
MEMORANDUM

TO: TIM EDER, JON MACDONAGH-DUMLER, AND KATHE GLASSNER-SHWAYDER
FROM: ERIKA JENSEN
SUBJECT: ASIAN CARP LISTING UNDER THE LACEY ACT INJURIOUS WILDLIFE PROVISION
DATE: 10/9/2006

EXISTING REGULATIONS

The Injurious Wildlife Provision of the Lacey Act (18 U.S.C §42, attached) provides for the prohibition of the importation, possession, or shipment of any such species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States. Several specific species falling under the authority above are mentioned in this Section (a)(1) of 18 U.S.C § 42, as follows:

- mongoose of the species *Herpestes auro-punctatus*;
- the species of so-called “flying foxes” or fruit bats of the genus *Pteropus*;
- the zebra mussel of the species *Dreissena polymorpha*

The U.S. Fish and Wildlife Service (FWS) has rule-making authority for the implementation and enforcement of the Lacey Act that originates with the Secretary of the Interior. The Code of Federal Regulations (50 CFR Part 16, attached) outlines regulations under FWS authority for the purpose of implementing the Lacey Act. The FWS process for determining and listing a species as injurious begins with a FWS evaluation of the species or the receipt of a petition to list the species. If a species is then determined potentially injurious, the agency will publish a proposed rule in the Federal Register for public comment. After the public comment period is over, the agency will evaluate new data and comments and publish either a notice of why the species will not be listed, or the final rule which adds the species to the injurious wildlife list. Part 16.13 of Title 50 provides the current list of fish, mollusk, and crustacean species (and their eggs), which are prohibited for importation, transportation or acquisition (live or dead), summarized as follows:

- walking catfish, family Clariidae
- mitten crabs, genus *Eriocheir*
- zebra mussels, genus *Dreissna*
- snakehead fishes of the genera *Channa* and *Parachanna* (or their generic synonyms of *Bostrychooides*, *Ophiocephalus*, *Ophiocephalus*, and *Parophiocephalus*) of the family Channidae

ASIAN CARP LISTING EFFORTS

As noted above, there are two “lists” of injurious species, and thus, two ways in which a species may be regulated under the provision. The first would be through introducing legislation to amend the Lacey Act provisions cited above (18 U.S.C §42), and the second through an agency rule-making process. Both avenues are currently being pursued with the hopes of classifying various species of Asian carp as injurious.

In 2005, two companion bills were introduced into the House and Senate: respectively H.R. 3049 and S. 1402, also known as the Asian Carp Prevention and Control Act. Attached is a brief summary of those bills. The two versions contain identical language that would amend 18 U.S.C §42(a)(1) to add the following language: “of the black carp of the species *Mylopharyngodon piceus*; of the bighead carp of the species *Hypophthalmichthys nobilis*; of the silver carp of the species *Hypophthalmichthys molitrix*; of the largescale silver carp of the species *Hypophthalmichthys harmandi*”, thus effectively prohibiting black, bighead, silver and largescale silver carp under the Lacey Act. H.R. 3049 was reported in the House July 20, 2006; however, there has been no movement in the Senate on S. 1402.

The other effort that has been undertaken to list species of Asian Carp under the Lacey Act is FWS rule-making. The agency received a petition in October 2002 requesting the addition of bighead, silver and black carp to the injurious wildlife list. The petition was signed by 25 members of Congress, representing the Great Lakes region. Prior to the 2002 petition, the FWS had initiated an injurious wildlife evaluation on black carp in February 2000, after receiving a petition to list the species from the Mississippi Interstate Cooperative Resources Association. As a result, there have been several efforts made by the FWS to list various species of Asian Carp.

The 2000 notice in the Federal Register stated that the agency would be “reviewing available economic and biological information on the black carp (*Mylopharyngodon piceus*) for possible addition to the list of injurious wildlife under the Lacey Act.” Further action on the black carp has included four public comment periods with regards to a proposed rule to list the species, the first in July 2002 with a reopening of public comment in June 2003, and a second time in August 2005 with a reopening of public comment in October 2005. The last public comment period ended in December 2005; however, there has been no notice of a final rule regarding the listing of the black carp. At the Great Lakes Commission Annual Meeting in October 2006, Charles Wooley of the FWS indicated that the agency has been unable to complete a satisfactory economic analysis of the proposed listing and is in the process of correcting this analysis.

