

probability of tire failure, none of which were statistically significant. Consequently, this model also did not establish a safety benefit associated with a tire pressure reserve.

However, because this latter model produced a value that approached significance (p value = 0.06), we decided to use these results to develop a hypothetical estimate of the costs and benefits of a tire pressure reserve, for the moment assuming that an association had been demonstrated. The details of this analysis have been placed in the docket,³⁶ but the following summarizes the key points.

Using this model, we produced an estimate of 2.15% fewer tire failures if all new vehicles were required to be fitted with tires that had, at a minimum, 8 psi of pressure reserve. If we assume that these changes would produce a proportionate reduction in tire-related deaths and injuries, then we can apply 2.15% to data from the Fatality Analysis Reporting System (FARS), the General Estimates System (GES), and the National Automotive Sampling Survey (NASS) to produce an estimate of safety benefits. Extrapolating from a previous NHTSA analysis,³⁷ the agency estimates that the potential benefits would be prevention of 731 crashes (with roughly \$2 million in property damage and travel delay savings), 4 fatalities, and 96 injuries in all cases involving blowouts or flat tires. However, this target population of all blowouts or flat tires is larger than could be impacted by tire reserve load, as many flat tires are caused by running over a hazardous object in the road and are not caused by factors influenced by tire reserve load. Thus, the unproven benefits listed above likely overstate the true potential benefits, although the magnitude of this overstatement is unclear.

In terms of costs, the RMA proposed that vehicle manufacturers could accommodate a tire pressure reserve requirement by simply raising the recommended tire inflation pressures or by specifying larger tires with more load carrying capacity for their vehicles. We do not believe this to be the case. We believe that a tire pressure reserve consistent with RMA's recommendation would have major technical and cost ramifications for the automotive industry and consumers, which could amount to approximately \$132 million per year. For many vehicles, an increase in tire pressure of up to 8 psi may be

necessary to meet the RMA's recommended tire pressure reserve, but increases of this magnitude could cause ride comfort to decrease considerably. In such cases, an increase in tire size would be needed, thereby triggering production changes and associated cost increases. Again, for a more complete discussion, please see the analysis of costs and benefits placed in the docket.³⁸ Given that the agency's careful review of the data has found no demonstrable safety benefit from a tire pressure reserve requirement as would justify rulemaking, it is unlikely that imposition of these costs on consumers could withstand scrutiny under the rulemaking process.

V. Conclusions

The agency is not persuaded by the RMA's arguments that a tire pressure reserve requirement for light vehicles equipped with TPMSs is needed, for three reasons: (1) NHTSA does not agree with the RMA's claim that the TPMS standard will mislead consumers into believing that their tires are properly inflated whenever the TPMS warning telltale is not illuminated, because the petitioner has not provided compelling evidence that shows this to be the case; (2) the RMA did not provide data to show that tires on vehicles with little or no pressure reserve have a higher rate of failure in the field compared with vehicles having a high tire pressure reserve; and (3) the agency's independent studies have not shown a reliable or conclusive relationship between tire pressure reserve and tire failure claims in the field.

For the reasons stated above, the agency is denying the petition. In accordance with 49 CFR Part 552, this concludes the agency's review of the petition.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: May 13, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05-9989 Filed 5-18-05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AT31

Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding and Proposed Rule To Delist the Mexican Bobcat (*Lynx Rufus Escuinapae*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the 12-month finding that a petition to delist the Mexican bobcat (*Lynx rufus escuinapae*) under the Endangered Species Act of 1973, as amended (Act, or ESA), is warranted. The best available information indicates that the Mexican bobcat may not constitute a separate subspecies and does not constitute a distinct population segment (DPS). Despite habitat modification by humans, the bobcat remains abundant throughout Mexico. Accordingly, we herein propose to delist the Mexican bobcat under the Act. The Service seeks data and comments from the public on this proposed rule.

DATES: Comments and information may be submitted until August 17, 2005. Public hearing requests must be received by July 5, 2005.

ADDRESSES: Submit comments, information, and questions to the Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, VA 22203, USA; or by fax (703-358-2276) or by e-mail (scientificauthority@fws.gov). Comments and supporting information will be available for public inspection, by appointment, from 8 a.m. to 4 p.m. at the above address.

