

The Baton Rouge area became subject to this requirement upon its reclassification from serious to severe 1-hour ozone nonattainment. This action is being taken under sections 110 and 182 of the Federal Clean Air Act, as amended (the Act).

**DATES:** Written comments must be received on or before December 21, 2006.

**ADDRESSES:** Comments may be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Sandra Rennie at (214) 665-7367, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, fax number 214-665-7263; e-mail address [rennie.sandra@epa.gov](mailto:rennie.sandra@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule, which is located in the rules section of this **Federal Register**.

Dated: November 9, 2006.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. E6-19642 Filed 11-20-06; 8:45 am]

**BILLING CODE 5650-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Columbian Sharp-Tailed Grouse as Threatened or Endangered

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

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Columbian sharp-tailed grouse (*Tympanuchus phasianellus columbianus*) as threatened or endangered under the Endangered Species Act of 1973, as amended. We find that the petition does not provide substantial information indicating that listing the Columbian sharp-tailed grouse may be warranted. Therefore, we are not initiating a further status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of the Columbian sharp-tailed grouse or threats to it.

**DATES:** The finding announced in this document was made on November 21, 2006. Comments and information concerning this finding may be submitted until further notice.

**ADDRESSES:** Data, information, comments, and material concerning this finding may be submitted to the Supervisor, Upper Columbia Fish and Wildlife Office, U.S. Fish and Wildlife Service, 11103 East Montgomery Drive, Spokane, WA 99206. The complete file for this finding is available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Susan Martin, Field Supervisor, Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section above), by telephone at (509) 891-6839, or by facsimile to (509) 891-6748.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base the finding on

information provided in the petition and supporting information available in our files at the time of the petition review. To the maximum extent practicable, we are to make the finding within 90 days of our receipt of the petition, and publish a notice of the finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

In making this finding, we evaluated information provided by the petitioners and contained in our files in accordance with 50 CFR 424.14(b). Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b) is limited to a determination of whether the information in the petition provides "substantial information" that the petitioned action may be warranted.

On October 18, 2004, we received a petition, dated October 14, 2004, from Forest Guardians, American Lands Alliance, Biodiversity Conservation Alliance, Center for Biological Diversity, Center for Native Ecosystems, The Larch Company, Northwest Ecosystem Alliance, Oregon Natural Desert Association, and Western Watersheds Project (petitioners). The petitioners requested that the Columbian sharp-tailed grouse be listed as threatened or endangered throughout its historic range in accordance with section 4 of the Act.

We were required to complete a significant number of listing actions in 2005, pursuant to court orders and judicially approved settlement agreements, and were unable to address the petition at that time. On January 18, 2005, we acknowledged receipt of the petition, and indicated to the petitioners that we would not be able to address the petition at that time due to other priorities relating to court orders and settlement agreements. On November 25, 2005, we received a Notice of Intent to Sue (NOI), dated November 22, 2005, for our failure to make a 90-day finding on the petition. On April 5, 2006, we received a formal complaint, which had been filed on March 20, 2006. On May 31, 2006, the U.S. District Court of Idaho granted a Stipulated Settlement Agreement between us and the petitioners, wherein we agreed to publish a 90-day finding on the petition

by November 15, 2006. This finding constitutes our compliance with the settlement agreement.

### Previous Federal Actions

We previously received a petition, dated March 14, 1995, to list the Columbian sharp-tailed grouse throughout its historic range in the conterminous United States (Biodiversity Legal Foundation 1995). On October 26, 1999, we published a positive 90-day finding and initiated a status review to determine if listing the Columbian sharp-tailed grouse was warranted (64 FR 57620). On October 11, 2000, we published a negative 12-month finding that determined the requested action was not warranted (65 FR 60391).

### Species Information

The information summarized in this section is taken from the petition (cited as Forest Guardians *et al.* 2004) and our files.

The Columbian sharp-tailed grouse is one of seven recognized subspecies of sharp-tailed grouse that have been described in North America, based primarily on geographic variation in overall size, plumage coloration and patterning, and the broadly defined ecosystems occupied (Connelly *et al.* 1998, p. 3). The Columbian sharp-tailed grouse is the smallest subspecies. It has darker gray plumage, more pronounced spotting on the throat, and narrower markings on the underside than other subspecies. Historically, the Columbian sharp-tailed grouse's range extended westward from the continental divide in Montana, Idaho, Wyoming, and Colorado to northeastern California and eastern Oregon and Washington; southward to northern Nevada and central Utah; and northward through central and British Columbia.

Columbian sharp-tailed grouse occur in a variety of habitats within the northwestern United States and Canada, including sagebrush-bunchgrass, meadow-steppe, mountain shrub, and riparian zones (Marks and Marks 1987, p. 40; Giesen and Connelly 1993, p. 326). Various upland habitats, with a component of denser riparian or mountain shrub habitat to provide escape cover, are important to the subspecies from spring to fall (Saab and Marks 1992, p. 171; Giesen and Connelly 1993, pp. 327–329). The availability of suitable wintering habitat, containing a dominant component of deciduous trees and shrubs, is also thought to be a key element to healthy Columbian sharp-tailed grouse populations (Marks and Marks 1987, pp.

