concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) the location of any additional occurrences of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) additional information concerning the range, distribution, and population size of this species; and

(4) current or planned activities in the subject area and their possible impacts on *Fritillaria gentneri.*

Final promulgation of the regulation(s) on this species will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and addressed to State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office (see **ADDRESSES** section).

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4 (a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References

A complete list of all references cited herein, as well as others, is available upon request from the Oregon State Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Andrew F. Robinson Jr. (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes 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. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Fritillaria gentneri	Gentner's fritillary	USA (OR)	Liliaceae	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: March 6, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–7481 Filed 3–20–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE84

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Northern Idaho Ground Squirrel

AGENCY: Fish and Wildlife Service, Interior

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list the northern Idaho ground squirrel (*Spermophilus brunneus brunneus*) as a threatened species throughout its range in western Idaho pursuant to the Endangered Species Act of 1973, as amended (Act). This subspecies is known from 21 sites in Adams and Valley Counties, Idaho. It is primarily threatened by habitat loss due to seral forest encroachment into former suitable meadow habitats. Seral forest encroachment results in habitat fragmentation, isolating northern Idaho ground squirrel colonies. The subspecies is also threatened by competition from the larger Columbian ground squirrel (*Spermophilus columbianus*), land use changes, recreational shooting and naturally occurring events. This proposal, if made final, would extend Federal protection provisions provided by the Act for the northern Idaho ground squirrel.

DATES: Comments from all interested parties must be received by May 22, 1998. The Service will hold a public hearing on the proposal in Council, Idaho on May 5, 1998, from 6:00–8:00 p.m., at the Council Elementary School Multi Purpose Room, 202 Highway 95.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 South Vinnell Way, Room 368, Boise, Idaho 83709. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, at the above address or (208) 378–5243.

SUPPLEMENTARY INFORMATION:

Background

The northern Idaho ground squirrel (*Spermophilus brunneus brunneus*) has the most restricted geographical range of any *Spermophilus* taxa and one of the smallest ranges among North American mainland mammals (Gill and Yensen 1992). The first specimens, collected by L. E. Wyman in 1913, were described by A. H. Howell as *Citellus townsendii brunneus*, a subspecies of the Washington ground squirrel (*Spermophilus washingtoni*) (Howell 1938). In 1938, Howell subsequently classified the Idaho ground squirrel as a full species, *Citellus brunneus*. *Spermophilus* is the generic name that was used by Hershkovitz (1949) to correctly establish this genus. Yensen (1991) described the southern Idaho ground squirrel (*Spermophilus brunneus endemicus*) as taxonomically distinct, based on morphology, pelage, and apparent life history differences including biogeographical evidence of separation.

Both the northern and southern Idaho ground squirrels are found only in western Idaho. Of the two subspecies, the northern Idaho ground squirrel is the rarest (Yensen 1991). A relatively small member of the genus *Spermophilus*, the mean length of northern Idaho ground squirrel males and females is 233 millimeters (mm) (9.25 inches (in)) and 225 mm (8.9 in), respectively. In comparison, the mean length of southern Idaho ground squirrel males is 240 mm (9.5 in) and 233 mm (9.25 in) for females (Yensen 1991). Pelage in northern Idaho ground squirrel differs from the southern Idaho ground squirrel in its mid-dorsal area which consists of long, dark guard hairs and shorter, dark guard hairs with one paler-colored band on the shield (Yensen 1991). Most northern Idaho ground squirrels are found in areas with shallow reddish parent soils of basaltic origin, while the southern Idaho ground squirrel lives on lower elevation, paler colored soils formed by granitic sands and clays from the Boise Mountains (Yensen 1985, 1991). Marked differences in pelage coloration between the disjunct subspecies are related to soil color.

The baculum (penis bone) of northern Idaho ground squirrel is also generally smaller than that of the southern Idaho ground squirrel. A principal-component analysis indicated a striking difference among bacula of the two subspecies that forms a cluster well separated in character space (Yensen 1991). Genetic differentiation between the two subspecies has also been confirmed using enzyme restriction analysis, blood allozyme analyses and DNA protein sequencing (Gill and Yensen 1992; Sherman and Yensen 1994).

