

minimum recovered materials levels for specific products (40 CFR Part 247).

"Energy-Efficient Product," as used in this clause, refers to a product that is either ENERGY STAR® labeled or its energy consumption measures in the upper 25 percent of efficiency within its comparable class of products as designated by the Department of Energy Federal Energy Management Program (FEMP). (See Executive Order 13123)

"Other Environmental Attributes," as used in this clause, refers to product characteristics that provide environmental benefits, excluding recovered materials and energy and water efficiency. Several examples of these characteristics are biodegradable, recyclable, reduced pollutants, ozone safe, and low volatile organic compounds (VOCs).

"GAS Advantage," as used in this clause, refers to the GSA electronic on-line shopping mall that makes it easier for Federal employees to order products and services via the internet.

(b) The offeror must identify products that contain recovered or remanufactured materials, are energy-efficient, water-efficient or have other environmental attributes in each of the offeror's following mediums:

- (1) The offer itself;
- (2) Printed commercial catalogs, brochures, and pricelists;
- (3) Online product website; and,
- (4) Electronic data submission for *GSA Advantage!*

(c) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR 260, Guides for the Use of Environmental Marketing Claims). The government will accept an offeror's claim of an item's environmental attribute on the basis of—

- (1) Participation in a Federal agency sponsored program, e.g., the EPA and DOE Energy Star product labeling program;
- (2) Verification by an independent organization that specializes in certifying such claims; or
- (3) Possession of competent and reliable evidence. For any test, analysis research, study, or other evidence to be "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

(End of clause)

Dated: July 12, 2000.

David Drabkin,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 00-18062 Filed 7-17-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1247

[STB Ex Parte No. 583]

Modification of the Class I Reporting Regulations

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) solicits comments on requiring Class I railroads to report the number of rail cars loaded and terminated annually. The effect of this proposal, if adopted, will be to ensure the continued availability of these data.

DATES: Comments are due on September 1, 2000.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 583 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, D.C. 20423-0001.

FOR FURTHER INFORMATION CONTACT: Paul A. Aguiar, (202) 565-1527 or H. Jeff Warren, (202) 565-1533. [Assistance for the hearing impaired is available through TDD services (202) 565-1695.]

SUPPLEMENTARY INFORMATION: The Association of American Railroads (AAR) currently collects quarterly data on the number of rail cars loaded and terminated by each Class I railroad in Equipment Report, Cars Loaded and Cars Terminated (AAR Form CS-54-1). Data contained in these quarterly reports are aggregated by the AAR to create an annual AAR Form CS-54-1 report for each railroad. These annual reports are used by the Board as inputs into the Uniform Railroad Costing System (URCS). To ensure the continued availability of these data, we propose that the Class I railroads file an abbreviated version of the AAR's annual Form CS-54-1 with the Board within 90 days after the end of the calendar year. The proposed STB report—Annual Report of Cars Loaded and Cars Terminated (Form STB-54)—would require reporting of only that data used as inputs for URCS, namely, Sections A and B of AAR Form CS-54-1.

If the proposed regulation set forth below is adopted, it will be codified at 49 CFR part 1247. Copies of proposed Form STB-54 and its instructions are available on the Board's web site (www.stb.dot.gov) under decisions of this docket. Alternatively, copies can be requested by writing or calling the contact persons listed above.

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we preliminarily conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 1247

Freight, Railroads, Reporting and recordkeeping requirements.

Decided: June 30, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,
Secretary.

For the reasons set forth in the Preamble, Part 1247 Report of Cars Loaded and Cars Terminated would be added to Title 49, Chapter X of the Code of Federal regulations to read as follows:

PART 1247—REPORT OF CARS LOADED AND CARS TERMINATED

Authority: 49 U.S.C. 721, 10707, 11144, 11145.

§ 1247.1 Annual Report of Cars Loaded and Cars Terminated.

Beginning with the reporting period commencing January 1, 2001, and annually thereafter, each Class I railroad shall file Form STB-54, Annual Report of Cars Loaded and Cars Terminated with the Office of Economics, Environmental Analysis, and Administration (OEAA&A), Surface Transportation Board, Washington, DC 20243, within 90 days after the end of the reporting year. Blank forms and instructions are available on the Board's web site (www.stb.dot.gov) or can be obtained by contacting OEAA&A.

[FR Doc. 00-18077 Filed 7-17-00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG26

Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-Footed Ferrets in North-Central South Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplementary information.

SUMMARY: We, the Fish and Wildlife Service (Service), in cooperation with the Cheyenne River Sioux Tribe, the U.S. Forest Service, and the Bureau of Indian Affairs, propose to reintroduce black-footed ferrets (*Mustela nigripes*) into north-central South Dakota on the Cheyenne River Sioux Reservation. We also announce the availability of the draft environmental assessment for this action. The purposes of this reintroduction are to implement actions required for recovery of the species and to evaluate and improve reintroduction techniques and management applications. If this rule is finalized, we will release surplus captive-raised black-footed ferrets in 2000, if possible, and release additional animals annually for several years thereafter until we establish a self-sustaining population. If this reintroduction program is successful, a wild population could be established in 5 years or less. The Cheyenne River Sioux Reservation population would be established as a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act of 1973, as amended. We would manage this population under provisions of this proposed special rule.

DATES: Comments on both the proposed rule and the draft environmental assessment must be received by August 17, 2000.

ADDRESSES: Send your comments on this proposed rule or on the draft environmental assessment to Pete Gober, Field Supervisor, or Scott Larson, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, Ecological Services Office, 420 South Garfield Avenue, Suite 400, Pierre, South Dakota 57501 or telephone 605/224-8693. We request that you identify whether you are commenting on the proposed rule or draft environmental assessment. Comments received will be available for public inspection, by appointment, during normal business hours at the above address. You may obtain copies of the draft environmental assessment from the above address or by calling 605/224-8693.