To request copies of the regulations regarding listed wildlife or inquire about prohibitions or permits, write to: Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203, USA. Alternatively, you may contact us by telephone (703-358-2104; toll free, 1-800-358-2104), fax (703-358-227), or e-mail (managementauthority@fws.gov).

FOR FURTHER INFORMATION CONTACT: Dr. Javier Alvarez at the above address; or by telephone (703-358-1708), fax (703-358-2276), or e-mail (scientificauthority@fws.gov).

SUPPLEMENTARY INFORMATION:

³⁶ Docket No. NHTSA-2005-20967-3.

³⁷ "Final Regulatory Evaluation, FMVSS No. 139, New Pneumatic Tires for Light Vehicles," NHTSA, June 2003, p. S-2 (Docket No. NHTSA-2003-15400-2).

³⁸ Docket No. NHTSA-2005-20967-3.

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the Service to make a finding on whether a petition to list, delist, or reclassify a species has presented substantial information indicating that the requested action may be warranted. This finding is to be based on all information available to us at the time the finding is made. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition (this finding is referred to as the "90-day finding") and published promptly in the **Federal Register**. If the 90-day finding is positive (*i.e.*, the petition has presented substantial information indicating that the requested action may be warranted), Section 4(b)(3)(A) of the Act requires the Service to commence a status review of the species if one has not already been initiated under the Service's internal candidate-assessment process. In addition, Section 4(b)(3)(B) of the Act also requires the Service to make a finding within 12 months following receipt of the petition on whether the requested action is warranted, not warranted, or warranted but precluded by higher-priority listing actions (this finding is referred to as the "12-month finding"). The 12-month finding is also to be published promptly in the **Federal Register**.

Previous Federal Action

We listed the Mexican bobcat as an endangered species on June 14, 1976 (41 FR 24064). This subspecies was listed under the Act due to its inclusion in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). By July 1, 1975, the Convention was ratified by enough nations to enter into force, and at that time the countries participating in CITES agreed that the Mexican bobcat met the criteria for inclusion in Appendix I, which includes species threatened with extinction that are or may be affected by international trade. However, it is not clear why the Mexican bobcat was originally included in Appendix I. In 1992, during the 10-year review of species included in the CITES Appendices, the United States, with support from Mexico and other countries, proposed to transfer the Mexican bobcat to Appendix II, based on the bobcat's widespread and stable status in Mexico and the questionable taxonomy of this subspecies. The U.S. proposal was accepted and the transfer went into effect on November 6, 1992.

On July 8, 1996, we received a petition dated June 30, 1996, from the National Trappers Association, Inc., Bloomington, Illinois. The petition and cover letter clearly identified itself as such and contained the name, address, and signature of the petitioning organization's representative. Information relating to the taxonomy, the present population status and trends, and threats were included in the petition. The petition requested that we delist the Mexican bobcat under the Act, and noted that downlisting to threatened status would not be an appropriate alternative. In a letter dated November 4, 1996, we acknowledged receipt of the petition (Service, *in litt.*, 1996). We stated that we would address the petition as soon as possible. Due to staffing and budget constraints, we were unable to process the petition until 2003.

On June 11, 2003, we made a positive 90-day finding on the National Trappers Association petition (*i.e.*, the Service found that the petition presented substantial information indicating that the requested action may be warranted). That finding was published in the **Federal Register** on July 2, 2003 (68 FR 39590), thereby initiating a public comment period and status review for the species. In that notice, we indicated that we would determine whether delisting of the Mexican bobcat was warranted based on its status and taxonomy. If the subspecies designation was found not to be taxonomically valid, we would then evaluate if the listed population in Mexico constituted a Distinct Vertebrate Population Segment (DPS), and if so, whether or not we should retain the listing of this population. If this population did not meet the DPS criteria, we would then evaluate whether or not the listed population is endangered or threatened in a significant portion of the species' (*i.e.*, *Lynx rufus*) range. The public comment period remained open until September 30, 2003.

