

DATES: Comments from all interested parties must be received by October 26, 1987. Public hearing requests must be received by October 13, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gerald Burton, Endangered Species Biologist, Albuquerque, New Mexico (see "ADDRESSES" above) (505/766-30972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:

Background

Among the significant changes made by the 1982 Amendments to the Endangered Species Act (Pub. L. 97-304) was the creation of a new section 10(j), which established procedures for the designation of specific populations of listed species as "experimental populations." Regulations implementing the experimental population designation were published on August 27, 1984 (49 FR 33885). Previous to the 1982 Amendments, the Service was permitted to translocate populations into unoccupied portions of a listed species' historic range if such an action would foster the conservation and recovery of the species. Local opposition to translocation efforts severely handicapped the effectiveness of translocation as a management tool. This opposition stemmed from concerns regarding the restrictions and prohibitions on private and Federal activities affecting endangered species under sections 7 and 9 of the Act. Under section 10(j) of the 1982 Amendments, past and future translocated populations established outside the current range, but within the species' historic range, may now be designated at the discretion of the Service as experimental. Such a designation will increase the Service's flexibility to manage these translocated populations because the Amendments provide that experimental populations of species that are otherwise listed as endangered may be treated as threatened. The Service has much more discretion in devising management programs for threatened species than for endangered species, especially on matters regarding regulated takings. Moreover, populations found to be

nonessential to the continued existence of the species in question would not be afforded protection under section 7(a)(2) of the Act, which requires Federal agencies to refrain from activities that are likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. The individual organisms comprising the designated experimental population will be removed from an existing source or donor population only after it has been determined that their removal itself will not violate section 7(a)(2) of the Endangered Species Act and complies with the permit requirements in section 10(a)(1)(A) and (d). The Service proposes a nonessential experimental population of the Colorado squawfish, currently listed as endangered.

The Colorado squawfish was once widespread, occupying the entire Colorado River system including the Gila River system in Arizona. Squawfish were also present in tributaries of the Gila River, including the Salt, Verde, and San Pedro Rivers and likely several other rivers. The last specimen known from the Arizona waters was collected in the early 1950's. Extensive sampling since the 1950's has failed to locate specimens anywhere within the State of Arizona. The reasons for the decline of the Colorado Squawfish are dewatering, dams, and competition with exotic species of fish.

Recovery actions, detailed in the Colorado Squawfish Recovery Plan, include the reintroduction of the species into selected streams within the historic habitat. Securing several, isolated populations ensures protection from extinction due to catastrophic destruction of a single population. Recent reintroduction efforts have included stocking of captive reared Colorado squawfish in the Salt and Verde Rivers in Arizona. Because potentially good habitat remains in the Lower Colorado River, the establishment of an additional population in the Lower Colorado River also seems likely. This additional population, if successfully established could contribute to the recovery of the species. The stock of Colorado squawfish to be used in this reintroduction will come from an existing captive-bred population and will not result in the removal of any individuals from the wild population.

Status of Reintroduced Populations

The reintroduced population of Colorado squawfish is proposed as a nonessential experimental population according to the provisions of the 1982 Amendments to the Endangered

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to introduce Colorado Squawfish (*Ptychocheilus lucius*) into the Lower Colorado River in Arizona and to determine the population to be "nonessential experimental" according to section 10(j) of the Endangered Species Act of 1973, as amended. Section 10(j) of that Act authorizes experimental populations of endangered species to be treated as if they were threatened. The Service has much more discretion in devising a management program for threatened species than for endangered species, especially on matters regarding regulated taking. Accordingly, a special rule to allow take in accordance with State law is proposed for this nonessential experimental population. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population of Colorado squawfish within the species' historic range. The Service is requesting comments and information pertaining to this proposed reclassification.