54–57; Giesen and Connelly 1993, pp. 329–330).

Male sharp-tailed grouse employ elaborate courtship displays in the spring to attract females to central dancing grounds, called leks. Established leks may be used for many years, although the exact dancing locations may shift position over time and smaller satellite leks often form in the vicinity of historic leks. Interacting clusters of leks in a local area are defined as lek complexes (Schroeder *et al.* 2000, p. 3). Due to social structures within a lek and other influences, such as exposure to predation, leks seldom support more than 25 males (Moyle and Boag 1981, pp. 1579–1580; Rodgers 1992, p. 104; Connelly *et al.* 1998, p. 8). The few dominant males at a lek's center account for the majority of successful mating attempts (Johnsgard 1973, p. 314; Bradbury and Gibson 1983, pp. 119–120). Male Columbian sharp-tailed grouse may also display and establish specific dancing sites at leks during other seasons (Johnsgard 1973, p. 312; Moyle and Boag 1981, p. 1576; Marks and Marks 1987, p. xii; McDonald 1998, pp. 38–39).

Spring-to-fall home range sizes of Columbian sharp-tailed grouse are relatively small, generally less than 2 square kilometers (km<sup>2</sup>) (1.2 square miles (mi<sup>2</sup>)), and the areas used are usually in the vicinity of a lek. Females typically nest and rear their broods within 1.6 km (1 mi) of an active lek, although nesting more than 3 km (1.9 mi) from a lek has been recorded (Saab and Marks 1992, pp. 168–170; Giesen and Connelly 1993, p. 327). Seasonal movements to wintering areas from breeding grounds are typically less than 5 km (3.1 mi) (Giesen and Connelly 1993, p. 327), although movements of up to 20 km (12.4 mi) have been recorded (Meints 1991, p. 53). The overall annual survival rate of Columbian sharp-tailed grouse is relatively low, and ranges from roughly 20 to 50 percent (WDFW 1995, p. 9; Connelly *et al.* 1998, p. 12).

The area within 2.5 km (1.6 mi) of a lek is thought to be critical to the management of Columbian sharp-tailed grouse, and this area should contain, or provide access to, suitable wintering habitats (Saab and Marks 1992, pp. 168–170; Giesen and Connelly 1993, pp. 326–332). Because of their influence on the subspecies' demographics, leks (including the surrounding area) can be used as the basis for describing the hierarchical assemblages of Columbian sharp-tailed grouse populations. These assemblages range from local populations (single leks to lek complexes), to regional populations

(potentially interacting local populations occupying small geographic areas, such as a county), to metapopulations (potentially interacting regional populations occupying larger geographic areas).

Various historical accounts indicate that the Columbian sharp-tailed grouse was once much more abundant throughout its range where suitable habitats occurred (Hart *et al.* 1950, pp. 8–9; Buss and Dziedzic 1955, pp. 185–187; WDFW 1995, pp. 21–22). Excessive hunting in the mid- to late 19th century is thought to have been a major contributing factor to the extirpation of some local populations and the initial reduction of the subspecies' range (Hart *et al.* 1950, p. 60). Beginning in the early 1900s, the conversion of native habitats for crop production and habitat degradation as a result of heavy livestock grazing are thought to be the primary factors in further population declines and range reductions (Hart *et al.* 1950, pp. 55–59; Buss and Dziedzic 1955, pp. 185–187; Miller and Graul 1980, p. 25; Marks and Marks 1987, pp. 1–4; Braun *et al.* 1994, p. 38; WDFW 1995, pp. 28–31; McDonald and Reese 1998, p. 34; Connelly *et al.* 1998, pp. 2–3). Columbian sharp-tailed grouse have been extirpated from California (circa 1920), Nevada (circa 1950), and Oregon (circa 1960) (Miller and Graul 1980, p. 20; Connelly *et al.* 1998, pp. 2–3). Past declines in the subspecies' abundance and distribution have isolated various extant populations of Columbian sharp-tailed grouse.

At large geographic scales (e.g., States, ecoregions), the overall distribution of Columbian sharp-tailed grouse appears to have changed little since the mid-1900s, and various sources have acknowledged the difficulty of obtaining accurate population estimates for the subspecies as a whole (Hart *et al.* 1950, p. 13; Rogers 1969, p. 42; Miller and Graul 1980, pp. 18–19; Schroeder *et al.* 2000, pp. 2–3). However, when smaller geographic areas are considered, a general pattern of continued range reduction and population decline is apparent in a number of local and several regional populations from the mid-1900s to the present (Miller and Graul 1980, pp. 20–22; WDFW 1995, pp. 4–6; Ritcey 1995, pp. 2–4; Schroeder *et al.* 2000, pp. 4–8; Mitchell 1995, 1998; Hoffman 1995, 1998; Thier 1998; Chutter 1995). Based on the results from a 1979 questionnaire distributed to wildlife professionals throughout the subspecies' range, Miller and Graul (1980, p. 20) concluded that populations of Columbian sharp-tailed grouse occupied less than 10 percent of their former range in Idaho, Montana, Utah,

and Wyoming; 10 to 50 percent in Colorado and Washington; and 80 percent or more in British Columbia.