We received four comments during the public comment period, including two from the government of the range country (Mexico), one from a non-governmental conservation organization (Center for Biological Diversity [CBD]), and one from an individual (Mr. Lawrence G. Kline, who submitted the original petition on behalf of the National Trappers Association). The Government of Mexico (Comisión Nacional para el Conocimiento y Uso de la Biodiversidad/National Commission for the Understanding and Use of Biodiversity [CONABIO], and Secretaría de Medio Ambiente y Recursos Naturales/Ministry of Environment and

Natural Resources [SEMARNAT]) did not object to the delisting. Mr. Kline supported the delisting, commenting that there is no evidence of taxonomic differences between bobcat populations in the United States and Mexico, and that the bobcat population in Mexico does not constitute a discrete population separate from the U.S. bobcat population. CBD opposed the delisting because of a lack of population information. CBD further argued that continued listing was necessary to help prioritize research, and that development along the U.S.-Mexico border was likely to increase, thus reducing genetic flow between bobcat populations in Mexico and the United States. However, no substantial new information was provided by any of the four commenters. The comments submitted by Mr. Kline and CBD are addressed in the sections below.

In our 90-day finding, we stated that we had used all relevant literature and information available at that time (June 2003) on current status of and threats to the Mexican bobcat. Since then, a limited amount of relevant new information has become available as a result of the status review and separate consultations with the Mexican Government on a U.S. proposal to remove the bobcat from Appendix II of CITES. That information has been incorporated, as appropriate, in this 12-month finding.

Taxonomy and Biology of the Species

The Mexican bobcat belongs to the mammalian family Felidae and has been reported to be a subspecies of *Lynx rufus*. The number of taxa described within *Lynx rufus* ranges from 11 to 14. According to Larivière and Walton (1997), six subspecies of bobcat occur in Mexico, including *L. r. escuinapae*. The distribution of *L. r. escuinapae* extends from the northern states of Mexico, some distance south of the Rio Grande and the U.S.-Mexico border, to the Isthmus of Oaxaca in central Mexico (Larivière and Walton 1997). Allen (1903) first described the Mexican bobcat as a subspecies from two immature male specimens found in Escuinapa, Mexico, on the basis of color and cranial differences. However, the validity of this subspecies is questionable. Samson (1979) conducted a multivariate statistical analysis of a variety of skull measurements and found cranial characteristics of *L. r. escuinapae* to be similar to those of *L. r. californicus* and *L. r. texensis*. Also, the range of *L. r. escuinapae* overlaps with the ranges of *L. r. baileyi* and *L. r. texensis*, two subspecies found in the southern United States whose range

extends into northern Mexico. However, McCord and Cardoza (1982) noted that statistical analysis of skull measurements only has meaning in large samples and is thus ineffective in the subspecific assignment of individual specimens. They also noted that the 11–14 subspecies of bobcats described to date comprise few realistically distinguishable taxa that have any real biological or conservation significance. Most recently, in a meeting of Mexican mammal experts, no consensus was reached about the taxonomic validity of *L. r. escuinapae* (Hesiquio Benítez-Díaz, CONABIO, *in litt.* 2004).

The bobcat is the most widely distributed felid in North America (Anderson and Lovallo 2003). The majority of bobcats are found in the United States, where they range through a wide variety of habitats, including boreal coniferous and mixed forests in the north, bottomland hardwood forest and coastal swamp in the southeast, and desert and scrubland in the southwest. Even within a local area, individual bobcats usually use a variety of habitats (Wilson and Ruff 1999). Only large, intensively cultivated areas appear to be unsuitable habitat, presumably because of reductions in the availability of prey. Southern Canada represents the northern limit of bobcat range, with deep snow a significant limiting factor (Larivière and Walton 1997; Anderson and Lovallo 2003). In Mexico, bobcats are found in a wide range of habitats, including dry scrub, coniferous forests, mixed pine (*Pinus* spp.) and oak (*Quercus* spp.) forests, and tropical deciduous forests (Hall and Kelson 1959; Gonzalez and Leal 1984 and Woloszyn and Woloszyn 1982 cited by Nowell and Jackson 1996; López-González *et al.* 1998; Hesiquio Benítez-Díaz, CONABIO, *in litt.* 2004).

Aside from being habitat generalists, bobcats are opportunistic in their choice of prey (Wilson and Ruff 1999; Anderson and Lovallo 2003). Although rabbits predominate in their diet, bobcats feed on a wide range of taxa as well as carrion, with some regional variations (Anderson and Lovallo 2003).

