

Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely do not impose additional requirements beyond those imposed by State law and the Clean Air Act. For that reason, these actions:

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental

relations, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Air pollution control.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 14, 2010.

**Walter W. Kovalick Jr.,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2010-9753 Filed 4-26-10; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R8-ES-2010-0006]

[MO 92210-0-0008 B2]

#### Endangered and Threatened Wildlife and Plants; 90-day Finding on a Petition to List the Mohave Ground Squirrel as Endangered with Critical Habitat

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Mohave ground squirrel (*Xerospemophilus mohavensis*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing the Mohave ground squirrel may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species to determine if listing the species is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act. We will make a determination on critical habitat for this species, which was also requested in the petition, if and when we initiate a listing action.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before June 28, 2010. After this date, you must

submit information directly to the Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to address or incorporate information that we receive after the date noted above.

**ADDRESSES:** You may submit information by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for docket FWS-R8-ES-2010-0006 and then follow the instructions for submitting comments.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R8-ES-2010-0006; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Michael McCrary, Listing and Recovery Coordinator, Ventura Fish and Wildlife Office, 2593 Portola Road, Suite B, Ventura, CA 93003; telephone (805) 644-1766; facsimile (805) 644-3958. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Information Solicited

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the Mohave ground squirrel from government agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

- (1) The species' biology, range, and population trends, including:
  - (a) Habitat requirements for feeding, breeding, and sheltering;
  - (b) Genetics and taxonomy;
  - (c) Historical and current range, including distribution patterns;
  - (d) Historical and current population levels, and current and projected trends; and
  - (e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Historical and current survey information on the Mohave ground squirrel, including survey methods and design, time of year, weather information, time of day, site selection method, and descriptions of physical characteristics of landscapes, soil, and vegetation.

(3) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(4) Information on management programs for the conservation of the Mohave ground squirrel.

(5) Information on current or expected future development within the range of the Mohave ground squirrel, including but not limited to: the extent or magnitude of habitat loss, degradation, or fragmentation from development for energy, transportation, agriculture, military training; land management prescriptions; or recreation, and how they may affect the conservation of the Mohave ground squirrel.

(6) Information on the population status of predators of the Mohave ground squirrel, including information on the occurrence and extent/severity of predation by coyotes, house cats, common ravens, domestic dogs, and feral dogs on the Mohave ground squirrel, and the effect of this predation on the Mohave ground squirrel's long-term survival.

(7) Information on morphological, behavioral, genetic, or ecological variability in the Mohave ground squirrel, and any change in that variability.

(8) Information on environmental change within the range of the Mohave ground squirrel.

(9) Information on the importance of certain areas or populations to the long-term conservation of the Mohave ground squirrel that may help us identify potentially significant portions of the species' range. This may include information that demonstrates the following factors are important to a portion of the Mohave ground squirrel's range:

(a) The quality, quantity, and distribution of habitat relative to the biological requirements of the species;

(b) The historical values of the habitat to the species;

(c) The frequency of use of the habitat; and

(d) The uniqueness or importance of the habitat for other reasons, such as breeding, feeding, seasonal movements, wintering, or suitability for population expansion, or for genetic diversity.

Please include sufficient information with your submission (such as full references) to allow us to verify any scientific or commercial information you include.

If, after the status review, we determine that listing the Mohave ground squirrel is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), in accordance with section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by the Mohave ground squirrel, we request data and information on:

(1) What may constitute "physical or biological features essential to the conservation of the species";

(2) Where these features are currently found; and

(3) Whether any of these features may require special management considerations or protection, including managing for the potential effects of climate change.

In addition, we request data and information on "specific areas outside the geographical area occupied by the species" that are "essential for the conservation of the species." Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the definition of critical habitat in section 3 of the Act and the requirements of section 4 of the Act.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning this finding by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal

identifying information, you may request at the top of your document that we withhold this personal identifying information from public view. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and supporting documentation that we received and used in preparing this finding, will be available for public inspection at <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

### Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review of the status of the species, which is subsequently summarized in our 12-month finding.

