

Questions and Answers

Question 1: What prompted the reopening of the public comment period of the proposed rule to list the Indian (Burmese) python and eight other large constrictor snakes as injurious wildlife under the Lacey Act?

Answer 1: The U.S. Fish and Wildlife Service published the proposed rule in the *Federal Register* to list nine species of large constrictors as injurious wildlife under the Lacey Act. The Service used the U.S. Geological Survey's risk assessment (based on procedures published by the Aquatic Species Nuisance Task Force in 1996) and all of the best available scientific information in our analysis. We also provided a draft economic analysis and draft environmental assessment available to the public. The public had 60 days to comment on the proposed rule, which closed on May 11, 2010.

Due to the complexity of this rule, we have decided to give the public additional time to prepare comments over an additional 30-day period (July 1 – August 2, 2010).

For more information on this proposal, including how to submit a comment, as well as links to partner agencies, visit: <http://www.fws.gov/verobeach/index.cfm?method=activityhighlights&id=11>.

Question 2: How many comments did we receive through the original period? When can we expect the Service to make a final determination on the proposed designation?

Answer 2: The public can view the comments received at <http://www.regulations.gov/>. They are all or will be posted. The Service received some hand carried copies of form letters in the Washington Office from The Humane Society of the United States and Defenders of Wildlife during the original 60-day comment period. Characterization Review of the comments will take place after the additional 30-day time frame period.

The Service will make a final determination on the proposed listing after further review of the scientific data and the information contained in comments submitted by the public. We have roughly 50,000 comments at this time. Due to the volume of comments received, it will take some time to analyze comments and organize the data. There are no statutory requirements regarding completion time frames for acting on a proposed injurious wildlife evaluation/designation.

This is one of our top priorities. The Service will make every effort to complete a thorough review as quickly as possible. A final decision may take up to a year.

Question 3: What does an injurious wildlife listing under the Lacey Act mean to the public?

Answer 3: Under the Lacey Act, wildlife can be listed as injurious because the species has been demonstrated to be harmful or have the potential to be harmful to either the health and welfare of humans, the interests of forestry, agriculture, or horticulture, or the welfare and survival of wildlife or the resources that wildlife depend upon. To control the spread of an injurious species, the importation and interstate transport of the listed species are prohibited without a permit issued by the Service. Permits may be granted for the importation or transportation of live specimens of injurious wildlife for scientific, medical, educational, or zoological purposes. The Lacey Act does not have provisions for

the movement of personal pets, however. The Lacey Act does not address intrastate (within State) transport.

Question 4: What does “interstate transport” include? For example, does it include Puerto Rico?

Answer 4: Yes, Puerto Rico is included, as well as the District of Columbia. Species listed as injurious (including any live animals, their gametes, hybrids, and viable eggs) may not be imported into the United States or transported between any State, territory or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, by any means without a permit issued by the Service. It is important to note that other areas of the United States besides Florida are at risk of having some or all of the nine species of constrictor snakes establish populations. For example, Puerto Rico and other islands with subtropical or tropical climates are at risk of having one or more of these nine constrictor snakes become established. A listing of injurious wildlife would offer protection to areas in the United States that currently do not contain these species of snakes in the wild.

Question 5: Would someone be able to take a pet snake to another State just for a visit or to go to a veterinarian?

Answer 5: No, even temporary interstate transport would be prohibited. The Lacey Act does not have provisions to allow the interstate movement of pets.

Question 6: Could the Service list fewer than nine of the species, or must it list all nine species together?

Answer 6: We are not required to list the nine species together as a group. For this proposed rule, we evaluated each of the nine species individually, and we will list only those species that we determine, through the final evaluation, to be injurious.

Question 7: What scientific data are evaluated for an injurious wildlife listing?

Answer 7: We evaluate two sets of scientific data. First, we evaluate the factors that contribute to being considered injurious, including:

- the likelihood of release or escape;
- potential to survive, become established, and spread;
- impacts on wildlife resources and or ecosystems through hybridization and competition for food/habitats, habitat degradation/destruction, predation, and pathogen transfer;
- impact to threatened and endangered species and their habitats;
- impacts to human beings, forestry, horticulture, and agriculture; and
- wildlife or habitat damages that may occur from control measures

Second, we evaluate factors that reduce the likelihood of the invasive species causing harm, including the:

- ability to prevent escape and establishment;
- potential to eradicate or manage established populations;

- ability to rehabilitate disturbed ecosystems;
- ability to prevent or control the spread of pathogens or parasites; and
- any potential ecological benefits to introduction.

