

Endangered Species Federal Register

Monday
April 30, 1979

Part V

Endangered Species Scientific Authority

American Alligator, Bobcat, Lynx, River
Otter, Alaskan Wolf, Alaskan Brown Bear and
American Ginseng; 1979-1980 Export
Finding Procedures

ENDANGERED SPECIES SCIENTIFIC AUTHORITY**[50 CFR part 810]****Export of American Alligator, Bobcat, Lynx, River Otter, Alaskan Wolf, Alaskan Brown Bear and American Ginseng; Procedures for Making 1979-1980 Export Findings****AGENCY:** Endangered Species Scientific Authority.**ACTION:** Advance Notice of Proposed Rulemaking.

SUMMARY: This notice states in general terms what types of information the Endangered Species Scientific Authority (ESSA) will need in order to make findings in favor of export of legally obtained specimens of the following Appendix II species: American alligators taken in 1979; bobcat, lynx, river otter, Alaskan brown bear, and Alaskan gray wolf taken in 1979-1980; and American ginseng harvested in 1979. This notice also establishes certain interim policies concerning the findings, and states procedures to be followed in 1979-1980 to help ensure public participation in the development of ESSA's findings for these species.

DATE: The ESSA requests any interested individuals, organizations or agencies with information relevant to the ESSA's export findings for these seven species to supply this information to the ESSA as soon as possible, but no later than 60 days after the forthcoming proposed rulemaking addressing these species.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240. Comments received will be available for public inspection at 1717 H Street, N.W., Washington, D.C., Room 536, 7:45 a.m. to 5:30 p.m., Mondays through Fridays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240 (202/653-5948).

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and its implementing regulations, 50 CFR Part 23, control international trade in animal and plant species, subspecies or geographically separate populations included in any of three Appendices, listed in 50 CFR 23.23. Currently 51 nations are party to the

CITES. The CITES is implemented in each Party by one or more scientific authorities and one or more management authorities. The CITES Appendices are distinct from the list of species issued under the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq.

Findings by Scientific Authorities*Findings and the purpose of listing*

All seven species discussed in this notice are, or, in the case of the American alligator, will soon be included in Appendix II. According to Article II, paragraph 2 of the CITES, Appendix II is to include:

(a) All species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) Other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

Although the CITES provides for the inclusion of species in Appendix II for two distinct purposes, Parties proposing additions in the past usually have not clearly identified the purpose of listing in their original proposals or in other supporting documents.

At the second meeting of the Conference of the Parties (held in San Jose, Costa Rica in March 1979), the Parties recommended "that proposals for additions to Appendix II should make it clear whenever possible whether the proposal is made under Article II 2(a) or Article II 2(b) . . ." (Com. 2.13, see also Com. 2.12). This recommendation is intended to clarify the responsibility of the Parties' scientific authorities in making findings on applications to export or to import specimens of species protected by the CITES.

Before a Party's management authority may grant an export permit for a specimen of an Appendix II species, the Party's scientific authority must find that the export "will not be detrimental to the survival of that species" (Article IV 2(a)). For specimens of species included in Appendix II under Article II 2(a), scientific authorities should address the potential effect of exports on the listed species itself; for species included in Appendix II under Article II 2(b), scientific authorities should address how such exports may affect the status of the species intended to be protected: those associated species

included in Appendix II under Article II 2(a), or included in Appendix I. The ESSA will propose procedural regulations in the near future concerning this and other interpretations and procedures for making findings and for the present will follow the interpretations above concerning the differing effect of inclusion in Appendix II under Article II 2(a) versus II 2(b).

At the second meeting of the Conference of the Parties, the Parties agreed that the Alaskan and Canadian populations of brown bear, *Ursus arctos*, and wolf, *Canis lupus*, were to be treated as being included in Appendix II under Article II 2(b). After these agreements become effective on June 28, the ESSA will limit its review of export applications for Alaska brown bear and gray wolf to the preparation of findings made with respect to Article II 2(b). When reviewing proposals to export these Alaskan specimens, the ESSA will only consider and will only make a finding on the probable impact that export of specimens from Alaska will have on the status of other populations of the same species.