### Petition History

On September 5, 2005, we received a petition, dated August 30, 2005, from Defenders of Wildlife and Dr. Glenn R. Stewart to list the Mohave ground squirrel as endangered, and to designate critical habitat concurrently with the listing. The petition identified the scientific name for Mohave ground squirrel as *Spermophilus mohavensis*; however, the name was changed in 2009 to *Xerospermophilus mohavensis* (Helgen *et al.* 2009, p. 273), and we refer to it in this petition finding by its current name. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required in 50

CFR 424.14(a). The petition contained detailed information on the natural history and biology of the Mohave ground squirrel, and the current status and distribution of the species. It also contained information on what the petitioners reported as potential threats to the species. In a March 28, 2006, letter to the petitioners, we informed them that we would not be able to address their petition at that time because further action on the petition was precluded by court orders and settlement agreements for other listing actions that required us to use nearly all of our listing funds for fiscal year 2006. We also stated our initial review of the petition did not indicate that an emergency situation existed and that emergency listing was not necessary.

#### Previous Federal Actions

On December 13, 1993, the Service received a petition dated December 6, 1993, from Dr. Glenn R. Stewart of California Polytechnic State University, Pomona, California, requesting the Service to list the Mohave ground squirrel as a threatened species. At that time, the species was a category 2 candidate (November 15, 1994; 59 FR 58988), and was first included in this category on September 18, 1985. Category 2 included taxa for which information in the Service's possession indicated that listing the species as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not available to support a proposed listing rule. On September 7, 1995, we published our 90-day petition finding, which determined that the 1993 petition did not present substantial information indicating that the petitioned action may be warranted (60 FR 46569).

#### Species Information

The Mohave ground squirrel (*Xerospermophilus mohavensis*) is a distinct, full species with no recognized subspecies. The petitioners presented sufficient, reliable information related to the taxonomic status of the Mohave ground squirrel. It was discovered in 1886 by F. Stephens and described as a distinct monotypic species by Merriam (1889, p. 15). The type locality is near Rabbit Springs in the Lucerne Valley, San Bernardino County, California.

The Mohave ground squirrel is a medium-sized squirrel. Total length is approximately 23 centimeters (cm) (9 inches (in)) with a tail length of 6.4 cm (2.5 in). The upper body is grayish brown, pinkish gray, cinnamon gray, and pinkish cinnamon without stripes or flecking. The underparts of the body

and the tail are white (Ingles 1965, p. 171). The skin is darkly pigmented and dorsal hair tips are multi-banded.

The closest relative of the Mohave ground squirrel is the round-tailed ground squirrel (*Xerospermophilus tereticaudus*). It has a contiguous, but not overlapping, geographic range with the Mohave ground squirrel.

#### Mating and Reproduction

The Mohave ground squirrel mating season occurs from mid-February to mid-March (Harris and Leitner 2004, p. 1). Recht (c.f. Gustafson 1993, p. 83) reported that male Mohave ground squirrels are territorial during the mating season. Females may enter male Mohave ground squirrel territory and remain for 1 or 2 days. After copulation, the females establish their own home ranges. John Harris (personal communication, Mills College, Oakland, CA, as cited in the petition, p. 14) observed male Mohave ground squirrels staking out the overwintering sites of females to mate with them when they emerged.

Gestation is about 30 days with litter size ranging from four to nine (Best 1995, p. 3). Parental care continues through mid-May, with juvenile Mohave ground squirrels emerging above ground between 10 days to 2 weeks later (Gustafson 1993, p. 84). Mortality for juveniles is high during the first year with more male Mohave ground squirrels lost than females. Female Mohave ground squirrels can breed at 1 year of age if environmental conditions are favorable (Leitner and Leitner 1998, p. 28).

The reproductive success of the Mohave ground squirrel is dependent on the amount of fall and winter precipitation. Leitner and Leitner (1998, p. 20) found a positive correlation between fall and winter rainfall and recruitment of juvenile squirrels the following year. In a low rainfall year, Mohave ground squirrels may forego breeding, or the low availability of food due to low rainfall may cause reproductive failure (Leitner and Leitner 1998, p. 29).

#### Range and Distribution

The presumed historical range of the Mohave ground squirrel, which is based on the current range and historical locations of suitable habitat, is the northwest portion of the Mojave Desert in parts of Inyo, Kern, Los Angeles, and San Bernardino Counties, California. This area is bounded on the south and west by the San Gabriel, Tehachapi, and Sierra Nevada ranges, and on the northeast by the Owens Lake and Coso, Slate, Quail, Granite, and Avawatz

Mountains. The southeastern edge of the historical range is bordered by the Mojave River with the exception of one locality east of the Mojave River in the Lucerne Valley. The historical range of the Mohave ground squirrel is assumed to have included that area of the Antelope Valley west of the communities of Palmdale, Lancaster, Rosamond, and Mojave, although there are no records of the species being sighted or captured there.

