

About the Document:

Title: Proposed Listing of the contiguous United States Distinct Population Segment of the North American Wolverine on Federal List of Endangered and Threatened Wildlife with Special Rule

And

Establishment of a Nonessential Experimental Population of the North American Wolverine in Colorado, Wyoming, and New Mexico

Timeline of the Peer review:

Draft document disseminated: February 2013.

Peer review initiated: February 2013.

Peer review to be completed by: May 4, 2013.

Final determination regarding proposed rule expected: between September 2013 and January 2014.

About the Peer Review Process:

In accordance with our July 1, 1994 peer review policy (59 FR 34270) and the Office of Management and Budget's December 16, 2004 Final Information Quality Bulletin for Peer Review, the U.S. Fish and Wildlife Service intends to subject this proposal to peer review. The Service will nominate potential peer reviewers. We will consider the following criteria for any potential nomination:

- Expertise: The reviewer should be an expert on wolverine or similar species biology.
- Independence: The reviewer should not be employed by the U.S. Fish and Wildlife Service, or any State fish and game agency in states within the DPS (Idaho, Montana,

Wyoming, Washington, Oregon, California, Colorado, Utah, and Nevada). Academic, consulting or government scientists should have sufficient independence from the Service and State fish and game agencies if government supports their work.

- Objectivity: The reviewer should be recognized by his or her peers as being objective, open-minded, and thoughtful. In addition, the reviewer should be comfortable sharing his or her knowledge and perspectives and openly identifying his or her knowledge gaps.
- Conflict of Interest: The reviewer should not have any financial or other interest that conflicts or that could impair his or her objectivity or create an unfair competitive advantage. If an otherwise qualified reviewer has an unavoidable conflict of interest, the Service may publicly disclose the conflict.

While expertise is the primary consideration, the Service will select peer reviewers (considering, but not limited to, these nominations) that add to a diversity of scientific perspectives relevant to the proposed listing for the contiguous United States wolverine DPS. Responses will be requested by the close of the comment period. We will not be providing financial compensation to peer reviewers. We will solicit reviews from at least three qualified experts.

The Service will provide each peer reviewer with information explaining their role and instructions for fulfilling that role, the proposed rules for both listing of the species (with special rule) and for designation of a nonessential population in the southern Rocky Mountains, and a list of citations. The purpose of seeking independent peer review is to ensure use of the best scientific and commercial information available and to ensure and to maximize the quality, objectivity, utility, and integrity of the information upon which the proposed action is based, as

well as to ensure that reviews by recognized experts are incorporated into the rulemaking process. Peer reviewers will be advised that they are not to provide advice on policy. Rather, they should focus their review on identifying and characterizing scientific uncertainties. Peer reviewers will be asked to answer questions pertaining to the logic of our assumptions, arguments, and conclusions and to provide any other relevant comments, criticisms, or thoughts. Specific questions the reviewers will be asked include the following: The panel will review key documents relied upon to support the conclusions in the proposed rule. Specific areas in need of peer reviewer input are:

For the proposed listing and special (4(d)) rule:

- (1) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and regulations that may be addressing those threats.
- (2) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.
- (3) Any information on the biological or ecological requirements of the species, and ongoing conservation measures for the species and its habitat.
- (4) Current or planned activities in the areas occupied by the species and possible impacts of these activities on this species.
- (5) The reasons why we should or should not designate habitat as “critical habitat” under section 4 of the Act (16 U.S.C. 1531 *et seq.*) including whether and how the wolverine may benefit from such a designation; whether there are threats to the species from human activity, the degree to which it can be expected to increase due to a critical habitat

designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent;

- (6) Specific information on the amount and distribution of wolverine habitat,
- (7) Information on the projected and reasonably likely impacts of climate change on the wolverine and its habitat;
- (8) Suitability of the proposed 4(d) rule for the conservation, recovery, and management of the DPS of the North American wolverine occurring in the contiguous United States.
- (9) Additional information concerning whether it is appropriate to prohibit incidental take of wolverine in the course of legal trapping activities directed at other species in the proposed 4(d) rule, including any information about State management plans related to trapping regulations and any measures within those plans that may avoid or minimize the risk of wolverine mortality from incidental trapping for other species.
- (10) Additional provisions the Service may wish to consider to conserve, recover, and manage the DPS of the North American wolverine occurring in the contiguous United States.

For the proposed designation of a nonessential population in Colorado, Wyoming, and New

Mexico and special (10(j) rule:

- (1) Whether the boundaries of the proposed nonessential population area are appropriate.
- (2) Information on wolverine occurrences in Colorado, especially any occurrences for which physical evidence might exist, that would indicate that a population of wolverines exists within the proposed NEP area.

- (3) Information on threats to wolverines in the NEP area that have not been considered in this proposed rule and that might affect a reintroduced population.
- (4) Information on the effects of reintroducing wolverines to Colorado on public and private land management, economic activities such as agriculture, forestry, recreation, mining, oil and gas development, and residential development.
- (5) Information about the feasibility of conducting reintroductions of wolverines into other areas within the historical range of wolverines that may be appropriate. Examples include the Sierra Nevada Range in California, Bighorn Range in Wyoming, Uinta Mountains in Utah, and southern Cascades Range in Oregon.

Peer reviewers will provide individual, written responses to the Service. Peer reviewers will be advised that their reviews, including their names and affiliations, will (1) be included in the administrative record of our final determination regarding this proposal (i.e., a final rule or a withdrawal), and (2), be available to the public upon request once all reviews are completed. We will summarize and respond to the issues raised by the peer reviewers in the record supporting our final rulemaking determination. Because this peer review process is running concurrently with public review of the proposed action, peer reviewers will not be provided public comments (although comments may be viewed through <http://www.regulations.gov>). A final determination regarding this proposed action is expected sometime between September, 2013, and January 2014.

About Public Participation

The peer review process will be initiated shortly. We strongly encourage that public comments on the approach of this peer review be submitted by March 15, 2013, in order to allow enough time for processing and consideration. However, we will accept comments on the peer review plan through the normal comment process associated with the proposed rule. Public comments on the proposed rules are scheduled to be accepted until May, 4, 2013. Public comments will be accepted separately for the proposed listing and proposed nonessential population rules. You may comment on one or both rules, however comments submitted for one rule will not be applied to the other even if requested. You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R6-ES-2012-0107 (proposed listing with special rule) or FWS-R6-ES-2012-0106 (establishment of a nonessential population); Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>.

This generally means that we will post any personal information you provide us.

Contact

For more information, contact Shawn Sartorius, U.S. Fish and Wildlife Service, Montana Ecological Services Field Office, 585 Shepard Way, Helena, MT 59601, telephone 406-449-5225. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.