SUPPLEMENTARY INFORMATION: In carrying out the responsibilities of the United States under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Service is continuing the practice of developing general Scientific Authority and Management Authority findings on the export of certain species, applicable to all specimens taken in a particular season. This approach is more meaningful than the alternative of developing findings on a permit-by-permit basis for species subject to frequent international trade.

The Service published proposed findings on the export of bobcat, lynx, river otter, Alaskan gray wolf, and Alaskan brown bear in the September 29, 1980, Federal Register (45 FR 64520). That publication contained a summary of information supplied by state agencies on biology, management, and harvest of bobcat, lynx, and river otter, and it cited earlier references providing such information for Alaskan gray wolf and brown bear.

Criteria

The Federal Register notice of September 29, 1980, set forth criteria used by the Service in making Scientific Authority and Management Authority decisions on export of bobcat, lynx, and river otter. The Service adopted criteria used in previous years by the Endangered Species Scientific Authority (ESSA) in making Scientific Authority decisions on export of these species taken in the 1980-81 harvest season.

These criteria involve assessment by the Scientific Authority of the biological information and management program for each species in each state. Minimum requirements for biological information are:

1. Population trend information, method of determination to be a matter of state choice;
2. Information on total harvest of the species;
3. Information on distribution of harvest; and
4. Habitat evaluation. Minimum requirements for a management program are:

1. There should be a controlled harvest, methods and seasons to be a matter of state choice;
2. All pelts should be registered and marked;
3. Harvest level objective should be determined annually.

In its proposed export findings for this year, the Service noted that it agreed with the ESSA’s view that intensive efforts to improve state’s information on populations and harvests, and other information may provide reasonable assurance that export will not be detrimental to the survival of the species, in cases where not all of the above Scientific Authority criteria are met.

Criteria listed above are for decisions on whether export of bobcat, lynx, or river otter will not be detrimental to the survival of the species. As stated in the notice of proposed findings, the Service believes that the listing of these species in Appendix II is also for the purpose of effectively controlling international trade in other species of cats or otters. Accordingly, the Service is considering the impact of trade in bobcat, lynx, and river otter on the effectiveness of the CITES in controlling trade in other related species, when determining conditions under which export may be allowed.

Management Authority criteria for export require an ongoing state tagging program as proof that pelts of bobcat, lynx, or river otter are legally taken. Under this program, tags must:

1. Be made of metal or some other permanent material;
2. Be permanently attached to each pelt, preferably by state personnel;
3. Accompany finished products to the port where the state tags will be collected by U.S. Fish and Wildlife Service officers (tags are necessary to show source and tag number of pelts used in the manufacture of the product);
4. Be applied within a specified time of taking that is set by the state; and
5. Show state of origin;
6. Show year of taking;
7. Show species; and
8. Be serially unique.

Nations participating in the CITES agreed that the Alaskan gray wolf and Alaskan brown bear are included in Appendix II under the provisions of Article II(b) to effectively control international trade in other populations of these species that are included in Appendix I or II. Scientific Authority advice on non-detriment for export of Alaskan wolves and brown bears is, accordingly, based on the impact of that trade on the effectiveness of the CITES in controlling trade in other subspecies or geographically separate populations that were listed to protect.

Information and Comments

The Service received a limited amount of information beyond that summarized in the proposed export findings (45 FR 64520). Each state for which the Service proposed to approve export, pending receipt and approval by the Service of 1980–81 sample tags or tagging information or both, submitted materials satisfying this requirement.

The principal new materials considered by the Service subsequent to the proposed findings are as follows:

The Wyoming Game and Fish Department submitted data on 1979–80 bobcat harvest estimates and on quantities and prices of furs purchased. The California Fish and Game...
Commission, the Maine Department of Inland Fisheries and Wildlife, the North Carolina Wildlife Resources Commission, and the Nevada State Board of Wildlife Commissioners provided copies of a revised state regulations for tagging of bobcat pelts. The Oregon Department of Fish and Wildlife pointed out that bobcat habitat includes approximately 70 percent of the state's 63 million acres, and that snow depth, pastures, and posted private lands normally preclude human access to more than half of the habitat area. Oregon noted that while the harvest of 2,941 western Oregon bobcat was near the harvest goal of 3,000, the harvest of 753 eastern Oregon bobcat was approximately half of the harvest goal of 1,500. Oregon stated that this will result in a large carryover of the eastern bobcat population this season.

