

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 16**

RIN 1018-AG70

Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*); Availability of Draft Environmental Assessment and Draft Economic Analysis**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; reopening of comment period and availability of supplemental information.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft environmental assessment and draft economic analysis for public comment. These documents supplement the information in the proposed rule to add all forms (diploid and triploid) of live black carp (*Mylopharyngodon piceus*), gametes, and viable eggs to the list of injurious fish, mollusks, and crustaceans under the Lacey Act. We are also soliciting public comments on all aspects of the proposed rule.

DATES: Comments must be submitted on or before October 31, 2005.

ADDRESSES: The documents are available from the Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop 322, Arlington, Virginia 22203; FAX (703) 358-1800. They also are available on our webpage at <http://contaminants.fws.gov/Issues/InvasiveSpecies.cfm>. Comments may be hand-delivered, mailed, or sent by fax to the address listed above. Alternatively, you may send comments by electronic mail (e-mail) to: BlackCarp@fws.gov. See the Public Comments Solicited section below for file format and other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Erin Williams, Division of Environmental Quality, Branch of Invasive Species, at (703) 358-2034 or erin_williams@fws.gov.

SUPPLEMENTARY INFORMATION:**Background**

In February 2000, we were petitioned to list black carp as an injurious species of wildlife under the Lacey Act (18 U.S.C. 42). We published a proposed rule in the **Federal Register** to add all forms (diploid and triploid) of live black carp to the list of injurious fish, mollusks, and crustaceans under the Lacey Act on July 30, 2002 (67 FR 49280); the comment period on the

proposed rule closed on September 30, 2002. On June 4, 2003 (68 FR 33431), we reopened the comment period until August 4, 2003. We evaluated 103 comments received during the two comment periods on the proposed rule. We have also recently received new information relevant to the proposed listing from the aquaculture industry that we intend to consider during the development of the final rulemaking documents. This information can be accessed for public review using the contact information provided in the **ADDRESSES** section above. This notice announces the availability of a draft environmental assessment and draft economic analysis for the proposed rule. We are soliciting public comments on these documents as well as all other aspects of the July 30, 2002, proposed rule. We are particularly interested in comments on alternatively listing the diploid (fertile) form only, including gametes and viable eggs. A listing of the diploid (fertile) form would have the effect of prohibiting the importation of live diploid black carp, gametes, or viable eggs into the United States and prohibiting the movement of live diploid black carp, gametes, or viable eggs between States without a permit issued by the Director of the Service. A listing of all forms (diploid and triploid) would have the effect of prohibiting the importation of all live black carp, gametes, or viable eggs into the United States and prohibiting the movement of all live black carp, gametes, or viable eggs between States without a permit issued by the Director of the Service. The purpose of the draft environmental assessment is to evaluate three alternatives associated with the proposed rule to list black carp (*Mylopharyngodon piceus*) as an injurious species under the Lacey Act. The purpose of the draft economic analysis is to analyze the potential economic impact if the proposed rule were adopted as published.

Public Comments Solicited

We are soliciting substantive public comments and supporting data on the draft environmental assessment, the draft economic analysis, and the proposal to add all forms (diploid and triploid) of live black carp to the list of injurious wildlife under the Lacey Act. Additionally, we are seeking comments and supporting data on the consideration of adding only live diploid (fertile) forms of black carp to the list of injurious wildlife. Listing the diploid form only would prohibit the importation and interstate movement of diploid live black carp, and would not prohibit the importation and interstate

movement of live triploid (sterile) black carp. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in our decisionmaking.

The Service solicits substantive public comment on the following issues:

1. How many black carp (diploid, triploid, or both) are currently in use in how many States? If a permit is required, please provide the number of black carp permitted for the past 15 years.

2. Are data available regarding the number of channel catfish, baitfish, or hybrid striped bass farms that use diploid, triploid, or both diploid and triploid black carp? What is the total acreage of black carp (diploid, triploid, or both) used?

3. Are data available to model the degree to which black carp are an effective biological control for snails and trematode outbreaks (*i.e.*, mortality rates, growth rates, and disease susceptibility)?

4. Are data available to estimate the cost of alternative biological and chemical methods to control snails and trematode outbreaks if diploid and triploid black carp are listed under the Lacey Act? Are data available to estimate the cost of alternative biological and chemical methods to control snails and trematode outbreaks if only diploid black carp are listed under the Lacey Act? Please provide data regarding the alternative methodologies and effectiveness and associated costs and benefits of the alternative(s) (chemical, biological, water level manipulation, or any combination of the three).

5. Are data available to estimate the costs associated with ponds that suffer light (loss of 200 pounds), moderate (loss between 200–2,000 pounds) or severe (loss over 2,000 pounds) outbreaks?

6. Are estimates available for the cost to remediate a pond that suffers light (loss of 200 pounds), moderate (loss between 200–2,000 pounds), and severe (loss over 2,000 pounds) outbreaks?

7. Are data available to estimate the rate at which trematode outbreaks occurred between the 1970s and 2005?

8. Are data available to estimate the rate at which trematode outbreaks are expected to change over the next 10 years, both with and without the use of black carp?

9. Have studies been conducted to evaluate other biological and/or chemical methods to disrupt the life cycle of parasites currently controlled using black carp?

10. Are data available to estimate the impact to catfish, baitfish, and hybrid

striped bass industries if diploid and triploid black carp are listed under the Lacey Act?

11. Are data available to estimate the impact to catfish, baitfish, and hybrid striped bass industries if only diploid black carp are listed under the Lacey Act?

12. Are data available for the retail cost of triploid animals? Are data available for the retail cost of diploid animals?

13. Are data available for the cost of restocking based on the ease of capture when ponds are seined and fish discarded as offal at catfish processing plants? What is the cost of restocking, and how does either alternative affect restocking?

14. Are data available for the costs for implementing 100% certified triploid black carp using the Coulter Counter® method? What are the protocols for sampling triploid black carp using this method? Are data available showing the effectiveness in identifying triploid black carp using the Coulter Counter® method?

15. Are data available for the costs for implementing 100% certified triploid black carp using the flow cytometry method? What are the protocols for sampling triploid black carp using this method? Are data available showing the effectiveness in identifying triploid black carp using the flow cytometry method?

16. Are there other scientifically proven methods to ensure 100% certification of triploid black carp?

17. Is information/data available on the costs of providing escape-proof containment of both triploid and diploid black carp? Movement may include transportation, wildlife, floods or other natural events.

18. Are data available on the costs to eradicate black carp individuals and/or populations or similar nonnative populations, if found?

19. Are data available on the costs of implementing native mollusk propagation, recovery, and restoration programs? Are data available on the State-listed species that would be impacted by the introduction of diploid or triploid black carp?

20. Are data available on the costs to re-establish mussel and snail populations that may have been impacted by spills (or other events) or may be impacted by black carp?

21. Are data available on the economic value of mussel shells used in the cultured pearl and jewelry industries?

Submit comments and data as identified in **ADDRESSES**. If you submit documentation by e-mail, please submit it as an ASCII file format and avoid the use of special characters and encryption. Please include "Attn: [RIN 1018-AG70]" in your e-mail subject line and your name and return address in your e-mail message. If you do not

receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our office at telephone number 703-358-2148 during normal business hours. Please note that this e-mail address will be closed at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Authority: 18 U.S.C. 42.

Dated: August 24, 2005.

Paul Hoffman,

Assistant Secretary for Fish and Wildlife and Parks.

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