

exception at the prime contract level. The minimal content exception does not apply to specialty metals contained in high-performance magnets; and

(ii) Not further alter the clause other than to identify the appropriate parties.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2014-0023; 4500030113]

#### Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Humboldt Marten as Endangered or Threatened

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

**ACTION:** Notice of initiation of scoping and request for information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are gathering information to prepare a 12-month finding under the Endangered Species Act of 1973, as amended (Act), on a petition to list the current classification of Humboldt marten (*Martes caurina humboldtensis*) as an endangered or threatened species. We provide this notice to summarize the uncertainty regarding the subspecies taxonomic classification (based on current genetics information) and, therefore, our intent to conduct an evaluation of a potential distinct population segment (DPS) of martens in coastal northern California and coastal Oregon relative to the full species classification level. We will submit a 12-month finding on the petition to the **Federal Register** by April 1, 2015.

**DATES:** We request that we receive information on or before August 7, 2014. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2014-0023. You may submit information by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: FWS-R8-ES-2014-

0023; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Information Requested** section below for more information).

#### FOR FURTHER INFORMATION CONTACT:

Bruce Bingham, Field Supervisor, U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521; telephone 707-822-7201; or facsimile 707-822-8411. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

In a petition dated September 28, 2010 (Center for Biological Diversity (CBD) and Environmental Protection Information Center (EPIC) 2010), the petitioners requested that we consider for listing the (then-classified) subspecies Humboldt marten (*Martes americana humboldtensis*), or the (now-recognized) subspecies Humboldt marten (*M. caurina humboldtensis*), or the Humboldt marten Distinct Population Segment (DPS) of the Pacific marten (*M. caurina*). The petitioners further stipulated that, based on recent genetic analyses indicating that populations of marten from coastal Oregon are more closely related to *M. a. humboldtensis* than to *M. a. caurina* in the Cascades of Oregon (citing Dawson 2008, Slauson *et al.* 2009), the range of the subspecies or DPS of the Humboldt marten should be expanded to include coastal Oregon populations. On January 12, 2012, we published a substantial 90-day finding on the petition to list the Humboldt marten as an endangered or threatened species under the Act (77 FR 1900). For purposes of the 90-day finding, the common name Humboldt marten referred to the then-classified American marten (*M. americana*) populations in coastal northern California and coastal Oregon.

The American marten (*Martes americana*) was originally described as a single species by Turton (1806; entire), based on specimens from eastern North America. In 1890, Merriam (1890; entire) considered a new species, *M. caurina*, as those martens found west of the Rocky Mountains. In 1926, the Humboldt [Pine] marten (*M. c. humboldtensis*) was described as a

subspecies of *M. caurina* (Grinnel and Dixon 1926, entire); historically, this subspecies was distributed throughout the coastal, fog-influenced coniferous forests of northern California from northwestern Sonoma County north to the Oregon border (Grinnel and Dixon 1926, entire). In 1953, Wright (1953; entire) described one species, the American marten (*M. americana*), which included as subspecies both the Humboldt [Pine] marten subspecies (*M. a. humboldtensis*), and the former western marten species (*M. caurina*), classified as *M. a. caurina*.

As noted above, at the time of our 90-day finding (77 FR 1900; January 12, 2012), the Humboldt marten was classified as *Martes americana humboldtensis*. Subsequently, Dawson and Cook (2012, entire) split the American marten, recognizing the Pacific marten (*M. caurina*) for all martens occurring west of the Rocky Mountain crest, based on genetic and morphological differences. While this split changed the species-level name of all martens occurring west of the Rocky Mountain crest from *M. americana* to *M. caurina*, subspecies epithets were not changed. Therefore, the current classification of the Humboldt marten in coastal northern California is *M. c. humboldtensis*, and the marten populations occurring in adjacent coastal Oregon are *M. c. caurina*. In addition, as currently recognized, populations of martens in the Oregon Cascades northward through the State of Washington and into British Columbia, Canada, are also *M. c. caurina*.

