

(1) What security measures are currently in place at foreign and domestic aircraft repair stations? Do you use access control, perimeter security, or identification media? What kind of employee background checks, if any, are conducted on employees prior to hiring, or periodically?

(2) What security vulnerabilities do you believe currently exist at foreign and domestic repair stations?

(3) What minimum standards should be in place to prevent unauthorized access, tampering, and other security breaches at foreign and domestic aircraft repair stations?

(4) What does your current security system cost?

(5) Should TSA regulations be tailored to the type of rating the repair station holds, number of employees, proximity to an airport, number of repairs completed, or other characteristics? If so, please explain how that could be accomplished.

(6) Should aircraft operators play a role in ensuring that repair facilities maintain a secure workplace? If so, what should aircraft operators do to enhance repair station security?

(7) Have you experienced security breaches at your facility? If so, what measures were instituted to prevent recurrence?

#### Participation at the Meeting

Anyone wishing to present an oral statement at the meeting should provide a written request to TSA no later than February 20, 2004. Such requests should be submitted to Roger Shoemaker, as listed previously in the **FOR FURTHER INFORMATION CONTACT** section. In addition, anyone who wishes to present a statement at the public meeting should submit a written version of the oral remarks and supporting documentation for any of the conclusions reached. Speakers should plan to talk for no more than 10 minutes. TSA will prepare an agenda of speakers that will be available at the meeting. The names of those individuals whose requests to present oral statements are received after the date specified above may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

#### Public Meeting Procedures

TSA will use the following procedures to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who are scheduled to present statements or who register between 12:30 and 1 on the day of the

meeting. TSA will make every effort to accommodate all persons who wish to participate, but admission will be subject to availability of space in the meeting room. The meeting may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meeting.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(3) TSA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come, first-served basis. However, TSA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(4) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

(5) Representatives of TSA will preside over the meeting. A panel of TSA personnel involved in this issue will be present.

(6) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by TSA during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly.

(7) TSA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or arguments related to the security of foreign and domestic aircraft repair stations may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. TSA asks that persons participating in the meeting provide six copies of all materials to be presented for distribution to the TSA representatives; other copies may be provided to the audience at the discretion of the participant.

(8) Statements made by TSA representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a TSA representative is not intended to be, and should not be construed as, a position of TSA.

(9) The meeting is designed to solicit public views and gather additional information on the security of aircraft repair stations. Therefore, the meeting will be conducted in an informal, non-adversarial manner. No individual will be subject to cross-examination by any other participant; however, TSA

representatives may ask questions to clarify a statement and to ensure a complete and accurate record.

Issued in Arlington, Virginia, on February 18, 2004.

**Thomas R. Blank,**

*Assistant Administrator for Transportation Security Policy.*

[FR Doc. 04-4051 Filed 2-20-04; 10:52 am]

**BILLING CODE 4910-62-P**

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

**RIN 1018-AJ26**

#### Endangered and Threatened Wildlife and Plants; Extension of Amended Special Regulations for the Preble's Meadow Jumping Mouse

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

**ACTION:** Proposed rule.

**SUMMARY:** On May 22, 2001, the Fish and Wildlife Service (Service) adopted special regulations governing take of the threatened Preble's meadow jumping mouse (*Zapus hudsonius preblei*). The special regulations provide exemption from take provisions under section 9 of the Endangered Species Act for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, and existing uses of water. On October 1, 2002, the Service amended those regulations to provide exemptions for certain activities related to noxious weed control and ongoing ditch maintenance activities. This action proposes to extend the special regulations permanently.

**DATES:** Comments must be received on or before March 25, 2004, to receive consideration. Public hearing requests must be received by March 10, 2004.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Fish and Wildlife Service's Colorado Field Office, Ecological Services, Suite 361, Lakewood, CO 80215. Comments and public hearing requests should be submitted to the same address.

