Groups that have access to this new data bank system include Federal and State government agencies; health plans; and self queries from health care suppliers, providers and practitioners. Reporting is limited to the same groups that have access to the information. One of the primary purposes of these data will be use of this information by a Federal or State government agency charged with the responsibility of investigating or prosecuting a case where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature. The information in this system may also be used in the preparation for a trial or hearing for such violation.

Specifically, this proposed rule would exempt this new records system from certain provisions of the Privacy Act.[1] This exemption is intended to protect, from release to the record subject, information on law enforcement queries to the data bank. It would also exempt the data bank from Privacy Act access and amendment procedures in order to establish access and amendment procedures in the HIPDB regulations.

While subjects will have access to information on all other queries to the data bank, disclosure of law enforcement queries could compromise ongoing investigation activities. The premature disclosure of the existence of a law enforcement activity to an outside party (who may also be the subject of the investigation) could lead to, among other things, the destruction or alteration of evidence and the tampering with witnesses.

Record subjects are guaranteed access to, and correction rights for, substantive information reported to the HIPDB. The procedures, set out in 45 CFR part 61, use the Privacy Act access and correction procedures as a basic framework while, at the same time, providing significant additional rights (such as automatic notification to the record subject of any report filed with the data bank). Data bank subjects also have broader rights on HIPDB correction procedures, including the right to file a statement of disagreement as soon as a report is filed with the data bank.

Regulatory Impact Statement

The Office of Management and Budget has reviewed this proposed rule in accordance with the provisions of Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and has determined that it does not meet the criteria for a significant regulatory action. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health, safety distributive and equity effects. In addition, under the Small Business Enforcement Act (SBEA) of 1996, if a rule has a significant economic effect on a substantial number of small businesses, the Secretary must specifically consider the economic effect of a rule on small business entities and analyze regulatory options that could lessen the impact of the rule. The Secretary has reviewed this proposed exemption in accordance with the provisions of the SBEA, and certifies that this proposed exemption will not have a significant impact on a substantial number of small entities. Specifically, as indicated above, while the reports of adverse actions to the HIPDB will be known to the subjects of the records in the data bank, the access and use of such information by law enforcement agencies would not be known to the subjects of the records. As a result, we believe that disclosure of this information could compromise ongoing law enforcement activities.

Public Inspection of Comments and Response to Comments

Comments will be available for public inspection November 9, 1999, in Room 5518, Office of Counsel to the Inspector General, at 330 Independence Avenue, SW, Washington, DC on Monday through Friday of each week (Federal holidays excepted) between the hours of 9 a.m. and 4 p.m., (202) 619–0089.

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and will respond to the comments in the preamble of the final rule.

List of Subjects in 5 CFR Part 5b

Privacy.

Accordingly, the Department's Privacy Act regulations at 45 CFR part 5b would be amended follows:

PART 5b—[AMENDED]

Part 5b would be amended as follows:

1. The authority citation for part 5b would continue to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552a.

2. Section 5b.11 would be amended by adding a new paragraph (b)(2)(ii)(F) to read as follows:

§ 5b. 11 Exempt systems.

* * * * *

(b) *Specific systems of records exempt.* * * *

(2) * * *

(ii) * * *

(F) The Healthcare Integrity and Protection Data Bank (HIPDB) of the Office of Inspector General. (See § 61.15 of this title for access and correction rights under the HIPDB by subjects of the Data Bank.)

* * * * *

Dated: June 3, 1999.

June Gibbs Brown,

Inspector General.

Approved: July 2, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–27587 Filed 10–25–99; 8:45 am]

BILLING CODE 4160–15–P

[1] Subsections (c)(3), (d)(1)–(4), and (e)(4)(G) and (H) of the Privacy Act, in accordance with 5 U.S.C. 522a(k)(2) and 45 CFR 5b.11(b)(ii)(F).

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

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The Service announces a 90-day finding for a petition to list the Columbian sharp-tailed grouse (*Tympanuchus phasianellus columbianus*) under the Endangered Species Act of 1973, as amended. We find that the petition presents substantial scientific and commercial information indicating that listing the Columbian sharp-tailed grouse may be warranted.

DATES: The finding announced in this document was made on October 14, 1999. Send comments and information to us on or before December 27, 1999, concerning this petition finding. We may not consider comments received after the above date in making a decision for the 12-month finding.

