

**PART 172—HAZARDOUS MATERIALS TABLES, HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS**

1. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1808; 49 CFR part 1.

**§ 172.10 [Corrected]**

2. In rule document 89-23086, on page 40068 (September 29, 1989), in the first column of the Hazardous Materials Table, the entry should be corrected to read: Sulfur, molten or Sulphur, molten. Verdell Simpkins,

Regulatory Document Information Specialist. [FR Doc. 89-23734 Filed 10-6-89; 8:45 am]

BILLING CODE 4910-60-M

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Independence Valley Speckled Dace and Clover Valley Speckled Dace**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) determines the Clover Valley speckled dace (*Rhinichthys osculus oligoporus*) and the Independence Valley speckled dace (*Rhinichthys osculus lethoporus*) to be endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). The former is known from only three small springs in northeastern Nevada and the latter from only one spring in the same area. Both are in jeopardy because of their extremely limited distribution, the sensitivity of their habitats to perturbation by irrigation practices, and introductions of non-native aquatic species. These types of activities have negatively impacted populations of both subspecies of speckled dace and caused extinction of the Independence Valley tui chub (*Gila bicolor isolata*), formerly found in the spring inhabited by the Independence Valley speckled dace.

**EFFECTIVE DATE:** November 9, 1989.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Great Basin Complex, U.S.

Fish and Wildlife Service, 4600 Kietzke Lane, Building C, Reno, Nevada 89502.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard J. Navarre, Complex Manager, at the above address (702/784-5227 or FTS 470-5227).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Clover Valley speckled dace was first collected on September 14, 1934, by Dr. C. L. Hubbs and his family (Hubbs *et al.* 1974). It was not recognized as a unique form of speckled dace until 1972 when Drs. Hubbs and Miller described it as a subspecies endemic to two springs in Clover Valley, Elko County, Nevada (Hubbs and Miller 1972). The Independence Valley speckled dace was not collected until August 25, 1965. It was also described by Drs. Hubbs and Miller in 1972 as a distinct subspecies of speckled dace found only in Independence Valley (Hubbs and Miller 1972, Hubbs *et al.* 1974).

Speckled dace are members of the minnow family of fishes (Cyprinidae) that occupy many waters of western North America. They are able to occupy a wide variety of habitats ranging from cold streams and rivers with rocky substrates to small thermal springs with silt substrates. Their adaptability to a broad range of environments has allowed them to persist in habitats too harsh for the survival of many other fish species. Isolation of populations has permitted genetic divergence and resulted in a number of morphologically distinct forms recognized as subspecies. Their diet consists primarily of insects, and their maximum length rarely exceeds 4 inches.

Speckled dace are distinguished from other minnows by, among other characters, the shape and arrangement of pharyngeal teeth (usually slightly curved and hooked in a 1, 4-4, 1 formula) and the presence of well developed radii completely around the scales. Coloration is typically olive-green on the back fading to silver/gold on the abdomen. As the vernacular name suggests, black spots may be randomly arranged over the body. A distinct black lateral stripe usually extends from the forebody to the caudal fin.

The Clover Valley speckled dace and Independence Valley speckled dace are believed to be derived from an ancestral form of speckled dace similar to the Lahontan speckled dace (*Rhinichthys osculus robustus*) presently occupying the Humboldt River system in northern Nevada. Both of these speckled daces are distinguished from the Lahontan speckled dace by their less developed

lateral line system on both the body the body and head. The Clover Valley speckled dace is further distinguished by the anterior location of its pectoral fins and a lower number of pelvic fin rays (6 versus typically 8 for speckled dace) (Hubbs and Miller 1972). The Independence Valley speckled dace is dwarfed with a more laterally compressed body than is characteristic of speckled dace. Its lateral line is less developed and its caudal peduncle is deeper and pectoral fin rays fewer than is typical of the Clover Valley speckled dace. It is also distinguished from the Clover Valley speckled dace by its straighter and more oblique mouth (Hubbs and Miller 1972).