**FOR FURTHER INFORMATION CONTACT:** In Colorado, contact Susan Linner, Field Supervisor, at the above address, or telephone (303) 275-2370. In Wyoming, contact Brian Kelly, Field Supervisor, Cheyenne, WY, at telephone (307) 772-2374.

**SUPPLEMENTARY INFORMATION:**

## Background

The final rule listing the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (Preble's) as a threatened species under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), was published in the **Federal Register** on May 13, 1998 (63 FR 26517). Section 9 of the Act prohibits take of endangered wildlife. The Act defines take to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. However, the Act also provides for the authorization of take and exceptions to the take prohibitions. Take of listed species by non-Federal property owners can be permitted through the process set forth in section 10 of the Act. For federally funded or permitted activities, take of listed species may be allowed through the consultation process of section 7 of the Act. While section 9 of the Act establishes prohibitions applicable to endangered species, the Service has issued regulations (50 CFR 17.31) applying those same prohibitions to threatened wildlife. These regulations may be tailored for a particular threatened species through promulgation of a special rule under section 4(d) of the Act. When a special rule has been established for a threatened species, the general regulations for some section 9 prohibitions do not apply to that species, and the special rule contains the prohibitions, and exemptions, necessary and advisable to conserve that species.

On May 22, 2001 (66 FR 28125), we adopted a final section 4(d) special rule that provided exemptions from section 9 take prohibitions for certain rodent control activities, ongoing agricultural activities, maintenance and replacement of existing landscaping, and existing uses of water. On October 1, 2002 (67 FR 61531), we amended this rule to provide exemptions for certain noxious weed control and ongoing ditch maintenance activities. The final special rule, as amended, is effective until May 22, 2004. We are now proposing to extend the amended special rule permanently.

We believe that the special rule, as amended, is necessary and advisable to provide for the conservation of the Preble's. The special rule has been shown to provide for the conservation of the Preble's mouse by allowing activities that help to maintain the habitat characteristics needed by the species. Although such activities, including ditch maintenance and

noxious weed control, may result in negligible levels of take, they support the continued presence of occupied habitat that might otherwise be lost to succession or invasive species. Also, by offering flexibility to private landowners for ongoing activities that will not impede the conservation of the species, the special rule also provides an incentive for landowners to pursue voluntary conservation efforts and advance our understanding of the species. The rule has garnered support of State and local governments, private landowners, and other interested parties, and we believe that the proposed permanent extension of the special rule it will contribute to a lasting, cooperative approach for the recovery of the species.

The special rule is best understood in the context of other regulations and actions, already in place or in development, to provide for conservation of the Preble's. First, section 10(a)(1)(B) of the Act allows the public to obtain from us, in appropriate circumstances, permits allowing take of Preble's, providing that the take is incidental to, and not the purpose of, each action or project. One of the purposes of the special rule is to make, in advance, general decisions that certain types of activities are consistent with the conservation of the Preble's without requiring people to seek additional section 10 permits authorizing those activities. This purpose will be continued by the proposed permanent extension. Additional activities that result in take of Preble's that are not exempted by the special rule may still be permitted by the Service under section 10 of the Act.

Currently, the State of Colorado, the Service, and various local governments in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans (HCPs) and applications to the Service for incidental take permits under section 10 of the Act. These HCPs will provide an important component of a lasting, effective, and efficient recovery program for the Preble's.

Second, section 7 of the Act requires Federal agencies, in consultation with and with the assistance of the Service, to use their authorities to conserve listed species and ensure that actions authorized, funded, or carried out by the agency are not likely to jeopardize the Preble's. On private land, Federal actions in Preble's habitat that may require consultation include the issuance of section 404 permits by the

Army Corps of Engineers for dredge and fill activities regulated under the Clean Water Act. A section 7 consultation was conducted on the current special rule, and the ensuing biological opinion addressed a wide array of potential take from private actions, some of which have unknown timeframes, some of which occur sporadically, and some of which occur on a regular schedule. The biological opinion for the special rule found that the level of take anticipated to occur from a 36-month period was not considered to be biologically significant to the recovery of the Preble's. Because the consultation applied to take that could occur at any time and making the special rule permanent does not affect the Preble's or its critical habitat not previously considered, we have determined that it is not necessary to re-initiate consultation on the proposed permanent extension of the special rule.