ADDRESSES: You may submit data, information, comments, or questions concerning this petition to the Field Supervisor, U.S. Fish and Wildlife Service, 11103 East Montgomery Drive, Spokane, Washington 99206. The

petition, administrative finding, supporting information, and comments received are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Christopher D. Warren, at the above address or call 509–891–6839.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act), as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species as threatened or endangered presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We base the finding on all the information available to us at the time the finding is made. To the maximum extent practicable, we make the finding within 90 days of receipt of the petition, and promptly publish the finding in the **Federal Register**. If we find that substantial information was presented, we must promptly commence a status review of the species.

The processing of this administrative petition finding conforms with our current listing priority guidance (LPG) which was published, after opportunity for public comment, on May 8, 1998 (63 FR 25502). Because of budgetary constraints and the lasting effects of a congressionally imposed listing moratorium from April 1995 to April 1996, we processed petitions and other listing actions according to the listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance clarified the order in which we processed listing actions during fiscal year 1997. The guidance gives highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat. Processing of this petition is a Tier 2 action.

A petition, dated March 14, 1995, was submitted by the Biodiversity Legal Foundation, Boulder, Colorado, and was received by us on March 16, 1995. The petitioner requested that the Columbian sharp-tailed grouse (*Tympanuchus phasianellus columbianus*) be listed as a threatened species throughout its historic range in the contiguous United States, and requested that critical habitat be designated for the species as soon as its biological needs are sufficiently well known. The petitioner also recommended a review of the species' status in British Columbia, Canada.

Based on our review of the petition and the scientific and commercial information it presents, and other information available to us at this time, we have made a 90-day finding that the petition to list the Columbian sharp-tailed grouse presents substantial scientific and commercial information indicating that listing of the species may be warranted.

The Columbian sharp-tailed grouse was identified as a category 2 species in notices of review published in the **Federal Register** on January 6, 1989 (54 FR 560). At that time, a category 2 species was one that was being considered for possible addition to the Federal List of Endangered and Threatened Wildlife but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. Designation of category 2 status was discontinued in the February 28, 1996, notice of review (61 FR 7956). The Columbian sharp-tailed grouse is not currently a candidate species. A candidate species is defined as a species for which we have on file sufficient information on biological vulnerability and threats to support issuance of a proposed rule.

The Columbian sharp-tailed grouse is one of six recognized subspecies of sharp-tailed grouse that occur in North America (Miller and Graul 1980). Historically, the Columbian sharp-tailed grouse 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 British Columbia.

Columbian sharp-tailed grouse were once more abundant throughout their range where suitable habitats occurred (Hart *et al.*1950; Buss and Dziedzic 1955; Gruell circa 1960; Washington Division of Fish and Wildlife (WDFW) 1995). Excessive hunting in the mid- to late-19th century is thought to be a major contributing factor to the early extirpation of local populations and the initial reduction of the subspecies' range (Hart *et al.* 1950). Since the turn of the century, the conversion of native habitats to crop production and their degradation as a result of livestock grazing are thought to be the primary factors in further population declines and range reduction (Hart *et al.* 1950; Buss and Dziedzic 1955; Miller and Graul 1980; Marks and Marks 1987; Braun *et al.* 1994; WDFW 1995; McDonald and Reese 1998). Columbian sharp-tailed grouse were extirpated from California in the 1920s, Nevada in the 1950s, and Oregon in the 1960s (Miller and Graul 1980). On April 4, 1998, the Washington Fish and Wildlife Commission listed the Columbian sharp-tailed grouse as a threatened species in the State of Washington.

Sharp-tailed grouse males 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 their exact locations may shift 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.* in press). Females typically nest and rear their broods within 1.6 kilometer (km) (1.0 mile (mi)) of an active lek (Saab and Marks 1992; Giesen and Connelly 1993). Spring-to-fall home range sizes of Columbian sharp-tailed grouse are relatively small, generally less than 2.0 square km (0.8 square mi), and the areas used are usually within a few kilometers of a lek. Seasonal movements to wintering areas from breeding grounds are typically less than 5 km (3.1 mi) (Giesen and Connelly 1993).

The area within 2.5 km (1.6 mi) of a lek is believed 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; Giesen and Connelly 1993). Because of their importance, leks (including their surrounding area) may be viewed as the principal units affecting the demographics of Columbian sharp-tailed grouse. Assemblages of the subspecies range from local populations (single leks to lek complexes), to metapopulations (a larger population made up of smaller, local breeding populations that have some genetic and ecological interactions among them).

