

"Proposed Rules" section in the **Federal Register**, (64 FR 50668, September 17, 1999). The dates for filing comments and replies have not changed.

Synopsis of the Proposed Notice

1. By this *Public Notice*, the Commission requests supplemental comment in MM Docket Numbers 91-221 and 87-8 on procedures for processing applications filed pursuant to the Local Ownership *Order* adopted in the local broadcast ownership proceeding on August 5, 1999 (64 FR 50651, September 17, 1999). In that *Order*, we stated that "[a]pplications filed pursuant to this *Report and Order* will not be accepted by the Commission until the effective date" of the *Order*, which will be sixty days after publication in the **Federal Register**. We also said: "We realize that the rules adopted in this *Report and Order* could result in two or more applications being filed on the same day relating to stations in the same market and that due to the voice count all applications might not be able to be granted. We will address how to resolve such conflicts in a subsequent action." This *Notice* seeks comment on how to resolve such conflicts.

2. Ordinarily, we would process these applications in the order in which they are filed. Generally, however, we treat broadcast applications filed on the same day as being filed simultaneously, regardless of the time of filing. Under the commission's new local ownership rules, as we noted in the *Local Ownership Order*, we anticipate that applications for transfer or assignment might be filed on the same day relating to stations in the same market that will not all be able to be granted due to the voice counts that apply to the local ownership rules. The order in which the applications are processed would thus be determinative in these situations. Similar issues could arise in the radio-television cross ownership rule context, in situations in which grant of one application will bring the voice count down to ten or twenty, such that certain other applications relying on the minimum voice count for compliance with the rule could not be granted.

3. We believe that the most prudent, easy to administer, and fair method for determining the order in which applications filed on the same day will be processed is by random selection. Under this procedure, each potentially conflicting applicant in a market would be assigned a random number which would be determined by use of one or more forced-air blowers each containing numbered ping-pong balls. The applications would then be processed in

ascending order based upon their randomly assigned numbers.

4. We thus seek comment on the use of random selection to determine processing order, as well as on any alternatives, such as auctions or first-come, first-served, that are both fair and easy to administer. We also seek comment on when the lotteries, if they are implemented, should be held relative to the filing of applications.

5. Because of timing concerns, we also anticipate that the rules adopted will be made effective upon publication in the **Federal Register** (see 5 U.S.C. 553(d)(3) (exception to 30-day effective date period for good cause)).

6. *Filing of Comments and Reply Comments*. Pursuant to §§ 1.415 and 1.419 of the commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 4, 1999. Reply comments must be filed on or before October 12, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

7. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

8. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary TW-A306, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. The Mass Media Bureau contact for this proceeding is Vicki Phillips at (202) 418-2120.

9. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room CY-A257) 445 12th Street, N.W., Washington, D.C. 20554.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF59

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period on the Proposed Endangered Status of the Sierra Nevada Distinct Population Segment of the California Bighorn Sheep

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provide notice of the reopening of the comment period for the proposed endangered status for the Sierra Nevada distinct population segment of California bighorn sheep (*Ovis canadensis californiana*). The comment period has been reopened in response to a request from the Foundation for North American Wild Sheep and to conduct a peer review of the proposed rule.

DATES: Comments from all interested parties must be received by October 15, 1999.

ADDRESSES: Written comments, materials, data, and reports concerning this proposal should be sent to the Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz, at the address listed above (telephone 805/644-1766; facsimile 805/644-3958).

SUPPLEMENTARY INFORMATION:

Background

The bighorn sheep (*Ovis canadensis*) is a large mammal (family Bovidae) originally described by Shaw in 1804 (Wilson and Reeder 1993). Several subspecies of bighorn sheep have been recognized on the basis of geography and differences in skull measurements (Cowan 1940; Buechner 1960). These

subspecies of bighorn sheep, as described in these early works, include *O.c. cremnobates* (Peninsular bighorn sheep), *O.c. nelsoni* (Nelson bighorn sheep), *O.c. mexicana* (Mexican bighorn sheep), *O.c. weemsi* (Weems bighorn sheep), *O.c. californiana* (California bighorn sheep), and *O.c. canadensis* (Rocky Mountain bighorn sheep). However, recent genetic studies question the validity of some of these subspecies and suggest a need to re-evaluate overall bighorn sheep taxonomy. For example, Sierra Nevada bighorn sheep appear to be more closely related to desert bighorn sheep than the *O.c. californiana* found in British Columbia (Ramey 1991, 1993). Regardless, the Sierra Nevada bighorn sheep meets our criteria for consideration as a distinct vertebrate population segment (as discussed below) and are treated as such in this final rule.