Third, a variety of Federal, State, and local programs are available to help preserve the Preble's through the acquisition, preservation, and management of its habitat. These include the Service's Partners for Fish and Wildlife Program, the Natural Resource Conservation Service's wetland/riparian habitat protection programs, grant programs administered by Great Outdoors Colorado, city and county open space programs, and activities of local land trusts. In particular, our Partners for Fish and Wildlife Program has proven to be an especially effective approach for wildlife conservation on agricultural lands by providing funding for restoration of wetlands and riparian habitats.

Fourth, we are committed to development of a recovery program for the Preble's that achieves recovery of the species and provides solutions to conflicts between the species' recovery and economic activities, including agriculture. We believe that a recovery program that integrates both biological and social factors will have the highest chance of success. The Service has established a Recovery Team for the Preble's, and a draft recovery plan will be available for public review in the near future.

The May 22, 2001, special rule and the October 1, 2002, amendment recognized that the take exemptions provided by the rule would support the development of meaningful conservation efforts for the Preble's by State and local governments, agricultural interests, and the general public. The rule and the amendments identified the following conservation benefits to the Preble's: (1) Exemptions

regarding rodent control and landscaping would elicit support from landowners for Preble's conservation and recovery; (2) exemptions for ongoing agricultural practices and the exercise of existing water rights would provide a positive incentive for agricultural interests to participate in voluntary conservation activities and advance our understanding of species biology and ecology; (3) exemptions for noxious weed control would facilitate maintaining desirable natural vegetation on which the Preble's depends for survival; and (4) exemptions for ditch maintenance would help assure that currently existing Preble's habitat along ditches remains functionally viable.

#### Provisions of the Rule

The special rule for the Preble's meadow jumping mouse found at 50 CFR 17.40(l) will expire on May 22, 2004. We wish to extend the amended rule permanently to continue the benefits it provides. We recognize that additional information on the Preble's will become available in forthcoming years. We will evaluate this information regarding possible impacts from exempted activities to determine whether any changes, up to and including discontinuance, should be made to the special rule.

Additionally, we are making a correction to the entry for the Preble's meadow jumping mouse on the List of Endangered and Threatened Wildlife in 50 CFR 17.11(h). When the special rule for the Preble's was added to 50 CFR 17.40(l) on May 22, 2001 (66 FR 28125), we failed to amend the table in 50 CFR 17.11(h) to reflect the existence of the new special rule. We are, therefore, making the correction to the table in 50 CFR 17.11(h) in this rulemaking action.

#### Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. In some circumstances, we will withhold a respondent's identity from the rulemaking record, as allowable by law. If you wish for us to withhold your name or address, you must state this request prominently at the beginning of your comment. We will not consider anonymous comments. We will make all submissions from organizations or

businesses available for public inspection in their entirety (see **ADDRESSES** section).

In promulgating a final regulation on this species, we will take into consideration the comments and additional information we receive. Such communications may lead to a final regulation that differs from this proposal.

#### Public Hearing

The Act provides for a public hearing on this proposal, if requested. Requests must be filed by the date specified in the **DATES** section above. Such requests must be made in writing and addressed to the Field Supervisor (see **ADDRESSES** section).

#### Required Determinations

We prepared a Record of Compliance for the May 22, 2001, final rule that exempted the four activities of rodent control, ongoing agricultural activities, landscaping, and ongoing use of existing water rights from the take prohibitions listed in section 9 of the Act. A Record of Compliance certifies that a rulemaking action complies with the various statutory, Executive Order, and Department Manual requirements applicable to rulemaking. Amendment of the May 22, 2001, rule to include the two additional exemptions (noxious weed control and ditch maintenance activities) did not add any significant elements to this Record of Compliance. Permanent extension of the amended special rule also does not add any significant elements to this Record of Compliance.