Question 8: What is the difference between an invasive species and injurious wildlife?

Answer 8: Invasive species, as defined by Executive Order 13112 of February 3, 1999, “means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.”

Injurious wildlife are those species that meet the standard for listing under the Lacey Act. They are mammals, birds, amphibians, reptiles, fish, crustaceans, and mollusks, as well as their offspring, gametes, or hybrids that are injurious to the interests of human beings, agriculture, horticulture, forestry, wildlife, or wildlife resources of the United States. Plants and organisms other than those listed above cannot be listed as injurious wildlife by the U.S. Fish and Wildlife Service. Please visit the Service’s Web site for more information on injurious wildlife at: <http://www.fws.gov/contaminants/ANS/ANSInjurious.cfm>.

Question 9: What steps related to the Lacey Act have been taken to evaluate large constrictor snakes as injurious wildlife?

Answer 9: The completion of the risk assessment done by USGS was an important milestone in our evaluation and a requirement before additional steps could be taken. Prior to the completion of the USGS risk assessment, the Service published a Notice of Inquiry in the *Federal Register* on January 31, 2008. This Notice of Inquiry requested (from the public) biological, economic, or other data on adding large constrictor snakes to the list of injurious wildlife. We received 1,528 responses during the public comment period that closed April 30, 2008. We considered this information and other available data to analyze the economic and environmental impacts of the proposed rule under the National Environmental Policy Act, the Regulatory Flexibility Act, and Executive Orders 12866 and 13272.

Question 10: Why does the Service conduct economic analyses and require using the Regulatory Flexibility Act?

Answer 10: The Regulatory Flexibility Act, Executive Order 12866, and the Small Business Regulatory Enforcement Fairness Act require agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small government jurisdictions. The evaluation must discuss: 1) a description of and estimate of the number of small entities to which the rule will apply; 2) a description of the steps the agency has taken to minimize the significant economic impacts on small entities; and 3) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis.

Question 11: Did you determine if there will be economic or environmental impacts if these species are listed under the Lacey Act?

Answer 11: The annual retail value losses for listing all nine of the large constrictors are estimated to range from \$3.6 million to \$10.7 million, based on our draft economic analysis. The cost estimate

represents the loss of revenue to companies or individuals importing or breeding these large constrictor snakes and this rule would affect their markets. As for environmental impacts, we should note that State and Federal agencies have expended millions of dollars to address the threats posed by pythons in the Everglades (such as testing capture methods and ways to locate these cryptic animals in the wild). If the spread of these species is not controlled, we anticipate that State and Federal agencies would need to spend even more money to address the threats posed in other areas of the United States. These costly control measures could be reduced or prevented by this listing under the Lacey Act.

Question 12: Recent estimates in various media sources cite revenues of around \$1.6 billion - \$1.8 billion each year from the sale of boas and pythons. Based on the Service's draft economic analysis, there appears to be a large disparity between these estimates. What are the reasons for this?

Answer 12: We do not know how those figures were derived. We have seen an annual survey by the American Pet Products Association (http://www.americanpetproducts.org/press_industrytrends.asp) that shows the total dollars spent on live purchases of pets (all animals, including dogs, cats, horses, birds, aquarium fish, reptiles, and so on) in 2009 to be \$2.16 billion; thus, it would follow that the sale of a small segment of that group would be a much lower figure.

To obtain data for our draft economic analysis, we published a Notice of Inquiry (January 2008) in the *Federal Register* requesting economic, biological, or other data on large constrictor snakes being considered for addition to the list of injurious wildlife. To prepare the draft economic analysis, we considered information received from the public during that 90-day comment period, including industry groups, and other available data, such as importation data from the Service's Law Enforcement Management Information System (LEMIS).