FOR FURTHER INFORMATION CONTACT: Mike Lockhart at 307/721-8805.

SUPPLEMENTARY INFORMATION:

Background

1. *Legislative:* Congress made significant changes to the Endangered Species Act of 1973 (Act), as amended, in 1984 with the addition of section 10(j) to allow for the designation of specific populations of listed species as "experimental populations." Previously, we had authority to reintroduce

populations into unoccupied portions of a listed species' historical range when doing so would foster the conservation and recovery of the species. However, local citizens often opposed these reintroductions because they were concerned about the placement of restrictions and prohibitions on Federal and private activities. Under section 10(j), the Secretary of the Department of the Interior can designate reintroduced populations established outside the species' current range but within its historical range as "experimental." Based on the best available information, the Secretary will determine whether such populations are "essential," or "nonessential," to the continued existence of the species. Regulatory restrictions are considerably reduced under a nonessential experimental population (NEP) designation.

Species listed as endangered or threatened are afforded protection primarily through the prohibitions of section 9 and the requirements of section 7. Section 9 of the Act prohibits the take of a listed species. "Take" is defined by the Act as harass, harm, pursue, hunt, shoot, wound, trap, capture, or collect, or attempt to engage in any such conduct. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and designated critical habitats. It mandates all Federal agencies to determine how to use their existing authorities to further the purposes of the Act to aid in recovering listed species. It also states that Federal agencies will, in consultation with the Service, insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private lands unless they are authorized, funded, or carried out by a Federal agency.

For the purposes of section 9 of the Act, a population designated as experimental is treated as threatened regardless of the species' designation elsewhere in its range. Through section 4(d) of the Act, threatened designation allows us greater discretion in devising management programs and special regulations for such a population. Section 4(d) of the Act allows us to adopt whatever regulations are necessary to provide for the conservation of a threatened species. In these situations, the general regulations applying most section 9 prohibitions to threatened species do not apply to that species, and the special 4(d) rule contains the prohibitions and

exemptions necessary and appropriate to conserve that species. Regulations issued under section 4(d) for NEP's are usually more compatible with routine human activities in the reintroduction area.

For the purposes of section 7 of the Act, we treat NEP's as if the population is proposed for listing, but we treat NEP's as threatened species when they are located within a National Wildlife Refuge or National Park. When NEP's occur outside of such refuges or parks, Federal agencies are required to confer with the Service, in accordance with section 7(a)(4) of the Act, on their actions that are likely to jeopardize the continued existence of a proposed species. The results of a conference are advisory in nature, and agencies are not restricted from committing resources to projects as a result of a conference.

Individuals used to establish an experimental population may come from a donor population, provided their removal is not likely to jeopardize the continued existence of the species, and appropriate permits are issued in accordance with our regulations (50 CFR 17.22) prior to their removal. In this case, the donor ferret population is a captive-bred population, which was propagated with the intention of reestablishing wild populations to achieve recovery goals. In addition, wild progeny from other NEP areas (and which also originated from captive sources) may be directly translocated to the proposed reintroduction site.

2. *Biological:* The black-footed ferret is a member of the Mustelid or weasel family; has a black facemask, black legs, and a black-tipped tail; is nearly 60 centimeters (2 feet) in length; and weighs up to 1.1 kilograms (2.5 pounds). It is the only ferret species native to North America. The historical range of the species, based on specimen collections, extends over 12 western 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 indicates that ferrets once occurred from the Yukon Territory in Canada to 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 ferrets with young have been documented only in the vicinity of active prairie dog colonies. Historically, black-footed ferrets have been reported in association with black-tailed prairie

dog (*Cynomys ludovicianus*), white-tailed prairie dog (*Cynomys leucurus*), and Gunnison's prairie dog (*Cynomys gunnisoni*) towns (Anderson *et al.* 1986).

Significant reductions in both prairie dog numbers and distribution occurred during the last century due to widespread poisoning of prairie dogs, the conversion of native prairie to farmland, and outbreaks of sylvatic plague, particularly in the southern portions of several species of prairie dog ranges in North America. Sylvatic plague arrived from Asia in approximately 1900. It is an exotic disease foreign to the evolutionary history of prairie dogs, who have little or no immunity to it. Black-footed ferrets are also highly susceptible to sylvatic plague. This severe reduction in the availability of the ferret's principal prey species, in combination with other factors such as secondary poisoning from prairie dog toxicants, resulted in the near extinction of the black-footed ferret in the wild.

In 1974, a remnant wild population of ferrets in South Dakota, originally discovered in 1964, abruptly disappeared. Afterwards, we believed the species to be extinct. However, in 1981, a small population of ferrets was discovered near Meeteetse, Wyoming. In 1985–1986, the Meeteetse population declined to only 18 animals due to outbreaks of sylvatic plague and canine distemper. Following this critical decline, the remaining individuals were taken into captivity in 1986–1987 to serve as founders for a captive propagation program. Since that time, captive breeding efforts have been highly successful and have facilitated ferret reintroductions in several areas of formerly occupied range. Today, the captive population of juveniles and adults fluctuates annually between 300 and 600 animals depending on the time of year, yearly reproductive success, and annual mortalities. The captive ferret population is currently divided among six captive breeding facilities throughout the United States and Canada, with a small number on display for educational purposes at several facilities. Also, 65 to 90 ferrets are located at several field-based captive breeding sites in Arizona, Colorado, New Mexico, and Montana.

3. Recovery Goals/Objectives: The recovery plan for the black-footed ferret (U.S. Fish and Wildlife Service 1988) contains the following recovery objectives for reclassification:

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

(b) Establishing a prebreeding 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 (not achieved); and,

(c) Encouraging the widest possible distribution of reintroduced animals throughout their historical range. Although several reintroduction efforts have occurred throughout the ferret's range, populations may have become self-sufficient at only one site in South Dakota.