The current range of the Mohave ground squirrel is similar to the historical range, except it excludes the western portion of the Antelope Valley in Los Angeles and Kern Counties and possibly some of the area from Victorville to the south and southeast to Lucerne Valley in San Bernardino County. Urban and agricultural development in these areas has resulted in the loss or modification of Mohave ground squirrel habitat. The Mohave ground squirrel has the smallest range of any ground squirrel species in the United States. Gustafson (1993, p. 8) states the geographic range of the Mohave ground squirrel encompasses approximately 1,968,000 hectares (ha) (4,863,000 acres (ac)).

#### Activity Patterns, Movements, and Home Range

The active season for the Mohave ground squirrel is short, generally from early March to August (Bartholomew and Hudson 1960, p. 194), but may begin as early as mid-January to late February. Initiation depends on temperature and elevation (Gustafson 1993, p. 19). During this time, Mohave ground squirrels must mate, gather enough nutrition to produce and sustain a litter, and ensure nutritional reserves to last during the inactive season. During the inactive season, Mohave ground squirrels exist in their burrows in a state of torpor (a state of reduced physiological activity or sluggishness) to conserve their reserves of energy and water.

The length of the active season varies by sex, age, and availability of food resources. In dry years, which are often non-reproductive years, Mohave ground squirrels may enter their state of torpor as early as spring (Leitner *et al.* 1995, p. 83). The active season for an adult is shorter than for a juvenile as adults do not need to acquire as much energy for the inactive season as juveniles do. The active season for an adult female is generally longer than for a male because females need to acquire additional energy for litter production and lactation (Leitner *et al.* 1997, pp. 114-115).

Mohave ground squirrels are diurnal; they spend much of the day above ground (Recht 1977, p. 56). As temperatures increase into the spring and early summer, Mohave ground squirrels will spend more time in the shade of shrubs or briefly use their burrows. Burrows are usually located beneath large shrubs. Mohave ground squirrels may use several burrows at night throughout a season; they also use other burrows for predator avoidance and temperature regulation. The burrow used for the inactive season is dug specifically for that period (Recht 1977, p. 9).

Mohave ground squirrels exhibit a behavior called natal dispersal. Upon dispersing from the burrow where they were born, some males will move and take up residence at least 1,009 meters (m) (3,280 feet (ft)) from the natal burrow while females move a shorter distance of 200 to 300 m (650 to 980 ft) from their natal burrows (Leitner and Leitner 1998, p. 34; Harris and Leitner 2005, p. 191).

The home range of the Mohave ground squirrel varies among years and between sexes during the mating season. The mean home range is 0.74 ha (1.83 ac) for mating females and 6.73 ha (16.63 ac) for males. Outside the breeding season, the mean home range size is 1.20 ha (2.96 ac) for females and 1.24 ha (3.06 ac) for males (Harris and Leitner 2004, pp. 520-521).

#### Population Demographics

The behavioral characteristics of the Mohave ground squirrel, as discussed above, make it difficult to determine or estimate population status and trends because the species spends much of the year underground and populations appear to be sensitive to both seasonal and annual rainfall patterns. That is, in dry years or dry fall seasons, reproduction during the following spring season may be unsuccessful and population size may contract (Leitner and Leitner 1998, pp. 29-31).

Survey results suggest that the Mohave ground squirrel has a patchy distribution throughout its range (Hoyt 1972, p. 7; Gustafson 1993, p. viii). Most reported information describes the number of animals trapped or number trapped as compared to the trapping effort. We are aware of only one location where information on population trend was available (Leitner 2005, p. 3). In the northwest portion of the range of the Mohave ground squirrel, trapping results are available for the Coso Range within China Lake Naval Air Weapons Station (NAWS). The surveys span 1992 to 1996 and 2001 to 2005. The total number of Mohave ground squirrels

captured during the first survey period was more than twice that of the second (Leitner 2005, p. 3).

Brooks and Matchett (2002) analyzed the data from all known Mohave ground squirrel studies. Forty-nine percent of the sites were identified from observing or trapping only one animal.

