this notice "Hazardous Materials in COFC and TOFC Service."

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

In consideration of the foregoing, 49 CFR parts 171 and 174 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, and 1818; 33 U.S.C. 1321; 49 CFR part 1.

§ 171.7 [Amended]

2. In § 171.7, in the table in paragraph (a)(3), the following changes would be made:

a. The entry "AAR Specification for Tank Cars, Specification M–1002, 1988" would be removed from Column 1 and, in Column 2, captioned "49 CFR reference," the entries "173.31; 179.100" would be removed.

b. The entry "AAR Specification for Tank Cars, Specification M–1002, Section C—Part III, September, 1988" in column 1 would be revised to read "AAR Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M–1002, 1990", and the entry in column 2 would be revised to read: "173.31; 174.63; 179.6; 179.12; 179.100; 179.101; 179.102; 179.103; 179.105; 179.200; 179.201; 179.220; 179.300; 179.400."

c. The entry "AAR Manual of Standards and Recommended Practices, Section I, Specially Equipped Freight Car and Intermodal Equipment, (800 Series), 1990" would be added in column 1 and the entry "174.63" would be added in column 2.

PART 174–CARRIAGE BY RAIL

3. The authority citation for part 174 would continue to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1808; 33 U.S.C. 1321; 49 CFR 1.53(e), 1.53, app. A to part 1.

4. In § 174.61, paragraph (c) would be removed and the section heading and the first sentence in paragraph (a) would be revised to read as follows:

§ 174.61 Transport vehicles and freight containers on flat cars.

(a) A transport vehicle or freight container containing a hazardous material must be designed and loaded so that it will not become seriously damaged under conditions normally incident to transportation. * * *

* * * * *

5. Section 174.63 would be revised to read as follows:

§ 174.63 Cargo tanks, multi-unit tank car tanks, portable tanks, and IM portable tanks.

(a) A Specification 51, 52, 53, 56, 57, IM 101, or IM 102 portable tank may be transported inside a transport vehicle or container body provided the tank is secured with a restraint system that will prevent the tank from changing position, sliding into other tanks, or contacting the side or end walls (including doors) under conditions normally incident to transportation.

(b) A portable tank or IM portable tank may be transported in COFC service or TOFC service subject to the following conditions:

(1) The tank contains a material authorized to be packaged in accordance with § 173.240, 173.241, 173.242, or 173.243;

(2) The tank and flatcar conform to requirements in "Specifications for Acceptability of Tank Containers", (AAR 600), Section C-Part III, Chapter 4, of the "Specifications for Tank Cars", AAR Manual of Standards and Recommended Practices;

(3) The tank may not be in a double-stack;

(4) For TOFC service, the trailer chassis conforms to requirements in paragraphs 3, 4, 5, and 6 of AAR Specification M–943 "Container Chassis For TOFC Service", and the AAR Specification M–952 "Intermodal Container Support and Securement Systems for Freight Cars", of the AAR specification for "Specially Equipped Freight Car and Intermodal Equipment";

(5) For COFC service, the container support and securement systems conform to requirements in Specification M–952 "Intermodal Container Support and Securement Systems for Freight Cars", of the AAR specification for "Specially Equipped Freight Car and Intermodal Equipment"; and

(6) All securement fittings are fully engaged and in the locked position.

(c) A carrier may not transport a portable tank or IM portable tank that does not conform to paragraph (a) or (b) of this section unless approved for transportation by the Associate Administrator for Safety, FRA.

Approvals in effect on February 28, 1991 for the transportation of portable tanks or IM portable tanks in TOFC or COFC service expire on the date stated in the approval letter or [6 MONTHS FROM THE DATE THE FINAL RULE IS ISSUED], whichever is later.

(d) A carrier may not transport a cargo tank or multi-unit tank car tank containing a hazardous material in TOFC or COFC service unless approved for transportation by the Associate Administrator for Safety, FRA.

Issued in Washington, DC on May 4, 1993, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–10829 Filed 5–6–93; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on Petition to List the Spotted Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The Service finds that listing of the spotted frog (*Rana pretiosa*) as threatened in some portions of its range is warranted but precluded by other higher priority listing actions.

DATES: The finding announced in this notice was approved on April 23, 1993. Comments and information may be submitted until further notice.

