

45 CFR citation	Number of respondents ⁶	Responses/respondent	Hours/response	Total hour burden
96.124(c)(1)	60	1	40	2,400
96.127(b)	60	1	8	480
96.130(e)(4,5)	59	1	14	826
96.130(g)	59	1	5	295
96.131(f)	60	1	8	480
96.133(a)	60	1	80	4,800
Waivers ⁴ :				
96.124(d)	0	1	40	0
96.132(d)	0	1	16	0
96.134(b)	3	1	40	120
96.135(d)	0	1	8	8
TOTAL Reporting Burden ⁵	60	—	—	30,206
Recordkeeping Burden				
96.129(a)(13)	60	1	16	960

¹ There was a one-time burden associated with change of the due date for the annual report effective with the FY 2001 application.

² This is a requirement to report on activities to implement SAMHSA's charitable choice legislation and regulations promulgated in September 2003 at 42 CFR part 54; information collection language for this requirement is approved under OMB control number 0930-0242.

³ This section describes Synar requirements for the first applicable year, which has passed for all States. Therefore, no burden is associated with this section.

⁴ The number of respondents per year for the waiver requests is based on actual experience over the past several years.

⁵ All reporting burden associated with the annual reports, state plan, and waivers is approved under OMB control numbers 0930-0080 and 0930-0242. Only the information collection language in the regulation and the recordkeeping burden are approved under OMB control number 0930-0163.

⁶ Synar reporting requirements do not pertain to the Red Lake Band of the Chippewa Indians of Minnesota and thus have 59 rather than 60 respondents.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202-395-6974.

Dated: December 30, 2003.

Anna Marsh,

Acting Executive Officer, SAMHSA.

[FR Doc. 04-265 Filed 1-6-04; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition To List the Eastern Subspecies of the Greater Sage-Grouse as 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 for a petition to list the eastern subspecies of the greater sage-

grouse (*Centrocercus urophasianus urophasianus*) as endangered under the Endangered Species Act of 1973, as amended. We find that the petition does not present substantial scientific or commercial information indicating that listing this subspecies may be warranted. This finding is based on our determination that there is a lack of evidence to indicate that the eastern sage-grouse is a valid subspecies, and our determination that the eastern population of sage-grouse does not constitute a Distinct Population Segment (DPS). We will not be 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 species or threats to it. This information will help us monitor and encourage the conservation of the species.

DATES: The finding announced in this document was made on January 2, 2004. You may submit new information concerning this species for our consideration at any time.

ADDRESSES: The complete file for this finding is available for inspection, during normal business hours, at the Wyoming Ecological Services Field Office, U.S. Fish and Wildlife Service, 4000 Airport Parkway, Cheyenne, Wyoming 82001. Submit new information, materials, comments, or questions concerning this taxon to the Service at the above address.

FOR FURTHER INFORMATION CONTACT:

Brian T. Kelly, at the address given in the **ADDRESSES** section (telephone 307-772-2374; facsimile 307-772-2358).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we must make this finding within 90 days of receiving the petition and publish a notice of the finding promptly in the **Federal Register**. Our standard for substantial information 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 our finding is that substantial information was presented, we are required to promptly begin a review of the status of the species, if one has not already been initiated under our internal candidate assessment process. In order to determine if substantial information is available, the Service reviewed the subject petition, literature cited in the petition, information provided by recognized experts or agencies cited in

the petition, and information otherwise available in Service files.

On July 3, 2002, the Institute for Wildlife Protection submitted a petition requesting that we list the eastern subspecies of the greater sage-grouse (*Centrocercus urophasianus urophasianus*) as endangered. One part of the petition states that the eastern subspecies of the greater sage-grouse occurs in eastern Oregon, California, Nevada, Colorado, Idaho, Utah, Wyoming, Montana, South Dakota, and North Dakota, and another part of the petition notes that the present range also includes southern Alberta and Saskatchewan, Canada. The petition clearly identified itself as such and contained the name, address, and signature of the petitioning organization's representative. Accompanying the petition was information related to the taxonomy, life history, demographics, movements, habitats, threats, and the past and present distribution of eastern sage-grouse. The petitioner contends that both the range of the eastern sage-grouse and the number of individuals have decreased significantly, and that the subspecies has become isolated into a series of fragmented populations.

Previously, on January 24, 2002, the Institute for Wildlife Protection submitted a petition requesting that we list the western subspecies of the greater sage-grouse (*C. u. phaios*) as either threatened or endangered. In our 90-day finding on the western subspecies petition, dated February 7, 2003 (68 FR 6500), we determined that the petition did not present substantial scientific or commercial information indicating that listing the western subspecies was warranted. We based our finding on a lack of scientific evidence to support a separation of the greater sage grouse into eastern and western subspecies, and our determination that the western population of sage-grouse did not constitute a distinct population segment (DPS).