The following individual State and province discussions represent the most recent available information on populations by State and Canadian province. Each discussion initially summarizes information from our files, as well as the best estimates of recognized experts during a February 2000 interagency species status review meeting (USFWS 2000), and an independent report that addressed the viability of the various extant Columbian sharp-tailed grouse populations (Bart 2000, pp. 5–10). The State and province discussions also summarize the current status of each State's hunting regulations relating to Columbian sharp-tailed grouse. Finally, the State and province discussions summarize new information presented in the petition or that has become available in our files since 2000. For consistency, estimates of the spring breeding population are reported for each area. In general, the estimates of fall population sizes, which include annual reproduction and exclude overwinter mortality, are roughly double that of spring breeding population estimates.

**Colorado.** The information in this paragraph is taken from Mumma (1999) and House (2000). The northwestern region of the State contains many interacting local populations with multiple leks that together constitute a distinct metapopulation. This metapopulation totaled roughly 5,000 birds in the spring breeding population in 2000. The metapopulation occurs primarily in Moffat, Routt, and Rio Blanco Counties, and is continuous with local populations in south-central Wyoming (see following discussion under Wyoming). Mesa County, in west-central Colorado, may still harbor a remnant local population, but the last confirmed sightings of birds in this area are from around 1985.

The State of Colorado maintains a fall hunting season in the northwestern region, with bag and possession limits of 2 and 4 birds, respectively. During the late 1990s, the annual State harvest estimate averaged 218 birds.

The petition states that the metapopulation in Moffat, Routt, and Rio Blanco Counties may have consisted of approximately 6,080 birds in approximately 2004, based on Hoffman (2002) (pp. 34–35 of the petition). The petition also states that population estimates for Colorado (based on the average number of males per lek) fluctuated widely from 2000 to 2004.

**Idaho.** Except where noted, the information in this paragraph is taken from Mallet (2000). The southeastern region of the State contains many interacting local populations with multiple leks, which constitute a distinct metapopulation that totaled, as of 2000, roughly 6,000 to 13,000 birds in the spring breeding population. This population occurs primarily south of Rexburg and east of Rupert, Idaho (Meints 1995, 1998), and is continuous with local populations in northern Utah (see following discussion under Utah). The upper Snake River region, including the Sand Creek and Tex Creek areas, harbored, as of 2000, roughly 600 birds in the spring breeding population (approximately 300 in each area). Birds from these two areas likely interact with one another and with the larger population in the southeastern region (Meints 1995, 1998). Washington and Adams Counties, in the west-central region, harbored, as of 2000, roughly 200 to 300 birds in the spring breeding population, which supports approximately 7 leks. This area is isolated from other regional populations. Translocation efforts began in the Shoshone Basin area of extreme south-central Idaho in 1992, and resulted in establishment of an isolated local population supporting at least three leks in 2000. This area may be continuous with a small population of reintroduced birds in northeastern Nevada (see following discussion under Nevada).

The State of Idaho maintains a fall hunting season, with bag and possession limits of 2 and 4 birds, respectively. The available information indicates that roughly 3,000 birds are harvested annually from the southeastern and upper Snake River regions.

The petition states that the Shoshone Basin population may have consisted of 200 to 400 birds in 2004 (pp. 29–31 of the petition). The petition also states that population estimates for Idaho (based on average number of males per lek) fluctuated widely from 1999 to 2004.

**Montana.** Except where noted, the information in this paragraph is taken from McCarthy (2000). Two small local populations may still occur in the northwestern region of the State, one in Lincoln County near the international boundary with British Columbia, and one in Powell County. The Lincoln County area supported fewer than 20 birds on a single lek in the 2000 spring breeding population. From 1987 through 1991, and again in 1996 and 1997, the Lincoln County population was augmented with birds translocated primarily from central British Columbia

(one effort included birds translocated from southeastern Idaho). The Powell County area supported fewer than 50 birds on a few leks in the 2000 spring breeding population. Based on the evaluation of a limited number of specimens, birds in the Powell County population show a greater morphological affinity to the plains subspecies (*T. p. jamesi*); however, these birds show a greater genetic affinity to the Columbian subspecies (Warheit and Schroeder 2003, p. 5). Therefore, the taxonomic status of this population remains in question. The two local Montana populations are isolated from one another and from other regional populations. During the early 1970s and again in 1980, limited efforts to reintroduce sharp-tailed grouse to the National Bison Range (roughly 50 km northwest of Missoula) were conducted with birds translocated from southeastern Idaho. It is unlikely that any of these birds or their offspring persisted in the area (Wood 1991, p. 6).

The State of Montana does not have an open hunting season for Columbian sharp-tailed grouse.

The petition states that Columbian sharp-tailed grouse may have been extirpated in Montana by 2004 (p. 35 of the petition).

**Nevada.** The information in this paragraph is taken from Morros (1999) and Crawford (2000). During the spring of 1999, 54 birds from the metapopulation in southeastern Idaho were translocated to the Snake Mountains in Elko County. Census information from 2000 indicated there were roughly 20 to 40 birds remaining from this initial effort.

No open hunting season for Columbian sharp-tailed grouse exists in the State of Nevada.