ADDRESSES: Questions, comments and additional information regarding this finding should be sent to Mr. Larry Shanks, Chief, Endangered Species and Environmental Contaminants, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the Service's Denver Regional Office, 134 Union Boulevard, Lakewood, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Patricia Worthing at the Denver Regional Office (see **ADDRESSES** above), telephone (303) 236–7398.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a 90-day finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. If the finding is positive, the Service is also required to promptly commence a status review of the species. Section 4(b)(3)(B) requires that the Service make a 12-month finding as to whether the petition presenting substantial information is (i) warranted, (ii) not warranted, or (iii) warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species.

A petition dated May 1, 1989, from the Board of Directors of the Utah Nature Study Society was received by the Service on May 4, 1989. The petitioners requested that the Service add the spotted frog (*Rana pretiosa*) to the List of Threatened and Endangered Species and to specifically consider the status of the Wasatch, Utah, population.

The Service published a notice of a 90-day finding in the **Federal Register** (54 FR 42529) on October 17, 1990, indicating that there was substantial information to indicate that the petitioned action may be warranted. Concurrent with publishing the notice, the Service initiated a status review. The period of the status review was prolonged because, throughout its wide range, there was a lack of quantitative information documenting the spotted frog's current distribution and status. Additionally, the discovery that spotted frog genetics research was being conducted raised questions regarding the appropriateness of the current taxonomic classification of the various populations of spotted frog.

The Service sponsored an interagency workshop in 1991 in order to clarify the distribution, taxonomy, and current status of the spotted frog. The subject 12-month petition finding utilized information and comments provided at this workshop plus available literature and information obtained from university and agency personnel familiar with the species and the habitat conditions in specific areas.

The petitioners stated that "the spotted frog's present range in the lower 48 states is greatly reduced from its historic range," and that "the current status (of the species) is greatly reduced from historic times." The petitioners further indicated that the "scientific importance of the spotted frog is that this species lives in many disjunct populations that reflect Pleistocene populations."

Threats identified by the petitioners include loss of habitat (caused by dam and reservoir construction, alteration of drainage patterns, urban and agricultural use of water, and highway and bridge construction); impacts as a result of introductions of exotic species; lack of inventories of native wetland animals and insufficient impact analyses conducted prior to development; inadequate mitigation activities; and Federal and State laws and regulations that do not protect wetlands and riparian areas.

The two subspecies identified by the petitioners, *R. p. pretiosa* and *R. p. luteiventris*, are no longer generally recognized by the scientific community (Green 1991, Nussbaum et al. 1983). Currently, the spotted frog is considered a monotypic species, *Rana pretiosa*, throughout its range (Nussbaum et al. 1983). However, genetic studies currently being conducted by Green (1991). However, genetic studies currently being conducted by green (1991) suggest that the species may actually consist of an additional one or more species and subspecies.

Adult frogs have large, dark spots on their backs and pigmentation on their abdomens ranging from yellow to red (Turner 1959). Spotted frogs in Utah are reported to have fewer and lighter colored spots (Colborn, U.S. Fish and Wildlife Service, pers. comm., 1992; Shirley, Utah Department of Wildlife Resource, pers. comm., 1992). The spotted frog is closely associated with water (Dumas 1966, Nussbaum et al. 1983). Habitat includes the marshy edges of ponds, lakes, and slow-moving cool water streams) Licht 1974. Nussbaum et al. 1983) and cold water springs (Morris and Tanner 1969, Hovingh 1987a. Stebbins 1985 in Toone 1991).

The historic range of the spotted frog includes portions of Alaska, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming, and Alberta and British Columbia, Canada (Turner and Dumas 1972; Nussbaum et al. 1983; Hovingh 1986). The species' range is highly subdivided at its southern extent with various groups of frogs occurring in isolated habitats such as high elevation wetlands or in desert springs. This fragmented range indicates that there may be considerable, and previously undetected, genetic divergence among *R. pretiosa* populations, even to the extent that this taxon may actually represent a complex of similar species (Green 1991).

The present distribution of the spotted frog includes a main population in southeast Alaska, Alberta, British Columbia, eastern Washington, northeastern Oregon, northern and central Idaho, and western Montana and Wyoming. Additional disjunct populations occur in northeastern California, southern Idaho, Nevada, Utah, and western Washington and Oregon.