In addition to supplying information, several state agencies commented that they supported the proposed Scientific Authority and Management Authority findings on export of bobcat, lynx, and river otter taken in accordance with state regulations. The Defenders of Wildlife, Inc., submitted extensive comments on the proposed findings for export of bobcats. Defenders stated that the criteria used for Scientific Authority decisions were deficient, in that even if all of the types of information listed were available, there still would not be enough data for an understanding of the species' role in the ecosystem or for estimating the effects of different levels of harvest on the species' populations. Defenders argued that, at a minimum, the Scientific Authority must consider the current population levels and distribution of the bobcat, its demographic characteristics, movement patterns, food habits, total mortality, birth rate, and the relationship between the bobcat and other species.

The Service, in its capacity as Scientific Authority, believes that the present criteria are appropriate for decisions on whether export of bobcats will not be detrimental to the survival of the species. Information on population trends is more useful than information on current population levels in managing this species. Most states collect data on distribution of harvest. Other types of information are being collected in some states, but not uniformly by all states. The Service believes effective management of bobcats does not require that all of the types of information listed by Defenders be collected throughout the range of the species, considering that factors affecting bobcat populations may vary over the range. One of the intentions of the Service in adopting the present criteria was to allow the states latitude in developing and carrying out research and management programs.

Following the development of Scientific Authority findings announced in this notice, the Service plans to review criteria for Scientific Authority decisions on export of bobcat, lynx, and river otter. As a result, the Service might revise those criteria for decisions on export of the species. The Service intends to invite input from state agencies in identifying population parameters that should be studied in order to manage these species at levels consistent with the CITES export requirements. The goal of the Service is to develop realistic and appropriate standards for decisions in these matters. Opportunities for public comment on such standards will be provided. Defenders also made detailed comments on the information supplied by individual states, identifying particular states that they believed did not meet certain of the Scientific Authority criteria. It is clear from the available records that some states are making much greater efforts than others to study and manage their bobcats, and that they are taking different approaches in doing so. It should be noted that the Scientific Authority criteria now in use, intensive efforts to improve a state's information on populations and harvests, and other information may provide reasonable assurance that export will not be detrimental to the survival of the species, in cases where not all requirements for biological information or a management program are met. There has been a marked increase in the information available on bobcats during the last few years, due partly to state efforts to satisfy the CITES export requirements, although many states instituted bobcat research and management initiatives prior to these requirements.

Defenders further commented that the Scientific Authority should not advise in favor of export for states which admit they cannot insure that pelts tagged for export were legally harvested. The CITES provides that the Management Authority may not issue export permits unless it is satisfied that specimens were legally taken. As stated earlier, this requirement is met through ongoing state tagging programs. States have instituted regulations and procedures for tagging, and penalties for violations, to minimize the tagging of illegally taken pelts.

The International Association of Fish and Wildlife Agencies (IAFWA) submitted a summary of state-enforced restrictions on the taking of bobcats. This summary concerned only restrictions that directly limit the hunters' or trappers' ability to take bobcats, not measures such as pelt tagging that are primarily directed toward monitoring the harvest. Each state for which export approval was proposed has restrictions on taking. The IAFWA submitted this summary as evidence that exports of bobcats from these states would not be unlimited, as claimed by Defenders.