Both of these speckled dace are restricted to small springs and their outflows. Vinyard (1984) and Hubbs *et al.* (1974) located the Clover Valley speckled dace in small irrigation impoundments and in ditches radiating from them into irrigated pasture land. Hubbs *et al.* (1974) also recorded the dace in isolated portions of spring-fed streams located upstream from these impoundments. Vinyard (1984) and Hubbs *et al.* (1974) recorded the Independence Valley speckled dace from shallow marshlands spreading away from deep pools associated with spring sources.

All habitats of both subspecies are situated on private land supporting ranch operations. Neither of these speckled dace have been widespread in historic times. Early (1934) collectors did not sample Independence Valley, and located only one Clover Valley speckled dace population (Hubbs *et al.* 1974). Subsequent surveys conducted in 1965, however, located the Independence Valley speckled dace and an additional population of Clover Valley speckled dace (Hubbs *et al.* 1974). Both dace were noticeably scarce when these surveys were conducted. In 1983, Vinyard (1984) located a third Clover Valley spring which contained speckled dace.

Hubbs *et al.* (1974) attributed the rarity of these speckled dace to habitat alterations to facilitate irrigation and the presence of rainbow trout (*Salmo gairdneri*) and largemouth bass (*Micropterus salmoides*) introduced for sport fisheries. Population sizes of these speckled dace have been known to fluctuate in response to the presence of these non-native fish species. For example, numerous Clover Valley speckled dace were present in a spring-fed impoundment in 1964 that had recently been stocked with rainbow trout; however, a subsequent survey of the same locality in 1965 found the dace scarce and restricted to a small portion

of stream near the spring source where they could best avoid rainbow trout (Hubbs *et al.* 1974). Vinyard (1984) failed to locate any dace at this site during several surveys in 1983, although a small number of dace were again observed in February 1988.

Hubbs *et al.* (1974) noted the scarcity of Independence Valley speckled dace in their sole habitat during 1965, the first time this dace was collected. Vinyard (1984) also observed their scarcity and recorded dace only in shallow water not inhabited by bass and bluegill (*Lepomis macrochirus*). That the presence of bass and bluegill threatens the Independence Valley speckled dace is evidenced by the extinction of the Independence Valley tui chub (*Gila bicolor isolata*) following introduction of these two sport fish. This chub was also endemic to this spring.

The Clover Valley speckled dace and Independence Valley speckled dace were included as Category 2 candidates for possible listing in a Notice of Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454) published on December 30, 1982. Category 2 candidates are those for which additional status information is needed before their status can be evaluated. In an updated Notice of Review (50 FR 37958) published on September 18, 1985, the status of the two speckled dace was changed to Category 1 on the basis of new status information received. The category 1 classification means that sufficient status information is available to indicate the species may warrant listing. A proposed rule to list both subspecies as endangered was published in the *Federal Register* (52 FR 35282) on September 18, 1987.

#### Summary of Comments and Recommendations

In the September 18, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. On December 2, 1987, the original comment period, which closed on November 22, 1987, was extended to February 1, 1988 (52 FR 45976). Affected landowners and appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Elko Daily Freepress* on December 21, 1987, the *Ely Daily Times* on December 22, 1987, and the *High Desert Advocate* on December 30, 1987, which invited general public comment. Two requests for a public hearing were received and a separate meeting with two landowners was

scheduled for February 26, 1988. To accommodate this meeting and to allow for scheduling a public hearing, the comment period was reopened for 60 days on February 24, 1988 (53 FR 5434). A public hearing was held on April 7, 1988, and newspaper notices of the public hearing date, place, and written comment deadline were published in the *Elko Daily Freepress* on March 22, 1988, and in the *High Desert Advocate* on March 23, 1988. A total of 23 written comments were received and are discussed below. The nine comments received at the public hearing, held at Wells High School, 115 Lake Avenue, Wells, Nevada, on April 7, 1988, from 7:00 to 9:00 p.m., are also summarized.