In a letter dated March 19, 2003, the petitioner acknowledged (but did not agree with) our position that there is no basis for recognizing subspecies of the greater sage-grouse, and requested that the Service combine the petitions for the western and eastern subspecies of the greater sage-grouse into one petition to list the species as endangered. We have treated this request as a new petition to list the greater sage-grouse. In addition, we have two other petitions to list the greater sage-grouse. One of those petitions was from Mr. Craig C. Dremann, dated June 18, 2002, to list the greater sage-grouse as endangered. Mr. Dremann's petition summarizes

several threats to the species based on his review of Barrett *et al.* 2000. The other petition, dated December 22, 2003, was submitted to us by the American Lands Alliance and 19 other organizations, requesting that we list the greater sage-grouse as endangered. We intend to address all outstanding petitions to list the greater sage-grouse within 90 days of the latest petition (by March 29, 2004) subject to legal commitments, resource limitations and competing priorities.

This 90-day petition finding is made in accordance with a court order that requires us to complete a finding on the petition to list the eastern subspecies of the greater sage-grouse within 90 days of October 3, 2003 (*Institute for Wildlife Protection Inc., et al. v. Norton et al.* (C03-05006-RBL)).

Biology and Distribution

Our 90-day petition finding on the western subspecies of greater sage-grouse, dated February 7, 2003 (68 FR 6500), presented detailed information regarding the description, natural history, and distribution of the greater sage-grouse (*C. urophasianus*) (sage-grouse) (American Ornithologists' Union (AOU) 2000), taken from the following sources: Aldrich 1963; Johnsgard 1973; Connelly *et al.* 1988; Connelly *et al.* 2000; Fischer *et al.* 1993; Drut 1994; Western States Sage and Columbian Sharp-tailed Grouse Technical Committee (WSSCSTGTC) 1996 and 1998; and Schroeder *et al.* 1999. That finding should be consulted for greater detail, but a brief synopsis of habitat and distribution follows.

Sage-grouse depend on a variety of shrub-steppe habitats throughout their life cycle, and are particularly tied to several species of sagebrush (*Artemisia* spp.). Throughout much of the year, adult sage-grouse rely on sagebrush to provide roosting cover and food. The type and condition of shrub-steppe plant communities strongly affect habitat use by sage grouse populations, but these populations also exhibit strong site fidelity (loyalty to a particular area). Sage-grouse may disperse up to 160 kilometers (km) (100 miles (mi)) between seasonal use areas; however, average individual movements are generally less than 34 km (21 mi). Sage-grouse also are capable of dispersing over areas of unsuitable habitat (Connelly *et al.* 2000).

During the spring breeding season, male sage-grouse gather together and perform courtship displays on display areas called leks. Areas of bare soil, short-grass steppe, windswept ridges, exposed knolls, or other relatively open sites may serve as leks. Leks, which

often are surrounded by denser shrub-steppe cover, range in size from less than 0.4 hectare (ha) (1 acre (ac)) to over 40 ha (100 ac). Some leks are used for many years. These "historic" leks are typically larger than, and often surrounded by, smaller "satellite" leks, which may be less stable in size and location. A group of leks where males and females may interact within a breeding season or between years is called a lek complex. Males defend individual territories within leks. Relatively few dominant males account for the majority of breeding on a given lek (Schroeder *et al.* 1999).

Females may travel up to 35 km (22 mi) after mating. They typically select nest sites under sagebrush cover, although other shrub or bunchgrass species are sometimes used (Connelly *et al.* 2000). Nests are relatively simple, consisting of scrapes on the ground that are occasionally lined with feathers and vegetation. Sage-grouse typically seek out more mesic (moist) habitats that provide greater amounts of succulent forbs and insects during the summer and early fall. During the winter, they depend almost exclusively on sagebrush for food.

Prior to European expansion into western North America, sage-grouse were believed to occur in 16 States and 3 Canadian provinces: Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Colorado, Utah, South Dakota, North Dakota, Nebraska, Arizona, New Mexico, Kansas, Oklahoma, British Columbia, Alberta, and Saskatchewan (Schroeder *et al.* 1999; Young *et al.* 2000). The distribution of sage-grouse has contracted in a number of areas, most notably along the northern and northwestern periphery and in the center of their historic range. Currently, sage-grouse occur in 11 States and 2 Canadian provinces, ranging from extreme southeastern Alberta and southwestern Saskatchewan, south to western Colorado, and west to eastern California, Oregon, and Washington. Sage-grouse have been extirpated from Arizona, Kansas, Nebraska, Oklahoma, New Mexico, and British Columbia (Schroeder *et al.* 1999; Young *et al.* 2000). The vast majority of the current distribution of the greater sage-grouse is within the United States.

