

**50 CFR Part 17**

RIN 1018-AB39

**Endangered and Threatened Wildlife and Plants; Proposal To Amend Special Rule Allowing Regulated Taking of the Utah Prairie Dog****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to amend the special regulation allowing a maximum of 5,000 nuisance Utah prairie dogs (*Cynomys parvidens*) to be taken annually between June 1 and December 31 in parts of the Cedar and Parowan Valleys in Utah under permits issued by the Utah Division of Wildlife Resources (Division). The amended regulation would expand the area of take to include all private land throughout the range of the Utah prairie dog. In addition the rule's quarterly reporting requirement would be replaced by a requirement to make the State's records on permitted take available to the Service, on request. All other provisions of the special regulation not relating to these amendments would remain unchanged.

**DATES:** Comments from all interested parties must be received by March 23, 1990.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to: State Supervisor, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104-5110. The complete file for this rule will be available for inspection by appointment during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** W. Robert Benton at the above address (801/524-4430 or FTS 588-4430).

**SUPPLEMENTARY INFORMATION:****Background**

The Utah prairie dog (*Cynomys parvidens*) was listed as an endangered species on June 4, 1973 (38 FR 14678), pursuant to the Endangered Species Act of 1969. On November 5, 1979, the Division petitioned the Service to remove the Utah prairie dog from the U.S. List of Endangered and Threatened Wildlife. The Service found that this

petition contained substantial data and the species was reclassified from endangered to threatened on May 29, 1984 (49 FR 22330). A special regulation that allowed the regulated take of 5,000 animals annually also was issued.

The Utah prairie dog is a burrowing rodent in the squirrel family (Sciuridae) that occurs only in southern Utah. It is a member of the white-tailed prairie dog group which once inhabited vast areas of the western Great Plains. The Utah prairie dog is the most restricted of the three members of this group. Its total numbers were estimated to be about 95,000 in the 1920's (Collier and Spillett 1973), declining to an estimated 1976 spring count of adult animals of 2,160 (Coffeen 1986). This decline was caused by human-related habitat alteration and poisoning which resulted from the belief that prairie dogs compete with domestic livestock for forage. At present, the Utah prairie dog is still threatened over much of its range by loss of habitat. In addition, in some areas, the damage caused by local concentrations of prairie dogs has provoked farmers to kill them illegally to protect crops and cropland.

Despite the above problems, overall numbers have increased since 1976. The 1988 spring count of 6,000 is nearly three times greater than the 1976 low of 2,160 (Coffeen 1988a). The 1989 spring count appears to be 6,400 animals, based on a preliminary tally (Michael Coffeen, Regional Nongame Manager, Utah Division of Wildlife Resources, pers. comm., 1989).

The spring census does not tally the entire adult population; it counts only observed adult animals that have successfully survived the winter. Recent spring counts have been conducted using a dog to "tease" prairie dogs from their burrows, and it is believed that between 70 to 90 percent of the actual adult population is counted in the spring census using the canine tease (Coffeen 1986, 1988b). Assuming 80 percent of the population was counted in the most recent spring census, then the actual adult 1989 spring population is estimated to be 8,000 animals.

The nuisance prairie dog problem results from the species' high rate of reproduction. Female Utah prairie dogs give birth to an average of 4.8 young in April (Pizzimenti and Collier 1975). Assuming that half of the adult population is female, and conservatively assuming that each female produces an average litter of 4 young, then the total population is expected to triple to 24,000 animals in the summer of 1989 throughout its range.

In the summer, there is a population explosion of Utah prairie dogs aboveground as the young of the year

emerge from burrows and disperse, creating serious conflict between the Utah prairie dog and human agricultural interests. The major crop on private land is alfalfa, which is a preferred food of the prairie dog. Crop losses are extensive where large prairie dog colonies and complexes have developed. Prairie dog mounds also damage haying equipment and the burrows drain irrigated fields. It was estimated that the large summer populations of these prairie dogs cost local ranchers \$1.5 million annually in crop losses and damage to equipment (Ivan Matheson, former Utah State Senator, pers. comm., 1984).

