

THURSDAY, MARCH 16, 1978

PART III



**ENDANGERED
SPECIES SCIENTIFIC
AUTHORITY**

**Export Findings for
1978-1979**

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**Procedures for Public
Participation**

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NOTICES

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

EXPORT FINDINGS FOR 1978-79

Procedures for Public Participation

AGENCY: Endangered Species Scientific Authority

ACTION: Notice.

SUMMARY: This notice states procedures to be followed in 1978-79 for public participation in decisions of the Endangered Species Scientific Authority concerning commercial export of bobcat, lynx, river otter, and American ginseng.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, DC 20240 (202/343-5687).

BACKGROUND: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) and its implementing regulations, 50 CFR Part 23, control international trade in animal and plant species included in each of three Appendices, listed in § 23.23. The Convention Appendices are distinct from the list of species issued under the Endangered Species Act of 1973, 16 U.S.C. 1531-1543. Whereas listings under the Act include species endangered by any factor, species on the Convention Appendices must be actually or potentially endangered by international trade. Appendix II includes generally those species not necessarily now threatened with extinction, but which may become so unless trade in them is subject to strict regulation. In addition, Appendix II may include species similar in appearance to those species included because of biological jeopardy.

The bobcat (*Lynx rufus*), Lynx (*Lynx canadensis*), and river otter (*Lutra canadensis*) were included in Appendix II effective February 4, 1977. American ginseng (*Panax quinquefolius*) was included when the Con-

vention became effective on July 1, 1975. The animals were included along with the entire family Felidae and subfamily Lutrinae.

The Federal Wildlife Permit Office of the U.S. Fish and Wildlife Service serves as the U.S. Management Authority (MA) for the Convention. Before the MA can issue permits for foreign export of Appendix II species taken from the wild, the MA must be satisfied that specimens were not taken in violation of State law and in addition the Endangered Species Scientific Authority (ESSA) must advise the MA that the export will not be detrimental to the survival of the species (Convention, Article IV 2).

The ESSA has established in its Interim Charter the following general criteria for determining whether an export will not be detrimental to the survival of a species:

1. Whether similar export . . . has occurred in the past, and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem.

2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export . . . will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

3. Whether such export . . . is expected to increase, decrease, or remain constant in frequency. (ESSA Interim Charter, Article IV. C., 42 FR 35801)

Through several steps summarized in a notice of March 16, 1978, (Part II of this issue), the ESSA has evaluated the status of the bobcat, lynx, river otter, and American ginseng in each State, making findings and establishing conditions concerning detriment to survival.

The ESSA must now proceed to establish findings on these species for the 1978-79 season. Several interested organizations, including the International Association of Fish and Wildlife Agencies and the Defenders of Wildlife, have indicated their desire for the ESSA to establish its findings on export through rulemaking proce-

dures under the Administrative Procedure Act (5 U.S.C. 551 et seq.). Although the ESSA does not consider itself bound to the rulemaking requirements of this law, the ESSA appreciates the need for maximum public input and for certainty in ESSA's general findings on export permit applications. Furthermore, rulemaking procedures would appear reasonably well-suited to export determinations for these species. Consequently, the ESSA is willing to embrace a rulemaking procedure for 1978-79 as described below. In addition, the ESSA is developing more general procedures to use on a permanent basis, and these procedures will be proposed in the near future.

The procedures below, with dates approximate, will be followed for ESSA findings on these species in the 1978-79 season:

APRIL 10

The ESSA will give notice in the **FEDERAL REGISTER** of the types of biological data, harvest or export information, and any other information the ESSA will need in order to find in favor of exports of the bobcat, lynx, river otter, and American ginseng. Copies of this notice will be sent to State fish and wildlife agencies and other interested parties. Thirty days will be provided for comment.

MAY 1

A hearing will be held by the ESSA on the information needed to satisfy the ESSA that export will not be detrimental to the survival of subject species.

JULY 7

The ESSA will publish proposed findings for the 1978-79 season, with a thirty day comment period.

SEPTEMBER 1

The ESSA will publish final findings for the 1978-79 season.

Dated: March 9, 1978.

WILLIAM Y. BROWN,
Executive Secretary Endangered Species Scientific Authority.

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