Without this extension, activities included in the special rule, as amended, would no longer be exempted from the take prohibitions. This proposed rule would continue the exemptions and allow landowners to engage in certain activities, as identified in the rule, that may result in take of Preble's. Without this extension, anyone engaging in those activities would need to seek an authorization from us through an incidental take permit under section 10(a)(1)(b) or an incidental take statement under section 7(a)(2) of the Act. This process takes time and can involve an economic cost. This rule allows these landowners to avoid the costs associated with abstaining from conducting any such activities that may result in take, modifying these activities to prevent take from occurring, or seeking an incidental take permit from us.

#### Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of

Management and Budget (OMB) has determined that this rule is a significant regulatory action. This rule will not have an annual economic impact of more than \$100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. This rule reduces the regulatory burden of the listing of the Preble's meadow jumping mouse under the Act as a threatened species by continuing certain exemptions to the section 9 take prohibitions that would otherwise apply throughout the Preble's range. However, OMA has determined that this proposed rule raises novel legal or policy issues.

Preble's habitat, which overlaps farming and ranching businesses, primarily affects four southeast Wyoming counties: (1) Converse; (2) Laramie; (3) Platte; and (4) Albany. This four-county area contains 1,739 farms and ranches covering 8.9 million acres. The average size of an agricultural operation is about 5,100 acres, although individual operations vary greatly in size. The total marketing value of livestock and crops, measured as cash receipts, is about \$182.5 million.

As previously discussed, the Service has adopted special regulations pursuant to section 4(d) of the Act for Preble's, and these regulations are currently set to expire on May 22, 2004. Specifically, these regulations provide exemption from take provisions under section 9 for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, perfected water rights, certain noxious weed control, and ditch maintenance activities. Should this regulation expire, such activities could result in the incidental take of Preble's, which is prohibited under section 9 of the Act. However, section 10 of the Act does allow landowners to obtain a permit to conduct otherwise lawful activities that may result in incidental take of a listed species. The incidental take permit requires the applicant to prepare, and the Service approve, a habitat conservation plan (HCP). The HCP may include certain restrictions to agricultural activities to minimize incidental take of Preble's.

The types of restrictions the Service might impose on agricultural activities to minimize take are expected to vary significantly from one application to another, depending on the specific situation. However, Service guidelines call for mitigating the take of Preble's to the maximum extent practicable. Examples of mitigation conditions include fencing, planting willows, or other measures intended to create a buffer zone along waterways in riparian

areas. The Service may also impose restrictions on the methods or timing of activities associated with irrigation ditch maintenance.

The primary economic impacts to landowners associated with enforcement of the Act, should this 4(d) rule expire, are the costs of preparing HCPs for the Preble's and the costs associated with any activity restrictions imposed by the Service to minimize take of the Preble's. These impacts would potentially affect agricultural operations in southeast Wyoming. The primary land use activities likely to be impacted by sections 9 and 10 of the Act are haying and grazing, and irrigation ditch maintenance. A short discussion follows of the impacts farmers and ranchers could incur should this regulation lapse.

#### **Irrigation Canal and Ditch Maintenance Activities**

The three commonly used methods of ditch maintenance are burning, flushing (flowing water through a ditch to clear blockages), and dipping (mechanically clearing blockages). Of these three options, the most cost effective is burning, which may also be the most likely to result in incidental take of Preble's. Because of this, some landowners are concerned that the burning will be prohibited, or severely restricted, after the expiration of the special rule. This would have significant impacts on their irrigation activities.

Although irrigation ditch maintenance is not a major cost item for most individual agriculture producers under current conditions, restrictions on the burning of ditches could force some producers to acquire new mechanical cleaning equipment or hire the use of such equipment on a custom basis. Both of these options would increase a producer's costs.