In September 2003 there was a notice published in the Federal Register of a review of information concerning the bighead carp species for possible listing under the Lacey Act. There has been no other notices published regarding the bighead carp since then and Wooley indicated the FWS is currently conducting an environmental assessment of the possible listing. The most recent effort as a result of the 2002 petition has been a proposed rule to list silver and largescale silver carp. This effort was also preceded by a notice of review of information concerning the silver carp species in July 2003. The proposed rule to list the silver carp and the largescale silver carp was published September 5, 2006 and will be open for public comment until November 6, 2006.

Thus far, both legislative and agency rule-making efforts have been unsuccessful at listing various species of Asian carp. Agency rule-making has proved to be a lengthy process, subjected to the pressures of various interest groups through the practice of public comment. This is perhaps most evident in the fact that the black carp listing has come up for public comment four times in the last four years and a final notice has not yet been issued. Another disadvantage to the rule-making process is the fact that this process must be conducted separately for each of the Asian carp species. Alternatively, advantages of adding Asian carp species through legislation include being able to list more than one species at once, as well as bypassing the need for an information review and public comment. Disadvantages of the legislative effort have also been evident, including the stalling of the bills in the legislature as a result of various political pressures and concerns. While the FWS rule-making progress is slowly progressing, the current hope for listing of Asian carp species is the speculation that the legislation may come up during the lame duck session after November 2006 elections.

THE LACEY ACT INJURIOUS WILDLIFE PROVISION (18 U.S.C §42)

§ 42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

(a)

(1) The importation into the United States, any territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, of the mongoose of the species *Herpestes auro-punctatus*; of the species of so-called “flying foxes” or fruit bats of the genus *Pteropus*; of the zebra mussel of the species *Dreissena polymorpha*; and such other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, and reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act,^[1] insofar as such importation is subject to regulation under that Act.

(2) As used in this subsection, the term “wild” relates to any creatures that, whether or not raised in captivity, normally are found in a wild state; and the terms “wildlife” and “wildlife resources” include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(3) Notwithstanding the foregoing, the Secretary of the Interior, when he finds that there has been a proper showing of responsibility and continued protection of the public interest and health, shall permit the importation for zoological, educational, medical, and scientific purposes of any mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles, or the offspring or eggs thereof, where such importation would be prohibited otherwise by or pursuant to this Act, and this Act shall not restrict importations by Federal agencies for their own use.

(4) Nothing in this subsection shall restrict the importation of dead natural-history specimens for museums or for scientific collections, or the importation of domesticated canaries, parrots (including all other species of psittacine birds), or such other cage birds as the Secretary of the Interior may designate.

(5) The Secretary of the Treasury and the Secretary of the Interior shall enforce the provisions of this subsection, including any regulations issued hereunder, and, if requested by the Secretary of the Interior, the Secretary of the Treasury may require the furnishing of an appropriate bond when desirable to insure compliance with such provisions.

(b) Whoever violates this section, or any regulation issued pursuant thereto, shall be fined under this title or imprisoned not more than six months, or both.

(c) The Secretary of the Interior within one hundred and eighty days of the enactment of the Lacey Act Amendments of 1981 shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane or unhealthful conditions or in violation of such requirements. In any criminal prosecution for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

(1) the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the provisions of this subsection have been violated; and

(2) the presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed prima facie evidence of the violation of the provisions of this subsection.

U.S. FISH AND WILDLIFE SERVICE LACEY ACT INJURIOUS WILDLIFE REGULATIONS (EXCERPT FROM 50 CFR PART 16)

Title 50: Wildlife and Fisheries
PART 16—INJURIOUS WILDLIFE

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Authority: 18 U.S.C. 42.

Source: 39 FR 1169, Jan. 4, 1974, unless otherwise noted.

From: Subpart A—Introduction

§ 16.1 Purpose of regulations.