A total of 23 written letters of comment were received. Of these, 11 comments of support were received, including the Nevada Department of Wildlife and 10 other individuals or groups. Letters voicing neither opposition nor support were received from 1 Federal Agency, 1 State Agency, a State Assemblyman, and 1 Nevada County. Eight written comment letters opposing listing, 3 of which were from affected landowners, and 5 from other individuals or groups, were received. All 9 speakers at the public hearing opposed listing.

An inquiry was received from Senator Chic Hecht concerning a letter he had received from a Clover Valley landowner who had recently purchased property which included one of the speckled dace localities. The landowner requested suggestions regarding the listing issue and the planned stocking of bass or catfish in the spring outflow. The Service responded by reiterating the reasons why the Clover Valley speckled dace was proposed for endangered status: limited distribution, vulnerability of habitat to change from irrigation or other water diversion practices, and its inability to persist in habitats where non-native species have been introduced. The Service's response also stated that the landowner should contact the Nevada Department of Wildlife for suggestions or assistance in establishing a fishery, that the Service did not normally provide direct assistance for such actions, and that it was hoped that such action would include measures to protect the dace.

Oral statements presented at the public hearing, and written comments received during the comment periods are covered in the following discussion. Comments of similar content are grouped into a number of general issues. These issues, and the Service's response to each, are discussed below.

*Issue 1:* Both subspecies of speckled dace are thriving in their respective habitats because of agricultural practices by the private landowners.

*Response:* The construction of small reservoirs for agricultural purposes at the spring outflows has provided an environment where predatory and/or competing fishes persist and may become abundant. Several comment letters supporting listing (including the Desert Fishes Council) cited the disappearance and presumed extinction of the Independence Valley tui chub (*Gila bicolor isolata*) as an example of the threat caused by introduced fishes. In the case of the tui chub, construction of a reservoir inundated its habitat and permitted exotic fish species to persist that were predators on the chub.

Historical records and field investigations by eminent ichthyologists Carl L. Hubbs and Robert R. Miller (Hubbs and Miller 1972; Hubbs, *et al.* 1974) documented the rarity of both subspecies of speckled dace, and the detrimental effects of habitat alteration and introduction of non-native fishes. Vinyard's field studies in 1983 (Vinyard 1984) further indicated the low numbers of both subspecies and the detrimental effects of irrigation structures and introduced game fish on the native dace populations. Degradation of dace habitat at one Clover Valley site was documented by Hubbs *et al.* (1974) by noting the reservoir in 1934 was " \* \* \* 3 masters deep \* \* \* clear water; rather firm, whitish bottom \* \* \* ." By 1965, however the reservoir was " \* \* \* largely silted in \* \* \* very easily muddied; bottom now of deep mud \* \* \* ." Portions of the present ditched and impounded habitats vary from watered to dry depending on irrigation schedules, and provides only limited habitat during much of the year. Neither the dace nor extent of its habitats were known before widespread agricultural modifications were completed. It is probable, however, that they occupied all of the streams and wetlands maintained by local spring discharge. None of the agricultural modifications to habitats have been done to benefit the native speckled dace. The fish have persisted, not because of irrigation practices by landowners, but despite radical modifications to their habitats. Under current management practices the continued survival of the fish cannot be guaranteed.

*Issue 2:* Collections of speckled dace by researchers and/or Service biologists have been significant and have constituted a serious threat to population numbers.

*Response:* Careful, scientific collection of some individual fish is required occasionally to document species occurrence and abundance. Several comment letters erroneously indicated that large numbers (up to 50) of dace from each of several different sites were collected and/or dissected during status survey field work in 1983. In fact, only a total of approximately 15 individuals were retained from all of the collection sites. These collections were important since almost 20 years had passed since the dace's occurrence had been documented in any habitats in Clover and Independence Valley. Small collections of this type are necessary on a periodic basis to document that the original native types are still present, and to determine whether any non-native types have been introduced. Based on the habitat areas actually sampled and the inherent difficulty of sampling marshes and swift streams using net and seines, researchers and Service personnel believe that there are several hundred dace present in each of three of the four localities sampled in the two valleys, and that the small number of dace retained for scientific purposes had no effect on population viability.