Based on a questionnaire distributed to recognized experts in 1979, respondents reported that Columbian sharp-tailed grouse occupied less than 10 percent of their former range in Idaho, Montana, Utah, and Wyoming; 10–50 percent in Colorado and Washington; and 80 percent or more in

British Columbia. The range-wide population estimate for the subspecies in 1979 was approximately 60,000–170,000 individuals, with roughly 60–80 percent occurring in British Columbia (Miller and Graul 1980). A current estimate is approximately 34,000–70,000 individuals, with roughly 50–70 percent occurring in Idaho. Current estimates are based on information provided by recognized experts throughout the range of the subspecies (Chutter, British Columbia Ministry of Environment, Wildlife Branch, pers. comm. 1995; Hoffman, Colorado Division of Wildlife, pers. comm. 1995; Mathews, Oregon Department of Fish and Wildlife, pers. comm. 1998; Meints, Idaho Department of Fish and Game, pers. comm. 1995; Mitchell, Utah Department of Natural Resources, pers. comm. 1995; Sands, U.S. Bureau of Land Management, pers. comm. 1998; Schroeder, Washington Department of Fish and Wildlife, pers. comm. 1998; Thier, Montana Department of Fish, Wildlife, and Parks, pers. comm. 1998).

Three metapopulations of Columbian sharp-tailed grouse currently likely exist—one in northwestern Colorado/south-central Wyoming totaling approximately 6,000–8,000 birds, one in southeastern Idaho/northern Utah totaling approximately 20,000–50,000 birds, and one in central British Columbia totaling 4,500–10,000 birds. To varying degrees, other population centers are comprised of both interacting and isolated local populations. These populations include approximately 600 birds in south-central Idaho/northeastern Nevada, a small population of about 50 birds in northeastern Oregon, approximately 700 birds occur in scattered small populations in north-central Washington, and two small populations with about 50 birds each in Montana.

Conversion of native habitats important to Columbian sharp-tailed grouse to crop production continues and are at risk from other activities including rural and suburban development, dam construction, mineral exploitation, chaining, herbicide spraying, and fire (Miller and Graul 1980; Wood 1991; Giesen and Connelly 1993). In addition, grazing practices within portions of the Columbian sharp-tailed grouse range have degraded, or continue to degrade, native habitats (Hart *et al.* 1950; Miller and Graul 1980; Wood 1992; Giesen and Connelly 1993).

Most of the areas that are currently or may potentially be used by Columbian sharp-tailed grouse occur on privately owned lands. Some large portions of these privately owned lands have withdrawn from crop production and planted native and non-native cover under the Federal Natural Resources Conservation Service Conservation Reserve Program (CRP), established in 1985 (USDA 1998). CRP lands have become important to Columbian sharp-tailed grouse in Colorado, Idaho, Oregon, Utah, and Washington (Hoffman, pers. comm. 1998; Mathews, pers. comm. 1998; Meints, pers. comm. 1995; Mitchell, pers. comm. 1995; Schroeder, pers. comm. 1995). A number of CRP contracts have expired since 1995, and more are scheduled to expire from now through 2002. While new contracts for CRP lands continue to be accepted and some expired contracts have been renewed, it is unclear what effects these changes have had, or will have, on Columbian sharp-tailed grouse populations. If CRP lands important to Columbian sharp-tailed grouse are put back into crop production, adverse impacts to the subspecies' populations will likely occur.

Columbian sharp-tailed grouse are currently hunted in Colorado (Hoffman, pers. comm. 1998), Idaho (Meints, pers. comm. 1995), and British Columbia (Chutter, pers. comm. 1995). Considering the most recent estimates, annual harvest rates in Idaho range from approximately 10–30 percent (approximately 6,500 birds) of the total population during the hunting season in Idaho (Meints, pers. comm. 1995). Reliable estimates of harvest rates in Colorado are not available but are likely less than 10 percent of the total estimated population (Hoffman, pers. comm. 1998). Harvest rates in British Columbia may approach 50 percent in some years (Chutter, pers. comm 1995; Ritcey 1995). There may be localized negative impacts to small populations occupying relatively small sites. Also, both incidental and illegal take of the subspecies may occur, especially in areas hunted extensively for other upland game species (Hart *et al.* 1950; Miller and Graul 1980). However, for relatively large, stable populations of upland birds under managed conditions, hunting is not likely to have an additive effect over natural mortality (Braun *et al.* 1994). In 1994, the State of Wyoming banned hunting of Columbian sharp-tailed grouse based on estimates indicating that populations of this subspecies were declining.