Based on geographic and climatic separation and supported by genetic separation as determined by Green (1991) and David Green (McGill University, pers. comm., 1992), the Service identifies the following distinct vertebrate populations of the spotted frog: (1) The main population (Alaska, British Columbia, Alberta, Wyoming, Montana, northern and central Idaho, eastern Washington, and northeastern Oregon), (2) Great Basin (southern Idaho and Nevada), (3) west coast (western Washington and Oregon and northeastern California), (4) Wasatch Front (Utah), and (5) West Desert (Utah). Green (1991) did not separate the two Utah groups. However, the Service identified the Wasatch Front and West Desert spotted frogs as two populations based primarily on geographic separation but supported by evidence of some genetic variation from Green (1991) and by other anecdotal evidence of possible morphological differences (Leon Colborn, pers. comm., 1992; David Green, pers. comm., 1992; Peter Hovingh, University of Utah, pers. comm., 1992). The southernmost populations (southern Idaho, Nevada, and Utah) are believed to be relict populations occurring in small patches of suitable habitat remaining since the last ice age. The extreme western population (western Washington and Oregon and northeastern California) is believed to be a separate ecologic form confined to the warmer, milder climatic conditions of the west coast. These population divisions may be modified due to redefinition of the taxonomy of the spotted frog based on final genetic results, or by additional scientific information.

The Service believes that each of the disjunct populations is isolated from each other and from the main population by large distances with intervening stretches of unsuitable habitat or by distinct climatic variations that form substantial geographic or ecological barriers. Each of these disjunct populations is thus separated from any other population throughout its entire life cycle and at all times of the year. These ecological and geographic barriers are believed to

effectively prevent any interchange between any of the populations.

The main population of spotted frogs (in Alaska, Alberta, British Columbia, eastern Washington and Oregon, northern and central Idaho, and western Montana and Wyoming) occurs over a large area with a variety of habitat conditions and threats. While there are activities occurring within this region that potentially impact spotted frogs, and while some declines have been documented or are suspected, spotted frogs are believed to be still abundant in many areas. However, the disjunct populations in the southern and western part of the species' range are either severely declining or nearly extirpated or are faced with significant threats altering or eliminating the species' habitat. Reduction, elimination, or alteration of wetland habitats has been a primary factor in each of these populations.

In the west coast population (western Washington and Oregon and northeastern California), spotted frogs have been nearly extirpated west of the Cascades from the Williamette Valley and Puget Trough) and have disappeared from most locations in the Cascades and in northeastern California (Nussbaum et al. 1983; Marshall 1989; Storm 1966 in McAllister and Leonard 1990; McAllister and Leonard 1991; Marc Hayes, Portland State University, pers. comm. 1992). Modification of river hydrology from completion of a series of dams in the Williamette Valley and the Puget Trough has significantly reduced the amount of shallow overflow wetland habitat historically utilized by the spotted frog (Marc Hayes, pers. comm., 1992; Kelly McAllister, Washington Department of Wildlife, pers. comm., 1992). According to Hayes (pers. comm., 1992), impacts to spotted frogs in the Cascades have resulted from grazing and from the construction of reservoirs which have inundated large marsh complexes and fragmented remaining marshes, thereby reducing the survival of spotted frogs in these areas. In northeastern California, Mark Jennings (California Academy of Sciences, pers. comm., 1992) indicates that grazing coupled with degraded water quality caused by irrigation and other agricultural activities have impacted spotted frog populations. Next to loss of habitat, Hayes (pers. comm., 1992) believes the second major factor affecting the west coast spotted frog population is the introduction and naturalization of nonnative predacious fishes and other nonnative aquatic species that are believed to prey on tadpoles of spotted frogs and other native western *Rana* species.

Spotted frogs of the Great Basin population (Nevada and southern Idaho) have undergone significant declines (Turner 1962; Peter Hovingh, pers. comm., 1992). Extensive loss of habitat has occurred from conversion of wetland habitats to irrigated pasture and dewatering of river areas by irrigation practices; in addition, there has been extensive impact on riparian habitats primarily due to intensive livestock grazing (Peter Hovingh, pers. comm., 1992).

In the Wasatch Front population in Utah, spotted frogs have undergone significant decline (Hovingh 1988; Dennis Shirley, pers. comm., 1992). Habitat loss and modification from reservoir construction and from urban and agricultural developments, compounded with predation by nonnative species, are the primary causes of the decline (Dennis Shirley, pers. comm., 1992).