The northern Idaho ground squirrel emerges in late March or early April and remains active above ground until late July or early August (Yensen 1991). It occurs at 1,150 to 1,580 meters (m) (3,800 to 5,200 feet (ft)) elevation in Adams and Valley Counties of western Idaho. In contrast the southern Idaho ground squirrel occurs at elevations of 670 to 975 m (2,200 to 3,200 ft) in the low rolling hills and valleys along the Payette River in Gem, Payette, and Washington Counties of western Idaho (Yensen 1991). The southern subspecies emerges in late January or early February, where snow melt begins 1 to 2 months earlier in spring, and ceases above-ground activity in late June or early July. The emergence of the northern Idaho ground squirrel in late March or early April begins with adult males, followed by adult females, then yearlings.

The northern Idaho ground squirrel becomes reproductively active within the first 2 weeks of emergence (Yensen 1991). Females that survive the first winter live, on average, nearly twice as long as males (3.2 years for females and 1.7 years for males). Individual females have lived for 8 years. Males normally die at a younger age due to behavior associated with reproductive activity. During the mating period, males move considerable distances in search of receptive females and often fight with other males for copulations, thereby exposing themselves to predation by raptors including prairie falcon (*Falco mexicanus*), goshawk (*Accipiter gentilis*) and red-tailed hawk (*Buteo jamaicensis*). Significantly more males die or disappear during the 2 week mating period than during the rest of the 12 to 14 week period of above ground activity (Sherman and Yensen 1994). Seasonal torpor generally occurs in early to mid July for males and females, and late July to early August for juveniles.

In 1985, the total northern Idaho ground squirrel population in 18 known colonies was approximately 5,000 squirrels (Fish and Wildlife Service 1985). Subsequent surveys were conducted on an annual basis. While new active colonies were found during these surveys, previously active colonies became extirpated (P. Sherman, Cornell University, pers. comm., 1997). For example, one colony located on BLM lands was active through 1988, but since then has not been occupied by northern Idaho ground squirrels (J. La Rocco, BLM, pers. comm., 1997). In 1996, the total population had declined to fewer than 1,000 individuals distributed through 19 colonies (Sherman and Gavin 1997). Only one of these colonies contained greater than 60 animals. In 1997, three additional colonies were found for a total of 21 active colonies. Still the total population estimate remains at less than 1,000 individuals. Of the 21 known active colonies, 11 occur on public lands and 10 occur on private lands. The numbers of squirrels in many of the active colonies have been trending downward for over 10 years (Yensen 1980; Fish and Wildlife Service 1985; Yensen 1985; Sherman and Yensen 1994; Sherman and Gavin 1997).

Soil texture and depth can be a primary factor in determining species distribution for most *Spermophilus* (Brown and Harney 1993). The northern Idaho ground squirrel often digs burrows under logs, rocks, or other objects (Sherman and Yensen 1994). Dry vegetation sites with shallow soil horizons of less than 50 centimeters (19.5 in) depth above basalt bedrock to develop burrow systems are preferred (Yensen *et al.* 1991). Burrows associated with shallow soils are called auxiliary burrows. Nesting burrows are found in deeper soil pockets that are greater than 1 m (3 ft) deep, usually located near the tops of slopes. Although Columbian ground squirrels (*Spermophilus columbianus*) overlap in distribution with the northern Idaho ground squirrel (Dyni and Yensen 1996), Columbian ground squirrels prefer moister areas with deeper soils. Sherman and Yensen (1994) report that the lack of extensive use of the same areas by the two species is due to competitive exclusion, rather than to each species having different habitat requirements.

Nearly all of the meadow habitats utilized by northern Idaho ground squirrels are bordered by coniferous forests of *Pinus ponderosa* (ponderosa pine) and/or *Pseudotsuga menziesii* (Douglas fir). However, this ground squirrel is not abundant in meadows that contain high densities of small trees (Sherman and Yensen 1994).

The northern Idaho ground squirrel is primarily granivorous, similar to the Columbian ground squirrel (Dyni and Yensen 1996), and ingests large amounts of *Poa* sp. and other grass seeds to store energy for the winter. The northern Idaho ground squirrel consumes 45 to 50 different plant species but prefers *Poa* sp., *Stipa* sp., *Microseris* sp. and *Cryptantha* sp. seeds. Roots, bulbs, leaf stems and flower heads are minor components of the diet. The Columbian ground squirrel often inhabits areas with denser vegetation than the northern Idaho ground squirrel (Dyni

and Yensen 1996). Such areas contain more abundant food resources than habitats occupied by northern Idaho ground squirrel (Belovsky and Schmitz 1994).