We encourage the public to provide additional information for the draft economic analysis. We will use the information that we received during the 60-day public comment period, and from this additional 30-day public comment period, for the proposed rule (including the draft economic analysis) to prepare the final economic analysis. In particular, we are interested in obtaining data pertaining to companies (retailers, breeders, and wholesalers) with interstate sales and companies selling reptile-related products and services for the nine species of large constrictor snakes being analyzed in the proposed rule.

Question 13: Who would be affected by a listing of the snakes included in the risk assessment?

Answer 13: Groups affected by the listing would include: (1) companies importing live snakes; (2) companies (retailers, breeders, and wholesalers) with interstate sales of live snakes; (3) companies selling reptile-related products and services; and (4) pet owners who want to move their snakes to other States or purchase snakes from businesses located in other States. Impacts to these groups depend on the amount of interstate sales within the constrictor snake market. Impacts are also dependent upon whether consumers would purchase other animals not listed.

Question 14: Will a person who owns a large constrictor snake, such as a Burmese python, be able to keep it if the giant constrictors are listed as injurious? How about pet retailers?

Answer 14: Yes, for both, provided their snakes do not cross State lines and are not otherwise regulated by a State law.

Question 15: “I’ve tried donating my python to the zoo and the humane society, and neither will take it; what am I to do?”

Answer 15: If you are in a position where you must give up your pet python, and zoos and humane societies have declined your efforts to donate the animal, you should contact either your State fish and wildlife agency or your local U.S. Fish and Wildlife Service office. These two government agencies are the legal authorities that co-manage fish and wildlife in this country, and they can help you to resolve this issue. The U.S. Fish and Wildlife Service is working with States around the country and the pet and aquarium industry through a campaign called Habitattitude to help pet owners adopt environmentally responsible actions for surrendering their pets, such as:

- Contacting the retailer for proper handling advice or for possible return;
- Giving or trading with another pet owner;
- Donating to a zoo, humane society, nature center, school, or pet retailer; and
- Contacting a veterinarian or pet retailer for guidance on humane disposal of animals.

Please visit <http://www.habitattitude.net/> for more information.

Question 16: Do you believe that the vast majority of Burmese pythons in the Florida Everglades were intentionally dumped there by pet owners?

Answer 16: The Service knows that there are now a large number of Burmese pythons in the Everglades. Although various scenarios are possible, given the large number of these pythons in the pet trade in Florida and the difficulty in maintaining a python in a home after it has reached its full size, we believe it is likely that their presence in the Everglades is a result of a combination of intentional releases and accidental escapes.

Question 17: Why shouldn’t people release their pet constrictors into the wild? Aren’t they part of nature?

Answer 17: It may seem like a good idea to release pet pythons and other constrictors into natural areas, such as National Parks and National Wildlife Refuges. However, releasing these large predators into areas where they are not native causes an imbalance in the food chain, and other serious ecological problems. Our native wildlife species have not evolved behaviors and do not have the defenses to protect themselves against these large predators, because there is nothing similar to these snakes anywhere in the United States. All of these nine species of large constrictors can attain lengths greater than any of our native snakes.

Our largest native snake is the eastern indigo snake, which attains a maximum length of around 8 feet. Most of the constrictors attain lengths two or three times that and can weigh 200 to 400 pounds. A large python can even kill an alligator. Burmese pythons attain lengths up to 23 feet. Many of our threatened and endangered species would be further imperiled and risk extinction if these species of snakes become established.

Furthermore, releasing reptiles from captivity into the wild is illegal, unless otherwise specifically permitted by law or regulation. Thus, people who have good intentions of being kind to their snakes should seek alternatives (please see Question 15).

Question 18: If the proposed injurious listing is enacted, would someone who moved out-of-state be able to take his or her pet python along?

Answer 18: No. The movement of listed species across State lines (that is, interstate transportation) is prohibited, unless a permit has been issued to authorize the movement. Permits can be issued for zoological, educational, medical, or scientific purposes. However, permits are not issued for pets.

Question 19: “I’m moving to Hawaii, and I own a Boa constrictor. I hear they don’t like snakes there. Can I send it to myself there by FedEx?”

Answer 19: No. The Lacey Act prohibits moving listed species across State lines, whether they are driven, flown, or mailed.

Question 20: There is no way that a python could survive in the northern States; it freezes there and these snakes can’t take cold weather, much less a freeze. Why don’t we continue to allow importation and ownership in places that freeze?