Rangewide estimates of sage-grouse abundance prior to European settlement in western North America vary (65 FR 51578, August 24, 2000). The WSSCSTGTC (1999) estimated that there may have been about 1.1 million birds in 1800. Much of the overall decline in sage-grouse abundance apparently occurred from the late 1800s

to the mid-1900s (Hornaday 1916; Crawford 1982; Drut 1994; Washington Department of Fish and Wildlife 1995; Braun 1998; Schroeder *et al.* 1999), but other population declines apparently occurred in the 1920s and 1930s, and then again in the 1960s and 1970s (Connelly and Braun 1997). Braun (1998) estimated that the 1998 rangewide spring population numbered about 157,000 sage-grouse. The WSSSTGTC (1999) estimates the sage-grouse population has declined about 86 percent from historic levels to the present.

Taxonomy

Eastern and western subspecies of sage-grouse were first described in 1946 by Aldrich. Aldrich (1946) examined 11 specimens collected in Washington (3), Oregon (7), and California (1) and, on the basis of slight color differences in the plumage, concluded that 2 subspecies existed: one with a more limited distribution in the northwestern portion of the range of the greater sage-grouse and one in the eastern portion of the range. The distribution of the western subspecies was described as occurring from north to central-southern British Columbia; west to central Washington, central Oregon, and northeastern California; south to northeastern California; east to southeast-central and northeastern Oregon (possibly central-western Idaho) and central-eastern Washington (Aldrich 1946). The eastern subspecies was considered to comprise the remainder of the range of the greater sage-grouse, extending from southern Idaho to western North and South Dakota, southwesterly to western Colorado, and west through central Utah and Nevada (Johnsgard 1973). The distribution of western sage-grouse was modified to reclassify sage-grouse in northwestern Nevada and northern California as an intermediate form (Aldrich and Duvall 1955; AOU 1957; Aldrich 1963).

The validity of the taxonomic separation between an eastern and a western subspecies has been questioned (Johnsgard 1983; Johnsgard 2002; Benedict *et al.* 2003). In 1957, the AOU recognized a subspecies division within the sage-grouse taxon. Since that time, however, it has not conducted a review of this subspecies distinction. The AOU stopped listing subspecies as of the 6th (1983) edition of its Checklist, although it recommended the continued use of the 5th edition for taxonomy at the subspecific level. The AOU has not formally or officially reviewed the subspecific treatment of most North American birds, although it is working

towards that (Richard C. Banks, National Museum of Natural History, pers. comm. with Oregon Field Office of FWS 2000, 2002). Therefore, the western and eastern subspecies of sage grouse are still recognized by the AOU, based on their 1957 consideration of the taxon.

In our 90-day finding on the petition to list the western subspecies of the greater sage-grouse (February 7, 2003; 68 FR 6500), we concluded there is no basis to recognize the eastern or western subspecies of the greater sage-grouse due to relatively recent information concerning the lack of distinct genetic differences between the two, lack of ecological or physical factors that might indicate differentiation between the populations, and evidence that birds freely cross the supposed boundary zone between the subspecies. That finding provides more detailed information, but a brief synopsis follows.

The boundary between the western and eastern subspecies was generally described as occurring along a line starting on the Oregon-Nevada border south of Hart Mountain National Wildlife Refuge and ending near Nyssa, Oregon (Aldrich and Duvall 1955; Aldrich 1963). No physical barriers exist that would preclude the movement of birds across the proposed boundary separating the two subspecies, and studies involving radio-tagged sage-grouse have documented movements back and forth across the proposed boundary (Crawford and Gregg 2001).

In 1990, protein and deoxyribonucleic acid (DNA) studies were initiated to clarify the status of sage-grouse subspecies in Oregon. Preliminary results indicated no differentiation among birds collected from different areas (Drut 1994). However, because the sample size was small, these results were never published (Michael Pope, Oregon State University, pers. comm. with Oregon Field Office of FWS 2002). Recently, Benedict *et al.* (2003) collected 332 birds from 16 populations in Washington, Oregon, California, and Nevada to sequence a rapidly evolving portion of the mitochondrial DNA. They collected samples from both sides of the proposed boundary between the western and eastern subspecies. Their analysis found no genetic evidence to support the delineation of subspecies.

We are unaware of any information documenting that either of the two putative subspecies exhibits any unique behavioral or ecological traits, other than those described for the Columbia Basin DPS due to its isolation resulting from habitat fragmentation and loss. (On May 7, 2001 (66 FR 22984), we

determined that listing of the Washington population of sage-grouse as a distinct population segment, termed the Columbia Basin DPS, was warranted but precluded by higher priority listing actions; the Columbia Basin DPS is currently a candidate for listing (67 FR 40657)).