The northern Idaho ground squirrel is found on lands administered by the U.S. Forest Service, Idaho State Department of Lands, Boise Cascade Corporation, and other private properties.

Previous Federal Action

In a notice of review published January 6, 1989, the Service determined that the northern Idaho ground squirrel was a category 1 candidate (54 FR 562). Category 1 candidates were those taxa for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. In a notice of review published on November 21, 1991 (56 FR 58804), the taxon was again included in category 1. On November 15, 1994, the Service published a revised notice of review in which the northern Idaho ground squirrel was included in category 2 (59 FR 58982). Category 2 species were those for which the Service had information indicating that listing may be warranted but for which it lacked sufficient information on status and threats to support issuance of listing rules. Upon publication of the February 28, 1996, notice of review (61 FR 7596), the Service ceased using category designations and included the northern Idaho ground squirrel as a candidate species. Candidate species are those for which the Service has on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered. Candidate status for this animal was continued in the September 19, 1997, notice of review (62 FR 49398)

As a result of long-standing litigation with the Fund For Animals, a lawsuit settlement of January 21, 1997, directed the Service to make a decision (i.e. prepare a proposed rule to list or remove from Federal candidacy) concerning the northern Idaho ground squirrel on or before April 1, 1998. This proposed rule constitutes the finding that listing of the northern Idaho ground squirrel as a threatened species is warranted.

The processing of this proposed rule conforms with the Service's final listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475) and extended in October 23, 1997 (62 FR 55268). The guidance clarifies the order in which the Service will process rulemakings. The guidance calls for giving highest priority to handling emergency situations (Tier 1), second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings, third priority (Tier 3) to new proposals to add species to the list of threatened and endangered plants and animals, and fourth priority (Tier 4) to processing critical habitat determinations and delisting or reclassifications. This proposed rule constitutes a Tier 3 action.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4 (a)(1). These factors and their application to the northern Idaho ground squirrel are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Little is known about the historic range of the northern Idaho ground squirrel, however, it is thought that this subspecies was always uncommon within a limited habitat, but in the past was much more abundant than at present (Forest Service 1997). All remaining habitat sites for the northern Idaho ground squirrel are small in relation to those of other ground squirrels, ranging in size from 1.2 to 16 hectares (3 to 40 acres), and are imminently threatened by one or more of the following—land conversion to agriculture; residential construction; development of recreational facilities such as campgrounds; and road construction and maintenance.

Agricultural conversion and rural housing developments from the communities of Round Valley, north to New Meadows, and south to Council, Idaho, during the past 40 years have fragmented habitat that was formerly occupied by the northern Idaho ground squirrel. These types of developments continue to threaten remaining colonies in both Adams and Valley Counties. Occupied ground squirrel habitat near New Meadows was converted to a golf course and associated housing development (Yensen 1985), resulting in the eradication of northern Idaho ground squirrels at the site.

A 51.6 kilometer (km) (32 mile (mi)) gravel road from Council to Cuprum, Idaho is scheduled to be paved by the year 2000. Approximately 6.5 km (4 mi) of this project runs through historic and currently occupied habitat of the northern Idaho ground squirrel. The project will improve and seasonally extend vehicle access to four nearby northern Idaho ground squirrel colonies. Four existing colonies will be subject to increased mortality risk from vehicles, and possibly recreational shooting (U. S. Forest Service 1997a).

A mitigation plan (Plan) has been developed for the Council to Cuprum Road paving project in cooperation with the Federal Highway Administration (Forest Service 1997a). The Plan identifies mitigation actions to attract northern Idaho ground squirrels away from the paved highway to adjacent but suitable habitat to avoid passing vehicles. Funding for this Plan, if approved, would allow for monitoring the mitigation measures for a 3-year period after the road improvements have been made, which will occur between 1998–2000. At this time, it is uncertain whether proposed mitigation measures will be successful in protecting colonies in the vicinity of the project.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Some, in the general public, consider ground squirrels as varmints and, as such, recreational shooting contributes to the decline of northern Idaho ground squirrel colonies (Yensen 1991). Colonies adjacent to housing developments, towns, or farms, in particular, are subject to a high rate of recreational shooting. Scientific collection of ground squirrels could also adversely impact this species, however, to date, no known mortality has occurred through handling or marking over 1,100 squirrels (Sherman and Yensen 1994).

