docket (*Number Administration Order*), the Federal Communications Commission (Commission) established the North American Numbering Council (NANC) pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA). *The Number Administration Order* directed the NANC, among other things, to recommend to the Commission and to other member countries of the North American Numbering Plan (NANP) a neutral entity to serve as NANP Administrator and an appropriate mechanism for recovering the costs of NANP administration in the United States. The membership of NANC, which includes thirty-two voting members and four special non-voting members, was selected to represent all viewpoints regarding numbering administration. The Commission's charge that the NANC recommend an impartial NANP Administrator is consistent with Congress's directive in Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, that an impartial numbering administrator be named to make telecommunications numbering available on an equitable basis.

2. On May 15, 1997, the Commission received the NANC's Recommendation on the NANP Administrator and Billing and Collection Agent (Recommendation). Earlier, the NANC had received proposals in response to its Requirements Document that set forth the qualities and attributes of the NANPA and Billing and Collection Agent and the functions that each would be expected to perform.[1] Bell Communications Research (Bellcore), the Center for Communications Management Information (CCMI), Lockheed Martin Corporation (Lockheed), and Mitretek Systems (Mitretek) responded with proposals to serve as NANPA. Proposals to serve as Billing and Collection Agent were received from CCMI, Lockheed, and the National Exchange Carriers Association (NECA).

3. As indicated in the Recommendation, a majority of the NANC (13 members) voted to recommend Lockheed as the new NANPA for a period of five years and a minority (11 members) voted to recommend Mitretek. NANC further recommends that the entity designated to serve as the NANPA agree to two conditions. First, such entity must agree to make available any and all intellectual property and associated hardware including, but not limited to, systems, software, interface specifications and supporting documentation, generated by or resulting from its performance as NANPA, and to make such property available to whomever NANC directs, free of charge. Such entity must specify any property it proposes to exclude from the foregoing category of property based on the existence of such property prior to the entity's selection as NANPA. Second, the entity selected as the NANPA must perform the NANPA functions at the price the entity submitted in its proposal to the NANC that formed the basis for the entity's selection by the NANC. Such entity, however, may request from NANC and, with approval by the Commission, NANC may grant an adjustment in this price should the actual number of Central Office (CO) code assignments made per year, the number of numbering plan area codes (NPAs) requiring relief per year, or, the number of NPA relief meetings per NPA requiring relief exceed 120 percent of NANPA's assumptions for the above tasks made in the proposal to the NANC that formed the basis for the entity's selection by the NANC.

4. The NANC also recommends proposed rules, contained in attachments to the Recommendation, to govern the performance of the NANPA and Billing and Collection Agent and to address resolution of numbering disputes. Finally, the NANC unanimously recommends NECA as Billing and Collection Agent, subject to the Federal Communications Commission's ordering NECA to create an independent and neutral Board of Directors for NANPA Billing and Collection.

5. We seek comments on NANC's Recommendation. Interested parties should file an original and four copies of their comments on the NANC's North American Numbering Plan Administrator and Billing and Collection Agent Recommendation by June 20, 1997, and reply comments by July 3, 1997, with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. Comments and reply comments should reference CC Docket No. 92–237. In addition, parties should send two copies to Jeannie Grimes, Common Carrier Bureau, FCC, Suite 235, 2000 M Street, NW, Washington, DC 20554, and one copy to ITS, at 1231 20th Street, NW, Washington, DC 20036. Comments and reply comments will be available for public inspection and copying during regular business hours in the Commission's Public Reference Center, Room 239, 1919 M Street, NW, Washington, DC 20554. Copies of comments and reply comments will also be available from ITS, at 1231 20th Street, NW, Washington, DC 20036, or by calling (202) 857–3800.

6. Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 Section 9, and consistent with its charter, the NANC's authority is limited to providing advice and recommendations to the Commission. All procedural requirements of the Administrative Procedures Act, 5 U.S.C. section 551 *et. seq.*, and other applicable statutes will apply to this proceeding. We will treat this proceeding as a non-restricted rulemaking for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR §§ 1.1200(a), 1.1206. For further information contact Marian Gordon or Scott Shefferman, Network Services Division, Common Carrier Bureau, at (202) 418–2320.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 97–13762 Filed 5–21–97; 12:25 pm]

BILLING CODE 6712–01–P

[1] The Requirements Document is filed in CC Docket No. 92–237 and is available for inspection and copying in the Commission's Public Reference Center.

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 the Contiguous United States Population of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the contiguous United States population of the Canada lynx (*Lynx canadensis*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this population is warranted but precluded by other higher priority actions to amend the List of Threatened and Endangered Wildlife and Plants.

DATES: The finding announced in this document was made on May 21, 1997.

ADDRESSES: Information, comments, or questions concerning this petition should be submitted to the Field Supervisor, Montana Field Office, Fish

and Wildlife Service, 100 N. Park Avenue, Suite 320, Helena, Montana 59601. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, Field Supervisor, at the above address, telephone (406) 449–5225.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)(Act), requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information, the Fish and Wildlife Service (Service) make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months.

On April 27, 1994, the Service received a petition from the Biodiversity Legal Foundation, Evan Frost, Mark Skatrud, Craig Coonrad, and Michael J. Polly to list the conterminous United States population of North American lynx (*Felis lynx canadensis*) as threatened or endangered. On August 26, 1994, the Service published a notice (59 FR 44123) of a 90-day finding that there was substantial information to indicate that listing this population may be warranted. On December 27, 1994, the Service published a notice (59 FR 66507) indicating that the Service's 12-month finding was that listing the Canada lynx in the contiguous United States was not warranted. On March 27, 1997, a resulting Court order remanded the 1994 Canada lynx 12-month finding back to the Service for reconsideration. The information in this notice is a summary of the information from the Service's reassessed and updated 12-month finding on a petition to list the contiguous United States population of Canada lynx, as required by the U.S. District Court.

The Service has reexamined the information in the 1994 administrative record and new information made available since the 1994 finding, and has consulted experts knowledgeable about Canada lynx. On the basis of the best scientific and commercial information available, the Service has determined that Canada lynx in the contiguous United States constitutes a distinct population segment under the Act. The Service finds that listing the Canada lynx population in the contiguous United States is warranted but precluded by work on other species having higher priority for listing.

The Canada lynx is a medium-sized cat with long legs; large, well-furred paws; long tufts on the ears; and a short, black-tipped tail (McCord and Cardoza 1982). The lynx's long legs and large feet make it highly adapted to hunting in deep snow.

The historical and present North American range of the Canada lynx includes Alaska and that part of Canada that extends from the Yukon and Northwest Territories south across the United States border, and east to New Brunswick and Nova Scotia. In the contiguous United States, the lynx historically occurred in the Cascade Range of Washington and Oregon, south in the Rocky Mountains to Utah and Colorado and east along the Canadian border to the Great Lakes States and Northeast region (McCord and Cardoza 1982; Quinn and Parker 1987). Barriers of unsuitable habitat occur along the southeastern Great Lakes, the Great Plains, and Wyoming's Red Desert.

Canada lynx are specialized predators that are highly dependent on the snowshoe hare (*Lepus americanus*) for food. Snowshoe hare prefer diverse, early successional forests with stands of conifers for cover and shrubby understories (Monthey 1986; Koehler and Aubry 1994). Canada lynx usually concentrate their foraging in areas where hare numbers are high, but they also require late successional forests with downed logs and windfalls to provide cover for denning sites, escape, and protection from severe weather (McCord and Cardoza 1982).

Based on expert opinion, information received during and since the original status review, and Service expertise, the Service has determined that resident, viable Canada lynx populations existed in the subalpine/coniferous forests of the Western United States and in the ecotone between boreal and northern hardwood forests in the Eastern United States.

