

# **Federal Register**

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**Part III**

## **Department of the Interior**

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**Fish and Wildlife Service**

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**50 CFR Part 17**

**Endangered and Threatened Wildlife and  
Plants; Final Rule and Proposed Rule**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

RIN 1018-AB42

## Endangered and Threatened Wildlife and Plants; Threatened Status for the Louisiana Black Bear and Related Rules

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Service determines the Louisiana black bear (*Ursus americanus luteolus*) to be a threatened species within its historic range. The historic range of the Louisiana black bear includes southern Mississippi, Louisiana, and east Texas. The Service designates other free-living bears of the species *U. americanus* within the Louisiana black bear's historic range as threatened due to similarity of appearance under the authority of the Endangered Species Act (Act) of 1973, as amended. This rule includes a special rule allowing normal forest management practices in occupied bear habitat, with certain limitations. The bear is vulnerable to habitat loss and illegal killing. This action implements protection of the Act.

EFFECTIVE DATE: February 6, 1992.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wendell A. Neal, at the above address (601/965-4900 or FTS 490-4900).

**SUPPLEMENTARY INFORMATION:****Background**

The American black bear (*Ursus americanus*) was formerly widespread in North America, from northern Alaska and northern Canada, including Newfoundland, south to central northern Mexico (Lowery 1981). Hall (1981) lists sixteen subspecies of *U. americanus*. The black bear is a huge, bulky mammal with long black hair, with brownish or cinnamon color phases often found in western parts of its range. The tail on the black bear is short and well haired. The facial profile is rather blunt, the eyes small and the nose pad broad with large nostrils. The muzzle is yellowish brown and a white patch is sometimes present on the lower throat and chest. There are five toes on the front and hind feet with short curved claws. Large

males may weigh more than 600 pounds, although weight varies considerably throughout their range.

In 1821, Edward Griffith, in his work "Carnivora," called the bear from Louisiana, the "yellow bear," according to a full species rank, i.e., *U. luteolus*. The first formal citation of the Louisiana black bear as a subspecies (*U. a. luteolus*) was by Miller and Kellogg (1955) cited by Lowery (1981). In 1893, C.H. Merriam described the Louisiana black bear using five skulls from a Mer Rouge locality in Morehouse Parish in northeastern Louisiana. The distinctiveness of these skulls (Nowak 1986), when contrasted with other black bears, is that they are relatively long, narrow, and flat, and have proportionately large molar teeth (Nowak 1986). According to Hall (1981), *U. a. luteolus* once occurred throughout southern Mississippi, all of Louisiana and eastern Texas. The historic range according to Hall (1981) included all Texas counties east of and including Cass, Marion, Harrison, Upshur, Rusk, Cherokee, Anderson, Leon, Robertson, Burleson, Washington, Lavaca, Victoria, Refugio, and Aransas; all of Louisiana, and the southern Mississippi counties south of and including Washington, Humphreys, Holmes, Attala, Neshoba, and Lauderdale. While Hall (1981) included the southernmost counties in Arkansas as part of the range, there were no Arkansas specimens to support doing so. Accordingly, Arkansas is not considered as part of the historic range.

The Louisiana black bear was included as a category 2 species in the notice of review published on December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), and January 6, 1989 (54 FR 554). Category 2 includes taxa that are being considered for possible addition to the Federal list of Endangered and Threatened Wildlife, but for which available data are judged insufficient to support a proposed rule.

The Service was petitioned on March 6, 1987, under section 4(b)(3)(A) of the Act to list the Louisiana black bear as an endangered species. The Service made two 12-month findings (August 19, 1988, 53 FR 31723, and August 10, 1989, 54 FR 32833), indicating that the action requested (listing) had been determined to be warranted but precluded by other actions to amend the lists.

In 1988 the Service undertook a study in cooperation with the Louisiana Department of Wildlife and Fisheries to clarify taxonomic concerns relating to possible introgression of non-native genetic material. The results of these investigations, which included blood protein electrophoresis, mitochondrial DNA and skull measurements, were

received by the Service on July 21, 1989 (Pelton 1989).

A peer review of this report generated a variety of comments, which allow general conclusions on genetics and morphology. Although circumstantial evidence remains that native bears have interbred with introduced Minnesota bears, a morphological distinctiveness remains. There was disagreement on the taxon *U. a. luteolus* as being validated by the multicharacter morphological approach. However, the Service concludes that, notwithstanding conflicting opinions about accepted mammalian taxonomic criteria, available evidence, while not overwhelming, does support validity of the taxon. As a subspecies, *U. a. luteolus* qualifies for listing consideration under the Act. This action presupposes bears within the historic range of *U. a. luteolus* possess those cranial features characterizing *U. a. luteolus*. Accordingly, threats to this population of bears threatens the taxon and thereby any unique genetic material possibly possessed by the taxon.

On June 21, 1990, the Service published in the Federal Register (55 FR 25341) a proposal to list the Louisiana black bear as a threatened species and to designate as threatened due to similarity of appearance all other bears of the species *Ursus americanus* within the historical range of *U. a. luteolus*. A notice of public hearing and reopening of the comment period was published in the Federal Register (55 FR 37723) on September 13, 1990, and a public hearing was held on October 11, 1990.

On September 20, 1991, the Service published in the Federal Register (56 FR 47732) a notice extending the deadline for taking final action on the proposal to list the Louisiana black bear, as provided in section 4(b)(6)(B)(i) of the Act, in order to examine questions regarding the taxonomy of the subspecies and reopened the public comment period. To assist the Service in making an informed decision on the listing of the Louisiana black bear, further assessment of morphometric data compiled in the course of the Pelton study (1989) was commissioned to further evaluate the systematic relationship of the Louisiana black bear (*U. a. luteolus*) and the Florida bear (*U. a. floridanus*). In addition to the existing data, additional skulls were located and the measurements included in the assessment. The conclusion from this review supports the current subspecific classifications of the Louisiana and Florida black bears. Assessment of the taxonomic relationship of black bears of

the southeastern region of the United States is ongoing.

#### Summary of Comments and Recommendations

In the June 21, 1990, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The comment period was reopened and extended until October 21, 1990, to accommodate a request for a public hearing. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the "Baton Rouge Advocate" (Baton Rouge, Louisiana) on June 30, 1990, in the "Longview Journal" (Longview, Texas) on July 1, 1990, in the "Clarion Ledger" (Jackson, Mississippi) on July 6, 1990, in the "Lafayette Advertiser" (Lafayette, Louisiana) on July 9, 1990, and in the "Times Picayune" (New Orleans, Louisiana) on July 25, 1990.

A total of 86 comments were received on the proposed rule. One Federal agency commented but neither supported nor opposed the proposal. Two Louisiana State agencies provided three comments, one agency supporting the proposal, the other opposing it. Fifty-six individuals commented on the proposal. Of these, 33 supported it, 20 opposed it, and 3 were neutral. One wildlife research organization opposed the proposal. One economic development organization opposed it. Eight conservation organizations commented, seven supporting it and one being neutral. Sixteen timber companies and organizations representing either timber or landowner interests provided comments opposing the proposed rule.

A public hearing was requested by Joseph M. Haas, Luther F. Holloway, and the Mississippi Forestry Association. The hearing was held in the Louisiana Room of the Louisiana Department of Wildlife and Fisheries Building, 2000 Quail Drive, Baton Rouge, Louisiana on October 11, 1990, with 87 attendees. Seventeen comments were received during the hearing. Ten comments were in opposition, five were supportive and two were neutral. A question and answer session resulted in ten questions regarding the proposal.

Fourteen written comments were received during the comment period following the notice extending the deadline for a final listing decision. Seven comments were received from individuals with four favoring listing and three opposing. Three timber

companies commented, all opposing the listing. Four organizations commented with one supporting, one neutral and two opposing.

Written comments and oral statements presented at the public hearing and received during the three comment periods are covered in the following summary. Comments of a similar nature or point are grouped into a number of general issues. These issues and the Service's response to each, are discussed below.

**Issue 1:** The subspecies *U. a. luteolus* is invalid because genetic differences among subspecies sampled were not conclusively different, and the basis for the subspecies designation was relatively minor morphologic differences. **Response:** The validity of the taxon does not depend on genetic differences. The subspecies designation is based on morphologic differences that distinguish Louisiana bears from other subspecies and is generally recognized as such by the scientific community. Morphological distinction, regardless of any known presence or absence of genetic differences, is sufficient to support a taxonomic entity.

