

FINAL REGULATIONS - CHAPTER 3 - FURBEARERS, GAME REPTILES and SMALL GAME EXCEPT MIGRATORY BIRDS

Mailing Version – 8/25/2006

ARTICLE I - GENERAL PROVISIONS

#302 - Manner of Take:

The following are legal methods of take for game species listed in this chapter. Any method of take not listed herein shall be prohibited, except as otherwise provided by Statute or Commission regulation or by 35-40-100.2-115, C.R.S.

B. Game Mammals

1. Any rifle or handgun.
2. Any shotgun not larger than 10 gauge, incapable of holding more than three (3) shells in magazine and chamber combined.
3. Handheld bows and crossbows.
4. Pellet guns and slingshots.
5. Hawking
6. ~~Toxicants, except~~ Except as prohibited by federal, state, and local statutes or regulations, toxicants or handheld devices designed to deliver into burrows and then ignite a mixture of propane and oxygen, or similar combination of explosive gases, may be used by a person, or a person's agent, to take ~~for~~ Richardson's ground squirrel, rock squirrel, thirteen-lined ground squirrel, pocket gopher, marmots, black-tailed, white-tailed, and Gunnison prairie dogs where necessary to control damage on land owned by them.
7. Live traps, limited to cage or box traps, for tree squirrels and cottontail rabbits, for relocation or to control damage in accordance with #305.

#309 - Wyoming (Richardson's) ground squirrel, black-tailed, white-tailed, and Gunnison prairie dogs, European Starling, and English or house sparrow

A. Season Dates and Units

1. Wyoming ground squirrel, ~~white-tailed, and Gunnison prairie dogs,~~ European starling, and English or house sparrow:
 - a. Statewide: January 1 through December 31.
2. Black-tailed, white-tailed and Gunnison prairie dogs:
 - ~~a. Black-tailed prairie dog hunting is prohibited east of I-25, and in Adams, Arapahoe, Boulder, Broomfield, Custer, Douglas, El Paso, Fremont, Huerfano, Jefferson, Las Animas, Larimer, Pueblo, and Weld counties.~~
 - a. Public Land: June 15 through February 28
 - b. Private Land: January 1 through December 31.

Basis and Purpose:

Modifications were made to prairie dog season dates for all three species found in Colorado. A seasonal closure was placed on White-tailed prairie dogs (WTPD) and Gunnison Prairie Dogs (GPD) to protect populations during breeding and dependent young periods. A season was re-established on Black-tailed prairie dogs (BTPD) with a seasonal closure identical to that of WTPD and GPD.

In 1998 two petitions were filed to the US Fish and Wildlife Service (Service) to list the BTPD as threatened under the Endangered Species Act (ESA). In February of 2000, the Service ruled that the BTPD was warranted but precluded for listing under the ESA. The Colorado Wildlife Commission responded to the USFWS ruling by adopting a regulation designated WCR #309.A.2.a., which prohibited all recreational take of BTPD on public and private lands east of I 25 and in those counties west of I-25 inhabited by BTPD. Private property owners could continue to control prairie dogs in damage situations at anytime during the year in accordance with 33-6-107 (9), and these regulations authorize them to use agents or designees as well as those individuals authorized by statute to control BTPD on public property.

In 2000, the Colorado Department of Natural Resources responded to the USFWS ruling by contracting EDAW, Inc. to conduct a study on BTPD in eastern Colorado. EDAW reported that eastern Colorado had an estimated minimum of 214,570 active occupied acres of BTPD. This was more than twice the estimate included in the petitions for listing. Given the results of EDAW's study, the Colorado Division of Wildlife created a Colorado Grasslands Species Working Group, charged with the task to create a conservation plan for grassland species in Colorado. The DOW also conducted a complete aerial survey of Colorado's historical black-tailed prairie dog habitat. The results from that survey showed that in 2002 Colorado had an estimated 631,000 acres \pm 60,000 acres (95% confidence) of active prairie dog colonies.

In August 2004 (Federal Register Vol. 69, 08/18/2004, Pages: 51217-51226), the Service determined that the BTPD is not likely to become an endangered species within the foreseeable future. This ruling came as the result of the work conducted by State, Federal, and Tribal agencies to produce more accurate estimates of prairie dog abundance and range. In November 2004 (Federal Register Vol. 69, 11/09/2004, Pages 64889-64901), and February 2006 (Federal Register Vol. 71, 02/07/2006, Pages 6241-6248), the U.S. Fish and Wildlife Service determined that petitions requesting federal listing protection WTPD and GPD, respectively, did not present substantial information to warrant the need for federal listing. In all three findings, the Service indicated there was no documented link between recreational shooting and range-wide declines in prairie dog populations of all three species. The Service did acknowledge that a threat of localized decline in BTPD was possible from intensive shooting; and that female and juvenile WTPD were more vulnerable to shooting mortality than males due to behavioral differences. For all three prairie dog species, sylvatic plague was clearly identified as the most likely threat to contribute to population-level declines in distribution and abundance, but evidence for range-wide declines due to plague were lacking. Recognizing that the destruction and modification of present habitat does occur for these species, the Service emphasized a need to continue to monitor the status and trends and threats for all three species, and re-evaluate the species' status as new information becomes available and data gaps are filled.

The current population status of the BTPD across eastern Colorado appears to be increasing. Both the Comanche and the Pawnee National Grassland, have documented the increasing numbers of prairie dog colonies over a three-year period. Total active colonies increased by 79% in 2004 and again by 30% in 2005. Overall hectares increased from 2680ha in 2003 to 6323ha in 2005. Colorado's Conservation Plan for Grassland Species considers BTPD to be abundant if they occupy >450,000 acres of their historic range. The 2002 estimate was 631,000. The current occupied acreage in SE Colorado is likely to be even higher, as BTPD have been increasing throughout much of their range based on field reports from private landowners. The latest information shows us that BTPD are doing much better than they were thought to be doing when the Wildlife Commission decided to completely close BTPD hunting on public property, and that a recreational take season can be supported.

A further modification was made allowing the use of handheld devices designed to deliver into burrows and then ignite a mixture of gases to control animals through concussive force and collapsing of burrows. This change was made as agricultural producers are suffering an economic loss due to an increase in burrowing

animals in and around sprinkler irrigated fields and some rangeland areas. Control of these animals may be achieved by using a mixture of propane and oxygen which is detonated and is believed to be more effective than repeated attempts of poisoning with none of the risks associated with the use of toxicants. Permitting this method for control purposes is intended to allow those suffering damage an additional method of control for animals causing damage.

The statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Wildlife Act, §§ 33-1-101 to 33-6-209, C.R.S., specifically including, but not limited to: §§ 33-1-101, 102, 104, 105, 106-108, 115, and 121; §§ 33-2-104, 105, 106, and 107; § 33-3-104; §§ 33-4-101, 102, 102.5, 103, 116, 116.5, 117, and 119; § 33-5.5-102; and §§ 33-6-107, 109, 112, 113, 113.5, 114, 114.5, 117, 119, 120, 121, 124, 127, 128, 129, 131, 205, 206, 207, and 208.

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE NOVEMBER 1, 2006 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 7TH DAY OF SEPTEMBER, 2006.

**APPROVED:
Jeffrey A. Crawford
Chairman**

**ATTEST:
Claire O'Neal
Secretary**