#### Habitat and Life History Requirements

The habitat requirements of the Mohave ground squirrel are varied. The species has been found in a variety of vegetative communities including Mojave Creosote Scrub, Desert Saltbush Scrub, Desert Sink Scrub, Desert Greasewood Scrub, Shadscale Scrub, and Joshua Tree (*Yucca brevifolia*) Woodland (Gustafson 1993, pp. ix, 81). Creosote Bush Scrub is the vegetation community in which the Mohave ground squirrel is most often found. Mohave ground squirrels usually inhabit flat to moderately sloping terrain. They prefer deep rather than shallow soils and gravelly soils rather than sandy soils (Aardahl and Roush 1985, p. 23). Soil characteristics are important as the Mohave ground squirrel constructs burrows for temperature regulation, predator avoidance, and inactive season use.

The food habits of the Mohave ground squirrel are diverse. Recht (1977, p. 80) called the Mohave ground squirrel a facultative specialist; its foraging strategy falls between that of a specialist and a generalist. The Mohave ground squirrel specializes in foraging on certain plant species over short periods of time. As the availability of forage species changes throughout the active season, the Mohave ground squirrel adapts its foraging strategy to maximize energy intake in a changing environment. Observations and fecal analysis indicate that Mohave ground squirrels consume a variety of annual and perennial plants and arthropods (Leitner and Leitner 1992, p. 12; Gustafson 1993, pp. 77-83). At one study site, the leaves of three shrub species made up 60 percent of the Mohave ground squirrel diet based on fecal analysis (Leitner and Leitner 1998, p. 34). In a study by Leitner and Leitner (1992) in the northern part of its range, the Mohave ground squirrel was found to consume leaves of annual and perennial plants, their fruits and seeds, fungi, and butterfly larvae. Mohave ground squirrels appear to exploit food sources that are available on an intermittent basis. They may also select particular food items over others because of higher water content. Leitner and Leitner (1992, p. 25) concluded that the Mohave ground squirrel is flexible

in exploiting high-quality food resources.

#### Predation and Mortality

There is little documentation on the natural predators of the Mohave ground squirrel. There is circumstantial evidence of predation by coyotes (*Canis latrans*), prairie falcons (*Falco mexicanus*), and common ravens (*Corvus corax*) (Leitner *et al.* 1997, p. 49; J. Harris, personal communication, as cited in the petition, p. 15). There may be other natural predators of the Mohave ground squirrel.

Mortality is high for the Mohave ground squirrel during the first year and appears to be skewed toward males (Brylski *et al.* 1994, p. 64; Leitner and Leitner 1998, p. 28). Mortality may also be caused by extended periods of low amounts of fall and winter rainfall, which results in reduced availability of forage and water, and can increase vulnerability to disease.

#### Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533), and implementing regulations at 50 CFR 424, set forth the procedures for adding species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. 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) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90-day finding, we evaluated whether information on threats to the Mohave ground squirrel, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

#### A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

##### *Evaluation of Information Provided in the Petition and Available in Service Files*

The petitioners presented information regarding threats to the Mohave ground squirrel from reduced range and habitat destruction, including: urban and rural

development on private and public lands; agricultural development; military activities; livestock grazing; transportation; energy development; and that the cumulative impacts of drought, habitat destruction, habitat fragmentation, and decrease in precipitation with climate change pose a threat greater than the drought episodes to which the Mohave ground squirrel is adapted.

The range of the Mohave ground squirrel is the smallest of all ground squirrels in the United States. Based on information provided by the petitioners, the Mohave ground squirrel appears to have been nearly extirpated from the southern portion of its range, which represents approximately 20 percent of its range (Leitner as cited in the petition, p. 8). This assertion is based on the results of surveys conducted for the Mohave ground squirrel from 2002 to 2004 (Leitner 2004 as cited in the petition, p. 17). The portion of the recently reduced range includes an area south of State Highway 58 in the Palmdale-Lancaster area and the Victorville to Lucerne Valley area.