C. *Disease or predation.* The significance of disease as a threat to this subspecies is unknown. The parasitic nematode, *Pelodera strongyloides,* infects the eyes of the northern Idaho ground squirrel (Sherman and Yensen 1994; Yensen *et al.* 1996). This eye worm is not currently known to be a cause of mortality or to affect the population structure within existing colonies (Yensen *et al.* 1996). Although plague, (*Yersina pestis*), a contagious bacterial disease in rodents, has not been found in any northern Idaho ground squirrel colonies, the disease, once established, could decimate these colonies (Yensen *et al.* 1996).

The primary predators of the northern Idaho ground squirrel include badger (*Taxidea taxus*), goshawk (*Accipiter gentilis*), prairie falcon (*Falco mexicanus*) and occasionally red-tailed hawk (*Buteo jamaicensis*). In particular, predators threaten the smaller more isolated colonies of northern Idaho

ground squirrel. Males are particularly subject to increased predation risk during the mating period (Sherman and Yensen 1994).

D. *The inadequacy of existing regulatory mechanisms.* The State of Idaho recognizes the northern Idaho ground squirrel as a ''Species of Special Concern'' (Idaho Department of Fish and Game 1994). Because of this status, the northern Idaho ground squirrel is, by law, protected from taking (shooting, trapping, poisoning) or possession. To date, however, protection from recreational shooting has not been adequately enforced by the State and the northern Idaho ground squirrel remains vulnerable to this activity (Yensen 1985).

Local land use ordinances and other regulations are inadequate to protect this subspecies. For example, the Adams County land use regulations, where 99 percent of northern Idaho ground squirrel colonies are found, allow for single and multiple housing developments under a permit system. There is no consideration under the permit system for impacts that may result from building housing or recreation developments in or adjacent to habitat occupied by the northern Idaho ground squirrel. With no limitations on development of northern Idaho ground squirrel habitat, it is anticipated that human population growth and development in the foreseeable future will continue to impact ground squirrel colonies where the two overlap.

Under the present status as a candidate species, there is no requirement for Federal agencies to consult with the Service under section 7 of the Endangered Species Act. When this proposed rule to list the northern Idaho ground squirrel is published in the **Federal Register**, conferencing (which is equivalent to section 7 consultation) by other Federal agencies will be required when their actions may jeopardize the species. Until this step has been completed, only the voluntary conservation agreement between the Payette National Forest and the Service provides responsible management to reduce threats to the northern Idaho ground squirrel.

E. *Other natural or manmade factors affecting its continued existence.* The primary threat to the northern Idaho ground squirrel is meadow invasion by conifers (Sherman and Yensen 1994). Fire suppression and the dense regrowth of conifers resulting from past logging activities have significantly reduced meadow habitats suitable for northern Idaho ground squirrels. As the extent of meadow habitat on public and private lands was reduced over the past 40 years, northern Idaho ground squirrel dispersal corridors have been reduced or eliminated, further constricting the species into smaller isolated habitat areas (Truksa and Yensen 1990). The loss of dispersal corridors has caused at least some isolated colonies to become extirpated (Sherman and Yensen 1994: Fish and Wildlife Service 1996). Small populations at several remaining colony sites are likely to become extirpated as well (Sherman and Yensen 1994; Mangel and Tier 1994).

The fragmented distribution of the northern Idaho ground squirrel is the remnant of what may once have been a more continuous distribution from Round Valley, Idaho in Valley County north to New Meadows and then southwest to Council in Adams County, and the existing colonies on private and public lands northwest of Council. Because of logging and fire suppression, forest structure has changed markedly over the past century, resulting in much denser, more even-aged younger stands of trees with thinner and less heterogeneous under-story plant communities (Burns and Zborowski 1996). Fire suppression has allowed conifers to invade areas that were once meadows, thereby shrinking the size of forb/grass meadows or closing open grassy corridors entirely to each of these meadow sites. These changes have isolated the dry meadows with shallow soils where the northern Idaho ground squirrel finds refuge from the Columbian ground squirrel, which also eliminates phenotypic exchange between northern Idaho ground squirrel colonies. Those dry meadow habitats where colonies still are extant are now being invaded in most areas by small trees, further constricting the preferred forage and fossorial habitat of this species. Habitat dissection and reduced opportunities for dispersal among habitats prevents gene flow and results in considerable population differentiation (Sherman and Yensen 1994).