We can reclassify the black-footed ferret to threatened status when the recovery objectives listed above have been achieved, assuming that the mortality rate of established populations remains at or below a rate at which new populations become established or increase. We have been successful in rearing black-footed ferrets in captivity, and in 1997 we reached captive breeding program objectives.

In 1988, we divided the single captive population into three subpopulations to avoid the possibility of a catastrophic event eliminating the entire captive population (*e.g.*, contagious disease). Additional breeding centers were added later, and presently there are six separate subpopulations in captivity. Current recovery priorities emphasize the reintroduction of animals back into the wild from the captive source stock. Surplus individuals produced in captivity are now available for use on reintroduction areas.

4. Reintroduction Sites: The Service, in cooperation with western State and Federal agencies, Tribal representatives, and conservation groups, evaluates potential black-footed ferret reintroduction sites and has previously initiated ferret reintroduction projects at several sites within the historical range of the black-footed ferret. The first reintroduction project occurred in Wyoming in 1991, and subsequent efforts have taken place in South Dakota and Montana in 1994, in Arizona in 1996, a second effort in Montana in 1997, and in Colorado/Utah in 1999. The Service and the Black-footed Ferret Recovery Implementation Team (composed of 27 State and Federal agencies, Indian Tribes, and conservation organizations) have identified the Cheyenne River Sioux Reservation (Reservation) as a priority black-footed ferret reintroduction site due to its extensive black-tailed prairie dog habitat and the absence of sylvatic plague.

(a) *Cheyenne River Sioux Reservation Experimental Population Reintroduction Area:* The area designated as the Cheyenne River Sioux

Reservation, Black-footed Ferret Experimental Population Area (Experimental Population Area) overlays all of Dewey and Ziebach Counties in South Dakota. The boundaries of these Counties are also the boundaries of the Reservation. Within the Experimental Population Area, the proposed primary reintroduction area will be in large black-tailed prairie dog complexes located along the Moreau River. The approximate center of the Experimental Population Area is the town of Eagle Butte, the location of Cheyenne River Sioux Tribal offices. Eagle Butte is approximately 160 kilometers (100 miles) northwest of Pierre, the capital of South Dakota.

The Experimental Population Area supports two large complexes of black-tailed prairie dog colonies located within the two-county area. These two Counties encompass approximately 1,141,558 hectares (2,820,751 acres). Approximately half or 574,752 hectares (1,420,193 acres) of the Experimental Population Area is Tribal Trust and Allotted lands. The majority of this Tribal Trust and Allotted land, approximately 90 percent or 505,875 hectares (1,250,000 acres), is native rangeland, which is used for grazing.

Some lands within the Experimental Population Area are owned by private landowners (approximately 50 percent, although much less in the primary reintroduction area). No ferrets will be released on private lands. The Tribe and other Cooperators have agreed that if any ferrets disperse onto private lands they will capture and translocate them to Tribal lands if requested by the landowner or if necessary for the protection of the ferrets.

Black-footed ferret dispersal to and occupation of areas outside of the Experimental Population Area is unlikely due to the large size of the Experimental Population Area, the absence of suitable nearby habitat (few if any prairie dogs can be found to the south and west), cropland barriers (*e.g.*, expansive cultivation over the northern portion of the Experimental Population Area), and physical barriers (*e.g.*, the Missouri River to the east). The Tribe estimates a total of approximately 8,408 hectares (20,777 acres) of black-tailed prairie dog colonies are potentially available to black-footed ferrets in the Experimental Population Area and could support over 200 ferret families (characterized as an adult female, three kits, and one-half an adult male; *i.e.*, one adult male for every two adult females). Large, contiguous prairie dog colonies and the absence of physical barriers between prairie dog colonies along the

Moreau River (the primary ferret release area) should facilitate ferret distribution throughout the Moreau River reintroduction area.

(b) *Primary Reintroduction Areas:* In the early 1990s, the Tribe began development of a Prairie Management Plan as a framework for managing the natural resources of 574,752 hectares (1,420,193 acres) of Tribal and Allotted lands within the Reservation boundaries (Cheyenne River Sioux Tribe 1992). The Prairie Management Plan included development of prairie dog and black-footed ferret management strategies. Phase I of the Prairie Management Plan accomplished initial prairie dog surveys along the Moreau River in areas believed to be well-suited for ferret reintroduction. Follow up Phase II surveys confirmed that prairie dog colonies along the Moreau River are highly suitable for ferret releases due to the number and size of prairie dog colonies, the spatial relationships of prairie dog towns to each other, their location on Tribal and Allotted Trust lands, their remoteness, and their distance from human settlements (Cheyenne River Sioux Tribe 1999). Recent surveys revealed 5,739 hectares (14,156 acres) of prairie dog colonies within the Moreau River complex. In addition to the Moreau River prairie dog complex, a secondary black-footed ferret release area was identified to the south in the Southeast Parade Management Area, an area that supports 2,280 hectares (6,621 acres) of black-tailed prairie dog towns. This area requires further research to ensure appropriate conditions exist prior to conducting future reintroductions of black-footed ferrets. The Tribe selected the Moreau River prairie dog complex as the primary ferret reintroduction area because of its location within the historical range of the black-footed ferret, our determination that ferrets are no longer present, the abundance of suitable ferret habitat (lands containing active prairie dog colonies), the extensive amount of land managed by the Tribe, and the area's isolation from human activities.

The primary reintroduction area within the Experimental Population Area generally includes lands along the Moreau River in Dewey and Ziebach Counties in north-central South Dakota. Extensive ferret surveys were conducted in this area in the 1980s and 1990s, but no evidence of ferrets was found. There are no confirmed records of ferrets occurring within the boundaries of the Experimental Population Area since the early 1960s.

