

Special Rule Exemption for Routine Ranching Activities

As part of the critical habitat designation, the Service promulgated a special rule exemption regarding routine ranching activities where there is no Federal nexus from take prohibitions under Section 9 of the ESA. (USFWS 2006, 71 FR 19285-19290). The Service's reasoning behind this exemption is that managed livestock activities, especially the creation of stock ponds, provide habitat for the CRLF. Maintenance of these areas as rangelands, rather than conversion to other uses should ranching prove to be economically infeasible is, overall, of net benefit to the species.

Several of the specific activities exempted include situations where pesticides may be used in accordance with labeled instructions. In this risk assessment, the Agency has assessed the risk associated with these practices using the standard assessment methodologies. Specific exemptions, and the reasoning behind each of the exemptions is provided below. The rule provides recommended best management practices, but does not require adherence to these practices by the landowner.

1. Stock Pond Management and Maintenance

- a. Chemical control of aquatic vegetation. These applications are allowed primarily because the Service felt "it is unlikely that vegetation control would be needed during the breeding period, as the primary time for explosive vegetation control is during the warm summer months." The Service recommends chemical control measures be used only "outside of the general breeding season (November through April) and juvenile stage (April through September) of the CRLF." Mechanical means are the preferred method of control.
- b. Pesticide applications for mosquito control. These applications are allowed because of concerns associated with human and livestock health. Alternative mosquito control methods, primarily introduction of nonnative fish species, are deemed potentially more detrimental to the CRLF than chemical or bacterial larvicides. The Service believes "it unlikely that [mosquito] control would be necessary during much of the CRLF breeding season," and that a combination of management methods, such as manipulation of water levels, and/or use of a bacterial larvicide will prevent or minimize incidental take.

2. Rodent Control. The Service notes “we believe the use of rodenticides present a low risk to CRLF conservation.” In large part, this is due to the fact that “it is unknown the extent to which small mammal burrows are essential for the conservation of CRLF.”
 - a. Toxicant-treated grains. No data were available to evaluate the potential effects of these compounds (primarily anti-coagulants) on the CRLF. Grain is not a typical food item for the frog, but individuals may be indirectly exposed by consuming invertebrates which have ingested treated grain. There is a possibility of dermal contact, especially when the grain is placed in the burrows. Placing treated grain into the burrows is not prohibited, but should this method of rodent control be used, the Service recommends bait-station or broadcast application methods to reduce the probability of exposure.
 - b. Burrow fumigants. Use of burrow fumigants is not prohibited, but the Service recommends “not using burrow fumigants within 0.7 mi (1.2 km) in any direction from a water body” suitable as CRLF habitat.