Over the last century, the bobcat has expanded its range northward as the mature, continuous coniferous forests have been opened by lumbering, fire, and agriculture (Rollings 1945; Banfield 1974). Similarly, in Mexico, fragmentation and clearing of tropical forests appear to be contributing to the range expansion of bobcats (López-González *et al.* 1998), presumably because of increases in the diversity and abundance of prey species associated with forest edges and the opening of the forest canopy.

Bobcats are polygamous (Larivière and Walton 1997). Most female bobcats reach reproductive maturity at 2 years of age and adults remain reproductively active until death (around 15 years of age) (Larivière and Walton 1997; Wilson and Ruff 1999). They generally have one litter per year, ranging in size from one to six, with an average of three young per litter. However, females are capable of producing a second litter if the first one is lost after birth (Anderson and Lovallo 2003).

Censusing of bobcats is difficult because of their secretive nature, low densities, and wide dispersal (Anderson and Lovallo 2003). Although a wide range of techniques has been developed for estimating sizes of bobcat populations, these techniques remain imprecise and inaccurate (Anderson and Lovallo 2003).

No population estimates are available for *L. r. escuinapae*, but the Mexican Government has stated that this subspecies is widespread and numerous, is not specialized in its habitat requirements, and is highly ecologically adaptable (Graciela de la Garza-García, Dirección General de Conservación y Ecología de los Recursos Naturales/General Direction of Conservation and Ecology of Natural Resources, *in litt.* 1991; Hesiquio Benítez-Díaz, CONABIO, *in litt.* 2004). Furthermore, in a recent meeting, Mexican experts noted that there is no evidence of population declines in central and southern Mexico (one of the most disturbed parts of the country) during the past 25 years (Hesiquio Benítez-Díaz, CONABIO, *in litt.* 2004).

Distinct Vertebrate Population Segment

“Species” is defined by the Act as including any subspecies of fish and wildlife or plants, and any distinct population segment of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532 (16)). We, along with the National Marine Fisheries Service (National Oceanic and Atmospheric Administration—Fisheries), developed the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS Policy) (61 FR 4722; February 7, 1996) to help us in determining what constitutes a distinct population segment (DPS). Under this policy, we use three elements to assess whether a population under consideration for listing may be recognized as a DPS: (1) Discreteness of the population in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment’s conservation

status in relation to the Act’s standards for listing.

The DPS analysis is a stepwise analysis. Significance is considered only when discreteness of the population has been determined, and the conservation status is considered only when both discreteness and significance of the population have been established. Discreteness refers to the isolation of a population from other members of the species and is based on two criteria: (1) Marked separation from other populations of the same taxon resulting from physical, physiological, ecological, or behavioral factors, including genetic discontinuity; or (2) populations delimited by international boundaries. If the population is determined to be discrete, we determine significance by assessing the distinct population segment’s importance and/or contribution to the species throughout its range. Measures of significance may include, but are not limited to, the following: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of the taxon that may be more abundant elsewhere as an introduced population outside its historic range; and (4) evidence that the discrete population segment differs markedly from other populations of the taxon in its genetic characteristics.

If we determine that a population meets the discreteness and significance criteria for a distinct population segment, we evaluate the threats to determine if classification as endangered or threatened is warranted based on the Act’s standards. “Endangered” means the species is in danger of extinction throughout all or a significant portion of its range. “Threatened” means the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

In reviewing the taxonomic information on Mexican bobcat, the available information suggests that the subspecies designation may not be valid. Subsequently, we evaluated the status of the listed population in its range within Mexico to determine whether the listed population met the DPS policy, and if so, whether this population of bobcat should remain listed.

The available information indicates that the bobcat population represented by *L. r. escuinapae* is not discrete. The population is not delineated by any

international political boundary. It is contained entirely within Mexico and its range does not extend to any border between Mexico and another country, particularly the United States. It also does not represent the only bobcat population within Mexico and is not separated by physical, physiological, ecological, or behavioral factors from other bobcat populations. As already stated, the range of *L. r. escuinapae* overlaps with two other putative subspecies that occur in both Mexico and the United States, and there is no evidence that it is biologically distinguishable from them. Therefore, the Mexican bobcat does not constitute a DPS.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for deleting species from the Federal lists. A species may be determined to be an endangered or threatened species on the basis of one or more of the five factors described in section 4(a)(1). The same factors are used to determine if a listed species continues to qualify for listing. These factors and their application to the Mexican bobcat are as follows:

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

Distribution of bobcats may be negatively or positively affected by habitat modification (Larivière and Walton 1997; Woolf and Hubert 1998). In a recent meeting convened by the Mexican Government to evaluate the status of bobcats, Mexican experts noted that there is no evidence of population declines in central and southern Mexico during the past 25 years, even in heavily disturbed areas (Hesiquio Benítez-Díaz, CONABIO, *in litt.* 2004). To the contrary, the creation of semi-open areas by fragmentation and clearing of tropical forests may be contributing to a range expansion of Mexican bobcats (López-González *et al.* 1998). This is consistent with information from the United States that suggests that bobcats can easily colonize isolated or over-harvested areas (Anderson and Lovallo 2003), are very tolerant to habitat fragmentation and modification caused by land conversion for agriculture and urbanization (McCord and Cardoza 1982; Woolf and Hubert 1998; Crooks 2002; Riley *et al.* 2003), and modify their behavior to survive in human settings (Tigas *et al.* 2002; Riley *et al.* 2003).

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

Human exploitation appears to be the predominant cause of bobcat mortality (Anderson and Lovallo 2003). Little information is available on utilization of the species in Mexico, but local hunting and trapping for subsistence are possible. According to the Mexican Government, its bobcat populations do not face any conservation problems (Hesiquio Benítez-Díaz, CONABIO, *in litt.* 2004). Thus, the species is not legally protected. The harvest of native Mexican species, including the bobcat, is regulated by the Mexican federal government through the Ecological Equilibrium Law (Ley General de Equilibrio Ecológico) and the Wildlife Law (Ley General de Vida Silvestre) (Jorge G. Alvarez-Romero, CONABIO, *in litt.* 2004). Under the Wildlife Law, utilization of native species on private, communal, state, and federal lands is allowed and restricted to areas referred to as Management Units for the Conservation of Wildlife (Unidades de Manejo para la Conservación de Vida Silvestre [UMAs]). To ensure that the removal of specimens is sustainable, these UMAs must be registered with and have a management plan approved by SEMARNAT. However, to date, there are no UMAs registered for the harvest of Mexican bobcats (Leonel Urbano, SEMARNAT, *in litt.* 2004).

International trade in bobcats is regulated by CITES. International trade in bobcat pelts increased significantly in the 1970s after several species of cats were placed in Appendix I of CITES and commercial trade of their skins was prohibited (Woolf and Hubert 1998). However, between 1975 and 1992, commercial trade in bobcat skins was limited only to specimens originating in Canada and the United States as a result of the inclusion of *L. r. escuinapae* in Appendix I. International trade in Mexican bobcats was reopened in 1993 after transfer of *L. r. escuinapae* from Appendix I to Appendix II in 1992. According to the World Conservation Monitoring Centre (WCMC), between 1993 and 2002, only 155 bobcat specimens were exported from Mexico as trophies (20), live animals (4), skins (1), and undetermined (130). Thus, even after transfer of *L. r. escuinapae* to Appendix II, international trade in Mexican bobcats has been limited. Furthermore, there is no indication of significant illegal trade.

Although there is no information available on the impact of commercial trade on the Mexican bobcat, information from the United States

suggests that bobcat populations can withstand high levels of harvest and remain stable or increase, provided there are moderate levels of management (Woolf and Hubert 1998). Modeling suggests that harvest levels of up to 20% have little impact on bobcat populations, depending on prey availability, environmental conditions, poaching levels, disease, and density of competitors (Knick 1990). However, demand for furs from Europe (the main market for bobcat furs), particularly of those originating from wild animals, is expected to continue to decline as a result of animal rights campaigns and stricter import regulations imposed by the European Union. Thus, over-harvest for domestic or international trade does not appear to represent a threat to the bobcat population in Mexico.

C. Disease or Predation

Wild bobcats are susceptible to a wide range of diseases and parasites (Larivière and Walton 1997; Anderson and Lovallo 2003). Mountain lions, wolves, coyotes, and domestic dogs may predate on adult bobcats, and humans may depredate bobcats to protect small livestock (Larivière and Walton 1997; Anderson and Lovallo 2003). However, at the present time, neither disease nor predation is considered to threaten or endanger the species in any portion of its range.