Habitat and resource competition with the Columbian ground squirrel is another factor affecting the survival of the northern Idaho ground squirrel. The northern Idaho ground squirrel may have been forced into areas containing shallower soils due to competition from Columbian ground squirrels (Sherman and Yensen 1994). The Columbian ground squirrel is larger and prefers deeper soil areas with soils that provide better over-winter protection and higher nutrients. Competition from Columbian ground squirrel could be an important factor in population decline of the northern Idaho ground squirrel (Dyni and Yensen 1996). Where both species occur, the northern Idaho ground squirrel tends to occupy the shallower soils but requires deeper soils less than 1 m (3.2 ft) for nests (Yensen et al. 1991). The Columbian ground squirrel is not restricted by soil depth. Typically their burrow systems are associated with degree of slope, well drained soils, and number of native forbs (Weddell 1989).

Winter mortality may be a contributing factor for northern Idaho ground squirrel decline, especially when juvenile squirrels enter torpor without sufficient fat reserves and snow levels are below average (Paul Sherman, pers. comm., 1997). Soils tend to freeze to greater depths where snow levels are shallow. When this occurs ground squirrels are unable to thermoregulate or maintain sufficient fat reserves. Although the relationship between ground squirrels and weather is complex (Yensen *et al.* 1992) colonies may have been adversely affected by drought and over winter mortality in the early 1990's.

As a result of the factors discussed above and due to the small population sizes of remaining colonies and the small total number of individuals, the northern Idaho ground squirrel may have little resilience to respond to naturally occurring events (Gavin *et al.* 1993). Small animal populations are often highly vulnerable to natural climatic fluctuations as well as catastrophic events (Mangel and Tier 1994). Gavin *et al.* (1993) ran a computer population viability simulation program (VORTEX), using natality and mortality values recorded over 8 years from an intensively studied northern Idaho ground squirrel colony (Sherman and Yensen 1994). Variables in the model included no natural immigration, and began the population viability analysis using 50 individuals, a figure that was 30 individuals lower than the actual population size of 80 individuals (Sherman and Yensen 1994). The model calculated that all but 1 of 100 populations would become extinct in less than 20 years.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the northern Idaho ground squirrel in determining to propose this rule. Based on this evaluation, the preferred action is to list the northern Idaho ground squirrel as threatened. The subspecies has declined from approximately 5,000 animals in 1985 to fewer than 1,000 animals in 1997. While the northern Idaho ground squirrel is not in immediate danger of extinction because

of ongoing conservation and recovery efforts, the subspecies could become endangered in the foreseeable future if remaining colony populations decline further.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

The Service believes critical habitat designation is not prudent for the northern Idaho ground squirrel because both of the above described situations exist. The northern Idaho ground squirrel has been studied for 17 years (Yensen 1980; Yensen 1985; Sherman and Yensen 1994; Sherman and Gavin 1997), and the locations of active and historic colonies are well documented and known within the scientific community. However, publication of detailed critical habitat maps and descriptions, as required, would make this information more readily available to the general public and serve as an advertisement for casual/recreational visits to the habitat areas, thereby increasing the risk of elimination of northern Idaho ground squirrels or their habitat. Eliminating a colony or destroying the squirrel's habitat serves to create the false sense that it is no longer a problem. Publishing maps of critical habitat may also serve as rally areas for the shooting public to use and destroy ground squirrels directly or indirectly (R. Howard, Fish and Wildlife Service, pers. comm., 1997). In light of the vulnerability of this species to vandalism or the intentional destruction of its habitat, critical habitat designation would reasonably be expected to increase the degree of threat to the species, increase the enforcement difficulties, and further contribute to the decline of the northern Idaho ground squirrel.