Species Act. Nonessential experimental population status for the introduced Colorado squawfish means that they would be subject only to provisions of section 7(a) (1) and (4) of the Endangered Species Act which authorizes Federal agencies to establish programs furthering species conservation and which require Federal agencies to informally confer with the Secretary regarding actions that are likely to jeopardize the continued existence of the species. The restrictions on Federal agency activity in section 7(a)(2) would not apply (with the exception of activities on National Wildlife Refuge and National Park lands). Justification for the nonessential status for the proposed introduced experimental population of Colorado squawfish is as follows. Viable, native populations of this species remain in portions of the Green, Colorado, and Yampa Rivers in the upper Colorado River basin. In addition, attempts are being made to establish other experimental populations in the Salt and Verde Rivers. Sufficient brood stock is available at Dexter National Fish Hatchery, where successful techniques for propagating and rearing this species have been developed and are in progress. Creation of the proposed experimental population from captive breeding stock would not affect the survivorship of the remaining native populations.

Location of Reintroduced Populations

The site for this proposed reintroduction of Colorado squawfish is the Lower Colorado River, upstream from the Imperial Dam to Parker Dam in Yuma and La Paz Counties, Arizona, and in Imperial, Riverside and San Bernardino Counties, California. The reintroduction site is within the historic range of the species, and is isolated from all other populations of Colorado squawfish. This proposed population is 500 miles from the nearest native population, which is in the upper reaches of Lake Powell. The closest designated experimental population in the Verde River near Perkinsville, Arizona, is located about 300 river miles distant.

Management

The Service and Arizona Department of Game and Fish plan to initiate this reintroduction as soon as possible. Present plans call for annual stocking over the next 10 years. The first stocking

would consist of as many as 100,000 individuals. All of the fish will come from hatchery stock spawned and reared at Dexter National Fish Hatchery, Dexter, New Mexico. Fish from Dexter NFH will be reared to fingerling size by the State of Arizona at Page Springs State Fish Hatchery, Cornville, Arizona.

Condition of the reintroduced populations will be checked annually. Population expansion or reduction, reproductive success, and the general health condition of the fish will be determined by monitoring surveys. This proposed experimental population of squawfish will be treated as threatened species under all provisions of the Act other than section 7(a)(2). All of the prohibitions referred to in 50 CFR 17.31 would apply to these populations, except that individual fishes of these populations may be taken in accordance with applicable State law.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or other interested parties concerning any aspect of this proposal are hereby solicited. Comments are particularly sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to Colorado squawfish in the Lower Colorado River;
- (2) Information of environmental impacts that would result from the rule; and
- (3) Possible alternatives to this proposed rule.

Final promulgation of the regulation on Colorado squawfish will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

National Environmental Policy Act

A draft Environmental Assessment under NEPA has been prepared and is available to the public at the Endangered Species Office, U.S. Fish and Wildlife Service, at the address listed above. This assessment will form the basis for a decision, to be made prior to the publication of a final rule, as to whether this is a major Federal action

which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500 through 1508).

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The U.S. Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291; that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96-354). The introduction site occurs within the high recreation use area of the Lower Colorado River. However, this listing is not expected to have any impact on recreational uses and is notably compatible with existing uses. The rule as proposed does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Author

The primary author of this proposed rule is Sue Rutman, Endangered Species Biologist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend 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: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 98-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

- 2. It is proposed to amend § 17.11(h) by revising the entry "Squawfish, Colorado" under FISHES to read as follows:

§ 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							
Squawfish, Colorado	<i>Ptychocheilus lucius</i>	USA (AZ,CA,CO,NM,NV,UT,WY), Mexico.	Entire, except where listed as experimental populations below.	E	1,193	NA	NA
Do	do	do	Salt and Verde Rivers drainages, AZ; and lower Colorado River from Imperial Dam to Parker Dam, AZ, CA.	XN	193	NA	17.84(b) 17.84(f)

3. Add the following special rule to Part 17 by adding a new § 17.84(f) as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(f) Colorado squawfish (*Ptychocheilus lucius*).

(1) The Colorado squawfish population identified in paragraph (f)(6) below is a nonessential experimental population.

(2) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances:

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act, or

(ii) Incidental to State permitted recreational fishing activities, provided that the individual fish taken is immediately returned to its habitat, or

(iii) In accordance with State conservation laws and regulations during open season.

(3) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulation.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (f) (2) through (4) of this section.

(6) The proposed nonessential experimental population will be placed in the Lower Colorado River, upstream from Imperial Dam to Parker Dam in Yuma and La Paz Counties, Arizona, and in Imperial, Riverside, and San Bernardino Counties, California.

Dated: July 9, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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