*Issue 3:* Listing the two speckled daces would constitute a violation of the 5th Constitutional Amendment prohibiting taking of property without due process and just compensation—(i.e., condemnation of land).

*Response:* The constitutional issue raised by the commentators cannot be addressed in this final rule because the Service's determination on whether to list these species cannot be influenced by non-biological factors. The listing procedure provided by Congress in section 4 of the Act requires the Service to base its decision solely upon biological criteria and trade information. See H.R. Conf. Rep. No. 835, 97th Cong., 2d Sess. 19 (1982). Once the listing process is completed, other procedures exist, either through section 7 or section 10 of the Act, to analyze impacts posed by economic activities to endangered or threatened species.

*Issue 4:* Because it has not been documented that numbers of dace have declined, there is no justification to list these species as endangered or threatened.

*Response:* Documentation of a decline in numbers of individuals or populations is not required for consideration of listing. The Service has reviewed prior scientific data and received comments which document that spring/marsh habitats where both dace subspecies occur have been radically altered by agricultural practices, and by

introduction of predatory species of trout, bass, and sunfish. The Endangered Species Act requires that five specific factors, one of which is the "present or threatened destruction, modification, or curtailment of its habitat or range" be evaluated to determine whether listing is appropriate. The identified threats to the dace's habitat, inherent small population size, and the limited extent of natural habitat are sufficient justification under the Act to list the two subspecies as endangered.

*Issue 5:* The Service should have worked with affected landowners to develop a cooperative agreement that would protect the dace and allow agricultural practices to continue.

*Response:* A meeting was held between Service representatives and two of the affected landowners to discuss development of such an agreement. Both landowners refused to sign any type of agreement and requested the Service withdraw the listing proposal based on their promise to continue to provide for the dace's well-being. One of the two landowners stated that he would like to develop additional irrigation of his ranch and direct the spring flow into two old ditches, which could seriously impact the historical stream channel where dace were present in 1983. It is not known if the fish is still extant at this location. On the second landowner's property, the fishes do continue to survive under present agricultural management; however, it is apparent that the threats to the long-term survival of these fish must be addressed in making a decision on whether to list these subspecies as endangered or threatened. Another landowner has indicated an intention to introduce game fish into the spring system despite being informed of the threats that this action would pose to the native speckled dace. Thus, the Service believes that considerable efforts to date to work with the landowners has not resulted in any guarantees to eliminate long-term threats to the daces or their habitats that would justify a decision to withdraw the listing proposal.

*Issue 6:* The Service has plans (or should, or should not) to move the dace into other waters.

*Response:* At the present time, the Service has no plans to transplant dace into additional habitats. In 1984, when dace were believed to be absent from one historical site in Clover Valley, a researcher suggested that dace be reintroduced into this habitat from existing populations. Because small numbers of dace were again observed in this historical site in 1985, reintroduction of dace is no longer being considered.

Transplanting dace into Snow Water Lake, as suggested by one commenter, would not provide any secure habitat since the lake occasionally dries completely. Additionally, the Act states that its purposes " \* \* \* are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved \* \* \*." Thus the primary emphasis in conserving the Clover Valley and Independence Valley speckled daces should be directed at insuring the maintenance of natural spring flows and aquatic habitats.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Clover Valley speckled dace and the Independence Valley speckled dace should be classified as endangered species. Procedures found at section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and Regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Clover Valley speckled dace (*Rhinichthys osculus oligoporus*) and Independence Valley speckled dace (*Rhinichthys osculus lethoporus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* As presented in the "Background" section, several factors have affected the decline of these speckled dace. Neither the daces nor their habitats were known before settlers moved into the area and began manipulating springs to facilitate irrigation. Therefore, precise limits of their historically occupied habitat are unknown. However, information gathered about other dace occupying other springs within northern Nevada indicates these speckled dace occupied all of the streams and wetlands maintained by local spring discharge. The quantity of habitat was probably never very large for these dace since the springs they inhabit are small; none of these habitats are supported by springs discharging more than 2,000 gallons per minute (Garside and Schilling 1979).