In certain cases it may be necessary to include a species in Appendix II both because it may become threatened with extinction and because its trade must be regulated to effectively control trade in other species included because of biological jeopardy. In such cases a scientific authority should make two findings on detriment, one with respect to Article II 2(a) and the other with respect to Article II 2(b).

The U.S. proposed to transfer the American alligator (*Alligator mississippiensis*) from Appendix I to Appendix II under Article II 2(a) and Article II 2(b) (February 14, 1979, **Federal Register**, 44 FR 9689). Transfer to Appendix II was agreed to at the second meeting of the Conference of the Parties and will become effective June 28, 1979. The ESSA intends to propose separate findings on detriment with respect to Article II 2(a) and Article II 2(b) for exports of the 1979 harvest of this species.

When a single species has been included in Appendix II without reference to the purpose for listing, unlike the species discussed above, the ESSA for the present will treat the species as included under Article II 2(a) alone. This interim policy will be addressed in the ESSA's procedural regulations. American ginseng (*Panax quinquefolius*) is one species to which this policy applies. Therefore, for proposals to export American ginseng, the ESSA only will examine the

potential effect of export on the species itself.

When a species was included in Appendix II as part of a higher taxon and the purpose for listing is not clear, the ESSA for the present will treat the species as included in Appendix II under both Article II 2(a) and Article II 2(b). This interim policy also will be addressed in the ESSA's procedural regulations.

This interpretation is consistent with the purpose for listing higher taxa. For example, the Berne Criteria for addition (Conf. 1.1, 5.11, 1976) state: "Genera should be listed if some of their species are threatened and identification of individual species within the genus is difficult. The same should apply to listing any smaller taxa within larger ones."

The bobcat (*Lynx rufus*) and lynx (*Lynx canadensis*) were added to Appendix II on February 4, 1977 as part of the Felidae. The proposal to include the Felidae in Appendix II was prepared by the United Kingdom of Great Britain and Northern Ireland. In this case the proposal stated that "all species must be considered as vulnerable" and that all "wild species not in Appendix I should be on Appendix II, so that the scale of their occurrence in trade can be monitored." The river otter was included in Appendix II on February 4, 1977 as part of the Lutrinae. This proposal was prepared by Switzerland and stated, in part: "All otters are heavily exploited for their skins to the extent that they could become endangered. The skins of different species are difficult to distinguish from one another." No additional clarification was given as to why individual species of cats and otters were included in Appendix II. These statements suggest that scientific authority findings on any species of these taxa should address potential threat to their own survival as well as the need to control trade in other species in the taxa.

Consequently, the ESSA intends to make separate findings on detriment with respect to Article II 2(a) and Article II 2(b) for export of specimens of bobcat, lynx, and river otter harvested in 1979-80. This approach differs from the past two seasons, when findings were limited to those conforming to listing under Article II 2(a).

Guidelines for ESSA Findings Based on Listing Under Article II 2(a).

In the July 11, 1977, Federal Register (42 FR 35799), the ESSA proposed general criteria for determining whether an export will not be detrimental to the survival of the species. Guidelines for

ESSA findings in favor of export, a discussion of the biological review, and a request for specific information on state populations of bobcat, lynx, river otter, and American ginseng were published in the April 10, 1978, Federal Register (43 FR 15097). Although directed at the 1978-1979 harvest, this notice is equally applicable to findings for the 1979-1980 harvest of these species as well as for the findings under Article II 2(a) for the 1979 harvest of the American alligator. The ESSA will continue to follow these guidelines for findings made for the upcoming season, pending adoption of any revised interpretation in procedural regulations.

Guidelines for ESSA Findings Under Article II 2(b).

