

This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances for the residues of imidacloprid and its metabolites in or on grain sorghum at 0.05 ppm, grain sorghum forage and stover at 0.10 ppm in this final rule, do not require the issuance of a proposed

rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 United

States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 16, 1998

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.472, paragraph (a) is amended by alphabetically adding the commodities to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grain, sorghum	0.05
Grain, sorghum forage	0.10
Grain, sorghum stover	0.10
* * * * *	

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AE95

Endangered and Threatened Wildlife and Plants; Revocation of Critical Habitat for the Mexican Spotted Owl, Loach Minnow, and Spikedace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; notice of revocation of critical habitat.

SUMMARY: Due to several Federal court orders, the Fish and Wildlife Service

(Service) amends the List of Threatened and Endangered Wildlife (50 CFR 17.11) to remove critical habitat designations for the Mexican spotted owl (*Strix occidentalis lucida*), spikedace (*Meda fulgida*), and loach minnow (*Rhinichthys cobitis*), pursuant to the Endangered Species Act of 1973, as amended (Act). Critical habitat is also removed from 50 CFR 17.95(b) (Mexican spotted owl) and 17.95(e) (loach minnow and spikedace).

DATES: This final rule is effective March 25, 1998.

ADDRESSES: The file for this revocation is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Division of Ecological Services, 500 Gold Avenue Southwest, Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Renne Lohofener, Assistant Regional Director, Ecological Services, U.S. Fish

and Wildlife Service, telephone 505/248-6920.

SUPPLEMENTARY INFORMATION:

Background

The Service designated critical habitat for the loach minnow and spikedace on March 8, 1994 (59 FR 10898 and 59 FR 10906, respectively). However, on October 13, 1994, the United States District Court for the District of New Mexico set aside the critical habitat designation for the two species, ruling that the Service is required to analyze the effects of critical habitat designation under the National Environmental Policy Act (NEPA). In 1996 the Tenth Circuit affirmed this decision. The District Court's decision setting aside the critical habitat designation became effective when the appeal process for the case was completed. (*Catron County Board of Commissioners, New Mexico v. U.S. Fish and Wildlife Service*, CIV No.

93-730 HB, (D.N.M. 1994), *aff'd* by 75 F.3d 1429 (10th Cir. 1996)). The critical habitat designated for these two species occurred also in Arizona which is in the Ninth Circuit where NEPA is not required for critical habitat designations; however, in 1996 the United States District Court for the District of Arizona acknowledged that the set aside in the *Catron County* case also applied in Arizona. (*Southwest Center for Biological Diversity v. Rogers*, CV 96-018-TUC-JMR (D. Ariz. 1996)).

The Service designated critical habitat for the Mexican spotted owl on June 6, 1995 (60 FR 29914). On March 4, 1997, the United States District Court for the District of New Mexico set aside that critical habitat designation, again for the Service's failure to complete the NEPA process (*Coalition of Arizona/New Mexico Counties for Stable Economic Growth v. U.S. Fish and Wildlife Service*, CIV No. 95-1285-M (D.N.M. 1997)).

Pursuant to the decisions of the New Mexico District Courts, the Service, by publication of this revocation, removes critical habitat for the loach minnow, spikedace, and Mexican spotted owl from the List of Endangered and Threatened Wildlife (17.11) and from the Code of Federal Regulations at 50 CFR 17.95(b) (Mexican spotted owl) and 17.95(e) (loach minnow and spikedace). Further, this revocation gives notice to Federal agencies and interested individuals that the Service will no longer consider critical habitat for the three species for the purpose of conducting section 7 consultation.

Pursuant to 5 U.S.C. 553(d), the requirement for a 30-day delay in the effective date following publication of this revocation is waived. Because critical habitat for these species has been set aside by the United States District Court for the District of New Mexico, the Service believes there is good cause to issue this rule effective immediately.

Required Determinations

This revocation does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Division of Ecological Services (see ADDRESSES section).

Author: The author of this document is Steven L. Spangle, Division of Ecological Services (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

§ 17.11 [Amended]

2. Amend section 17.11(h) by revising the "Critical Habitat" column in the table entry for "Owl, Mexican spotted" under BIRDS to read "NA."

3. Amend section 17.11(h) by revising the "Critical Habitat" column in the table entry for "Minnow, loach" under FISHES to read "NA."

4. Amend section 17.11(h) by revising the "Critical Habitat" column in the table entry for "Spikedace" under FISHES to read "NA."

§ 17.95 [Amended]

5. Amend section 17.95(b) by removing critical habitat maps and associated text for the "Mexican Spotted Owl."

6. Amend section 17.95(e) by removing critical habitat maps and associated text for the "Loach Minnow."

7. Amend section 17.95(e) by removing critical habitat maps and associated text for the "Spikedace."

Dated: March 18, 1998.

Daniel M. Ashe,

Acting Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 031398C]

Fisheries of the Exclusive Economic Zone off Alaska; Community Development Quota Program

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

ACTION: Approval of the Community Development Plans for Pacific halibut,

fixed gear sablefish, and crab for the years 1998-2000.

SUMMARY: NMFS announces the approval of recommendations made by the State of Alaska (State) for the 1998-2000 halibut, fixed gear sablefish, and crab Community Development Plans (CDPs) under the Western Alaska Community Development Quota (CDQ) Program. This action announces the decision by NMFS to approve the State's recommended CDPs, including the percentage allocations of the halibut, fixed gear sablefish, and crab CDQ reserves to each CDP, and the availability of findings underlying NMFS's decision. This action is intended to further the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Approval of the CDPs is effective March 23, 1998.

ADDRESSES: Copies of the findings made by NMFS in approving the State's recommendations may be obtained from the Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The CDQ Program for Pacific halibut and fixed gear sablefish was developed by the North Pacific Fishery Management Council (Council) and implemented by NMFS under regulations at subpart C of 50 CFR part 679. The Crab CDQ Program was developed by the Council as part of Amendment 5 to the Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area which was approved by NMFS on September 12, 1997. Regulations implementing the crab CDQ reserves were published by NMFS in the **Federal Register** on February 19, 1998 (63 FR 8356).

Eligible western Alaska communities submitted six proposed CDPs to the State under § 679.30. The CDPs included requests for allocations of the available Pacific halibut, sablefish, and crab CDQ reserves established at § 679.31. The State conducted a public hearing on September 9, 1997, in Anchorage, AK, during which all interested persons had an opportunity to be heard. The hearing covered the substance and content of the proposed CDPs in such a manner that the general public, and particularly the affected parties, had a reasonable opportunity to