

salamander. The finalization of this special rule is contingent upon a final listing of the Central California tiger salamander. Exempted activities include existing routine ranching practices as outlined above by non-Federal entities on existing rangeland (as defined by U.S. Department of Agriculture, National Agricultural Statistics Service 1997 Census of Agriculture—Appendix (1)) except for the Sonoma County DPS and Santa Barbara County DPS of the California tiger salamander, which are already listed as endangered.

Take Prohibitions

We propose that the prohibitions under section 9 of the Act that apply to threatened species continue to apply all California tiger salamander populations, to the same extent that they apply to other threatened species under our general regulations at 50 CFR 17.31.

Effects of the Special Rule on Future Section 7 Consultations

This special rule does not change the obligation of Federal agencies to consult with us under section 7 of the Act concerning actions they authorize, fund, or carry out that may affect listed species, including the California tiger salamander.

Section 10(a)(1)(B) authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities, such as agriculture, surface mining, and urban development. Incidental take permits must be supported by an HCP that identifies conservation measures that the permittee agrees to implement to conserve the species, usually on the permittee's lands. Such conservation measures may, for example, minimize the reduction in the number of California ground squirrels whose burrows are used by estivating California tiger salamanders. These and other techniques to avoid take of California tiger salamanders or protect the species can be examined in the development of an HCP, candidate conservation agreement with assurances (while unlisted), or safe harbor agreement. A key element in our review of each of these conservation strategies is a determination of the plan's effect upon the long-term conservation of the species. We would approve an HCP, and issue a section 10(a)(1)(B) permit, as appropriate, if the plan would minimize and mitigate the impacts of the take to the maximum extent practicable and would not appreciably reduce the likelihood of the survival and recovery of that species in the wild.

We also are exploring other opportunities to permit conservation

activities for the California tiger salamander. In particular, we encourage the public to comment on the desirability of promulgating a special rule under section 4(d) of the Act that would exempt from the section 9 take prohibition activities associated with conservation plans for the California tiger salamander. Eligible conservation plans would need to promote recovery and be approved by the Service. Activities potentially addressed under such a plan, and which would be exempt from the section 9 take provisions, could include, but are not limited to, construction of new breeding and upland habitats, fencing, and removal of bullfrogs or other exotic animals.

Reclassification of Santa Barbara County Population and Sonoma County Population

As noted above, we published a final determination on January 19, 2000, listing the Santa Barbara County tiger salamander as endangered (65 FR 3095). We hereby incorporate by reference in this document the provisions of that final determination. We determined that, based on geographic isolation, the lack of evidence of gene flow with other populations, and marked genetic differentiation, the Santa Barbara County population of California tiger salamanders meets the discreteness and significance criteria in our Policy Regarding the Recognition of Distinct Vertebrate Population Segments and qualifies as a DPS. In making this determination, we assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Santa Barbara County population of California tiger salamanders. Like the California tiger salamander, the Santa Barbara population is restricted to breeding ponds threatened by agricultural conversion, fragmentation, and development. Ponds and upland habitats are being lost in all four regions of the county in which the species occurs. On the other hand, the Santa Barbara salamander occurs in a significant part of its historic range. There are 14 known breeding sites all located on privately owned land, and no conservation agreements or easements were in place as of the data of the final listing determination.

Also as noted above, on March 19, 2003, we published a final determination listing the Sonoma County tiger salamander as endangered (68 FR 13497). We incorporate by reference here the provisions of that determination. We determined that the population segment meets both the

discreteness and significance criteria of our DPS policy and qualifies for listing. In making this determination, we carefully assessed the best scientific and commercial information available at that time regarding the past, present, and future threats faced by the Sonoma County California tiger salamander. We found that the DPS faces continuing habitat destruction, degradation, and fragmentation. We were able to identify only eight known breeding sites in Sonoma County. However, we observed: "We note that the petition and subsequent emergency listing of this population has led to increased interest in this population by a variety of parties, and thus to an acceleration of the rate at which new information is becoming available. We expect this trend to continue subsequent to this final listing determination" (68 FR 13502).

The analysis of threats for the Santa Barbara and Sonoma populations is virtually identical to that for the Central California population which we are proposing for threatened status. The research supporting the final Santa Barbara determination, the final Sonoma determination and this proposed rule is the same. In both cases, habitat loss is the apparent key threat. The remaining threats are precisely the same. Obviously there are site-specific distinctions which may be of significance. Given this identity of threat, it may be that the populations should have the same status. Such a determination may turn on a number of factors. For example, is the rate of habitat conversion in Santa Barbara County and Sonoma County more or less than that of the 23-county area in which the Central California tiger salamander population is found? Is the habitat remaining in the Central Valley equivalent to that remaining in Santa Barbara County or Sonoma County? Is the tiger salamander population more or less imperiled in Santa Barbara and Sonoma Counties given that Santa Barbara's recent annual growth rate has been about 1 percent, Sonoma's has been under 1 percent, and in the counties in the range of the Central California tiger salamander, growth has averaged in excess of 1 percent (California Department of Finance 2003)?

In the final rule to list the Sonoma County population, we announced that: "As a part of [this] rulemaking we intend to review all then-current information regarding both the Sonoma County and Santa Barbara County populations, including whether they constitute valid distinct population segments, and render a final