



11 Species Final Rule: Questions and Answers September 29, 2016

1. What action is the U.S. Fish and Wildlife Service (Service) taking?

Answer: The Service is designating 10 nonnative freshwater fish species and one nonnative freshwater crayfish species as injurious wildlife under the Lacey Act. The fish are the crucian carp, Prussian carp, Eurasian minnow, roach, stone moroko, Nile perch, Amur sleeper, European perch, zander and wels catfish. The crayfish is the common yabby. The final rule publishes in the *Federal Register* on September 30, 2016. For more information, please see our webpage at: www.fws.gov/injuriouswildlife/11-freshwater-species.html.

2. When will the rule take effect?

Answer: The rule will take effect 30 days after the publication date in the *Federal Register*.

3. Why is the Service taking this action now?

Answer: The Service was not petitioned to list these species. However, after careful analysis, we consider them to be at high risk for invading U.S. ecosystems. The listing will help our nation proactively protect our natural resources while avoiding the potential ecological and economic losses associated with these organisms.

4. What does this injurious wildlife listing under the Lacey Act mean to the public?

Answer: Under 18 USC 42 of the Lacey Act, a species of wildlife can be listed as injurious because it has been demonstrated to be harmful or has the potential to be harmful to the health and welfare of humans; the interests of forestry, agriculture or horticulture; the welfare and survival of wildlife; or the resources that wildlife depend upon. In the case of the 11 species, they were found to be injurious to the interests of agriculture or to native wildlife or wildlife resources of the United States.

To control the introduction and spread of an injurious species, the listing of the species as “injurious” under the Lacey Act means that its importation and interstate transport are prohibited without a permit issued by the Service. This prohibition includes importation or interstate transport of live animals, their gametes (reproductive cells), hybrids and viable eggs.

Permits may be granted, by the Service, for importation or transportation of live specimens of injurious wildlife for scientific, medical, educational or zoological purposes. The injurious wildlife listing does not restrict intrastate transport (within state). The injurious wildlife listing does not prohibit exportation from the United States from designated ports. For more

information, please visit: <http://www.fws.gov/le/injurious-wildlife.html>.

5. How was the public included in this decision?

Answer: The proposed rule, published on October 30, 2015, opened a 60-day public comment period on the rule, draft economic analysis and draft environmental assessment. The public comment period ended on December 29, 2015. The Service reviewed and considered the public and peer review comments and any new information received. A summary of the public comments and the Service responses to them is included in the final rule.

6. Was the rule peer-reviewed?

Answer: The Service solicited comments from three peer reviewers under the guidelines for federal agencies from the Office of Management and Budget (OMB) (<https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2005/m05-03.pdf>). A summary of the peer reviewers' comments and the Service responses to them is included in the final rule.

7. If these species are not yet found in the United States, why list them as injurious?

Answer: Preventing injurious wildlife from entering the United States is widely considered the most economically effective and efficient management approach for avoiding ecological damage and economic losses often caused by invasive species. For those few species that may already be present in the United States, the Service believes that this regulation will help keep them from spreading and becoming established in ecosystems of the United States. The Service has previously listed species proactively (before they became established), such as multiple snakehead and walking catfish species, largescale silver carp, the raccoon dog, the brushtail possum and the reticulated python.

8. Were all 11 species evaluated individually and found to be injurious?

Answer: All 11 species were evaluated individually. For this final rule, we evaluated each of the species individually and determined that each species was injurious.

9. How was science involved in the Service's decision?

Answer: The Service determined its decision to list the species as injurious based on two sets of scientific information.

First, the agency evaluated the factors that contribute to a species being considered injurious, including:

- Likelihood of release or escape.
- Potential to survive, become established and spread.
- Impacts on wildlife resources or ecosystems through hybridization and competition for food and habitats, habitat degradation and destruction, predation and pathogen transfer.
- Impacts to threatened and endangered species and their habitats.
- Impacts to human beings, forestry, horticulture and agriculture.

- Wildlife or habitat damages that may occur from control measures.

Second, the Service evaluated 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.
- Any potential ecological benefits to introduction.

The Service's scientific evaluation concludes that all 11 species qualify as injurious wildlife under the Lacey Act.

10. Are any of these fish or the crayfish a threat to humans?

Answer: None of the 11 species are known to be directly harmful to humans. None is venomous, poisonous or documented to prey on humans.

