

(d) For each closed meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemption relied upon. A copy of the certification shall be available for public inspection.

(e) For each closed meeting, the Board shall issue a statement setting forth the time, place, and persons present. A copy of such statement shall be available for public inspection.

(f) (1) For each closed meeting, with the exception of a meeting closed pursuant to § 2505.4(h) or (j), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting.

(2) For meetings that are closed pursuant to § 2505.4(h) or (j), the Board may maintain a set of minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any vote. All documents considered in connection with any action shall be identified in such minutes.

(3) The Corporation shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Corporation determines to contain information which may be properly withheld. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Corporation shall maintain the transcript, recording, or minutes for each closed meeting for at least two years or at least one year after the conclusion of any Corporation business acted upon at the meeting, whichever occurs later.

§ 2505.6 What are the procedures for making a public announcement of a meeting?

(a) For each meeting, the Board shall make a public announcement, at least one week before the meeting, of—

- (1) The meeting's time and place;
- (2) The matters to be considered;
- (3) Whether the meeting is to be open or closed; and
- (4) The name and business telephone number of the official designated by the

Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if—

(1) The Board determines by recorded vote that Board business requires that the meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time and posted on the Corporation's home page.

(c) Immediately following a public announcement required by paragraph (a) of this section, the Corporation will submit for publication in the **Federal Register** a notice of the time, place, and subject-matter of the meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.

§ 2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

(a) After there has been a public announcement of a meeting, the time or place of the meeting may be changed only if the Board publicly announces the change at the earliest practicable time. Such a change need not be determined by recorded vote.

(b) After there has been a public announcement of a meeting, the subject-matter of the meeting, or the determination of the Board to open or to close a meeting may be changed only when—

(1) The Board determines, by recorded vote, that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces the change and the vote of each Member at the earliest practicable time.

(c) The deletion of any subject-matter previously announced for a meeting is not a change requiring the approval of the Board under paragraph (b) of this section.

Dated: May 6, 1999.

Thomas L. Bryant,

Acting General Counsel.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF43

Endangered and Threatened Wildlife and Plants; Proposed Rule To Delist the Douglas County Population of Columbian White-Tailed Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We (the U.S. Fish and Wildlife Service) propose to remove the Douglas County population of the Columbian white-tailed deer (*Odocoileus virginianus leucurus*) from the Lists of Endangered and Threatened Wildlife and Plant species (delist), pursuant to the Endangered Species Act of 1973, as amended.

Two populations of this subspecies exist, one in Douglas County, Oregon, (Douglas County population), and the other in Columbia and Clatsop counties, Oregon, and Wahkiakum County, Washington (Columbia River population). The Columbian white-tailed deer was listed as endangered in 1967 under the Endangered Species Preservation Act, and subsequently listed under the Endangered Species Act of 1973 as amended (Act).

The Douglas County population has increased from a low of fewer than 300 deer in 1940 to a current total of about 5,500 deer. The range of this population also has increased. Habitat has been secured and/or protected for the population, enabling it to increase in numbers and range to the point where a change in status is appropriate.

The Douglas County population of Columbian white-tailed deer meets the recovery plan's criteria for delisting. The Columbia River population numbers meet the criteria for downlisting to threatened, but do not presently meet the objectives for secure habitat needed to delist the population. We anticipate another proposed rule in the future to downlist this population.

This proposed rule includes a proposed 5-year post-delisting monitoring plan for the Douglas County population as required for species that are delisted due to recovery. Monitoring will include population trends and productivity.

DATES: We must receive your comments on the Douglas County population of Columbian white-tailed deer delisting by July 12, 1999. Public hearing requests must be received by June 25, 1999.

ADDRESSES: Send comments and materials concerning this proposal to the Supervisor, U.S. Fish and Wildlife Service, Southwest Oregon Field Office, 2900 N.W. Stewart Parkway, Roseburg, Oregon 97470. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Craig Tuss, Field Supervisor, U.S. Fish and Wildlife Service (See ADDRESSES section), (telephone 541/957-3474; facsimile 541/957-3475) for information pertaining to the Douglas County population.

