

Regulating Live Wild Animal Imports Under Federal Law



CENTER FOR
**INVASIVE
SPECIES**
PREVENTION

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CISP

- Website: www.cisp.us
- Converting to non-profit status
- Main client: National Environmental Coalition on Invasive Species
 - www.necis.net

114 YEAR OLD LAW

18 USC Sec. 42: (part of larger Lacey Act):

Secretary of the Interior can prohibit:

“...importation into the United States.... or any shipment between the continental United States [of]wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles,....which the Secretarymay prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States.

Under Lacey Act

- Only 24 listing actions taken (some genera and big families)
- Only 2 new listing Rules since 2007
- ~ 4 years on average to finish one listing Rule

Non-native Wildlife Imports: Statutory failings:



If only.....



Defenders of Wildlife Report - 2007

Broken Screens: the Regulation of Live Animal Imports in the United States

[www.defenders.org/publications/
broken_screens_report.pdf](http://www.defenders.org/publications/broken_screens_report.pdf)

Scope of Regulatory Challenge

Import Quantity	Total Number of Counted Specimens	Additional Total Uncounted Imports, by Weight
5 year total 2000-2004	1,073,796,735	5,186,644 kilos
Annual Average	214,759,347	1,037,329 kilos
Daily average	588,000 specimens	plus 2,842 kilos or > 3 tons (US)

Summary

- 2,241 identified non-native aquatic or terrestrial species imported, 2000-2004
- Coarse Screen: 302 of those species met basic threshold for regulation: documented potential invasiveness and/or disease risk
- Only 34 of those 302 had a regulatory restriction in place by USFWS (18), APHIS (5) or CDC (11)

WILDLIFE PATHOGENS

New in U.S. in last 10 - 20 years:

- Chytrid fungus – amphibian collapse
- White nose syndrome - bat collapse
- introduced parasites + pesticides – honey bee and wild bee collapse
- Others: monkeypox, ranaviruses

Could there be a message here?

Broad agreement that U.S. system is too slow and reactive

- Fowler, A.J., D.M. Lodge and J. Hsia. 2007. Failure of the Lacey Act to protect US ecosystems against animal invasions. *Frontiers in Ecology and the Environment* 5:353-359

**Stricter risk-based approach to
regulating imports of live
animals is cost-effective**

**Springborn, M., C.M. Romagosa
and R.P. Keller. 2011. The value of
nonindigenous species risk
assessment in international trade.**

Ecological Economics

doi:10.1016/j.ecolecon.2011.06.016

Jenkins, P.T. 2012.

Invasive animals and wildlife pathogens in the United States: the economic case for more risk assessments and regulation.

Biological Invasions

doi: 10.1007/s10530-012-0296-

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#1 Recommendation - Need Better Federal legislation

- 114– year old Lacey Act not working
- Need new authority to prevent high and medium risk imports
- Need to proactively assess animal species for invasiveness or disease risk using modern tools

THOUGHT EXPERIMENT

- Congress will pass a new statute modernizing the Lacey Act setting biosecurity policy for all Federal agencies dealing with trade, imported animals and introduced pathogens of all kinds.
- What should that statute say?

NEEDED QUALITIES

- - PRECAUTIONARY; PREVENTION-FOCUSED
- - PROACTIVE
- - RAPID AND FLEXIBLE
- - SCIENCE-BASED BUT PRACTICAL
- - STAKEHOLDER SUPPORT
- - COOPERATIVE WITH STATES
- - COST-EFFECTIVE
- - SELF-SUPPORTING ; ADEQUATE FUNDING

* FEW OF THESE IN LACEY ACT NOW

GOLD STANDARD

- USDA REGULATION OF LIVESTOCK PATHOGENS

NECIS Advocacy Efforts

- Five years of engagement and consultations aimed at Lacey reform
- Stakeholders: consulted, but not motivated?
- Good current bill – poor results

HR 996/ S. 1153 - Section-by-Section

Sec. 1. Short Title. Invasive Fish and Wildlife Prevention Act of 2013

Sec. 2. Purpose. Improved Federal regulatory process

Sec. 3. Definitions. 15 definitions, with exemptions for all domesticated animals

Sec. 4. Proposals for Regulation of Nonnative Wildlife Taxa. Well-defined process with target of decisions within 180 days

Sec. 5. Scientific Risk Assessment and Risk Determination Regulations.

- Two-tiered injurious species listing process (Injurious I and II)
- Directs more rapid scientific risk assessments
- W/in 5 years: pre-import screening novel spp.

Sec. 6. Emergency Temporary Designation. Provides USFWS with emergency authority

Sec. 7. Information on Imported Animals. Establish a modern online information system

Sec. 8. Injurious Wildlife Determinations. USFWS to make determinations more rapidly

Sec. 9. Effect on Injurious Wildlife Provision. Would supersede any conflicting regulations

Sec. 10. Prevention of Wildlife Pathogens and Parasites. Clear authority over diseases to extent they affect wildlife

Sec. 11. Prohibitions.

- Prohibits non-complying international imports and interstate commerce
- Does not regulate intra-state activities
- “Grandfathers” in pets of later-regulated species

Sec. 12. Permits and Exemptions for Qualified Institutions and Live Animal Transporters.

- FWS permit required for imports and interstate commerce in Inj. I species
- Exemptions for “Qualified Institutions” for research, education and AZA-accredited zoos/aquaria

Sec. 13. User Fee.

- Limited new user fee on commercial imports
- Purpose: recover ~ 3/4ths of the FWS costs

Sec. 14. Relationship to State Law. Creates more federal-state cooperation

Sec. 15. Penalties and Sanctions. Same as in “Lacey Act” injurious species section (18 USC 42)

Sec. 16. Injurious Wildlife Prevention Fund.

- Special Fund to hold user fees and fines
- 3/4 to be paid out to FWS
- 1/4 paid out in grants to states

Sec. 17. Relationship to Other Federal Laws. Does not alter existing animal import laws

Sec. 18. Requirement to Promulgate Regulations.

Secretary of Interior to promulgate regulations

OMNIBUS BILL IDEA

- collect popular provisions with bipartisan support
- package with most popular HR 996 provisions

**** NECIS Fly-In and Briefing next week**

- CURRENT LACEY ACT RULEMAKING ISSUES:

- constrictor snakes – since 2006; 5 still pending, to be finished
- amphibians: - background; since 2010
- 11 species fish/crayfish – high risk in Great Lakes ; final rule soon (?)
- Despite hope, no real improvement in the process

Regulatory Reform?

- Difficulty of passing reform statute through Congress
- How much power does the Secretary have to block risky imports under Lacey?

A PROPOSAL:

- Short of new legislation, the USFWS should initiate its own “NAPPRA-like” approach for animal imports
- Work like USDA’s plant import NAPPRA process— 2 rounds done

Bottom Line Message:

Australia, New Zealand and Israel have effective risk screening laws – why not us?