The Service used the new vertebrate population policy published February 7, 1996 (61 FR 4722), to determine whether the Canada lynx in the contiguous United States constitutes a distinct population segment. The contiguous United States population of the lynx is discrete based on the international boundary between Canada and the contiguous United States and differences in status and habitat management of Canada lynx between the United States and Canada. In Canada, management of forest lands and conservation of wildlife habitat varies depending on Provincial regulations. There is no overarching forest practices legislation in Canada, such as the United States' National Forest Management Act, governing management of national lands and/or providing for consideration of wildlife habitat requirements. Additionally, Canada lynx harvest regulations vary, being regulated by individual Province or, in some cases, individual trapping district. Recent declining lynx numbers in southern Canada exacerbated by loss of lynx habitat along the United States/Canadian border severely restricts the ability for lynx numbers in the contiguous United States to improve (M. DonCarlos, Minnesota Department of Natural Resources, *in litt.* 1994; W. Krohn, *in litt.* 1994; R. Lafond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994; J. Lanier, pers. comm. 1994; J. Litvaitis, University of New Hampshire, pers. comm. 1994; C. Pils, *in litt.* 1994). Dispersal of Canada lynx into the contiguous United States is now necessary to replenish lynx numbers because lynx throughout much of their contiguous United States range are rare to extirpated. If the Canada lynx populations in southern Canada rebound, they should be able to help replenish lynx numbers in the United States. If the lynx populations in southern Canada are unable to rebound, then it appears natural recovery of Canada lynx in some portions of the contiguous United States is unlikely.

In a general sense, Canada lynx in the contiguous United States might be considered biologically and/or ecologically significant simply because they represent the southern extent of the species' overall range. There are climatic and vegetational differences between Canada lynx habitat in the contiguous United States and that in northern latitudes in Canada (Kuchler 1965). In the contiguous United States, Canada lynx inhabit transition zones that are a mosaic between boreal/coniferous forest and northern hardwoods, whereas in more northern latitudes, Canada lynx habitat is the boreal forest ecosystem (Barbour *et al.* 1980; McCord and Cardoza 1982; Koehler and Aubry 1994; M. Hunter, University of Maine, pers. comm. 1994). Canada lynx and snowshoe hare population dynamics in the contiguous

United States are different from those in northern Canada (Koehler and Aubry 1994, Washington Department of Natural Resources 1996). Historically, Canada lynx and snowshoe hare populations have been less cyclic in the contiguous United States, not exhibiting the extreme cyclic population fluctuations of the northern latitudes for which Canada lynx are noted (Wolff 1980, Brittell *et al.* 1989, Koehler and Aubry 1994, Washington Department of Natural Resources 1996). The less cyclic nature of this population has been attributed to the lower quality and quantity of habitat available in southern latitudes and/or the presence of additional snowshoe hare predators (Wolff *et al.* 1982, Koehler and Aubry 1994). The Service determines that the contiguous United States population of the Canada lynx is significant under the Service's Distinct Vertebrate Population Policy. Thus, the Canada lynx in the contiguous United States qualifies as a distinct population segment to be considered for listing under the Act.

Canada lynx have been observed in 22 of the contiguous United States. Historical lynx observations in several States (North Dakota, South Dakota, Iowa, Indiana, Ohio, and Virginia) may have been a result of transients dispersing during periods of high lynx population density elsewhere. However, the Service believes that historical lynx observations, trapping records, and other evidence documented in Maine, New Hampshire, Vermont, New York, Massachusetts, Pennsylvania, Michigan, Wisconsin, Minnesota, Washington, Oregon, Idaho, Montana, Wyoming, Utah, and Colorado confirms the Canada lynx as a viable species in the contiguous 48 States. Presently, the Service is able to confirm the presence of Canada lynx in only the States of Montana, Washington, Wyoming, and Maine. The Service believes the States of Idaho, Michigan, Minnesota, Wisconsin, Utah, and Colorado probably have lynx, but they are extremely rare. Lynx are likely extirpated throughout the remainder of their historical range (New York, Pennsylvania, New Hampshire, Vermont, Massachusetts, and Oregon).

Summary of Factors Affecting the Species

The following information is a summary and discussion of the five factors or listing criteria as set forth in section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act and their applicability to the current status of the contiguous United States population of the Canada lynx.