Impact on Other Species

The Service considers the bobcat, lynx, and river otter to be included in Appendix II under the provisions of both Article I.2(a) and I.2(b) of the CITES. This means that the Scientific Authority must consider the impact of trade in these species on the effectiveness of the CITES in controlling international trade in other species of cats or otters they were listed to protect.
The ESSA published their findings on this question in the September 26, 1979, Federal Register (44 FR 55545). Major issues under the Scientific Authority finding relative to Article II.2(b) are identification of species in trade and possible stimulation of trade in other species. The ESSA stated that to the degree it could place confidence in the CITES system, it could be correspondingly satisfied that existing procedures are adequate to insure that specimens of one species will not be confused, intentionally or unintentionally, with specimens of other species.

The ESSA concluded that export of bobcat, lynx, and river otter would not reduce the effectiveness of the CITES in controlling trade in other listed species or populations. The ESSA reached the same conclusion on export of Alaskan gray wolf and Alaskan brown bear.

They pointed out the following reasons:

1. Tagging and marking helps to provide assurance that specimens will be identified properly;
2. Most of the exports of these five species go to countries that are CITES Parties, and that have not taken reservation for these or related species;
3. Evidence from annual reports of the CITES Parties indicates that few Appendix I species are now in international trade, so that opportunities for look-alike confusion are limited; and
4. While trade in the above five species might stimulate trade in other species, it also might supplant trade in other species.

The Service concurs with the ESSA's previous findings concerning Article II.2(b) for the five species in question. There is no new evidence to contradict any of the reasons listed above.

**Court Decision**

In the notice of proposed findings for export of bobcat and other species [45 FR 64520], the Service reported that the U.S. District Court for the District of Columbia issued an Order (Civil Action No. 79-3060) on December 12, 1979, enjoining the export of bobcat pelts taken in the 1979–80 season from Florida, Massachusetts, New Mexico, North Dakota, Wisconsin, eastern Oregon, and the high plains ecological area of Texas. This decision has been appealed to the United States Court of Appeals for the District of Columbia Circuit.

The Order does not apply to the present findings for the 1980–81 season, although it is still in effect for the export of 1979–80 pelts from the named states. Certain of the affected states have taken steps to correct conditions that the Court considered to be deficiencies. The Service has reviewed information supplied by the states named above, and has considered the Court's concerns, in making Scientific Authority findings for this season.

**Final Rule**

Final Scientific Authority and Management Authority findings for the export of American alligator and American ginseng taken in the 1980–81 season were published in the October 21, 1980, Federal Register (46 FR 59944). As announced in that notice, the Service is incorporating the findings on the export of certain Appendix II species into Part 23 of Title 50, Code of Federal Regulations.

The Service concludes that both Scientific Authority and Management Authority criteria have been met for the export of bobcat, lynx, and river otter taken in the 1980–81 season, in those states for which the Service earlier proposed to approve export. The condition on this approval is that pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

Each of the three species occurs in certain states for which export is not approved. Scientific Authority criteria are not met for the export of lynx taken in Idaho and Washington, although the ESSA advised in previous years that such export will not be detrimental to the survival of the species. For all other states not addressed in the proposal, either the taking of these species is not allowed by the state, the species do not occur in the state, or the state did not provide the Service with information on which to base Scientific Authority and Management Authority findings.

The Service also concludes that both Scientific Authority and Management Authority criteria have been met for the export of Alaskan gray wolf and Alaskan brown bear taken in the 1980–81 season. The condition on this approval is that pelts must be tagged as required by the state of Alaska.

The findings announced in this notice are effective December 4, 1980, because the harvest season has already begun in some states, and delaying issuance of the findings could adversely impact state conservation programs for these species. The Service also considers a delay in the effective date to be unnecessary because the findings were preceded by an opportunity for comment and because they do not substantially modify an earlier procedure or practice (43 CFR 14.5(c)(4)).

An environmental assessment has been prepared in conjunction with this notice. It is on file in the Service's Office of the Scientific Authority, room 530, 1717 H Street, N.W., Washington, D.C. and may be examined during regular business hours.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority (202) 699-5946.

Note—The Service has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: November 28, 1980.

