

address the above threats to the Columbia Basin pygmy rabbit include, but are not limited to:

(1) *Fire*—implementation of agreements between fire-fighting districts and/or agency departments to provide adequate coverage, construction of fire breaks, availability of fire-fighting equipment, fire-fighting techniques, weed control, use of prescribed fire, and removal or restriction of unimproved road access and informal recreational activities;

(2) *Livestock Grazing*—season(s) of use, stocking rate(s) and type(s), location of supplemental water and salt/minerals, loading and transport facilities, exclusion fencing, and removal;

(3) *Habitat Protection and Restoration*—control of exotic and/or invasive plant species, planting types and techniques, soils and hydrologic analyses, land acquisition and connectivity, and control of unauthorized access.

(4) *Predation*—identification of primary predators and predation patterns, development of protocols for fence removal and/or new fence construction, and predator deterrents and/or lethal control of predators to protect the wild and captive portions of the population;

(5) *Disease*—identification and control of potential disease and disease vectors in wild and captive portions of the population;

(6) *Capture, husbandry, and reintroduction*—development of protocols for survey, capture, handling, and husbandry techniques; maintenance and security of multiple holding facilities for captive stock; inventory and evaluation of appropriate release sites; and development of release and site maintenance protocols; and

(7) *Genetics*—identification of additional genetic markers, implementation of appropriate breeding scenarios, and establishment of a minimum effective population for captive breeding and reintroduction efforts.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions of section 9 of the Act, codified at 50 CFR 17.21, 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 is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving listed species under certain circumstances. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, or for incidental take in connection with otherwise lawful activities.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practical, 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 the species' range. For the Columbia Basin pygmy rabbit, based upon the best available information, we believe the following actions are unlikely to result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Possession, delivery, or movement, including interstate transport and import into or export from the United States of dead specimens of Columbia Basin pygmy rabbits that were collected prior to the date of publication of the emergency listing rule in the **Federal Register**;

(2) Any action authorized, funded, or carried out by a Federal agency that may affect the Columbia Basin pygmy rabbit (e.g., land exchanges, land clearing, prescribed burning, livestock grazing, pest control, utility line or pipeline construction, mineral extraction or processing, housing developments, off-road vehicle use, recreational trail or campground development, road construction, shooting, poisoning, habitat conversion, road construction, water development and impoundment, unauthorized application of herbicides or pesticides in violation of label restrictions) when the action is conducted in accordance with an incidental take statement issued under section 7 of the Act;

(3) Any action carried out for scientific research or to enhance the propagation or survival of the Columbia Basin pygmy rabbit that is conducted in accordance with the conditions of a section 10(a)(1)(A) permit under the Act; and

(4) Any incidental take of the Columbia Basin pygmy rabbit resulting from an otherwise lawful activity

conducted in accordance with the conditions of an incidental take permit issued under section 10(a)(1)(B) of the Act.

Activities that we believe could potentially result in a violation of section 9 include, but are not limited to:

(1) Unauthorized possession, trapping, handling, collecting, or release of pygmy rabbits within the historic range of the Columbia Basin pygmy rabbit. Research efforts involving these activities will require a permit under section 10(a)(1)(A) of the Act;

(2) Other activities that actually kill or injure a Columbia Basin pygmy rabbit by significantly impairing essential behavioral patterns (such as breeding, feeding or sheltering) through significant habitat modification or degradation (e.g., via land clearing, prescribed burning, habitat conversions, over-grazing or trampling by livestock, pest control, minerals extraction or processing, housing developments, off-road vehicle use, recreational trail or campground development, shooting, intentional poisoning, road construction, water development and impoundment, unauthorized application of herbicides or pesticides in violation of label restrictions). Otherwise lawful activities that incidentally take a Columbia Basin pygmy rabbit will require a permit under section 10(a)(1)(B) of the Act.

Questions regarding whether specific activities risk violating section 9 should be directed to our Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife, including general inquiries regarding prohibitions and issuance of permits under the Act, may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232-4181 (telephone 503/231-2063; facsimile 503/231-6243).

#### Immediate Effective Date

The emergency listing that protected the Columbia Basin pygmy rabbit for 240 days expired on July 29, 2002. The threats to the species remain imminent and severe. Because of the extremely small size of the only remaining wild population, and the expiration of its interim protection, we find that good cause exists for this rule to take effect immediately upon publication in accordance with 5 U.S.C. 553(d)(3).

#### National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined in the National Environmental