#### Private Lands

On private lands, which comprise about 31 percent of the current range of the Mohave ground squirrel, the petitioners claim 2.8 percent of the range of the Mohave ground squirrel has been lost to urban and rural development and approximately 2 percent (37,000 ha (92,000 ac)) to agricultural fields. The information on impacts to the Mohave ground squirrel from agricultural development was derived from Hoyt (1972, p. 8), Aardahl and Roush (1985, p. 2), and Gustafson (1993, pp. 23-24). The petitioners also stated that they have no updated data to quantify the extent or intensity of this threat. We have no information in our files to dispute the figures presented by the petitioners; however, we currently do not have information to determine whether a 2.8 percent loss to urban and rural development and a 2 percent loss to agricultural development is biologically significant to the Mohave ground squirrel.

#### Public Lands

Public lands managed by the Bureau of Land Management (BLM) account for about 31.8 percent of the species' range. The petitioners stated that BLM's land management plan for the West Mojave Desert (West Mojave Plan) would allow new development throughout much of the range of the Mohave ground squirrel and would not protect the four Mohave ground squirrel "core areas" (see petition, p. 17). "Core areas" are defined

by the petitioners as locations where Mohave ground squirrels have been reliably captured over time, or where there are thriving populations. The petitioners stated that activities that result in the loss of habitat in these "core areas" or prevent dispersal among these "core areas" will impede and eventually prohibit conservation of the Mohave ground squirrel.

Public land managed by the Department of Defense accounts for about 34.5 percent of the species' current range. The petitioners stated that current military training at Fort Irwin threatens Mohave ground squirrels by crushing animals, compacting and otherwise disturbing soils, collapsing burrows, destroying shrubs used for cover, and reducing spring annual plants used by Mohave ground squirrels for forage (Bury *et al.* 1977, pp. 16, 18). According to the petitioners, Fort Irwin's training currently affects 7.4 percent of the range of the Mohave ground squirrel, and the proposed expansion of Fort Irwin will affect additional lands within the range of the Mohave ground squirrel and will fragment one of the four Mohave ground squirrel "core areas" as identified by the petitioners.

Additionally, 2.7 percent of the current range of the Mohave ground squirrel occurs on other public 'protected lands' (see petition, p. 40) including: federally designated wilderness areas, State park land, California Department of Fish and Game land, and the Desert Tortoise Natural Area.

#### Livestock Grazing

The petitioners stated that livestock grazing has the potential to degrade Mohave ground squirrel habitat through changes in soil structure, including accelerated erosion and collapsing burrows, changes in vegetative structure, reduced availability of native forage species (Laabs 2002, p. 5; Campbell 1988, pp. 569, 574), and direct competition with Mohave ground squirrels for limited quality and quantity of forage (Leitner and Leitner 1998; pp. 29, A6, A7, A15, and A23). According to the petitioners' GIS analysis, 27 percent of the range of the Mohave ground squirrel has been impacted by livestock grazing.

Aardahl and Roush (1985, p. 23), as cited in the petition, stated that "land uses which affect the availability of forbs and grasses have the potential to influence the long-term population of the Mohave ground squirrel," but this does not "mean that properly managed livestock grazing will cause a significant negative impact on the Mohave ground

squirrel." Twenty-one of 22 study sites surveyed were grazed by sheep or cattle in varying degrees; the study site with the highest total adjusted captures of Mohave ground squirrels showed considerable signs of grazing (Aardahl and Roush 1985, p. 23). The petitioners did not provide information, and we have no information in our files, on the extent or magnitude of the impacts of livestock grazing on the Mohave ground squirrel.

#### Transportation

The petitioners identified the extensive network of highways and roads in the range of the Mohave ground squirrel as a threat. The petitioners claim impacts from highway and road establishment and vehicle use include habitat loss, fragmentation, and degradation, and direct mortality from vehicle strikes (Gustafson 1993, pp. 23, 26; BLM 2003, p. 30; Leitner as cited in the petition, p. 22). The petitioners stated that there is evidence of surface disturbance to roadsides up to 400 m (1,312 ft) away from the road, and that 37 percent of transects conducted by the BLM in the West Mojave Desert were bisected by roads. The petitioners calculated that the total area of the network of roads and highways affected 65,964 ha (163,000 ac) or 3.3 percent of the range of the Mohave ground squirrel. The petitioners provided additional information that impacts from roads on the desert tortoise have been documented more than 3,962 m (13,000 ft) from the highest level traffic road (Hoff and Marlow 2002, p. 454) and that similar impacts likely occur to the Mohave ground squirrel.