The regulations contained in this part implement the Lacey Act (18 U.S.C. 42).

§ 16.2 Scope of regulations.

The provisions of this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also part 13).

§ 16.3 General restrictions.

Any importation or transportation of live wildlife or eggs thereof, or dead fish or eggs or salmonids of the fish family Salmonidae into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interest of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: Provided, That the provisions of this section shall not apply to psittacine birds (see also §§16.32 and 16.33 for other exemptions).

From: Subpart B—Importation or Shipment of Injurious Wildlife

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) Upon an exporter filing a written declaration with the District Director of Customs at the port of entry as required under §14.61 of this chapter, live or dead fish, mollusks, and crustaceans, or parts thereof, or their gametes or fertilized eggs, may be imported, transported, and possessed in captivity without a permit except as follows:

(1) No such live fish, mollusks, crustacean, or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(2) The importation, transportation, or acquisition of any of the species listed in this paragraph is prohibited except as provided under the terms and conditions set forth in §16.22:

- (i) Live fish or viable eggs of walking catfish, family Clariidae;
- (ii) Live mitten crabs, genus *Eriocheir*, or their viable eggs;
- (iii) Live mollusks, veligers, or viable eggs of zebra mussels, genus *Dreissena*; and
- (iv) Any live fish or viable eggs of snakehead fishes of the genera *Channa* and *Parachanna* (or their generic synonyms of *Bostrychoides*, *Ophicephalus*, *Ophiocephalus*, and *Paraphiocephalus*) of the Family Channidae, including but not limited to:

- (A) *Channa amphibeus* (Chel or Borna snakehead).
- (B) *Channa argus* (Northern or Amur snakehead).
- (C) *Channa asiatica* (Chinese or Northern Green snakehead).
- (D) *Channa aurantimaculata*.
- (E) *Channa bankanensis* (Bangka snakehead).
- (F) *Channa baramensis* (Baram snakehead).
- (G) *Channa barca* (barca or tiger snakehead).
- (H) *Channa bleheri* (rainbow or jewel snakehead).
- (I) *Channa cyanospilos* (bluespotted snakehead).
- (J) *Channa gachua* (dwarf, gaucha, or frog snakehead).
- (K) *Channa harcourtbutleri* (Inle snakehead).
- (L) *Channa lucius* (shiny or splendid snakehead).
- (M) *Channa maculata* (blotched snakehead).
- (N) *Channa marulius* (bullseye, murrel, Indian, great, or cobra snakehead).
- (O) *Channa maruloides* (emperor snakehead).
- (P) *Channa melanoptera*.
- (Q) *Channa melasoma* (black snakehead).
- (R) *Channa micropeltes* (giant, red, or redline snakehead).
- (S) *Channa nox*.
- (T) *Channa orientalis* (Ceylon or Ceylonese Green snakehead).
- (U) *Channa panaw*.
- (V) *Channa pleurophthalmus* (ocellated, spotted, or eyespot snakehead).
- (W) *Channa punctata* (dotted or spotted snakehead).
- (X) *Channa stewartii* (golden snakehead).
- (Y) *Channa striata* (chevron or striped snakehead).
- (Z) *Parachanna africana* (Niger or African snakehead).
- (AA) *Parachanna insignis* (Congo, square-spotted African or light African snakehead).
- (BB) *Parachanna obscura* (dark African, dusky, or square-spotted snakehead).

(3) Notwithstanding §16.32, all Federal agencies shall be subject to the requirements stated within this section. Live or dead unviscerated salmonid fish (family Salmonidae), live fertilized eggs, or gametes of salmonid fish are prohibited entry into the United States for any purpose except by direct shipment accompanied by a certification that: as defined in paragraph (e)(1) of this section, the fish lots, from which the shipments originated, have been sampled; virus assays have been conducted on the samples according to methods described in paragraphs (e)(2) through (4); of this section; and *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have not been detected in the fish stocks from which the samples were taken. In addition, live salmonid fish can be imported into the United States only upon written approval from the Director of the U.S. Fish and Wildlife Service.