The historical range of the Sierra Nevada bighorn sheep (*Ovis canadensis californiana*) includes the eastern slope of the Sierra Nevada, and, for at least one subpopulation, a portion of the western slope, from Sonora Pass in Mono County south to Walker Pass in Kern County, a total distance of about 346 kilometers (km) (215 miles (mi)) (Jones 1950; Wehauer 1979, 1980). By the turn of the century, about 10 out of 20 subpopulations survived. The number dropped to five subpopulations at mid-century, and down to two subpopulations in the 1970s, near Mount Baxter and Mount Williamson in Inyo County (Wehauer 1979). Currently, five subpopulations of Sierra Nevada bighorn sheep occur at Lee Vining Canyon, Wheeler Crest, Mount Baxter, Mount Williamson, and Mount Langley in Mono and Inyo Counties, three of which have been reintroduced using sheep obtained from the Mount Baxter subpopulation from 1979 to 1986 (Wehausen et al. 1987).

The Sierra Nevada bighorn sheep is similar in appearance to other desert associated bighorn sheep. The species' pelage shows a great deal of color variation, ranging from almost white to fairly dark brown, with a white rump. Males and females have permanent horns; the horns are massive and coiled in males, and are smaller and not coiled in females (Jones 1950; Buechner 1960). As the animals age, their horns become rough and scarred with age, and will vary in color from yellowish-brown to dark brown. In comparison to many other desert bighorn sheep, the horns of the Sierra Nevada bighorn sheep are generally more divergent as they coil out from the base (Wehausen 1983). Adult male sheep stand up to a meter

(m) (3 feet (ft)) tall at the shoulder; males weigh up to 99 kilograms (kg) (220 pounds (lbs)) and females 63 kg (140 lbs) (Buechner 1960).

The current and historical habitat of the Sierra Nevada bighorn sheep is almost entirely on public land managed by the U.S. Forest Service, Bureau of Land Management, and National Park Service. The Sierra Nevada is located along the eastern boundary of California, and peaks vary in elevation from 1825 to 2425 m (6000 to 8000 ft) in the north, to over 4300 m (14,000 ft) in the south adjacent to Owens Valley, and then drop rapidly in elevation in the southern extreme end of the range (Wehausen 1980).

Sierra Nevada bighorn sheep inhabit the alpine and subalpine zones during the summer, using open slopes where the land is rough, rocky, sparsely vegetated and characterized by steep slopes and canyons (Wehausen 1980; Sierra Nevada Bighorn Sheep Interagency Advisory Group (Advisory Group) 1997). Most of these sheep live between 3,050 and 4,270 m (10,000 and 14,000 ft) in elevation in summer (John Wehausen, University of California, White Mountain Research Station, pers. comm. 1999). In winter, they occupy high, windswept ridges, or migrate to the lower elevation sagebrush-steppe habitat as low as 1,460 m (4,800 ft) to escape deep winter snows and find more nutritious forage. Bighorn sheep tend to exhibit a preference for south-facing slopes in the winter (Wehausen 1980). Lambing areas are on safe precipitous rocky slopes. They prefer open terrain where they are better able to see predators. For these reasons, forests and thick brush usually are avoided if possible (J. Wehausen, pers. comm. 1999).

Bighorn sheep are primarily diurnal, and their daily activity show some predictable patterns that consists of feeding and resting periods (Jones 1950). Bighorn sheep are inherently grazers; however, they may browse woody vegetation when it is growing and very nutritious. They are opportunistic feeders selecting the most nutritious diet from what is available.

Sierra Nevada bighorn sheep are gregarious, with group size and composition varying with gender and from season to season. Spatial segregation of males and females occurs outside the mating season, with males more than two years old living apart from females and younger males for most of the year (Jones 1950; Cowan and Geist 1971; Wehausen 1980). Ewes generally remain in the same band into which they were born (Cowan and Geist 1971). During the winter, Sierra Nevada

bighorn sheep concentrate in those areas suitable for wintering, preferably Great Basin habitat (sagebrush steppe) at the very base of the eastern escarpment.

All five subpopulations of this species are threatened by mountain lion (*Puma concolor*) predation, disease, and random, naturally-occurring events.

We published an emergency rule to list the Sierra Nevada distinct population segment of California bighorn sheep as endangered on April 20, 1999 (64 FR 19300), as well as a proposed rule to list the species as endangered on that same date (64 FR 19333). The original comment period closed on June 21, 1999. In a memo dated June 16, 1999, the Foundation for North American Wild Sheep requested that the comment period be extended to allow us to consider additional information regarding the Sierra Nevada bighorn sheep. In addition, we will also conduct a peer review of this proposal and solicit the opinions of three appropriate and independent specialists regarding the data, assumptions, and supportive information presented for the Sierra Nevada bighorn sheep, per our Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270).

References Cited

A complete list of references cited in this rule is available upon request from the Ventura Fish and Wildlife Office of the U.S. Fish and Wildlife Service (see ADDRESSES section).

Author

The primary author of this notice is Barbara Behan of the Regional Office, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181 (telephone 503/231-6131).

Authority

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

Dated: September 24, 1999.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations Office, Fish and Wildlife Service.
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