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

Human alteration of the abundance, species composition, successional stages, and fragmentation of forests, and the resulting changes in the forest's capacity to sustain lynx populations, affect lynx habitat. Timber harvest and its related activities influence Canada lynx habitat in the contiguous United States. Intensive tree harvesting (i.e., clearcutting and thinning) can eliminate the mosaic of habitats necessary for Canada lynx survival, including late successional denning and early successional prey habitat. Specifically, these activities can result in reduced cover, unusable forest openings, and monotypic stands with a sparse understory that has been determined to be unfavorable for Canada lynx (Brittell *et al.* 1989; de Vos and Matel 1952; Harger 1965; Hatler 1988; Koehler 1990; K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994).

Over a relatively short period of time at the turn of the century in the Great Lakes and Northeast Regions, timber extraction resulted in the replacement of mature conifer forest with extensive tracts of very early successional habitat and eliminated cover for lynx and hare (Jackson 1961; Barbour *et al.* 1980; Belcher 1980; Irland 1982). Coniferous forests also were cleared for agriculture during this period. This sudden alteration of habitat likely resulted in sharp declines in snowshoe hare numbers over large areas, subsequently reducing Canada lynx numbers (Jackson 1961; Keener 1971; K. Gustafson, pers. comm. 1994; J. Lanier, pers. comm. 1994). The impacts of logging conducted in the Northeast Region during the late 1800's continue to affect Canada lynx habitat (D. Degraff, pers. comm. 1994; J. Lanier, pers. comm. 1994).

Lynx populations have not increased in the Northeast Region despite some apparent improvements in habitat. Forested habitat in the Northeast has increased because of land-use changes during the past century (Irland 1982; Litvaitis 1993), and in some areas there may be a gradual upward trend in the coniferous component as spruce (*Picea* spp.) and fir (*Abies* spp.) regenerate beneath hardwood species (D. Degraff, pers. comm. 1994), but fragmentation of habitat apparently remains a factor in the continued absence of lynx populations in the Northeast Region (Litvaitis *et al.* 1991; W. Krohn, University of Maine, *in litt.* 1994; R. La Fond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994).

Historically, Canada lynx populations in the Northeast were periodically supplemented with transient or dispersing individuals from the north (Litvaitis *et al.* 1991; J. Lanier, pers. comm. 1994). However, over the past several decades, Canada lynx numbers also declined along southern portions of its range in Canada in response to overexploitation and clearing of forested habitat for agriculture, timber, and human settlement (Mills 1990; McAlpine and Heward 1993; Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). Today, diminished numbers of Canada lynx in southern Canada and the lack of functional dispersal routes from Canadian lynx populations to the Northeast Region have substantially restricted the opportunity for Canada lynx to recolonize any available habitat in the Northeast (Litvaitis *et al.* 1991; W. Krohn, University of Maine, *in litt.* 1994; R. La Fond, Quebec Department of Recreation, Fish, and Game, pers. comm. 1994; J. Lanier, pers. comm. 1994).

In the Northern and Southern Rocky Mountain Regions, the majority of Canada lynx habitat occurs on public lands. Currently, there are few activities on national forest lands generating the early successional timber stands important to snowshoe hares and Canada lynx (S. Blair, U.S. Forest Service, pers. comm. 1994). In areas of Washington, timber harvest on national forest and State lands is likely to exceed the recommended rate of harvest described in Canada lynx habitat management guidelines developed for the region (Washington Department of Wildlife 1993).

Forest fires naturally maintained mosaics of early successional forest stands forming ideal snowshoe hare and Canada lynx habitat (Todd 1985; Fischer and Bradley 1987; Quinn and Parker 1987). Suppression of forest fires in the West has allowed forests to mature, thereby reducing habitat suitability for snowshoe hares and Canada lynx (Brittell *et al.* 1989; Fox 1978; Koehler 1990; Washington Department of Wildlife 1993; T. Bailey, U.S. Fish and Wildlife Service, *in litt.* 1994; H. Golden, pers. comm. 1994).