SUPPLEMENTARY INFORMATION:

Background

The Columbian white-tailed deer (*Odocoileus virginianus leucurus*) resembles other white-tailed deer subspecies, ranging in size from 39 to 45 kilograms (kg) (85 to 100 pounds (lbs)) for females and 52 to 68 kg (115 to 150 lbs) for males. Generally a red-brown color in summer, and gray in winter, the species has white rings around the eyes and a white ring just behind the nose. Its tail is long and triangular in shape, and is brown on the dorsal (upper) surface and fringed in white (Oregon Department of Fish and Wildlife (ODFW) 1995). The species was formerly distributed throughout the bottomlands and prairie woodlands of the lower Columbia, Willamette, and Umpqua River basins in Oregon and southern Washington (Bailey 1936). It is the westernmost representative of the 38 subspecies of white-tailed deer. Early accounts suggested this deer was locally common, particularly in riparian areas along the major rivers (Gavin 1978). The decline in deer numbers was rapid with the arrival and settlement of pioneers in the fertile river valleys. Conversion of brushy riparian land to agriculture, urbanization, uncontrolled sport and commercial hunting, and perhaps other factors apparently caused the extirpation of this deer over most of its range by the early 1900's (Gavin 1978). Only a small herd of 200 to 400 animals in the lower Columbia River area of Clatsop and Columbia counties, Oregon, and Cowlitz and Wahkiakum counties, Washington, and a disjunct population of unknown size in Douglas County, Oregon, survived. These two remnant populations are geographically separated by about 320 kilometers (km) (200 miles (mi)) of unsuitable or discontinuous habitat.

Population declines led to classification of this subspecies as endangered in 1967 (32 FR 4001). Prior

to 1977, the Douglas County population was considered a black-tailed deer (*Odocoileus hemionus columbiana*) or a hybrid between the black-tailed deer and the Columbian white-tailed deer by the State of Oregon, and was managed accordingly, including by a regulated harvest. In 1978, the State of Oregon recognized the white-tailed deer population in Douglas County as the Columbian white-tailed deer and prohibited hunting of white-tailed deer in that County (ODFW 1995). The Columbian white-tailed deer was removed from the State of Oregon list of threatened and endangered species in 1996 because the State considers the population to have recovered.

The Columbian White-Tailed Deer Recovery Plan (Recovery Plan) was approved by us in 1976, and a revised version was approved in 1983. Because of the distance between these populations and differences in habitats and threats, the Recovery Plan addresses the recovery of each population separately.

Crews (1939) estimated the population in the 1930's in Douglas County at 200 to 300 individuals within a range of about 78 square kilometers (sq km) (30 square miles (sq mi)). In 1970, ODFW estimated that 450 to 500 deer were present. By 1983, the number had increased to about 2,500 (Smith 1985). The population has continued to grow and presently numbers about 5,500 deer (ODFW 1995).

Along with this increase in numbers, the range also has expanded. The deer have expanded to the north and west in the last 10 years, and now occupy an area of approximately 800 sq km (308 sq mi) (ODFW 1995). The highest densities of Columbian white-tailed deer are found along the south bank of the North Umpqua River within about 1 km (0.6 mi) of the river. Within this zone, browse lines are becoming evident in some areas, and higher parasite loads and bacterial infections are beginning to become apparent due to high concentrations of deer (Kistner and Denney 1991). High internal parasite loads are generally considered to be indicators of high deer densities (ODFW 1995).

Most habitat for the Douglas County population is on private lands, and 3,713 hectares (ha) (9,191 acres (ac)) of suitable habitat are presently considered secure on Federal, County and private lands. For the purpose of delisting, habitat is considered secure if it is protected by legally binding measures or law from adverse human activities for the foreseeable future. The majority of this secure habitat (2,804 ha) (6,941 ac) is managed by the U.S. Department of

