

## **National Environmental Coalition on Invasive Species**

Defenders of Wildlife, National Wildlife Federation  
Natural Areas Association, Natural Resources Defense Council,  
The Nature Conservancy, Union of Concerned Scientists

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Public Comment Processing  
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Re: Injurious Wildlife Species; Constrictor Snakes from Python, Boa, and Eunectes  
Genera

Dear Sir/Madam:

Thank you for the opportunity to comment on the above-referenced proposed rule published in the Federal Register of March 12, 2010, vol. 75, pp. 11808-11829. The notice seeks information related to a proposal to list nine, large constrictor snakes as injurious wildlife under the Lacey Act, 18 USC §42, specifically: Indian python (*Python molurus*, including Burmese python *P. molurus bivittatus*), reticulated python (*Broghammerus reticulatus* or *P. reticulatus*), Northern African python (*P. sebae*), Southern African python (*P. natalensis*), boa constrictor (*Boa constrictor*), yellow anaconda (*Eunectes notaeus*), DeSchauensee's anaconda (*E. deschauenseei*), green anaconda (*E. murinus*), and Beni anaconda (*E. beniensis*). This would stop importation and interstate movement of these animals under the U.S. Lacey Act except pursuant to special permits for approved uses.

The undersigned members of the **National Environmental Coalition on Invasive Species** (NECIS) strongly support prompt listing of each of these large constrictor snakes as injurious and their prohibition from further import and interstate commerce in the United States. Our organizations together represent millions of Americans concerned about the severe ecological disruption and other harms caused by non-native invasive species.

We reiterate the serious concern several NECIS members have expressed in the past regarding excessive delays in the Fish and Wildlife Service ("Service") procedures for listing injurious animals. We believe Congress cannot have intended that the Service would take so long to finalize listing proposals, as the delays often render the final rules ineffective. In the present case, the South Florida Water Management District (SFWMD) filed its petition that led to the current proposal on Sept. 21, 2006, yet it is almost four years later and the Service is only now issuing a proposed rule. (See detailed analysis in,

Fowler, A., D. Lodge, and J. Hsia. 2007. Failure of the Lacey Act to protect U.S. ecosystems against animal invasions. *Frontiers in Ecology and the Environment* 5:357-359, and Defenders of Wildlife. 2007. *Broken Screens - The Regulation of Live Animal Imports in the United States*.<sup>1</sup>) We urge the Service to support both legislative and administrative measures to rapidly speed up its too-costly and ineffective listing approach.

### **Introductory Comments on the Proposal**

The *Broken Screens* report provided “coarse” preliminary risk screening for most of the nine large constrictor snakes at issue here. (It also “screened” more than 2,200 other non-native animal species imported during the study period of 2000 to 2004). The *Broken Screens* data indicated that six of the nine species under consideration were actually imported during the study period, that is:

- *Boa constrictor*; *Eunectes murinus*; *E. notaeus*; *Python molurus*; *P. reticulatus*; and *P. sebae*

All but one (*P. sebae*) of these imported species were quickly identifiable as of 2007 as presenting invasion and/or safety risks in readily-accessible literature and reliable online data sources. The 2009 detailed USGS large constrictor snake study provides a “fine” risk screening, which authoritatively confirms all nine of the species are unsuited for future widespread private sale and use in the United States.<sup>2</sup>

Burmese pythons and other large constrictor snakes have continued to be allowed to be sold across the rest of the nation and additional releases of them to the wild could have easily occurred, facilitating further expansion of their occupied range. These continuing sales and resulting foreseeable continuing releases only serve to frustrate natural area management efforts by the dedicated, but under-resourced and overwhelmed, public agencies, such as the Everglades National Park and the SFWMD, whose missions compel them to attempt to control these disruptive and dangerous non-native animals. Yet, control work is almost a waste of effort when the targeted species can continue to be freely sold to the public throughout Florida and the rest of the nation.