The Division feels that ranchers in the area will not continue to tolerate such losses (Michael Coffeen, Regional Nongame Manager, Utah Division of Wildlife Resources, pers. comm., 1988). As prairie dog populations continue to expand into previously unoccupied areas which include agricultural fields, many fields have become so densely populated that they are completely ruined for agricultural use and have been abandoned by farmers.

In an effort to mitigate the overpopulation problems on private land and to establish new colonies on public land, the Division has implemented a transplant program, which has transplanted over 12,800 prairie dogs to public lands since 1972. About 49 percent of all Utah prairie dog colonies occurred on private land in 1987, down from a high of 87 percent in 1981 (Coffeen 1988b). While the transplant program developed by the Division has proven to be successful, particularly after transplantation techniques were refined, this labor-intensive program has never been able to keep pace with the growing prairie dog populations on private land.

Since the transplant program could not handle all nuisance animal complaints, a controlled take program was needed to address the problem of nuisance animals. Adult prairie dogs cease surface activity in late August and September, but young animals continue surface activity and feeding until as late as December at lower elevations. These juveniles, which are the source of the nuisance animal problem, experience high natural mortality over the fall and winter. This high natural overwinter mortality is typical for small rodents with high reproductive rates.

Given the high natural mortality of nuisance animals in the fall and winter, it appeared that allowing controlled take of nuisance animals between June 1 and December 31 would address farmers' needs to control nuisance animals

without interfering with conservation efforts. In essence, farmers would be allowed to take animals that would probably have perished anyway. There also could be positive benefits, on a population level, to the Utah prairie dog from a controlled take program. In a few areas, the large number of juvenile animals added annually each summer strains the carrying capacity of available habitat. With such periodic high population densities there also may be a greater danger of the outbreak of disease such as sylvatic plague (*Pasteurella pestis*) (Collier and Spillett 1972). By keeping population booms to more moderate levels, the control program could stabilize prairie dog populations, enabling a slow steady growth in numbers instead of the boom and bust cycles associated with outbreaks of disease.

So, as part of the reclassification from endangered to threatened in 1984, the problem of nuisance animals was addressed by developing a special rule to allow the take of Utah prairie dogs in Cedar and Parowan Valleys, Iron County, Utah, under a permit system developed by the Division. These valleys were the only ones in which nuisance animal problems were reported at the time. The number of Utah prairie dogs which could be taken was limited to 5,000 animals annually, and take was confined to the period between June 1 to December 31.

The field activities of the control program are exclusively administered by personnel of the Division. Under the control program, an applicant for a permit is required to sign an application form stating that he/she understands the provisions of the Utah Prairie Dog Proclamation. Division personnel then conduct a visual census of the applicant's problem area and issue a control permit only for the number of Utah prairie dogs actually causing damage. Permits allow controlled shooting, trapping, and drowning. Taking cannot include the use of chemical toxicants, since no such materials are registered for control of the species. At the end of the 30-day permit period, the permittee is required to return a report form indicating the number of animals taken, the method of take, and the method of disposal (Jacquart and Coffeen 1987).

Under the current special rule, the State reports take to the Service's Regional Office in Denver, Colorado, every 90 days, specifically: Name and address of each person holding an active permit; reason for issuance of each permit; number, location, and method of take for all Utah prairie dogs

taken during the reporting period; and any other information requested by the Service. If the Service were to receive substantial information that these takings were having an effect inconsistent with the conservation of the Utah prairie dog in the area of take, the Service may immediately prohibit or restrict such taking, as appropriate, for the conservation of the population. Such prohibitions or restrictions have not proved to be necessary, as explained below.

