

Attachment 1:
**U.S. Fish and Wildlife Service Response to the Catfish Farmers of
Arkansas Information Quality Act (IQA) Request for Correction
Received on August 29, 2007**

Background

In February 2000, the U.S. Fish and Wildlife Service (Service or we) received a petition from the Mississippi Interstate Cooperative Resources Association (MICRA) to list the black carp (*Mylopharyngodon piceus*) under the injurious wildlife provision of the Lacey Act (18 U.S.C. § 42). On June 2, 2000, we published an advance notice of proposed rulemaking (ANPR) (65 FR 35314) to seek comments on whether or not we should propose to list black carp as injurious under the Lacey Act. The comment period on the ANPR was open for 60 days, until August 1, 2000. During that comment period, we received 124 comments. We published a proposed rule to add all forms of live black carp to the list of injurious fishes under the Lacey Act in the Federal Register on July 30, 2002 (67 FR 49280). We opened the public comment period on the proposed rule for 60 days, until September 30, 2002. We received 82 comments on the proposed rule. Because of the complexity of this issue, on June 4, 2003, in an effort to gather more economic and ecological information on our proposed action, we reopened the public comment period on the proposed rule for an additional 30 days, until August 4, 2003 (68 FR 33431). We received 21 comments during the reopened comment period. On August 30, 2005, we published in the Federal Register (70 FR 51326) a document announcing the availability of the draft environmental assessment and draft economic analysis, including the initial regulatory flexibility analysis, for the proposed rule, and sought public comments on those draft documents and on listing only the diploid (fertile) form of black carp. The public comment period for the draft documents was originally 60 days, ending October 31, 2005; however on October 27, 2005, we published a document (70 FR 61933) extending the comment period by an additional 45 days, until December 16, 2005. During the 105-day comment period, we received 89 comments. Therefore, in total, the Service received 316 comments during the four public comment periods.

Many of the comments provided in the IQA request for correction were already received during these public comment periods. These situations are detailed below.

Part 1: Request for Corrections “Rulemaking to list Black Carp under the Lacey Act, Draft Economic Analysis,” available for public comment August 30 to December 16, 2005.

Issues and Responses

On August 29, 2007, the Service received your “request for correction” under the Information Quality Act (IQA) while the final rule for black carp was under review at the Office of Management and Budget (OMB). As provided for in OMB's government-wide Information Quality Guidelines, we elected to respond to the substance of your request in

the response to comments in the preamble of the final rule. Issues 2-4, 6-9, and 11-13 were all comments also received during public comment periods, and all were responded to in the final rule and final economic analyses that accompany the final rule. Below is the language as it appears in the final rule:

“Response: The primary concerns raised in the IQA request and the information proposed for correction had already been provided to the Service during the three comment periods associated with the proposed rule, the draft economic analysis, the initial regulatory flexibility analysis, and the draft environmental assessment. Thus this information had already been considered, and in many cases incorporated, during preparation of our final listing determination, final economic analysis, Final Regulatory Flexibility Analysis, and final environmental assessment. The key issues raised included economic impacts associated with trematode range expansion; economic impacts to the hybrid striped bass industry; our estimates of black carp use; distributional impacts; black carp consumption rates; and average catfish price per pound. The final economic analysis addresses the potential trematode range expansion with the impacts of a 20 percent annual increase for 10 years. The economic impacts of restricting black carp use in the hybrid striped bass industry are analyzed with a wide range of potential acres affected due to the uncertainty of the amount of use of black carp in striped bass production. The Service reviewed the range of estimates of acreage using black carp to control trematodes and settled on the most reliable source for the final economic analysis. Black carp consumption of 3-4 pounds of mollusks per day was supported by research findings and therefore was used in the final economic analysis. The long-term average price per pound of catfish of 70 cents per pound was used for the final economic analysis. After all information received during the public comment periods was incorporated into the final economic analysis, the total economic effect for catfish ranged from \$30.5 to \$37.7 million dollars for a 10-year present value. The few additional details raised in the request that had not been raised explicitly within the context of public comment did not suggest the need for additional changes to our analysis.”

Issue 1 — Include Largemouth bass as an infected aquaculture industry that uses black carp for snail control.

Response — Largemouth bass growers were not identified as using black carp for snail control in previous public comment periods. According to the 1998 Census of Aquaculture, largemouth bass were produced at 136 farms generating \$4.45 million in sales. These farms were located in 34 States, ranging from 1 to 15 farms per State. Ohio, Wisconsin, and New York had the most farms with 15, 14, and 11 farms, respectively. If black carp are being used in the largemouth bass industry, the costs of the rule would potentially increase. However, there are no data available that estimate the number of farms using black carp or the impact of trematodes on largemouth bass production. Thus, we cannot estimate the potential impacts of the rule to the largemouth bass industry.

Therefore, there is no information that requires correction.

Issue 5 — Distributive effects of the rule should be considered.

Response — An assessment of indirect economic effects is done on a case-by-case basis depending on the rule, the activities impacted, the scope of the rule, and data availability. An accurate estimation of indirect economic effects requires the county location of affected businesses. We are unaware of any published data source that includes the county location of aquaculture farms nationwide. Thus, insufficient data exist to do an analysis of indirect economic effects.

Therefore, there is no information that requires correction.

Issue 10 — Hybrid Striped Bass, marketability, and supply effects (see Wui and Engle 2007).

Response — Data detailing hybrid striped bass production, the use of black carp, and the impact of trematodes on hybrid striped bass farms are limited. The 1998 Aquaculture Census was the most recent data available at the time of the rulemaking. While the National Marine Fisheries Service reports annual national hybrid striped bass data for pounds produced and total sales, the number of acres and producers is not available. The economic analysis used the sole study (Wui and Engle 2005) that examines the economic impact of alternative snail control on hybrid striped bass.

We have evaluated the 2005 and 2007 Wui and Engle articles and concluded that they have the same results. Both articles use the same database. There is no new data on the use of black carp for hybrid striped bass production and there is no new information that wasn't already considered in the economic analysis.

Therefore, there is no information that requires correction.

Part 2: Request for Corrections “Rulemaking to list Black Carp under the Lacey Act, Draft Environmental Assessment for Listing Black Carp (*Mylopharyngodon piceus*) as Injurious under the Lacey Act,” available for public comment August 30 to December 16, 2005.

Issue 1 - Page 4: Sentence “A single black carp could eat more than 20,000 pounds of mollusks or other food sources during its life.”

We received this comment during the public comment period dated August 30 to December 16, 2005. We changed the final environmental assessment to say:

“A single black carp could potentially eat 10-20,000 pounds of mollusks or other food sources during its life (assuming a 15 year life span). This estimate was based on a life span of black carp of at least 15 years and a study of zebra mussel consumption (3-4 pounds daily) by black carp, which we acknowledge may not be accurate for native species and could be an underestimate or an overestimate for black carp.”

In addition to the pond culture reference of 3-4 pounds of zebra mussels eaten per day, page 114 of the Nico et al 2005 "Black Carp: Biological Synopsis and Risk Assessment of an Introduced Fish," states: "each black carp required 500 kg (1100 pounds) of mollusks and 15 kg (33 pounds) of bean cake each year." This equates to an average of 3 pounds of mollusks per day.