Ongoing genetic research indicates uncertainty in the Pacific marten subspecies delineations in California and Oregon. Specifically, the best available data indicate that the *Martes caurina humboldtensis* population in coastal northern California (Humboldt, Siskiyou, and Del Norte Counties) and the two *M. c. caurina* populations in coastal Oregon (Curry, Coos, coastal portion of Douglas, coastal portion of Lane, Lincoln, and Tillamook Counties) may be a single evolutionary unit (clade) (Slauson *et al.* 2009, p. 1,340; Schwartz *et al.*, in prep) (available for review at <http://www.regulations.gov>, Docket No. FWS-R8-ES-2014-0023). Although questions regarding the taxonomy of marten subspecies in northern California and Oregon are not new (i.e., both the petition we received (CBD and EPIC 2010) and our 90-day finding (January 12, 2012; 77 FR 1900) identified ongoing genetic research and taxonomic uncertainty), the best available information indicates that the original designation of two separate marten subspecies occurring in coastal

northern California and coastal Oregon may be invalid. However, there is currently insufficient information to conclude with reasonable certainty that coastal Oregon populations of Pacific marten should be classified as *M. c. humboldtensis*. Such a conclusion is confounded by small sample sizes and lack of corroborating information (e.g., similar morphological or physiological traits among the two clades) that would lend further support to a conclusion that these two groups should be considered the same subspecies.

According to section 3(16) of the Act, we may consider for listing any of three categories of vertebrate animals: A species, subspecies, or distinct population segment (DPS; see the Service's 1996 Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act at 61 FR 4722). We refer to each of these categories as a potential "listable entity." We have been petitioned to list collectively two groups of the Pacific marten (two populations in Oregon and one in California) that are currently recognized as belonging to two separate subspecies (as described above). To ensure we are evaluating the most accurate listable entity based on the best scientific and commercial data currently available (including unpublished genetics information), and to ensure we are being fully responsive to the petition (CBD and EPIC 2010), we consider it reasonable that a coastal distinct population segment (DPS) of the Pacific marten constitute the listable entity for our 12-month status review. As such, we consider this DPS to include the currently recognized *Martes caurina humboldtensis* (i.e., Humboldt marten) and the coastal populations of *M. caurina caurina* in Oregon (i.e., Oregon Coast Range group). We believe this entity is reasonable for consideration at this time given:

(1) The best available data (e.g., new genetics information, similar habitat usage) suggest that the coastal northern California marten population and the coastal Oregon marten populations may be a single evolutionary entity as opposed to two separate entities.

(2) Existing genetics information suggests that subspecies-level taxonomy of *M. c. humboldtensis*, *M. c. caurina*, and possibly other subspecies of the Pacific marten as currently classified may be inaccurate.

(3) The DPS policy states that the population segment under consideration must be evaluated for discreteness and significance in relation to the remainder of the taxon to which it belongs. Ordinarily, in the present case we

would evaluate the marten populations relative to the subspecies to which they belong, but the populations in question currently represent two separate subspecies and there is uncertainty as to the legitimacy of those subspecies classifications, rendering such an evaluation invalid.

(4) Uncertainty in the subspecies-level taxonomy of Pacific marten logically necessitates that we elevate our evaluation of the DPS relative to the Pacific marten at the full species-level. In other words, we would apply the criteria for evaluating a coastal DPS of the Pacific marten relative to the full species Pacific marten (*Martes caurina*) as a whole.

(5) The DPS policy states that "In all cases, the organisms in a population are members of a single species or lesser taxon." Therefore, given (1) through (4) above, we think that an evaluation at the species level is appropriate.

Under the DPS policy, two basic elements are considered in the decision regarding the establishment of a population of a vertebrate species as a possible DPS. The question as to whether a population or group of populations qualifies as a DPS requires a finding that the population is both: (1) Discrete in relation to the remainder of the taxon to which it belongs, and (2) biologically and ecologically significant to the taxon to which it belongs. If the population meets the first two criteria under the DPS policy, we then proceed to the third element in the process, which is to evaluate the population segment's conservation status in relation to the Act's standards for listing as an endangered or threatened species.

Under the DPS policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act. As the marten populations in question here do not transcend an international boundary, this criterion does not apply.

