Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
– – –	
Portsmouth (Township), Bay County (FEMA Docket No. 7097)	
Saginaw River:	
Approximately 1.7 miles downstream of the downstream corporate limits (near McGraw Avenue)	*586
At the upstream corporate limits	*587
Maps available for inspection at the Portsmouth Township Hall, 1711 West Cass Avenue, Bay City, Michigan.	
– – –	
MINNESTOA	
International Falls (City), Koochiching County (FEMA Docket No. 7138)	
Rainy River:	
Approximately 3.7 miles downstream of Toll Bridge	*1,089
Approximately 0.5 mile upstream of Toll Bridge	*1,111
Maps available for inspection at the City Engineer's Office, 601 3rd Street, International Falls, Minnesota.	
MISSISSIPPI	
Columbus (City), Lowndes County (FEMA Docket No. 7149)	
Moore Creek:	
Approximately 900 feet upstream of Willowbrook Road	*177
At the upstream corporate limits of the City of Columbus	*180
Maps available for inspection at the City Hall, 523 Main Street, Columbus, Mississippi.	
– – –	
Lowndes County (Unincorporated Areas) (FEMA Docket No. 7149)	
Moore Creek:	
At Columbus and Greenville Railway	*181
Approximately 250 feet upstream of Columbus and Greenville Railway	*181
Ellis Creek Tributary:	
Approximately 3,000 feet upstream of the confluence with Ellis Creek At Hildreth Road	*206
Maps available for inspection at the Lowndes County Inspection Department, 17 Airline Road, Columbus, Mississippi.	
NEW JERSEY	
Flemington (Borough), Hunterdon County (FEMA Docket No. 7155)	
Walnut Brook:	
Approximately 605 feet downstream of downstream corporate limits	*169
Approximately 400 feet upstream of State Route 12	*182
Bushkill Brook:	
Approximately 70 feet downstream of State Route 31	*129
Approximately 900 feet upstream of Elizabethtown Gas Company bridge	*140
Maps available for inspection at the Flemington Borough Building, 38 Park Avenue, Flemington, New Jersey.	
PENNSYLVANIA	
Smithfield (Township), Huntingdon County (FEMA Docket No. 7149)	
Juniata River:	
Approximately 2,650 feet above confluence of Raystown Branch Juniata River	*608
Upstream corporate limits	*639
Crooked Creek:	
At confluence with Juniata River	*619
Approximately 0.71 mile upstream of confluence with Juniata River	*619
Maps available for inspection at the Smithfield Township Building, 13th and Mt. Vernon Avenue, Huntingdon, Pennsylvania.	
VIRGINIA	
Norfolk (City), Independent City (FEMA Docket No. 7155)	
Chesapeake Bay:	
Approximately 1,300 feet northeast of the intersection of Pleasant Avenue and 30th Bay Street	*12
Little Creek:	
Approximately 1,400 feet east of the intersection of Pleasant Avenue and 30th Bay Street	*10
Maps available for inspection at the Norfolk City Planning Office, Suite 508, City Hall Building, 810 Union Street, Norfolk, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: March 11, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96–6688 Filed 3–19–96; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–195; RM–5810]

Radio Broadcasting Services; Onawa, Iowa; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains a correction to the FM Table of Allotments as published in the October 1, 1994, revision of 47 CFR Part 73. The listing for Onawa, Iowa, in Section 73.202(b) incorrectly shows Channel 272C1A instead of Channel 272C1. Channel 272C1 was substituted for Channel 272A at Onawa pursuant to the *Report and Order,* MM Docket 88–195, 54 FR 3781, January 26, 1989.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION:

Background

Channel 272C1 was substituted for Channel 272A at Onawa, IA, and Channel 272A was substituted for Channel 272A at Vermillion, SD, so that Station KOOO's construction permit could be modified to specify the higher powered channel.

Need for Correction

As published, the final regulation contains a wrong channel allotment at Onawa, IA, which is misleading and needs correction.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 272C1A and adding Channel 272C1 at Onawa.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6659 Filed 3–19–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD29

Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in Aubrey Valley, Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service, in cooperation with the Arizona Game and Fish Department will

introduce black-footed ferrets (*Mustela nigripes*) into Aubrey Valley, Arizona. This reintroduction is a primary recovery action for this federally listed endangered species and will allow evaluation of release techniques. If conditions are acceptable, surplus captive-raised black-footed ferrets will be released in 1996, or later. Additional surplus animals will be released annually thereafter for several years or until a self-sustaining population is established. Releases will use and refine reintroduction techniques used in other areas. If the Aubrey Valley program is successful, a wild population could be established within about 5 years. The Aubrey Valley ferret population is designated as a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act of 1973, as amended. This population will be managed under the provisions of an accompanying special rule.

EFFECTIVE DATE: March 20, 1996.

ADDRESSES: You may inspect the complete file for this rule during normal business hours at the following office: Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021. You must make an appointment in advance if you wish to inspect the file.

FOR FURTHER INFORMATION CONTACT: William Austin, at the above address, or telephone (602) 640–2720.

SUPPLEMENTARY INFORMATION:

Background

Legislative

The Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), was changed significantly by the Endangered Species Act Amendments of 1982 (Pub. L. No. 97–304). A new subsection 10(j) was added to the Act to allow designation of specific populations of listed species as ''experimental populations.'' Before this amendment, the U.S. Fish and Wildlife Service (Service) was authorized to reintroduce populations into unoccupied portions of a listed species' historical range when it would foster the conservation and recovery of the species. However, local citizens often opposed reintroduction because they were concerned about restrictions and prohibitions on Federal and private activities. This opposition severely handicapped the effectiveness of reintroduction as a management tool. Under section 10(j), the Service can designate reintroduced populations established outside the species' current range but within its historical range as ''experimental.'' This designation increases the Service's flexibility to manage reintroduced populations of endangered species. Experimental populations are treated as threatened species under the Act, and the Service has greater discretion in devising management programs and special regulations. Section 4(d) of the Act allows the Service to adopt whatever regulations are necessary and advisable to provide for the conservation of a threatened species. These regulations may be less restrictive than those for endangered species and more compatible with current or planned human activities in the reintroduction area. For example, a person may take a black-footed ferret (*Mustela nigripes*) in the wild within the Aubrey Valley Experimental Population Area, provided the take is incidental (as defined under the Act), and any resulting injury or mortality is unintentional and not due to negligent conduct. The Act defines ''incidental take'' as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. The Service will not take legal action for incidental take. However, the Service will refer instances of knowing, non-incidental take of black-footed ferrets to the appropriate authorities for prosecution.

The Service can designate experimental populations as ''essential'' or ''nonessential.'' Nonessential populations are not essential to the continued existence of the species. The Aubrey Valley population of black-footed ferrets is designated as a nonessential experimental population in accordance with section 10(j) of the Act.

Section 7 of the Act applies selectively to a nonessential experimental population located outside of the National Wildlife Refuge System or National Park System lands. Generally, it is treated if it were were proposed for listing. Section 7(a)(4) applies in that case, requiring Federal agencies to confer with the Service on actions that are likely to jeopardize the continued existence of a proposed species. Section 7(a)(1), which requires all Federal agencies to use their authority to conserve listed species continues to apply, but section 7(a)(2), which requires Federal agencies to ensure that their activities are not likely to jeopardize the continued existence of a listed species, does not. Section 7 only affects activities on private lands if they are authorized, funded or carried out by a Federal agency.

Section 7(a)(2) of the Act requires that animals used to establish an experimental population may be removed from a source or donor population only after the Service determines that the removal is not likely to jeopardize the continued existence of the species. Removal also requires a permit as described in 50 CFR 17.22.

Biological

The black-footed ferret is an endangered carnivore with a black face mask, black legs, and a black-tipped tail. A black-footed ferret is nearly 60 centimeters (2 feet) in length and weighs up to 1.1 kilogram (2.5 pounds). It is the only ferret species native to North America.

Historically, the black-footed ferret occurred over a wide area, but it is difficult to determine its historical abundance because it is nocturnal and secretive. The historical range of the species, based on specimen collections, includes 12 States (Arizona, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming) and the Canadian Provinces of Alberta and Saskatchewan. Prehistoric evidence shows that this ferret once occurred from the Yukon Territory in Canada to New Mexico and Texas (Anderson *et al.* 1986).

Black-footed ferrets depend almost exclusively on prairie dog colonies for food, shelter, and denning (Henderson *et al.* 1969, Forrest *et al.* 1985). The range of the ferret coincides with that of prairie dogs (Anderson *et al.* 1986), and breeding black-footed ferrets have never been documented outside of prairie dog colonies. Specimens of black-footed ferrets have come from the ranges of three species of prairie dogs—the black-tailed prairie dog (*Cynomys ludovicianus*), white-tailed prairie dog (Cynomys leucurus), and Gunnison's prairie dog (*Cynomys gunnisoni*) (Anderson *et al.* 1986).

Widespread poisoning of prairie dogs and conversion of native prairie to farmland drastically reduced prairie dog abundance and distribution in the last century. Sylvatic plague, which may have been introduced to North America around the turn of the century, also decimated prairie dog numbers, particularly in the southern portions of their ranges. The severe decline of prairie dogs nearly caused the extinction of the black-footed ferret. The ferret's decline may be partly due to other factors such as secondary poisoning from prairie dog toxicants and canine distemper. The black-footed ferret was listed as an endangered species on March 11, 1967.

In 1964, a wild population of ferrets was discovered in South Dakota and was studied intensively. This

population disappeared from the wild in 1974, and its last member died in captivity in 1979. The species was then thought to be extinct until a small population was discovered in 1981 near Meeteetse, Wyoming. The Meeteetse population declined severely in 1985–1986 due to canine distemper. Eighteen survivors were taken into captivity in 1986–1987 to prevent the species' extinction and to serve as founder animals for a captive propagation program. Today, the captive population includes approximately 400 animals held in 7 separately maintained locations.