**Issue 2:** Forced isolation through Federal listing could ultimately be the most damaging influence on the genetic composition of the Louisiana black bear. **Response:** The listing would not isolate any one group of bears. Gene flow between populations of the same species would be encouraged, not discouraged.

**Issue 3:** Because population data on the black bear are inconclusive, the bear should not be listed. **Response:** The Service agrees that population data for much of the Louisiana black bear's occupied range is not very useful. However, the Act requires the Service to make its proposals on the basis of the best available scientific and commercial data, which need not be statistically valid population estimates or counts.

**Issue 4:** Hybridization from *U. americanus* introduced from Minnesota in the mid-1960's is a serious threat to the Louisiana black bear, which today remains in pure form both in the Tensas and lower Atchafalaya River basins. **Response:** Discussion of this threat is found under factor E of this rule.

**Issue 5:** Listing the Louisiana black bear will place restrictions on the use of private lands. **Response:** While it is true that under section 7 of the Act private land management actions dependent on a Federal action, i.e., funding, licensing, permitting, etc., may require consultation between the Federal action agency and the Fish and Wildlife Service to insure the Federal action is not likely to jeopardize the continued

existence of the Louisiana black bear, such consultation would not necessarily result in land use restrictions. Although there have been instances of effects on management of privately owned lands through section 9 of the Act (enforcement of taking prohibitions) based on adverse alteration of habitat for other species, a similar instance with a wide ranging species such as the Louisiana black bear is conjectural. The Louisiana black bear utilizes a diversity of habitats. Normal forest management activities that support a sustained yield of timber products and wildlife habitats are considered compatible with Louisiana black bear needs. Therefore, insofar as habitat alteration of occupied black bear habitat may be construed as a violation of section 9 of the Act, the Service issues herein a special rule which specifically exempts normal forest management activities as defined in the rule. This is in response to concerns expressed during the comment periods and is consistent with the Service's position that normal forest management activities are not considered a threat to the Louisiana black bear.

**Issue 6:** The Louisiana black bear should be listed as an endangered species rather than a threatened species. **Response:** The rationale for threatened status is described at the conclusion of the Summary of Factors Affecting the Species section.

**Issue 7:** Critical habitat for the Louisiana black bear should be designated. **Response:** This issue is addressed under the section entitled "Critical Habitat" in this rule.

**Issue 8:** Listing the Louisiana black bear will result in a transfer of management responsibility from the States to the Fish and Wildlife Service. **Response:** In the only known occupied habitat of the Louisiana black bear (Louisiana and Mississippi), there are existing cooperative agreements allowing the Service and the States to share Federal aid funds and responsibility in research and management actions directed toward recovery. Enforcement of section 9 of the Act also will be a cooperative endeavor between Federal and State conservation enforcement officers. The conduct of section 7 consultation, however, will be solely a Federal agency responsibility.

**Issue 9:** Given the opportunity for free movement of black bear from adjoining States into the range of the Louisiana black bear, it should not be concluded that black bear in Louisiana are a unique geographic isolate worthy of listing under the Endangered Species

Act. *Response:* The Service is listing a recognized subspecies and does not consider the Louisiana black bear to be a geographic isolate.

*Issue 10:* Arkansas is within the historic range but is not included within the designated range in the proposal. *Response:* The range of *U. a. luteolus* as depicted by Hall (1981) included a small area of south Arkansas; however, no specimens from Arkansas were used as a basis for placement of the line. Accordingly, Arkansas is not considered as part of the historic range for purposes of this rule.

*Issue 11:* The figures on rate of loss of bottomland hardwoods published in the proposed rule have leveled off and are no longer accurate, and in some cases there has been a reversal of losses because of the cropland reserve program. *Response:* The Service agrees there has been a leveling off of the clearing rates cited in the proposed rule. The Service also recognizes the efforts of private groups and governmental programs, and agrees there have been some reversals of the past trend. As noted in comments received during the last comment period, this leveling off of timberland loss is confirmed by the recent U.S. Forest Service survey data for the North Delta and South Delta regions of Louisiana (Rosson, Miller, and Vissage 1991), which indicated a slight increase in forested acreage for the North Delta region and a slight decrease in the South Delta region. However, based on history and present activities relative to interpretation and enforcement of the Food Security Act and the Clean Water Act, the Service remains unable to conclude that protection of these privately owned habitats is assured.

*Issue 12:* Listing of the Louisiana black bear may be an unnecessary legal encumbrance, and as such actually may cause more harm to the bear than not listing. *Response:* The Service makes listing decisions on the basis of the best available scientific and commercial data, and following a listing, the protective measures of the Act are made available to the species (See Available Conservation Measures elsewhere in this rule). The Service does not agree that listing may cause more harm to the bear than not listing.

*Issue 13:* The option of opening and closing of bear hunting seasons, as well as the setting of harvest limits as a management tool would be eliminated in Louisiana, and would be greatly complicated in Texas and Mississippi. *Response:* Under certain conditions, the Act allows taking of threatened species, which could include hunting. The Service agrees that administration of

hunting seasons would be complicated by the listing.

*Issue 14:* State agencies will bear a disproportionate share of the economic burden for compliance. *Response:* Compliance with section 7 of the Act is strictly a Federal responsibility. States will share in the responsibility for enforcement and recovery actions, and they may be assisted through available Federal funds.

*Issue 15:* Delisting a species that was incorrectly or prematurely listed is much more difficult than the original listing. *Response:* The process for delisting, reclassification, or listing a species is the same.

*Issue 16:* The discriminant function analysis by Kennedy on skull morphology was flawed because the individuals used to define the functions were subsequently classified into groups using the same functions. The use of jackknifing or independent data sets should be used to test validity of the discriminant functions. *Response:* Had the discriminant function analysis not compared well with the principal component analysis, there may have been cause for concern. Since the two were corroborative, it was felt that a different approach would have added little to the conclusions.

*Issue 17:* The "look alike" provisions of the Act (threatened due to similarity of appearance) would discourage legitimate hunters from possessing black bears legally taken outside the described range. *Response:* The threatened due to similarity of appearance designation provides additional protection to free-living bears within the historic range of the Louisiana black bear, but it should not be construed to discourage hunters from engaging in legal black bear hunting opportunities provided elsewhere.

*Issue 18:* The proposed rule makes no distinction between bottomland hardwood and cypress-tupelo forest types, when in fact much of the Atchafalaya basin consists of flooded swamps not suitable for black bear. *Response:* The Service agrees that those permanently flooded acreages are not optimum bear habitat. Bears use intermittently flooded cypress-tupelo forest.

*Issue 19:* Any form of life should not be listed as threatened or endangered unless there is real provable evidence that such action will engender a better chance of survival and its continued existence as a viable component of its ecosystem. To list a form to have it "hang on" is scientifically irresponsible and obfuscates the real purposes of the proposal. *Response:* In accordance with the Act, the Service lists species on the

basis of available scientific and commercial data, without regard to recoverability of the species in question.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Louisiana black bear should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 224) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Louisiana black bear (*U. a. luteolus*) are as follows:

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

The habitat of *U. a. luteolus* has suffered extensive modification with suitable habitat having been reduced by more than 80 percent as of 1980. The remaining habitat has been reduced in quality by fragmentation due to intrusion of man and his structures (e.g. proximity to man's disturbing activities, multi-lane highways, etc.), thereby stressing the remaining population of bears. According to Rieben (1980) as cited by Nowak (1986), the original 25,000,000 acres of bottomland forests of the lower Mississippi River Valley had been reduced to 5,000,000 acres, and through the early 1980's another 165,000 acres were being cleared annually. Some of the Mississippi River Delta counties in the lower Yazoo River Basin may have as little as 5 percent of the original bottomland hardwoods.

Presently occupied bear habitat in Louisiana consists of two core areas, the Tensas and Atchafalaya River Basins. Within the basins, only wooded areas (bottomland hardwoods) are considered as bear habitat, although marshes along the lower rim of the Atchafalaya Basin and agricultural lands (sugarcane, soybeans) in other areas are also used. The once extensive bottomland forests of the Tensas Basin no longer exist, with only 15 percent (about 100,000 acres) of the original stands remaining (Gosselink, Louisiana State University, *in litt.* 1988). Of this, about 85 percent is in public ownership or under plans for public acquisition.