11. Will the live animal importers lose revenue and jobs as a result of this rule?

Answer: Of the 11 species, four species (crucian carp, Nile perch, wels catfish and common yabby) have been imported in negligible numbers since 2011; and seven species are not currently in U.S. trade. Therefore, businesses derive little or no revenue from their sale, and the economic effect in the United States of this final rule will be negligible for some species and nil for the others. The Service has prepared a final economic analysis to support this conclusion, available at www.fws.gov/injuriouswildlife/11-freshwater-species.html.

12. How can a person obtain a permit to move an injurious species across state lines or import one into the country?

Answer: If you anticipate needing to import live individuals (or their gametes, hybrids and viable eggs) of one or more of the 11 species or transport one of the species across a state line for zoological, educational, medical or scientific purposes, you should apply for a permit from the Service as soon as possible and allow up to 60 days for processing. Permits for scientific, medical, educational or zoological purposes may be requested by filing form 3-200-42 with the U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike Falls Church, VA 22041-3803. The application form may be obtained through the Service's International Affairs website (<http://www.fws.gov/forms/3-200-42.pdf> or <http://www.fws.gov/permits>), or by calling 1-800-358-2104 or 703-358-2104.

13. Will people be allowed to order the injurious species on the internet?

Answer: The sale or purchase of a live specimen of a listed species through the internet is not permitted if the specimen crosses a state line (including coming from or going to the District of Columbia, Puerto Rico, and the U.S. territories), or is imported from another country.

14. Can people import a species listed as injurious as a pet?

Answer: The injurious wildlife listing does not have provisions to allow the transport of personal pets. Therefore, none of the 11 species may be imported as a pet. For animals already in the United States, this rule restricts only interstate transportation. Pet ownership is not affected by this rule (pet owners are cautioned, however, that states may have their own laws).

15. I do educational programs with species listed as injurious for schools, scouts and other groups, sometimes in another state. Will I still be able to travel to other states?

Answer: You will need to apply for and obtain a permit from the Service to transport a listed species across a state line for educational purposes. (See also answer to Q. 12.)

16. An MOU was mentioned in one of the alternatives that we considered instead of listing in the economic analysis and environmental assessment. What is this MOU?

Answer: The Memorandum of Understanding (MOU) is between the Service, Pet Industry Joint Advisory Council and the Association of Fish and Wildlife Agencies¹ but is not limited to the parties in the MOU. Under the MOU (signed in 2013), the Service provides the technical information on the risk of invasiveness of many nonnative species, and the live animal businesses may voluntarily choose not to import those species determined to be high or uncertain risk. The 11 species were all high risk for invasiveness as determined by the Service through its risk screening processes (which is not the same as the injurious listing evaluation itemized in Q. 9) and were contenders for voluntary refrain from trade. Under the MOU, the Service did not relinquish the ability to list the 11 species at some point.

17. What are Ecological Risk Screening Summaries and how were they used in the proposed rule?

Answer: The U.S. government's National Invasive Species Management Plan² states that preventing invasion is the first line of defense in managing invasive species. To support this effort, the Service was tasked with developing a screening process that evaluates different types of nonnative terrestrial and aquatic wildlife species moving in trade for invasive potential. The Ecological Risk Screening process, which was peer-reviewed by invasive species experts from the United States and Canada, was designed to meet that objective. Reports resulting from that screening process are called Ecological Risk Screening Summaries (ERSSs).

ERSSs are used to characterize the risk of species (primarily foreign ones), in relation to the United States, based on scientific characteristics that best predict invasiveness of many types of organisms. Those characteristics are history of invasiveness (establishment and harm outside species' native ranges) and climate match (comparing climate in native and invaded ranges with that of the United States). ERSSs for the 11 proposed species have been posted on the Service's website (http://www.fws.gov/injuriouswildlife/Injurious_prevention.html) for more than three years. The public was invited to submit information on the ERSS reports, such as new substantive information, or to point out inaccuracies that might change our assessments.

¹ Memorandum of Understanding Between the United States Fish and Wildlife Service and the Pet Industry Joint Advisory Council and the Association Of Fish and Wildlife Agencies to Collaborate on the Development of Nonregulatory Approaches to Reduce the Risk of Introducing Potentially Invasive Species Through International Trade and to Promote Voluntary No-Trade in Certain Species Not Present in Trade. June 10, 2013. 11 pp.

² National Invasive Species Council. 2008. 2008 - 2012 National Invasive Species Management Plan. August 2008. 35 pp.