the Interior, Bureau of Land Management (BLM), Roseburg District. About 2,658 ha (6,581 ac) is managed as the North Bank Habitat Management Area, which was acquired by the BLM in order to secure habitat for the Douglas County population of Columbian white-tailed deer, and its primary purpose is to manage for the species (BLM 1998). BLM also manages another 145 ha (360 ac) of for the species (Lowell Hayes, BLM, *in litt.* 1998). Douglas County provides another 626 ha (1,550 ac) of secure habitat, and includes the Kanipe Ranch property (444 ha) (1,100 ac), which was deeded to the County with the stipulation that it be managed as a wildlife area and the County manages it in that manner; Whistler Park (40 ha) (100 ac), which the County manages as a park; and the Glide Transfer Site (141 ha) (350 ac) which is managed as an experimental forest, with wildlife habitat as one of its objectives (Frank M. Nielsen, Douglas County Public Works Department, *in litt.* 1998; David Peterson, U.S. Fish and Wildlife Service, pers. comm. 1998). Several other organizations are providing secure habitat, including the Nature Conservancy, which owns about 8 ha (20 ac) and manages it as a natural area and will continue to do so into perpetuity; 12 ha (30 ac) is provided by Oregon Department of Fish and Wildlife, which manages the land for wildlife and public fishing; and Ramp Canyon (263 ha) (650 ac) is managed by the Ramp Canyon Board, comprised of private citizens, as an outdoor recreation site which provides habitat for the Douglas County population of Columbian white-tailed deer (D. Peterson, pers. comm. 1998).

Though not considered secure, habitat on private lands within the core range of this population that contains key foraging, hiding, fawning, and travel corridors is also providing a measure of protection for the subspecies. Douglas County has implemented land use plans and zoning ordinances that apply to private land to protect habitat and assist in recovery (Douglas County 1997). These protection measures include retention of existing land uses that maintain essential habitat components. Minimum lot sizes for farm use and timberlands, and building setbacks along riparian zones, have been established to assure maintenance of habitat and travel corridors (ODFW 1995; Douglas County 1997).

The Recovery Plan described the criteria for reclassification of the Douglas County population to threatened status. This criteria was maintenance of a total of 1,000 animals in the herd in combination with

moderate habitat protection (such as provided by Douglas County Land Use Plans and zoning ordinances) (Service 1983). The Recovery Plan also had an objective of at least 500 deer distributed on at least 2,222 ha (5,500 ac) of suitable, secure habitat for the Douglas County population to be considered recovered and subject to removal from the Lists of Endangered and Threatened Wildlife (Service 1983). The figure of 500 deer was calculated based on existing sex ratios and distribution, and is theoretically required to eliminate the potentially deleterious effects of inbreeding. The theory and formulas for calculating this number were developed and discussed by Senner (1980).

From 1994 to 1997, population estimates indicated that 507, 424, 558 and 618 deer have been present on secure habitat (S. Denney, ODFW, *in litt.* 1997). The rest of the population is found on habitat not considered secure. The current total population size is roughly five times the population size required for downlisting, which greatly reduces the risk to the population. It is also anticipated that as habitat management and restoration activities are implemented by the BLM in the North Bank Habitat Area, which contains the majority of secure lands, the carrying capacity and numbers of deer on these lands will increase accordingly. The Douglas County population has met the objectives in the Recovery Plan, and greatly exceeded the habitat objectives.

Distinct Vertebrate Population Segment

The Douglas County and Columbia River populations of the Columbian white-tailed deer qualify as distinct under our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), published in the **Federal Register** on February 7, 1996 (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered—(1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) 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?).

The Douglas County and Columbia River populations of Columbian white-tailed deer are discrete as they are geographically isolated and separated

from each other. Historically, this subspecies ranged from the south end of Puget Sound in Washington south to the Roseburg area in Oregon (Bailey 1936). At the present time, only two locations for this subspecies exist. The subspecies' range has been reduced to its present locations along the Columbia River in Washington and Oregon and in Douglas County, Oregon. The populations are separated by over 320 km (200 mi) of discontinuous or unsuitable habitat. Columbian white-tailed deer are not migratory and appear to restrict their movements to relatively small home ranges (ODFW 1995). As a result, the wide geographic gap in suitable habitat between the Columbia River and Douglas County populations identifies this subspecies as having two discrete and isolated population segments.

