

FOR FURTHER INFORMATION CONTACT:
Judith Koontz at (202) 260-8608.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on October 24, 1996, by operation of law, the rule did not take effect on October 24, 1996 as stated. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act 5, U.S.C. 553(b), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since October 24, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve

special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the October 24, 1996 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: December 30, 1997.

Carol M. Browner,
Administrator.

[FR Doc. 98-265 Filed 1-2-98; 1:34 pm]

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**ENVIRONMENTAL PROTECTION
AGENCY**

48 CFR Part 1552

[FRL-5943-5]

**Technical Amendments to Acquisition
Regulation: Limitation of Future
Contracting: Correction of Effective
Date Under Congressional Review Act
(CRA)**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule; correction of
effective date under CRA.

SUMMARY: On February 5, 1997 (62 FR 5347), the Environmental Protection Agency published in the **Federal Register** a final rule concerning the Acquisition Regulation Limitation of Future Contracting, which established an effective date of March 7, 1997. This document corrects the effective date of the rule to December 30, 1997 to be consistent with sections 801 and 808 of

the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act. **EFFECTIVE DATE:** December 30, 1997.

FOR FURTHER INFORMATION CONTACT:
Judith Koontz at (202) 260-8608.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated February 5, 1997, by operation of law, the rule did not take effect on March 7, 1997 as stated. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since February 5, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995

(Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the February 5, 1997 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

List of Subjects in 48 CFR Part 1552

Environmental protection,
Government procurement.

Dated: December 30, 1997.

Carol M. Browner,
Administrator.

Therefore, 48 CFR chapter 15 is amended as set forth below:

1. The authority citation for part 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Section 1552.209-74 [Amended]

2. Section 1552.209-74 is amended by revising the date in the clause heading to read "(Dec 1997)".

3. Section 1552.209-74 is amended by revising the date in the clause heading for Alternate I to read "(Dec 1997)".

4. Section 1552.209-74 is amended by revising the date in the clause heading for Alternate II to read "(Dec 1997)".

5. Section 1552.209-74 is amended by revising the date in the clause heading for Alternate III to read "(Dec 1997)".

6. Section 1552.209-74 is amended by revising the date in the clause heading for Alternate IV to read "(Dec 1997)".

7. Section 1552.209-74 is amended by revising the date in the clause heading for Alternate VI to read "(Dec 1997)".

[FR Doc. 98-261 Filed 1-5-98; 9:16 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD06

Endangered and Threatened Wildlife and Plants; Endangered Status for Brother's Island Tuatara

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: The Service determines endangered status for the Brother's Island tuatara (*Sphenodon guntheri*), a reptile of New Zealand. Although already legally covered by an endangered classification, this species previously was considered part of the related and more widespread tuatara, *Sphenodon punctatus*. Both species are threatened by various factors, especially predation from introduced rats. This rule continues the protection of the Endangered Species Act of 1973, as amended (Act), for the Brother's Island tuatara.

EFFECTIVE DATE: February 6, 1998.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203. Express, messenger-delivered, and regular mail should be sent to the Office of Scientific Authority at this same address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority at the above address (phone 703-358-1708; FAX 703-358-2276).

SUPPLEMENTARY INFORMATION:

Background

Tuatara are a unique group of lizard like reptiles now restricted to New Zealand and represented by the single genus *Sphenodon*. Because of excessive human hunting and predation by introduced animals, especially rats, tuatara are now found only on various small island off the coast of the two main islands of New Zealand. For many years, the prevailing view among zoologists was that the living tuataras represented only the single species *Sphenodon punctatus*, and that was the

only species on the U.S. List of Endangered and Threatened Wildlife (June 2, 1970; 35 FR 8495).

A recent paper (Daugherty, C.H., A. Cree, J.M. Hay, and M.B. Thompson, 1990. "Neglected taxonomy and continuing extinctions of tuatara." *Nature*: 347:177-179) pointed out that, based on a morphological and genetic analysis, a second species, *S. guntheri*, survived on North Brother Island in Cook Strait. *S. guntheri* actually had been first described in 1877, but over time had come to be regarded as just a component of *S. punctatus*. The population of tuatara on North Brother Island was known at the time that *S. punctatus* was listed as endangered pursuant to the Act and was considered to be a population of *S. punctatus*. The recognition of *S. guntheri* as a distinct species may provide it with increased conservation attention, thereby helping to ensure its continued survival on the one small island from which it is known. This listing also will reduce the likelihood of someone assuming that the species is not protected and perhaps unintentionally illegally trading in the species.

The above technical paper explaining the status of *S. guntheri* was only recently brought to the attention of the U.S. Fish and Wildlife Service (Service) through the kindness of Ms. Cheri L. Hosley of Brownstown, Michigan. Subsequently, the Service contacted several authorities, who supported recognition of *S. guntheri* as a distinct species, and also the Government of New Zealand, which responded favorably. Finally, the World Conservation Union's 1996 IUCN Red List of Threatened Animals designates *S. guntheri* as a full species, with a classification of vulnerable.

The above information persuaded the Service of the need to distinguish *S. guntheri* as a separate species on the List of Endangered and Threatened Wildlife and to classify it as endangered, together with *S. punctatus*. A proposed rule to such effect was published in the **Federal Register** of January 26, 1995 (60 FR 5159-5162). All interested parties were requested to submit information that might contribute to development of a final decision. A cable was sent to the United States Embassy in New Zealand, requesting new data and comments of the Government of New Zealand, which again responded favorably. No other responses were received. It is emphasized that the reptiles included within the originally listed taxon *S. punctatus* (now divided into *S. punctatus* and *S. guntheri*) were already legally covered by an endangered species classification and will remain so