While less habitat loss has occurred with the West Desert population of Utah than with the other southern and western populations, habitat availability is limited. Degradation of spring habitats and water quality from cattle grazing and other agricultural activities in these limited habitats are potential threats to the spotted frogs of this population (Hovingh 1987b; Peter Hovingh, pers. comm., 1992; Dennis Shirley, pers. comm., 1992).

Finding

The Act requires that the Service make determinations regarding listing solely on the basis of the best scientific and commercial data available after conducting a review of the status of the species and after taking into account those efforts being made by States and others to protect the species. On the basis of the best available scientific and commercial information, the Service finds that the petitioned action to list the spotted frog throughout its entire range is not warranted.

The Service has the authority to list a distinct population segment of any vertebrate fish or wildlife species which interbreeds when mature. However, Congressional language indicates that the Service is "to use the ability to list populations sparingly and only when the biological evidence indicates that such action is warranted" (Senate Report No. 96–151, 96th Congress, 1st Session 7, 1979).

It is the opinion of the Service that, although the spotted frog appears to be common and abundant in its main population, it is known to be severely declining in the southern and western portions of its historic range. Based on the extensive loss of alteration of wetland habitat, compounded by the introduction of nonnative species, the Service finds that listing the west coast spotted frog population (western Washington and Oregon and northeastern California), the Great Basin population (Nevada and southern Idaho), and the Wasatch Front population (Utah) is warranted but precluded by work on other species having higher priority for listing. Based on the limited habitat and the potential for significant habitat destruction or alteration, the Service finds that the listing of the West Desert population (Utah) is also warranted but precluded.

In making this warranted-but-precluded finding for the four vertebrate populations identified above, the Service transfers these populations from Category 2 candidates to Category 1. The main populations of the spotted frog is retained in Category 2.

Section 4(b) of the Act states that the Service may make warranted-but-precluded findings only if it can demonstrate that (1) an immediate proposed rule is precluded by other pending proposals, and that (2) expeditious progress is being made on other listing actions. On September 21, 1983 (48 FR 43098), the Service published in the **Federal Register** its priority system for listing species under the Act. The system considers three factors in assigning species numerical listing priorities on a scale of 1 to 12. The three factors are magnitude of threat, immediacy of threat, and taxonomic distinctiveness.

As discussed above, the spotted frog faces threats primarily from habitat alteration and destruction, and predation and competition by nonnative species. The Service considers the magnitude of these threats in the west coast population, the Wasatch Front population and the Great Basin population to be high and imminent. As distinct population segments, the three populations of spotted frog have a lower listing priority than full species or monotypic genera under comparable threats. Therefore, the listing priority for these three populations is 3. The threats facing the West Desert population (Utah) are considered moderate to low. The listing priority for that population is 9. Service policy is to propose the highest priority species first. Priority 1 and 2 species currently warrant more immediate listing consideration than the spotted frog populations.

The Service believes that expeditious progress is being made on other listing actions. In fiscal year 1990 (October 1, 1989, to September 30, 1990), the Service proposed 106 species for listing and added 47 species to the lists of

endangered and threatened wildlife and plants. In fiscal year 1991 (October 1, 1990, to September 30, 1991), 87 species were proposed for listing and 52 species were added to the lists. In fiscal year 1992 (October 1, 1991, to September 30, 1992), 114 species were proposed for listing and 92 were added to the lists. As of March 31 in fiscal year 1993, the Service had proposed 79 species for listing and added 49 species to the lists. The Service attempts to increase listing efficiency through multi-species listing actions when appropriate.

Further investigation and biological research on the species status in all populations is encouraged. If data become available in the future indicating that the spotted frog in the main population may qualify for listing under the Act, or if further information becomes available to indicate a greater abundance of spotted frogs or a decrease in threats in any of the southern and western populations, the Service will reassess the status of these populations as necessary. More detailed information regarding the above decisions may be obtained from the Denver Office (see **ADDRESSES** above).

References Cited

A complete list of all references cited herein is available upon request from the Denver Office (see **ADDRESSES** above).

Author

This notice was prepared by Patricia Worthing (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

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

Dated: April 23, 1993.

John F. Turner,

Director, Fish and Wildlife Service.

[FR Doc. 93–10813 Filed 5–6–93; 8:45 am]

BILLING CODE 4310–55–M