Regarding significance, there are some recognized ecological differences between the habitats of the Columbia River and Douglas County populations, although both subpopulations are tied to riparian areas. The Douglas County population occurs in a relatively dry area that has rolling hills, grasslands, and oak forests (ODFW 1995). Smith (1981) found that oak woodland/grassland habitat is important to this population, and heavily used by Columbian white-tailed deer. The Columbia River population, by contrast, occurs in wet bottomlands and dense forest swamps where there is little elevational relief, and which receive a large amount of precipitation (ODFW 1995).

As previously mentioned, the Columbian white-tailed deer was listed as endangered in 1967 (32 FR 4001), and subsequently listed under the Act (see Previous Federal Action section below). The Recovery Plan addressed recovery objectives and criteria for each population, and recognized them as two distinct populations because of differences in location, habitats, land use, etc. (Service 1983). For the reasons described herein, we believe that the Douglas County population has met the criteria for delisting. The Columbia River population has met the criteria for downlisting, and we anticipate another proposed rule in the future to downlist this population.

Previous Federal Action

On March 11, 1967, the Columbian white-tailed deer was listed in the **Federal Register** as an endangered species under the Endangered Species Preservation Act (ESPA) of 1966 (32 FR 4001). The ESPA defined listing factors and required publication of the names of fish and wildlife species threatened

with extinction. On March 8, 1969, we again published in the **Federal Register** (34 FR 5034) a list of fish and wildlife species threatened with extinction under the Endangered Species Conservation Act of 1969. This list again included the Columbian white-tailed deer. On August 25, 1970, we published a proposed list of endangered species, which included the Columbian white-tailed deer, in the **Federal Register** (35 FR 13519) as part of new regulations implementing the Endangered Species Conservation Act of 1969. This rule became final on October 13, 1970 (35 FR 16047). Species listed as endangered on the above mentioned lists were automatically included in the lists of threatened and endangered species when the Endangered Species Act was authorized in 1973.

The processing of this proposed rule conforms with our listing priority guidance published in the **Federal Register** on May 8, 1998 (63 FR 25502). This guidance clarifies the order in which we will process rulemakings following two related events—(1) the lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104-6) and, (2) the restoration of significant funding for listing through passage of the Omnibus Budget Reconciliation Act following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. Under this guidance, highest priority (Tier 1) is given to processing emergency listings and second highest priority (Tier 2) to resolving the listing status of outstanding proposed listings, resolving the conservation status of candidate species, processing administrative findings on petitions to add species to the lists or reclassify species from threatened to endangered status, and delisting or reclassifying actions. The lowest priority actions, processing critical habitat designations, are in Tier 3. This proposed rule falls under Tier 2.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for listing, reclassifying or removing species. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors should also be considered in any decision to delist a species, and their application to

the Columbian white-tailed deer are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The preferred habitat of the Columbian white-tailed deer includes grass-shrub, spruce-cottonwood swamps, oak mottes, open and closed oak woodland within bottomland and riparian zones, and some coniferous forest. The lowland riparian system, however, is the key habitat component for the deer (Service 1983; Smith 1987). Conversion of these habitat types to residential and intensive agricultural developments was a key factor leading to the listing of this subspecies as endangered.

Within the range of the Douglas County population, 3,713 ha (9,191 ac) are now considered secure habitat, as previously described. These lands were estimated to harbor 507, 424, 558 and 618 deer in each of the years between 1994–1997, respectively (S. Denney, *in litt.* 1997). The remainder of the species' preferred habitats are privately owned. However, since 1983, prime habitat areas for Columbian white-tailed deer have been designated by the Douglas County Land Use Plan (1997) for rural residential, agriculture, grazing and forest, which protects lands from urban development. Key travel corridors and fawning areas along the North Umpqua River are now partly protected from intensive and excessive development by Douglas County, which developed a habitat protection program for the Columbian white-tailed deer within the species' range in that county. Protective measures to conserve habitat for the species include a 30 m (100 ft) structural development setback from streams to preserve riparian corridors, a minimum parcel size of 32 ha (80 ac) within 96 percent of the protected habitat area, and limit rural residential development along the western edge of the protected habitat. The deer population has continued to increase in this area. This sustained increase in numbers in conjunction with habitat protection measures has resulted in a population of Columbian white-tailed deer that is no longer threatened by habitat loss or destruction.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Prior to protection under the Act, the Columbian white-tailed deer experienced intensive hunting pressure that, coupled with habitat loss, resulted in a precipitous population decline. Since protection under the Act and the securing of suitable habitat, the Douglas County population has increased in numbers, and has increased even during the periods of legal sport hunting.