Released large constrictor snakes are top predators that can kill and consume America’s native (and non-native) wildlife, as well as pets and domestic species, of all kinds including, but not limited to, bobcats, deer, alligators, raccoons, rabbits, muskrats, possum, woodrats, mice, ducks, egrets, herons and songbirds. The Burmese python invasion is an ecological calamity in progress. It is directly undermining the multi-billion dollar, nationally-supported Everglades restoration project because the monitoring and

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<sup>1</sup> Online at: [www.defenders.org/programs\\_and\\_policy/international\\_conservation/u.s.\\_imports\\_of\\_live\\_animals/broken\\_screens.php](http://www.defenders.org/programs_and_policy/international_conservation/u.s._imports_of_live_animals/broken_screens.php).

<sup>2</sup> Reed, R.N., and Rodda, G.H. 2009. *Giant constrictors: biological and management profiles and an establishment risk assessment for nine large species of pythons, anacondas, and the boa constrictor*. U.S. Geological Survey Open-File Report 2009–1202, 302 pp.

success of that project are tied to measures of native wildlife “indicator” populations, which are now being consumed and reduced by these human-introduced predators. Had the Service considered the risks of the Burmese python under its Lacey Act listing authority 20 years ago, the agency might have prevented this invasion. The time could not be riper than now for preventing the establishment of feral populations in Florida and elsewhere of the other eight species, as well as by the Burmese python in areas where it has not already invaded.

The USGS large constrictor snake report has been imprudently attacked by a group of scientists working with the U.S. Association of Reptile Keepers (USARK). They purported to undercut its reliability, suggesting it lacked peer review and had other defects via a letter circulated to members of Congress. That “USARK letter” was discredited by a larger group of 16 qualified scientists who wrote their own letter dated Jan. 10, 2010, to Congress in support of the USGS report. A copy of that letter is attached hereto and incorporated by reference. The essence of their opinion:

*We are writing in support of the report recently released by the U.S. Geological Survey (USGS), Giant Constrictors: Biological and Management Profiles and an Establishment Risk Assessment for Nine Large Species of Pythons, Anacondas, and the Boa Constrictor. The undersigned scientists believe that this report is based on peer-reviewed and transparent science and the risk assessment model used in the report is reasonable and appropriate, notwithstanding claims made in a recent letter submitted to this subcommittee by the U.S. Association of Reptile Keepers (USARK) challenging the validity of the USGS report....*

*This particular report was reviewed by 20 experts associated with U.S. and international universities, agencies, and organizations. In fact, 18 of the 20 reviewers who scrutinized this study were from institutions or agencies outside the USGS, contrary to USARK’s allegations that the report is not externally peer-reviewed....*

*While we understand the value of scrutinizing research models, results, and conclusions, we believe USARK’s unsubstantiated allegations are unprofessional and undermine important efforts being made by the scientific community.*

In short, the USGS study gives an adequate and very reliable basis for the Service to decide whether or not to regulate these nine species.

### **Initial Statutory Decision-making Criterion for the Proposed Rule: the Lacey Act’s Injurious Species Standard**

The Service’s notice poses several questions to the public on economics aspects of ongoing commercial sales of several of the snakes under consideration.<sup>3</sup> The presence of these questions in the Federal Register suggests there might be ways to balance costs

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<sup>3</sup> Proposed Rule, at p. 11811.

of the regulation against its benefits and to modify the regulation to lessen potential impacts on small business entities. However, none of this information is relevant to the statutory standard the Service must apply in making the fundamental decision on whether it should list these species.

The statutory issue is not the benefits versus the costs of a possible Lacey Act listing. It is whether these snakes match the criteria of an “injurious species” in 42 USC sec. 18(a), i.e., whether the species are:

*injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States.*

It is abundantly clear these large constrictor snakes meet that definition. The USGS report thoroughly assesses the question of “injuriousness” in the statutory standard. The current and potential danger these snakes pose “to human beings .... or to wildlife or the wildlife resources of the United States” is beyond reasonable doubt, given the highly foreseeable likelihood that if further unregulated imports and interstate commerce occur, these large snakes will continue to be released by irresponsible pet owners and will continue to be able to establish harmful breeding populations throughout significant areas in the southern portion of the nation.