We do not agree that impacts to the desert tortoise from roads that have been measured more than 3,962 m (13,000 ft) from the highest traffic roads are the same as those to the Mohave ground squirrel. The Hoff and Marlow study (2002, p. 454) reported on the abundance of desert tortoise sign at intervals from roads. This study was specific to the desert tortoise. It did not examine the effects of roads on the Mohave ground squirrel. Therefore, any application of the results from this research to the Mohave ground squirrel is inferred and is not supported by the data. However, we agree with the petitioners that roads and highways result in direct mortality to Mohave ground squirrels from vehicle collisions and habitat loss and degradation.

#### Energy Development

According to the petitioners, geothermal exploration and development and the construction of

solar energy plants in the range of the Mohave ground squirrel have caused, and will likely cause, adverse impacts to the Mohave ground squirrel and loss or degradation of habitat (Leitner and Leitner 1989, p. 2). The petitioners did not quantify the amount of habitat affected. We acknowledge that energy development for geothermal and solar energy has occurred within the range of the Mohave ground squirrel and that this development can result in the degradation or loss of habitat used by the Mohave ground squirrel. The petitioners do not provide information, and we do not have information in our files, on the extent of this loss or degradation and how it will affect the conservation of the Mohave ground squirrel.

#### Cumulative Impacts of Habitat Destruction, Fragmentation, and Decreased Precipitation

The petitioners provided information that indicates the reproduction and survival of the Mohave ground squirrel is ultimately linked to rainfall (Harris and Leitner 2004, pp. 517, 518). Mohave ground squirrels may fail to persist in certain areas during drought episodes (Leitner and Leitner 1998, p. 31). The petitioners assert the cumulative impacts of habitat destruction, habitat fragmentation, and overall decrease in precipitation due to climate change are a greater threat to the Mohave ground squirrel than the periods of low rainfall and drought episodes with which the Mohave ground squirrel evolved.

Based on information from the Intergovernmental Panel on Climate Change (Watson *et al.* 2002, pp. 8, 9), we acknowledge temperatures in southern California are likely to increase and precipitation is likely to decrease in the future. With hotter, drier conditions and more extreme weather patterns in southern California than those with which the Mohave ground squirrel evolved, the species may be negatively affected. However, we believe that climate change models that are currently available are not yet capable of making meaningful predictions of climate change for specific, local areas such as the range of the Mohave ground squirrel (Parmesan and Matthews 2005, p. 354). We are not currently aware of models that predict how climate in the range of the Mohave ground squirrel will change, and we do not know how any change may alter the range of, or otherwise threaten, the species.

#### Summary of Factor A

In summary, the petitioners presented information regarding threats to the Mohave ground squirrel from reduced

range and habitat destruction, including: urban and rural development on private and public lands; agricultural development; military activities; livestock grazing; transportation; and energy development. We found the petition and information in our files presents substantial information that these activities may have contributed to a recent range contraction in the southern portion of the Mohave ground squirrel's range, and may threaten the Mohave ground squirrel across its current range by removing shrubs needed for cover and forage, disturbing soil, or removing or degrading other habitat features necessary for Mohave ground squirrel life history requirements. Additionally, one or more of these activities may threaten what the petitioners identify as "core areas" for the Mohave ground squirrel by removing habitat, fragmenting the habitat, and preventing dispersal among the "core areas." However, we determined the petition does not present substantial information indicating that climate change may be a threat to the species. Additionally, information on the subject of climate change in our files is not specific to the Mohave ground squirrel. We will evaluate the effects of climate change, including reduced precipitation and any cumulative effects of habitat fragmentation or loss on the Mohave ground squirrel, when we conduct our status review.

On the basis of our evaluation of the information in the petition and information in our files, we determined that the petition presents substantial information indicating that listing the Mohave ground squirrel as endangered may be warranted due to destruction, modification, or curtailment of the species' habitat or range.

#### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petitioners did not provide information or list any threats to the Mohave ground squirrel from overutilization for commercial, recreational, or educational purposes. The petitioners stated that the utilization of the Mohave ground squirrel for scientific purposes is strictly controlled by the California Department of Fish and Game.

#### Summary of Factor B

On the basis of our evaluation, we determined that the petition does not present substantial information indicating that listing the Mohave ground squirrel as endangered may be warranted due to the overutilization for

commercial, recreational, scientific, or educational purposes. Additionally, we do not have substantial information in our files to suggest that overutilization for commercial, recreational, scientific, or educational purposes may threaten the Mohave ground squirrel. However, we will evaluate all factors, including threats from overutilization for commercial, recreational, scientific, or educational purposes, when we conduct our status review.