Scientific studies, permitted under section 10(a)(1)(A) of the Act, have resulted in the take of as many as 40 deer within 1 year from the Douglas County population. These permitted takings have not had measurable impacts on population trends in this population.

Poaching of several Columbian white-tailed deer has been documented annually, but it is not judged to have a significant impact on the population (ODFW 1995).

Past overutilization was considered a threat to this population and was one of several factors leading to its listing as endangered. Columbian white-tailed deer cannot be legally hunted while the subspecies is listed under the Act. Delisting of the Douglas County population will allow the State of Oregon to regulate the harvest of this subspecies, and may result in an increased level of utilization (ODFW 1995). However, the population now numbers about 5,500 deer, which is considered to be large enough to withstand some regulated harvest. The regulated harvest objective would be to reduce the population density in certain areas, and to expand the range of the subspecies by trapping and transplanting individuals to unoccupied range (ODFW 1995). Also, the population would be monitored for at least 5 years after delisting to ensure that the population remains stable and there are no further risks to the subspecies' well-being. Overutilization is no longer considered a threat to the population.

C. Disease or predation. At the time of listing, disease and predation were not thought to be major limiting factors of this population. Parasitism and some bacterial diseases are now beginning to become apparent in areas where deer densities are highest. Continued increases in numbers within the core range may lead to widespread mortality from parasitism and disease (Kistner and Denney 1991). Kistner and Denney's (1991) work included the permitted take of 40 deer to analyze disease and parasite levels. Delisting would allow management practices by the State of Oregon such as hazing to disperse concentrations of deer and depredation permits to remove individual deer. Sport hunting to regulate high-density populations would also be possible. These actions would reduce the likelihood of a density-dependent epizootic disease or infection. It would not, however, totally eliminate the potential for such an occurrence. Predation has not been identified or recognized as a controlling or limiting factor of this population. In

conclusion, disease and predation are not considered threats to the population, and delisting of the population would probably facilitate managers' ability to reduce existing problems with disease.

D. The inadequacy of existing regulatory mechanisms. The lack of adequate regulatory mechanisms for protecting habitat and controlling take was responsible for the decline of the deer. Listing the deer as endangered under the Act protected individual animals from take, but habitat degradation and destruction on private lands has continued, which was a major factor contributing to the decline. For the Douglas County population, securing 2,222 ha (5,500 ac) of habitat that supports 500 deer assures that adequate habitat will be protected to maintain a minimum viable population (Service 1983). The 3,713 ha (9,191 ac) of habitat secured on BLM, Douglas County, and other lands exceeds this minimum amount. BLM manages the North Bank Management Area and several hundred other hectares (acres) for Columbian white-tailed deer; Douglas County manages 624 ha (1550 ac) as parks, forests, and wildlife areas that provide habitat; and The Nature Conservancy, ODFW, and Ramp Canyon board also manage lands to benefit the species. In addition, passage and implementation of the Douglas County Land Use Plan in 1995 provided additional habitat protection for the population on private land, although this level of habitat protection does not meet the secure habitat criteria. That plan requires retention of wooded habitat on farm and forest land, and 30 meter (100 feet) setbacks for building construction along the North Umpqua River. This portion of the river is the principal travel corridor and dispersal route within the core area of this population. Securing of adequate habitat on Federal and County lands, and the additional zoning requirements have removed this threat to the Douglas County population.

