Injurious Wildlife

A Summary of the Injurious Provisions of the Lacey Act (18 U.S.C. 42; 50 CFR 16)

What Does Injurious Wildlife Mean?

Injurious wildlife are mammals, birds, amphibians, reptiles, fish, crustaceans, mollusks and their offspring or gametes 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.

What are the Injurious Wildlife Provisions of the Lacey Act?

The injurious wildlife provisions of the Lacey Act are one tool that the U.S. Fish and Wildlife Service (Service) uses to prohibit introductions of and to manage invasive species. Under the Lacey Act, importation and interstate transport of animal species determined to be injurious may be regulated by the Secretary of the Interior. The Service implements the injurious wildlife provisions (18 U.S.C. 42) through regulations contained in the Code of Federal Regulations (50 CFR part 16). Species are added to the list of injurious wildlife to prevent their introduction or establishment through human movement in the United States to protect the health and welfare of humans, the interests of agriculture, horticulture or forestry, and the welfare and survival of wildlife resources from potential and actual negative impacts.

What Does It Mean When a Species is Listed as Injurious Wildlife?

Species listed as injurious (including their gametes and viable eggs) may not be imported into the United States or transported between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico or any territory or possession of the United States by any means without a permit issued by the Service. Regulation of transport or use within a State is the

Northern Snakehead (Chana argus) - USFWS Photo

Zebra Mussels (Dreissena polymorpha) - USFWS Photo

responsibility of each State. Possession of a species, within State boundaries, is also the responsibility of each State and is not regulated by an injurious wildlife listing.

The penalty for an injurious wildlife Lacey Act violation is up to six months in prison and a $5,000 fine for an individual or a $10,000 fine for an organization. Another section of the Lacey Act (16 U.S.C. 3371-3378) pertains to prohibited acts for wildlife and plants; this is different from the injurious wildlife provisions of the Lacey Act, though an enforcement relationship between the two does exist. More information can be found at the Service's Law Enforcement Statute webpage at: http://www.fws.gov/le/LawsTreaties/Lacey.pdf.

What is the Process for Evaluating Possible Listings of Injurious Wildlife Species?

There are several potential steps for evaluating possible additions to the list of injurious wildlife species: Petition or Initiation of an Evaluation, Notice for Information, Proposed Rule, and Final Rule. The Service may initiate an evaluation without a petition. There is no mandated time frame for making an injurious species determination. The evaluation process and the timeframe under which we complete it varies based on the availability of data and the complexity of the analyses that may be required under the Regulatory Flexibility Act, Executive Orders, and other mandates. Following receipt of a petition or a decision by the Service

that a species warrants evaluation, a Notice for Information may be published in the *Federal Register* requesting the public submit economic and biological information about the species under evaluation. If there is readily available information about a species, this step may not be necessary.

The Service considers a variety of factors when evaluating a species for listing as injurious, such as the species' survival capabilities and ability to spread geographically; its impacts on habitats and ecosystems, threatened and endangered species, and human beings and resource-based industries; and resource managers' ability to control and eradicate the species. Analysis of these factors guides the Service's listing determination. Scientific data is reviewed for factors that contribute to injuriousness and factors that reduce or remove injuriousness. In addition, other laws require that various economic analyses are conducted to determine the economic impacts of potential rulemakings.

If a species is found to be injurious, a proposed rule will be developed to explain the Service's justification. The proposed rule will include a summary of the species, the factors that contribute to injuriousness and the factors that remove injuriousness. The proposed rule, which is published in the *Federal Register*, provides the public with a comment period on the proposed listing. Data and comments provided during the public comment period are evaluated as a part of the final decision-making process.

If a species is found to not be injurious, the Service publishes a notice to explain why the species will not be listed. If a determination is made to list a species as injurious, the Service publishes a final rule that contains responses to comments received in response to the proposed rule, states the final decision, and provides the justification and reason for the action. Species determined to be injurious are listed at 50 CFR part 16.

What do I do if I want to Import and Domestically Transport Injurious Wildlife?

You may be granted a permit for the importation or interstate transportation of live specimens of injurious wildlife or their offspring or eggs for bona fide scientific, medical, educational, or zoological purposes. You may apply for a permit by filing form 3-200-42 with the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 212, Arlington, VA 22203. The application form may be obtained through the Service's Internation al Affairs website (http://www.fws.gov/forms/3-200-42.pdf or http://www.fws.gov/permits), or by calling the Division of Management Authority at 1-800-358-2104. To prevent delays in processing an application you need to answer all sections of the form. At least 60 days must be allowed for a complete application to be processed.

Once you have obtained a permit to import a species, you need to coordinate this activity with the Service's Office of Law Enforcement prior to the shipments arrival in the United States. Service law enforcement inspectors will process the import declaration paperwork and may physically inspect the shipment, and if everything is in order, release the shipment.

Silver Carp (Hypophthalmichthys molitrix) - USFWS Photo

Once injurious species are imported, any subsequent domestic transport of the specimens will require coordination with the Service. Each facility that is involved in domestic transport must possess a permit issued from the Division of Management Authority.

Protecting our Nation from Injurious Invaders

The Service has broad authority to detain and inspect any international shipment, mail parcel, vehicle, or passenger baggage and all accompanying documents, whether or not wildlife has been formally declared. The Service's Wildlife Inspection Program provides the Nation's front-line defense against illegal wildlife trafficking while facilitating legitimate trade.

At present, wildlife inspectors are stationed at 38 major U.S. airports, ocean ports, and border crossings, where they monitor imports and exports to ensure compliance with U.S. laws and regulations. Service wildlife inspectors are an integral part of the Federal inspection services that include U.S. Customs and Border Protection who are responsible for monitoring the people, goods, and vehicles entering the United States.

To access the current list of injurious wildlife online, please choose one of these options:
1) go to http://www.fws.gov/contaminants/otherDocuments/exit.htm for the Government Printing Office's Lacey Act web page; or
2) go to http://www.fws.gov/fisheries/ans/Current_Listed_IW.pdf for only the current list of Injurious Wildlife.
For more information, visit our FWS Lacey Act webpage at: http://www.fws.gov/fisheries/ans/ANSInjurious.cfm

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