

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these proposed determinations that the Chattanooga and Macon Areas attained the 1997 annual average PM<sub>2.5</sub> NAAQS by its applicable attainment date do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIPs are not approved to apply in Indian country located in the states, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 23, 2011.

**Gwendolyn Keyes Fleming,**  
Regional Administrator, Region 4.

[FR Doc. 2011-13670 Filed 6-1-11; 8:45 am]

**BILLING CODE 6560-50-P**

### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R9-ES-2011-0003; MO 92210-1113F120-B6]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to Reclassify the Straight-Horned Markhor (*Capra falconeri jerdoni*) of Torghar Hills as Threatened

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

**ACTION:** Notice of petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 90-day finding on a petition to reclassify the Torghar Hills population of straight-horned markhor, or Suleiman markhor, (*Capra falconeri jerdoni* or *C. f. megaceros*) from endangered to threatened under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that reclassifying this subspecies of markhor in the Torghar Hills of Pakistan may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the

entire subspecies to determine if the petitioned action is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding the straight-horned markhor or the Torghar Hills population. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before August 1, 2011.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for docket FWS-R9-ES-2011-0003 and then follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R9-ES-2011-0003; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Janine Van Norman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703-358-2171; facsimile 703-358-1735. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Information Solicited

When we make a finding that a petition presents substantial information indicating that reclassifying a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the straight-horned markhor from the public, governmental agencies, Tribal communities, the scientific community, industry, and any other interested parties. We seek information on:

(1) The straight-horned markhor's biology, range, and population trends, including:

- (a) Habitat requirements for feeding, breeding, and sheltering;
- (b) Genetics and taxonomy on *Capra falconeri jerdoni* and *C. f. megaceros* to determine if these two subspecies constitute a single subspecies;
- (c) Historical and current range including distribution patterns;
- (d) Intermountain movement;
- (e) Historical and current population levels, and current and projected trends; and

- (f) Past and ongoing conservation measures for the subspecies, its habitat, or both.

- (g) Information on the straight-horned markhor subspecies for the purpose of determining if the markhor in the Torghar Hills constitutes a distinct vertebrate population segment (DPS; see Evaluation of Listable Entities).

(2) The factors that are the basis for making a listing/delisting/downlisting determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

- (a) The present or threatened destruction, modification, or curtailment of its 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 whether changing climatic conditions are affecting the subspecies or its habitat.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

We will base our status review on the best scientific and commercial information available, including all information we receive during the public comment period. Please note that comments merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened 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 issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at <http://www.regulations.gov>, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Endangered Species Program, Branch of Foreign Species (see **FOR FURTHER INFORMATION CONTACT**).

## Background

Section 4(b)(3)(A) of the Act 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 information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review of the status of the species, which will be subsequently summarized in our 12-month finding.

## Petition History

On August 18, 2010, we received a petition dated August 17, 2010, from John Jackson of Conservation Force, on behalf Dallas Safari Club, Houston Safari Club, African Safari Club of Florida, The Conklin Foundation, Grand Slam Club/Ovis, Wild Sheep Foundation, Jerry Brenner, Steve

Hornaday, Alan Sackman, and Barbara Lee Sackman, requesting the U.S. Fish and Wildlife Service (Service) downlist the Torghar Hills population of the Suleiman markhor (*Capra falconeri jerdoni* or *C. f. megaceros*), in the Balochistan Province of Pakistan, from endangered to threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required by 50 CFR 424.14(a). In a September 15, 2010, letter to John Jackson, we acknowledged receipt of the petition.

## Previous Federal Actions

On June 14, 1976, we published in the **Federal Register** a rule listing the straight-horned markhor, or the Suleiman markhor (*Capra falconeri jerdoni*), and the Kabul markhor (*C. f. megaceros*), as well as 157 other U.S. and foreign vertebrates and invertebrates, as endangered under the Act (41 FR 24062). All species were found to have declining numbers due to the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, sporting, scientific, or educational purposes; the inadequacy of existing regulatory mechanisms; or some combination of the three. However, the main concern was the high commercial importance and the inadequacy of existing regulatory mechanisms to control international trade.