The entire Atchafalaya Basin contained 718,500 acres of bottomland hardwoods as of 1975 (O'Neil et al. 1975). In the lower Atchafalaya River

Basin (south of U.S. Highway 190), there are presently approximately 518,129 acres of bottomland hardwoods, with a projected amount of 536,739 by the year 2030 due to accretion (LeBlanc et al. 1981). In the lower Basin, there is a recently established Atchafalaya National Wildlife Refuge of about 15,000 acres and a State owned area (Sherburne Wildlife Management Area) of about 12,000 acres which is to be increased by 23,000 acres. The purchase of 367,000 acres of habitat protection easements also is planned. Dow Chemical has donated 30,000 acres to the State and there are 61,000 acres of accreted State lands with land use controls. Much of the northern portion of the Basin (considered as north of U.S. Highway 190 and which contains the better drained areas) has been cleared for agriculture. As of the 1975 O'Neil report, there were about 200,000 acres of forestland north of U.S. Highway 190. Today, there are 100,000 to 128,000 acres of forested lands remaining (Simmering, U.S. Department of Agriculture, *in litt.* 1989).

The privately owned lands of the Atchafalaya River Basin south of U.S. 190 may remain exposed to threat from clearing and conversion to agricultural uses. Privately owned woodlands for the north Atchafalaya River Basin and the Tensas River Basin were estimated to be in the range of 115,000 to 143,000 acres of occupied bear habitat out of a total woodland base of 200,000 to 228,000 acres. This means about one-half of the occupied bear habitat in this area is privately owned and under no plans for protection through conservation easements or acquisition. Clearing forested wetlands for accommodating crop use may forgo U.S. Department of Agriculture (USDA) farm program benefits for the landowner. This, in the short term, should protect these lands. In the long term, a substantial upturn in commodity prices may make it economically feasible to clear forested wetlands and farm without USDA program benefits. Since the 1985 Food Security Act is reauthorized every 5 years, there is no guarantee of continued protection of privately owned forested wetlands. In addition, catfish farming, now about a 13,000-acre industry in Louisiana, is rapidly expanding. This, along with crayfish farming and pastureland are other possible uses that would not be limited by the Food Security Act.

Past losses of habitat quantity and quality have been severe (ranging from 95 percent in some lower Mississippi Delta counties to 63 percent in the Atchafalaya River Basin). Protection of

privately owned woodlands in the north Atchafalaya and the Tensas River Basins is not assured. Long term protection of these bear habitats may depend upon factors the Service neither controls nor can adequately predict. The Louisiana bear has exhibited a past vulnerability to habitat loss. The Service believes that further loss of privately owned occupied habitats to agriculture or other non-timber uses as an increment to past losses would represent a threat to this subspecies in a significant portion of its range.

#### *B. Overutilization for Commercial, Recreational, Scientific, or Education Purposes*

Black bear populations range in density up to one to two per square mile. The Great Smokey Mountain National Park carries 500 to 600 bears on 512,000 acres (Pelton, pers. comm. 1989). The White River National Wildlife Refuge carries 130 bears on 113,000 acres (Smith 1983). Through trapping of 25 bears and extrapolation of untrapped bears and known family groups of bears, Weaver (pers. comm. 1989) estimates a population of at least 60 bears in about 70,000 acres of timberland of the Tensas River Basin, which contains about 100,000 acres of woods. What fraction 60 is of the total bears in the Tensas Basin is unknown.

In Atchafalaya River Basin, there are approximately 718,500 acres of timberland, about 518,129 of which are below U.S. Highway 190. For this vast tract, there is essentially no population data. The population estimates that are available for *U. a. luteolus* range in accuracy from crude to little more than intuition. Although estimates as quoted by Nowak (1986) indicate the bear population is low, all that is known for certain is that bears exist in the Atchafalaya River Basin and that due to bear movements, it would be difficult to separate bears from the lower, middle, or upper basin.

There are rumors of individuals killing bears for depredating sugar cane and for robbing trap lines. Bears are also killed incidentally to other forms of hunting. It may well be that bear numbers in the Atchafalaya are far greater than most believe, and that illegal kill is not a threat to that population. The White River National Wildlife Refuge in Arkansas has sustained heavy hunting pressure and has maintained a mid-range bear density. A rule of thumb the Virginia Department of Natural Resources uses is that their bear population can withstand a 20 percent annual loss to hunting without affecting the population's ability to sustain itself. However, as a population of bears

approaches the minimum viable threshold, the more significant is any loss to that population. While it is true that illegal killing of bears occurs (Weaver 1988) and that illegal killing can be a threat, the effects of that illegal kill on the Louisiana black bear remain speculative.

The appearance of an abnormally low density of *U. a. luteolus* in the Atchafalaya River may be an artifact of the poor quality of population data or it may indicate considerable illegal kill is occurring on private and public lands. Should the latter be the case, and at this time it cannot be ruled out, illegal kill of that magnitude would unequivocally be a threat to the continued existence of a viable population of Louisiana black bears.

#### *C. Disease or Predation*

While a *U. a. luteolus*, like all other forms of vertebrate wildlife suffers from disease or possible predation (young bears being killed by older males), this is not considered limiting or threatening to the population.

#### *D. The Inadequacy of Existing Regulatory Mechanisms*

The dramatic losses of bottomland hardwood forests, including the loss of forested wetlands, as discussed in factor A, portray the inadequacy of existing regulatory mechanisms for protection of such habitats. If illegal killing is a threat, the possibility of prosecution under the Act in addition to State laws or regulations, may serve as a deterrent in some instances.

#### *E. Other Natural or Manmade Factors Affecting Its Continued Existence*

The introduction of 161 to 163 bears of the subspecies *U. a. americanus* from Minnesota into the Atchafalaya and Tensas River Basins in the mid-sixties is considered by some (Nowak 1986) to represent a manmade threat to the native subspecies, *U. a. luteolus*. This threat was considered as one of "hybridization," in this instance cross breeding between the introduced subspecies and the native subspecies. Other researchers contended that little genetic difference would be found. In gathering data on this question, the Fish and Wildlife Service, in close consultation with the Louisiana Department of Wildlife and Fisheries, instituted a plan in July 1988 to obtain genetic samples from bears in Louisiana for comparison with bears from the original Minnesota trapping locale, and other bear populations, including the Florida subspecies, *U. a. floridanus*.

The genetic analyses did not show significant differences between the various subspecies (Pelton 1989). Expecting to preserve *U. a. luteolus*, as is, presupposes a static condition which does not exist. Further, interbreeding between subspecies is a normal and expected occurrence simply based on opportunity. The mobile nature of bears, plus the fact there was a more or less continuous distribution in relatively recent times (in an evolutionary sense), suggested at the outset that little genetic difference would be found. It appears that in a biological sense, hybridization as a threat at this taxonomic level may not be a significant cause for concern, unless there are real genetic differences which were undetected. Hybridization as a threat has neither been discounted nor proven and remains unsettled. Since the genetic profile of a known *U. a. luteolus* is unavailable, the issue is unlikely to be settled. The greatest likelihood is that the bears inhabiting the Atchafalaya and Tensas River Basins are a mixture; that in a definitional sense, the population is probably intraspecifically hybridized. In a biological sense, *U. a. luteolus* is likely pretty much unchanged (genetically) because of the low probability of reproductive isolation which would be necessary for an extended period in order for the evolutionary process of genetic differentiation to operate.

