

Listing Species as Injurious Wildlife under the Lacey Act

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Invasive Species

Injurious
Wildlife



Definition: Injurious wildlife

“Wildlife” found through regulation or Congressional action to be injurious to the interests of human beings, agriculture, horticulture, forestry, wildlife or wildlife resources of the United States.

Lacey Act 18 USC §42.



Lacey Act: two sections

Title 16 USC § 3372: (*Broad*)

- Assistance to States with intercepting illegal importation and interstate transport of wildlife species and plants taken or possessed in violation of State, Federal, Tribal, or foreign laws

Title 18 USC § 42: (*Injurious Wildlife*)

- Prohibits importation and interstate transport of injurious wildlife



Title 18 USC § 42

What do injurious prohibitions mean?

Prohibited

- Importation
- Interstate transportation
- Importation and Interstate transport of **dead** animals are not prohibited unless specifically stated (e.g., uneviscerated salmonids)

Exceptions

- Permits may be issued for importation and interstate transportation for **zoological, educational, medical, and scientific** purposes.

Allowed

- Use, possession, sale, intrastate transport



Who implements the Injurious Wildlife Provisions?

- **U.S. Fish & Wildlife Service – promulgates regulations**
 - **Branch of Aquatic Invasive Species**
 - evaluates species
 - provides recommendations to Secretary
 - **Law Enforcement**
 - enforces regulations
 - **Management Authority**
 - issues permits



How does Injurious listing compare with T&E listing?

Injurious Wildlife (LA):

- 1900
- Interior
- Wild mammals, wild birds, fishes, reptiles, amphibians, mollusks, crustaceans *NO PLANTS*
- The Secretary *may* [list]. . .
- No statutory deadlines
- Operates under APA
- Economics and NEPA

Endangered Species (ESA):

- 1973
- Interior and Commerce
- Any wildlife or plant
- The Secretary *shall* [list]. . .
- Statutory deadlines
- More specific than APA
- No Economics or NEPA



When did we list?

- 1900 Fruit bats, mongooses; European starling, house sparrow **by Congress**
- 1952 European rabbit; mynahs, starling genus
- 1965 Red dog (dhole), multimammate rat or mouse; pink starling
- 1967 Dioc, Java sparrow, red-whiskered bul-bul
- 1968 Salmonids (without health certificate)
- 1969 Walking catfish family
- 1982 Raccoon dog
- 1989 Mitten crab genus
- 1990 Brown treesnake
- 1991 Zebra mussel **by Congress**
- 2002 Brushtail possum; snakehead family
- 2007 Silver, black, and largescale silver carp (=Asian carps)
- 2010 Bighead carp (=Asian carp) **by Congress**
- 2012 Burmese python, N. & S. African pythons, yellow anaconda



Raccoon Dog



Unevaluated Taxon

**Federal Register Notice of Inquiry
(Optional)**

**No Basis for
Further
Action (Letter
to Petitioner)**

**Proposed Rule
(Published in FR
for Public
Comment and
Peer Review)**

***Required
Determinations**

***Analyses
required by
other laws or
Executive
Orders (RFA,
NEPA)**

Evaluate New Data
and Comments

Revise Required
Determinations

**Withdrawal of
Proposed Rule
(Published in
FR)**

**Final Rule:
Injurious
(Published in
FR)**

Current Listing Process



Injurious Wildlife Evaluation Criteria

- **Factors that contribute to being considered injurious**
 - Release or escape
 - Survive or establish
 - Spread
 - Impacts on:
 - Wildlife resources or ecosystems
 - T & E species and their habitats,
 - Human beings, forestry, horticulture, agriculture
 - **Wildlife or habitat damages that may occur from control measures**

- **Factors that reduce the likelihood of being injurious**
 - Ability to:
 - Prevent escape and establishment
 - Eradicate or manage established populations (sterility triploidy)
 - Prevent or control the spread of pathogens
 - Rehabilitate disturbed ecosystems
 - **Ecological benefits to introduction**

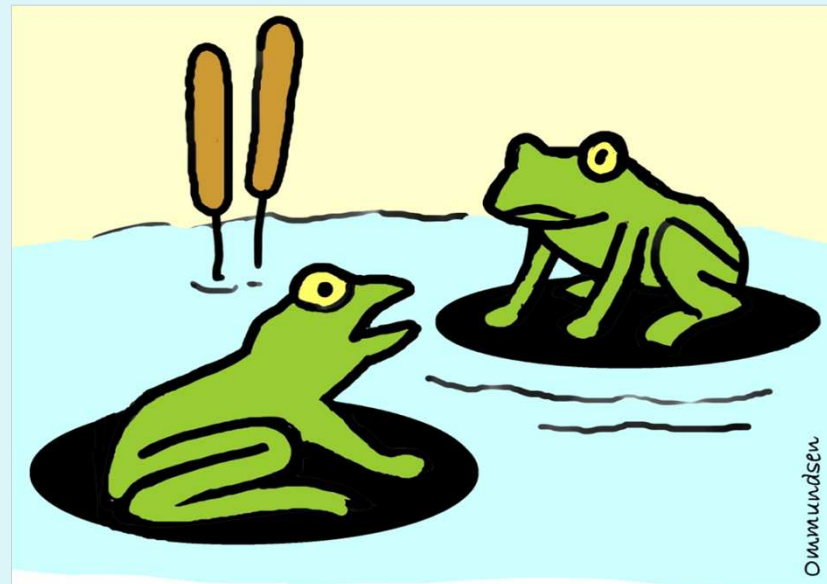


Bd (Chytrid Fungus) Petition from Defenders of Wildlife

- 2009 Petition received
- 2010 Notice of Inquiry
- FWS is considering possible options



Spike-thumb frog
(*Plectrohyla exquisita*) in
Cusuco National Park, Honduras.
Photo by Jonathan Kolby



“What his Facebook page
FAILS to mention is that
he has chytridiomycosis.”



Preventing the NEED TO LIST

ESA

- Listing is expensive
- Listing makes enemies
- By the time we list, it's often too late—for recovery

Lacey Act

- Listing is expensive
- Listing makes enemies
- By the time we list, it's often too late—for prevention



How can you help?

- **Consider raising and trading low-risk species**
- **Support responsible pet ownership**
- **Create and support alternatives for ethically disposing of unwanted pets**
 - not releasing into the wild