Recovery Efforts

The recovery plan for the black-footed ferret (U.S. Fish and Wildlife Service 1988) establishes a national recovery objective. This objective is to ensure immediate survival of the species by—

(a) increasing the captive population of ferrets to 200 breeding adults by 1991, which has been achieved;

(b) establishing a prebreeding census population of 1,500 free-ranging breeding adults in 10 or more different populations with no fewer than 30 breeding adults in each population by the year 2010; and

(c) encouraging the widest possible distribution of reintroduced animals throughout their historic range.

When this national objective is achieved, the black-footed ferret will be downlisted to threatened status, assuming that the extinction rate of established populations remains at or below the rate at which new populations are established for at least 5 years. Cooperative efforts to rear black-footed ferrets in captivity have been successful. In 8 years, the captive population has increased from 18 to over 400 animals. In 1988, the single captive population was divided into three separate captive subpopulations to avoid the possibility that a single catastrophic event would eliminate the entire captive population. Two additional captive subpopulations were established in 1990 and one each in 1991 and 1992, for a total of seven subpopulations. Recovery efforts have advanced to the reintroduction phase of putting animals back into the wild, since a secure captive population of 240 breeding adults has been achieved.

Reintroduction Sites

Site Selection Process

The Service, in cooperation with 11 western State wildlife agencies, has identified potential ferret reintroduction sites within the historical range of the black-footed ferret. So far, reintroduction attempts have occurred in Wyoming, Montana, and South Dakota. Utah and Colorado are now identifying potential reintroduction sites, while other western States are evaluating potential reintroduction sites. The Service selects reintroduction sites in coordination with the Black-footed Ferret Interstate Coordinating Committee.

Northwest Arizona/Aubrey Valley Site

On November 15, 1995, the Service proposed in the Federal Register (60 FR 57387) to reintroduce a nonessential experimental population of black-footed ferrets into the Aubrey Valley in northwestern Arizona. The area selected is designated the Aubrey Valley Experimental Population Area (AVEPA). The AVEPA includes parts of Coconino, Mohave, and Yavapai counties in northwestern Arizona. The AVEPA is described as the Aubrey Valley west of the Aubrey Cliffs. Its boundaries are as follows: from Chino Point, north along the crest of the Aubrey Cliffs to the Supai Road (Indian Route 18), southwest along the Supai Road to Township 26 North, then west to Range 11 West, then south to the Hualapai Indian Reservation boundary, then east and northeast along the Hualapai Indian Reservation boundary to U.S. Highway Route 66; then southeast along Route 66 for approximately 6 km (2.3 miles) to a point intercepting the east boundary of Section 27, Township 25 North, Range 9 West; then south along a line to where the Atchison-Topeka Railroad enters Yampa Divide Canyon; then southeast along the Atchison-Topeka Railroad alignment to the intersection of the Range 9 West/Range 8 West boundary; then south to the SE corner of Section 12, Township 24 North, Range 9 West; then southeast to the SE corner Section 20, Township 24 West, Range 8 West; then south to the SE corner Section 29, Township 24 North, Range 8 West; then southeast to the half section point on the east boundary line of Section 33, Township 24 North, Range 8 West; then northeast to the SE corner of Section 27, Township 24 North, Range 8 West; then southeast to the SE corner Section 35, Township 24 North, Range 8 West; then southeast to the half section point on the east boundary line of Section 12, Township 23 North, Range 8 West; then southeast to the SE corner of Section 8, Township 23 North, Range 7 West; then southeast to the SE corner of Section 16, Township 23 North, Range 7 West; then east to the half section point of the north boundary line of Section 14, Township 23 North, Range 7 West; then south to the half section point on the north boundary line of Section 26, Township 23 North, Range 7 West; then east along section line to Route 66; then southeast along Route 66 to the point of origin at Chino Point. This area encompasses 25,598 hectares (ha) (63,253 acres) of deeded land, 18,536 ha (45,802 acres) of State trust land, and 45,686 ha (112,839 acres) of Hualapai Tribal land for a total of 89,820 ha (221,894 acres). A detailed map showing the location and delineating the boundaries of the AVEPA accompanies this special rule.

Surveys conducted in 1992 indicated that approximately 7,000 ha (17,297 acres) of prairie dog towns exist within the AVEPA. Using an index outlined in Biggins *et al.* (1989), the Service calculates that this area has a current black-footed ferret family rating of 35, which means that the AVEPA can potentially support about 53 adult black-footed ferrets. The ferret family rating is a numerical value derived from the acreage and density of prairie dogs and is used to estimate ferret carrying capacity of a prairie dog complex. Since 1990, the Service, the Department, and a variety of cooperators have conducted 10 surveys in the Aubrey Valley for black-footed ferrets. These surveys did not discover any evidence of extant black-footed ferrets, and it is unlikely that wild ferrets exist within the AVEPA. Consequently, the Service concludes that ferrets reintroduced into the AVEPA will be separate and distinct from other existing populations.

The Service and the Department plan to release ferrets into a subportion of the AVEPA (within the area considered best for the release) that is designated on the accompanying map and is referred to in this rule as the ''Reintroduction Area.'' If this reintroduction is successful, black-footed ferrets will probably disperse into other areas of the AVEPA. Other ferrets may be released into selected portions of the AVEPA at a later date. Black-footed ferrets will be released only if biological conditions are suitable and meet the management framework that has been developed. The Service, in cooperation with the Department and other project cooperators, will reevaluate reintroduction efforts in the AVEPA if any of the following conditions occur:

(a) Black-footed ferret habitat is not maintained sufficient to support more than 30 breeding adults after 5 years;

(b) At least 90 percent of prairie dog acreage known in 1992 is not maintained;

(c) A wild black-footed ferret population is found within the AVEPA prior to the first breeding season following the initial reintroduction;

(d) Evidence of active canine distemper or other diseases known to be

detrimental to ferrets is found in or near the reintroduction area;

(e) Fewer than 20 black-footed ferrets are available for the first release;

(f) Funding is not available to implement reintroduction plans in Arizona; or

(g) Land ownership changes or cooperators withdraw from the project.

Reintroduction Protocol

The reintroduction protocol involves releasing approximately 20 or more captive-raised black-footed ferrets in the first year of the program, and up to 50 or more animals annually for the next 2–4 years. Released animals will be excess to the needs of the captive breeding program. Hence, any loss of released animals would not affect the genetic diversity of the captive animals. Since captive breeding of ferrets will continue, any animal lost in the reintroduction effort can be replaced. In future releases, it may be necessary to obtain ferrets from established reintroduced populations to enhance the genetic diversity of the population in the AVEPA.

Two protocols (''hard'' and ''soft'' release) are available that have been successfully employed for releasing captive-reared ferrets into the wild. Release of animals shortly after arrival at the release site is known as a ''hard'' release. When the animals are supplied with food, shelter, and protection from predators for a period of time before being released, the release is characterized as ''soft.'' In either method, ferrets are released from above-ground cages with access to underground nest boxes. Preconditioned or nonconditioned young or adult animals may be released. Captive-bred ferrets may be preconditioned by placing them in large pens that enclose portions of natural prairie-dog colonies. In addition, it may be necessary to surround each above-ground cage with an electric fence to prevent damage from livestock or access by predators. The Service, in cooperation with the Department and other project cooperators, will decide what reintroduction method is best suited for the proposed ferret release at the AVEPA. Cooperators are jointly developing a specific release protocol that will become a condition of the endangered species permit authorizing the Arizona reintroduction. As an experiment to enhance reintroduction success, excess captive pregnant female ferrets will be shipped to large preconditioning pens and allowed to whelp onsite in the AVEPA. After an extended period of acclimation, family groups will be released together by simply opening the pens.

To the extent possible, released ferrets will be vaccinated against diseases, including canine distemper. Measures will be taken during the initial reintroduction stage to reduce predation from coyotes (*Canis latrans*), badgers (*Taxidea taxus*), raptors, or other predators. Habitat conditions also will be monitored during the reintroduction phase. All released ferrets will be marked (e.g., with passive integrated transponder tags (PIT tags)). Several released ferrets may be radio-tagged and their behavior and movements monitored. Other monitoring will include use of spotlight and snow tracking surveys and visual surveillance.

A high percentage (perhaps as high as 90 percent) of the animals may die during the first year of release. Despite prerelease conditioning, which should improve survival, captive-bred animals are more susceptible to predation, starvation, and environmental conditions than wild-born individuals. Mortality will probably be highest during the first month following release. A realistic goal in the first year of the program is to have some ferrets survive the first month in the wild and at least 10 percent of the animals surviving their first winter.

From 1982 to 1986, intensive studies were conducted on the Meeteetse population to establish baseline data to aid future reintroduction efforts. These baseline data have supplemented the biological and behavioral data obtained from the South Dakota population in the 1960's and 1970's. In addition, the Wyoming, South Dakota, and Montana reintroduction programs also have provided data that are useful for this and future releases.

The goal of the Arizona reintroduction effort is the establishment of a free-ranging population of at least 30 adult animals within the AVEPA by the year 2001. The Service, Department, and cooperators will monitor the progress of the project on an annual basis, including all determinable sources of mortality. The status of the population and the information gained at this site will be evaluated annually for the first 5 years to assess future ferret management needs. The Service does not expect to change the nonessential designation for this experimental population unless it deems the experiment to be a failure or until the black-footed ferret is recovered.

Status of Reintroduced Population

The Service designates the Aubrey Valley black-footed ferret population ''nonessential'' under section 10(j) of the Act for the following reasons:

(a) The captive breeding population is the primary population of the species and it has been protected against the threat of extinction from a single catastrophic event by dividing it into seven widely separated subpopulations. Hence, any loss of an experimental population will not threaten the survival of the species as a whole.

(b) The primary repository of genetic diversity for the species is now the 240 breeding adults in the captive breeding population. Animals selected for reintroduction purposes will not be needed to maintain the captive population. Hence, any loss of animals for reintroduction into an experimental population will not affect the overall genetic diversity of the species.