Answer 20: Creating this type of geographical restriction or exemption (or both) under the Lacey Act would make enforcement of the regulations by the Federal government, in cooperation with the affected States, very difficult, if not impossible.

Question 21: If the injurious listing of giant constrictors is enacted, will people need a permit to own one?

Answer 21: No. The Lacey Act does not restrict possession of legally acquired injurious wildlife. However, States may impose restrictions on possession. For example, the State of Florida, under its own regulations, requires a permit system for Indian python (including Burmese pythons), reticulated pythons, African rock pythons (to be split by the State of Florida into northern and southern African rock python species), and green anaconda. These species are required to be permanently identified with a microchip, and owners pay a \$100 annual registration fee. Owners of these species must meet strict record-keeping, caging and facility requirements. It should be noted that the Florida Fish and Wildlife Commission is currently considering amendments to the State Reptiles of Concern regulations.

Question 22: If the injurious listing of giant constrictors is enacted, would it put prohibitions on captive breeding within State lines?

Answer 22: No. The listing would not stop captive breeding, but it would preclude breeders from selling snakes outside their home States. It would also prohibit pet owners who move to another State from taking their snakes with them. Pet owners who move to another State are encouraged to act responsibly to find a home within the State (please see the answer to Question 15 for suggestions).

Question 23: If someone has a rare designer “morph” of python and obtained it from an out-of-state breeder, will he or she be able to acquire one from the same source if the injurious listing passes, so as to get the same designer morph as a mate for the snake?

Answer 23: No. The Lacey Act prohibits the interstate movement of listed species. While permits are available to authorize some activities involving listed species, no permit could be issued to move a designer morph across State lines for personal use.

Question 24: Please clarify the regulations for intrastate transport for previously permitted specimens of injurious wildlife. Are these regulations contained within 50 CFR 16?

Answer 24: An injurious wildlife listing does not prohibit intrastate transport, use, possession, and so forth, where not prohibited by the State. However, once a permit has been issued by the Service for importation or interstate movement of a specimen for zoological, educational, medical, or scientific purposes, the Service places a condition on the face of the permit that requires that the specimen, and all of its progeny, be maintained in escape-proof enclosures, and any subsequent movement of the animals, whether across State lines or across the hall to a new enclosure, be authorized by the Service before the move occurs. While this permit condition is based on the requirements within 50 CFR Part 16, Section 22, the authority to include the permit condition is found within 50 CFR Part 13, Subpart D.

Question 25: Is there any accuracy to statements made by the pet industry, specifically the United States Association of Reptile Keepers, that the Indian and Burmese pythons were considered as the same species in the climate-matching study used in the USGS risk assessment when the Burmese python, the subspecies established in Florida, shows less cold tolerance than the Indian form?

Answer 25: The USGS scientists who authored the climate matching study and the large constrictor snakes risk assessment point out that the taxonomic relationship between Indian and Burmese pythons needs to be considered along with the native range of each taxon and their native thermal adaptations. The distinctness of the Burmese form has been in question and some taxonomic authorities question whether the Burmese form justifies subspecies status.

The scientists considered both forms separately and found them to be indistinguishable in terms of cold tolerance or hibernation duration. From their review of the peer-reviewed literature, the two subspecies have the same cold tolerances. The assertion that the Burmese form shows less cold tolerance than the Indian form is not supported by the peer-reviewed literature. The climate-matching study used the climatic characters from the full range of both species in estimating which portions of the U.S. might be vulnerable to colonization.

Question 26: If the injurious listing of giant constrictors is enacted, will people be able to buy these snakes at Reptile Expos?

Answer 26: The Service does not regulate activities within a State, only activities that result in listed species crossing State lines or being imported into the country. If the buyer or the seller transports the

snake across State lines, a violation of the Lacey Act would have occurred unless the Service has issued a permit authorizing the transport.

Question 27: If the injurious listing of giant constrictors is enacted, would people be able to order a snake on the Internet?

Answer 27: The sale or purchase of a snake through the Internet would not be permitted if the snake crosses a State line (including coming from or going to the District of Columbia, Puerto Rico, and the U.S. territories) or is imported.

Question 28: If the injurious listing of giant constrictors is enacted, would people be allowed to hunt or shoot these snakes?