#### **Additional Statutory Decision-making Criterion for the Proposed Rule: The Services’ Affirmative Endangered Species Act Duty**

**Note: The following discussion also responds to question (10) in the Federal Register notice:**

***(10) What species have been impacted, and how, by any of the nine constrictor snake species?***

We will not reiterate all of the USGS risk assessment findings here, but one set of its findings stands out as determinative on the issue of “injuriousness”. Those are the clear findings about the threats each of these snakes pose to threatened and endangered species listed under the Endangered Species Act (ESA), which the Service also administers on behalf of the nation.

The USGS study addresses this threat unequivocally:

*...the greatest environmental impact of invasion by giant constrictors would be predation on endangered species, either via further endangerment or outright extinction. Table 4.2 tabulates the large number of imperiled wildlife that presently occur in Florida and would be put at*

*greater risk by the establishment in that state of any of the giant constrictors.*<sup>4</sup>

Table 4.2 in the USGS report reveals a total of **30 Federally-listed threatened or endangered species at risk from “*P. molurus* or other giant constrictors in Florida”**. (The table also lists dozens of additional State-listed and non-Federal “vulnerable” species at risk.) The report further elaborates:

*The species most immediately in danger of extinction by the introduced *P. molurus* include the Key Largo Woodrat (*Neotoma floridana smalli*), whose global range is restricted to northern Key Largo in the Upper Florida Keys; the Key Largo Cotton Mouse (FNAI refers to this as *Peromyscus gossypinus* pop 1), similarly restricted in distribution; the Cape Sable Seaside Sparrow (*Ammodramus maritimus mirabilis*), whose global range is within Everglades National Park; and the Round-tailed Muskrat (*Neofiber alleni*), whose global distribution is limited to Florida and parts of southern Georgia. The seaside sparrow nests in low shrubs highly accessible to pythons. The muskrat has habits and habitats that put it maximally in harm’s way, and though its resting platforms are conspicuous where present, the platforms have already become noticeably rarer in the areas occupied by the python (S. Snow pers. commun., 2008).*

*Should the python spread further into the Keys (presently it is known in Key Largo but does not clearly have a population established there), it would put several additional endemic populations or species at risk: Key Deer (*Odocoileus virginianus clavium*), Lower Keys Rabbit (*Sylvilagus palustris hefneri*), Lower Keys Cotton Rat (*Sigmodon hispidus exsputus*), Key Rice Rat (*Oryzomys palustris* pop 3), and Key Vaca Raccoon (*Procyon lotor auspicatus*). Should the python spread northward to Georgia, it would increase the risk on virtually all of the taxa listed in Table 4.2. Based on the experience of introduced prey sustaining artificially elevated introduced predator populations at the expense of native prey species (see references in Fritts and Rodda, 1998), the greatest biological impact of an introduced predator such as *P. molurus* is likely to be loss of imperiled native prey species. Species that are not presently listed as imperiled may become so or be extirpated. Species presently listed as at risk are in the greatest danger.*<sup>5</sup>

Jeopardy to Federally-listed species is not just a “prediction”. It is a fact, confirmed by southern Florida control officials who have discovered remains of the Key Largo woodrat in the stomachs of at least four trapped Burmese pythons. They also found remains of the endangered wood stork.<sup>6</sup>

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<sup>4</sup> USGS study at pp. 255-57.

<sup>5</sup> USGS study at pp. 69-72; see associated discussion at pp. 68-73.

<sup>6</sup> Testimony of Bert Frost, National Park Service, and Frank Mazzotti, University of Florida, to Subcommittees on National Parks, Forests and Public Lands and on Insular Affairs, Oceans and Wildlife of

These stomach samples of course don't show the full extent of the damage as they came from relatively few dead pythons among thousands in the wild. It appears highly likely that hundreds or even thousands of endangered animals have been taken by the entire python population and thousands more may continue to be in the future. In short, large constrictor snakes are placing ESA-listed animals in continuing jeopardy of extinction and are impacting dozens of other native species as well. Preventing the clearly foreseeable expansion of this tragic phenomenon must be the Service's highest priority.

