

or adds additional funds to it. Recipients and sub-recipients that are already recipients, sub-recipients, applicants and sub-applicants as of the effective date of this regulation must file a certification upon any extension, amendment, or modification of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument that extends the term of such instrument or adds additional funds to it.

(g) Sub-applicants of funds must provide the HHS/ACF/ORR with a certification as set out in Paragraph (c) of this section, or in a separate writing signed by the sub-applicant officer or other person authorized to bind the applicant, submitted as part of the application for award of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument.

#### **§ 404.5 Restriction on programs operated with or through consortia.**

The HHS/ACF/ORR may not make available any funds appropriated for the purpose of monitoring or combating the trafficking of persons through, or expended by, programs operated with, or through, a consortium of organizations that includes any organization that has not provided the HHS/ACF/ORR with a certification as set out in § 404.4.

#### **§ 404.6 Record-keeping and inspection.**

(a) Recipients and sub-recipients shall maintain press and public relations material, Internet content, and other broadly disseminated documents (such as training manuals, curricula, and other educational matter) pertinent to establishing the validity of the certifications for a period of three years after the end of the term of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument through which the HHS/ACF/ORR provided the funds. If any litigation, claim or audit is started before the expiration of the three year period, the records must be retained until all litigation, claims or audit findings involving the materials have been resolved and final action taken.

(b) Authorized HHS/ACF/ORR employees have the right to timely and unrestricted access to the materials described in paragraph (a) of this section. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents.

#### **§ 404.7 Termination of funding.**

(a) The HHS/ACF/ORR may terminate transfer of funds to a recipient, including by terminating a grant, cooperative agreement, contract, grant under a contract, or other funding instrument, if the HHS/ACF/ORR determines that the recipient or a sub-recipient of the funds has failed to comply with the requirements of this part.

(b) A recipient whose HHS/ACF/ORR funding has been terminated shall reimburse the HHS/ACF/ORR for all funds expended after the violation occurred, or, in the case of a grant, cooperative agreement, contract, grant under a contract, or other funding instrument, the funds in their entirety if the HHS/ACF/ORR determines that an organization's statement was or has become false.

(c) In addition to termination of funding, the HHS/ACF/ORR may suspend or debar a recipient in violation of this part from receiving any further Federal government funds if the HHS/ACF/ORR determines that the violation of this part was willful.

(d) Terminations will be in accordance with the Federal Acquisition Regulations, Part 49 for contracts; 45 CFR Part 74 or Part 92 for grants, cooperative agreements, and grants under a contract.

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

[FWS-R6-ES-2008-0022; 1111 FY07 MO-B2]

#### **Endangered and Threatened Wildlife and Plants; Initiation of Status Review for the Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered**

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

**ACTION:** Notice; initiation of status review and solicitation of new information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the initiation of a status review for the greater sage-grouse (*Centrocercus urophasianus*). Through this action, we encourage all interested parties to provide us information regarding the status of, and any potential threats to, the greater sage-grouse.

**DATES:** To be considered in our determination whether listing is warranted, data, comments, and information should be submitted to us on or before May 27, 2008.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R6-ES-2008-0022; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** The U.S. Fish and Wildlife Service's Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Suite 308A, Cheyenne, Wyoming 82009; telephone 307-772-2374. People who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Information Solicited**

To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the greater sage-grouse. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties on the status of the greater sage-grouse throughout its range, including:

(1) Information regarding the species' historical and current population status, distribution, and trends; its biology and ecology; and habitat selection;

(2) Information on the effects of potential threat factors that are the basis for a listing determination under section 4(a) of the Act, which are:

(a) present or threatened destruction, modification, or curtailment of the species' 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.

(3) Information on management programs for the conservation of the greater sage-grouse.

Please note that comments merely stating support or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, because section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is a threatened or endangered species must be made “solely on the basis of the best scientific and commercial data available.” At the conclusion of the status review, we will determine whether listing is warranted, not warranted, or warranted but precluded.

You may submit your comments and materials concerning this finding by one of the methods listed in the **ADDRESSES** section. We will not accept comments you send by e-mail or fax.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that we will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service’s Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Suite 308A, Cheyenne, Wyoming 82009; telephone 307-772-2374.

### Background

On July 2, 2002, we received a petition from Craig C. Dremann requesting that we list the greater sage-grouse (*Centrocercus urophasianus*) as endangered across its entire range. We received a second petition from the

Institute for Wildlife Protection on March 24, 2003 (Webb 2002), requesting that the greater sage-grouse be listed rangewide. On December 29, 2003, we received a third petition from the American Lands Alliance and 20 additional conservation organizations (American Lands Alliance et al.) to list the greater sage-grouse as threatened or endangered rangewide. On April 21, 2004, we announced our 90-day petition finding in the **Federal Register** (69 FR 21484) that these petitions taken collectively, as well as information in our files, presented substantial information indicating that the petitioned actions may be warranted.

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific or commercial information that the action may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the **Federal Register**. On January 12, 2005, we announced our 12-month finding (70 FR 2244) that after reviewing the best available scientific and commercial information, we found that listing the greater sage-grouse was not warranted.

Western Watersheds Project filed a complaint on July 14, 2006, alleging that our finding was arbitrary and capricious under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*). On December 4, 2007, the U.S. District Court, District of Idaho, ruled that our 12-month petition finding was in error and remanded the case to the Service for further consideration. Legal action is still pending and the Court has not yet set a date for completion of the remand.

Subject to any new court order, the Service has determined that it is appropriate to initiate a new status

review to address information that has become available since our 2005 petition finding. That finding relied, in part, on information in the “Conservation Assessment of Greater Sage-Grouse and Sagebrush Habitats” published in 2004 by the Western Association of Fish and Wildlife Agencies. Since the publication in 2004 of the Conservation Assessment, a significant amount of new research has been completed and new information has become available regarding threats, conservation measures, and population and habitat status of the greater sage-grouse.

Unless the court requires an earlier completion date for a remanded 12-month finding, it is our intention to complete this new status review and make a new determination at that time as to whether listing is warranted.

At this time, we are soliciting new information on the status of and potential threats to the greater sage-grouse. Information submitted prior to January 12, 2005, will be considered and need not be resubmitted. We will base our new determination as to whether listing is warranted on a review of the best scientific and commercial information available, including all such information received as a result of this notice. For more information on the biology, habitat, and range of the sage-grouse, please refer to our previous 12-month finding published in the **Federal Register** on January 12, 2005 (70 FR 2244).

### Author

The primary author of this notice is the staff of the Wyoming Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

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

Dated: February 15, 2008.

### Dale Hall,

Director, U.S. Fish and Wildlife Service.

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