An analysis of the spring census population data for the two valleys in the control program reveals a general growth trend for the period 1985-1988. In the first year of the control program (1985), the spring count was 2,113 animals. Later that year, 426 prairie dogs were taken legally. The following year (1986), the spring count was 3,012 animals, or an increase of 43 percent (Coffeen 1986). Later in 1986, 1,194 animals were reported taken by permit holders. The next year's (1987) spring count was 2,220 animals, or a decrease of 26 percent (Coffeen 1988b). In 1987, only 355 animals were taken. The spring count increased 65 percent to 3,660 animals in 1988 (Michael Coffeen, Regional Nongame Manager, Utah Division of Wildlife Resources, pers. comm., 1989).

The control program has provided private landowners a means to alleviate localized problems with the Utah prairie dog on their land in a manner that does not undermine conservation efforts. In fact, prairie dog spring counts increased 73 percent in the control area over the period 1985-1988. The control program also has improved cooperation between farmers and conservation agencies and reduced the incentive for landowners to kill prairie dogs illegally. The incidence of illegal take of Utah prairie dogs has dropped significantly in the control area, based on State law enforcement records (Michael Coffeen, Regional Nongame Manager, Utah Division of Wildlife Resources, pers. comm., 1989). Finally, the control program has allowed more stable growth of prairie dog colonies on private land, possibly reducing the chance of plague outbreaks in these colonies.

The general increase in prairie dog numbers has resulted in an expansion of colonies into formerly uninhabited areas. Landowners outside of the Cedar and Parowan Valleys are now requesting permits to take Utah prairie dogs on their private land. Adult spring Utah prairie dog counts in the Panguitch area, Garfield County, Utah, went from 623 in 1985 to 779 in 1986. This was an increase of 25 percent in 1 year and the

highest number counted since before 1976 (Coffeen 1986). The story was the same for the Loa area, Wayne County, Utah. The spring count in that area increased by 25 percent from 126 in 1985 to 157 in 1986 (Coffeen 1986).

Therefore, the Service is proposing, at the request of the Division, that the special rule be amended to include all private land throughout the range of the Utah prairie dog.

In addition, the rule would be amended to eliminate the quarterly reporting requirement, which is redundant with annual reporting already done by the State. Instead, the Service would: (a) rely on the State's annual reports to monitor the degree of take, and (b) require access to the State of Utah's detailed records on permitted take if take seems excessive or population declines occur.

Annual reports on the number of permits issued, number of animals permitted to be taken, and the number of animals actually taken by permittees have been submitted to the Service since 1985 by the State of Utah under its Grant Agreement with the Service under section 6 of the Endangered Species Act. These data are also reported by the State's representative to the Ad Hoc Utah Prairie Dog Recovery Team, of which the Service is a member, at the Recovery Team's annual meeting.

Under its control program, the State maintains the following information from permittees: name and address of the permittee; permit number; number of Utah prairie dogs allowed to be taken and actually taken; and location, method of take, and method of disposal of all Utah prairie dogs taken during the 30-day period. A summary on permitted take is prepared each year by the State.

The Service considers the annual reports, supplemented with Service access to the State's detailed records on take, to be preferable to the quarterly reports for monitoring purposes because: (a) Quarterly report preparation cannot be justified when population surveys are conducted only once a year, i.e., frequent reports on permitted take will not improve Service oversight of the State's control program if the program's possible impacts on prairie dog populations are known only by the spring of the following year, and (b) the quarterly reports include details on take that are not immediately useful (e.g., name and address of each person holding an active permit, reason for issuance of each permit, and location and method of take for all prairie dogs taken). It will suffice if the State maintains this information in its files and makes it available to the Service in

the event a population decline calls into question the level of take permitted by the control program. Overall, amending the reporting requirement as proposed will reduce the paperwork burden on the State without reducing the Service's oversight capability.