Robert S. Cook,
Acting Director, Fish and Wildlife Service.

Accordingly, Parts 23 and 810 of Title 50, Code of Federal Regulations, are amended as set forth below:

1. Amend table of Sections of Part 23 as follows:

**PART 23—ENDANGERED SPECIES CONVENTION**

| Subpart E—Scientific Authority Advice |
| [Reserved] |

**Subpart F—Export of Certain Species**

Sec.

23.51 American ginseng (Panax quinquefolius)

23.52 Bobcat (Lynx rufus)

23.53 River otter (Lutra canadensis)

23.54 Lynx (Lynx canadensis)

23.55 Gray wolf (Canis lupus)

23.56 Brown bear (Ursus arctos)

23.57 American alligator (Alligator mississippiensis)


2. Add new subparts E and F as follows:

**Subpart E—Scientific Authority Advice**

[Reserved]

**Subpart F—Export of Certain Species**

§ 23.51 American ginseng (Panax quinquefolius)

State populations for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) 1978 Harvest: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting.


(b) 1978 Harvest: Arkansas, Georgia, Illinois, Iowa, Kentucky, Maryland,
Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting. Wild roots must be certified by the state as legally collected. For further information see: 44 FR 35013, August 7, 1978; 44 FR 35253, August 16, 1978; and 44 FR 39305, September 1, 1978.

(c) 1979-80 Harvest: Arkansas, Georgia, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, [Massachusetts], Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, [New Mexico (Q 6,000)], New York, North Carolina, [North Dakota], Oklahoma, Oregon [eastern portion], South Carolina, South Dakota, Tennessee, Texas [high plains ecological area], Utah, Vermont, Virginia, Washington, West Virginia, [Wisconsin], Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service. The U.S. District Court for the District of Columbia has enjoined export of bobcat pelts harvested in 1979-80 season in those states or portions of states named above in brackets.

15097.

For further information: See 44 FR 35013, August 7, 1978; 44 FR 35253, August 16, 1978; and 44 FR 39305, September 1, 1978.


Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

For further information: See 44 FR 35013, August 7, 1978; 44 FR 35253, August 16, 1978; and 44 FR 39305, September 1, 1978.


Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.


(c) 1979-80 Harvest: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, [Massachusetts], Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, [New Mexico (Q 6,000)], New York, North Carolina, [North Dakota], Oklahoma, Oregon [eastern portion], South Carolina, South Dakota, Tennessee, Texas [high plains ecological area], Utah, Vermont, Virginia, Washington, West Virginia, [Wisconsin], Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service. The U.S. District Court for the District of Columbia has enjoined export of bobcat pelts harvested in 1979-80 season in those states or portions of states named above in brackets.

15097.

For further information: See 44 FR 35013, August 7, 1978; 44 FR 35253, August 16, 1978; and 44 FR 39305, September 1, 1978.


Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

For further information: See 44 FR 35013, August 7, 1978; 44 FR 35253, August 16, 1978; and 44 FR 39305, September 1, 1978.


Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.


Conditions on findings: Pelts must be clearly identified as to state of origin and state of taking, including tagging according to standards and conditions established by the Service.


(d) 1980–81 Harvest: Alaska, Minnesota, Montana.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

§ 23.55 Gray wolf (Canis lupus).

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) 1977–78 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.

(b) 1978–79 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.

(c) 1979–80 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.


(d) 1980–81 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.

§ 23.56 Brown bear (Ursus arctos).

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) 1977–78 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.

(b) 1978–79 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.

(c) 1979–80 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.


(d) 1980–81 Harvest: Alaska.

Condition on finding: Pelts must be tagged as required by the state of Alaska.

§ 23.57 American alligator (Alligator mississippiensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) 1979 and Previous Harvest: Florida, Louisiana.

(b) 1980–81 Harvest: Florida, Louisiana.

PART 810—EXPORT OF APPENDIX II SPECIES

3. Delete Chapter 8, Part 810 entirely from Title 50, Code of Federal Regulations.