Additionally, designation of critical habitat would not be beneficial to the northern Idaho ground squirrel. Critical habitat designation provides protection only on Federal lands or on private or State lands when there is Federal involvement through authorization or funding of, or participation in, a project or activity. Eleven of the remaining sites are located on Federal lands administered by the U.S. Forest Service and the Bureau of Land Management. These agencies are aware of the species occurrence at these sites and the requirement to consult with the Service under section 7(a)(2) to ensure that any actions federally authorized, funded or carried out is not likely to jeopardize the continued existence of an endangered or threatened species. Section 7(a)(2) of the Act requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded or carried out by such agency, does not jeopardize the continued existence of a federally listed species. Consultation is most likely to occur with the Bureau of Land Management and the Forest Service concerning timber harvest activities, recreational use permits, and management of grazing allotments. The consequence of critical habitat designation is that Federal agencies must also ensure that their actions do not result in destruction or adverse modification of critical habitat. The adverse modification standard would not address seral forest encroachment which is considered a principal factor causing northern Idaho ground squirrel declines. Therefore, in this case, the prohibition on adverse modification would likely provide no additional benefit to conservation of the subspecies than that provided by the prohibition on jeopardy.

The Service acknowledges that critical habitat designation may provide some benefits to a species by identifying areas important to a species conservation and calling attention to those areas in special need of protection. A critical habitat designation contributes to species conservation primarily by highlighting important habitat areas and by describing the features within those areas that are essential to the species. However, in this case, this information can be disseminated more effectively through alternative means and the primary threat (plant succession) would not be addressed by critical habitat designation.

The northern Idaho ground squirrel is not well known to the general public because of its rarity and limited distribution. As a consequence, all involved parties and landowners have been notified of the importance of the northern Idaho ground squirrel habitat. The Service is directly working with Federal land management agencies to develop a coordinated management plan including vegetation control and translocation to reestablish or augment populations of the northern Idaho ground squirrel. Appropriate consultation and coordination with other Federal agencies, such as the Forest Service and Bureau of Land Management, will also occur once any specific federally supported activity that could affect the northern Idaho ground squirrel is proposed. These conservation actions for the Idaho ground squirrel would not be enhanced by designation of critical habitat.

Therefore, the Service finds that designation of critical habitat for this species is not prudent, for such designation would increase the degree of threat from vandalism, shooting, or intentional destruction of habitat and would provide no additional benefit to the species.

The Service will continue in its efforts to obtain more information on the northern Idaho ground squirrel's biology and ecology, including essential habitat characteristics, and existing and potential sites that can contribute to conservation of the species. The information resulting from this effort will be used to identify measures needed to achieve conservation of the species, as defined under the Act. Such measures could include, but are not limited to, development of additional conservation agreements with the State, other Federal agencies, local governments, and private landowners and organizations, and implementation of those agreements already in effect.

Available Conservation Measures

Ongoing conservation activities for this species include prelisting actions and conservation efforts on Federal and private lands. The remaining active northern Idaho ground squirrel colonies occur on private and Payette National Forest lands. A management agreement between The Nature Conservancy and

one private landowner protects northern Idaho ground squirrels on this property.

A conservation agreement (Agreement) was finalized in July of 1996 between the Service and the Payette National Forest (Fish and Wildlife Service 1996). Duration of the Agreement is 5 years. The Agreement identifies conservation and land management actions that will provide habitat favorable to the northern Idaho ground squirrel. These actions, some already in the implementation phase, include: controlled burning of selected meadows to reduce over-story and to improve forage preferred by the northern Idaho ground squirrel; timber harvest in select areas to open meadows where active colonies are found; and, timber harvest to provide dispersal corridors for improved connectivity between colonies. For example, 3.3 million board feet of timber is proposed for harvest in the Lick Creek drainage in 1998 (Forest Service 1997b). The sale is designed to reconnect an active colony with other nearby colonies. It will also open 12 meadow habitats on Federal lands that are favorable to recolonization by the northern Idaho ground squirrel.