In the Great Lakes Region, Northeast, and Colorado, clearing of forests for urbanization, ski areas, and agriculture has degraded or reduced the available suitable lynx habitat, reduced the prey base, and increased human disturbance and the likelihood of accidental trapping, shooting, or highway mortality (de Vos and Matel 1952; Harger 1965; Belcher 1980; Thiel and Hallowell 1988; Todd 1985; Thompson 1987; Harper *et*

al. 1990; Brocke *et al.* 1991; Thompson and Halfpenny 1991). In some areas, the rapid pace of subdivision for recreational home sites has been identified as a serious concern to maintaining the integrity of Northeastern forests (Harper *et al.* 1990).

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

The Service believes that an overharvest of Canada lynx during the 1970's and 1980's has reduced the potential for recovery of lynx populations in the contiguous United States and has reduced repopulation of areas of suitable habitat. Historically, lynx trapping provided a significant economic return in the fur trading industry (Quinn and Parker 1987; Hatler 1988). This economic incentive increases the threat of overexploitation of Canada lynx populations. Where exploitation is intense and recruitment is low, trapping can significantly depress lynx populations (Koehler and Aubry 1994). Overutilization of Canada lynx was clearly documented when lynx were substantially overharvested in response to unprecedented high pelt prices during the 1970's and 1980's, the effect of which is still evident today in the extremely low numbers of lynx in the contiguous United States and southern Canada (Bailey *et al.* 1986; B. Berg, Minnesota Department of Natural Resources, pers. comm. 1994; D. Mech, pers. comm. 1994; M. Novak, Ontario Ministry of Natural Resources, pers. comm. 1994; A. Todd, Alberta Department of Forestry, Lands, and Wildlife, pers. comm. 1994).

Ward and Krebs (1985) concluded that human-induced mortality is the most important mortality factor for Canada lynx populations. Trapping mortality has been shown to be entirely additive (i.e., in addition to natural mortality) rather than compensatory (taking the place of natural mortality) (Brand and Keith 1979). In Minnesota, trapping was estimated to account for 81 percent of known lynx mortality during cyclic lows and 58 percent of mortality during cyclic highs (Henderson 1978).

Additive trapping mortality of Canada lynx during the 1970's and 1980's represented an overexploitation that depleted the breeding stock of lynx populations in the United States and southern Canada, limiting the ability of lynx populations to subsequently increase and to repopulate areas of suitable habitat. Lynx populations may have become so severely depleted that they cannot reach their former densities during the periods of abundant prey and maximum reproductive success (Quinn and Parker 1987; Hatler 1988).

In response to concerns about substantially declining harvests during the 1970's and 1980's (indicating that lynx populations were being overexploited), Washington, Montana, Minnesota, Alberta, British Columbia, Manitoba, Ontario, Quebec, and Alaska severely restricted or closed their lynx harvest seasons (Bailey *et al.* 1986; Hatler 1988; Hash 1990; Washington Department of Wildlife 1993; S. Conn, *in litt.* 1990; M. DonCarlos, *in litt.* 1994; B. Giddings, *in litt.* 1994; R. McFetridge, Alberta Environmental Protection, *in litt.* 1994; I. McKay, *in litt.* 1994; M. Novak, pers. comm. 1994). Because of continued concern for lynx populations, neither Washington, Montana, nor Minnesota have relaxed their restrictions, and many Canadian provinces still maintain careful control of lynx harvest (Alberta Environmental Protection 1993; Washington Department of Wildlife 1993; M. DonCarlos, *in litt.* 1994; B. Giddings, *in litt.* 1994; R. McFetridge, *in litt.* 1994).

Where Canada lynx populations have been substantially reduced or extirpated in the contiguous United States, natural recolonization of suitable habitat will require migrating lynx from Canadian populations. The lynx population in portions of Quebec apparently has not yet fully recovered despite adequate, increasing hare populations (Quebec Department of Recreation, Fish, and Game, *in litt.* 1993). Because of concern over a potentially declining lynx population, the British Columbia government has closed the season on Canada lynx for 3 years (A. Fontana, British Columbia Department of Wildlife, pers. comm. 1994).

