

settlement agreement, where the FAR–NOPR approach would only allow 80% of the contractor's costs to be reimbursed, even if the settlement agreement provides for full reimbursement.

The Department is considering switching to the FAR–NOPR approach and amending existing paragraphs in its clause, rather than creating a new stand-alone paragraph. DOE urges interested members of the public to comment on the two approaches and whether the Department should adopt the FAR approach in its final rulemaking.

Issued in Washington, DC on July 18, 1996.
Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173 and 180

[Docket No. HM–200; Notice No. 96–14]

RIN 2137–AB37

Hazardous Materials in Intrastate Transportation; Access to Docket During Temporary Closure of Dockets Unit

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Access to docket during temporary closure of Dockets Unit.

SUMMARY: This notice announces an alternate location for information contained in Docket HM–200 (Hazardous Materials in Intrastate Transportation) during temporary closure of RSPA's Dockets Unit.

DATES: *Written Comments:* The closing date for written comments under Notice No. 96–9 [61 FR 24904] remains August 16, 1996.

FOR FURTHER INFORMATION CONTACT: Jackie Smith or Diane LaValle, (202) 366–8553, Office of Hazardous Materials Standards, RSPA, Department of Transportation, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In an effort to improve the indoor air quality in the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, the U.S. Department of Transportation and the building's owner have initiated a major cleaning project. This project entails a thorough cleaning of the building on a floor-by-floor basis. During the cleaning of each floor, the

floor will be closed to employees and visitors. It is estimated that the cleaning of each floor will take approximately three weeks. During this three-week period, the offices on each floor will be closed and the affected employees will be relocated to another building. Once the cleaning of a floor is complete, employees and visitors may return to that floor. RSPA's Dockets Unit is located on the eighth floor. Cleaning of the eighth floor is scheduled to begin on Monday, August 12, 1996 and last until September 3, 1996. As a result, RSPA's Dockets Unit is scheduled to close for approximately three weeks.

Because of the volume of materials in the Dockets Unit, it cannot be relocated during the cleaning and will be closed. However, since the comment period is open until August 16, 1996 under the supplemental notice of proposed rulemaking, extension of comment period [61 FR 24904], Docket HM–200 will be relocated and made available for review in Room 5414A of the Nassif Building, telephone (202) 366–4900. The public may view this docket between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday, except Federal holidays.

Following completion of cleaning, Docket HM–200 will be returned to the Dockets Unit in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC, 20590–0001, telephone (202) 366–5046.

Issued in Washington, DC on July 19, 1996, under the authority delegated in 49 CFR part 106, Appendix A.

Alan I. Roberts,
Associate Administrator for Hazardous Materials Safety.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC22

Endangered and Threatened Wildlife and Plants; Notice of Six Month Extension on the Proposed Rule to List the Barton Springs Salamander as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the deadline to determine whether the Barton Springs salamander (*Eurycea*

sosorum) is an endangered species under the Endangered Species Act of 1973 (Act), as amended, is extended for a period not to exceed August 30, 1996.

DATES: The new deadline for final action on the proposed listing of the Barton Springs salamander as an endangered species is August 30, 1996. The public comment period on this proposed listing was closed on July 10, 1996 by virtue of an order issued on that date by the United States District Court for the Western District of Texas.

ADDRESSES: Inquiries regarding the proposed listing should be sent to the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 10711, Burnet Road, Suite 200, Austin, Texas 78758 (512) 490–0057, facsimile (512) 490–0974.

SUPPLEMENTARY INFORMATION:

Background

The Service published a proposed rule to list the Barton Springs salamander as an endangered species on February 17, 1994 (59 FR 7968). As set forth in the proposal, the primary threat to this species is contamination of the waters that supply Barton Springs by potential catastrophic events and chronic degradation resulting from urban activities. Also of concern are disturbances to the salamander's above-ground springhead habitats (the waters in Barton Springs, Eliza Pool, and Sunken Garden Springs) and reduced groundwater supplies resulting from increased groundwater withdrawal.

The comment period on the proposed listing originally closed April 18, 1994. It was reopened May 26, 1994 and closed July 1, 1994 (59 FR 27257; May 26, 1994). On March 19, 1995, the Service published a notice extending the deadline for final action on this proposed listing for a period of up to six months and the public comment period was reopened until May 17, 1995 (60 FR 13105). The notice indicated this extension was necessary because, “during the comment periods and subsequent to the close of comment on this proposal, the Service received recommendations and information relevant to a final decision on the listing of the salamander. In order to adequately incorporate all pertinent information in the deliberation leading

to a decision and to ensure an opportunity for public comment on as complete an administrative record as possible, the deadline for final action on this proposal is being extended and the comment period reopened" (60 FR 13105).