Manipulation of habitats downstream from reservoirs relegated dace populations to the reservoirs and the small section of stream between the impoundments and the springs. Initial surveys for the Clover Valley speckled

dace in 1934 noted that springs occupied by the dace had been altered at a much earlier date. The outflows were impounded in small reservoirs prior to being distributed to various irrigated pastures (Hubbs *et al* 1974). The ditched habitats existing down gradient from these reservoirs varied from watered to dried depending on where irrigated lands were situated relative to the location of reservoirs. The variable water application regime which continues today (Vinyard 1984), prohibited the long term presence of dace and their habitat in areas downstream from the reservoirs and was probably responsible for the scarcity of dace in these streams.

Viability of dace populations has also been affected by introductions of non-native fishes. Hubbs *et al.* (1974) reported low dace populations when rainbow trout were introduced into reservoirs. Large dace populations were, however, reported at times when trout had not been stocked and were, therefore, scarce or absent. Courtenay and Stauffer (1984) reviewed the detrimental impacts of introduced fishes on native fish populations throughout the world.

The manipulation of reservoir levels may also adversely affect dace populations by effectively decreasing the amount of pond habitat and forcing the fish to take refuge in downstream irrigation ditches. While in these ditches dace are vulnerable to extirpation when their habitat is dried by water management practices that require continuous changes in the water flow in the ditches being used to irrigate different pastures.

The Clover Valley speckled dace presently occurs in three springs and outflows in Clover Valley (Hubbs *et al.* 1974, Vinyard 1984, McNatt 1988). Vinyard (1984) reported absence of dace at one site in 1983, but small numbers were again present by 1988. Existing populations are restricted to local habitats within impoundments and seasonally in their tributary streams (Vinyard 1984). The size of these populations is unknown, but two are believed to exceed several hundred individuals during the summer when they reach their maximum levels.

The Independence Valley speckled dace has never been known to be abundant and always has been known from a single spring system. Hubbs *et al.* (1974) reported the dace were so scarce during their attempts to collect it in 1965 that it was difficult to locate the number required for taxonomic analysis. Vinyard (1984) confirmed its existence in only one spring and noted that the dace were only in those areas not

occupied by largemouth bass and bluegill. Therefore, the dace presently occupies less habitat than it did in 1965. The limited distribution in habitat occupied by this speckled dace implies that any increase in ranch operations, which adversely affects its habitat, is likely to cause the population to decline.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** The small population size and limited distribution of these fishes makes them vulnerable to deleterious depletion by collection.

**C. Disease or predation.** Neither of these speckled daces have been examined for disease. A number of diseases are known to occur naturally in other speckled dace populations in the Great Basin; however, these are not believed to have a substantial impact on population viability. The establishment of non-native fishes in these habitats may have provided an avenue for foreign diseases to be introduced. Such introductions of disease have occurred in other portions of Nevada. Minckley and Deacon (1968) reported the introduction of foreign parasites into the Moapa River system in southern Nevada which apparently accompanied the establishment of exotic fishes in the local springs and streams. Analysis of native fishes in the Moapa Valley showed that these parasites have successfully infected the local fish community and may be depressing populations. No introduced parasites or diseases are known to infect these two speckled dace.

Sport fishes introduced into North America have frequently been reported as preying upon or competing with native fishes. In many instances, exotic species have caused the native fishes to be eliminated (Minckley 1973, Moyle 1976, Taylor *et al.* 1984). Extinction of the Independence Valley tui chub following introductions of largemouth bass and bluegill is strong evidence that such introductions have significantly impacted the native fishes occupying springs in northeastern Nevada. The presence of predatory species in springs occupied by these two speckled dace is noted as being a major factor depressing their populations (Hubbs *et al.* 1974, Vinyard 1984).