However, to the extent the genetic investigations did not identify real differences, or to the extent a pure genetic heritage is a realistic concept when applied to subspecies not likely to be reproductively isolated, the threat may (have) exist(ed). Since *U. a. luteolus* and *U. a. americanus* are so similar as to be difficult to distinguish even by experts, the only practical means available for protecting any possibly remaining unique genetic material originally belonging to the native *U. a. luteolus* would be through listing and protecting the taxon now distinguished by cranial features as *U. a. luteolus*.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the Service believes that the bear meets the criteria for protection under the Act on the basis of past habitat loss alone. The preferred action is to list the Louisiana black bear as threatened, defined as likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

Although the Service recognizes that loss of occupied bear habitat is currently leveled off, the preferred action is chosen because of the continued exposure of privately owned occupied bear habitats to agricultural conversion, the Louisiana black bear's demonstrated past vulnerability to such loss, and the significance of these exposed habitats to the overall well-being and health of the subject bear populations. Endangered status is not chosen because the threats are not believed to place the Louisiana black bear in imminent danger of extinction. Because normal forest management practices in the range of the Louisiana black bear are considered by the Service to be compatible with black bear needs, a special rule is included herein exempting such practices from the take provisions of section 9 of the Act. For law enforcement purposes, all other free-living *U. americanus* within the historic range of *U. a. luteolus* are being classified as threatened due to similarity of appearance. Critical habitat is not being designated at this time as discussed below.

#### Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas containing the physical and biological features essential to the conservation of the species and which may require special management considerations or protection. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary. Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is proposed to be endangered or threatened. Service regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires the Service to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the conservation benefits, unless to do such would result in the extinction of the species.

In the June 21, 1990, proposed rule to list the Louisiana black bear, the Service stated that designation of critical habitat

was not presently prudent. The basis for this determination was the interpretation that designation of critical habitat would not provide benefits over and above those available under section 7 by simply listing the species since all Federal and State agencies likely to be involved had been notified of the location and importance of protecting the species' habitat. Therefore, designation was deemed "not prudent" due to no net benefit. Consideration of this finding within the Service since the publication of the proposed rule has resulted in a determination that designation of critical habitat may be prudent in this case given the potential for further habitat loss as a result of Federal actions, but it is not now determinable. Section 4(b)(6)(C) provides that a concurrent critical habitat determination is not required and that the final decision on designation may be postponed for 1 additional year (i.e., 2 years from the date of publication of the proposed rule) if the Service finds that a prompt determination of endangered or threatened status is necessary to the conservation of the species. The Service believes that prompt determination of threatened status for the Louisiana black bear is necessary. This will afford the species the benefits of section 9 (prohibitions) and section 7 (interagency) cooperation.

The Louisiana black bear ranges over large areas of Louisiana and Mississippi. Although individual bears travel over great distances and are considered habitat "generalists" utilizing a diversity of habitats, they do require large areas of relatively undisturbed forest. In cooperation with the Black Bear Conservation Committee (BBCC), a coalition of State, Federal, academic and private interests committed to restoring the Louisiana black bear within its historic range, the Service is attempting to identify occupied and potential habitat and to ascertain the bear's biological needs. Studies are ongoing on the Tensas National Wildlife Refuge, in the lower Atchafalaya River basin and in Mississippi to delineate areas used by black bear and assess management needs, and maps are in preparation that will show occupied habitat, areas of occasional sightings, potential habitat and possible corridors. Development of a restoration plan has already been initiated by the BBCC. Once the maps are completed and a restoration plan or recovery plan is prepared, the Service will make a critical habitat determination and assess whether designation of critical habitat is prudent. In assessing critical habitat, the

Service will consider the bear's requirements for space, food, water, cover or shelter, reproduction and population growth, and other biological features that are essential to the conservation of the bear and that may require special management considerations or protection. In the interim, protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard.

#### 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 encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible Federal actions may include Corps of Engineers wetland permits, Soil Conservation Service watershed projects or the Service's activities on National Wildlife Refuges within the species' occupied habitat. Formal consultation and the resulting biological opinion issued by the Service may preclude or modify Federal actions depending on the nature and extent of the impact on listed species.

Section 4(d) of the Act provides that whenever a species is listed as a threatened species, such regulations deemed necessary and advisable to provide for the conservation of the species may be issued. The Secretary

may by regulation prohibit any act prohibited for endangered species under section 9(a). These prohibitions, 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, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of 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 agents of the Service and State conservation agencies. The term "harm" as it applies to the take prohibition is defined in 50 CFR 17.3 to include "an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." The implementing regulations for threatened wildlife (50 CFR 17.31) incorporate, for the most part, by reference the prohibitions for endangered wildlife (50 CFR 17.21) except when a special rule applies [50 CFR 17.31(c)]. The Service finds that the prohibitions for endangered species are necessary and advisable for conservation of the threatened Louisiana black bear. However, pursuant to the latitude for threatened species afforded by the Act and 50 CFR 17.31(c), the Service issues a special rule, discussed below, exempting certain forest management activities that could be construed by some, although not the Service, to constitute "harm" to the Louisiana black bear.

In order to avoid unnecessary permitting requirements, and in response to extensive comments regarding perceived impacts of the listing on timber interests, the Service is promulgating a special rule exempting normal forest management activities from section 9 take prohibitions. The Service continues to take the position that habitat needs of the Louisiana black bear are compatible with normal forest management activities as practiced in this bear's range. This position is based on recent studies in the Tensas River basin of Louisiana (Weaver et al. 1991) that affirm the value of habitat diversity attributable to a variety of silvicultural procedures.

The Louisiana black bear, like other members of the species *U. americanus*, is not an old growth species; nor can it survive in open cropland conditions. Weaver (1991) found that an abundance

of bear foods (e.g., fruits and soft mast) were produced following fairly severely timber harvests, and that bears also utilized these cutover areas for escape cover, and in some cases, actually used treetops remaining from logging operations as winter denning sites for birthing of cubs. This leads the Service to believe that maintaining occupied bear habitat in some form of timberland condition may be the single most critical factor in conserving this species, and that the principal threat to the bear is not normal forest management but conversion of these timbered habitats to croplands and other agricultural uses. For this reason, the Service believes that the exemption provided in the special rule will not contribute to loss of black bear habitat, but will provide for habitat diversity for the bear through continued forest management.

Certain restrictions pertaining to den trees are included in the special rule. Although den trees for Louisiana black bear are not essential, they are important (Weaver 1991). Because of their importance, actual den sites/trees or candidate den trees in occupied Louisiana black bear habitat are to be maintained. For purposes of the special rule, candidate den trees are considered to be bald cypress and tupelo gum with visible cavities, having a diameter at breast height (DBH) of 36 inches, and occurring in or along rivers, lakes, streams, bayous, sloughs, or other water bodies. Further or fewer restrictions in the special rule may become appropriate as results of ongoing research and recovery planning are assessed.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, permits may also be available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

#### Similarity of Appearance

Section 4(e) of the Act authorizes the treatment of a species (or subspecies or group of wildlife in common spatial arrangement) as an endangered or threatened species even though it is not otherwise listed as endangered or threatened if: (a) The species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial

difficulty in differentiating between listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment will substantially facilitate the enforcement and further the policy of the Act.

Introductions of bears from Minnesota in the mid-sixties of the subspecies *U. a. americanus* gives rise to the possibility (however remote) that bears remain somewhere within the historic range of *U. a. luteolus* that are of *U. a. americanus* ancestry. Evidence of *U. a. americanus* in southern Arkansas just north of the Louisiana line has been recently documented. This theoretically could present an enforcement and taxonomic problem because both subspecies may now or later inhabit the same range, and the listed subspecies (*U. a. luteolus*) cannot always be differentiated from the unlisted *U. a. americanus* by enforcement personnel or experts. For these reasons, the Service is treating all free-living bears of the species *U. americanus* other than *U. a. luteolus* as threatened by similarity of appearance within the historic range of *U. a. luteolus* (Louisiana, Mississippi and Texas).