The Service is bound by Section 7(a)(1) of the ESA, which directs the Secretary to:

*..review other programs administered by him and utilize such programs in furtherance of the purposes of [the ESA].*<sup>7</sup>

Here, the relevant program of course is the Secretary's regulation of injurious species under the Lacey Act. The "purposes of the ESA" that Sec. 7(a)(1) directs the Service to "further" when administering the Lacey Act are to "provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species."<sup>8</sup>

This "affirmative duty" to conserve "endangered species and threatened species," such as the Key Largo woodrat, wood stork and other native animals known to be jeopardized by non-native constrictor snakes mandates that the Service promptly regulate those species to the full extent of its Lacey Act authority. Reducing further imports and commercialization of these snakes will reduce the numbers of their clandestine releases into the wild. It eventually will serve to reduce their overall numbers and occupied U.S. range and reduce the potential jeopardy they pose to listed native species. Continued delay equates to continued ESA jeopardy.

## The Role of State Regulations

**Note: The following discussion also responds to question (1) in the Federal Register notice:**

***(1) What regulations does your State have pertaining to the use, transport, or production of any of the nine constrictor snakes? What***

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the House Natural Resources Committee, at March 23, 2010, joint oversight hearing on *How to Constrict Snakes and Other Invasive Species*. Online at

[http://resourcescommittee.house.gov/images/Documents/20100323/testimony\\_frost.pdf](http://resourcescommittee.house.gov/images/Documents/20100323/testimony_frost.pdf) and [http://resourcescommittee.house.gov/images/Documents/20100323/testimony\\_mazzotti.pdf](http://resourcescommittee.house.gov/images/Documents/20100323/testimony_mazzotti.pdf).

<sup>7</sup> 16 U.S.C. § 1536(a)(1).

<sup>8</sup> 16 U.S.C. § 1531(b); see, *Sierra Club v. Glickman*, 156 F.3d 606, 616 (5<sup>th</sup> Cir. 1998), which concluded Congress "intended to impose an affirmative duty on each federal agency to conserve each of the species listed [under the ESA]".

*are relevant Federal, State, or local rules that may duplicate, overlap, or conflict with the proposed rule?*

The notion that this is a “Florida problem” that the Service can leave to that state – or to any other state - to regulate is unsupportable. The State of Florida (and all other states, except perhaps insular Hawaii) lacks the capacity to inspect and regulate imports and it has no authority to limit interstate commerce the way the Federal government can. Thus, the states are powerless to keep those snakes from entering any given state so long as they can be legally imported into and sold throughout the other states. Nor does any one state have the responsibility to act in the interest of the other 49 states. That is a distinctly Federal role.

Even if these species were not able to survive outside Florida (which the USGS report refutes), the threat they pose to Everglades National Park, Big Cypress National Preserve, Loxahatchee National Wildlife Refuge, numerous refuges in the Keys, and a vast number of other highly significant nature preserves of national – indeed, international – significance would alone merit Federal regulation of these species.

#### **Comments Related to Economic Issues in the NEPA Environmental Assessment, the Regulatory Flexibility Analysis and the Draft Economic Economic Analysis**

**The following discussion also responds to questions (2) through (5), (11) and (12) of the Federal Register notice:**

*Questions: (2) How many of the nine constrictor snakes species are currently in production for wholesale or retail sale, and in how many and which States?*

*(3) How many businesses sell one or more of the nine constrictor snake species?*

*(4) How many businesses breed one or more of the nine constrictor snake species?*

*(5) What are the annual sales for each of the nine constrictor snake species?....*

