

# **National Environmental Coalition on Invasive Species**

## **National Wildlife Federation, The Nature Conservancy The Wildlife Society**

July 31, 2013

Susan Jewell  
U.S. Fish and Wildlife Service  
Arlington, VA  
Sent via email to: [prevent\\_invasives@fws.gov](mailto:prevent_invasives@fws.gov)

Re: NEPA Categorical Exclusion Notice; FWS-HQ-FHC-2013-N044; FXFR1336090000-134-FF09F14000

Dear Dr. Jewell,

The undersigned groups in the National Environmental Coalition on Invasive Species (NECIS) are pleased to comment on the above-referenced NEPA Categorical Exclusion (CatEx) notice, published in the Federal Register on July 1, 2013.

We strongly favor this CatEx; it will save wasted time and resources preparing unnecessary environmental assessments (EAs), which in the past have never found a significant impact from any non-native injurious species listing regulation, going back to 1982 when NEPA implementation began for this program. While our groups general disfavor NEPA CatEx.s (and some of us have a history of opposing them in some other contexts), in this case it makes sense. Prohibiting an injurious species plainly is a positive environmental benefit (virtually by definition). Thus, preparing a NEPA EA is redundant. Avoiding that administrative step will help speed up listings. This is consistent with NECIS policy positions urging the Service to do swifter injurious species listings. We do note that the Service's proposal correctly points out that the CatEx for listing a species does not apply to a possible later Federal management or control action for the listed species. In short, a Lacey Act injurious species listing does not compel or mandate any later Federal management or control actions for the species.

The United States currently has one of the developed world's slowest and costliest known systems for regulating imports of non-native injurious animals.<sup>1</sup> The system has been criticized as too reactive and inadequate to address the ongoing invasion and disease risks of the globalized live wild animal trade, taking an average of four years to achieve one regulatory listing over

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<sup>1</sup> Jenkins PT (2012) Invasive animals and wildlife pathogens in the United States: the economic case for more risk assessments and regulation. Biol. Invasions DOI: 10.1007/s10530-012-0296-8

recent decades.<sup>2</sup> The proposed CatEx is a small, needed step to partially remedy this. Other regulatory reforms should be undertaken also to expedite the listing process, which NECIS has highlighted in other comments and in past meetings with agency officials.

We believe the Service is likely to receive comments from some business interests alleging adoption of the CatEx might weaken the economic analysis that the Service conducts for proposed listings. That will not be the case. EAs under NEPA do not analyze purely economic effects, only economic effects that flow from environmental impacts. As it is very unlikely that there will be any environmental impacts from the listing of injurious non-native species, there will be no need to analyze resulting economic effects in a NEPA EA. Further, the CatEx does not in any way reduce the Service's obligation to assess economic effects of its listing proposals under other laws, primarily the Regulatory Flexibility Act.<sup>3</sup> Any business concerned about economic effects can rely on that Act and need not rely on future NEPA EAs.

In fact, the economic arguments cut strongly in favor of speeding up the listing process, rather than keeping it in its slow *status quo*. A recent study reported in *Ecological Economics*, using years of United States data on amphibian and reptile imports, demonstrated how doing pre-import risk assessments for that segment of the trade can “pay off” in reduced costs for the nation.<sup>4</sup> The study estimated the long-term expected net benefits from using a risk screening system range from roughly \$54,000 to \$141,000 for each species assessed, including both those species found to be harmful and non-harmful, assuming typical import and impact scenarios. While based on amphibian and reptile imports, the authors indicated that similar benefits likely apply to risk screening for birds, mammals and other groups. Their findings are consistent with findings from Australia documenting that pre-import risk assessments for the plant trade are cost-beneficial for that nation.<sup>5</sup>

The bottom line is our nation is losing potential economic benefits by allowing novel non-native animal species to be imported that have not gone through any risk assessment, as is overwhelmingly the case now. Speeding up the process and doing more risk assessments for such imports will provide more, not fewer, economic benefits.

While the Service has properly observed in its proposal that it has never found a “significant” impact in three decades of doing NEPA EAs for listing proposals, nevertheless we concur with the Service that it is appropriate to allow for EAs to be prepared in “extraordinary circumstances” under long-standing Department of the Interior NEPA policies (50 CFR 46.215).

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<sup>2</sup> Fowler AJ, Lodge DM, Hsia J (2007) Failure of the Lacey Act to protect US ecosystems against animal invasions. *Front. Ecol. Environ.* 5:353-359

<sup>3</sup> Chapter 6, and section 804, of Title 5, United States Code.

<sup>4</sup> Springborn M, Romagosa CM, Keller RP (2011) The value of nonindigenous species risk assessment in international trade. *Ecol. Econ.* 70:2145-2153

<sup>5</sup> Keller RP, Lodge DM, Finnoff DC (2007) Risk assessment for invasive species produces net bioeconomic benefits. *Proc. Nat. Acad. Sci.* 104:203–207

Such extraordinary circumstances that would justify overriding the CatEx and conducting an EA or full EIS are hypothetical at this point, but it is not inconceivable that such circumstances could arise.

In sum, we applaud the care and foresight the Service has applied in this proposal and urge its swift adoption as an Interior NEPA policy. If you have any questions regarding this comment, please contact the NECIS Policy Lead on injurious animal issues, Peter T. Jenkins, Center for Invasive Species Prevention.<sup>6</sup>

Sincerely,

/s/

Bentley Johnson, Government Affairs Representative  
National Wildlife Federation

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The Nature Conservancy

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