(c) All animals lost during this reintroduction attempt will be replaced through captive breeding. Juvenile ferrets are now being produced in excess of the numbers needed to maintain 240 breeding adults in captivity.

This will be the fourth experimental population of black-footed ferrets released into the wild. The other reintroduction efforts are in Wyoming, southwestern South Dakota, and north-central Montana. Ferret reintroduction is important to help recover the species to a point where it can be downlisted and eventually delisted. Ferrets held in captivity may lose behavioral traits critical to their survival in the wild. Consequently, it is important to release captive-held ferrets as soon as possible to increase the likelihood of successful reintroduction.

Approximately 33 percent of the land in the AVEPA is deeded land. State trust lands and Reservation lands make up the remaining 22 percent and 45 percent of the AVEPA, respectively. The nonessential experimental population designation will facilitate reestablishment of the species in the wild by alleviating landowner concerns about possible land use restrictions that could otherwise apply under the Act. The nonessential experimental designation is intended to relax regulations that protect reintroduced populations of endangered species, while promoting the conservation of these populations. The nonessential designation provides a more flexible management framework for protecting and recovering black-footed ferrets while ensuring that the daily activities of landowners can continue unaffected.

Attempts to reintroduce ferrets into the wild (in Wyoming, South Dakota, and Montana) have placed emphasis on developing and improving reintroduction techniques. That research will advance the groundwork for ferret reintroduction and management protocols at future release sites. The data obtained from this reintroduction effort also will be used to improve ferret reintroduction techniques, particularly as they apply to reintroduction in Gunnison's prairie dog towns. All previous releases have occurred in black-tailed or white-tailed prairie dog towns.

Location of Reintroduced Population

Section 10(j) of the Act requires that an experimental population be geographically separate from other nonexperimental populations of the same species. Since 1987, when the last members of the Meeteetse population were captured for inclusion in the captive population, no ferrets (other than those released in Wyoming, Montana and South Dakota) have been documented from the wild. Nevertheless, other ferrets may exist in the wild today. Extensive surveys were conducted for black-footed ferrets in the AVEPA. In addition to these surveys, many hours were spent surveying prairie dog colonies at the proposed relocation site. No ferrets or ferret sign (skulls, feces, or trenches) were located. Therefore, the Service finds, and administratively determines with this rule, that wild black-footed ferrets no longer exist in the AVEPA, and that ferrets reintroduced into the AVEPA will not overlap with wild populations of ferrets.

The AVEPA is located in northwestern Arizona and includes the Aubrey Valley west of the Aubrey Cliffs. The area has substantial geographic features that will hinder, but may not preclude black-footed ferret movements outside of the AVEPA. Given the geography and the poorer habitat conditions found outside of the AVEPA, the Service and Department believe that ferret movements outside the designated area are highly unlikely.

The AVEPA will be one of the core recovery areas described in the Black-footed Ferret Recovery Plan. After the first release and before the first breeding season, the nonessential experimental population will include all marked ferrets in the AVEPA. During and after the first breeding season the nonessential experimental population will include all ferrets located in the AVEPA, including unmarked offspring of released ferrets. All released ferrets and their offspring are expected to remain in the AVEPA because of prime prairie dog habitat, their limited home range, and surrounding geographic barriers. The Service and its cooperators may capture any stray ferret that leaves the AVEPA and return it to the management area, translocate it to another reintroduction site, place it in captivity, or leave it in place. If a ferret leaves the reintroduction area (but remains within the AVEPA), the affected landowner may request its removal. The Service will honor landowner requests to remove straying ferrets. If a landowner does not object to the ferret remaining on his/her property, the animal will not be removed.

All ferrets released in the AVEPA will be marked. The Service and its cooperators will attempt to determine the source of any unmarked animals found after the first release and before the first breeding season. Any ferret in Arizona outside the AVEPA will be considered endangered and may be captured for genetic testing or evidence of identification tags. If the animal originated from the experimental population, it may be returned to the AVEPA, held in captivity, released at another reintroduction site, or left in place. If the captured animal is genetically unrelated to ferrets from the experimental population (possibly a wild animal), it may be retained for use in the captive breeding program. Under an existing contingency plan, up to nine wild ferrets can be captured for the captive population. If a landowner outside the experimental population area wishes black-footed ferrets to remain on his or her property, the Service will seek a conservation agreement or easement with the land owner.

Management

The Service will undertake the AVEPA reintroduction in cooperation with the Department, Navajo Nation, Arizona State Land Department, other landowners in AVEPA, and the Phoenix Zoo (in accordance with the Cooperative Reintroduction Plan For Black-footed Ferrets—Aubrey Valley, Arizona (Belitsky *et al.* 1994)). Specific aspects of the reintroduction program are discussed below.

Monitoring

Several monitoring efforts are planned during the first 5 years of the program. The Service and cooperators will monitor prairie dog numbers and distribution, as well as sylvatic plague occurrence on an annual basis. Canine distemper will be monitored before the reintroduction and annually thereafter. Reintroduced ferrets and their offspring will be monitored annually using spotlight surveys and/or snow tracking surveys. Several ferrets may be fitted with radio transmitters for more intensive monitoring. If ferrets survive the first winter, surveys will monitor breeding success and juvenile recruitment for the surviving population. Ferret behavior also will be investigated during the reintroduction phase.

The Service, Department, and/or authorized cooperators will monitor ferret populations and their habitat annually to document hazards or activities that would affect ferrets. When appropriate, the Service and the Department will develop strategies in cooperation with involved parties and affected landowners to minimize harm to ferrets.

The Service, the Department, and cooperators will inform other agencies and the public about the presence of ferrets in the AVEPA through public outreach programs. Educational programs will address the handling of sick or injured ferrets. The Service has asked the Department to serve as the primary contact agency for government entities, private landowners, and the public within and surrounding the black-footed ferret reintroduction area. The Department has assigned its Regional Wildlife Program Manager, Kingman, Arizona, ((602) 692–7700) as principal contact to answer any public inquiries and follow up on reports of injured or dead ferrets. The Department will report such incidents to the Service's Field Supervisor, Ecological Services, Phoenix, Arizona, ((602) 640–2720). The Field Supervisor will notify the Service's Division of Law Enforcement of any reports of dead or injured ferrets. The public should report injured or dead ferrets directly to either the Department's Regional Wildlife Program Manager or the Service's Field Supervisor at the phone numbers identified above. Any ferret carcass found should be preserved. Any individual who finds a dead ferret should not disturb potential evidence that may be used to determine cause of death.

Disease Considerations

If canine distemper is documented in any wild mammal found near or within the reintroduction site, the Service will reevaluate the reintroduction program. At least 10 coyotes, and possibly badgers, will be tested for canine distemper before ferrets are released at the AVEPA.

The Service and cooperators will attempt to limit potential sources of distemper by—

1. Discouraging people from bringing dogs into the AVEPA,

2. Encouraging residents and hunters to vaccinate pets, and

3. Encouraging people to report any dead mammals or any unusual behavior in wild mammals within the area.

Efforts are underway to develop an effective, permanent canine distemper vaccine for black-footed ferrets. Routine sampling for sylvatic plague within prairie dog towns will occur before and during reintroduction efforts.

Genetic Considerations

Ferrets selected for the initial reintroduction will be animals not needed to preserve the genetic diversity of captive populations. Experimental populations of ferrets usually contain less genetic diversity than captive populations. Selecting and reestablishing breeding ferrets that compensate for any genetic biases in earlier releases can correct this disparity. The ultimate goal is to establish wild ferret populations with as much genetic diversity as possible.

Prairie Dog Management

The Service will work cooperatively with landowners and land management agencies in the AVEPA to maintain sufficient prairie dog habitat to support more than 30 breeding adult ferrets, as well as to maintain at least 90 percent of the prairie dog habitat known in 1992. The Service will work cooperatively with the affected landowners and land management agencies to resolve any prairie dog management conflicts.

Mortality

Only animals not needed for the captive breeding program will be used in this reintroduction attempt. The Service expects significant mortality since captive-reared animals must adapt to the wild. Predator and prairie dog management, vaccination, supplemental feeding, and/or improved release methods should partially offset natural mortality resulting from predation, a fluctuating food supply, disease, and lack of experience in killing prey (prairie dogs). Public education will reduce potential human-related mortality. The Service expects only a low level of mortality from incidental take since the reintroduction is deemed compatible with traditional land use in the area.

The Act defines ''incidental take'' as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. A person may take a ferret in the AVEPA provided the take is incidental as defined under the Act, and if any resulting injury or mortality is unintentional, and not due to negligent conduct. Such take will not be considered ''knowing take'' and the Service will not take legal action. However, the knowing, deliberate take of a black-footed ferret will be referred to the appropriate authorities for prosecution. Any take of a black-footed ferret must be reported immediately to the Service's Field Supervisor (see **ADDRESSES** section).

The biological opinion prepared for the reintroduction anticipates an annual incidental take of about 12 percent of all reintroduced ferrets and their offspring in the AVEPA. If this level is exceeded in a given year, the Service, in cooperation with the Department, landowners, and land managing agencies, will conduct an evaluation to develop and implement measures to reduce the level of incidental take.

Special Handling

Under special regulations that apply to the experimental population, Service employees and their acting agents may handle black-footed ferrets for various reasons—scientific purposes, relocation to avoid conflict with human activities, recovery efforts, relocation to future reintroduction sites, aiding sick, injured, or orphaned animals, and salvaging dead animals. Any ferret deemed unfit to remain in the wild will be placed in captivity. The Service also will decide the placement or disposition of all sick, injured, orphaned, and dead animals.

Coordination With Landowners and Land Managers

The Service and Department attempted to identify issues and concerns associated with the ferret reintroduction in the AVEPA before developing the proposed rule. The reintroduction has been discussed with potentially affected State agencies and landowners within the release area. The affected State agencies and landowners/managers have indicated support for ferret reintroduction if the animals released in the AVEPA are a nonessential experimental population and if land use activities in the AVEPA are not constrained without the consent of affected landowners.