**National Environmental Policy Act**

The Fish and Wildlife Service has determined that an Environmental Assessment, 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. A notice outlining the

Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

**References Cited**

Griffith, E. 1821. General and Particular Descriptions of the Vertebrated Animals order Carnivora. London: Presented for Baldwin, Cradock and Joy.  
 Hall, E.R. 1981. The Mammals of North America. John Wiley and Sons, New York. I:950-951.  
 Kennedy, M.L. 1991. Additional Assessment of the Systematics *Ursus americanus luteolus*. Special Report to U.S. Fish and Wildlife Service. 14pp. + figs.  
 Leblanc, D., D. Soileau and C. Kerlin. 1981. Atchafalaya Basin (Water and Land Resources), Louisiana Study. U.S. Fish and Wildlife Service Report. Table 18.  
 Lowery, G.H. 1981. The Mammals of Louisiana and its adjacent waters. LA State University Press. Pg. 404.  
 Merriam, C.H. 1893. The Yellow Bear of Louisiana, *Ursus Luteolus Griffith*. Proc. of the Biological Society of Washington. Vol. III, pp. 147-152.  
 Nowak, R.M. 1986. Status of the Louisiana Bear. U.S. Fish and Wildlife Service special report. 17 pp.  
 O'Neil, C.P., J.E. Desteiger and G.W. North. 1975. Trend Analysis of Vegetation in Louisiana's Atchafalaya River Basin. U.S. Department of Interior, Geological Survey, EROS Applications Assistance Facility, National Space Technology Laboratories, Bay St. Louis, MS. 61 pp.  
 Pelton, M. 1989. The Louisiana Black Bear: Status and Future. Special Report to U.S. Fish and Wildlife Service. 22 pp.  
 Smith, T.R. 1983. Status and Ecology of Black Bears on the White River National Wildlife Refuge: Final Research Report. M.S. Thesis, Univ. of Tenn. Knoxville, TN. 82 pp.  
 Weaver, K.M. 1988. Louisiana Status report. Ninth Eastern Workshop on Black Bear

Research and Management, Ontario, Canada. 14 pp.  
 Weaver, K.M., D.K. Tabberer, L.U. Moore, Jr., G.A. Chandler, J.C. Posey, M.R. Pelton. 1991. Bottomland Hardwood Forest Management for Black Bears in Louisiana. Proc. Annu. Conf. Southeast Assoc. Fish and Wild. Agencies. vol 44 (In press).  
 Weaver, K.M. 1991. Unpublished data, Tensas River National Wildlife Refuge Bear Research.

**Author**

The primary author of this rule is Wendell A. Neal (see **ADDRESSES** section).

**List of Subjects in 50 CFR Part 17**

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

**Regulation Promulgation**

**PART 17—[AMENDED]**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

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.

2. Amend § 17.11(h) by adding the following, in alphabetical order under Mammals, to the List of Endangered and Threatened Wildlife:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
 (h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
<b>MAMMALS</b>							
Bear, American black	<i>Ursus americanus</i>	North America..... USA (LA, MS, TX).....	T(S/A).....	456	NA	17.40(f)	
Bear, Louisiana black	<i>Ursus americanus luteolus</i>	USA (LA, MS, TX)..... Entire.....	T.....	456	NA	17.40(f)	

3. Amend § 17.40 by adding paragraph (i) to read as follows:

**§ 17.40 Special rules—mammals.**

(i) Louisiana black bear (*Ursus americanus luteolus*). (1) Except as noted in paragraph (i)(2) of this section, all prohibitions of § 17.31 and exemptions of § 17.32 shall apply to any

black bear within the historic range of the Louisiana black bear (Texas, Louisiana and Mississippi).

(2) Subsection 17.40(i)(1) and § 17.31 shall not prohibit effects incidental to normal forest management activities within the historic range of the Louisiana black bear except for activities causing damage to or loss of den trees, den tree sites or candidate

den trees. For purposes of this exemption, normal forest management activities are defined as those activities that support a sustained yield of timber products and wildlife habitats, thereby maintaining forestland conditions in occupied habitat. For purposes of this special rule, candidate den trees are considered to be bald cypress and tupelo gum with visible cavities, having



a minimum diameter at breast height (DBH) of 36 inches, and occurring in or along rivers, lakes, streams, bayous, sloughs, or other water bodies.

(3) This express exemption for normal forest management activities provided by this special rule is subject to modification or withdrawal if the Service determines that this provision fails to further the conservation of the Louisiana black bear.

Dated: December 30, 1991.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 92-244 Filed 1-6-92, 8:45 am]

**BILLING CODE 4310-55-M**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Finding on a Petition To List the Florida Black Bear as a Threatened Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding.

**SUMMARY:** The Service announces a 12-month finding on a petition to amend the List of Endangered and Threatened Wildlife. After review of all available scientific and commercial information, the Service has determined that listing the Florida black bear as threatened is warranted but precluded by other higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants.

**DATES:** The finding reported in this notice was made in December, 1991. Comments and information may be submitted until further notice.

**ADDRESSES:** Information, comments, or questions regarding the petition finding may be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216. 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:** Mr. David J. Wesley at the above address (904/791-2580; FTS 946-2580).

**SUPPLEMENTARY INFORMATION:****Background**

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information, the U.S. Fish and Wildlife Service (Service) should 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. 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. Such 12-month findings are to

be published promptly in the Federal Register.

In a petition dated May 20, 1990, and received by the Service on June 11, 1990, the Service was requested by Ms. Inge Hutchison of Lake Geneva, Florida to list the Florida black bear as a threatened species. The petition cited the following threats to the Florida black bear: (1) Illegal hunting by beekeepers, gallbladder poachers, and others; (2) loss and fragmentation of critical habitat; (3) hunting pressure; and (4) road mortality. An administrative finding that the petition presented substantial information that the requested action may be warranted was made in September, 1990, and announced in the Federal Register on October 18, 1990 (55 FR 42223).

The Florida black bear (*Ursus americanus floridanus*) is a subspecies of the black bear (*Ursus americanus*), which ranges from northern Alaska and Canada south to northern Mexico. The black bear formerly occurred in all the lower 48 States, but its range has decreased and become fragmented, particularly in the eastern States, where it is now generally restricted to large areas of remote woodlands (Maehr 1984a). The Florida black bear was described by Merriam (1896) based on a male specimen from Key Biscayne, Dade County, Florida. Merriam stated that he had examined several other skulls that he assigned to this species, apparently all from the Everglades area of south Florida. According to Hall (1981), the Florida black bear is primarily restricted to Florida but also occurs in the coastal plain areas of Georgia and Alabama. Hall indicates that the range of *floridanus* extends into extreme southeastern Mississippi, but cites no specimens attributable to the subspecies from that State. According to Hall's range map of the subspecies of the black bear, *floridanus* presumably intergrades with two other adjacent and contiguous subspecies of the black bear: on the north, with the American or eastern black bear (*U. a. americanus*) in Georgia and Alabama, and on the west with the Louisiana black bear (*U. a. luteolus*). The latter subspecies, historically occurring in southern Mississippi, Louisiana, and east Texas, was proposed as a threatened species by the Service on June 21, 1990 (55 FR 25341), due to threat from habitat loss and fragmentation of the populations.

Historically, the Florida black bear was found throughout Florida, including some coastal islands. Following extensive human development in the State, the distribution has become reduced and fragmented (Brady and Maehr 1985). It is currently considered a threatened species (in Florida) by the

Florida Game and Fresh Water Fish Commission, except in Baker and Columbia Counties and Apalachicola National Forest, and is considered threatened by the Florida Committee on Rare and Endangered Plants and Animals (Williams 1978; Maehr and Wooding undated). The Florida black bear was considered a candidate for listing under the Endangered Species Act of 1973, as amended, in Service review notices of December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37956), January 8, 1989 (54 FR 554), and November 21, 1991 (56 FR 58804).

In response to the October 18, 1990, notice the Service received comments from the Florida Congressional delegation, the state game agencies of Alabama, Florida, and Georgia, two conservation groups, two animal rights organizations, the Wildlife Committee of the National Forest Products Association and American Forest Council, and numerous private parties. Comments are summarized below.

In a joint letter dated July 19, 1991, the Florida Congressional delegation supported the listing of the Florida black bear as a threatened species.

The Alabama Division of Game and Fish (Division) stated that the black bear was considered a game species in Alabama, but that there was currently no open season. The Division enclosed a report (Dusi 1987) based on a study of black bears in southwestern Alabama. The report concluded that a dense, healthy and relatively undisturbed population of black bears occurred in Baldwin, Mobile and Washington Counties. Dusi (1987) believed that one habitat feature that made this area valuable black bear habitat was the presence of extensive titi (*Cliftonia monophylla* and *Cyrilla racemiflora*) swamps, providing refuge from human disturbance. He pointed out that such heavy shrub habitat was absent in much of Alabama. Maehr (1984) and Dusi (1986) have previously considered the survival of this population to be of concern. The Service's Daphne, Alabama Field Office reported that the size of this southwestern Alabama population might be as few as 50 bears.