According to a source cited in the petition (Stiver *et al.* (2002), cited on p. 32 of the petition), 196 birds were reintroduced between 1999 and 2002. No additional population estimates were provided. This reintroduced local population may be continuous with reintroduced birds in south-central Idaho (see previous discussion under Idaho).

**Oregon.** The information in this paragraph is taken from Crawford and Coggins (2000). From 1991 through 1997, a total of 179 birds were translocated into Wallowa County in northeastern Oregon. Translocated birds originated from the metapopulation in southeastern Idaho. Census information in 2000 indicated that roughly 15 to 30 individuals, supporting one or a few leks, existed in the spring breeding population in an area several miles from the initial release site.

No open hunting season for Columbian sharp-tailed grouse exists in the State of Oregon.

According to a source cited in the petition (ODFW (2001), cited on p. 29 of the petition), an additional 33 birds were translocated in 2001, and the estimated population at that time was 80 birds. The petition, citing personal communication with C. Braun, states that translocation efforts in Oregon have likely failed and that the population appears to be extirpated from the State.

*Utah.* The information in this paragraph is taken from Mitchell (2000). The northern region of the State contains numerous, interacting local populations with multiple leks, which constitute a distinct, interacting metapopulation totaling roughly 5,000 birds in the spring breeding population. This population is continuous with the population in southeastern Idaho (see previous discussion under Idaho).

The State of Utah reopened its hunting season in 1998, and, over the first 3 years, issued 663, 2-bird permits in a limited-entry hunt. The State harvest estimates for 1998, 1999, and 2000 were 201, 462, and 233 birds, respectively.

The petition states that the Utah population (based on estimates of average number of males per lek) fluctuates widely from year to year, and may have declined by 50 percent over the 4-year period from 1998 through 2001 (pp. 33–34 of the petition).

*Washington.* Except as noted, the information in this paragraph is taken from Schroeder (2000) and Cawston (2000). Eight local populations occur in the north-central region of the State; four likely have multiple leks, and four consist of single or few leks (Schroeder *et al.* 2000, p. 98). In 2000, the overall estimate was approximately 860 individuals in the spring breeding population; the 2005 estimate was 578 individuals (Schroeder 2005, p. 16). Some minimal interaction may occur between a few local populations, while others are isolated. The Washington population is isolated from other regional populations. Recent genetic analyses indicate that the State population was likely experiencing inbreeding, and Columbian sharp-tailed grouse from other stable populations have been translocated to Washington to address this potential threat. The genetic analyses indicate that the birds in Washington may have a different genetic profile than other populations, and that they may currently be on a different evolutionary trajectory (Warheit and Schroeder 2001, p. 5) due to these genetic differences and their isolation from other populations.

Because the genetic differences may result from isolation and inbreeding, translocation efforts are targeted at preserving any genetic uniqueness while increasing genetic diversity. During the spring of 1998, 1999, and 2000, translocation efforts were conducted to augment one of the remnant local populations in north-central Washington. Translocated birds originated from the metapopulation in southeastern Idaho and from one of the larger local populations in Washington. Additional translocation efforts were undertaken during the spring of 2005 and 2006, to augment three additional Washington populations (Hays 2006). Current plans call for a third consecutive year in 2007 to complete these augmentation efforts. Roughly half of the translocated birds for these efforts originated from the metapopulation in southeastern Idaho, and the rest originated from the metapopulation in central British Columbia (see following discussion under British Columbia).

The State of Washington has not had a hunting season for Columbian sharp-tailed grouse since 1988.

According to the petition (p. 28), the total Columbian sharp-tailed grouse population in the State of Washington was estimated to be 618 birds in 2002.

*Wyoming.* The information in this paragraph is taken from Kruse (1999). Available information indicates that one population exists in the south-central region of the State that consisted of roughly 100 to 500 birds in the spring breeding population and supported multiple leks in 2000. The population occurs in Carbon County and is continuous with the metapopulation in northwestern Colorado (see previous discussion under Colorado).

No open hunting season for Columbian sharp-tailed grouse exists in the State of Wyoming.

The petition cites personal communication with T. Wooley (no affiliation given) that the Wyoming population may have totaled approximately 600 to 700 birds in 2004 (pp. 31–32 of the petition).

*British Columbia, Canada.* The information in this paragraph is taken from M. Chutter, British Columbia Ministry of Environment, Wildlife Branch (1995). The central region of British Columbia (Fraser Plateau) contains numerous interacting local populations with multiple leks, which comprise a distinct interacting metapopulation totaling roughly 5,000 to 10,000 birds in the spring breeding population. The area directly south of Cranbrook (southeastern region) may contain one local population with a single to few leks. This population is

isolated from other regional populations. The area south of Merritt to the Washington border (south-central region) contains individual birds or small flocks during the winter, with no breeding behavior (i.e., leks) apparent.

British Columbia currently prohibits hunting of Columbian sharp-tailed grouse in native grassland habitats (i.e., the southern portion of the subspecies' Provincial distribution). Accurate harvest estimates for Columbian sharp-tailed grouse throughout the remainder of the Province are not available.