In the July 10, 1996, Order of United States District Court for the Western District of Texas ("July 10 Order"), the court found that, "the extension was not valid because an extension under the ESA can only be granted by the Secretary based on a finding that there is substantial disagreement regarding the sufficiency and accuracy of the available data upon which the listing decision is to be made." Specifically, the court found that the need to consider a report by the Barton Springs/Edwards Aquifer Conservation District did not justify the extension. The court found that "Congress determined that there must be substantial scientific disagreement in order to warrant an extension * * *." However, the Act indicates "substantial disagreement" is necessary for a six month extension to be appropriate and does not specify that disagreement must be scientific. In that the inadequacy of existing regulatory mechanisms is one of the five elements which the Service must consider in determining whether to list a species, 16 U.S.C. 1533(a)(1)(D), the Service believes that substantial disagreement concerning this aspect of the listing decision constitutes a valid basis for a six month extension since data regarding that element is "relevant to the determination * * * concerned * * *." 16 U.S.C. 1533(b)(6)(B)(i).

The court ordered the Secretary to make a decision whether to list the salamander as endangered, withdraw the listing, or extend the time to make a decision by no more than six months. The Secretary now finds that there exists substantial disagreement regarding the sufficiency or accuracy of the data regarding the inadequacy of existing regulatory mechanisms upon which the listing decision is to be made.

The court anticipated the possibility that the Secretary might opt for a six month extension and specified a method by which the six months should be calculated for the purposes of this listing. The court instructed the Secretary that in the event such an extension was deemed warranted, that, "the six month period began on February 17, 1995, (the date upon which the Secretary was to make some determination) and continues until April 10, 1995 (the starting date of the moratorium—54 days). The six month period commenced again on April 26, 1996, when the President waived the

budget moratorium. Therefore, the six month extension, if invoked, expires on August 30, 1996" July 10 Order at 7. Since the Southwest Region identified processing the final determination for the Barton Springs salamander as its highest priority under the listing priority guidance (61 FR 24722; May 16, 1996), the Service intends to issue a final determination by August 30, 1996.

Section 4(b)(6)(I) of the Act indicates that the Secretary may extend the one year period following proposal for six months "for purposes of soliciting additional data." The Service is unable to solicit additional data at this time since the court has ordered the comment period, which the Service reopened on June 24, 1996 (61 FR 32413), closed effective July 10, 1996, the date of its order. At the time the Service reopened the comment period, however, it justified that action by noting the need to obtain additional information on "proposed regulatory protection under State authorities including water quality protection zones, nonpoint source pollution programs, monitoring, and Edwards Aquifer-specific actions * * *." To evaluate effectively whether the existing regulatory structure may adequately protect the species, the Service must obtain further information on these developments" (61 FR 32414). The Service also reprinted two letters, one from the Texas Natural Resources Conservation Commission and one from Valerie Bristol, Travis County Commissioner, requesting the comment period be reopened and noting regulatory initiatives concerning which information should be gathered. In the notice reopening the comment period, the Service advised interested parties to submit any information as soon as possible because the comment period might be closed by the courts without advance notice. As described previously, the U.S. District Court for the Western District of Texas did order the comment period closed on July 10, 1996. However, during the two weeks the comment period was open, the Service received five comment letters, including comments from three Texas state regulatory agencies. Three of these comments referred specifically to the adequacy of existing regulatory mechanisms. Therefore, while the Service will not be able to seek additional information subsequent to the finding the Secretary makes today, the Service believes the public was given an opportunity to provide additional information in the very recent past. During the next several weeks, the information received during

the comment period will be analyzed and the comments responded to in the final decision document, thus fulfilling the goal of the six month extension and assuring that the Service will appropriately evaluate the five factors provided in section 4 of the Act. Such consideration would not be possible if the Service were to make a final decision regarding the proposal to list the Barton Springs salamander as endangered by July 23, 1996, as required by the July 10 Order in the absence of a six month extension.

Authority

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

Dated: July 18, 1996.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[I.D. 071296D]

International Code of Conduct for Responsible Fisheries: Draft Implementation Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces the availability of the Draft Implementation Plan for the Code of Conduct for Responsible Fisheries (Code) and is requesting comments from the public. The Code was negotiated under the sponsorship of the Food and Agriculture Organization of the United Nations (FAO) as an effort to promote international understanding about the responsible conduct of fishing and related activities. The intended effect of the Implementation Plan is to assess relevant U.S. policy and practices in relation to the standards set forth in the Code and, within the responsibilities of NMFS, to present actions to meet those standards.

DATES: Comments should be submitted on or before September 23, 1996.

ADDRESSES: Comments on the Draft Implementation Plan should be submitted to Dean Swanson, Acting