The Georgia Game and Fish Division (Georgia) currently allows bear hunting in the five counties that are contiguous with the Okefenokee Swamp; this is within the range of the subspecies *floridanus*. The hunt totals 6 days, taking place the last weekend of September and the first two weekends in October. In their comments, Georgia included a nine-year summary (1981-1989) of bears that had been checked during the hunts; 221 bears, including 107 males and 114 females, were taken

during this period. Total annual take ranged from five to 56 bears. In the 1990 hunt, 23 bears (8 males, 15 females) were taken; 33 bears (15 males, 18 females) were taken in 1991 (Wes Ablor, Georgia Division of Game and Fish, pers. comm.). This brought the eleven-year total to 277 bears (120 males and 147 females). There has been no indication of a downward trend in population. A seven-year age summary (1983-1989) showed the average age of males taken to be 4.44 years, and females 6.57 years. This was interpreted by Georgia to indicate a healthy age structure and a sustainable harvest. Georgia also indicated that they averaged three to six road-killed bears per year and received one or two nuisance bear complaints each year. They estimated that there was likely an annual illegal harvest by beekeepers approximating the legal harvest. Georgia believes that the Okefenokee black bear population is very healthy and would not merit listing as a threatened species. Service response: The Service must consider the status of a species over its range when making listing decisions. The existence of healthy populations in some parts of the range does not preclude the possibility that the species may qualify for listing based on one or more of the listing factors described under section 4 of the Act.

The Florida Game and Fresh Water Fish Commission (Commission) submitted information on the conservation status of the black bear in Florida. Black bears are still widely distributed in Florida, but the current distribution is patchy and fragmented, in contrast to the continuous range in the state before human settlement. The largest remaining black bear populations in Florida are located on Big Cypress National Preserve; Ocala, Osceola, and Apalachicola National Forests; and areas adjacent to these federal lands. A number of other small populations persist, but their long-term survival is doubtful because of small population size, limited habitat, and the likelihood of further development. Urbanization, agricultural development, and increasing recreational pressure are all considered to contribute to habitat loss. The size of the current bear population in Florida is not known, but is estimated at 500-1000 animals (Maehr and Wooding undated). In a black bear habitat study of Ocala and Osceola National Forests, Wooding and Hardisky (undated) estimated that 125 bears may occur in Ocala National Forest; their sample size was too small to estimate the Osceola population. The black bear in Florida is currently

considered threatened by the Florida Committee on Rare and Endangered Plants and Animals (Williams 1978) and by the Commission, except in Apalachicola National Forest and Baker and Columbia Counties, where regulated hunts are allowed.

The Commission goal for black bear management is to maintain the health and status of the species statewide. According to the Commission, bears in the two hunted populations have been hunted on a sustained yield basis for many years. The total number of bears checked from the Florida hunts over the nine years from 1981 to 1989 was 415 (mean = 46.1 per year). There was no apparent indication of a decline in the hunted populations, although regulatory changes have been made, and continue to be made, to reduce hunting pressure on females as necessary. Bear harvest is monitored by hunter reporting and mail surveys. Decisions on each year's hunt are generally based on numbers and sex and age distribution of the bears taken in the previous year. The Commission presented information on numerous changes in regulations affecting bears in Florida that had been made from 1939 to 1991. The trend has been toward more limited hunting, with fewer areas open to hunting for shorter periods. In recent years, the hunt has been opened later in the year, when females are more apt to be denning and are therefore less vulnerable to being taken. The most recent harvest analysis (Wooding 1990) indicated that, while the hunt on private lands was sustainable, harvests on Osceola National Forest had been excessive and the record number of bears killed in Apalachicola National Forest in 1989-1990 was of concern. These findings resulted in the most recent changes in the bear hunt regulations. The Osceola National Forest hunt was reduced to nine days in mid-January, with no bear hunting allowed in archery, muzzleloader, and general gun seasons. The Apalachicola National Forest bear hunt was restricted to eleven days in late November. The general gun season on private lands in Baker and Columbia Counties was delayed two weeks, commencing in late November.

The Commission also submitted reports on black bear necropsies performed by Commission staff in 1989 and 1990. These data indicated that from April 1989 to June 1990, 48 black bears were known to have died from collisions with vehicles and three were killed illegally. In some years, road mortality equalled or exceeded legal take. Commission biologists have prepared recommendations on bear crossing designs and locations for major

highways that, if implemented, would reduce bear mortality from vehicle collisions.

Comments from the conservation groups, animal rights organizations, and private parties supported Federal listing for the Florida black bear, citing habitat loss due to human population growth, roadkills, unsupportable hunting, and small but unknown population size as threats to the Florida black bear. Service response: The Service will continue to evaluate these threats with regard to the priority of listing the Florida black bear under the Act.

The Wildlife Committee (Committee) of the National Forest Products Association and the American Forest Council opposed listing. They believed the petition to list the Florida black bear was a surrogate (sic) to constrain land use policy, particularly timber harvesting; and that this would be a misuse of the Act's stated purpose to conserve endangered and threatened species and their ecosystems. Service response: Since the petitioner's main concern seemed to be hunting, and not land management practices, the Service does not believe the petition was primarily intended to constrain land use. Regardless of the intent of petitioners, the Service lists species only if they meet one or more of the five listing criteria in section 4(a)(1) of the Act. If a species qualifies for listing, the Service must proceed with such regulation, other priorities permitting. Economic impacts are not considered in making a listing decision, although they must be considered in promulgating regulations involving critical habitat. The Service attempts to carry out its listing, consultation, and recovery responsibilities so as to conserve the ecosystems on which endangered and threatened species depend. When possible, the Service lists species found together in particular ecosystems at the same time, and includes them in the same recovery plan, to emphasize the importance of protecting ecosystems, not just individual species.

The Committee also suggested that the subspecific nomenclature of the Florida black bear is archaic and should not be relied upon. They enclosed a letter from Dr. Michael Kennedy of Memphis State University, who recently examined skull morphology of the Louisiana black bear (*Ursus americanus luteolus*) as part of a recent investigation (Pelton 1989) of that subspecies' taxonomic validity. Dr. Kennedy felt that the taxonomic status of the Florida black bear was questionable for the following reasons: (a) The original description of the

subspecies did not assess geographic variation over the range of the two subspecies, because only material from south Florida was used to describe the Florida black bear. A complete assessment of bears using modern systematic tools has not been conducted. (b) Based on the Pelton report (1989), the Florida and Louisiana black bears are very similar. A complete assessment of *Ursus americanus* is needed. Service response: The Service agrees that it would be desirable to have better taxonomic understanding of bear populations in the southeastern United States, and intends to commence a taxonomic study to address this issue in the near future. This study is expected to include both genetic and morphometric analyses of southeastern black bears and could clarify the status of the three subspecies in the region. The Service recently contracted with Dr. Kennedy to do additional morphometric work on this problem, and the results, although preliminary in nature and based on small samples, suggest that the subspecies *americanus*, *floridanus*, and *luteolus* are valid (Kennedy 1991). The Service notes that the Louisiana and Florida black bears remain generally accepted subspecies in the literature, and are eligible for protection under the Act. Although differences between the subspecies, as currently described, are slight, this is the case for many mammalian subspecies. Without further examination, doubts about the validity of black bear subspecies remain speculative.

The Committee further suggested that the Service should participate in the establishment of a black bear conservation committee in Florida to develop management plans to ensure continued viable populations. Service response: The Service agrees that the cooperation of a number of landowners and managers could be beneficial for bear conservation, and is willing to participate in any such effort. However, if the black bear qualifies for listing according to the listing factors under section 4 of the Act, the formation of a conservation committee would not relieve the Service of its responsibility to list the subspecies. If the Florida black bear were listed, management plans and other conservation tools could be an important part of a recovery plan.