The petition cites Leupin's (2002) estimate that the population in British Columbia may have consisted of approximately 10,100 birds in 2002, based on extrapolations of estimated densities across potentially suitable habitats (pp. 36–37 of the petition).

#### Summary of Subspecies' Status

Based on the best available scientific information in 2000, the rangewide estimate for the Columbian sharp-tailed grouse's spring breeding population was approximately 22,500 to 35,500 individuals, with approximately 18,000 to 25,500 individuals occurring within the conterminous United States. This total population occupied approximately 79,500 km<sup>2</sup> (31,000 mi<sup>2</sup>) rangewide, and approximately 38,500 km<sup>2</sup> (15,000 mi<sup>2</sup>) within the conterminous United States, in 2000 (Bart 2000, p. 5). Currently, roughly 95 percent of all Columbian sharp-tailed grouse occur within the 3 remaining metapopulations: In northwestern Colorado and south-central Wyoming; southeastern Idaho and northern Utah; and central British Columbia (Bart 2000, p. 8). By comparing information provided in the petition (pp. 30–37) with data we have in our files, we determined that the petition indicates that the metapopulation in northwestern Colorado and south-central Wyoming may have increased by roughly 25 percent between 2000 and 2004; the metapopulation in central British Columbia may have increased by roughly 5 percent during the same period; and the metapopulation in southeastern Idaho and northern Utah may have increased slightly (no percentage estimate available).

By comparing the available information in our files with information contained in the 2004 petition, the estimated minimum net increase in Columbian sharp-tailed grouse abundance between 2000 and 2004 would be roughly 9 percent, both rangewide and within the conterminous United States, as indicated by the petition (Bart 2000, p. 8; pp. 30–37 of the petition). If we were to assume a

worst case analysis, i.e., that there was no increase in areas occupied by the metapopulations, the total area occupied by Columbian sharp-tailed grouse, both rangewide and within the conterminous United States, may have decreased by less than 1 percent between 2000 and 2004 due to the possible extirpation of several discrete populations (Bart 2000, p. 8; p. 38 of the petition). These estimates of Columbian sharp-tailed grouse are derived from data provided in the petition, and do not represent our estimates of trends. We and the petitioners acknowledge that reliable trends are not determinable from available data (Bart 2000, p. 8; pp. 31–35, 38 of the petition).

The petition indicates that abundance estimates for several of the discrete populations of Columbian sharp-tailed grouse fluctuate widely between years, and therefore the populations cannot be considered stable (pp. 31, 34–35 of the petition). However, species of prairie grouse, with intrinsically high reproductive potential and low survival, periodically undergo wide fluctuations in numbers (e.g., seasonally, yearly), as is demonstrated by spring versus fall population estimates for Columbian sharp-tailed grouse. This variability in abundance does not necessarily indicate instability in these species, but rather represents an inherent component of their life history strategy. Little documentation exists concerning possible ranges of natural seasonal or yearly variation in Columbian sharp-tailed grouse populations, so we are unable to provide estimates of fluctuations due to existing threats. The various survey methodologies and population indices used throughout the subspecies' range make it difficult to obtain accurate or consistent population estimates for Columbian sharp-tailed grouse (Bart 2000, p. 8). In some instances, apparent fluctuations in population abundance may be an artifact of the survey methodology used, survey effort expended, or reliance on variable population estimators. As indicated in the petition (pp. 31–35 of the petition), the available information does not reveal reliable trends (neither positive nor negative) in abundance for the larger metapopulations.

Most of the small, isolated populations of Columbian sharp-tailed grouse, i.e., populations outside the three metapopulations, may be extirpated within a decade or two due to existing threats and current management scenarios (Wisdom *et al.* 1998, pp. 305–313; Bart 2000, p. 9). These discrete populations represent less than 1 percent of the area historically occupied, and 4 percent of

the current occupied range. Three regional populations, including the Nespelem population in Washington, the west-central Idaho population, and the south-central Idaho and northern Nevada population, were stable in 2000 (Bart 2000, p. 9).

The metapopulations of the subspecies have persisted for the last several decades with no discernable downward trend, and the available information indicates they may now be increasing, along with the habitats available to them (Bart 2000, p. 8). The available information indicates that the three metapopulations of Columbian sharp-tailed grouse are relatively secure, although conclusive data regarding recent trends in these populations appears to be lacking (Bart 2000, p. 8; petition pp. 31–35). Given the level of threat to these populations and ongoing conservation measures (e.g., translocations, habitat protection and restoration), (Bart 2000, p. 9–10) concluded that, in the near term (i.e., less than 100 years), the large metapopulations of Columbian sharp-tailed grouse would likely remain stable or increase in abundance and area of occupied range. In addition, one small population is likely to remain stable in west-central Idaho (Bart 2000, p. 10).

According to Bart (2000, pp. 9–10), the three metapopulations will likely also remain stable in the long term (i.e., 100 years), although the Utah portion of one of the metapopulations may experience some decline as a result of predicted future urban expansion in the Salt Lake City and Ogden metropolitan area. Of the smaller populations, only the west-central Idaho population is likely to remain stable, while the long-term outlook for reintroduced populations of Columbian sharp-tailed grouse is uncertain (Bart 2000, p. 10).