Answer 28: It depends on where people want to hunt or shoot the snakes. Hunting on private land is regulated primarily by individual States through permission of the landowner. We allow compatible recreational hunting on National Wildlife Refuges for migratory game birds, upland game, and big game in accordance with State law and subject to refuge-specific conditions.

Hunting on refuges is pursuant to a compatibility determination, National Environmental Policy Act compliance, and other required consultations followed by publication in the *Federal Register*, and codification in 50 CFR Part 32. Each person who hunts on a National Wildlife Refuge must have the required State license(s), appropriate State and Federal Duck Stamps for waterfowl hunting, as well as any permits and/or user fees required by the refuge.

Currently, we prohibit recreational hunting of virtually all reptiles, native and nonnative, by refuge regulations. For additional information, go to: <http://www.fws.gov/refuges/hunting/>.

Here are some Web sites and additional information related to hunting in certain areas:

Florida Fish and Wildlife Commission

The Florida Fish and Wildlife Commission (FWC) allows hunting with a permit on their State-managed lands. FWC continued issuing permits for capturing reptiles of concern on State-managed lands in South Florida in January 2010. These permits will expire December 31, 2010. Applications are available at <http://myfwc.com/>; click on “Burmese pythons” from the “Quick Clicks” menu. Only qualified applicants will be issued permits.

The permit period beginning January 1, 2010, requires potential permit holders to be Florida residents and to have a reptile of concern license, digital camera and a GPS unit. They also must have experience in capturing wild snakes, handling large constrictors, euthanizing reptiles and working in remote areas. The permit holders are required to photograph and mark GPS locations, photograph and describe stomach contents of euthanized snakes, file reports with the FWC within 36 hours of capture, and euthanize pythons onsite or transport live pythons to be euthanized at a location with veterinary facilities. Permit holders will be required to make at least five trips each calendar quarter. They also must visit each State wildlife management area at least twice during the year.

For more information:

http://www.myfwc.com/WILDLIFEHABITATS/Nonnative_Python_FAQs.htm
http://www.myfwc.com/WILDLIFEHABITATS/Nonnative_Python_RemovalProgram.htm
http://myfwc.com/newsroom/09/statewide/News_09_X_Python7.htm
http://myfwc.com/newsroom/Barreto/09/News_Barreto_09_10a.htm

Big Cypress National Preserve

Hunting within the Big Cypress National Preserve is managed cooperatively between the National Park Service and Florida Fish and Wildlife Conservation Commission (FWC). FWC and Big Cypress National Preserve implemented a program to reduce the number of large constrictor snakes in the wild in Florida. The lands specified in the FWC order are Everglades and Francis S. Taylor, Holey Land, Rotenberger and Big Cypress wildlife management areas.

For more information:

<http://www.nps.gov/bicy/planyourvisit/hunting.htm>
<http://www.nps.gov/bicy/parknews/fwc-opens-python-captures-to-licensed-hunters-on-s-fl-wmas.htm>

For up-to-date hunting regulations related to the Big Cypress Wildlife Management Area, click on this link: http://www.nps.gov/bicy/planyourvisit/upload/0910_BigCypress.pdf.

Everglades National Park

Consistent with National Park Service management policies, Everglades National Park has initiated a pilot authorized agent program to assist with python removal in and around the park. The 2009/2010 pilot authorized agent program has been capped at 30 agents, and we have met this quota due to overwhelming interest from qualified applicants. The program will run through March 2010, at which time the program will be evaluated and next steps will be determined.

For more information:

<http://www.nps.gov/ever/naturescience/burmesepython.htm>

Question 30: Is there current legislation pending to list the nine species of large constrictor snakes as injurious wildlife? Would the legislation have the same affect as a final listing by the Service?

Answer 30: In the 111th Congress, there are two bills that have been introduced to amend the injurious wildlife provisions of the Lacey Act to include certain species of constrictor snakes as injurious, S. 373 and H.R. 2811. If passed, the legislation would have the same affect as a final listing by the Service for those species included in the Act. The Service testified before Congress in support of the bills and recommended that the legislation be expanded to include all nine species of large constrictor snakes.

A copy of recent Service testimony can be found at:

http://www.fws.gov/laws/Testimony%20chart_111.html.