Reintroduction efforts for Columbian sharp-tailed grouse occurred in Washington (Schroeder, pers. comm. 1998), Montana (Their, pers. comm. 1998), Oregon (Mathews, pers. comm. 1998), and Idaho (Meints, pers. comm. 1995). Additional reintroduction efforts are planned for California, Oregon, and Washington (Meints, pers. comm. 1995; Sands, pers. comm. 1995; Schroeder, pers. comm. 1998). Past reintroduction efforts have failed to produce self-sustaining populations or increase the size or distribution of augmented populations (Toepfer *et al.* 1990). However, recent efforts indicate greater potential for success as reintroduction techniques have improved (Toepfer *et al.* 1990; Meints, pers. comm. 1998).

The fragmented and isolated nature of many populations of Columbian sharp-tailed grouse are a concern for the subspecies throughout portions of its range. Naturally occurring impacts and human influences may pose additional threats to these isolated populations. Such events may include drought, fire, inclement weather, accidents, cultivation practices, and recreation activities (Hart *et al.* 1950; Rogers 1969; WDFW 1995; Mitchell, pers. comm. 1995).

The lack of sufficient data with respect to the genetic integrity of the subspecies' populations is also a concern (Saab and Marks 1992). The deleterious effects of inbreeding and the changes in gene frequencies may pose long-term threats to small, isolated populations, and a reduction in fitness in the hybrid progeny, or later descendants, of crosses between members of different populations may be a concern for reintroduction efforts.

The larger populations of Columbian sharp-tailed grouse made up of smaller, local breeding populations that have the same genetic and ecological interactions among them are at relatively low risk to single or even multiple altering events. This is because other population segments within the affected area may provide specimens to recolonize impacted sites, or alternate areas of suitable habitat may exist to allow emigration of affected populations to adjust to the events. However, isolated, local and regional populations could be at risk from naturally occurring random events or human-influenced events. Conservation or reestablishment of these populations may require intensive management efforts (Toepfer *et al.* 1990).

We have reviewed the petition, literature cited in the petition, other available literature and information, and consulted with biologists and researchers familiar with the Columbian sharp-tailed grouse. Based on the best scientific and commercial information available, we find that the petition presents substantial information to indicate that listing the Columbian sharp-tailed grouse throughout its

historic range in the contiguous United States may be warranted.

In making this finding, we recognize that there have been declines in Columbian sharp-tailed grouse populations because of habitat loss and degradation. The loss and degradation of habitat is due to any one or a combination of factors including crop production, livestock grazing, rural and suburban development, dam construction, herbicide spraying, fire, recreation, and other factors. The petition presented evidence that isolated local and regional populations of this subspecies are at risk. We also recognize that many states in which Columbian sharp-tailed grouse occur are attempting to restore the birds by relocating birds to unoccupied habitats and/or actively managing for them to improve their overall population status.

When making a positive 90-day finding on a petition, we are required to promptly commence a review of the status of the species. In the case of the Columbian sharp-tailed grouse, we are requesting information on the status of the species throughout its range in the contiguous United States and Canada. We solicit information regarding occurrence and distribution of the species; threats to its continued existence; and any additional comments and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the status of the Columbian sharp-tailed grouse. Of particular interest is information regarding: (1) Population status and trends; (2) Extent of fragmentation and isolation of population segments; (3) Significance of discrete population segments; and, (4) Ongoing management measures that may be important with regard to the conservation of Columbia sharp-tailed grouse.

In regard to the petitioner's request that critical habitat be designated for the Columbian sharp-tailed grouse, the designation of critical habitat is not a petitionable action under the Act. If our 12-month finding indicates that the petitioned action to list the Columbian sharp-tailed grouse is warranted, then any subsequent proposed rule will address any designation of critical habitat.

After consideration of additional information submitted during the indicated time period (see DATES section), we will prepare a 12-month finding as to whether listing of the species is warranted.

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Author: The primary author of this notice is Christopher D. Warren, Upper Columbia River Basin Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

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

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, and Transportation.

Dated: October 14, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–27851 Filed 10–25–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 101499D]

RIN 0648–AK05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Resubmission of a Disapproved Measure in Amendment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a resubmitted measure in an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has resubmitted a previously disapproved measure contained in Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 9). The resubmitted measure would establish a 1,000–lb (454–kg) commercial trip limit for greater amberjack. Written comments are requested from the public.

DATES: Written comments must be received on or before December 27, 1999.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 9, which contains the proposed greater amberjack trip limit, a final supplemental environmental impact