A relocation plan developed by scientists from Cornell University, Ithaca, New York, and Albertson College, Caldwell, Idaho, was initiated in the spring of 1997. A total of 49 of squirrels were transplanted to two sites (15 and 34 respectively) that had been treated through burning and or timber harvest (P. Sherman, pers. comm., 1997). Both treated sites are on lands managed by the U.S. Forest Service and were selected because both have recently supported northern Idaho ground squirrels. One site still supports a small population of animals while squirrels were found until 1996 at the other site. Initial results indicate that some translocated females were lactating and juveniles were observed at both sites (P. Sherman, pers. comm., 1997). More definitive results of the translocation will not be known until monitoring efforts are completed in the spring of 1998. Whether long-term benefits to ground squirrel recovery result from these actions may be unknown for several years.

These ongoing conservation efforts for the northern Idaho ground squirrel address threats that have likely contributed to the species' past decline. The Service will continue to work with private and Federal land owners to restore and maintain suitable habitat and dispersal corridors for the species and to address other limiting factors.

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Act requires the appropriate land management agencies to evaluate potential impacts to the species that may result from activities they authorize or permit. Consultation under section 7 of the Act is required for activities on Federal, State, County, or private lands, that may impact the survival and recovery of the northern Idaho ground squirrel, if such activities are funded, authorized, carried out, or permitted by Federal agencies. Federal agencies that may be involved in activities affecting this species include the Forest Service, Federal Highways Administration, Bureau of Land Management, Office of Surface Mining and Natural Resources Conservation Service. Section 7 requires these agencies to consider potential impacts to the northern Idaho ground squirrel prior to approval of any activity authorized or permitted by them.

Federal agency actions that may require consultation include removing, thinning or altering vegetation; construction of roads or camping sites in the vicinity of active and historical colonies, recreational home developments, permitting off-road vehicle use areas, and development of gravel or sand mining activities, campground construction, mining permits and expansion, highway construction, timber harvest, etc.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23 and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, permits are also available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. (Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 10180–0094.)

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is proposed for listing, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. The Service believes that, based upon the best available information, the following action will not result in a violation of section 9:

Activities authorized, funded, or carried out by Federal agencies (e.g., logging, flood and erosion control, mineral and housing development, off road permitting or park development,

recreational trail and campground development, road construction, prescribed burns, pest control activities, utility lines or pipeline construction) when such activity is conducted in accordance with any incidental take statement prepared by the Service in accordance with section 7 of the Act.

Activities that the Service believes could potentially result in a violation of section 9 include but are not limited to:

(1) Unauthorized or unpermitted collecting, handling, harassing, or taking (such as recreational shooting) of the subspecies;

(2) Activities that directly or indirectly result in the actual death or injury of the northern Idaho ground squirrel, or that modify the known habitat of the subspecies by significantly modifying essential behavior patterns (e.g., plowing, conversion to cropland, residential or recreational uses; road and trail construction; water development and impoundment; mineral extraction or processing; off-road vehicle use; and unauthorized application of herbicides or pesticides).

(3) Activities within the northern Idaho ground squirrel hibernating period (mid July through early April), and near burrow areas that include controlled burns, mowing, road, pipeline or utility construction, herbicide application or other activities that would alter the burrow systems and food sources of the northern Idaho ground squirrel.

Questions regarding whether specific activities will constitute a violation of section 9 or to obtain guidance for activities within northern Idaho ground squirrel habitat should be directed to the U.S. Fish and Wildlife Service, Snake River Basin Office, Boise, Idaho (see **ADDRESSES** section). Requests for copies of the regulations concerning listed animals and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6241; FAX 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this subspecies;

(2) The location of any additional populations of this subspecies and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this subspecies;

(4) Biological or physical elements that best describe this subspecies' habitat, that could be considered critical for the conservation of the subspecies (e.g., colonies, hibernation, vegetation, food, topography);

(5) Current or planned activities in the subject area and their possible impacts on this subspecies;

(6) Possible alternative recreational and logging practices, or road right-of-way development and maintenance activities that will reduce or eliminate the take of northern Idaho ground squirrel or their habitats; and

(7) Other management strategies that will conserve the subspecies throughout its range.

Final promulgation of the regulations on this subspecies will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. The Service has scheduled a public hearing in Council, Idaho (see **DATES** section).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collection of information that requires approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Snake River Basin Office (see **ADDRESSES** above).

