losses due to loss of habitat in southern-most areas. Fire suppression in the contiguous 48 States has had some effect on **lynx** numbers, since early successional habitats are important to **lynx** due to a greater abundance of snowshoe hares in these areas. Although early regeneration stages of habitat are preferred by hares, **lynx** hunt primarily in more open mature and later successional stages of forest.

Finding

The Act requires the Service to make determinations regarding listings solely on the basis of the best available scientific and commercial data after conducting a review of the status of the species and after taking into account those efforts being made by State and Federal agencies to protect the species. The Act also allows for the Service to list ``distinct population segments'' of vertebrate fish and wildlife.

The Service was petitioned to list the Canada **lynx** in the 40 contiguous States as a vertebrate population pursuant to the Endangered Species Act. The Service conducted a status review of the Canada **lynx** in the contiguous U.S. After carefully evaluating the best available scientific and commercial information regarding the past, present and future threats faced by this species, the Service finds that listing of the Canada **lynx** in the contiguous U.S. is not warranted. The Service also finds that the petition did not present substantial information that the southern Rocky Mountain population of the Canada **lynx** meets the definition of a ``species'' under section 3(15) of the Act.

The Canada **lynx** is naturally low density-occurring carnivore throughout the northern boreal forests of Canada and Alaska with its extreme southern limits occurring south of the U.S./Canada border. It was never a common species in the contiguous U.S. because of limited suitable habitat and, except for in Maine, Montana and Washington, little evidence of breeding populations south of the border exists. Presence of the species in most of the contiguous 48 States corresponds to cyclic dispersals from Canada.

At the turn of the century, habitat loss due to human settlement and forest clearing reduced the range of **lynx** in southern areas. However, the **lynx** currently occupies much of its original historic range. The Service is unable to substantiate that trapping, hunting, poaching, and present habitat destruction threaten the continued existence of the **lynx** in the wild in the contiguous U.S. Consequently, the Service finds that listing the Canada **lynx** in the contiguous U.S. is not warranted. The Service's 12-month finding contains more detailed information regarding the above decisions. A copy may be obtained from the Division of Endangered Species (see ADDRESSES section).

A draft notice of our finding is attached for your review and prompt publication in the Federal Register. The petitioners will be notified of our finding upon its publication.

Author

This document was prepared by (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 et seq.).

Dated: December 20, 1994.

Mollie H. Beattie,
Director, Fish and Wildlife Service.

[FR Doc. 94-31740 Filed 12-23-94; 8:45 am]

BILLING CODE 4310-55-M