The proposed amendment is considered necessary and advisable for the conservation of the Utah prairie dog. By allowing additional private landowners to remove biologically expendable nuisance animals under controlled conditions, the proposed rule change would control these animals without impeding species recovery, significantly lower landowner opposition to species recovery, and lower the vulnerability of the species to outbreaks of sylvatic plague due to overcrowding. This proposal is also expected to improve future cooperation between wildlife management agencies and private landowners in managing for the Utah prairie dog, reduce the incidence of illegal killing, and stabilize populations of prairie dogs on private land so carrying capacity is not exceeded.

#### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be based on the most current information available. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Final promulgation of the regulation on the Utah prairie dog will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

#### Environmental Analysis

A draft environmental assessment was prepared to provide a preliminary assessment of the impacts of the proposed rule and is available by contacting the State Supervisor (see ADDRESSES above). Copies also may be obtained by contacting: Chief, Division of Endangered Species and Environmental Contaminants (Mail Stop 60153), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, 303/236-7398 or

(FTS)776-7398. Final environmental impact analysis, including section 7 consultation, will be completed after the public comment period, but before the final rule is approved. Comments received will be used to develop the final rule and provide input for environmental impact analysis.

#### Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that expanding the area where this species can be taken will not constitute a major action under Executive Order 12291 and certifies that this designation 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.*). This rule contains no information collection or record keeping requirements, as defined under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### References Cited

- Coffeen, M.P. 1986. Utah prairie dog (*Cynomys parvidens*) recovery and management. Unpublished report, Utah Division of Wildlife Resources, Section 6 Progress Report, Project SE-1, Job U-06. 5 pp.
- Coffeen, M.P. 1988a. Utah prairie dog (*Cynomys parvidens*) recovery and management. Unpublished report, Utah Division of Wildlife Resources, Section 6 Progress Report, Project SE-1, Job M-1. 2 pp.
- Coffeen, M.P. 1986. Utah prairie dog (*Cynomys parvidens*) recovery and management. Unpublished report, Utah Division of Wildlife Resources, Section 6 Progress Report, Project SE-1, Job U-06. 6 pp.
- Collier, G.D. and J.J. Spillett. 1972. Status of the Utah prairie dog. Utah Academy Proceedings 49:27-36.
- Collier, G.D. and J.J. Spillett. 1973. The Utah prairie dog—Decline of a legend. Utah Science 34:83-87.
- Jacquart, H., and Coffeen, M.P. 1987. Utah prairie dog (*Cynomys parvidens*)—Control program expansion to include population areas of Panguitch & Loa, Utah. Unpublished report, Utah Division of Wildlife Resources, Cedar City, Utah. 8pp.
- Pizzimenti, J.J., and G.D. Collier, 1975. *Cynomys parvidens*. Mammalian Species 52:1-3.

#### Author

The primary author of this proposed rule is W. Robert Benton, Wildlife Biologist, U.S. Fish and Wildlife Service

(see ADDRESSES section). Assistance was provided by Nancy Chu, U.S. Fish and Wildlife Service, Denver Regional Office.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

#### Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.40 by revising paragraph (g) to read as follows:

#### § 17.40 Special Rules—Mammals.

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(g) Utah prairie dog (*Cynomys parvidens*). (1) Except as noted in paragraph (g)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the Utah prairie dog.

(2) A Utah prairie dog may be taken on private land throughout its range under a permit issued by the Utah Division of Wildlife Resources, in accordance with the laws of the State of Utah. Provided, that such taking does not exceed 5,000 animals annually, and that such taking is confined to the period from June 1 to December 31. Records on permitted take maintained by the State shall be made available to the U.S. Fish and Wildlife Service, on request.

(3) If the Service receives substantive evidence that takings pursuant to paragraph (g)(2) of this section are having an effect that is inconsistent with the conservation of the Utah prairie dog, the Service may immediately prohibit or restrict such taking as appropriate for the conservation of the species.

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Dated: November 6, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

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