Based on the lack of distinct genetic differences between the two putative subspecies, lack of ecological or physical factors that might contribute to population isolation, and evidence that birds freely cross the supposed boundary zone between the putative subspecies, we continue to conclude that neither the eastern nor western sage-grouse is a valid subspecies of the greater sage-grouse.

Distinct Population Segment

Because we no longer consider the eastern sage-grouse to be a valid subspecies, we must then consider whether the petitioned entity might constitute a valid Distinct Population Segment (DPS) under our DPS policy (61 FR 4722). Under our DPS policy, we use two elements to assess whether a vertebrate population may be recognized as a DPS: (1) A population segment's discreteness from the remainder of the species to which it belongs; and (2) the significance of the population segment to the species to which it belongs. If we determine that a population being considered for listing meets the discreteness and significance criteria, and thus may represent a DPS, we then consider the population segment's conservation status in relation to the Act's standards for listing (*i.e.*, is the population segment, when treated as if it were a species, endangered or threatened?).

Under our DPS policy, a population segment of a vertebrate species may be considered discrete if it satisfies either of the following two conditions. The first condition is whether the population segment “* * * 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.” The second condition is whether the population segment 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” (61 FR 4722; February 7, 1996).

In our 90-day finding on the petition to list the western subspecies of the

greater sage-grouse (68 FR 6500; February 7, 2003), we concluded that available information was not substantial to demonstrate that the western population of sage-grouse is discrete from the remainder of the taxon based on physical separation or isolation from eastern populations, or distinct differences in morphological, behavioral, or ecological traits. The current petition for the eastern subspecies does not provide any additional or new information regarding subspecies isolation. In addition, recent genetic studies found no evidence to support the delineation of subspecies (Benedict *et al.* 2003).

Although the greater sage-grouse occurs in Canada, the petitioned entity is not "delimited by international governmental boundaries." Therefore, the second condition related to discreteness does not apply in this situation.

In summary, neither the information presented in the petition nor that available in Service files presents substantial scientific or commercial information to demonstrate that the eastern population of sage-grouse is discrete from the remainder of the taxon. Accordingly, we are unable to define a listable entity of the eastern sage-grouse within the greater sage-grouse taxon. Therefore, we did not address the second element for determining a DPS, which is the potential significance of the eastern sage-grouse population to the remainder of the taxon. Finally, since the eastern population of sage-grouse cannot be defined as a DPS at this time, we did not evaluate its status as endangered or threatened on the basis of either the Act's definitions of those terms or the factors in section 4(a) of the Act.

Finding

The Service has reviewed the petition, literature cited in the petition, other pertinent literature, and information available in Service files. After reviewing the best scientific and commercial information available, the Service finds the petition does not present substantial information to indicate that the petitioned action may be warranted. This finding is based on the lack of evidence to support a separation of the greater sage-grouse into eastern and western subspecies, and our determination that the eastern population of the greater sage-grouse does not constitute a DPS.

References Cited

A complete list of all references cited herein is available upon request from

the Wyoming Field Office (see ADDRESSES).

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

Dated: January 2, 2004.

Matt Hogan,

Acting Director, Fish and Wildlife Service.

[FR Doc. 04-354 Filed 1-5-04; 9:43 am]

BILLING CODE 4310-55-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-503]

Certain Automated Mechanical Transmission Systems for Medium-Duty and Heavy-Duty Trucks, and Components Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 1, 2003, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Eaton Corporation of Cleveland, Ohio. A supplement to the Complaint was filed on December 3, 2003. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automated mechanical transmissions for medium-duty and heavy-duty trucks, and components thereof, by reason of infringement of claim 15 of U.S. Patent No. 4,899,279, claims 1-20 of U.S. Patent No. 5,335,566, claims 2-4 and 6-16 of U.S. Patent No. 5,272,939, claims 1-13 of U.S. Patent No. 5,624,350, claims 1, 3, 4, 6-9, 11, 13, 14, 16, and 17 of U.S. Patent No. 6,149,545, and claims 1-16 of U.S. Patent No. 6,066,071. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room

112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket imaging system (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2003).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on December 31, 2003, *ordered* That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain automated mechanical transmission systems for medium-duty and heavy-duty trucks, or components thereof by reason of infringement of claim 15 of U.S. Patent No. 4,899,279, claims 1-20 of U.S. Patent No. 5,335,566, claims 2-4 and 6-16 of U.S. Patent No. 5,272,939, claims 1-13 of U.S. Patent No. 5,624,350, claims 1, 3, 4, 6-9, 11, 13, 14, 16, or 17 of U.S. Patent No. 6,149,545, or claims 1-16 of U.S. Patent No. 6,066,071 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Eaton Corporation, Eaton Center, 1111 Superior Avenue, Cleveland, OH 44114-2584.