

the degree of protection allowed under the Act. In any case, making any change to the NEP designation will require a new proposed rule, a public comment period, public meetings, National Environmental Policy Act compliance, and other documentation prior to publication of a final rule to change or abandon the designation.

*Issue 2:* Some commenters raised concerns that ferrets may disperse from their release site, potentially affecting land uses in areas outside the release area, and cause the Service to impose stricter rules governing resource development activities outside the boundaries of the Experimental Population Area.

*Service Response:* Investigations of black-footed ferret dispersal at existing experimental release sites and research conducted at Meeteetse, Wyoming, confirm that ferret dispersal to areas outside of active prairie dog colonies is rare (Forrest *et al.*, 1985). Ferrets are not known to establish residence away from active prairie dog colonies (Henderson *et al.*, 1996 updated 1974; Hillman and Linder, 1973). Recent modifications to ferret husbandry techniques have been successful in developing captive-reared animals that stay nearer to release sites than the ferrets raised in captivity and released in earlier trials. The Rosebud Experimental Population Area encompasses sufficient prairie dog colonies believed to be necessary for long-term occupation by ferrets. Consequently, we believe it is unlikely that ferrets will disperse to and establish permanent residence within areas outside the Experimental Population Area. Contingencies stated earlier under "7. Location of Reintroduced Population" of the **SUPPLEMENTARY INFORMATION** section in this final rule allow for capture and return of ferrets to the Experimental Population Area, should this occur.

*Issue 3:* Some commenters expressed their opinion that releases should only occur on Rosebud Trust lands or lands of individuals who are cooperating with the Rosebud Sioux Tribe.

*Service Response:* Black-footed ferrets will only be released on Rosebud Trust lands and deeded land of those individuals who choose to cooperate with the Rosebud Sioux Tribe in this reintroduction.

*Issue 4:* Some commenters suggested that Gregory and Tripp Counties should not be included as part of the Experimental Population Area.

*Service Response:* The primary reintroduction area for ferrets in the Rosebud Experimental Population Area will occur in Todd County. Including Gregory, Mellette, and Tripp Counties in

the Experimental Population Area only means that, if a ferret were to be located in those counties, it will be considered part of the NEP. The Tribe also has significant acreages of Trust land in those counties, but there is no intent to reintroduce ferrets in those counties. Including those counties will block-clear the area for prairie dog control purposes as well. Congress amended the Endangered Species Act to incorporate section 10(j) to enhance the opportunity for release of federally listed species on private lands. However, we believe that including most of Rosebud Trust lands within the Experimental Population Area will provide the flexibility for management of ferrets sought by the Tribe and the Service. The number of prairie dog colonies in Gregory and Tripp Counties is far smaller than in the proposed reintroduction site, and ferrets are not expected to inhabit those counties.

*Issue 5:* Some commenters expressed concern that the process has proceeded too fast and more comment time is needed.

*Service Response:* The Service and the Rosebud Sioux Tribe have been discussing ferret reintroduction on the Rosebud Reservation since 1996. Considerable progress was made toward that effort and Tribal resolutions were passed at that time, but ultimately the Tribe chose not to proceed. In 2001, the Tribe again expressed an interest and, in 2002, asked the Service to complete the process for an NEP designation. The Service has proceeded accordingly and will continue to follow the Tribal Council direction as to whether to proceed with reintroduction efforts. The ferret reintroduction effort will be managed and undertaken by the Rosebud Game, Fish, and Parks Department.

*Issue 6:* Some commenters stated that black-footed ferrets are not native to this area.

*Service Response:* The last remaining population of wild black-footed ferrets in South Dakota was known to exist in this area and adjacent Mellette County until the early 1970s (Henderson *et al.*, 1969, updated 1974). The Service and Tribe believe that black-footed ferrets are native to the Rosebud Reservation.

*Issue 7:* Some commenters state their concern that the proposed rule gives biologists too much authority to change plans and take steps as they deem necessary to avoid impacts to ferrets from activities that may impact prairie dogs.

*Service Response:* While biologists from different entities (*e.g.*, Service, Rosebud Sioux Tribe, Forest Service) may assist with this reintroduction

effort, any comments from a biologist on effects of human activities on private lands that may affect the reintroduced ferrets are advisory in nature under this NEP designation. Prairie dog control on deeded land will remain with the landowners to be managed in compliance with State rules and other applicable Federal and local laws, while prairie dog control on Tribal lands will remain under the authority of the Rosebud Sioux Tribe. Landowners within the Experimental Population Area will still be allowed to conduct lawful control of prairie dogs. We do not anticipate any additional restrictions on grazing and prairie dog management on private lands within the Experimental Population Area during implementation of the ferret recovery activities.

*Issue 8:* Some commenters raised concern that this rule will have a substantial impact on private land and private property rights.

*Service Response:* Using section 10(j) of the Act to designate a reintroduced population of black-footed ferret as an NEP removes most regulatory burdens that might otherwise be associated with reintroduction of an endangered species. The remaining restrictions are related to intentional or negligent take of ferrets. For instance, deliberately shooting a ferret is a prohibited activity, but prairie dog control actions are not prohibited. In addition, any activity needing access to private lands will be conducted only with the permission of the landowner.

*Issue 9:* Some commenters suggested that the black-footed ferret should be delisted under the Act after a viable population is established and confined to Badlands National Park.

*Service Response:* At this time, the recovery goals for completely removing the species from the protections of the Act are not defined, but recovery of this species will depend on more than viable populations of ferrets at Badlands National Park or other National Parks. The Black-footed Ferret Recovery Plan (U.S. Fish and Wildlife Service, 1988) lists the requirements for downlisting the species from endangered to threatened, including "encouraging the widest possible distribution of reintroduced animals throughout their historical range." It is imperative that sites outside of the few National Parks with suitable prairie habitat are used to ensure the widest distribution of this species across its historic habitat and to avoid the possibility of a catastrophic event devastating the species once again.

*Issue 10:* Some commenters raised concerns that reintroduced ferrets may carry diseases.