The ESSA has not developed criteria for determining whether exports of American alligator, bobcat, lynx, river otter, Alaskan brown bear and Alaskan gray wolf will not be detrimental to the survival of other species of crocodilians, felids, otters and other populations of brown bear and gray wolf. Such criteria will be proposed concurrently with the proposed findings for these species. This notice, however, does provide a discussion of our current views on two major aspects of such findings as well as a discussion of certain criteria that could be established and that, when satisfied, may be considered sufficient support for a finding of no detriment.

In making a finding on detriment with respect to Article II 2(b) the ESSA should first determine whether the specimens proposed for export are distinguishable from specimens of the other associated species that are or may be threatened with extinction. To the degree that the latter species may be confused with the former, trade in the former may potentially impact the latter. Second, the ESSA should determine to what extent trade in any species included in Appendix II under Article II 2(b) may create a demand, or otherwise promote exploitation of these other species.

In regard to the identification problem, the ESSA may prescribe certain specific conditions that, if satisfied, would support a finding of no detriment. Conditions would necessarily differ from species to species because of the type of specimens in trade and the degree of difficulty encountered in distinguishing between specimens of related species. For example, an intact raw hide of an American alligator may be easily distinguished by trained personnel from raw hides of other crocodilians, whereas even an expert may not be able to distinguish raw hides

of river otters from certain other otter pelts. Also, distinguishing between different species of crocodilians may considerably more difficult once hides are made into finished products. The degree of difficulty in identifying specimens will help determine what conditions on trade may be warranted to ensure that trade in those specimens does not adversely impact other protected species.

For the bobcat, lynx, and river otter, the U.S. Fish and Wildlife Service currently requires tagging of pelts to be exported and requires that the tags:

1. Are made of some sort of metal or permanent material;
2. Are permanently attached to each skin, preferably by State personnel;
3. Accompany finished fur products to the port where the tags will be collected by USFWS officers;
4. Are applied within a specified time of taking that is set by the State;
5. State the State of origin;
6. State the year of taking;
7. State the species name; and
8. Are serially unique.

Evidence of compliance with these conditions may be sufficient to ensure generally that pelts of the bobcat and lynx are distinguishable from the pelts of other cats, particularly the morphologically distinct species included Appendix I. These conditions provide less assurance of adequate controls in the case of otters and protected populations of bobcat and lynx. In such cases additional conditions may need to be imposed to support more strongly a finding of no detriment. For example, such conditions may include requiring that all pelts harvested be tagged or that export only be allowed for tanned pelts imprinted with an indelible identifying mark over the entire inside of the pelt. Tagging and other conditions similar to those for the furbearers should be applied to exports of American alligator hides to help ensure that the hides are identifiable. Further steps may be required to ensure that small pieces of hides and products can be identified.

Assessing whether trade in one species may promote exploitation of other species is more complex than the problem of identification. Analysis of such relationships can only be initiated once trade data are accumulated.

However, certain conditions on trade may help ensure that trade in one species will not adversely impact the status of other species that may be threatened with extinction. Examples of such conditions would be restriction of exports to nations party to the CITES, and a requirement that the Management

Authority verify that exports to party nations are actually imported by those nations. Additional potential conditions may become apparent as more trade information is obtained.

Procedures for Public Participation

The ESSA plans to follow the schedule below, with dates approximate, in establishing export findings on detriment concerning the harvest of these species in the upcoming seasons.

May 31

The ESSA will publish proposed findings for the 1979 harvest of American ginseng and American alligator, with a sixty day comment period.

July 2

The ESSA will publish proposed findings for the 1979-1980 harvest of bobcat, lynx, river otter, Alaskan wolf, and Alaskan brown bear, with a sixty day comment period.

August 10

The ESSA will publish final findings for the 1979 harvest of American ginseng and American alligator.

September 14

The ESSA will publish final findings for the 1979-1980 harvest of bobcat, lynx, river otter, Alaskan wolf, and Alaskan brown bear.

Publication of this notice has been approved by the Endangered Species Scientific Authority.

Dated: April 24, 1979.

William Y. Brown,

Executive Secretary, Endangered Species Scientific Authority.

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