

## **IMPACT OF PROPOSED LACEY ACT INJURIOUS WILDLIFE LIST AMENDMENTS ON THE DOMESTIC REPTILE INDUSTRY**

Final adoption of a proposed rule crafted by the Fish and Wildlife Service (FWS) to add nine constrictor snakes to the list of injurious wildlife under the Lacey Act would cripple the U.S. snake industry, a major component of the vibrant and growing domestic reptile trade. The listing would end importing, restrict exporting, and stop all domestic interstate trade. Resulting severe revenue losses would drive many industry participants, most of which are small businesses, out of the market and in turn eliminate American jobs. At the same time, FWS has yet to demonstrate that domestic trade in these snakes is a threat to any environment beyond South Florida, where these snakes already have been banned by state law.

### **Overview of the U.S. Reptile and Snake Industry**

- From 1994 to 2008, the number of U.S. households that own a reptile rose from 2.8 million to 4.7 million, an increase of 68%. In 2010, 4.7 million U.S. households owned 13.6 million pet reptiles. The U.S. reptile industry has grown rapidly to meet the rise in demand for reptiles, driven primarily by small American businesses, few of which existed 30 years ago. (GES Report at 3, 12, 65).
- The U.S. reptile industry today encompasses a vast number of participants including pet owners, hobbyists, breeders, importers, exporters, wholesalers, pet store proprietors, pet show promoters, entertainers, zoos, museums, veterinarians, manufacturers of reptile food and ancillary care products, and computer, internet, and publishing entities. The collective market efforts of all participants in the U.S. reptile industry generate annual revenues of approximately \$1.0 billion to \$1.4 billion. (*See* GES Report at 44, 69).
- Snakes are the rising primary driver of the recent growth of the reptile market. Breeders have transformed snake husbandry from a hobby to a viable profession through their successful cultivation of uniquely colored snakes, commonly referred to as “morphs.” Consumers look at these colorful snakes as collector items, science projects, and a decentralized model of conservation, resulting in steadily expanding domestic and international consumer markets. (GES Report at 49, 52-54).

### **Rule Costs Clearly Outweigh the Benefits or Perceived Risks**

**The proposed rule would prohibit all interstate domestic sales and transport of nine constrictor snakes, thereby eliminating substantial economic activity in an industry dominated by small businesses.**

- All imports of the nine constrictor snakes will be banned, impacting the supply chain from importers to intermediaries to retail outlets. (75 Fed. Reg. 11,808 (Mar. 12, 2010)).
- Interstate movement of the nine snakes will be prohibited, limiting any remaining export activity to businesses residing in a state with one of eighteen designated ports. (75 Fed. Reg. 11,808).

- The new prohibitions and restrictions not only will directly impact importers, breeders, and sellers of the snakes, but also would reverberate through the domestic reptile distribution chain and impact business that support the breeders, importers, and exporters, including veterinarians, food manufacturers, equipment and other ancillary product manufacturers and sellers, as well as other, non-related service providers, such as airlines, hotels, restaurants, and rental car agencies.

**The industry estimates potential annual revenue losses as high as between \$76 million and \$104 million as many participants are forced out of business. (GES Report at 55)**

- Assuming no projected growth for the industry, the aggregate economic costs over the first ten years are estimated to be between \$332 million and \$901 million. (GES Report at 72).
- Assuming projected industry sales growth mirrors past growth patterns, aggregate economic losses over the first ten years are estimated to be between \$505 million and \$1.2 billion. (GES Report at 72).
- In sum, final adoption will threaten the viability of the domestic snake trade and in turn harm the broader domestic reptile market, as well as other interrelated markets.

**The vast majority of the businesses that will be impacted as described above are small businesses.**

- While the proposed rule claims no substantial impact on small businesses, the SBA Office of Advocacy believes that FWS did not adequately capture the economic impacts of the proposed rule on small business. (SBA May 10, 2010 Comment Letter at 2).
- Industry survey data indicate that more than 99% of reptile businesses are small businesses and that the distribution of revenues for businesses that sell the nine snakes roughly matches the distribution of incomes for all reptile businesses. This implies that roughly 99% of all businesses affected by the constrictor snake ban will be small businesses. (GES Report at 65).

**The FWS proposed rule overstates the risks of the nine species as detailed in a USGS report on which FWS relies. Additionally, it fails to acknowledge measures already taken at the state level.**

- To meet the criteria for an “injurious” and “invasive” determination under the Lacey Act, the rule relies primarily on a report that is biased, inaccurate, and incomplete. The report is based on speculation and not data and fails to use the best available science. The report has not been peer reviewed. (USARK IQA Detailed Request for Corrections).
- FWS relies on a report that makes the unfounded argument that the snakes are “highly adaptable to new environments and opportunistic in expanding their geographic range.” (75 Fed. Reg. at 11,809). However, FWS disregards the following statement in the same report regarding potential spread and colonization: “We believe that the current tools should be relied upon to give an indication of the relative size and location of the geographic area at

risk, but should be used only with great circumspection to identify specific localities at risk.” (USGS Report at 15).

- FWS ignores the fact that certain of the nine snakes are believed to have existed in the Everglades for three decades (Snow, 2007), yet there has been no evidence that their presence has threatened the ecosystem or that such harm will occur.
- Substantial and credible scientific evidence contradictory to that relied upon by the FWS has been submitted for department review. Yet in a comment to the New York Times, Assistant Secretary Thomas Strickland reflected the department’s bias when he stated that the government is “not going to back down.” (Jan. 8, 2011 New York Times Article).
- FWS fails to explain why a Lacey Act listing is the appropriate policy tool to address the problem FWS presents. A comprehensive ban on imports and interstate trade is a disproportionate response to even the overstated risks presented by FWS.
- The State of Florida strictly regulates the possession of the large constricting snakes at issue here.