#### Threats Analysis

In our determinations of whether to list a species, subspecies, or any distinct vertebrate population segment of these taxa under section 4(a)(1) of the Act, we must consider the following five factors: (A) The present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above factors, either singly or in combination.

The information presented in the petition with regard to the five factors established by the Act and the

information in our files as it relates to the Columbian sharp-tailed grouse is considered below.

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

The petition (pp. 39–40) states that habitat destruction, primarily due to extensive agricultural development, is one of the main reasons for the decline of the Columbian sharp-tailed grouse's rangewide population, and that agriculture and other activities that result in habitat destruction (e.g., residential development) are continuing, or possibly increasing, within the subspecies' historic distribution. Columbian sharp-tailed grouse are negatively impacted by loss of habitat and associated human disturbances, such as the introduction of pets, some of which (e.g., dogs) may prey upon or otherwise disturb local populations, and by potential increases in the abundance and distribution of certain natural predators, such as coyotes and ravens.

The petition also states that habitat degradation, primarily due to excessive livestock grazing, contributed to past declines in Columbian sharp-tailed grouse distribution and abundance, and that grazing and other activities (e.g., chemical and mechanical treatments, increases in nonnative invasive vegetation) continue to threaten the subspecies (pp. 40–43 of the petition). Threats from these activities mainly result from modifications to existing vegetation communities that make the sites less suitable, or unsuitable, for use by Columbian sharp-tailed grouse.

We concur with the petitioners that human influences are primarily responsible for the destruction and degradation of suitable habitats, resulting in declines in Columbian sharp-tailed grouse abundance and occupied range. However, most large-scale habitat conversions within the subspecies' historic distribution took place during the early to mid-1900s (Hart *et al.* 1950, pp. 55–58; Buss and Dziedzic 1955, pp. 185–187; Miller and Graul 1980, pp. 20–22; Marks and Marks 1987, pp. 1–4; Braun *et al.* 1994, p. 38; WDFW 1995, pp. 21–27; McDonald and Reese 1998, p. 34; Connelly *et al.* 1998, pp. 2–3).

Implementation of light or moderate grazing levels, or varied grazing systems, may maintain or improve forage conditions on range lands (Mattise *et al.* 1982, p. 131; Nielsen and Yde 1982, pp. 159–163), and do not necessarily adversely affect Columbian sharp-tailed grouse populations. The information provided in the petition

and in our files does not further address actual grazing levels (e.g., livestock numbers, timing, duration) or grazing effects specific to the discrete populations of Columbian sharp-tailed grouse.

We concur with the petitioners that conversion and degradation of suitable habitats within the subspecies' historic distribution continues. However, these impacts are occurring at much reduced rates compared to historic levels (see above). The petition did not provide any information that further quantifies or qualifies these potential ongoing impacts, or their specific effects on extant Columbian sharp-tailed grouse populations.

Given the lack of information in the petition that further quantifies or qualifies habitat impacts, and the fact that the three metapopulations of the grouse are stable or increasing, we find that the petition has not presented substantial information to indicate that the destruction, modification, or curtailment of habitat or range threaten the continued existence of the Columbian sharp-tailed grouse such that listing under the Act may be warranted.

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

The petition states that excessive hunting likely contributed to past declines in Columbian sharp-tailed grouse distribution and abundance, and presents a discussion addressing whether contemporary hunting pressure may be additive or compensatory to natural mortality. The petition cautions that, under certain circumstances, excessive hunting pressure may result in population declines. The petition summarizes recent hunting seasons, bag limits, and potential adverse impacts from hunting in several U.S. States and in British Columbia, Canada. The petition also indicates that certain research activities (e.g., radio-marking) may make Columbian sharp-tailed grouse more susceptible to mortality factors (e.g., predation) (pp. 43–44 of the petition).

We concur with the petitioners that excessive hunting pressure is partially responsible for past declines in Columbian sharp-tailed grouse abundance and occupied range, and that, under certain circumstances, contemporary hunting pressure may be additive to natural mortality. We also concur that various research activities may increase the risk of mortality to Columbian sharp-tailed grouse. However, current estimated harvest rates are not likely to adversely affect the metapopulations of Columbian

sharp-tailed grouse in the States with hunting seasons (Bart 2000, pp. 11–12). In addition, large metapopulations are not likely to be significantly impacted by various future research activities (capture, translocation, radio marking, genetic sampling) (Bart 2000, p. 11).

The petition did not provide any information that further quantifies or qualifies the potential ongoing impacts of hunting or research, or their specific effects on extant Columbian sharp-tailed grouse populations. Therefore, we find that the petition has not presented substantial information to indicate that overutilization for commercial, recreational, scientific, or educational purposes threatens the continued existence of the Columbian sharp-tailed grouse such that listing under the Act may be warranted.

#### *C. Disease or Predation*

The petition states that some Columbian sharp-tailed grouse populations may carry heavy ectoparasite loads that could limit already stressed populations (pp. 44–45 of the petition). The petition also presents a discussion of the impacts of West Nile virus infection on greater sage-grouse (*Centrocercus urophasianus*), and indicates that this rapidly emerging disease may represent a significant threat to Columbian sharp-tailed grouse, especially to the smaller, isolated populations of the subspecies. The petition indicates that human activities may have increased the vulnerability of some Columbian sharp-tailed grouse populations to predation.