An example of the potential impacts to irrigation canal and ditch maintenance is illustrated using estimates developed by the Wheatland Irrigation District (WID). WID estimates that its annual irrigation ditch maintenance costs would increase by approximately 250 percent if burning is reduced by 50 percent. If all burning were prohibited, irrigation ditch maintenance costs could increase by approximately 400 percent annually.

#### **Haying and Grazing Activities**

Haying and grazing activities would also be subject to sections 9 and 10 of the Act to minimize take of the Preble's. To avoid violating this provision, landowners would have to either cease activities that might result in incidental

take, or submit to the Service an application for an incidental take permit, including an HCP. As with irrigation canal and ditch maintenance activities, landowners could expect some restrictions or conditions on haying and grazing activities as mitigation for the incidental take of Preble's.

The types of restrictions or conditions would vary depending upon the situation. In situations where riparian areas have been degraded by intensive grazing activity, mitigation measures for an incidental take permit may include restrictions on the number of animal unit months or AUM's (an AUM is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep or goats for a month) within riparian areas, the construction of fencing with water gaps to keep herds out of riparian areas, and planting willows along stream banks. In situations where riparian areas are not degraded, mitigation measures may be minimal. The economic impacts of sections 9 and 10 of the Act on haying and grazing activities should this regulation expire can thus be expected to vary widely from landowner to landowner.

By permanently extending this 4(d) rule, farm and ranch operators will avoid future costs associated with ensuring that their otherwise legal activities avoid incidentally taking Preble's. Consequently, the economic effect of the rule benefits landowners and the economy. This effect does not rise to the level of "significant" under Executive Order 12866.

This rule should not create inconsistencies with other Federal agencies' actions. Other Federal agencies are mostly unaffected by this proposed rule.

This rule should not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Because this proposed rule would allow landowners to continue otherwise prohibited activities without first obtaining individual authorization, the proposed rule's impacts on affected landowners is positive.

We have previously promulgated section 4(d) special rules for this and other species, including the amended special rule for the Preble's pertaining to rodent control, ongoing agricultural activities, landscaping, existing uses of water, noxious weed control, and ongoing ditch maintenance activities. This rule simply proposes to permanently extend the effective period of the amended special rule for the Preble's. However, OMB has determined

that this proposed rule raises novel legal or policy issues. Therefore, in accordance with E.O. 12866, OMB has reviewed this proposed rule.

#### **Regulatory Flexibility Act**

We have determined that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial regulatory flexibility analysis is not required, and a Small Entity Compliance Guide is not required. This rule reduces the regulatory burden of the listing of the Preble's as a threatened species. Without an extension of the amended special rule, all of the take prohibitions listed in section 9 of the Act would apply throughout the range of the Preble's. This rule allows certain affected landowners to continue to engage in certain activities that may result in take of Preble's, and to avoid the costs associated with abstaining from conducting these activities to avoid take of Preble's or seeking incidental take permits from us.

As previously discussed, this rulemaking will primarily affect farm and ranch operations within four counties in southeastern Wyoming. Although the precise numbers of affected operations are not known, the total number of farms and ranches in the area is estimated to be 1,739. The 2002 total cash receipts for these operations were approximately \$182.5 million, which represents about 25 percent of the State total. Based on the State ratio of net farm income to animal and crop cash receipts (12 percent), the estimated average net farm income in this area would be \$21,900.

The Office of Advocacy for the Small Business Administration defines small entities in the farm and ranch sector as those each having less than \$750,000 in annual receipts. This qualifies most of the farms and ranches in the area as small businesses, according to data published in 1998 by the U.S. Department of Agriculture.

The permanent extension of the 4(d) rule will allow these small entities to avoid incurring costs associated with the development of an HCP and the administrative costs that would reflect the effort to obtain an incidental take permit. Administrative costs alone could cost between \$3,000 and \$4,000, according to a recent economic analysis conducted by the Service as part of the critical habitat designation for the Preble's. Depending on how such costs are expensed, the cost to obtain a permit could be relatively significant.