Black-footed ferrets will be released only if biological conditions are suitable

and meet the management framework developed by the Tribe, in cooperation with the Bureau of Indian Affairs, the Service, private landowners, and Federal and State land managers. The Service will reevaluate ferret reintroduction efforts in the Experimental Population Area should any of the following conditions occur:

(i) Failure to maintain sufficient habitat on specific reintroduction areas to support at least 30 breeding adults after 5 years.

(ii) Failure to maintain suitable prairie dog habitat that was available on specific reintroduction areas in 1999.

(iii) A wild ferret population is found within the Experimental Population Area following the initial reintroduction and prior to the first breeding season. The only black-footed ferrets currently occurring in the wild result from reintroductions in Wyoming, Montana, South Dakota, Arizona, and Utah/Colorado. Consequently, the discovery of a black-footed ferret at the proposed experimental population area prior to the reintroduction would confirm the presence of a new population, which would prevent the designation of an experimental population in the area.

(iv) Discovery of an active case of canine distemper or other disease contagious to black-footed ferrets on or near the reintroduction area prior to the scheduled release.

(v) Less than 20 captive black-footed ferrets are available for the first release.

(vi) Funding is not available to implement the reintroduction phase of the project on the Cheyenne River Sioux Reservation.

(vii) Land ownership changes significantly, or cooperators withdraw from the project.

All of the above conditions will be based on information routinely collected by us or the Tribe.

5. *Reintroduction procedures:* The standard reintroduction protocol calls for the release of 20 or more captive-raised, or wild-translocated black-footed ferrets in the Experimental Population Area in the first year of the program, and 20 or more animals released annually for the next 2 to 4 years. However, if the proposal is finalized, biologists expect to release 50 or more ferrets in the first year and believe a self-sustaining wild population could be established on the Reservation within 5 years. Released ferrets will be excess to the needs of the captive breeding program, and their use will not affect the genetic diversity of the captive ferret population (ferrets used for reintroduction efforts can be replaced through captive breeding). In the future, it may be necessary to interchange

ferrets from established, reintroduced populations to enhance the genetic diversity of the population on the Experimental Population Area.

Recent studies (Biggins *et al.* 1998, Vargas *et al.* 1998) have documented the importance of outdoor "preconditioning" experience on captive-reared ferrets prior to release in the wild. Ferrets exposed to natural prairie dog burrows in outdoor pens and natural prey prior to release survive in the wild at significantly higher rates than do cage-reared, non-preconditioned ferrets. The U.S. Forest Service will participate in the reestablishment of ferrets on the Cheyenne River Sioux Reservation by preconditioning captive-raised ferrets in large open-air pens on the Conata Basin District of the Buffalo Gap National Grasslands in southwestern South Dakota. In these pens, young ferrets are exposed to live prairie dogs, burrows, and other natural stimuli. In addition, biologists may translocate up to 25 ferrets born in the wild on the Buffalo Gap National Grasslands to the Reservation (if annual production levels of wild ferrets on Conata Basin are sufficient to allow translocation of excess young).

The Tribe will develop specific reintroduction plans and submit them in a proposal to the Service as part of an established, annual black-footed ferret allocation process. Ferret reintroduction cooperators submit proposals by mid-March of each year, and the Service makes preliminary allocation decisions (numbers of ferrets provided to specific projects) by May. Proposals submitted to the Service include updated information on habitat, disease, project/ferret status, proposed reintroduction and monitoring methods, and predator management. In this manner, the Service and reintroduction cooperators evaluate the success of prior year efforts and apply current knowledge to various aspects of reintroduction efforts, thereby providing greater assurance of long-range reintroduction success.

We will transport ferrets to identified reintroduction areas within the Experimental Population Area and release them directly from transport cages into prairie dog holes. Depending on the availability of suitable vaccine, we will vaccinate released animals against certain diseases (especially canine distemper) and take appropriate measures to reduce predation from coyotes, badgers, and raptors, where warranted. All ferrets we release will be marked with passive integrated transponder tags (PIT tags), and we may promote use of radio-telemetry studies

to document ferret behavior and movements. Other monitoring will include spotlight surveys, snow tracking surveys, and visual surveillance.

Since captive-born ferrets are more susceptible to predation, starvation, and environmental conditions than wild animals, up to 90 percent of the released ferrets could die during the first year of release. Mortality is usually highest during the first month following release. In the first year of the program, a realistic goal is to have at least 25 percent of the animals survive the first winter.

The goal of the Cheyenne River Sioux Reservation reintroduction project is to establish a free-ranging population of at least 30 adults within the Experimental Population Area within 5 years of release. At the release site, population demographics and potential sources of mortality will be monitored on an annual basis (for up to 5 years). We do not intend to change the nonessential designation for this experimental population unless we deem this reintroduction a failure or the black-footed ferret is recovered in the wild.

6. Status of Reintroduced Population: We determine this reintroduction to be nonessential to the continued existence of the species for the following reasons:

(a) The captive population (founder population of the species) is protected against the threat of extinction from a single catastrophic event by housing ferrets in six separate subpopulations. As a result, any loss of an experimental population in the wild will not threaten the survival of the species as a whole.

(b) The primary repository of genetic diversity for the species is 240 adult ferrets maintained in the captive breeding population. Animals selected for reintroduction purposes are surplus to the captive population. Hence, any use of animals for reintroduction efforts will not affect the overall genetic diversity of the species.

(c) Captive breeding can replace any ferrets lost during this reintroduction attempt. Juvenile ferrets produced in excess of the numbers needed to maintain the captive breeding population are available for reintroduction.

The proposed reintroduction would be the seventh release of ferrets back into the wild in six experimental population areas. The other experimental populations occur in Wyoming, southwestern South Dakota, north-central Montana (with two separate reintroduction efforts), Arizona, and Colorado/Utah (a single reintroduction area that overlays both States). Reintroductions are necessary to further the recovery of this species. The

NEP designation alleviates landowner concerns about possible land use restrictions. This nonessential designation provides a flexible management framework for protecting and recovering black-footed ferrets while ensuring that the daily activities of landowners are unaffected.