No documentation exists that indicates disease or predation have played a significant role in the population declines and range reduction of Columbian sharp-tailed grouse. We agree that West Nile virus could become a threat to the Columbian sharp-tailed grouse in the future. However, there is currently no information available that addresses the potential occurrence, infection rates, or virulence of West Nile virus in the Columbian sharp-tailed grouse, or its potential effects on extant populations of the subspecies. We also agree that episodes of disease and altered predation patterns may play a role in the dynamics of the smaller, isolated populations.

The petition did not provide any information that quantifies or qualifies the potential impacts of disease or predation, or their specific effects, on extant Columbian sharp-tailed grouse populations. Therefore, we find that the petition has not presented substantial information to indicate that disease or predation threatens the continued existence of the Columbian sharp-tailed

grouse such that listing under the Act may be warranted.

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

The petition asserts that we inappropriately relied on formal State conservation planning efforts in our previous 12-month finding that determined the Columbian sharp-tailed grouse did not warrant listing under the Act (65 FR 60391). The petition also provides summary assessments of formal State conservation planning efforts in Colorado, Idaho, Washington, and Wyoming, and identifies U.S. Bureau of Land Management (BLM) and U.S. Forest Service (USFS) management designations for the subspecies (pp. 45–52 of the petition).

Our previous determination was not based on the identified formal State and local working-group planning efforts; we considered them to be rudimentary planning efforts at that time (65 FR 60391). In addition, we specifically did not address these preliminary planning efforts under factor D, because they are non-regulatory in nature. Bart (2000, p. 7) indicated that: (1) Implementation of these plans was uncertain; (2) the plans provided no legally binding commitments; and (3) the conservation measures prescribed by the plans did not have much impact on analyses addressing the viability of the various extant populations of Columbian sharp-tailed grouse. Other ongoing foreign, Federal, State, and local management measures contributing to conservation of the subspecies were identified in our previous status review. These management measures include habitat maintenance and enhancement (e.g., that provided through the Federal Conservation Reserve Program (CRP) or through land acquisition and protection actions), reintroduction and augmentation programs, and State survey and monitoring initiatives. In accordance with section 4(b)(1) of the Act, we based our previous 12-month determination on the combined weight of the five threat factors and conservation benefits realized through ongoing management measures (65 FR 60391). The additional information provided in the petition that addresses the preliminary nature of formal State and local planning efforts does not substantiate that this is a factor that threatens the Columbian sharp-tailed grouse such that listing under the Act may be warranted.

We concluded above that State hunting regulations appear to be sufficient to control harvest levels of Columbian sharp-tailed grouse (both legal and illegal) in States where they

are hunted, and to avoid adverse impacts to the subspecies (see previous discussion under factor B).

In addition, revegetation and reclamation standards under the CRP and Colorado Mined Land Reclamation Act promote the improvement of habitat conditions for the subspecies' metapopulations. The petition (pp. 56–60) indicates that potential benefits provided by the CRP may be limited, especially considering that "emergency" haying and grazing are allowed on lands enrolled under the program. The new information referenced in the petition (Table 2, pp. 57–58) indicates that, on average, less than 10 percent of CRP acreage within the historic range of the Columbian sharp-tailed grouse may be open to emergency grazing and haying on an annual basis. The petition also indicates that the CRP may expire in 2007, which may represent a significant threat to various Columbian sharp-tailed populations that have come to rely on these lands. The CRP has been authorized on a recurrent 10-year time frame since 1987, with subsequent "sign-ups" of eligible lands occurring after each reauthorization. While the available information does not conclusively demonstrate that the program will be continued in 2007 or beyond, it likewise does not indicate that it will be terminated or otherwise significantly altered under future reauthorizations. The available information does not address the actual extent of haying and grazing activities (e.g., livestock numbers, timing, duration) or potential effects to the subspecies under the haying and grazing provisions, and does not address other conservation implications of potential future changes to the CRP.

Further, the metapopulations of Columbian sharp-tailed grouse are stable or improving in status, and there are approximately 22,500 to 35,500 birds. Because the status is stable, it is likely that threat levels are low enough in the metapopulation areas, such that regulatory mechanisms are not necessary to prevent declines. We find that the petition has not presented substantial information to indicate that the inadequacy of existing regulatory mechanisms threatens the continued existence of the Columbian sharp-tailed grouse such that listing under the Act may be warranted.

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

The petition presented discussions addressing potential adverse impacts to the extant populations of Columbian sharp-tailed grouse from other influences, including the use of

insecticides, reduced genetic fitness, drought and climate change, prescribed fire and fire suppression, other human-related disturbances (e.g., fences, increased noise), dependence on artificial habitats (e.g., lands enrolled under the CRP), and utility lines and roads (pp. 44–52).

We concur with the petitioners that some of the other threats identified in the petition (e.g., insecticide use, reduced genetic fitness, fire management, other human-related disturbances) may impact local populations of Columbian sharp-tailed grouse. However, the three metapopulations and the larger regional populations have persisted in the presence of these ongoing factors for decades. Because metapopulations are more resilient to localized impacts, these factors, either singly or in combination, are not expected to significantly affect future trends in the overall status of the Columbian sharp-tailed grouse (Bart 2000, p. 10).