Later, the straight-horned markhor and the Kabul markhor were considered by many authorities to be the single subspecies *C. f. megaceros* (straight-horned markhor). These subspecies currently remain listed as separate entities under the Act. We are requesting information (see **Information Solicited**) on the taxonomy of both subspecies to determine if these constitute a single subspecies. On March 4, 1999, we received a petition from Sardar Naseer A. Tareen, on behalf of the Society for Torghar Environmental Protection and the International Union for Conservation of Nature (IUCN) Central Asia Sustainable Use Specialist Group, requesting that the Suleiman markhor (*Capra falconeri jerdoni* or *C. f. megaceros*) population of the Torghar Hills region of the Balochistan Province, Pakistan be reclassified from endangered to threatened under the Act. On September 23, 1999 (64 FR 51499), we published in the **Federal Register** a finding, in accordance with section 4(b)(3)(A) of the Act, that the petition had presented substantial information indicating that the requested reclassification may be

warranted and initiated a status review. We opened a comment period, which closed January 21, 2000, to allow all interested parties to submit comments and information. A 12-month finding was never completed.

## Evaluation of Listable Entities

Under section 3(16) of the Act, we may consider for listing any species, including subspecies, of fish, wildlife, or plants, or any DPS of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Such entities are considered eligible for listing under the Act (and, therefore referred to as listable entities) should we determine that they meet the definition of an endangered or threatened species. In this case, the petitioners have requested that the straight-horned markhor in the Torghar Hills of Pakistan be considered a DPS and reclassified from endangered to threatened under the Act.

## Distinct Vertebrate Population Segment

Under the Service’s “Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act” (61 FR 4722, February 7, 1996), three elements are considered in the decision concerning the establishment and classification of a possible DPS. These elements, which are applied similarly for additions to, reclassifications of status under, or removal from the Federal List of Endangered and Threatened Wildlife, include:

- (1) The discreteness of a population 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, delisting, or reclassification (i.e., is the population segment endangered or threatened).

## Discreteness

Under the DPS policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions:

- (1) It 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.
- (2) It 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.

Desert mountain ranges of Balochistan Province are more or less isolated from one another by intervening valley bottoms. The Torghar Hills, within the Toba Kakar Range, are geographically isolated by broad valleys (Frisina *et al.* 2002, p. 7). To the north and south, the mountain area is bounded by the Kundar River Valley and Khaisor Valley, respectively (Bellon 2008, p. 3). Furthermore, suitable markhor habitat tends to be patchily distributed within mountain ranges. Within the Torghar Hills, habitat to the north is less severe than that preferred by markhor; to the south, habitat is also unsuitable as it is a broad, relatively level valley and inhabited by humans (Frisina *et al.* 2002, p. 7).

The degree to which disjunct populations of markhor interact is unknown because dispersal capability is unknown. However, interaction between populations is assumed to be limited because of the tendency of markhor to restrict themselves to the steeper, cliff-like areas (Frisina *et al.* 1998, p. 10). Although markhor could potentially move into and out of the Torghar Hills, intermountain movement probably rarely occurs due to the lack of suitable habitat (Frisina *et al.* 2002, p. 7) and the presence of people and domestic livestock in intervening valley bottoms.

In summary, the petition and other documents in our files present substantial information indicating that the Torghar Hills population of the straight-horned markhor in Pakistan may meet at least one of the criteria for discreteness under the DPS policy based on marked physical separateness.

#### Significance

Under our DPS Policy, in addition to our consideration that a population segment is discrete, we consider its biological and ecological significance to the taxon to which it belongs. This consideration may include, but is not limited to: (1) Evidence of the persistence of the discrete population segment in an ecological setting that is unique or unusual for the taxon; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in

its genetic characteristics (61 FR 4721; February 7, 1996).