#### Summary of Factors Affecting the Species

The five factors prescribed by section 4(a)(1) of the Act were evaluated to make a determination in response to the petition. These factors and their application to the Florida black bear

(*Ursus americanus floridanus*) are as follows:

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

Much of the historical habitat of the Florida black bear has been lost to land clearing and alteration by man. Brady and Meahr (1985) concluded that black bear distribution in Florida is reduced and fragmented, and that local extinctions are an important threat to the existence of the species in the state. The range of the Florida black bear in peninsular Florida is particularly vulnerable to further habitat loss. Florida is one of the fastest growing states in human population, and that trend is expected to continue. The largest remaining populations of the Florida black bear are on Federal lands (approximate acreage follow each site), including Okefenokee National Wildlife Refuge (438,000 acres), the adjacent Dixon Memorial State Forest Wildlife Management Area (38,500 acres), Eglin Air Force Base (310,000 acres), Apalachicola (718,000 acres), Ocala (410,000 acres), and Osceola (194,000 acres) National Forests; and Big Cypress National Preserve, Fakahatchee Strand State Preserve, and Florida Panther National Wildlife Refuge (644,000 acres combined). Bears enjoy a reasonable degree of habitat security on these lands, but there is a continuing need to insure that public land management remains compatible with the continued existence of bears, and that activities on adjacent private lands do not adversely affect bears on public lands. Residential, agricultural, commercial, highway, and other forms of human development have already eliminated viable populations of Florida black bears on many private lands throughout the range; in the future this subspecies is likely to be restricted to "islands" of suitable habitat on public lands, preventing movements between bear populations. Habitat loss has been, and continues to be the most serious threat to the continued existence of the Florida black bear.

Nonetheless, a considerable amount of public land (over 2.5 million acres), occurring in large, widely separated blocks, is likely to remain available for conservation of the Florida black bear. In recent years, there have been significant purchases of private lands for conservation purposes in Florida by Federal and state agencies, and private organizations. Several major land acquisitions will improve conservation prospects for the Florida black bear. Major acquisitions have taken place in Florida's Big Bend (upper Gulf Coast

area), Pinhook Swamp (an area between Osceola National Forest and Okefenokee National Wildlife Refuge), adjacent to Ocala National Forest, and in the Big Cypress area (Florida Panther National Wildlife Refuge). Several of these acquisitions will assist in maintaining corridors and habitat between major black bear concentrations. Because bears dispersing from the larger and more secure blocks of protected habitat are more vulnerable to human-caused mortality, such habitat linkages are essential to insure long-term viability of the Florida black bear.

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

Although the Florida black bear is a game species in Alabama, that state does not allow a hunt and has no intention of doing so in the foreseeable future (Keith Guise, Alabama Division of Fish and Game, pers. comm.). The Georgia Game and Fish Division currently allows a six-day hunt of Florida black bears (three weekends in September and October) in the five counties contiguous with Okefenokee National Wildlife Refuge. The Florida Game and Fresh Water Fish Commission allows a nine-day hunt in both Apalachicola and Osceola National Forests, and a 58-day (general gun season) hunt on private lands in Baker and Columbia Counties. Both Florida and Georgia use hunt harvest results (age and sex ratio data from bears checked in) to adjust the seasons and limits for the subsequent year, and both states have been able to maintain huntable bear populations for many years using this approach. Many other states use a similar approach to manager black bears. The Service believes that both Florida and Georgia have adequate knowledge of their bear populations to alter or halt hunting before any hunted population could be extirpated. However, it is possible that some populations could, at least periodically, be reduced to less than optimal densities for long-term conservation. It would therefore be desirable to have more information on the demographics of the hunted populations, particularly concerning birth and death rates and population density. Florida currently has studies underway on both a hunted (Apalachicola National Forest) and an unhunted (Big Cypress National Preserve) population, and Georgia continues to study the hunted Okefenokee population. Information from these and other studies will be

even more necessary to make harvest decisions as threats from habitat loss and road mortality increase. Without more information, it may be difficult to evaluate the combined effects of hunting and other sources of mortality, and it may be difficult to justify the hunt. The Service encourages Florida and Georgia to continue to gather more data to allow a better assessment of the effects of hunting on the Florida black bear.

#### C. Disease or Predation

Southeastern black bears are known to host a variety of disease organisms, but none seem to represent a serious problem (Davidson and Nettles 1988); disease is not known to be a factor in the decline of this subspecies. The Florida black bear has few natural enemies; predation is not a threat.

#### D. The Inadequacy of Existing Regulatory Mechanisms

The wildlife laws of the States of Alabama, Florida, and Georgia give them the authority to protect the Florida black bear through the regulation of hunting. Federal protection against illegal trade in bears or bear parts (e.g. gall bladders or claws) is available through the Lacey Act, if such trade crosses state lines. Federal listing of the Florida black bear would provide additional take prohibitions and penalties through sections 9 and 11 of the Act, and Section 7 of the Act would require Federal agencies to insure that their actions were not likely to jeopardize the continued existence of the Florida black bear or to adversely modify critical habitat designated for the species.

#### E. Other Natural or Manmade Factors Affecting its Continued Existence

Road mortality is a serious threat to the Florida black bear in Florida. The threat is likely to worsen with increases in human population, road-building, and vehicular traffic. From 1976 to 1991, 250 bears were killed on Florida highways, with a steady increase over the years. Road mortality was greatest in the Big Cypress (Collier County) and the Ocala populations (Lake and Marion Counties), but occurred wherever bear populations must cross busy highways (John Wooding, Florida Game and Fresh Water Fish Commission, pers. comm., October 28, 1991). The Florida Game and Fresh Water Fish Commission is working with the Florida Department of Transportation to recommend and plan undercrossings in key areas as highways are built and widened, but it is likely that highways will continue to be a threat to the Florida black bear through habitat fragmentation.

Georgia reported 3-6 road-killed bears per year around Okefenokee Swamp, but roads and traffic are much more limited in that area than in much of Florida. No roadkill information was available from Alabama.

Humans are generally fearful and intolerant of bears when they come in contact. Nuisance complaints, particularly from beekeepers, are periodically received by state game agencies. As previously stated, illegal kills do occur as a result of these interactions. Maehr (1984b) reported that bear depredations have been reported from 41 of Florida's 67 counties, and that beekeepers have historically been responsible for a sizable illegal kill. The Georgia Game and Fish Division reported that beekeepers may kill as many bears annually around Okefenokee Swamp as are taken in the legal harvest.

Since bear parts, especially gall bladders, are considered to be medically valuable in the Orient, poaching of Florida black bears is a potential threat. Poaching of black bears to supply this illicit trade has been documented throughout North America, including within otherwise secure habitat on National Forest and National Park lands. Little information on such take is currently available within the range of the Florida black bear, and neither Alabama, Florida nor Georgia is aware of a serious problem, but continued attention should be paid to this threat. Illegal hunting could be especially detrimental to smaller, isolated populations of the Florida black bear.

#### Finding

On the basis of the best available scientific and commercial information and the following assessment of Service listing priorities and progress, the Service finds that the petition to list the Florida black bear as a threatened species is warranted, but precluded by work on other species having higher priority for listing.

In accordance with section 4(b) of the Act, the Service may make a warranted-but-precluded finding only if it can demonstrate that (1) other listing decisions have a higher priority, and that (2) expeditious progress is being made on other listing actions. On September 21, 1983, the Service published in the Federal Register its priority system for listing species under the Act. The system considers three factors in assigning species numerical priorities on a scale of 1 to 12. The three factors are magnitude of threat, immediacy of threat, and taxonomic distinctiveness.

As discussed above, the Florida black bear faces threats from habitat destruction, roadkills, and legal and illegal hunting. The Service considers the overall magnitude of these threats throughout the range of the subspecies as moderate to low. The Florida black bear occurs primarily on Federal lands (Okefenokee National Wildlife Refuge, Apalachicola, Osceola, and Ocala National Forests, and Big Cypress National Preserve) likely to remain favorable habitat into the foreseeable future. Although development is expected to continue on adjacent private lands, with negative effects on black bear habitat, the Service does not expect development to occur so quickly or extensively as to pose substantial immediate threats to the bear. Other man-caused threats, including road mortality, hunting and poaching, are a concern. They appear to be currently supportable by the major remaining Florida black bear populations, and are therefore considered to represent a moderate degree of threat.

The Service currently considers threats to the Florida black bear to be moderate-to-low throughout its range. As a subspecies, the Florida black bear has a lower listing priority than full species or monotypic genera under comparable threats to their continued existence. Therefore, the subspecies has been assigned a level 9 priority for listing. Other candidate species currently warrant more immediate listing consideration than the Florida black bear. Approximately 150 category 1 species (species for which the Service has adequate information to proceed with listing) are considered to have a high magnitude of imminent threat, and should therefore be addressed prior to the bear. If threats to the Florida black bear increase, the listing priority will become higher.