E. Other natural or manmade factors affecting its continued existence. With growth of the deer population, deer-human conflicts have increased. Private croplands, gardens, and ornamental plantings have been subject to varying degrees of depredation by the Douglas County population. This has created serious problems because under the Act it is illegal to haze, harass, disperse, or lethally take listed deer, even where serious continued damage is occurring. Unregulated indiscriminate illegal take is occurring and is likely to increase as the herd increases. Illegal unreported forms of control do not allow for

analysis of behavior, population changes or the subsequent formulation of management strategies based on known population dynamics. Removal of the Douglas County population of Columbian white-tailed deer from the endangered and threatened species lists will allow development and implementation of management procedures necessary to control and enhance deer populations, while fostering better land manager-landowner relationships that are necessary for effective long-term conservation.

Fire has historically played a large part in shaping habitat for Columbian white-tailed deer in Douglas County. Although fire may have negative short-term impacts on habitat, deer distribution, and numbers, the long-term effects can be beneficial by removing decadent brush, promoting nutritious vegetation, and maintaining the oak/grassland that the subspecies prefers (ODFW 1995). Columbian white-tailed deer evolved with the occurrence of fire in the ecosystem, and prescribed burning of their habitat would likely be beneficial. Currently, where this population occurs, all wildfires are suppressed because of the proximity of homes and businesses. Given the increasing Douglas County population and resulting range expansion, it is unlikely that fire would pose a significant threat to the population.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this subspecies in determining to propose this rule. Based on this evaluation, the proposed action is to delist the Douglas County population of the Columbian white-tailed deer. The population currently exceeds the minimum population number necessary to assure continued viability. Sufficient suitable habitat has been secured in Douglas County to support delisting that population.

Effects of the Rule

If the Douglas County population of the Columbian white-tailed deer is removed from the Lists of Threatened and Endangered Species, Federal agencies would no longer be required to consult with us under section 7 of the Act to ensure that any action authorized, funded, or carried out by them is not likely to jeopardize the continued existence of the deer. The protection from take under section 9 of the Act would also be eliminated. However, the 1988 amendments to the Act require that all species which have been delisted due to recovery be monitored for at least five years

following delisting. We are responsible for implementing a system, in cooperation with the states, to monitor the status of a recovered species.

Delisting the Douglas County population could have several positive effects. Individual deer could be legally controlled by hazing or physical removal, or populations could be controlled where repeated severe damage to agricultural crops, gardens, or ornamental plantings was documented. If delisted, the population could also be regulated through legal harvest. Biological data such as sex ratios, age, reproductive status, and health status (parasitism and bacterial infections) from individual deer taken through legal harvest or the issuance of special permits would be available.

Monitoring

Section 4(g)(1) of the Act requires that whenever a species has recovered and been delisted, we must implement a system, in cooperation with the states, to effectively monitor the status of any species that has recovered to the point where the protective measures provided under the Act are no longer necessary. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures of the Act. This monitoring program will continue for at least five years and, if at any time during that period data indicates that the species' well-being is under a significant risk, we can initiate listing procedures, including, if appropriate, emergency listing.

The Recovery Team will coordinate monitoring activities and annually review the status of the Douglas County population of Columbian white-tailed deer. Within 6 months following the conclusion of the mandated 5-year monitoring program, the Recovery Team will conduct a comprehensive review of the Douglas County population of Columbian white-tailed deer and forward a report to the Regional Director for approval and release to the general public for review and comment. The review will include a recommendation on whether to (1) continue the monitoring program for an additional five years, (2) terminate the monitoring program, or (3) reconsider the status of the Columbian white-tailed deer.

We will use, to the fullest extent possible, information routinely collected by researchers and land managers in a variety of organizations and agencies, which will supplement data collected under a systematic monitoring program, and consider relisting the species if, during or after the 5-year monitoring effort, we have

determined a reversal of recovery has taken place.

If the report recommends, and we have determined, at the end of the mandatory 5-year monitoring period that recovery is complete, and factors that led to the listing of the Douglas County population, or any new factors, have been sufficiently reduced or eliminated, monitoring may be reduced or terminated. If the data show that the Douglas County population is declining, or if one or more factors that have the potential to cause decline are identified, monitoring will continue beyond the 5-year period and the monitoring program may be modified, based on an evaluation of the results of the initial 5-year monitoring program.