Author: The primary author of this proposed rule is Richard Howard, U.S. Fish and Wildlife Service, Snake River Basin Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes 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. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend section 17.11(h) by adding the following, in alphabetical order under MAMMALS, to the List of Endangered and Threatened Wildlife:

§ 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							
*	*	*	*	*	*	*	
Squirrel, northern Idaho ground.	*Spermophilus brunneus brunneus.*	U.S.A. (ID)	NA	T	NA	NA	

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*

Dated: March 6, 1998.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 98–7480 Filed 3–20–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[I.D. 022498E]

Listing Endangered and Threatened Species and Designating Critical Habitat: Petition To List Sea-run Cutthroat Trout and Designate Critical Habitat Throughout Its Range In California, Oregon, and Washington

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

ACTION: Notice of finding and request for information.

SUMMARY: NMFS has received a petition to list coastal sea-run cutthroat trout (*Oncorhynchus clarki clarki*) and designate critical habitat throughout its range in California, Oregon, and Washington under the Endangered Species Act (ESA). NMFS determines the petition presents substantial scientific information indicating that the petitioned action may be warranted. NMFS previously commenced a status review for this species and will continue to evaluate the status of this species on the West Coast. NMFS solicits from the public information, comments, and seeks suggestions from the public for peer reviewers for NMFS' review of the petitioned action.

DATES: Information and comments on the action must be received by June 22, 1998.

ADDRESSES: Information and comments on this action should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street - Suite 500, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, (503) 231–2005 or Joe Blum, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

In a Notice dated September 12, 1994, NMFS announced its intent to conduct comprehensive status reviews for five species of Pacific salmonids, including sea-run cutthroat trout (59 FR 46808). These were in addition to two ongoing status reviews for west coast coho salmon (*Oncorhynchus kisutch*) and steelhead (*Oncorhynchus mykiss*). NMFS completed coastwide status reviews for coho salmon and steelhead on July 25, 1995, and August 9, 1996, respectively (60 FR 38011; 61 FR 41541). On October 4, 1995, NMFS completed its status review of west coast pink salmon (*Oncorhynchus gorbuscha*) (60 FR 51928). Furthermore, on February 26, 1998, NMFS completed its status reviews of west coast sockeye (*Oncorhynchus nerka*), chum (*Oncorhynchus keta*), and chinook salmon (*Oncorhynchus tshawytscha*). NMFS is currently reviewing the status of west coast sea-run cutthroat trout.

On December 18, 1997, the Secretary of Commerce (Secretary) received a petition from Oregon Natural Resources Council to list and designate critical habitat for sea-run cutthroat trout in the States of Washington, Oregon, and California. Copies of this petition are available. (See **ADDRESSES**).

Analysis of Petition

Section 4(b)(3) of the ESA contains provisions concerning petitions from interested persons requesting the Secretary to list species under the ESA. Section 4(b)(3)(A) requires that, to the maximum extent practicable, within 90 days after receiving such a petition, the Secretary make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. Section 424.14(b)(1) of NMFS' ESA implementing regulations define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (See 50 CFR 424.14). Section 424.14(b)(2) of these regulations contains factors the Secretary considers in evaluating a petitioned action.

After reviewing the information contained in the petition, the Secretary determines that the petition presents substantial scientific information indicating the petitioned action may be warranted. In accordance with section 4(b)(3)(B) of the ESA, the Secretary will make his determination within 12 months from the date the petition was received (December 18, 1998), whether the petitioned action is warranted.

Listing Factors and Basis for Determination

Under section 4(a)(1) of the ESA, a species can be determined to be threatened or endangered based on any of the following factors: (1) The present or threatened destruction, modification, or curtailment of a species' habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting the species continuing existence. Listing determinations are based solely on the best available scientific and commercial data after taking into account any efforts being made by any state or foreign nation to protect the species.

Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data, NMFS solicits information and comments concerning the status of sea-run cutthroat trout (see **DATES** and **ADDRESSES** above). NMFS specifically requests the following information: (1) Biological or other relevant data that may help identify ''distinct populations'' of cutthroat trout (e.g., age structure, genetics, migratory patterns, morphology) (see NMFS' policy on applying the definition of species under the ESA to Pacific salmon (56 FR 58612, November 20, 1991); (2) the range, distribution, and size of cutthroat populations in Washington, Oregon, and California; (3) current or planned activities and their possible impact on this species (e.g., hatchery, harvest, and habitat actions); (4) information concerning the relationship of resident,