7. Location of Reintroduced Population: Section 10(j) of the Act requires that an experimental population be geographically separate from other wild populations of the same species. Since the mid 1980s, BIA and the Tribe conducted black-footed ferret surveys in the Experimental Population Area. In addition to these surveys, they spent many hours surveying prairie dog colonies at the proposed reintroduction site. No ferrets or ferret sign (skulls, feces, trenches) were located. Therefore, we conclude that wild ferrets are no longer present on the Experimental Population Area, and that this reintroduction will not overlap with any wild population.

All released ferrets and their offspring are expected to remain in the Experimental Population Area due to the presence of prime habitat (lands occupied by prairie dog colonies) and surrounding geographic barriers. We will capture any ferret that leaves the Experimental Population Area (in an attempt to identify its origin) and will either return it to the release site, translocate it to another site, or place it in captivity. If a ferret leaves the reintroduction area, but remains within the Experimental Population Area, and occupies private property, the landowner can request its removal. Ferrets will remain on private lands only when the landowner does not object to their presence there.

We will mark all released ferrets and will attempt to determine the source of any unmarked animals found. Any ferret found outside the Experimental Population Area is considered endangered, as provided under the Act. We will undertake efforts to confirm whether any ferret found outside the Experimental Population Area originated from captive stock. If the animal is unrelated to members of this or other experimental populations (*i.e.*, it is from non-captive stock), we will place it in captivity as part of the breeding population to improve the overall genetic diversity of the captive population. Existing contingency plans allow for the capture and retention of up to nine ferrets that are not from any captive stock. In the highly unlikely event that a ferret from captive stock is found outside the Experimental Population Area, we will move the ferret back to habitats that would

support the primary population(s) of ferrets.

8. Management: This reintroduction will be undertaken in cooperation with the Cheyenne River Sioux Tribe, the Bureau of Indian Affairs, and the U.S. Forest Service in accordance with the "Cooperative Management Plan for Black-footed Ferrets, Moreau River or Southeast Parade Reintroduction Areas"—Cheyenne River Sioux Reservation. Copies of the Cooperative Management Plan may be obtained from the Prairie Management Program Coordinator, P.O. Box 590, Eagle Butte, South Dakota 57625. In the future, we will evaluate whether additional black-footed ferret reintroductions are feasible within the Experimental Population Area (over 45,000 total acres of occupied prairie dog habitat exist within the Experimental Population Area). Cooperating agencies and private landowners would be involved in the selection of any additional sites. Management considerations of the proposed reintroduction project include:

(a) **Monitoring:** Several monitoring efforts will occur during the first 5 years of the program. We will annually monitor prairie dog distribution and numbers, and test for the occurrence of sylvatic plague. Testing resident carnivores (*e.g.*, coyotes) for canine distemper will begin prior to the first ferret release and continue each year. We will monitor released ferrets and their offspring annually using spotlight surveys, snowtracking, other visual survey techniques, and possibly radio-telemetry on some individuals. The surveys will incorporate methods to monitor breeding success and long-term survival rates.

Through public outreach programs, we will inform the public and other appropriate State and Federal agencies about the presence of ferrets in the Experimental Population Area and the handling of any sick or injured animals. To meet our responsibilities to treat the Tribe on a Government to Government basis, we will request that the Tribe inform Tribal members of the presence of ferrets on Reservation lands, and the proper handling of any sick or injured ferrets that are found. The Tribe will serve as the primary point of contact to report any injured or dead ferrets. Reports of injured or dead ferrets must also be provided to the Service Field Supervisor (see **ADDRESSES** section). It is important that we determine the cause of death for any ferret carcass found. Therefore, we request that discovered ferret carcasses not be disturbed, but reported as soon as possible to appropriate Tribal and Service offices.

(b) Disease: The presence of canine distemper in any mammal on or near the reintroduction site will cause us to reevaluate the reintroduction program. Prior to releasing ferrets, we will establish the presence or absence of canine distemper in the release area by collecting at least 20 coyotes (and possibly other carnivores). Sampled predators will be tested for canine distemper and other diseases.

We will attempt to limit the spread of distemper by discouraging people from bringing unvaccinated pets into core ferret release areas. Any dead mammal or any unusual behavior observed in animals found within the area should be reported to us. Efforts are under way to develop an effective canine distemper vaccine for black-footed ferrets. Routine sampling for sylvatic plague in prairie dog towns will take place before and during the reintroduction effort, and annually thereafter.

(c) Genetics: Ferrets selected for reintroduction are excess to the needs of the captive population. Experimental populations of ferrets are usually less genetically diverse than overall 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 the maximum genetic diversity that is possible from founder ferrets. The eventual interchange of ferrets between established populations found elsewhere in the western United States will ensure that genetic diversity is maintained to the maximum extent possible.

(d) Prairie Dog Management: We will work with the Tribe, affected landowners, and other Federal and State agencies to resolve any management conflicts in order to: (1) Maintain sufficient prairie dog acreage and density to support no less than 30 adult black-footed ferrets; and (2) maintain suitable prairie dog habitat on core release areas at or above 1999 survey levels.

(e) Mortality: We will reintroduce only ferrets that are surplus to the captive breeding program. Predator control, prairie dog management, vaccination, ferret preconditioning, and improved release methods should reduce mortality. Public education will help reduce potential sources of human-caused mortality.

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 within the Experimental Population Area provided that the take

is unavoidable, unintentional, and was not due to negligent conduct. Such conduct will not constitute "knowing take," and we will not pursue legal action. However, when we have evidence of knowing (*i.e.*, intentional) take of a ferret, we will refer matters to the appropriate authorities for prosecution. Any take of a black-footed ferret, whether incidental or not, must be reported to the local Service Field Supervisor (see **ADDRESSES** section). We expect a low level of incidental take since the reintroduction is compatible with existing land use practices for the area.