*(11) What provisions in the proposed rule should the Service consider with regard to: (a) The impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, the Service should consider, as well as the costs and benefits of those alternatives, paying specific attention to the effect of the rule on small entities?*

*(12) How could the proposed rule be modified to reduce any costs or burdens for small entities consistent with the Service's requirements?*

In general, the NEPA Environmental Assessment (EA), the Regulatory Flexibility Analysis and the Draft Economic Analysis (DEA) fail to adequately describe the level of market and non-market economic damage that would result from the “No Action Alternative”. While information on the costs to businesses of speculative “lost sales” from the three “action alternatives” is more amenable to quantification, the Service’s analytical documents inadequately characterize the potential nationwide economic damage that would directly result from the foreseeable invasions of these species likely to be caused by their continuing unregulated importation and nationwide interstate sales. Likewise, the analysis fails to adequately quantify the potential benefits in the United States and elsewhere of the “action alternatives”. The Service admits this failure when it indicates “a quantitative comparison of benefits and costs is not possible” (DEA, p.1, 3<sup>rd</sup> par.).

The Service also admits its simplified analytical framework leads to overestimates of the costs to industry of its proposal. The reasons for this overestimation are actually two-fold:

**First, is the failure to consider in-state sales markets for breeders.**

The proposed rule would not ban in-state ownership of these species, only imports and interstate commerce. Breeders who desire to sell these species within a given state could continue to do so regardless of the proposed listing. The captive breeding industry – which is diverse and adaptable – could continue to supply the same market it supplies currently in each state where there is adequate demand to support a breeder. Yet, the DEA admits on p. 12 (last par. and in foot note 4.)

*... we do not know where these breeders or wholesalers are located nor do we know where the snakes are shipped after purchase...*

*... information is not currently available on the extent of interstate or within state trade.*

Without this missing information, the DEA cannot be relied on to reliably estimate an overall long-term economic effect on this industry. After potentially-affected breeders adapt their operations to just selling in-state where there is market demand, the net effect on the industry as a whole in terms of lost constrictor snake sales may be close to negligible.

**Second, is the failure to consider the substitution effect.** The *Broken Screens* report documented that from 2000-2004, at least 710 different fully-identified species of reptiles were imported.<sup>9</sup> At a minimum, 47 additional reptile species were imported during that period without full species identification.<sup>10</sup> In sum, at least 757 reptile species were in trade. With this proposed rule, USARK and like-minded reptile importers and breeders face **losing only up to six species** that were in trade during 2000-

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<sup>9</sup> *Broken Screens* report at p. 8, Table 1; and Appendix B.

<sup>10</sup> *Broken Screens* report at p. 10, Table 3.



2004, or less than 1% of the total imported reptiles. (Recall that three of the nine species at issue here were not even imported during that time period, i.e., *E. beniensis*, *E. deschauenseei* and *P. natalensis*.) Those relatively few reptile breeders and marketers affected by this rule likely will be able to substitute some of the more than 700 other previously-imported species that will remain unregulated in place of the six newly-regulated species without suffering measurable economic damage. Indeed, they have had four years of notice that this regulation was likely coming, more than enough time to adjust their breeding operations accordingly. Notwithstanding the above, the Service states the DEA does not account for this “*substitution effect and, thus, may overstate impacts*”. (p. 29, last par.)

**The Service should consider another important set of unconsidered impacts: overharvesting of the nine species in their native ranges.** The analytical documents contain no consideration of environmental impacts in the native range countries for the nine snake species of the reduced harvesting pressure on these species from the three “action alternatives” as compared to the “No Action Alternative”. Under long-standing official Council on Environmental Quality (CEQ) NEPA guidance, when an action occurring in the United States directly leads to environmental impacts outside U.S. borders, those impacts must be considered by the action agency.<sup>11</sup>

The EA fails to mention the overharvesting impacts resulting from the huge U.S. market demand for the imported snake species. The USGS and other reports confirm that the United States is the leading source of market demand, thus a Lacey Act prohibition of imports could dramatically ease the conservation risk for these species. For some of them it is documented that the import trade is a threat.

