

MEMORANDUM



To: Florida Fish and Wildlife Conservation Commissioners
From: R. Kipp Frohlich, Interim Director, Habitat and Species Conservation
Date: April 25, 2017
Subject: Proposals to address the threat of Injurious Wildlife Species entering Florida

Purpose:

Provide information on recent changes to the enforcement of the federal Lacey Act, which resulted in removal of a long-standing prohibition against importing “Injurious Wildlife Species” into Florida, and propose actions to address this threat to Florida’s native wildlife and human safety.

Summary:

The Lacey Act (Act), established in 1900, provides authority to the Secretary of the Interior to designate “Injurious Wildlife Species” and ensure the humane treatment of wildlife shipped into the United States. Further, it prohibits the importation, exportation, transportation, sale, or purchase of fish and wildlife taken or possessed in violation of State, Federal, Indian tribal, and foreign laws. Under this Act, species on the Injurious Wildlife Species List (Injurious wildlife) are considered a risk and cannot be imported without a permit from the United States Fish and Wildlife Service (USFWS). Until recently, certain provisions of the Act were also interpreted to prohibit interstate transport of Injurious wildlife. In April 2017, the D.C. Circuit Court held the plain language of the statute does *not* prohibit transport of Injurious wildlife between states within the continental United States. Other prohibitions and regulatory measures of the Act, including disallowing importation, still apply.

The federal court ruling has many implications for Florida. This ruling removed protections to Florida that had been in place for over 30 years and now Injurious wildlife may legally be transported across state lines. Therefore Florida may experience an increase in legal importation and personal and commercial use of Injurious wildlife from other locations within the U.S. Many species listed as Injurious wildlife are not regulated as Conditional or Prohibited species in Florida because the previous enforcement of federal law was considered sufficient to prevent the importation of these species (e.g., mongoose, brown tree snake, yellow anconda).

Staff Recommendation:

As an interim measure, authorize the Executive Director to sign an Executive Order that prohibits the importation into Florida of any species listed on the Injurious Wildlife Species List unless authorized by FWC. This action would provide immediate protection to the State’s fish and wildlife and protect human safety by filling the regulatory gap that occurred after the court’s ruling. This Executive Order would restore the same level of protections that were in place prior to April 2017. Then staff can work with Federal and State partners, stakeholders and the public to develop rules to address the gap more permanently. The Executive Order would then be repealed once rulemaking was complete.

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