Potential for Conflict with Grazing and Recreational Activities

Under the current management scheme for the AVEPA, the Service does not expect conflicts between livestock grazing and black-footed ferret management. The State Regional Wildlife Program Manager will coordinate any ferret reintroduction measure that might affect grazing patterns in the AVEPA, such as the placement of ferret release pens, and will secure the concurrence of affected landowners. Livestock graze on all lands in the AVEPA and existing grazing practices are not expected to adversely affect ferret habitat. No restrictions will apply to landowners regarding prairie dog control on private lands within the AVEPA. If prairie dog control efforts proposed for private or State trust lands locally affect ferret prey base within a specific area, State and Federal biologists will determine whether ferrets would be potentially impacted. The Service, Department, or authorized cooperators may translocate ferrets from problem areas to other areas of lesser conflict. Big game hunting, prairie dog shooting, and trapping of furbearers or predators in the AVEPA are not expected to affect ferrets. If private activities impede the establishment of ferrets, the Service and Department will work closely with landowners to develop appropriate responses to avoid or minimize problems.

Protection of Black-footed Ferrets

To the extent possible and appropriate, ferrets will be released in a manner that provides short-term protection from natural mortality (predators, disease, lack of prey base) and from human-related sources of mortality. Improved release methods, vaccination, predator management, and the management of prairie dog populations will reduce natural mortality.

Human causes of mortality will be minimized by releasing ferrets in areas with low human population densities and little development potential, and by working with landowners to help avoid existing or proposed activities that could impair ferret recovery.

The Service has prepared a final biological opinion for the reintroduction of ferrets in the AVEPA. It concludes that this action is not likely to jeopardize the continued existence of the species.

Public Awareness and Cooperation

An extensive educational effort will be undertaken to inform the public in the region and nationally about the importance of this reintroduction project in the overall recovery of the black-footed ferret. This should enhance public awareness of the significance of the AVEPA program and of the importance of the prairie habitats upon which ferrets depend.

Effective Date

The provisions of 5 U.S.C. 553(d)(3) require that at least 30 days must be allowed before a rule becomes effective, unless an agency has good reason to make it effective sooner. The success of this reintroduction requires that reintroduction facilities be fully installed and the management program in place before pregnant female ferrets are transported to the AVEPA, beginning in March 1996 or soon thereafter. The timing of the project therefore requires that this rule become effective immediately upon publication in the Federal Register.

Conclusion

The designation of the AVEPA population as a nonessential experimental population should encourage local cooperation since this designation will minimize recovery project impacts on normal activities within the release site. The Service considers the nonessential experimental population designation to be necessary to gain the full cooperation of landowners, agencies, and recreational interests in the affected area. Based on the above information, and utilizing the best scientific and commercial data available, (in accordance with 50 CFR 17.81), the Service finds that the reintroduction of black-footed ferrets into the AVEPA will further the conservation and recovery of the species.

Summary of Comments and Recommendations

The November 15, 1995, proposed rule and associated notifications requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the *Williams-Grand Canyon News* on November 22, 1995, the *Kingman Daily Miner* on November 26, 1995, and the *Arizona Republic/Phoenix Gazette* on November 27, 1995. Sixteen written comments were received and are discussed below. Seven supported the action, 2 were opposed, and 7 were neutral on the proposed action.

A public hearing was conducted in Seligman, Arizona, on December 12, 1995. Seventeen people attended the hearing. Four oral comments were received: Three favored the proposal and one took no position.

The Service arranged for 5 individuals knowledgeable of black-footed ferret biology to review the proposal. However, they provided no comments.

The following summary addresses written comments and oral statements presented at the public hearing and received during the comment period. Comments of a similar nature or point are grouped into general issues. These issues and the Service's response to each are discussed below.

Issue 1: Historic biodiversity of species should be reestablished as nearly as is possible.

Service Response: The Service agrees with this comment. Establishing 10 ferret populations, an identified recovery plan objective, will help restore historic species biodiversity.

Issue 2: Are any reintroduction sites proposed for southern Arizona?

Service Response: No appropriate sites have been identified for southern Arizona and none are being considered at this time. This rule applies only to the population of black-footed ferrets to be reintroduced in the Aubrey Valley of northern Arizona.

Issue 3: Respondents expressed concern about the well-being of released ferrets.

Service Response: The reintroduction of captive ferrets into the wild removes most protection that humans can provide. This and other reintroductions seek to establish self-sustaining, free-ranging populations of ferrets. Each reintroduction includes techniques to ensure long-term survival of released ferrets to the greatest extent possible, and provides means to evaluate the best ways to reintroduce and release ferrets.

Issue 4: Are there any alternatives to release or reintroduction of ferrets such as adoption programs, pet stores, and so on?

Service Response: There appears to be confusion over the distinction between domestic ferrets and the black-footed ferret. The former is an exotic species commonly raised and sold as a pet. The latter is a native species listed as endangered under the Act. Adoption programs are inappropriate and commercial trade in the species is illegal.

Issue 5: Media accounts appear to be contradictory concerning the success of black-footed ferret reintroduction and whether the species is recovered.

Service Response: The black-footed ferret is far from recovery. The captive breeding program has been very successful. Reintroduction efforts are recent, but also have achieved limited success. Black-footed ferrets have survived and reproduced in the wild following release. However, according to the goals of the current recovery plan, the reintroduction effort must continue and substantially expand before recovery is fully achieved.

Issue 6: There appears to be a contradiction regarding black-footed ferrets being affected by predators and the Service's anti-predator-control stance. Electric fencing may be the best means of predator control. Controlling coyotes could lead to an influx of new coyotes and increase disease. The Service should disclose any previous disease data collected on predators from the proposed reintroduction area. Will any predators killed in control efforts be included in the sample of animals needed to monitor diseases? When can disease monitoring activity be discontinued?

Service Response: Several predators prey on black-footed ferrets, and predators can seriously compromise ferret reintroduction success. Consequently, a ferret release protocol for the Aubrey Valley requires an adequate predator management strategy. We can reduce predation in several ways including some that kill the predators and others that deter or exclude them. The Service and Department will attempt to minimize ferret predation at crucial periods of reintroduction. The Service and Department are keenly interested in continuing development and application of predator management tools that would alleviate the need for killing predators. Electric fencing employed in the Montana ferret reintroduction project has shown significant promise in reducing coyote and badger predation on ferrets, and similar fencing for the Aubrey Valley project will be evaluated. However, the Service and Department must fully weigh whether electric fencing or other predator management means (including killing) are the most practical considering logistics, timing, and funding constraints. Although there are few supporting data, lethal control of coyotes, especially during pup dispersal, could conceivably lead to increased numbers of coyotes in local reintroduction areas. Since 1993, 29 coyotes from the Aubrey Valley/Seligman area have been collected to test for the presence of canine distemper. The information obtained indicates that no recent canine distemper outbreaks have occurred in this area. Any predators collected in the AVEPA for future control measures would be evaluated for evidence of distemper and sylvatic plague. Because these diseases could potentially devastate the reintroduced ferret population and could confound

subsequent releases, it is essential that a minimum number of predators be collected each year for the duration of the reintroduction program.

Issue 7: Prairie dogs damage land.

Service Response: Prairie dogs create burrows and reduce the amount of vegetation immediately surrounding their burrows. However, prairie dogs evolved on native grasslands and are an extremely important component of the prairie ecosystem. Prairie dogs provide the only known habitat for black-footed ferrets. All reintroductions so far (and the one to be carried out in the Aubrey Valley, Arizona) are in areas where prairie dogs currently exist. In fact, the presence and abundance of prairie dogs is the prime factor by which reintroduction sites are evaluated. Prairie dogs are considered a keystone species of the prairie environment and create and provide habitat for numerous wildlife species. The Service believes that landowners in the AVEPA are aware of both the problems associated with prairie dogs and of their importance to ferret recovery and the overall prairie ecosystem.

Issue 8: A landowner requested that none of his land be designated as critical habitat.

Service Response: The Service has not designated critical habitat for the black-footed ferret and has no plans to do so.

Issue 9: Is the nonessential experimental designation really appropriate in this instance or in general? Release efforts have been confounded by predation, disease and other factors. There are many reasons why designation as essential is vital and more appropriate. An essential designation would provide beneficial protection, and the protection would not completely halt projects anyway. The captive breeding population was never designated as an essential population.

Service Response: Section 10(j) of the Act authorizes the Secretary of Interior to designate experimental populations in order to facilitate recovery of threatened or endangered species. Experimental population provisions permit the Service to exercise flexibility in avoiding situations that would otherwise confound recovery activities because of land use restrictions potentially imposed under sections 7 and 9 of the Act. Evaluations performed by the Department, Service, and their cooperators have indicated that the AVEPA represents the best known potential black-footed ferret habitat in Arizona. Since lands in the AVEPA are either privately owned or are State lands leased for specific land uses (principally grazing), the Service can not (and will not) engage in recovery activities in the AVEPA without the consent of landowners. Landowner consent would be impossible without the experimental designation, which alleviates the possibility of imposing land use restrictions. Nevertheless, landowners in the AVEPA have concurred with the project, and the Service finds existing land use practices and the reintroduction program mutually compatible. Because the distribution of potential ferret habitat in the United States overlays a great amount of private land, the recovery of this species is likely to depend on the good will and cooperation of private land owners. The Service must work cooperatively with potentially affected landowners in order to recover the ferret on private lands where the presence of ferrets is compatible with other activities.