#### C. Disease or Predation

##### *Evaluation of Information Provided in the Petition and Available in Service Files*

The petitioners did not provide information or list any threat to the Mohave ground squirrel from disease, and we do not have information in our files regarding potential threats to this species due to disease.

The petitioners stated that there is little documentation of the Mohave ground squirrel's natural predators, but claimed that predation by coyotes, common ravens, house cats, domestic dogs, and feral dogs is a concern. Although the petitioners stated that cats prey on small mammals and dogs dig up rodent burrows, they did not present any information on the level of mortality or population impacts from predation for Mohave ground squirrels, any other ground squirrel species, or any small mammal species. The petitioners noted that the numbers of common ravens and coyotes, known predators of the Mohave ground squirrel, have increased, posing an increased predation risk to Mohave ground squirrel populations. However, there is no information provided that the numbers of cats, dogs, common ravens, or coyotes have increased in the range of the Mohave ground squirrel, and there is no evidence to indicate that there is increased predation by these predators on the Mohave ground squirrel. We do not have information in our files to indicate that predation is a threat to the survival of the Mohave ground squirrel.

##### *Summary of Factor C*

On the basis of our evaluation, we determined that the petition does not present substantial information indicating that listing the Mohave ground squirrel as endangered may be warranted due to disease or predation. Additionally, we do not have substantial information in our files to suggest that disease or predation threaten the Mohave ground squirrel. However, we will evaluate all factors, including threats from disease and

predation, when we conduct our status review.

#### **D. The Inadequacy of Existing Regulatory Mechanisms**

##### *Evaluation of Information Provided in the Petition and Available in Service Files*

The petitioners stated that current regulations have proven inadequate to conserve the Mohave ground squirrel; that only 9 percent of the range of the Mohave ground squirrel has any kind of protected status; and that, although the Mohave ground squirrel is a State-listed species, this listing provides no conservation assurances for the Mohave ground squirrel on Federal lands.

The California Endangered Species Act provides protection for the Mohave ground squirrel on private and State-owned land, and on Federal lands in relation to activities carried out by non-Federal entities that are required to obtain a State permit or authorization.

The major military installations within the range of the Mohave ground squirrel have implemented Integrated Natural Resources Management Plans that cover the Mohave ground squirrel and implement actions to manage for the species. In their management plan for the West Mojave Desert, the BLM considers the Mohave ground squirrel an umbrella species, a species whose habitat requirements include those of many other species and whose conservation should automatically conserve a host of other species. BLM has implemented a plan that establishes a Mohave ground squirrel Conservation Area that contains 35 percent of the species' historical range on BLM land.

##### *Summary of Factor D*

On the basis of our evaluation, we determined that the petition does not present substantial information indicating that listing the Mohave ground squirrel as endangered may be warranted due to the inadequacy of existing regulatory mechanisms. Additionally, we do not have substantial information in our files to suggest that existing regulatory mechanisms are inadequate and thus threaten the Mohave ground squirrel. However, we will evaluate all factors, including threats from the inadequacy of existing regulatory mechanisms, when we conduct our status review.

#### **E. Other Natural or Manmade Factors Affecting the Species' Continued Existence**

##### *Evaluation of Information Provided in the Petition and Available in Service Files*

The petitioners stated that pesticide use may adversely affect the Mohave ground squirrel. According to the petitioners, Mohave ground squirrels live in native vegetative communities adjacent to agricultural fields and other areas where rodenticides are used. Mohave ground squirrels use these areas for forage and shelter. The petitioners claim that if rodenticides are used on agricultural fields, Mohave ground squirrels could be adversely affected, or they could be exterminated by the State Rodent Program. In the early part of the 20th century, the Los Angeles Agricultural Commission used poison grain to target and eliminate ground squirrels in the Antelope Valley, which includes the historical range of the Mohave ground squirrel.

Although we are aware that rodenticides, such as those that include strychnine as the active ingredient, may be used to kill ground squirrels, there is no information in the petition or our files to indicate that rodenticides are used to specifically target Mohave ground squirrels or that any rodenticides currently used within the range of the Mohave ground squirrel are adversely affecting the status of this species.

