

ENDANGERED SPECIES: Panel to discuss plan to bypass NEPA reviews when banning animal imports

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Lawmakers this week will debate the merits of a proposal to bypass environmental reviews when listing a species as "injurious" under the Lacey Act -- a move that has rankled zoos and pet shops because it would make it easier for the Fish and Wildlife Service to ban the importation of some exotic animals.

The Interior Department proposed the "categorical exclusion" from National Environmental Policy Act analysis earlier this year. Such an exclusion would allow FWS to put a species on a prohibited importation list without performing the reviews typically required under NEPA.

To FWS, it's a common-sense approach to a process that takes up too many resources. But some small business owners -- and Republicans -- see it as a shortcut that could be detrimental to the bottom line.

The debate will be aired Friday at an oversight hearing of the House Natural Resources Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. Two witnesses -- one from FWS and one from the Center for Invasive Species Protection -- will likely extol the efficiencies of Interior's proposed rule change; three representing small businesses will likely push against it.

The chairman of the subcommittee, Rep. John Fleming (R-La.), has already asked Interior to withdraw the proposal, writing a letter in July with Republican Reps. Rob Bishop of Utah, Steve Southerland of Florida and Don Young of Alaska.

The lawmakers argued that small businesses "deserve a full examination of the environmental, economic and social impacts" of an injurious listing. In particular, they pointed to a 2012 proposal to list nine species of non-native constrictor snakes; two years of analysis ended with FWS listing four constrictor species.

Since then, Fleming has introduced a bill (H.R. 2158 [viewable at <http://usark.org/wp-content/uploads/2013/06/HR2158InjuriousExport.pdf>]) that would remove those four from the list, despite concerns from FWS that such snakes can easily escape from their cages and prey on native species in the wild. [This bill allows for export of the large constrictor snake species listed as injurious when originating at a designated airport and stopping at an intermediate airport. It does not delist them as injurious.]

"While invasive species pose a growing challenge to the Fish and Wildlife Service ... the public has an interest in the Service continuing to conduct Environmental Assessments to determine whether a particular species or group of species merits inclusion on the 'injurious wildlife' list," they wrote. "This is particularly important in light of the fact that the Service has recently been listing species causing a major economic impact on thousands of small businesses in the United States."

In a notice in the *Federal Register* earlier this year, Interior argued that listing species as injurious should not require environmental review because it simply maintains the "status quo."

"The regulatory listing action places the species on a prohibited list, which prohibits their importation into the United States and interstate transportation. Thus, the activities covered under the categorical exclusion are simply to keep species out of the country that are injurious or to prevent their spread across State lines," the agency wrote.