The Service's rationale for designating ferrets reintroduced to the AVEPA as a ''nonessential'' experimental population rather than an ''essential'' experimental population was explained above under ''Status of Reintroduced Population.'' Black-footed ferrets do not occur in the wild except in three nonessential experimental populations in Montana, South Dakota, and Wyoming. Moreover, the primary genetic repository of the species is found in the captive population, which is maintained at seven separate facilities. Ferrets to be released in the AVEPA are surplus to the captive population and are not needed to maintain captive population levels. Animals lost through the reintroduction effort can be replaced by captive breeding. Consequently, the Service finds that the captive breeding population of black-footed ferrets is essential to the survival of the species. The Service's finding is supported by the preamble to the final rule that implemented the Act's experimental population provisions (49 FR 33885, August 27, 1984). It explains that organisms classified as experimental are those to be removed from an existing source or donor population. ''Essential experimental population''is defined, in part, in 50 CFR 17.80(b) as ''* * * an experimental population whose loss would be likely to appreciably reduce the likelihood of survival of the species in the wild.''

Issue 10: The Service is too lenient or too vague about allowable prairie dog control (shooting, trapping, poisoning) in the area. The Service should clearly delineate a prairie dog control policy for lands in the reintroduction zone that focuses on ferret recovery.

Service Response: The special rules clearly indicate that otherwise legal activities (such as prairie dog control) within the AVEPA, even those that may incidentally take black-footed ferrets, will not violate the Act. At the same time, current land use practices within the AVEPA are considered compatible with the viability of black-footed ferrets on the site. The use of the area as a reintroduction site depends on the cooperation of the landowners. Success of this effort also will depend on the cooperation of all involved entities to ensure that sufficient prairie dog populations are allowed to persist. The Service believes that prairie dog population maintenance can be achieved on a cooperative basis.

Issue 11: Two comments recommended refinement of the boundaries of the experimental area. One requested that the southern boundary be more readily identifiable by legal descriptions instead of contour lines. A landowner, the Hualapai Tribe, requested that the northwest boundary of the AVEPA be expanded to include all suitable prairie dog habitat on the Hualapai Indian Reservation.

Service Response: The Service contacted the Hualapai Tribe to seek clarification on the location of suitable prairie dog habitat on the Hualapai Indian Reservation. The Service concurred and the boundaries were modified in accordance with the recommendations of both commenters.

Issue 12: When will there be an essential population designated ''in the wild?'' Now is the time.

Service Response: Under section 10(j) of the Act, the Secretary (Service) determines whether or not an experimental population is ''essential'' to the continued existence of a species. The Service uses the Act's flexibility to reintroduce surplus, captive raised black-footed ferrets into nonessential experimental population areas. The Service does not expect to draw from ferrets needed to maintain the captive population in order to establish experimental populations. To release a proportion of the ''essential'' captive population would reduce the number of effective breeding animals. It would also affect the supply of captive-reared ferrets for existing and future recovery efforts, and could possibly jeopardize the continued existence of the species.

Issue 13: Designating a population as nonessential experimental to obtain additional knowledge for future reintroduction seems counterintuitive. The stated purpose of the Act is to conserve species and ecosystems. The Service should not view reintroduction of the black-footed ferret as an isolated event that can be adequately achieved through nonessential experimental designations. The action involves a

moral issue of humans playing God in designating species as ''nonessential'' and ''experimental.''

Service Response: The Service believes that the latitude provided in the Act to designate nonessential experimental populations affords a realistic means of achieving recovery of the black-footed ferret. A significant proportion of the potential habitat remaining within the former range of the black-footed ferret is on private land. To recover the ferret and preserve the prairie ecosystems on which it depends requires that the Service, and other Federal and State agencies, succeed in developing cooperative reintroduction programs with interested parties, especially private landowners. The designation as nonessential experimental does not diminish the importance the Service attaches to individual reintroduction projects or imply a lack of concern for the well-being of the ferrets involved. The Service agrees that the recovery of the species cannot be achieved through an isolated experimental reintroduction. However, such efforts are essential for the development of effective reintroduction techniques and the establishment of self-sustaining populations over several western prairies.

Issue 14: If there is a problem with capacity for black-footed ferrets in captivity, then one solution may be to place priority on wild populations and decrease the level of captive breeding. Given the genetic redundancy in the captive breeding population, its continuation is unnecessary. We may want to retain the captive breeding population to bolster wild populations, but not as an essential population.

Service Response: Thus far, the captive breeding program has been a success, and recovery goals for the black-footed ferret depend on the continued success of the captive breeding program. The captive population itself is not genetically redundant. Maintaining and maximizing the genetic diversity of the captive population is an integral part of the current recovery effort.

Issue 15: If there are no impacts to current land uses from the reintroduction, why eliminate the benefit of sections 7 and 9 of the Act from the action? Black-footed ferrets should be reintroduced with full protection as endangered due to current risks they face. Such a reintroduction also would provide the opportunity to establish critical habitat in the AVEPA. There is a problem when small, local interests can drive reintroduction/conservation of one of the most endangered species on the continent. The action is very biased toward protecting human activities.

Service Response: There appears to be some misunderstanding of the process involved in the nonessential experimental determination and the reintroduction process as it applies to the Aubrey Valley project. The Department, Service, and other cooperators evaluated much of the remaining prairie dog habitats in Arizona in order to find the best potential ferret reintroduction site. The evaluation included an assessment of whether existing and foreseeable land uses in the area were compatible with the maintenance of a ferret population. Despite intensive surveys, no wild black-footed ferrets were found in the Aubrey Valley area. Landowners in the AVEPA were approached by the Department and Service to solicit their support for the project. Such support could only be obtained through a nonessential experimental designation. The landowners and other cooperators who support the establishment of wild ferret population in the Aubrey Valley deserve credit for voluntary cooperation in the recovery of the ferret.

Issue 16: Language in the rule prescribing a reevaluation of the reintroduction efforts in the AVEPA is too restrictive regarding disease factors and the minimum number of ferrets available for a release.

Service Response: The final rule has been modified to address disease concerns relating specifically to the black-footed ferret. Provisions of the rule allow for flexibility to ''reevaluate'' reintroduction efforts in the event of an identified disease or if fewer than 20 animals are available. It does not require curtailment of the effort with discovery of a single case of disease. Other factors, such as the species carrying the disease, the animal's age, and the proximity of the animal to the release area or experimental population boundaries would be considered, and the Service would seek evaluations by experts before responding to a report of disease. The Service must maintain flexibility to evaluate disease circumstances as they arise without adopting a requirement to change management capabilities only after documentation of a set number of disease cases. Likewise, the rule does not require that the project be curtailed if only 19 animals are available for release. However, the Service would evaluate the potential benefits of an experimental release of a small number of ferrets against augmenting an established release with those same animals. The reintroduction of at least 20 ferrets is a minimum target release level established in previous black-footed ferret reintroduction projects.

Issue 17: A canine distemper vaccine is available for black-footed ferrets although in short supply. The Service should not restrict release of ferrets if they have not been vaccinated. Vaccination should be done on a ''whenever possible'' basis.

Service Response: The Service agrees, and the rule has been modified to specify that ferrets will be vaccinated to the extent possible.

Issue 18: Genetic testing may not be necessary to determine the origin of a marked ferret found outside the AVEPA (i.e., whether it came from the AVEPA). Genetic testing may only be necessary for unmarked or other unidentified animals, such as dispersing young. The rule should state that any unmarked ferret occurring outside AVEPA will initially be considered endangered, but should be captured for genetic testing to determine the origin of the individual. It also should state that if the captured animal is determined to be genetically unrelated to ferrets from the experimental population (possibly a wild animal), it will be retained for use in the captive breeding program.

Service Response: The rule has been modified to reflect that the origin of a ferret captured outside the AVEPA can be determined by the presence of identification tags. Ferrets genetically unrelated to the nonessential experimental population that are found outside the AVEPA will be considered endangered and can be retained in captivity. This issue is discussed in greater length below.

Issue 19: The proposal states that at least 10 coyotes, and possibly badgers, will be tested for canine distemper before ferrets are released in the AVEPA. Setting a minimum number could delay release efforts if goals are not obtained before the release date. Instead, the rule should state that prior to the release of ferrets, an attempt will be made to test at least 10 coyotes, and possibly badgers, for evidence of canine distemper.

Service Response: An episode of canine distemper in the AVEPA could have a profound affect on the management of the reintroduced ferret population. Consequently, the Service and Department must establish adequate canine distemper monitoring. The collection and evaluation of 10 predators/each year is considered a minimally acceptable level.

Issue 20: The term ''predator management'' should be substituted for ''predator control.'' Traditionally, ''control'' implies killing, and nonlethal

techniques should be evaluated before implementing any control program.

Service Response: The Service agrees with this comment, and the appropriate changes have been made.

Issue 21: The status of the Arizona State Land Department is unclear. Is it a landowner, cooperator, and/or land-managing agency? What is the difference among these terms in various contexts? The proposed rule is confusing as to the role of the Arizona Game and Fish Department, which does not have authority to make decisions for the Arizona State Land Department, the owner and trustee of school trust lands.

Service Response: In the various contexts of the rule, the Arizona State Land Department is a landowner, cooperator, and land-managing agency. There is no distinction as to how the provisions of the rule are applied to any of these categories. The rule was revised to clarify the status of all landowners affected by this rule.

Issue 22: The status of ferrets found outside boundaries of the Aubrey Valley Management Area is unclear. Ferrets introduced to the Aubrey Valley may migrate to other areas where prairie dogs exist. The commenter would oppose the reintroduction plan if such migration could lead to the designation of critical habitat or other consequences under the Act that would affect lands in the vicinity of, but outside the boundaries of, the Aubrey Valley Management Area.

Service Response: Black-footed ferrets outside the boundary of the AVEPA will be classified as endangered under the Act. Although the Service cannot make a commitment that lands outside of AVEPA will never be designated as critical habitat, designation is extremely unlikely. A designation of critical habitat would require a separate rulemaking process that also would involve assessments of economic impacts and would provide for public comment and hearings. No critical habitat has been designated for the black-footed ferret, and no such designations are planned. The Service regards full cooperation with any potentially affected landowner, inside or outside of the AVEPA, as essential to the success of this and future black-footed ferret reintroduction projects. The Service will try to settle conflicts between ferret recovery concerns and land use activities to the benefit of both ferrets and landowners. The Service and Department do not expect black-footed ferrets to leave the AVEPA.