The Torghar Hills population of straight-horned markhor is protected by a private conservation program, the Torghar Conservation Project (TCP). In 1986, the TCP was instituted and run informally by the local Tribal ruling family. The goals of the TCP were to conserve local populations of the Suleiman markhor and the Afghan urial (*Ovis orientalis cycloceros*) and improve the economic condition of local tribesmen. To accomplish this, the local tribesmen refrain from hunting in exchange for employment as salaried game guards to prevent poaching in the Torghar Hills and assist in wildlife surveys. Game guard salaries and other costs of the TCP are covered by fees paid by foreign hunters to hunt a small, controlled number of markhor and urial for trophy (Johnson 1997, pp. 1–3; Ahmed *et al.* 2001, p. 5). In 1994, an officially registered nongovernmental organization, the Society for Torghar Environmental Protection (STEP), was formed to administer the TCP.

Since the TCP was instituted in 1986, the markhor population in the Torghar Hills has been growing steadily from the brink of extinction to a thriving population and is considered “viable” for both population and genetic processes (Johnson 1997, pp. 14–15; Frisina *et al.* 2002, p. 1). The most likely cause of this population growth is the virtually-complete cessation of poaching in the Torghar area accomplished by the TCP (Johnson 1997, pp. 3, 15). Based on the substantial population growth, researchers have concluded that the markhor have responded well to the management and protection provided by the TCP and the program has been a successful tool in conserving the markhor of the Torghar Hills (Johnson 1997, p. 16; Frisina *et al.* 1998, p. 6). This population now represents the highest concentration of markhor in the world (Bellon 2008, pp. 1, 45) and may represent one of the last remaining strongholds for the subspecies (Johnson 1997, p. 16).

In summary, information in the petition and our files may support the significance of a DPS in the Torghar Hills of Pakistan because the loss of this DPS would result in the loss of, perhaps, the most important population for the subspecies’ survival, resulting in a significant gap in the range of the subspecies.

#### Evaluation of Information for This Finding

As stated above, the markhor was originally listed as endangered under the Act due to declining numbers and

concern over the species’ high commercial importance. The outbreak of the Afghanistan war in the late 1970s made weapons and cheap ammunition more readily available and hunters killed females and young indiscriminately (Ahmed *et al.* 2001, p. 4). In the early 1980s the markhor population in the Torghar Hills was thought to be at very low levels, perhaps fewer than 100 individuals.

The petitioners assert that since the TCP was established and poaching essentially eliminated (Woodford *et al.* 2004, p. 181), the population of markhor in the Torghar Hills has increased. In 1994, Johnson (1997, p. 12) estimated the Torghar Hills population of markhor to be 695. Later surveys estimated the population to be 1,298 in 1997; 1,684 in 1999; 2,541 in 2005; and 3,158 in 2008 (Frisina *et al.* 1998, p. 6; Arshad and Khan 2009, p. 9).

In general, markhor are threatened with fragmentation and loss of habitat, competition with domestic livestock, and illegal hunting (CITES 2007, unpaginated). The petitioners assert that the habitat within the core protected area of the TCP is not threatened by grazing of domestic sheep and goats or otherwise at risk of being destroyed, modified, or curtailed. The petitioners also assert that the local people are aware of the potential problems with having excess livestock and are interested in formulating and implementing range management plans (Woodford *et al.* 2004, p. 184). In addition, to improve the health of local domestic livestock, and thereby minimize the risk of disease transfer to the markhor, a community-based Animal Health Service for the domestic livestock within the TCP area has been formulated. Under this plan, a small number of tribesman will be trained as “barefoot vets” and provide vaccines and anti-parasitic medications to the domestic livestock (Woodford *et al.* 2004, p. 185).

The petitioners further assert that the laws of Pakistan, regulations on hunting imposed by the TCP, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) quota and nondetriment determination are more than adequate to protect the straight-horned markhor. Lastly, the petitioners assert that the listing as an endangered species under the Act prevents hunters from bringing hunting trophies home to the United States, creates a disincentive for American hunters to participate in the TCP, and reduces the number of hunts and keeps the price of hunting permits artificially low.