The Service believes that expeditious progress is being made on other listing actions. In fiscal year 1990 (October 1, 1989 to September 30, 1990), the Service proposed 106 species for listing and added 47 species to the lists of endangered and threatened wildlife and plants. In fiscal year 1991 (October 1, 1990 to September 30, 1991), 87 species were proposed for listing and 52 species were added to the list. Thus far in fiscal year 1992 (October 1, 1991 to September 30, 1992), the Service has proposed 67 species for listing and 37 species have been added to the list. The Service has also attempted to list species through multi-species listing actions whenever possible. In fiscal year 1990, 19 multispecies listings, including 92 species, were proposed or made final. In

fiscal year 1991, 16 multispecies listings, including 81 species, were proposed or made final. Thus far in fiscal year 1992, 10 multispecies listings, including 87 species, were proposed or made final. The Service intends to continue using multispecies listings whenever appropriate to maximize the use of its limited listing resources.

The Service will treat this petition, for which it makes a warranted-but-precluded finding, as though resubmitted on the date of the finding and make a subsequent finding within 12 months. The Service will continue to provide technical assistance to state and Federal agencies to address Florida black bear conservation needs.

#### References Cited

- Brady, J.R. and D.S. Maehr. 1985. Distribution of black bears in Florida. Florida Field Naturalist 13:1-7.
- Davidson, W.R. and V.F. Nettles. 1988. Field manual of wildlife diseases in the southeastern United States. Univ. of Georgia, Athens. 309 pp.
- Dusi, J.L. 1986. Black bear. Pp. 116-117 in R.H. Mount, ed., vertebrate animals of Alabama in need of special attention. Alabama Agric. Expt. Station, Auburn.
- \_\_\_\_\_. 1987. Ecology of the black bear in southwest Alabama. Final report on project no. W-44 to Alabama Department of Wildlife and Conservation. 46 pp., 6 pl.
- Hall, E.R. 1981. Mammals of North America. John Wiley and Sons, New York. 1175 pp.
- Kennedy, M.L. 1991. Additional assessment of the systematics of *Ursus americanus luteolus*. Unpublished report to U.S. Fish and Wildlife Service, Jackson, MS Field Office. 14 pp. 8 fig.
- Maehr, D.S. 1984a. Distribution of black bears in eastern North America. Pp. 74 in D.S. Maehr and J.R. Brady, ed., proceedings seventh eastern workshop on black bear research and management. Florida Game and Fresh Water Fish Commission, Tallahassee. 85 pp.
- \_\_\_\_\_. 1984b. Black bear depredation on bee yards in Florida. Pp. 133-135 in D.J. Decker, ed., Proc. first eastern wildlife damage control conf. Ithaca, New York.
- \_\_\_\_\_, and J.B. Wooding. Undated. Revised Florida black bear species account for Florida Committee on Rare and Endangered Species of Plants and Animals. 12 pp.
- Merriam, C.H. 1896. Preliminary synopsis of the American bears. Proc. Biol. Soc. Wash. 10:65-83.
- Pelton, M. 1989. The Louisiana black bear: status and future. Report to U.S. Fish and Wildlife Service. 22 pp.
- Williams, L.E. Jr. 1978. Florida black bear. Pp. 23-25 in J.N. Layne, editor, Rare and Endangered Biota of Florida. Vol. 1: Mammals. 52 pp.
- Wooding, J.B. 1990. Black bear harvest analysis. Final report on study no. 7554 to Florida Game and Fresh Water Fish Commission, Tallahassee. 8 pp.
- \_\_\_\_\_, and T.S. Hardisky. Undated. Black bear habitat study. Final report on study 7552 to Florida Game and Fresh Water Fish Commission, Tallahassee. 37 pp., 8 tables, 2 append.

#### Author

The primary author of this notice is Dr. Michael M. Bentzien (see ADDRESSES section above).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

#### List of Subjects in 50 CFR Part 17

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

Dated: December 31, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-243 Filed 1-6-92; 8:45 am]

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# Reader Aids

Federal Register

Vol. 57, No. 4

Tuesday, January 7, 1992

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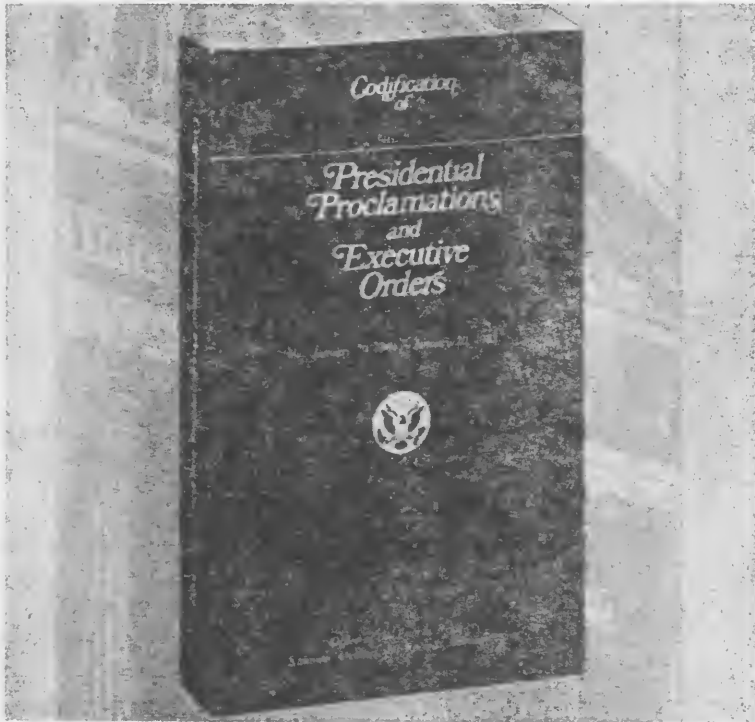
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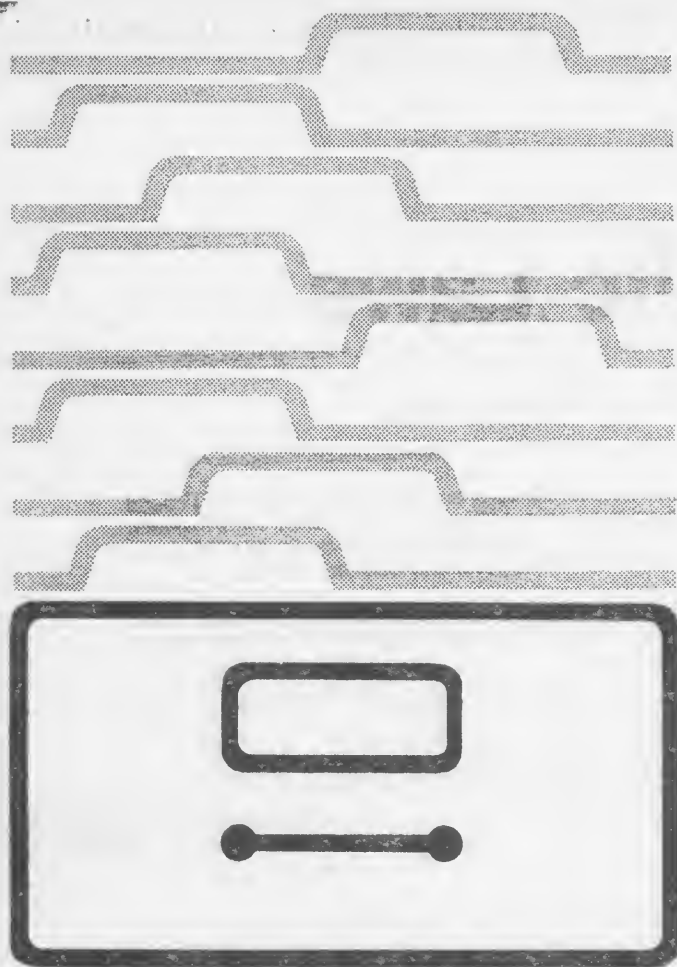
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