Issue 23: What is the legal significance of the distinction between the ''reintroduction area,'' the ''experimental population site,'' the ''Aubrey Valley Experimental Population Area,'' and the ''Aubrey Valley Management Area?'' Language in the rule should clarify the origin of the term ''reintroduction area.''

Service Response: The ''reintroduction area'' is that portion of the AVEPA where the actual release of ferrets will occur. The ''experimental population site'' is the AVEPA; AVEPA is an acronym for the Aubrey Valley Experimental Population Area. Use of these terms in the rule has been clarified.

Issue 24: Will State-owned lands receive the same protection and treatment as ''private lands?''

Service Response: Yes. This rule makes no distinction between and applies no separate conditions to State versus private lands.

Issue 25: The proposed rule implies that ferrets will not be removed from lands outside the designated experimental area if they migrate to these areas. What justifies this distinction? Ferrets that leave the AVEPA should be returned upon request by an affected landowner.

Service Response: The special rules allow removal of black-footed ferrets within the AVEPA at the request of a landowner. Ferrets outside of the AVEPA would have endangered status. The Service cannot remove endangered species solely at the request of a landowner. However, the Service, the Department, and/or authorized cooperators can capture ferrets outside of the AVEPA and would probably move ferrets that originated from the AVEPA back to the experimental area. Moreover, in the unlikely event that a ferret is found outside of the AVEPA, regardless of whether or not it originated in the AVEPA, the Service will work closely with affected landowners to ensure that applicable conservation measures are developed cooperatively, and to the benefit of both landowner and ferrets.

Issue 26: The proposal does not clearly state under what circumstances the Service would reevaluate the plan, and what the consequences might be for State-owned lands. Is a single ''5-year evaluation'' contemplated, or will there be annual evaluations for the first 5 years of the program? If the program continues more than 5 years after the reintroduction, when, how frequently, and under what circumstances will it be reevaluated? Can the Service, after the first 5 years, reevaluate the ''nonessential experimental'' designation for the population in the Aubrey Valley?

Service Response: The special rules require overall evaluation of the reintroduction effort at 5 years. Management efforts carried out as part of the reintroduction also will be evaluated on an annual basis. For instance, if disease substantially decreases prairie dog populations in a given year, the Service and Department may decide not to release ferrets that year. Although the rules do not specifically mention other evaluations, if the active reintroduction effort continues beyond 5 years, it will continue to be evaluated as appropriate. The special rules make clear that the planned 5-year evaluation will not include a reevaluation of the experimental population designation. Although the Service can technically reevaluate the experimental population designation at any time, a change in designation would have to be done with the concurrence of landowners for the program to continue. Any change of designation would have to be done through the rulemaking process, which provides for public comment and hearings. No changes in designation are expected or planned.

Issue 27: Can landowners only require the Service to remove ferrets from their lands if the nonessential experimental status is altered? Can the State of Arizona require removal of ferrets from its lands if the status is altered, or is that right limited to ''private landowners?''

Service Response: The general regulations governing nonessential experimental populations under the Act and this rule give State lands the same status as private lands. The rule has been modified to clarify the distinction between Federal public lands and all other landowners. This rule imposes no requirements for landowners to maintain ferrets on their properties in the AVEPA over any specified time period. The Service would attempt to fully accommodate any request from a landowner/cooperator who wishes to withdraw from the project and who sought to remove or exclude project facilities, personnel, and/or ferrets.

Issue 28: How long will the experimental population be maintained in the Aubrey Valley?

Service Response: The duration of designation of the population as experimental is indefinite. The reintroduction effort will continue until it either succeeds or fails. If recovery is achieved and the species is delisted, the Service will withdraw the experimental population designation. The entire species would then not retain any legal status or protection under the Act.

Issue 29: The Arizona State Land Department is not presently named as a party to the Cooperative Reintroduction Plan. Is the Plan part of the rule? What

is the legal significance of references in the rule to the Plan? How will the rule affect landowners who are not parties to the Plan?

Service Response: The rule refers to the Cooperative Reintroduction Plan. It will be used as a guiding document for actual reintroduction efforts; however, it has no legal basis. The rule establishes and adopts regulations under section 10(j) of the Act for the establishment of the AVEPA. It applies equally to all landowners in the AVEPA.

Issue 30: What restrictions on land management activities are contemplated for any of the areas affected by the rule? What restrictions does the Cooperative Reintroduction Plan impose? Will there be any restrictions imposed other than those that a landowner has accepted in writing?

Service Response: The rule and the Cooperative Reintroduction Plan do not impose restrictions on land management activities. The Cooperative Reintroduction Plan is the vehicle to guide development of management measures that will aid ferret reintroduction and recovery efforts. Landowners and cooperators involved in the Aubrey Valley ferret project have cooperatively developed these measures.

Issue 31: What specific area is referred to as ''the prairie dog habitat known in 1992?'' What activities or conditions would result in a reduction of that ''prairie dog habitat?'' What happens if landowners eventually devote their lands to a use incompatible with use as prairie dog habitat?

Service Response: The specific area encompasses all prairie dog colonies that were discovered by field surveys in 1992. Several activities or conditions could affect that habitat, such as disease, prairie dog poisoning, and actual disruption or destruction of lands occupied by prairie dogs. If large, widespread acreage of lands in the AVEPA were eventually devoted to uses incompatible with prairie dog and ferret habitat, the Service and Department would have to reconsider continuation of the reintroduction program in the Aubrey Valley.

Issue 32: The application of ''take'' prohibitions and requirements is unclear. What is meant by ''necessary measures'' that would be taken if incidental take exceeds 12 percent? What will the role of landowners be in determining what measures will be taken and in what specific locations? The measures should be implemented only with the consent of any affected landowners.

Service Response: The figure of 12 percent is an allowable take level established in the intra-Service section 7 consultation that was required for the planning of a nonessential experimental black-footed ferret population in the Aubrey Valley. The biological opinion that resulted from that consultation included several reasonable and prudent measures that must be incorporated by the Service to reduce or eliminate anticipated incidental take. ''Necessary measures'' can only include those that would be developed in cooperation with landowners within the AVEPA as additional means to help reduce or eliminate incidental take. Any such measures that could affect existing landusers would have to be carried out in cooperation with, and with the consent of, AVEPA landowners.

Issue 33: What is the legal relationship between the Black-footed Ferret Recovery Plan and the rule? In the event of a conflict between the two with regard to the treatment of landowners, will the rule take priority over the recovery plan?

Service Response: There is no legal relationship between the recovery plan and this rule. The recovery plan is a nonbinding document that includes recommended measures for recovering the black-footed ferret. This rule is a change in regulation that assigns a specific status to a particular population, and in turn provides means to manage that population. In the event of a conflict in intent, meaning, etc., the rule would prevail over the recovery plan.

Issue 34: The rule should state that, when appropriate, strategies and contingencies to minimize harm to ferrets will be included in the management plan and, with the consent of any affected landowners, will be implemented by the Service. Objectives to maintain prairie dog habitat should be negotiated through written agreements with affected landowners. No restrictions should be placed on landowners without their written consent.

Service Response: This rule places no restrictions on landowners. Affected landowners have already reviewed and approved a reintroduction plan that incorporates strategies and contingencies to manage ferrets. The Service and Department intend for that plan to be dynamic, and any measures necessary to maintain prairie dog habitat will be carried out in cooperation with affected landowners.

Issue 35: What does the Service consider to be ''negligent'' conduct, or intentional conduct, that would constitute a take violation? The last sentence of special rule (g)(5) should be changed to read, ''Intentional take that is not 'incidental take' as defined in this rule will be referred to the appropriate authorities for prosecution. Otherwise lawful land use activities, including the alteration of prairie dog and ferret habitat, whether or not such activities are intentional or 'negligent,' shall not be considered to be an unlawful take under the Act unless they are contrary to the provisions of a cooperative agreement between the Service and an affected landowner.''

Service Response: The legal limits of ''negligence'' related to the incidental take of ferrets are difficult to prescribe. The suggestion to modify the rule to authorize ''intentional'' or ''negligent'' incidental take in the course of an otherwise legal activity is beyond the scope of this rule and would require a change in the Act and implementing regulations. Inadvertent take by persons engaged in otherwise lawful activities (e.g. operating vehicles) without a knowing, intentional effort to do so, would be considered incidental and would not be subject to punishment under the Act. A reason for adopting a nonessential experimental designation is to allow management of ferrets in the AVEPA without affecting existing land uses or other human activities. Special rule (g)(5) has been applied to all previous former black-footed ferret reintroduction sites and has been thoroughly reviewed by the Service and by Department of the Interior solicitors. The take prohibition of the Act cannot be modified through this special rule and cannot be governed by specifications of a separate cooperative agreement not authorized through regulation.

Issue 36: The rule should state that affected landowners will support the reintroduction if ferrets located in or dispersing or migrating from the AVEPA are considered to be a nonessential experimental population and if the reintroduction does not constrain otherwise lawful land use activities, such as grazing, without the consent of the affected landowner.

Service Response: This rule only establishes experimental population status for ferrets in the AVEPA. Any change in status of ferrets outside the AVEPA would have to be accomplished through additional rules. It should be noted that the Service and Department believe that ferrets are extremely unlikely to move out of the experimental area.

Issue 37: The next to last sentence of special rule (g)(9)(iv) should be changed to read: ''A black-footed ferret occurring outside the experimental area in Arizona would be considered as endangered but could be captured for

genetic testing or removed and relocated upon the request of the affected landowner.''

Service Response: Any black-footed ferret occurring outside the AVEPA would be classified as endangered. The Service cannot delegate the decision to remove an endangered species to the owners of lands that would be potentially occupied by the species (see Service Response to Issues 22 and 25.)