**Finding**

On the basis of information provided in the petition we find that the petition presents substantial scientific or commercial information indicating that reclassifying the Torghar Hills population of the straight-horned markhor may be warranted. Therefore, we will initiate a status review to determine if reclassifying the Torghar Hills population of the straight-horned markhor is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this subspecies (see Information Solicited).

It is important to note that the “substantial information” standard for a 90-day finding is in contrast to the Act’s “best scientific and commercial data” standard that applies to a 12-month finding as to whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination as to whether a petitioned action is warranted is not made until we have completed a thorough review of the status of the species, which is conducted following a substantial 90-day finding. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

**References Cited**

A complete list of references cited is available on the Internet at <http://www.regulations.gov> at Docket No. FWS-R9-ES-2011-0003 and upon request from the Branch of Foreign Species (see **FOR FURTHER INFORMATION CONTACT**.)

**Author**

The primary authors of this notice are the staff members of the Branch of Foreign Species (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: April 15, 2011.

**Rowan W. Gould,**

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2011-13671 Filed 6-1-11; 8:45 am]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R6-ES-2011-0030; 92220-1113-0000-C6]

**RIN 1018-AW02**

**Endangered and Threatened Wildlife and Plants; Revising the Special Rule for the Utah Prairie Dog**

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

**ACTION:** Proposed rule.

**SUMMARY:** Under the Endangered Species Act of 1973, as amended (ESA), we (the U.S. Fish and Wildlife Service (Service/USFWS)) are proposing to revise our special regulations for the conservation of the Utah prairie dog. We are proposing to revise the existing limits on take, and we also propose a new incidental take exemption for otherwise legal activities associated with standard agricultural practices. All other provisions of the special rule not relating to these amendments would remain unchanged. We seek comment from the public and other agencies, and welcome suggestions regarding the scope and implementation of the special rule. After the closing of the comment period, a draft environmental assessment will be prepared on our proposed actions.

**DATES:** We will accept comments received or postmarked on or before August 1, 2011. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES**), the deadline for submitting an electronic comment is Eastern Standard Time on this date. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by July 18, 2011.

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

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. In the box that reads “Enter Keyword or ID,” enter the Docket number for this proposed rule, which is FWS-R6-ES-2011-0030. Check the box that reads “Open for Comment/Submission,” and then click the Search button. You should then see an icon that reads “Submit a Comment.” Please ensure that you have found the correct rulemaking before submitting your comment.

- **U.S. mail or hand-delivery:** Public Comments Processing, Attention: FWS-R6-ES-2011-0030; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax

Drive, MS 2042-PDM; Arlington, VA 22203.

We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

**FOR FURTHER INFORMATION CONTACT:** For information on Utah prairie dogs see: <http://www.fws.gov/mountain-prairie/species/mammals/UTprairiedog> or <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A04A>, or contact Larry Crist, Field Supervisor, Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119 (telephone 801-975-3330; facsimile 801-975-3331). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** Under the ESA, we are proposing to revise our existing special rule for the conservation of the Utah prairie dog in the Code of Federal Regulations (CFR) at 50 CFR 17.40(g). The current special rule, administered by the Utah Division of Wildlife Resources (UDWR), was established in 1991. Since that time, we have evaluated the take authorized by this rule and the methods used to implement it.

We are considering the available information and proposing to revise established limits to permitted take administered by the UDWR. We propose to revise the regulations for where take is allowed to occur, the amount of take that may be permitted, and methods of take that may be permitted. This proposed amendment is largely consistent with past and current practices and permitting as administered by the UDWR under the current special rule. Utah prairie dog populations have remained stable to increasing throughout implementation of the current special rule implemented under the UDWR permit system. We also propose a new incidental take exemption for otherwise legal activities associated with standard agricultural practices.

We seek comment on our proposed rule from the public and other agencies, and welcome suggestions regarding the scope and implementation of the special rule. After the closing of the comment period for this proposed rule, a draft environmental assessment will be prepared on our proposed action.

**Request for Public Comments**

You may submit your comments and materials concerning this proposed rule