**D. The inadequacy of existing regulatory mechanisms.** These species are not protected by any known regulatory mechanism.

**E. Other natural or manmade factors affecting its continued existence.** Vandalous acts have never been known to affect rare aquatic species in Nevada; however, threats of vandalism were made that, if carried out, would have

reduced or eliminated populations of rare species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to issue this final rule. Based on this evaluation, the preferred action is to list both the Clover Valley speckled dace and Independence Valley speckled dace as endangered. The restricted distribution of these species, and the immediate and potential problems affecting their continued existence, indicate that endangered, rather than threatened, is the appropriate classification. Critical habitat is not being proposed for the reasons discussed below.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. With regard to the two speckled dace, the Service finds that designation of critical habitat is not prudent at this time. As discussed under Factors A, B, and E, in the "Summary of factors affecting the species," these fishes are vulnerable to unlawful collection and vandalism acts. Designation of critical habitat would entail publication of precise habitat locations, delineating the distribution of these fishes and, therefore, would make the species more susceptible to unlawful collection and vandalism. All involved parties and landowners will be notified of the location and importance of protecting the habitat of these species. Protection of habitat will be addressed through the recovery process and through the section 7 consultation process, as explained below.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Recovery actions that may be beneficial to these species

include: conservation easements and consequent effective management of the springs where the fish live, and protective measures to prevent vandalism, habitat disturbance, and introduction of predatory fish. Specific management actions that might be negotiated pursuant to conservation easements with private landowners would be leaving sufficient water in springs and outflows during irrigation work, maintaining some vegetation intact in the course of clearing irrigation canals, and not using herbicides. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The restriction of both dace species to private land indicates that the involvement of Federal activities regarding these species will be minimal. Prior to issuing a permit pursuant to section 404 of the Clean Water Act, the U.S. Army Corps of Engineers may be required to consult with the Service if there are proposed activities that will dredge and fill wetlands occupied by endangered or threatened species. No other potential Federal activities are known to be involved.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take,

import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### References Cited

- Courtenay, W.R., Jr. and J.R. Stauffer, Jr. (eds.). 1984. Distribution, biology, and management of exotic fishes. Johns Hopkins University Press, Baltimore.
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- Moyle, P.B. 1976. Inland fishes of California. University of California Press, Berkeley, California.
- Taylor, J.N., W.R. Courtenay, Jr., and J.A. McCann. 1984. Known impacts of exotic fishes in the continental United States. Pages 322-353. In: W.C. Courtenay, Jr., and J.R. Stauffer (eds.), Distribution, biology and management of exotic fishes. Johns Hopkins University Press, Baltimore.
- Vinyard, G. L. 1984. A status report about the Independence Valley speckled dace (*Rhinichthys osculus leithoporus*), Independence Valley tui chub (*Gila bicolor isolata*), and Clover Valley speckled dace (*Rhinichthys osculus oligoporus*); three fishes restricted to the northeastern portion of Nevada. Unpublished report to the U.S. Fish and Wildlife Service, Reno, Nevada.

#### Author

The primary author of this final rule is Dr. Randy M. McNatt, U.S. Fish and Wildlife Service, Great Basin Complex, 4600 Kietzke Lane, Reno, Nevada 89502 (702/784-5227 or FTS 470-5227).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

#### Regulations Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended, 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. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes							
Dace, Clover Valley speckled	<i>Rhinichthys osculus oligoporus</i>	U.S.A. (Nevada)	Entire	E	369	NA	NA
Dace, Independence Valley speckled	<i>Rhinichthys osculus oligoporus</i>	U.S.A. (Nevada)	Entire	E	369	NA	NA

Dated: October 3, 1989.

**Richard N. Smith,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 89-23814 Filed 10-6-89; 8:45 am]

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