Issue 38: The second and subsequent sentences of special rule (g)(12) should be changed to read as: ''Should the Service determine that a substantial modification to black-footed ferret management on non-Federal lands is required, any landowner who consented * * *.''

Service Response: The part of the special rule referred to relates to change in the designation or status of the nonessential experimental population. The Service has modified the language of the rule to clarify the applicability of this provision to all non-Federal landowners.

Issue 39: Part of Township 28 North, Range 7 West (south of the railroad tracks) is being developed as home sites, with road development, power lines and septic systems. It should be noted that the reintroduction area is in a developed or developing area.

Service Response: Township 28 North is not south of the railroad tracks at the southern boundary of the AVEPA. However Township 23 North is, and this may be the township to which the commenter intended to refer. The special rule, including (g)(5), which covers take of black-footed ferrets incidental to otherwise lawful activities, also would apply to any development within the AVEPA. In addition, that portion of Township 23 North that is south of the railroad tracks is at the edge of the AVEPA and in habitat that is marginal for ferrets. The actual reintroduction of ferrets will occur some distance away.

Issue 40: By Resolution No. RCF–030–94, the Navajo Nation supports the proposed black-footed ferret reintroduction in the Aubrey Valley. A representative of the Arizona Zoological Society and the Phoenix Zoo stated they have been actively involved in the propagation and rescue of the species for an extended period of time and encourage favorable consideration for active reintroduction in the State of Arizona. An employee of the Phoenix Zoo stated that the captive breeding program is very strong, but the point has been reached where more individuals need to be reintroduced to the wild. Reintroduction in Aubrey Valley, where reacclimation and preconditioning can teach these animals to behave more like wild ferrets than captives, is essential for the success of the program.

Service Response: The Service appreciates this support and agrees with these comments.

Issue 41: Imagine the cost to taxpayers to collar, track and survey these ferrets. In other reintroductions, 24 percent of the ferrets found were suspected of falling victim to coyote predation. Reintroduction is just another attempt to make unneeded work and complete an agenda for extremists.

Service Response: Surveys, monitoring, or any other management work deemed appropriate for specific releases are necessary to ensure black-footed ferret reintroduction success, and ultimately the recovery of the species. Much of the tracking and monitoring efforts will provide data needed to improve reintroduction efficacy, including how best to respond to such detriments as coyote predation. The Act directs all Federal agencies, and primarily the Service, to recover listed species. Unfortunately, the populations of some species are in such dire condition that reintroduction and other intensive management efforts are needed to achieve recovery.

National Environmental Policy Act

The Service has prepared an environmental assessment as defined under the authority of the National Environmental Policy Act of 1969. It is available from the Service office identified in the **ADDRESSES** section.

Required Determinations

The Department of the Interior has reviewed this rule under Executive Order 12866 and has determined that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on the information discussed in this rule concerning public projects and private activities within the AVEPA, it will not cause significant economic impacts. This rule will impose no direct costs, enforcement costs, information collection, or record keeping requirements on small entities, and the rule contains no record keeping requirements as defined under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

References Cited

Anderson, E., S.C. Forrest, T.W. Clark, and L. Richardson. 1986. Paleobiology, biogeography, and systematics of the black-footed ferret (*Mustela nigripes*) (Audubon and Bachman), 1851. Great Basin Naturalist Memoirs 8:11–62.

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Biggins, D., B. Miller, L. Hanebury, B. Oakleaf, A. Farmer, R. Crete, and A. Dood. 1989. A system for evaluating black-footed ferret habitat. Unpubl. Rept. for the Black-footed Ferret Interstate Coordinating Committee. USFWS, Fort Collins, Colorado. 25 pp.

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U.S. Fish and Wildlife Service. 1988. Black-footed ferret recovery plan. U.S. Fish and Wildlife Service, Denver, Colorado. 154 pp.

Author

The primary authors of this rule are William Austin and Mike Lockhart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

Accordingly, 50 CFR chapter I is amended 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. Section 17.11(h) is amended by revising the existing entries for the ''Ferret, black-footed'' under ''MAMMALS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Ferret, black-footed	Mustela nigripes	Western U.S.A., Western Canada.	Entire, except where listed as an experiental population below..	E	1, 3, 433, 545, 546, 582.	NA	NA
Do	.....do	.....do	U.S.A. (specified portions of WY, MT, SD, and AZ)..	XN	433, 545, 546, 582.	NA	17.84(g)
*	*	*	*	*	*		*

3. Section 17.84 is amended by revising the text of paragraph (g) preceding the maps and by adding a new map following the existing maps at the end of paragraph (g) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(g) Black-footed ferret (*Mustela nigripes*).

(1) The black-footed ferret populations identified in paragraphs (g)(9)(i), (g)(9)(ii), (g)(9)(iii), and (g)(9)(iv) of this section are nonessential experimental populations. Each of these populations will be managed in accordance with their respective management plans.

(2) No person may take this species in the wild in the experimental population areas except as provided in paragraphs (g)(3),(4),(5), and (10) of this section.

(3) Any person with a valid permit issued by the U.S. Fish and Wildlife Service (Service) under § 17.32 may take black-footed ferrets in the wild in the experimental population areas.

(4) Any employee or agent of the Service or appropriate State wildlife agency, who is designated for such purposes, when acting in the course of official duties, may take a black-footed ferret from the wild in the experimental population areas if such action is necessary:

(i) For scientific purposes;

(ii) To relocate a ferret to avoid conflict with human activities;

(iii) To relocate a ferret that has moved outside the Reintroduction Area when removal is necessary to protect the ferret, or is requested by an affected landowner or land manager, or whose removal is requested pursuant to paragraph (g)(12) of this section;

(iv) To relocate ferrets within the experimental population areas to improve ferret survival and recovery prospects;

(v) To relocate ferrets from the experimental population areas into other ferret reintroduction areas or captivity;

(vi) To aid a sick, injured, or orphaned animal; or

(vii) To salvage a dead specimen for scientific purposes.

(5) A person may take a ferret in the wild within the experimental population areas, provided such take is incidental to and not the purpose of, the carrying out of an otherwise lawful activity and if such ferret injury or mortality was unavoidable, unintentional, and did not result from negligent conduct. Such conduct will not be considered ''knowing take'' for purposes of this regulation, and the Service will not take legal action for such conduct. However, knowing take will be referred to the appropriate authorities for prosecution.

(6) Any taking pursuant to paragraphs (g)(3), (4)(vi) and (vii), and (5) of this section must be reported immediately to the appropriate Service Field Supervisor, who will determine the disposition of any live or dead specimens.

(i) Such taking in the Shirley Basin/Medicine Bow experimental population area must be reported to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Cheyenne, Wyoming, telephone (307) 772–2374.

(ii) Such taking in the Conata Basin/Badlands experimental population area must be reported to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Pierre, South Dakota, telephone (605) 224–8693).

(iii) Such taking in the north-central Montana experimental population area must be reported to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Helena, Montana, telephone (406) 449–5225.

(iv) Such taking in the Aubrey Valley experimental population area must be reported to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Phoenix, Arizona, telephone (602) 640–2720.

(7) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever any ferret or part thereof from the experimental populations taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

(8) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed any offense defined in paragraphs (g) (2) and (7) of this section.

(9) The sites for reintroduction of black-footed ferrets are within the historical range of the species.

(i) The Shirley Basin/Medicine Bow Management Area is shown on the attached map of Wyoming and will be considered the core recovery area for this species in southeastern Wyoming. The boundaries of the nonessential experimental population will be that part of Wyoming south and east of the North Platte River within Natrona, Carbon, and Albany Counties (see Wyoming map). All marked ferrets found in the wild within these boundaries prior to the first breeding season following the first year of releases will constitute the nonessential experimental population during this period. All ferrets found in the wild within these boundaries during and after the first breeding season following the first year of releases will comprise the nonessential experimental population thereafter.

(ii) The Conata Basin/Badlands Reintroduction Area is shown on the attached map for South Dakota and will be considered the core recovery area for this species in southwestern South Dakota. The boundaries of the nonessential experimental population area will be north of State Highway 44 and BIA Highway 2 east of the Cheyenne River and BIA Highway 41, south of I–90, and west of State Highway 73 within Pennington, Shannon, and Jackson Counties, South Dakota. Any black-footed ferret found in the wild within these boundaries will be considered part of the nonessential experimental population after the first breeding season following the first year of releases of black-footed ferrets in the

Reintroduction Area. A black-footed ferret occurring outside the experimental population area in South Dakota would initially be considered as endangered but may be captured for genetic testing. Disposition of the captured animal may take the following action if necessary:

(A) If an animal is genetically determined to have originated from the experimental population, it may be returned to the Reintroduction Area or to a captive facility.

(B) If an animal is determined to be genetically unrelated to the experimental population, then under an existing contingency plan, up to 9 black-footed ferrets may be taken for use in the captive-breeding program. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, a conservation agreement or easement may be arranged with the landowner.

(iii) The North-central Montana Reintroduction Area is shown on the attached map for Montana and will be considered the core recovery area for this species in north-central Montana. The boundaries of the nonessential experimental population will be those parts of Phillips and Blaine Counties, Montana, described as the area bounded on the north beginning at the northwest corner of the Fort Belknap Indian Reservation on the Milk River; east following the Milk River to the east Phillips County line; then south along said line to the Missouri River; then west along the Missouri River to the west boundary of Phillips County; then north along said county line to the west boundary of Fort Belknap Indian Reservation; then further north along said boundary to the point of origin at the Milk River. All marked ferrets found in the wild within these boundaries prior to the first breeding season following the first year of releases will constitute the nonessential experimental population during this period. All ferrets found in the wild within these boundaries during and after the first breeding season following the first year of releases will thereafter comprise the nonessential experimental population. A black-footed ferret occurring outside the experimental area in Montana would initially be considered as endangered but may be captured for genetic testing. Disposition of the captured animal may be done in the following manner if necessary:

(A) If an animal is genetically determined to have originated from the experimental population, it would be returned to the reintroduction area or to a captive facility.