This rulemaking avoids such impacts by providing an exemption from the take provisions under section 9 for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, perfected water rights, certain noxious weed control, and ditch maintenance activities. Consequently, we are certifying that this rulemaking will not have a significant economic effect on a substantial number of small entities.

#### **Small Business Regulatory Enforcement Fairness Act**

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not have an annual effect on the economy of \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. As described above, this proposed rule would continue to reduce regulatory burdens on affected entities, who are mostly agricultural producers.

#### **Unfunded Mandates Reform Act**

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not impose an unfunded mandate on State, local, or tribal governments, or the private sector, of more than \$100 million per year. This rule will not have a significant or unique effect on State, local, or tribal governments, or the private sector. A Small Government Agency Plan is not required.

#### **Takings**

In accordance with Executive Order 12630, this rule does not have significant takings implications. By continuing reductions in the regulatory burden placed on affected landowners resulting from the listing of the Preble's as a threatened species, this rule reduces the likelihood of potential takings. Affected landowners will continue to have more freedom to pursue certain activities that may result

in take of Preble's without first obtaining individual authorization.

#### **Federalism**

In accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Currently, the State of Colorado, the Service, and various local governmental entities in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of HCPs that should support a lasting, effective, and efficient conservation program for the Preble's. To support such efforts, we wish to permanently extend the special rule. The current amended special rule would otherwise expire on May 22, 2004.

#### **Civil Justice Reform**

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

#### **Paperwork Reduction Act**

We have examined this rule under the Paperwork Reduction Act of 1995 and found it to contain no requests for information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

#### **National Environmental Policy Act**

The National Environmental Policy Act analysis has been conducted. An Environmental Assessment was prepared for the May 22, 2001, final special rule, and for the additional exemptions covered in the amended rule. The extension of the October 1, 2002, amended special rule does not alter the analyses made in the Environmental Assessment. The Environmental Assessment discussed impacts to the mouse that are not specific to any time period, that is, they apply equally to both the short term and the long term. This is due to the fact that any possible take from year to year is not cumulative, because the species has

a short life span, and the types of activities allowed under the special rule are not related to any particular timeframe. Therefore, no modification of the Environmental Assessment is needed.

#### **Government-to-Government Relationship With Tribes**

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951) and Executive Order 13175, we have evaluated possible effects on federally recognized Indian Tribes. We have determined that, because no Indian trust resources occur within the range of the Preble's, this rule has no effects on federally recognized Indian Tribes.

#### **Executive Order 13211**

We have evaluated this rule in accordance with Executive Order 13211 and have determined that this rule has no effects on energy supply, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

#### **List of Subjects in 50 CFR Part 17**

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

#### **Regulation Promulgation**

Accordingly, the Service proposes to amend 50 CFR part 17, 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. Section 17.11(h) is amended by revising the entry for Preble's meadow jumping mouse, under "Mammals," on the List of Endangered and Threatened Wildlife to read as follows:

#### **§ 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							
Mouse, Preble's meadow jumping.	<i>Zapus hudsonius preblei</i> .	U.S.A. (CO, WY) ....	.....do .....	T	636	17.95(a)	17.40(l)
*	*	*	*	*	*	*	*

**§ 17.40 [Amended]**

3. Amend paragraph (l) of § 17.40 by removing paragraph (l)(4) and redesignating paragraph (l)(5) as paragraph (l)(4).

Dated: January 21, 2004.