For example, a very recent report by the wildlife experts in TRAFFIC examines reptiles exported to the EU that are declared as “captive-bred” in comparison to the numbers of reptiles that breeding facilities in Indonesia are actually producing, or have the capacity to produce.<sup>12</sup> With respect to *P. molurus bivittatus* exports, TRAFFIC states (p. 15):

*It therefore appears that the number of actual breeding records of this subspecies are reported inaccurately and therefore do not realistically reflect the current breeding status.*

While the Burmese python was not the worst Indonesian species among those TRAFFIC assessed, the report notes (p. 1):

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<sup>11</sup> Council on Environmental Quality, Guidance on NEPA Analyses for Transboundary Impacts, dated July 1, 1997. Online at: <http://ceq.hss.doe.gov/nepa/regs/transguide.html> .

<sup>12</sup> Nijman, V. and Shepherd, C. R. (2009). *Wildlife trade from ASEAN to the EU: Issues with the trade in captive-bred reptiles from Indonesia*. TRAFFIC Europe Report for the European Commission, Brussels, Belgium. 22pp. ISBN 9789833393299, online at: [www.traffic.org/species-reports/traffic\\_species\\_reptiles26.pdf](http://www.traffic.org/species-reports/traffic_species_reptiles26.pdf) .

*Illegal and unsustainable trade in wild-caught reptiles is a leading threat to the conservation of many species.*

The Service should at least qualitatively consider the issue of whether the massive U.S. demand for imports of these snakes contributes to potentially unsustainable harvests. The proposed rule's potential impact of not driving these species toward extinction in their native ranges is an important environmental and economic benefit the Service must not overlook.

**The Service should consider benefits it omitted: prevention of foreseeable human mortalities.** Human mortalities attributable to the nine snake species cannot be reliably predicted, but they are reasonably foreseeable based on historical patterns. The Service's Draft Economic Analysis fails to consider these low-probability, but obviously high-impact, tragedies and costs. Human deaths certainly must be considered as being at least as important – indeed, as far more important – than speculative lost sales by small business entities.

According to news articles, 13 people were killed by pet pythons in twelve states between 1980 and 2009.<sup>13</sup> There is controversy, however, whether one of these deaths was attributable to the snake, as reported. On the other hand, officials from one Pennsylvania coroner's office asserted:

*...despite the paucity of published reports of fatal constrictions of minors by pythons, we believe that such fatalities occur more frequently than are reported in the forensic literature.*<sup>14</sup>

Data from the U.S. Centers for Disease Control and Prevention (CDC) appear to support this. Since 1999, CDC has tracked "bitten or crushed by other reptiles" as a cause of death in the United States, a category which excludes alligators and crocodiles.<sup>15</sup> According to CDC, there were 77 such deaths, in 20 states, between 1999 and 2006. This contrasts with 52 deaths due to "contact with venomous snakes and lizards" during the same time period. The database does not detail the reptile species involved, nor is there access to death certificates for verification. It would appear, though, that the number of constrictor deaths may be higher than reported in the press.

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<sup>13</sup> Humane Society of the United States, 2010. Published data gathered from news media. Personal communication from Beth Preiss, Regulatory Affairs, Washington, DC, April 28, 2010.

<sup>14</sup> Omalu, B.I., J.T. Dominick, T.G. Urich, and C.H. Wecht. 2003. Fatal constriction of an 8-year-old child by her parents' pet python: a call for amendment to existing laws on the ownership of exotic wildlife to protect children from avoidable injury and death. *Child Abuse & Neglect* 27:989-991.

<sup>15</sup> Centers for Disease Control and Prevention, National Center for Health Statistics. Compressed Mortality File 1999-2006. CDC WONDER On-line Database. Accessed at <http://wonder.cdc.gov/cmfi-icd10.html> on April 28, 2010.