(B) If an animal is determined not to be genetically related to the experimental population, then under an existing contingency plan, up to nine ferrets may be taken for use in the captive breeding program.

(iv) The Aubrey Valley Experimental Population Area is shown on the attached map for Arizona and will be considered the core recovery area for this species in northwestern Arizona. The boundary of the nonessential experimental population area will be those parts of Coconino, Mohave, and Yavapai Counties that include the Aubrey Valley west of the Aubrey Cliffs, starting from Chino Point, north along the crest of the Aubrey Cliffs to the Supai Road (State Route 18), southwest along the Supai Road to Township 26 North, then west to Range 11 West, then south to the Hualapai Indian Reservation boundary, then east and northeast along the Hualapai Indian Reservation boundary to U.S. Highway Route 66; then southeast along Route 66 for approximately 6 km (2.3 miles) to a point intercepting the east boundary of Section 27, Township 25 North, Range 9 West; then south along a line to where the Atchison-Topeka Railroad enters Yampa Divide Canyon; then southeast along the Atchison-Topeka Railroad alignment to the intersection of the Range 9 West/Range 8 West boundary; then south to the SE corner of Section 12, Township 24 North, Range 9 West; then southeast to SE corner Section 20, Township 24 West, Range 8 West; then south to the SE corner Section 29, Township 24 North, Range 8 West; then southeast to the half section point on the east boundary line of Section 33, Township 24 North, Range 8 West; then northeast to the SE corner of Section 27, Township 24 North, Range 8 West; then southeast to the SE corner Section 35, Township 24 North, Range 8 West; then southeast to the half section point on the east boundary line of Section 12, Township 23 North, Range 8 West; then southeast to the SE corner of Section 8, Township 23 North, Range 7 West; then southeast to the SE corner of Section 16, Township 23 North, Range 7 West; then east to the half section point of the north boundary line of Section 14, Township 23 North, Range 7 West; then south to the half section point on the north boundary line of Section 26, Township 23 North, Range 7 West; then east along section line to route 66; then southeast along route 66 to the point of origin at Chino Point. Any black-footed ferrets found in the wild within these boundaries will be considered part of the nonessential experimental population after the first breeding season following the first year of releases of ferrets into the reintroduction area. A black-footed ferret occurring outside the experimental area in Arizona would be considered as endangered but may be captured for genetic testing. Disposition of the captured animal may take the following action if necessary:

(A) If an animal is determined to have originated from the experimental population, either genetically or through tagging devices, it may be returned to the reintroduction area or to a captive facility. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, a conservation agreement or easement may be arranged with the landowner.

(B) If an animal is determined to be genetically unrelated to the experimental population, then under an existing contingency plan, up to nine ferrets may be taken for use in the captive-breeding program. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, a conservation agreement or easement may be arranged with the landowner.

(10) The reintroduced populations will be continually monitored during the life of the project, including the use of radio-telemetry and other remote sensing devices, as appropriate. All released animals will be vaccinated against diseases prevalent in mustelids, as appropriate, prior to release. Any animal that is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or appropriate State wildlife agency or their agents and given appropriate care. Such an animal may be released back to its respective reintroduction area or another authorized site as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity.

(11) The status of each experimental population will be reevaluated within the first 5 years after the first year of release of black-footed ferrets to determine future management needs. This review will take into account the reproductive success and movement patterns of individuals released into the area, as well as the overall health of the experimental population and the prairie dog ecosystem in the above described areas. Once recovery goals are met for delisting the species, a rule will be proposed to address delisting.

(12) This 5-year evaluation will not include a reevaluation of the ''nonessential experimental'' designation for these populations. The Service does not foresee any likely

situation which would call for altering the nonessential experimental status of any population. Should any such alteration prove necessary and it results in a substantial modification to black-footed ferret management on non-Federal lands, any landowner who consented to the introduction of black-footed ferrets on their lands will be permitted to terminate their consent, and at their request, the ferrets will be relocated pursuant to paragraph (g)(4)(iii) of this section.

* * * * *

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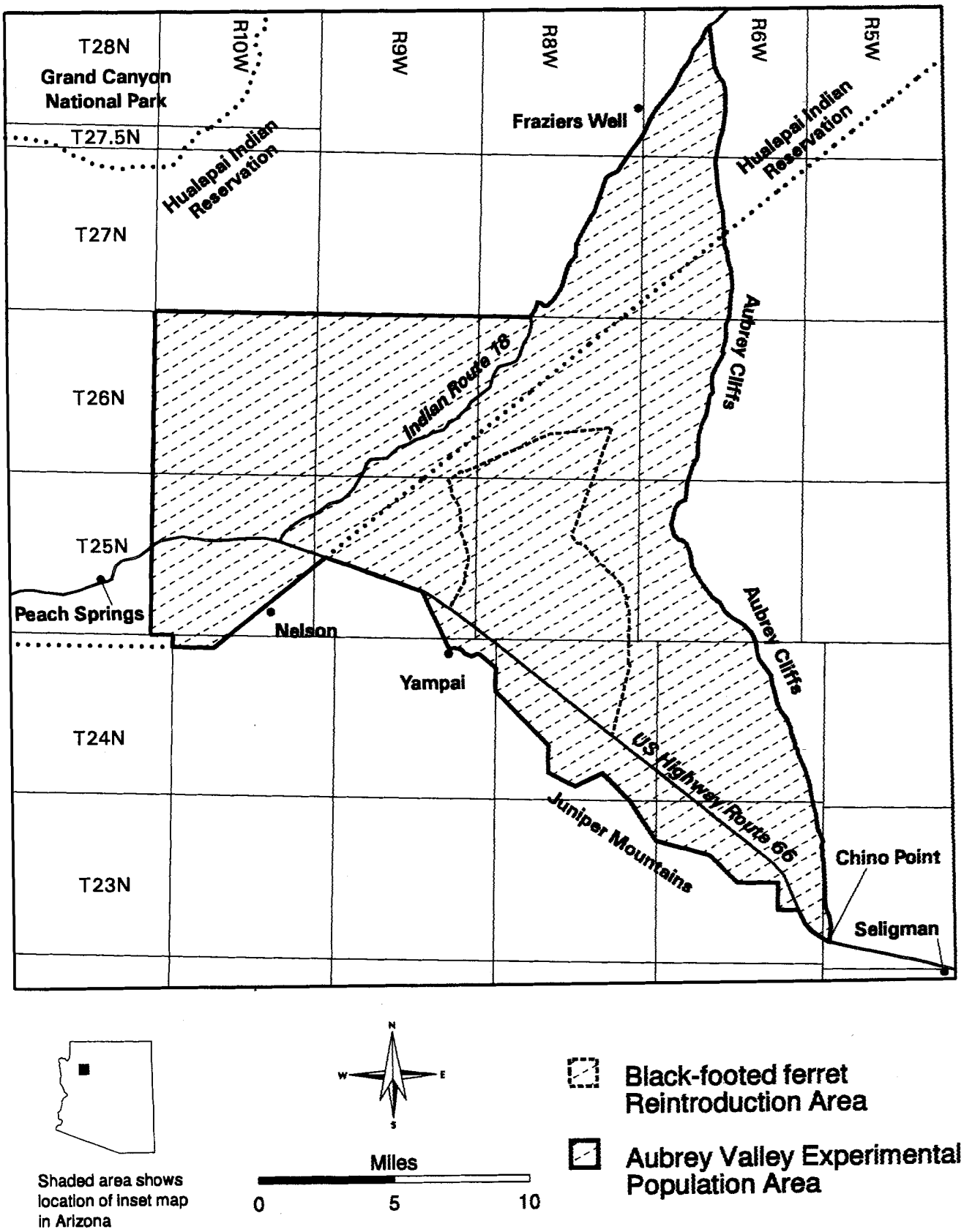
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Fraziers Well
Hualapai Indian Reservation
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Black-footed ferret Reintroduction Area
Aubrey Valley Experimental Population Area

* * * * *

Dated: March 13, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–6732 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 031296A]

Atlantic Tuna Fisheries; Closure

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

ACTION: Fishery closure.

SUMMARY: NMFS has determined that the 1996 Atlantic bluefin tuna (ABT) Angling category quota for fish between 47 inches (119 cm) and 73 inches (185 cm) has been reached. Therefore, landing large school and small medium ABT under the Angling category is prohibited effective at 11:30 p.m. on March 17, 1996. This action is being taken to prevent overharvest of this category.

EFFECTIVE DATE: The closure is effective 11:30 p.m., local time, March 17, 1996, through December 31, 1996, or until the effective date of any future adjustment, which will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: William Hogarth, 301–713–2339.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 285.22 provide for a total annual quota of large school and small medium ABT to be harvested from the regulatory area. NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota applicable to any period.

Preliminary information on total angling effort and catch of ABT between 47 inches (119 cm) and 73 inches (185 cm) indicates that for January and February, 1996, landings may total nearly 100 mt. Information available to NMFS on fishing effort and catch rates since March 1, 1996, indicates that the remaining quota is likely to be taken by March 17, 1996. Therefore, fishing for, retention, possessing, or landing large school or small medium ABT must cease at 11:30 p.m., local time, March 17, 1996. This action is to prevent overharvest of the quota established for this category.

Anglers may continue to fish for and land school size ABT, measuring 27 inches (69 cm) to less than 47 inches (119 cm) total curved fork length. Retention of school ABT is subject to the revised bag limit of one fish per boat per day as set in a prior document (61 FR 8223, March 4, 1996). Anglers may also continue to fish for ABT 47 inches (119 cm) or greater under the NMFS tag and release program (50 CFR 285.27).

Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: March 14, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–6595 Filed 3–14–96; 3:56 pm]

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