Other possible future threats identified in the petition (e.g., climate change, extended drought) have the potential to impact the three metapopulations and the larger regional populations of Columbian sharp-tailed grouse. The petition provides speculation (p. 55 of the petition) that temperature increases in combination with altered precipitation could cause changes in species composition and habitat. While a petition does not have to provide conclusive evidence, we find that substantial evidence requires more than speculation. No additional information regarding how these potential threats may affect Columbian sharp-tailed grouse, now or in the future, is contained in our files.

We find that the petition has not presented substantial information to indicate that other natural or human-caused factors threaten the continued existence of the Columbian sharp-tailed grouse such that listing under the Act may be warranted.

#### **Significant Portion of the Range**

The petition states that the Columbian sharp-tailed grouse is absent from 92 to 95 percent of its historic distribution (p. 52 of the petition), and claims that this area represents a significant portion of the subspecies' range.

We concur with the petitioners that the Columbian sharp-tailed grouse currently occupies less than 10 percent of its estimated historic distribution (Bart 2000, p. 8), and that most of the subspecies' small, isolated populations may be extirpated within 10 to 20 years due to existing threats and current management scenarios (Wisdom *et al.*

1998, pp. 305–313; Bart 2000, p. 9). However, range contractions by themselves do not relegate species to certain extinction or suggest that the species require protections under the Act. Nearly all species have experienced range contractions due to anthropogenic effects. While for many species even small range contractions are incompatible with recovery, reduction in a species' range or population numbers does not automatically suggest that the species is in peril, sometimes even when the reduction appears significant.

Columbian sharp-tailed grouse population core areas, where 95 percent of the grouse have occurred for the last 50 years or more, have remained relatively constant, with recent slight increases (Bart 2000, pp. 8–10). Most broad-scale impacts to the Columbian sharp-tailed grouse (e.g., loss and degradation of suitable habitats, over-hunting) that led to past declines in the subspecies' abundance and distribution took place during the late 1800s through the mid-1900s (Hart *et al.* 1950, pp. 55–58; Buss and Dziedzic 1955, pp. 185–187; Miller and Graul 1980, pp. 20–22; Marks and Marks 1987, pp. 1–4; Braun *et al.* 1994, p. 38; WDFW 1995, pp. 21–27; McDonald and Reese 1998, p. 34; Connelly *et al.* 1998, pp. 2–3). The petitioner concludes that lack of proactive management by State and Federal agencies will allow the species to fade into extinction (p. 61 of the petition); however, available information shows that hunting is either regulated or not authorized in all States with populations, and reintroduction actions are ongoing. The subspecies remains stable in three metapopulations, and no current data indicates declining trends. The petition does not provide substantial information suggesting that the portion of the range where the subspecies no longer occurs is significant to the long-term persistence of the subspecies.

In addition, while in general we are concerned with the continued loss of range and the potential contribution small populations may play in a species' recovery, the petition does not present substantial information that the small, isolated populations that may be extirpated in a few decades constitute a significant portion of the range. We made this determination based on a combination of factors. First, the extent of habitat outside the three metapopulations is small relative to the overall range of the subspecies, roughly 4 percent of the subspecies' current occupied range. Second, there is no scientific evidence suggesting that the small, isolated populations of

Columbian sharp-tailed grouse are genetically, behaviorally, or ecologically unique, or that they contribute individuals to other geographic areas through emigration. Finally, there is no scientific evidence suggesting that these habitats are important to the survival of the species because of any unique contribution to the species' natural history, *e.g.*, for reasons such as feeding, migration, or wintering.

#### **Finding**

We have reviewed the petition and literature cited in the petition, and evaluated that information in relation to other pertinent information available in our files. The two main causes for historic declines of Columbian sharp-tailed grouse, (1) loss and degradation of habitats and (2) over-hunting, occurred in the early 1900s. At present, these factors occur at much reduced levels, or not at all, within the areas currently occupied by Columbian sharp-tailed grouse populations. The subspecies'

metapopulations have persisted for the last several decades with no discernable downward trend, and recent information indicates they may now be increasing, along with the habitats available to them (Bart 2000, p. 9).

After review of the best scientific and commercial information available, we conclude that substantial information has not been presented to indicate that listing the Columbian sharp-tailed grouse as a threatened or endangered species may be warranted.

Although we are not commencing a new status review in response to this petition, we will continue to monitor the subspecies' population status and trends, potential threats, and ongoing management actions that might affect the Columbian sharp-tailed grouse.

We encourage interested parties to continue to gather data that will assist with conservation of the subspecies. If you wish to provide information regarding the Columbian sharp-tailed grouse, you may submit your

information or materials to the Field Supervisor, Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section above).

#### **References Cited**

A complete list of all references cited herein is available on request from the Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section above).

#### **Author**

The primary author of this notice is Chris Warren of the Upper Columbia Fish and Wildlife Office (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.*).

Dated: November 13, 2006.

#### **H. Dale Hall,**

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

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