Based on studies of wild black-footed ferrets at Meeteetse, Wyoming, black-footed ferrets can be killed by motor vehicles and dogs. We expect a rate of mortality similar to what was documented at Meeteetse, and, therefore, we estimate a human-related annual mortality rate of about 12 percent of all reintroduced ferrets and their offspring, annually. If this level is exceeded in any given year, we will develop and implement measures to reduce the level of mortality.

(f) Special Handling: Service employees and authorized agents acting on their behalf may handle black-footed ferrets for scientific purposes; to relocate ferrets to avoid conflict with human activities; for recovery purposes; to relocate ferrets to other reintroduction sites; to aid sick, injured, and orphaned ferrets; and salvage dead ferrets. We will return to captivity any ferret we determine to be unfit to remain in the wild. We also will determine the disposition of all sick, injured, orphaned, and dead ferrets.

(g) Coordination With Landowners and Land Managers: The Service and cooperators identified issues and concerns associated with the proposed ferret reintroduction before preparing this proposed rule. The proposed reintroduction also has been discussed with potentially affected State agencies and landowners within the proposed release area. Affected State agencies, landowners, and land managers have indicated support for the reintroduction, if ferrets released in the Experimental Population Area are an NEP, and if land use activities in the Experimental Population Area are not constrained without the consent of affected landowners.

(h) Potential for Conflict With Grazing and Recreational Activities: We do not expect conflicts between livestock grazing and ferret management. Grazing and prairie dog management on private lands within the Experimental Population Area will continue without additional restriction during

implementation of the ferret recovery activities. With proper management, we do not expect adverse impacts to ferrets from hunting, prairie dog shooting, prairie dog control, and trapping of furbearers or predators in the Experimental Population Area. If proposed prairie dog shooting or control locally affect ferret prey base within a specific area, State, Tribal, and Federal biologists will determine whether ferrets could be impacted and, if necessary, take steps to avoid such impacts. If private activities impede the establishment of ferrets, we will work closely with the Tribe and landowners to develop appropriate procedures to minimize conflicts.

(i) Protection of Black-footed Ferrets: We will release ferrets in a manner that provides short-term protection from natural (predators, disease, lack of prey base) and human-related sources of mortality. Improved release methods, vaccination, predator control, and management of prairie dog populations should help reduce natural mortality. Releasing ferrets in areas with little human activity and development will minimize human-related sources of mortality. We will work with the Tribe and landowners to help avoid certain activities that could impair ferret recovery.

(j) Public Awareness and Cooperation: We will inform the general public of the importance of this reintroduction project in the overall recovery of the black-footed ferret.

The designation of the NEP on the Cheyenne River Sioux Reservation would provide greater flexibility in the management of the reintroduced ferrets. The NEP designation is necessary to secure needed cooperation of the Tribe, landowners, agencies, and recreational interests in the affected area. Based on the above information, and using the best scientific and commercial data available (in accordance with 50 CFR 17.81), the Service finds that releasing black-footed ferrets into the Experimental Population Area will further the conservation of the species.

Public Comments Solicited

Black-footed ferret kits targeted for wild release are introduced into preconditioning pens at 40–90 days of age and released at about 120 to 140 days. It is imperative that ferrets kits are preconditioned and released at proper developmental ages to enhance their survival in the wild. Because of earlier than usual ferret production at captive breeding centers in the United States and Canada (as of early June 2000), it has become urgent to expedite this nonessential, experimental rulemaking

process in order to ensure that an adequate number of ferrets can be released at proper ages and with adequate preconditioning experience on the Cheyenne River Sioux Experimental Population Area. Consequently, we are proposing a 30-day public comment period for the proposed rule instead of the standard 60 days.

The Service wishes to ensure that this proposed rulemaking to designate the Cheyenne River Sioux Reservation black-footed ferret population as an NEP and the draft environmental assessment on the proposed action effectively evaluate all potential issues associated with this action. Therefore, we request comments or recommendations concerning any aspect of this proposed rule and the draft environmental assessment from the public, as well as Tribal, local, State, and Federal government agencies, the scientific community, industry, or any other interested party. Comments should be as specific as possible. To promulgate a final rule to implement this proposed action and to determine whether to prepare a finding of no significant impact or an environmental impact statement, we will take into consideration all comments and any additional information received. Such information may lead to a final rule that differs from this proposal.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, available for public inspection in their entirety.

Public Hearings

You may request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 20 days of the date of publication of the proposal in the **Federal Register**. Such requests for a hearing must be made in writing and addressed to the South Dakota State Field Supervisor for the Fish and Wildlife Service in Pierre, South Dakota (see **ADDRESSES** section).

Required Determinations

1. Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the proposed rule to designate NEP status for the black-footed ferret reintroduction into north-central South Dakota is not a significant regulatory action subject to Office of Management and Budget review. This rule will not have an annual economic effect of \$100 million and will not have an adverse effect upon any economic sector, productivity, jobs, the environment, or other units of government. Therefore, a cost-benefit and economic analysis is not required.

All the lands within the NEP area are within the Cheyenne River Sioux Reservation, and the specific lands where ferrets will actually be released are Tribal Trust allotted lands. Other public areas in the NEP include South Dakota school lands, South Dakota Department of Game, Fish and Parks lands, and U.S. Army Corps of Engineers lands. Most of the prairie dogs within the NEP area occur on Tribal Trust lands, and those occurring on other lands are not needed for a successful ferret release. Land uses on private, Tribal, and State school lands will not be hindered by the proposal, and only voluntary participation by private landowners will occur.