The following minimum monitoring activities are necessary:

(1) Monitor Columbian white-tailed deer population parameters using the following measures—

(a) Fall (November 15–December 31) and spring (March 1–April 15) ground surveys of each population/subpopulation. Data collected on these surveys will include—

(i) Sex and age ratios to estimate fawn production, overwinter fawn survival, and genetic effective population size, i.e., the risk of inbreeding.

(ii) Numbers of Columbian white-tailed deer counted to estimate population trends and minimum population size.

(b) Aerial surveys—Aerial surveys using forward looking infra-red scanners (or similar technology) are needed to obtain more precise information on minimum deer numbers. Survey flights will be conducted three times per year for three years over areas of secure habitat, and then once every third year for the duration of the monitoring program should a second five years of monitoring be required. Data from these flights will be used to develop a correlation factor with the ground surveys described in (a) above. The correlation factor will be used to improve estimates of population sizes and trends obtained from ground surveys.

(2) Develop Geographic Information System maps of Columbian white-tailed deer range to use in monitoring habitat loss to human development, habitat improvements, and the locations actually occupied by the deer. This information will be used to encourage local land use planning that protects the habitat of the Columbian white-tailed deer.

Public Comments Solicited

We intend that any final action resulting from this proposal to remove

the Douglas County population from the List of Endangered and Threatened Wildlife will be as accurate and effective as possible. Therefore, we solicit any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal. Comments should be sent to our Southwest Oregon Office (see ADDRESSES section). Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Columbian white-tailed deer and its habitat that would result from implementing the measures outlined in this proposed rule;

(2) Additional information concerning the range, distribution, and population size of this subspecies;

(3) Current or planned activities in the subject area and their possible impacts on Columbian white-tailed deer and its habitat; and

(4) Adequacy of the monitoring plan, and its ability to detect changes in the population.

Our final decision regarding the delisting of the Douglas County population of Columbian white-tailed deer will take into consideration the comments and any additional information that we receive during the comment period. Such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. You must make such requests in writing and address them to—Supervisor, U.S. Fish and Wildlife Service, Western Washington Office, 510 Desmond Drive, Suite 102, Lacey, Washington 98503.

Executive Order 12866

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers

to questions such as the following: (1) Is the discussion in the "Supplementary Information" section of the preamble helpful in understanding the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand?

Required Determinations

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on agency information collection and record keeping activities (see 5 CFR 1320.8(d)). The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, record keeping, or disclosure requirements imposed on ten or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period.

This rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act. The information needed to monitor the status of the Columbian white-tailed deer will be collected primarily by Service, ODFW, and the BLM. We do not anticipate a need to request data or other information from the public, other than the ODFW, to satisfy monitoring information needs. If it becomes necessary to collect information from ten or more individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

National Environmental Policy Act

We have determined that an Environmental Assessment or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Supervisor, U.S. Fish and Wildlife Service, Western Washington Office, 510 Desmond Dr., Suite 102, Lacey, Washington 98503.

Author

The primary author of this proposed rule is John Grettenberger, Wildlife Biologist, U.S. Fish and Wildlife Service, Western Washington Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, (360) 753-9440.

List of Subjects in 50 CFR Part 17

Endangered and Threatened Species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons set out in the preamble, we hereby propose to amend part 17, subchapter B of chapter I, Title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. We propose to amend section 17.11(h) by revising the entry for the Columbian white-tailed deer, *Odocoileus virginianus leucurus*, under "MAMMALS", to read as follows:

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|----------------------------------|---|-----------------------|--|--------|--------------|------------------|---------------|
| Common name | Scientific name | | | | | | |
| MAMMALS | | | | | | | |
| * | * | * | * | * | * | * | * |
| Deer, Columbian White-tailed. | <i>Odocoileus virginianus leucurus.</i> | U.S.A. (WA, OR) | Entire, except Douglas County, OR. | E | 1,____ | NA | NA |
| * | * | * | * | * | * | * | * |

Dated: April 16, 1999.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 99-11747 Filed 5-10-99; 8:45 am]

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