

out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal agency action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us. Federal agency actions that may affect the Central California tiger salamander and may require consultation with us include, but are not limited to, those within the jurisdiction of the Corps and Federal Highway Administration (FHA).

We believe that protection and recovery of the Central California tiger salamander will require reduction of the threats from destruction and degradation of wetland and associated upland habitats due to urban development, exotic predators, unnecessary California ground squirrel and gopher control, and road construction. These threats should be considered when management actions are taken in habitats currently and potentially occupied by the Central California tiger salamander, and areas deemed important for dispersal and connectivity or corridors between known locations of this species. Monitoring also should be undertaken for management actions or scientific investigations designed to address these threats or their impacts.

Listing also will require us to review any actions that may affect the Central California tiger salamander for lands and activities under Federal jurisdiction, State plans developed pursuant to section 6 of the Act, scientific investigations of efforts to enhance the propagation or survival of the animal, pursuant to section 10(a)(1)(A) of the Act, and habitat conservation plans (HCPs) prepared for non-Federal lands and activities pursuant to section 10(a)(1)(B) of the Act.

Federal agencies with management responsibility for the Central California tiger salamander include the Service, in relation to the issuance of section 10(a)(1)(A) and B) permits for HCPs and other programs. Occurrences of this species could potentially be affected by projects requiring a permit from the Corps under Section 404 of the CWA. The Corps is required to consult with us on applications they receive for projects that may affect listed species. Highway construction and maintenance projects that receive funding from the FHA would be subject to review under section 7 of the Act. In addition, activities that are authorized, funded, or administered by Federal agencies on non-Federal lands will be subject to section 7 review.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, codified at 50 CFR 17.21, in part make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt any such conduct), import, 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 also is 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 endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, OR 97232-4181 (telephone: 503/231-2063, facsimile: 503/231-6243).

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable at the time a species is listed, 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 a species' range. We believe that, based on the best available information, the following actions are not likely to result in a violation of section 9, provided these actions are carried out in accordance with any existing regulations and permit requirements:

(1) Possession, delivery, including interstate transport and import or export from the United States, involving no commercial activity, of Central California tiger salamanders that were collected prior to the date of publication of a final regulation in the **Federal Register** adding the Central California tiger salamander to the list of endangered and threatened species;

(2) Any actions that may affect the Central California tiger salamander that are authorized, funded, or carried out by

a Federal agency, when the action is conducted in accordance with the consultation requirements for listed species pursuant to section 7 of the Act;

(3) Any action taken for scientific research carried out under a recovery permit issued by the Service pursuant to section 10(a)(1)(A) of the Act;

(4) Land actions or management carried out under an HCP approved by the Service pursuant to section 10(a)(1)(B) of the Act, or an approved conservation agreement; and

(5) Release of western mosquitofish and the use of pesticides in non-breeding habitat for the California tiger salamander. Breeding habitat is defined as vernal pools, seasonal ponds, and stock-watering ponds where the animals currently breed, or such water bodies that are within 4.8 km (3.0 mi) of existing breeding habitat, and that contain surface water for at least 3 consecutive months between September and April on average over various precipitation year-types.

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

(1) Unauthorized possession, collecting, trapping, capturing, killing, harassing, sale, delivery, or movement, including intrastate, interstate, and foreign commerce, or harming, or attempting any of these actions, of California tiger salamanders. Research activities where salamanders are trapped or captured will require a permit under section 10(a)(1)(A) of the Act;

(2) Any activity not carried out pursuant to the proposed special rule in "§ 17.43 Special rules—amphibians" that results in destruction or significant alteration of habitat of the Central California tiger salamander, which actually kills or injures an individual of the species, including, but not limited to, the discharge of fill material, or the withdrawal of water to the point at which habitat becomes unsuitable for the species.

(3) Discharges or dumping of toxic chemicals, silt, or other pollutants into, or other alteration of, the quality of waters supporting California tiger salamanders that results in death or injury of the species or that results in degradation of their occupied habitat which actually kills or injures an individual of the species;

(4) Release of exotic species (including, but not limited to, bullfrogs, tiger salamanders, mosquitofish, bass, sunfish, bullhead, catfish, crayfish) into Central California tiger salamander breeding habitat *which results in actual death or injury to the species*;