Although overutilization is no longer an immediate concern, the adverse impacts of past overharvest continue to threaten Canada lynx survival and recovery in the contiguous United States.

C. Disease or Predation

Disease and predation are not known to be factors threatening Canada lynx.

D. The Inadequacy of Existing Regulatory Mechanisms

Although States provide the Canada lynx with protection from hunting and trapping, currently there are no regulatory mechanisms to protect lynx habitat from further deterioration.

Canada lynx are classified as endangered by Vermont (1972), New Hampshire (1980), Wisconsin (1972), Michigan (1987, as threatened in 1983), and Colorado (1975). Lynx are classified as threatened by Washington (1993). Utah has classified the lynx as a sensitive species. Two States officially classify them as extirpated (Pennsylvania (J. Belfonti, *in litt.* 1994) and Massachusetts (J. Cardoza, *in litt.* 1994)). Despite being classified as small game or furbearers, Canada lynx are fully protected from harvest by Maine (1967), New York (1967), Minnesota (1984), Wyoming (1973), and Oregon (E. Gaines, pers. comm. 1997). Canada lynx trapping seasons still occur in Montana and Idaho, but legal harvest is severely restricted. Idaho has a harvest quota of three lynx annually, while Montana currently has a statewide harvest quota of two.

On February 4, 1977, the Canada lynx was included in Appendix II of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). CITES is an international treaty established to prevent international trade that may be detrimental to the survival of plants and animals. However, CITES does not itself regulate take or domestic trade.

Habitat regulatory mechanisms specific to Canada lynx are limited. Although the U.S. Forest Service classifies lynx as a sensitive species within the contiguous United States, few national forests have developed population viability objectives or management guidelines required by the National Forest Management Act because of limited information about Canada lynx requirements.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Elevated levels of human access into forests are a significant threat to Canada lynx because they increase the likelihood of lynx encountering people, which may result in more lynx deaths by intentional and unintentional shooting, trapping, and being hit by automobiles (Hatler 1988; Thiel and Hallowell 1988; Brittell *et al.* 1989; Koehler and Brittell 1990; Brocke *et al.* 1991; Andrew 1992; Washington Department of Wildlife 1993; Brocke *et al.* 1993; M. Hunter, University of Maine, pers. comm. 1994). Human access into Canada lynx habitat in many areas has increased over the last several decades because of increased construction of roads and trails and the growing popularity of snowmobiles and other off-road vehicles. Poaching and the increased legal harvest of Canada lynx that occurs with greater access has been a concern in nearly every State and in many Canadian Provinces.

Human access is a particularly important factor during periods when Canada lynx populations are low and concentrated in localized refugia. If

such refugia were accessible, local lynx populations could be easily extirpated by trapping, particularly if there are incentives such as high pelt prices (Carbyn and Patriquin 1983; Ward and Krebs 1985; Bailey *et al.* 1986; J. Weaver, pers. comm. 1994; Koehler and Aubry 1994).

Traffic on highways has been shown to pose a considerable mortality risk to Canada lynx (Brocke *et al.* 1991; B. Ruediger, U.S. Forest Service, pers. comm. 1997). Dispersing or transient lynx are more vulnerable to traffic deaths than residents, because their movement over large areas increases their contact with roads.

Canada lynx may be displaced or eliminated when competitors (e.g., bobcat (*Lynx rufus*) or coyote (*Canis latrans*)) expand into its range (de Vos and Matel 1952; Parker *et al.* 1983; Quinn and Parker 1987; M. DonCarlos, pers. comm. 1994; D. Major, U.S. Fish and Wildlife Service, pers. comm. 1994; J. Weaver, pers. comm. 1994). The Canada lynx is at a competitive disadvantage against these other species because it is a specialized predator, whereas the bobcat and coyote are generalists able to feed on a wide variety of prey. Some biologists believe competition has played a significant role in the decline of Canada lynx (Brocke 1982; Parker *et al.* 1983; E. Bangs, U.S. Fish and Wildlife Service, pers. comm. 1994).