LEGISLATION TO LIST SPECIES OF ASIAN CARP

H.R. 3049

Title: To amend section 42 of title 18, United States Code, popularly known as the Lacey Act, to add certain species of carp to the list of injurious species that are prohibited from being imported or shipped.

Sponsor: Rep Green, Mark [WI-8] (introduced 6/23/2005)

Cosponsors: Rep Biggert, Judy [IL-13] Rep Conyers, John, Jr. [MI-14]
Rep Emanuel, Rahm [IL-5] Rep Evans, Lane [IL-17]
Rep Kennedy, Mark R. [MN-6] Rep Kirk, Mark Steven [IL-10]
Rep Kline, John [MN-2] Rep Lipinski, Daniel [IL-3]
Rep McHugh, John M. [NY-23] Rep Petri, Thomas E. [WI-6]
Rep Schakowsky, Janice D. [IL-9] Rep Stupak, Bart [MI-1]

Bill Text:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Asian Carp Prevention and Control Act”.

SEC. 2. ADDITION OF SPECIES OF CARP TO THE LIST OF INJURIOUS SPECIES THAT ARE PROHIBITED FROM BEING IMPORTED OR SHIPPED.

Section 42(a)(1) of title 18, United States Code, is amended by inserting after “*Dreissena polymorpha*,” the following: “of the black carp of the species *Mylopharyngodon piceus*; of the bighead carp of the species *Hypophthalmichthys nobilis*; of the silver carp of the species *Hypophthalmichthys molitrix*; of the largescale silver carp of the species *Hypophthalmichthys harmandi*;”.

S. 1402

Title: A bill to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp.

Sponsor: Sen DeWine, Mike [OH] (introduced 7/14/2005)

Cosponsors: Sen Bayh, Evan [IN] Sen Coleman, Norm [MN]
Sen Dayton, Mark [MN] Sen Durbin, Richard [IL]
Sen Feingold, Russell D. [WI] Sen Levin, Carl [MI]
Sen Obama, Barack [IL] Sen Stabenow, Debbie [MI]
Sen Voinovich, George V. [OH]

Bill Text:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Asian Carp Prevention and Control Act”.

SEC. 2. ADDITION OF SPECIES OF CARP TO THE LIST OF INJURIOUS SPECIES THAT ARE PROHIBITED FROM BEING IMPORTED OR SHIPPED.

Section 42(a)(1) of title 18, United States Code, is amended by inserting after “*Dreissena polymorpha*,” the following: “of the black carp of the species *Mylopharyngodon piceus*; of the bighead carp of the species *Hypophthalmichthys nobilis*; of the silver carp of the species *Hypophthalmichthys molitrix*; of the largescale silver carp of the species *Hypophthalmichthys harmandi*;”.

U.S. FISH AND WILDLIFE SERVICE PROPOSED RULES TO LIST SPECIES OF ASIAN CARP

Federal Register: June 2, 2000 (Volume 65, Number 107)
Proposed Rules
Page 35314-35315

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Injurious Wildlife; Review of Information Concerning Black Carp (*Mylopharyngodon piceus*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing available economic and biological information on the black carp (*Mylopharyngodon piceus*) for possible addition to the list of injurious wildlife under the Lacey Act. The importation and introduction of *M. piceus* into the natural ecosystem of the United States may pose a threat to native mollusk and fish populations. Listing *M. piceus* as injurious would prohibit its importation into, or transportation between, the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, with limited exceptions. This notice seeks comments from the public to aid in determining if a proposed rule is warranted.

DATES: Comments must be submitted on or before August 1, 2000.

Federal Register: July 30, 2002 (Volume 67, Number 146)
Proposed Rules
Page 49280-49284

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018-AG70

Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to amend its regulations to add black carp (*Mylopharyngodon piceus*) to the list of injurious fish, mollusks, and crustaceans. This listing would have the effect of prohibiting the importation of any live animal or viable egg of the black carp into the United States. The best available information indicates that this action is necessary to protect the interests of human beings, and wildlife and wildlife resources from the purposeful or accidental introduction and subsequent establishment of black carp populations into ecosystems of the United States. As proposed, live black carp or viable eggs could be imported only by permit for scientific, medical, educational, or zoological purposes, or without a permit by Federal agencies solely for their own use; permits would also be required for the interstate transportation of live black carp or viable eggs currently held in the United States for scientific, medical, educational, or zoological purposes. The proposal would prohibit interstate transportation of live black carp or viable eggs, currently held in the United States, for any other purpose.

