

(5) Destruction or alteration of uplands associated with seasonal pools used by Central California tiger salamanders during estivation and dispersal, or modification of migration routes such that migration and dispersal are reduced or precluded and actual death or injury to the species results; and

(6) Activities (e.g., habitat conversion, excessive livestock grazing, road and trail construction, recreation, development, and unauthorized application of herbicides and pesticides in violation of label restrictions) that directly or indirectly result in the death or injury of larvae, sub-adult, or adult Central California tiger salamanders, or modify Central California tiger salamander habitat and significantly affect their essential behavioral patterns including breeding, foraging, sheltering, or other life functions, causing actual death or injury to the species. Otherwise lawful activities that incidentally take Central California tiger salamanders, but have no Federal nexus, will require a permit under section 10(a)(1)(B) of the Act.

Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

#### Special Rule

Section 4(d) of the Act provides authority for us to promulgate special rules for threatened species that would relax specific prohibitions against taking. As a means to promote conservation efforts of the Central California tiger salamander, we are proposing a special rule under section 4(d) of the Act. In the case of a special rule, the general regulations applying most section 9 prohibitions to threatened species do not apply to that species, and the special rule contains the prohibitions necessary and appropriate to conserve that species. Under the rule, take of the threatened Central California tiger salamander caused by existing routine ranching activities on private or Tribal lands that don't have a Federal nexus would be exempt from section 9 of the Act. We believe that this special rule will encourage landowners and ranchers to continue their livestock-related practices that are not only important for livestock operations, but also provide habitat for the Central California tiger salamander. Livestock use on Federal lands will be addressed through the section 7 process.

Such regulations generally are issued and published as special rules in the **Federal Register** along with, or

following, the listing of a species. In this case, we have chosen to concurrently publish this proposed special rule along with our proposal to list the Central California tiger salamander as threatened. We are proposing this special rule under the authority of section 4(d) of the Act containing the actions and prohibitions necessary to provide for the conservation of the Central California tiger salamander. The prohibitions we propose do not include the take of Central California tiger salamander during existing routine ranching practices, which are already listed as endangered. If this proposed special rule is finalized, the general regulations at 50 CFR 17.31 would not apply to the Central California tiger salamander where it is designated as threatened. Our rationale for a proposed special rule follows.

The proposed rule to list the Central California tiger salamander as a threatened species identifies the take of the species in upland and aquatic habitats as one of many possible reasons for the decline of the animal. The proposed listing describes the potential loss of Central California tiger salamanders to activities routinely occurring on private and Tribal lands. The specific focus of this proposed special rule is routine activities occurring on private and Tribal lands currently in or that may become subject to ranching practices, such as livestock grazing, rodent control, stock pond management, and noxious weed control.

In areas where seasonal water bodies (e.g., vernal pools) no longer exist due to landscape changes or alteration of local hydrologic conditions, the Central California tiger salamander utilizes manmade water supplies such as stock ponds for breeding (Stebbins 1985; Zeiner *et al.* 1988; Shaffer *et al.* 1993). The creation and maintenance of these ponds provides not only an alternate breeding site for Central California tiger salamanders, in the absence of naturally occurring sites, but also provides additional breeding habitat as well. Routine management practices on manmade water supplies such as stock ponds must be performed in order to protect water supplies and protect the integrity of the water storage system. Management typically includes periodic dredging, dam and levee repair, the introduction of fish species to control aquatic vegetation and pests, and the chemical control of aquatic vegetation.

The Central California tiger salamander uses burrows constructed by small mammals as upland habitat during the non-breeding season (Loredo *et al.* 1996; Trenham 1998a). The California ground squirrel is a very

common resident small mammal found in nearly all regions of California, excluding the Basin Ranges, and the Mojave and Colorado Desert regions. Its range overlaps significantly with the Central California tiger salamander. The California ground squirrel is considered a pest over large agricultural areas and frequently is subject to some form of population control.

#### Justification

Our analysis indicates that this special rule will affect approximately 222,162 ha (548,972 ac) or 49 percent of the range of the Central California tiger salamander. This special rule will apply to land primarily used for livestock grazing. Discussions with Dr. Peter Trenham and Dr. Brad Shaffer, both with the University of California, and Dr. Gary Fellers of the U.S. Geological Survey, lead us to believe that livestock grazing, in many cases, has positive, or at least neutral, effects on the Central California tiger salamander. Vegetation height and density are likely habitat factors affecting the suitability of an area for California ground squirrels. The presence of California ground squirrels and their burrows provide upland habitat for the Central California tiger salamander. Two beneficial effects to Central California tiger salamanders that would occur as a result of exempting livestock grazing in this special rule: The maintenance of open rangelands that are utilized by the salamander, and the construction and maintenance of stockponds that are used for breeding by the species.

California ground squirrels typically construct burrows that range in length from 1.5 to 9.1 m (5 to 30 ft) and range in depth below the surface from 0.6 to 1.2 m (2 to 4 ft) (University of California 2002). Central California tiger salamanders generally spend much of their lives within the first 0.9 m (3 ft) of the burrow (Loredo and Van Vuren 1996). Both occupied and unoccupied burrows are utilized as upland habitat (Loredo *et al.* 1996). Cattle and sheep, the two most common domestic grazing animals in California, have coexisted with California ground squirrels and Central California tiger salamanders since the arrival of early Spaniard explorers to California in the 16th century. It has not been demonstrated in the scientific literature, nor do we expect, that continued moderate intensity livestock grazing will destroy rodent burrows to such an extent that Central California tiger salamanders cannot use them as upland habitat. Additionally, small mammal burrows collapse naturally within 18 months if not maintained (Loredo *et al.* 1996), so