D. Inadequacy of Existing Regulatory Mechanisms

As noted above, Mexico does not grant legal protection to bobcats since it considers that the species is abundant and not at risk. However, it has regulations pertaining to hunting and export of the species (see Overutilization for commercial, recreational, scientific, or educational purposes above). Although illegal take and trade in bobcats probably occur in Mexico, there is no evidence that such activities occur at higher levels than in the United States or Canada, or that they have led to a decline in numbers and/or distribution of the species in the country. Thus, the existing regulatory mechanisms appear to be adequate and sufficient to ensure the long-term survival of the species in Mexico.

E. Other Natural or Manmade Factors

Aside from the factors described above, bobcats may experience mortality due to starvation, vehicular collisions, and incidental poisoning (*e.g.*, anticoagulant rodenticides and contaminants) (Tigas *et al.* 2002; Cain *et al.* 2003; Anderson and Lovallo 2003; Riley *et al.* 2003). However, none of these has led to significant declines in

the distribution and abundance of bobcats in any portion of their range.

Summary of Findings

The Service has reviewed the information presented in the original petition, the literature cited in that petition, all public comments received, and other available literature and information. On the basis of the best scientific and commercial information available, the Service's 12-month finding is that the petitioned action is warranted. The best available information indicates that the Mexican bobcat may not constitute a separate subspecies and does not constitute a distinct population segment (DPS). Furthermore, despite habitat modification by humans, the bobcat remains abundant throughout Mexico and its range appears to be expanding. Therefore, neither listing of the Mexican bobcat as endangered, nor its downlisting to threatened, are appropriate. Accordingly, we herein propose to remove the Mexican bobcat, *L. r. escuinapae*, from the List of Endangered and Threatened Wildlife promulgated under the Endangered Species Act of 1973, as amended. Public comments on this proposed rule will be solicited, as will peer review (see subsequent sections of this FR notice).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and encourages and results in conservation actions by Federal and State governments, private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR 402, requires Federal agencies to evaluate the impact of their actions within the United States or on the high seas on any species that is proposed or listed as endangered or threatened, and on critical habitat of an endangered or threatened species, if any is designated. Because *L. r. escuinapae* is not native to the United States, no critical habitat has been designated for this taxon, in accordance with 50 CFR 424.12(h). However, permits for import and export, foreign and interstate commerce, and take within the United States are currently required. Delisting of the Mexican bobcat under the Act would eliminate the need for the issuance of ESA permits by the Service's Division of Management Authority (DMA), and the

required consultation with the Service's Division of Scientific Authority (DSA) under Section 7 of the Act prior to the issuance of any permit.

The Act and its implementing regulations set forth a series of prohibitions and exceptions that generally apply to all endangered wildlife. The prohibitions, codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), within U.S. territory or on the high seas, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees or agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific research purposes, for enhancement of the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. Because the bobcat is listed in Appendix II of CITES, a CITES permit is already required for export from the United States. In addition, shipments originating outside the United States must be accompanied by an export permit or re-export certificate issued by the exporting country. Under this rulemaking, no ESA permit would be required for import or export of Mexican bobcats to or from the United States.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be based on the most accurate and up-to-date information possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning the taxonomy, population status, commercial trade, or other relevant data concerning any threats to the Mexican bobcat. Final action on this proposed rule will take into consideration the comments and any additional information received by the Service, and such communications

may lead to a final action that differs from this proposal.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Commenters may request that we withhold their home addresses, and we will honor these requests to the extent allowable by law. In some circumstances, we may also withhold a commenter's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public comment in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of the publication of this proposal in the **Federal Register**. Such requests must be made in writing and be addressed to: Chief, Division of Scientific Authority, 4401 North Fairfax Drive, Room 750, Arlington, Virginia 22203.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek expert opinions of at least three appropriate independent specialists regarding this proposed rule. The purpose of such review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analysis. We will send copies of this proposed rule immediately following publication in the **Federal Register** to these peer reviewers.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended.

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List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

2. Amend § 17.11 (h) by removing the entry “Bobcat, Mexican” under MAMMALS from the List of Endangered and Threatened Wildlife.

Dated: April 27, 2005.

Matt Hogan,

Acting Director, Fish and Wildlife Service.

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