##### *Summary of Factor E*

On the basis of our evaluation, we determined that the petition does not present substantial information indicating that listing the Mohave ground squirrel as endangered may be warranted due to other natural or manmade factors affecting its continued existence. Additionally, we do not have substantial information in our files to suggest that other natural or manmade factors threaten the Mohave ground squirrel. However, we will evaluate all factors, including threats from other natural or manmade factors affecting its continued existence, when we conduct our status review.

#### **Finding**

The petition and supporting information have identified numerous factors affecting the Mohave ground squirrel, including: reduced range, urban and rural development, agricultural development, military activities, livestock grazing, transportation and energy development, and cumulative impacts of habitat destruction, fragmentation, and

decreased precipitation (Factor A); predation (Factor C); the lack of regulatory mechanisms protecting the species and its habitat (Factor D); and pesticide use (Factor E).

On the basis of our evaluation under section 4(b)(3)(A) of the Act, we have determined that the petition presents substantial scientific or commercial information indicating that listing the Mohave ground squirrel as endangered may be warranted. This finding is based on information provided by the petitioners and in our files for Factor A. In particular, there is substantial information to indicate habitat based threats under Factor A may remove shrubs needed for cover and forage, disturb soil, or remove or degrade other habitat features necessary for Mohave ground squirrel life history requirements across its current range. The information provided by the petitioners and in our files for Factors B, C, D, and E was not substantial. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species may warrant listing as threatened or endangered as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively may not be sufficient to compel a finding that listing may be warranted. The information shall contain evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of threatened or endangered under the Act.

Because we have found that the petition presents substantial information that listing the Mohave ground squirrel may be warranted, we are initiating a status review to determine whether listing the Mohave ground squirrel under the Act is warranted. We will issue a 12-month finding as to whether the petitioned action is warranted.

The "substantial information" standard for a 90-day finding differs



from the Act's "best scientific and commercial data" standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

The petitioners also requested that we designate critical habitat for the Mohave ground squirrel. If we determine in our 12-month finding that listing the Mohave ground squirrel is warranted, we will address the designation of critical habitat at the time of the proposed rulemaking.

#### References Cited

A complete list of all references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

#### Author

The primary authors of this notice are staff members of the Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

#### Authority

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

Dated: April 12, 2010

**Signed: Daniel M. Ashe**

*Deputy Director, U.S. Fish and Wildlife Service*

[FR Doc. 2010-9377 Filed 4-26-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 0911201413-0182-01]

RIN 0648-AY38

#### Pacific Halibut Fisheries; Guided Sport Charter Vessel Fishery for Halibut; Recordkeeping and Reporting

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to amend the recordkeeping and reporting requirements for the Pacific halibut guided sport fishery in International Pacific Halibut Commission Regulatory Area 2C (Southeast Alaska) and Area 3A (Central Gulf of Alaska). If approved, these regulations would revise federal requirements regarding the location and time period for submission of Alaska Department of Fish and Game Saltwater Sport Fishing Charter Trip Logbook data sheets and modify logbook recording requirements. This action is necessary because NMFS relies on the state logbook data for managing halibut and to improve consistency between federal and State of Alaska requirements for the submission of the logbook data sheets and the logbook reporting format. This action is intended to achieve the halibut fishery management goals of the North Pacific Fishery Management Council and to support the conservation and management provisions of the Northern Pacific Halibut Act of 1982.

**DATES:** Comments must be received no later than May 12, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-AY38, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;
- Mail: P.O. Box 21668, Juneau, AK 99802;
- Fax: (907) 586-7557; or
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Categorical Exclusion, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region website at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this rule may be submitted to NMFS at the above address, e-mailed to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or faxed to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Gabrielle Aberle, (907) 586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background and Need for Action

The International Pacific Halibut Commission (IPHC) and National Marine Fisheries Service (NMFS) manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979).

Regulations developed by the IPHC are subject to approval by the Secretary of State with concurrence of the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The current IPHC annual management measures were published on March 19, 2009 (74 FR 11681). IPHC regulations affecting sport fishing for halibut and charter vessels in Areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska) may be found in sections 3, 25, and 28 (74 FR 11681; March 19, 2009).

The Halibut Act also provides regulatory authority to the Secretary and the North Pacific Fishery Management Council (Council). The Secretary, under 16 U.S.C. 773c(a) and (b), has the general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary is directed to consult with the Secretary of the