This rule will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. Federal agencies most interested in this rulemaking are primarily other Department of the Interior bureaus (*i.e.*, Bureau of Land Management) and the Department of Agriculture (Forest Service). The action proposed by this rulemaking is consistent with the policies and guidelines of the other Interior bureaus. Because of the substantial regulatory relief provided by the NEP designation, we believe the reintroduction of the black-footed ferret in the areas described will not conflict with existing human activities or hinder public utilization of the area.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule will not raise novel legal or policy issues. The Service has previously designated experimental populations of black-footed ferrets at five other locations (in Colorado/Utah, Montana, South Dakota, Arizona, and Wyoming) and for other species at numerous locations throughout the nation.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document 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.*). The area affected by this rule consists of Dewey and Ziebach Counties, South Dakota. A majority of the area affected by this rule is within the Cheyenne River Sioux Reservation, which is administered by the Tribe. Reintroduction of ferrets allowed by this rule will not have any significant effect on recreational activities in the experimental area. We do not expect any closures of roads, trails, or other recreational areas. Suspension of prairie dog shooting for ferret management purposes will be localized and prescribed by the Tribe. We do not expect ferret reintroduction activities to affect grazing operations, resource development actions, or the status of any other plants or animal species within the release area. Because only voluntary participation in ferret reintroduction by private landowners is proposed, this rulemaking is not expected to have any significant impact on private activities in the affected area. The designation of an NEP in this rule will significantly reduce the regulatory requirements regarding the reintroduction of these ferrets, will not create inconsistencies with other agency actions, and will not conflict with existing or proposed human activity, or Tribal and public use of the land.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not have an annual effect on the economy of \$100 million or more for reasons outlined above. It will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

The nonessential experimental population designation will not place any additional requirements on any city, county, or other local municipalities. The site designated for release of the experimental population is predominantly Cheyenne River Sioux Tribal Trust land administered by the Cheyenne River Sioux Tribe, who

support this project. Some South Dakota State school lands may also be affected. The State of South Dakota has expressed support for accomplishing the reintroduction through a nonessential experimental designation. Accordingly, this rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Because this rulemaking does not require any action be taken by local or State government or private entities, we have determined and certify pursuant to the Unfunded Mandates Reform Act, 2, U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities (*i.e.*, it is not a "significant regulatory action" under the Act).

5. Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. Designating reintroduced populations of federally listed species as NEPs significantly reduces the Act's regulatory requirements with respect to the reintroduced listed species within the NEP. Under NEP designations, the Act requires a Federal agency to confer with the Service if the agency determines its action within the NEP is likely to jeopardize the continued existence of the reintroduced species. However, even if an agency action totally eliminated a reintroduced species from an NEP and jeopardized the species' continued existence, the Act does not compel a Federal agency to stop a project, deny issuing a permit, or cease any activity. Additionally, regulatory relief can be provided regarding take of reintroduced species within NEP areas, and a special rule has been developed stipulating that unavoidable and unintentional take (including killing or injuring) of the reintroduced black-footed ferrets would not be a violation of the Act, when such take is nonnegligent and incidental to a legal activity (*e.g.*, livestock management, mineral development) and the activity is in accordance with State laws and regulations.

Most of the lands within the Experimental Population Area are administered by the Cheyenne River Sioux Tribe. Multiple-use management of these lands by industry and recreation interests will not change as a result of the experimental designation. Private landowners within the Experimental Population Area will still be allowed to conduct lawful control of prairie dogs, and may elect to have black-footed ferrets removed from their

land should ferrets move to private lands.

Because of the substantial regulatory relief provided by NEP designations, we do not believe the reintroduction of ferrets would conflict with existing human activities or hinder public use of the area. The South Dakota Department of Game, Fish and Parks has endorsed the ferret reintroduction under an NEP designation. The NEP designation will not require the South Dakota Department of Game, Fish and Parks to specifically manage for reintroduced ferrets. A takings implication assessment is not required.

6. Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment. As stated above, most of the lands within the Experimental Population Area are Tribal Trust lands, and multiple-use management of these lands will not change to accommodate black-footed ferrets. The designation will not impose any new restrictions on the State of South Dakota. The Service has coordinated extensively with the Tribe and State of South Dakota, and they endorse the NEP designation as the only feasible way to pursue ferret recovery in the area. A Federalism Assessment is not required.

7. Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

This regulation contains information collection requirements under the Paperwork Reduction Act (and approval by the Office of Management and Budget) under 44 U.S.C. 3501 *et seq.* Authorization for this information collection has been approved by OMB and has been assigned OMB control number 1018-0095. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, you must send your comments to OMB by the above referenced date.

9. National Environmental Policy Act

The Service has prepared a draft environmental assessment as defined

under authority of the National Environmental Policy Act of 1969. It is available from Service offices identified in the **ADDRESSES** section.

10. Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping or order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: Execsec@ios.doi.gov

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- Cheyenne River Sioux Tribe. 1992. Prairie Management Plan for the Cheyenne River Sioux Reservation. 54 pages.
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- Forrest, S.C., T.W. Clark, L. Richardson, and T.M. Campbell III. 1985. Black-footed ferret habitat: some management and reintroduction considerations. Wyoming Bureau of Land Management, Wildlife Technical Bulletin, No. 2. 49 pages.
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Department of Game, Fish and Parks, Technical Bulletin 4:1–36.

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

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Authors

The primary authors of this rule are Mike Lockhart and Scott Larson (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the U.S. 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. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend section 17.11(h) by revising the existing entry for “Ferret, black-footed” under “MAMMALS” to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate popu- lation where endan- gered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Ferret, black-footed	<i>Mustela nigripes</i>	Western U.S.A., western Canada.	Entire, except where listed as an experimental population.	E	1, 3, 343, 433, 545, 546, 582, 646, ____.	NA	NA
Dododo	U.S.A. (specific portions of AZ, CO, MT, SD, UT, and WY, see 17.84(g)(9)).	XN	433, 545, 546, 582, 646, ____.	NA	17.84(g)
*	*	*	*	*	*		*

3. Amend § 17.84 as follows: Revise the text of paragraph (g)(1) and add paragraphs (g)(6)(vi), (g)(9)(vi), and a new map to follow the five existing maps at the end of paragraph (g):

§ 17.84 Special rules—vertebrates.