DATES: Comments must be submitted on or before September 30, 2002.

Federal Register: June 4, 2003 (Volume 68, Number 107)
Proposed Rules
Page 33431-33432

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018-AG70

Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the reopening of the public comment period on the proposed rule to add black carp (*Mylopharyngodon piceus*) to the list of injurious fish, mollusks, and crustaceans under the Lacey Act. We are reopening the comment period at this time in order to collect the best and most current scientific and economic data available on the proposed rule. Comments previously submitted need not be resubmitted as they will be incorporated into the public record and will be fully considered in the preparation of the next action.

DATES: Comments must be submitted on or before August 4, 2003.

Federal Register: July 23, 2003 (Volume 68, Number 141)
Proposed Rules
Page 43482-43483

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018-AI87

Review of Information Concerning Silver Carp (*Hypophthalmichthys molitrix*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing available economic and biological information on silver carp (*Hypophthalmichthys molitrix*) for possible addition of that species to the list of injurious wildlife under the Lacey Act. The importation and introduction of silver carp into the natural ecosystems of the United States may pose a threat to agriculture, horticulture, forestry, the health and welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. Listing silver carp as injurious would prohibit their importation into, or transportation between, the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, with limited exceptions. This document seeks comments from the public to aid in determining if a proposed rule is warranted.

DATES: Comments must be submitted on or before September 22, 2003.

Federal Register: September 17, 2003 (Volume 68, Number 180)
Proposed Rules
Page 54409

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018-AT49

Review of Information Concerning Bighead Carp (*Hypophthalmichthys nobilis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of inquiry.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing available economic and biological information on bighead carp (*Hypophthalmichthys nobilis*) for possible addition of that species to the list of injurious wildlife under the Lacey Act. The importation and introduction of bighead carp into the natural ecosystems of the United States may pose a threat to agriculture, horticulture, forestry, the health and welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. Listing bighead carp as injurious would prohibit their importation into, or transportation between, the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, with limited exceptions. This notice seeks comments from the public to aid in determining if a proposed rule is warranted.

DATES: Comments must be submitted on or before November 17, 2003.

Federal Register: August 30, 2005 (Volume 70, Number 167)
Proposed Rules
Page 51326-51327

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.

Federal Register: October 27, 2005 (Volume 70, Number 207)
Proposed Rules
Page 61933-61934

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018-AG70

Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*); Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, extend the comment period on a proposed rule to add all forms of live black carp (*Mylopharyngodon piceus*), including gametes and viable eggs, to the list of injurious fish under the Lacey Act and on the draft environmental assessment and draft economic analysis prepared in association with the proposed rule.

DATES: Comments must be submitted on or before December 16, 2005.

Federal Register: September 5, 2006 (Volume 71, Number 171)
Proposed Rules
Page 52305-52316

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018-AT29

Injurious Wildlife Species; Silver Carp (*Hypophthalmichthys molitrix*) and Largemouth Silver Carp (*Hypophthalmichthys harmandi*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of environmental documents.

SUMMARY: The U.S. Fish and Wildlife Service proposes to add all forms (diploid and triploid) of live silver carp (*Hypophthalmichthys molitrix*), gametes, eggs, and hybrids; and all forms (diploid and triploid) of live largemouth silver carp (*Hypophthalmichthys harmandi*), gametes, eggs, and hybrids to the list of injurious fish, mollusks, and crustaceans under the Lacey Act. This listing would have the effect of prohibiting the importation and interstate transportation of any live animal, gamete, viable egg, or hybrid of the silver carp and largemouth silver carp, without a permit in limited circumstances. The best available information indicates that this action is necessary to protect the interests of human beings, and wildlife and wildlife resources, from the purposeful or accidental introduction and subsequent establishment of silver carp and largemouth silver carp populations in ecosystems of the United States.

DATES: Comments must be submitted on or before November 6, 2006.