

# 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 wild mammals, wild birds, amphibians, reptiles, fishes, crustaceans, mollusks and their offspring or eggs 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 stated above cannot be listed as injurious wildlife.

### What are the Injurious Wildlife Provisions of the Lacey Act?

The Lacey Act is codified in two separate Federal statutes, Title 18 and Title 16. Title 18 is the injurious wildlife provisions of the Lacey Act (18 U.S.C. 42) and is one tool that the U.S. Fish and Wildlife Service (Service) uses to prohibit introductions and manage invasive species. Under Title 18, the importation into the United States and any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States of animal species determined to be injurious by the Secretary of the Interior is prohibited except by permit. The Service implements the injurious wildlife provisions 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-assisted 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.

Title 16 covers the wildlife trafficking provisions of the Lacey Act (16 U.S.C. 3371-3378) and, although the two statutes are different, an enforcement relationship between the two exists. Among other things, Title 16 prohibits the import, export, transport, sale, receipt, acquisition, or purchase of any fish or wildlife that was taken, possessed, transported, or sold in violation of any law or regulation of any State, tribal, or foreign law; this includes plants. More information about the Lacey Act can be found at the Service's Law Enforcement Statute webpage at:

<https://www.fws.gov/le/pdffiles/Lacey.pdf>

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

Species listed as injurious (often including their gametes and viable eggs) may not be imported into the United States



Northern Snakehead (*Channa argus*)



Burmese python (*Python molurus bivittatus*)

or transported between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States without a permit issued by the Service. 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.

Regulation of transport or use within a State is the 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.

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

The Service follows the Administrative Procedure Act for preparing rules. There are several potential steps for evaluating possible additions to the list of injurious wildlife species, including 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 for completion 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 biological and economic information about the species under evaluation. If such information is readily available, 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' potential to survive, establish, and 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 information is reviewed for factors that contribute to injuriousness as well as factors that reduce or remove injuriousness. In addition, other laws require that analyses are conducted to determine the economic impacts of potential rulemakings.

If a species is evaluated for injuriousness and then proposed for listing, the proposed rule should justify the listing with a summary of the species' biology, 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. The Service also seeks peer review of its proposed rule. Data and comments provided during the public comment and peer review periods 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 a summary of public and peer review comments and our responses, states the final decision, and provides the justification and reason for the action. Species designated as injurious are listed at 50 CFR part 16.

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

The Service may issue a permit under the Lacey Act for import and transport of injurious wildlife between the listed jurisdictions in the shipment clause (the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States), provided the activity is shown to be for zoological, educational, medical, or scientific purposes. A permit must be issued under injurious wildlife permits (explained at 50 CFR part 16) before the import or transport between listed jurisdictions occurs. Injurious wildlife permits include specific conditions that the permitted specimens and their progeny must be maintained in escape-proof containment, as well as requirements for future domestic movement. These conditions do not expire and apply to all progeny of the permitted specimens. Therefore, to domestically move a previously permitted specimen or one of its progeny within the United States, a separate permit must be issued under the regulations for General Permit Procedures at 50 CFR part 13 before the movement of the specimens to facilities that the applicant had not described in the original permit application. The application form is available from <https://www.fws.gov/forms/3-200-42.pdf>. To prevent delays in processing an application, please read and



*Silver Carp (*Hypophthalmichthys molitrix*) in Fox River in Illinois*

answer all sections of the form. Additional guidance is available from the website at <https://www.fws.gov/international/permits/>.

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 shipment's 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.

### 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.

Wildlife inspectors are located at certain major U.S. airports, ocean ports, and border crossings, where they monitor imports and exports to ensure compliance with U.S. laws and regulations. Use the following link to find the contact information for a Wildlife Inspection Office <https://www.fws.gov/le/inspection-offices.html>. 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.

For more information, go to:

- For FWS's Injurious Wildlife web page: <https://www.fws.gov/injuriouswildlife>
- For the Code of Federal Regulations Injurious Wildlife regulations web page: <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=948232d908d01c36321de7c862a5bd5f&ty=HTML&h=L&mc=true&n=pt50.1.16&r=PART>
- For the current list of Injurious Wildlife: [https://www.fws.gov/injuriouswildlife/pdf\\_files/Current\\_Listed\\_IW.pdf](https://www.fws.gov/injuriouswildlife/pdf_files/Current_Listed_IW.pdf)

**U.S. Fish & Wildlife Service**  
**1 800/344 WILD**  
**(www.fws.gov)**  
**December 2017**