If we determine that a vertebrate population segment is discrete under one or more of the conditions described in our DPS policy, then we consider its biological and ecological significance to

the larger taxon to which it belongs. Because precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS policy describes four possible classes of information that provide evidence of a population segment's biological and ecological importance to the taxon to which it belongs. This consideration of the population segment's significance may include, but is not limited to, the following:

(1) Persistence of the discrete population segment in an ecological setting unusual or unique to the taxon;

(2) Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon;

(3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or

(4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

A population segment needs to satisfy only one of these conditions to be considered significant. Furthermore, other information may be used as appropriate to provide evidence for significance.

As indicated above, we anticipate concluding an evaluation of the coastal DPS of Pacific marten and submitting a 12-month finding to the **Federal Register** by April 1, 2015. We appreciate any information regarding our consideration of the coastal northern California and coastal Oregon populations of Pacific marten as a single listable entity (see **Information Requested**).

#### Information Requested

We will accept written information during this 45-day scoping period on our future 12-month finding evaluation of the putative coastal DPS of Pacific marten. We will consider information from all interested parties. We intend that any final action resulting from our evaluation be as accurate as possible and based on the best available scientific and commercial data.

We are interested in the following information for Pacific martens, specifically Humboldt martens in coastal northern California and coastal Oregon populations of Pacific marten:

(1) Habitat requirements for feeding, breeding, and sheltering.

(2) Genetics and taxonomy, especially:

(a) Information (e.g., morphological, genetic, physiological, ecological, behavioral) supporting or contesting current subspecies taxonomy of *Martes caurina* in coastal northern California and Oregon.

(b) Information supporting or contesting the validity of the historical geographic boundaries of the Pacific marten subspecies, *Martes caurina caurina*.

(3) Information to inform a DPS designation, especially:

(a) Information supporting or contesting the combining of the population of Pacific martens in northwest California with the coastal Oregon populations as a single listable entity under our DPS policy.

(b) Information to inform our evaluation as to whether martens in coastal northern California and coastal Oregon do or do not meet the criteria for discreteness and significance under our DPS policy.

(4) The factors that are the basis for making a listing determination for a species, subspecies, or DPS under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(5) Exposure to toxicants, including anticoagulant rodenticides, including information related to:

(a) Scope of exposure within coastal northern California and coastal Oregon;

(b) Severity of exposure to individuals; and

(c) Potential impacts of exposure to populations.

(6) Historical and current range of the Pacific marten in coastal northern California and coastal Oregon, including distribution patterns.

(7) Historical and current population levels of the Pacific marten in coastal northern California and coastal Oregon, and current and projected trends.

(8) Past and ongoing conservation measures for the Pacific marten in coastal northern California and coastal Oregon, or its habitat.

(9) Effects of climate change on habitat of the Pacific marten, including changes in fire frequency and intensity.

(10) Whether our suggested approach to evaluating the presently recognized subspecies Humboldt marten (*M. c. humboldtensis*) collectively with the Oregon coastal populations of the Pacific marten (a subset of *M. c. caurina*) as a potential single DPS of the full species *Martes caurina* is supported by the best available scientific and commercial data.

If you submitted comments or information on the 90-day finding (77 FR 1900) during the initial comment period from January 12, 2012, to March 12, 2013, please do not resubmit them. We will incorporate them into the public record and we will fully consider them in the preparation of our 12-month finding. Our 12-month finding will take into consideration all written comments and any additional information we receive during the previous comment period and this scoping period. If you submit information during this scoping period, please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. You may submit your information by one of the methods listed in **ADDRESSES**. We request that

you send information only by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. We will post all hardcopy information received on <http://www.regulations.gov> as well. If you submit hardcopy information that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Information we receive, as well as supporting documentation we use in preparing our 12-month finding, will be available via Docket No. FWS-R8-ES-2014-0023 upon publication of our 12-month finding in the **Federal Register**.

#### References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Arcata Fish and Wildlife Field Office (see **FOR FURTHER INFORMATION CONTACT**).

#### Author

The primary authors of this notice are the staff members of the Pacific Southwest Regional Office and Arcata Fish and Wildlife Field Office.

#### Authority

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

Dated: June 12, 2014

#### Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

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