Competition between Canada lynx and other species may be facilitated through alteration of forests by timber harvest or other human activities. Modified habitat may be more suitable to Canada lynx competitors or may facilitate the establishment of a competitor after local extirpation of the lynx (McCord and Cardoza 1982; Quinn and Parker 1987).

The threats to resident lynx from legal trapping for other species are reduced in many regions because there is probably limited overlap in the ranges of bobcats or coyotes with the range of lynx (M. DonCarlos, pers. comm. 1994; K. Elowe, Maine Department of Inland Fisheries and Wildlife, pers. comm. 1994; J. Lanier, pers. comm. 1994; D. Mech, pers. comm. 1994; Maine Department of Inland Fisheries and Wildlife, *in litt.* 1997). Hunting seasons for bobcats may be a potential threat because of hunters' difficulty in distinguishing between bobcat and lynx.

Finding

Section 4(b)(3)(B)(iii) of the Act states that the Service may make warranted but precluded findings if it can demonstrate that an immediate proposed rule is precluded by other pending proposals and that expeditious progress is being made on other listing actions. According to Service policy, such species are assigned candidate status and given a listing priority number. Guidelines for assigning listing priorities were published in the **Federal Register** on September 21, 1983 (48 FR 43098). The guidelines describe a system for considering three factors in assigning a species a numerical listing priority on a scale of 1 to 12. The three factors are magnitude of threat (high or moderate to low), immediacy of threat (imminent or nonimminent), and taxonomic distinctiveness (monotypic genus, species, or subspecies/population). For a population, such as the Canada lynx, listing priority numbers of 3, 6, 9, or 12 are possible.

The Service believes that several limiting factors pose threats to the continued existence of Canada lynx in the contiguous United States, including: (1) Habitat loss and/or modification (due to human alteration primarily through timber harvest, road construction, and fire suppression); (2) overutilization from past commercial harvest (trapping) that has resulted in extremely low populations that remain subject to incidental capture from legal trapping of other furbearers; (3) inadequate regulatory mechanisms to protect the remaining lynx habitat; and, (4) other factors such as increased human access into suitable habitat (refugia) and human-induced changes in interspecific competition. The Service has determined that the overall magnitude of all threats to the small population of Canada lynx in the contiguous United States is high and the threats are ongoing, thus they are imminent. A listing priority of 3 consequently has been assigned for the Canada lynx population in the contiguous United States.

Region 6 has determined that listing of the Canada lynx is warranted, but development of a proposed rule at this time is precluded by work on other higher priority species. The Service will reevaluate this warranted but precluded finding within 12 months of the date of publication of this notice of finding. The Service also may reevaluate the finding immediately if significant new information becomes available in the next 12 months.

Before making a warranted but precluded finding, the Service must show that it is making expeditious progress on listing species. A congressionally imposed moratorium on listing species was lifted on April 26, 1996. Since that date the Service has completed 131 final determinations, including publication of final rules for endangered and threatened species and withdrawals of proposed rules. The Service believes these numbers show that expeditious progress is being made to list species within the resources available.

This warranted but precluded finding automatically elevates the Canada lynx to candidate species status. The Service will reevaluate this warranted but precluded finding 1 year from the date of the finding. If sufficient new data or information become available in the future regarding threats, status of the lynx, etc., the Service will reassess the status of the species.

The Service's 12-month finding contains more detailed information regarding the above decisions. A copy may be obtained from the Montana Field Office (see **ADDRESSES** section).

References Cited

A complete list of references cited is available upon request from the Montana Field Office (see **ADDRESSES** section).

Authors: The primary authors of this document are Lori Nordstrom, Anne Vandehey and Kevin Shelley (Montana Field Office); Jeri Wood (Boise Field Office); Chris Warren (Spokane Field Office); and Ted Thomas (Olympia Field Office).

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

Dated: May 21, 1997.

J. L. Gerst,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–13808 Filed 5–21–97; 2:46 pm]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970515117–7117–01; I.D. 050797D]

RIN 0648–AJ85

Proposed List of Fisheries for 1998

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes changes for 1998 to the List of Fisheries (LOF) required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 1998 reflects new information