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

(1) The black-footed ferret populations identified in paragraphs (g)(9)(i) through (vi) of this section are nonessential experimental populations. We will manage each of these populations in accordance with their respective management plans.

* * * * *

(6) * * *

(vi) Report such taking in the Cheyenne River Sioux Tribe Experimental Population Area to the Field Supervisor, Ecological Services,

U.S. Fish and Wildlife Service, Pierre, South Dakota (telephone: 605/224–8693).

* * * * *

(9) * * *

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(vi) The Cheyenne River Sioux Tribe Reintroduction Area is shown on the map of north-central South Dakota at the end of paragraph (g) of this section. The boundaries of the nonessential experimental population area are the exterior boundaries of the Cheyenne River Indian Reservation which includes all of Dewey and Ziebach Counties, South Dakota. Any black-footed ferret found in the wild within these Counties will be considered part of the nonessential experimental population after the first breeding season following the first year of black-footed ferret release. A black-footed

ferret occurring outside the Experimental Population Area in north-central South Dakota would initially be considered as endangered but may be captured for genetic testing. When a ferret is found outside the Experimental Population Area, the following may occur:

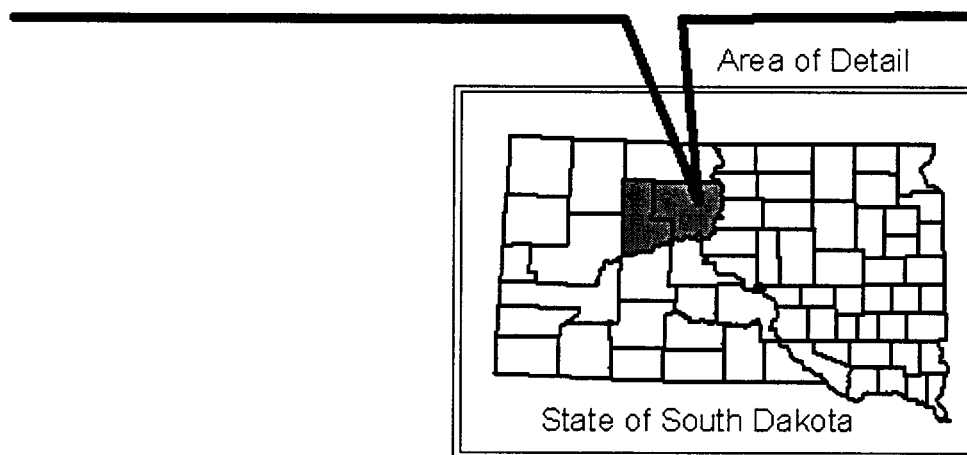
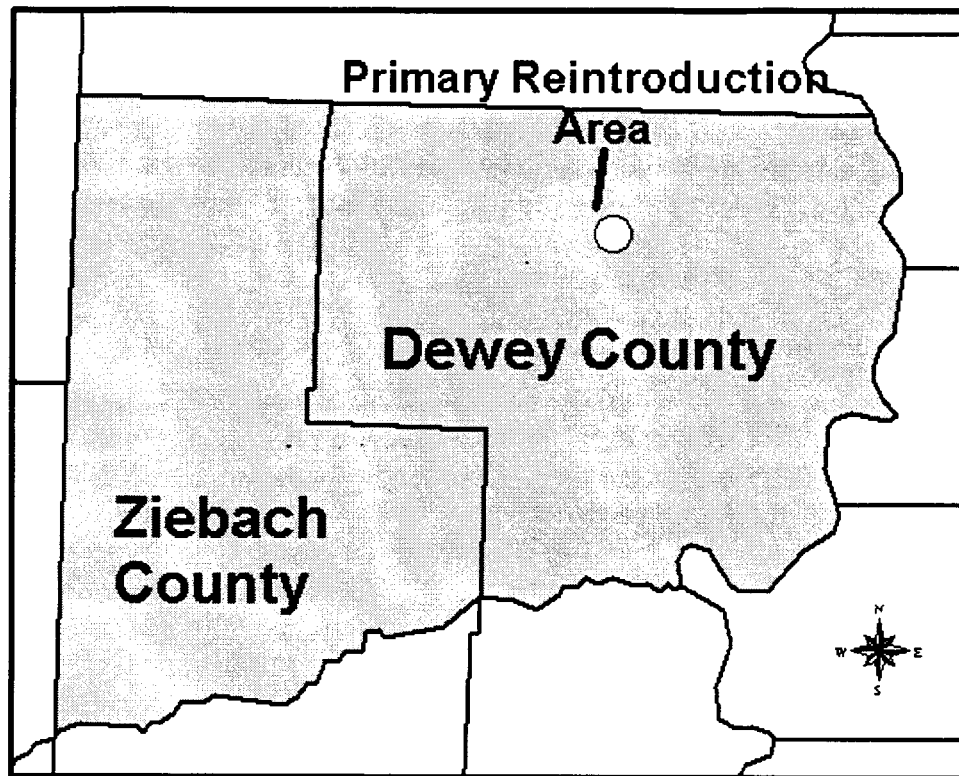
(A) If an animal is genetically determined to have originated from the experimental population, we may return it to the reintroduction area or to a captive-breeding facility.

(B) If an animal is determined to be genetically unrelated to the experimental population, we will place it in captivity under an existing contingency plan. Up to nine black-footed ferrets may be taken for use in the captive-breeding program.

* * * * *

BILLING CODE 4310–55–P

**Cheyenne River Sioux Tribe
Black-footed Ferret Experimental Population Area
South Dakota**



Dated: June 29, 2000.

Donald J. Barry,

Assistant Secretary, Fish, Wildlife, and Parks.

[FR Doc. 00-18123 Filed 7-17-00; 8:45 am]

BILLING CODE 4310-55-C