**Julie MacDonald,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 04-4025 Filed 2-19-04; 4:21 pm]

**BILLING CODE 4310-55-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No.; I.D. 020604B]

RIN 0648-AR89

**Fisheries of the Northeastern United States; Monkfish Fishery**

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

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

**SUMMARY:** NMFS proposes to establish target total allowable catch (TAC) levels for the monkfish fishery for the 2004 fishing year (FY), and adjust trip limits and days-at-sea (DAS) for limited access monkfish vessels fishing in the Southern Fishery Management Area (SFMA) based upon the target TAC setting, and trip limit and DAS adjustment methods established in Framework Adjustment 2 (Framework 2) to the Monkfish Fishery Management Plan (FMP). The target TACs for FY 2004, based upon the target TAC setting method, would be 16,968 mt for the Northern Fishery Management Area (NFMA), and 6,772 mt for the SFMA. In accordance with the trip limit and DAS adjustment methods established in Framework 2, this action would adjust the trip limits for vessels fishing in the SFMA to be 550 lb (250 kg) tail weight

per DAS for limited access Category A and C vessels, and 450 lb (204 kg) tail weight per DAS for limited access Category B and D vessels, and would also restrict the FY 2004 DAS available for monkfish limited access vessels fishing in the SFMA to 28 DAS.

**DATES:** Comments must be received on or before March 10, 2004.

**ADDRESSES:** Comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator (RA), Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope "Comments on 2004 Monkfish TACs." Comments may also be submitted via facsimile (fax) to 978-281-9135. Comments may also be submitted via e-mail to the following address: [monkfish89@noaa.gov](mailto:monkfish89@noaa.gov).

Copies of the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action are available upon request from the RA at the above address. Copies of the Environmental Assessment (EA) prepared for Framework Adjustment 2 to the FMP are available upon request from Paul Howard, Executive Director, New England Fishery Management Council (NEFMC), 50 Water Street, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Allison Ferreira, Fishery Policy Analyst, (978) 281-9103, fax (978) 281-9135, e-mail [Allison.Ferreira@noaa.gov](mailto:Allison.Ferreira@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The monkfish fishery is jointly managed by the NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC), with the NEFMC having the administrative lead. Framework Adjustment 2, which became effective on May 1, 2003 (68 FR 22325; April 28, 2003), implemented a target TAC setting method that is based upon the relationship between the 3-year running average of the NMFS fall trawl survey biomass index (3-year average biomass index) and established annual biomass index targets (annual index target). The

annual index targets are based on 10 equal increments between the 1999 biomass index (the start of the rebuilding program) and the biomass target ( $B_{\text{target}}$ ), which is to be achieved by 2009 according to the rebuilding plan established in the FMP. According to this target TAC setting method, annual target TACs are set based on the ratio of the observed biomass index to the annual index target applied to the monkfish landings for the previous fishing year.

In accordance with the annual target TAC setting procedures established in Framework 2, and implemented in the regulations at 50 CFR 648.96(b)(1), the Monkfish Monitoring Committee (MFMC) reviewed the NMFS fall trawl survey biomass indices and monkfish landings for FY 2002, and calculated the target TACs for FY 2004. Based on this information, the 2004 target TACs would be set at 16,698 mt for the NFMA, and 6,772 mt for the SFMA. For the NFMA, the 3-year average biomass index of 2.03 kg/tow is 36 percent above the annual index target of 1.49 kg/tow for 2003. The target TAC setting procedures established in Framework 2 state that, if the 3-year average biomass index is above the index target, the target TAC shall be set equivalent to the previous year's landings plus one-half the percentage difference between the 3-year average biomass index and the annual index target, but no more than 20 percent above the previous year's landings, if fishing mortality cannot be determined. Consequently, the target TAC of 16,968 mt that is being recommended for the NFMA is 18 percent above the monkfish landings for FY 2002, which is one-half of the 36-percent difference between the 3-year biomass index and the annual index target for 2003. This target TAC represents a 4-percent decrease from the target TAC for FY 2003. Although the proposed 2004 target TAC for the NFMA is a decrease from the target TAC for FY 2003, it is a substantial increase from the target TAC for FY 2002, which was 11,674 mt. Furthermore, regulations currently in place for the Northeast (NE)