In 2003, the Office of Management and Budget instructed federal regulatory agencies to document the economic value of any policies that reduced risks to human life.<sup>16</sup> OMB recognized that methods would continue to evolve, but recognized a concept known as the Value of Statistical Life, or VSL. Currently, a “reasonable average” for the VSL is \$5.5 to \$7.5 million.<sup>17</sup> By any measure, the proposed rule will in the long run reduce the risks these snakes post to humans, thus providing a substantial economic benefit, while preventing tragedies that cannot be economically measured.

**Summary of comments on the economic analyses:** In summary, in view of its failure to quantify several classes of potential benefits of the rule and its admission that the DEA oversimplifies the issues and likely overstates the costs of the proposal, the Service needs to more markedly qualify the quantitative values it does present. Merely putting a “high” and “low” range on the suggested economic impacts based on unsupported assumptions about unknown parameters does not constitute reliable analysis.

The “costs” dollar figures naturally will be seized on by decisionmakers who read the DEA because they appear to be quantitative and “factual”. But, that is a “false economy”; it is an artifact of the admitted low level of research and analysis the Service undertook. **The most vital point, though, is that the Service should not go back and spend more time doing this non-essential economics research; it should instead ensure that any decisionmakers who may consider the DEA analysis recognize its analytical limitations and the required qualifications for its estimates.**

**The Service should disregard exaggerated claims of costs.** We ask the Service to look with significant skepticism on purported facts submitted by self-interested snake importers and breeders, and perhaps by others, on the so-called economic importance of the constrictor snake “industry”. In testimony to Congress and media statements, USARK has made unsupported and frankly outlandish claims about the value of this activity and the numbers businesses and employees involved. Past claims of “billions of dollars” in losses are not credible. Mere repetition does not make claims into facts. The Service cannot accept such values unless it does independent research on whether any support exists for them.

## Conclusion

As top predators that will kill native threatened and endangered species, and can kill people, the nine large constrictor snakes under consideration are clearly “injurious to human beings [and]... to wildlife or the wildlife resources of the United States” under the Lacey Act definition, above. Additional delays in their Federal regulation will compound the jeopardy these snakes pose now to ESA-listed species. Their Lacey Act listing cannot be denied or delayed consistent with Sec. 7(a)(1) of the ESA while the

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<sup>16</sup> Office of Management and Budget. 2003. Circular A-4. Regulatory Analysis. Washington, DC. Online at; <http://www.whitehouse.gov/OMB/Circulars/a004/a-4.pdf> . Accessed April 29, 2010.

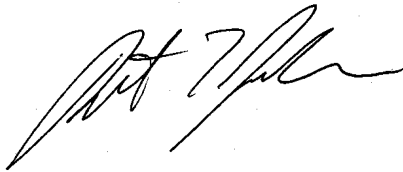
<sup>17</sup> Kniesner, T.J., W.K. Viscusi, C. Woock, and Zilak, J.P. 2007. Pinning down the value of statistical life. IZA Discussion Paper No. 3107. Abstract available online at <http://ssrn.com/abstract=1029912> .

Service seeks economic information related to the volume of snake sales and potentially-impacted businesses, on which the agency's notice focuses. None of this information is relevant to whether the "injurious" standard is met under the Lacey Act nor could such information outweigh the **affirmative ESA duty** the Service has to conserve threatened and endangered species.

This nation needs to learn from past mistake of failing to timely prohibit importation of Burmese pythons and other species that have already invaded, to reflect on the disastrous situation that has led to, and to issue a final injurious species listing rule for all nine species at issue before additional invasions occur. We urge the Service to expedite its rulemaking accordingly.

If you have any questions on this comment, please contact me at 202-772-0293 or email: [pjenkins@defenders.org](mailto:pjenkins@defenders.org).

Sincerely,



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On behalf of the undersigned:

Gabriela Chavarria, Ph.D., Director, Science Center  
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Ruark L. Cleary, Board of Directors  
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Phyllis N. Windle, Ph.D., Senior Scientist and Director, Invasive Species  
Union of Concerned Scientists

Attachment