



# **National Agricultural Library**

**National Invasive Species  
Awareness Week**

**Legal Issues**

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May 20, 2021

# Laws Impacting Invasive Species

No single, comprehensive legislation on invasive species

Patchwork of laws, regulations, policies and programs

Single species laws

- Brown tree snake
- Zebra mussels

Pathways laws

- National Invasive Species Act prohibits release of ballast water as a risk to saltwater and freshwater ports, bays, and estuaries

# Federal Laws

- **Animal Health Protection Act**
- **Plant Protection Act**
- **Wild Bird Conservation Act**
- **Hawaii Tropical Forest Recovery**
- **Noxious Weed Control and Eradication**
- **Executive Order 13112 on Invasive Species (1999)**
- **Alien Species Prevention and Enforcement Act**
- **National Invasive Species Act of 1996**
- **Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 s**
- **Organic Administration Act of 1897**
- **Lacey Act of 1900**
- **Virus-Serum-Toxin Act of 1913**
- **Animal Damage Control Act of 1931**
- **Federal Seed Soil Conservation and Domestic Allotment**

# Executive Order 13112 on Invasive Species (1999)

- Created **NISC** to provide leadership, coordination, and oversight of federal agency activities
  - Co-chaired by the Secretaries of the Interior, Agriculture, and Commerce
  - Tasked with developing recommendations for international cooperation
- Responsible for the periodic National Invasive Species Management Plan
- Additional executive orders
  - [Executive Order 13751 - Safeguarding the Nation from the Impacts of Invasive Species \(2016\)](#)
  - [Executive Order 11987 - Exotic Organisms \(1977\)](#)

# Role of the Federal Government

## National Invasive Species Council (NISC)

- USDA
- Dept. of Commerce
- Dept of Interior
- Created in 1999
- Provides interdepartmental coordination to address invasive species nationwide

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# Lacey Act of 1900

- Protects at risk species by restricting illegal wildlife trade
- The “*injurious species provision*” is makes import a criminal act
  - A Class B misdemeanor, punishable by up to six months in jail and/or up to a \$5,000 fine for an individual and \$10,000 for an organization
- Bans the import and shipment of restricted listed living creatures and their eggs



U.S. Fish & Wildlife Service

## Fish and Aquatic Conservation



### Injurious Wildlife Listings - Keeping Risky Wildlife Species Out of the United States

Wildlife species from around the world are frequently imported into the United States or find their way by unintentionally stowing aboard vessels, aircraft, and vehicles. People import all types of live wildlife for a variety of purposes, including as pets, for consumption, in ornamental ponds, and for research. Sometimes the animals escape into the wild from captivity or sometimes people intentionally release them.

#### Invasive species can harm our environment, industries, and health.

A small percent of introduced species may survive, reproduce, and become invasive. To protect from high risk species that may cause harm to interests of the United States, the U.S. Fish and Wildlife Service has the authority from Congress to prohibit the importation and some transport of certain types of wildlife through the Federal regulatory process. Those species are called injurious.

Once a species is added to the list of injurious wildlife, it may not be imported into the United States or transported between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States without a permit.

[View the current list of injurious wildlife species.](#)

Injurious wildlife listing began in 1900 and continues to the present under the oldest national invasive species law in the United States. Known as part of the Lacey Act, the statute ([18 U.S.C. 42](#)) allows the Secretary of the Interior to prohibit importation and some shipment of wildlife species that are officially designated as injurious.



# Plant Protection Act of 2000

- Primary federal law governing plant pests in foreign and interstate commerce
- Consolidated numerous prior laws into a single Act
- Enforced by APHIS and state level regulatory bodies
  - Enforcement includes inspections, surveillance, quarantines, treatments, or destruction

## *Monsanto Co. v. Geertson Seed Farms*

- The first US Supreme Court case the addresses genetically modified seeds/crops
- Organic and commercial alfalfa growers were concerned about the potential for cross-pollination
- US District Court placed an injunction and required an Environmental Impact Statement (EIS) be completed
- US Circuit Court agreed
- US Supreme Court overturned both lower court

# Other Lawsuit Related to Invasive Species

- Michigan v. United States Army Corps of Engineers – Asian carp
- Fund for Animals, Inc. v. Kempthorne – *migratory mute swans*
- *Northwest Env. Advocates v. EPA, 2005* – ballast water
- Northwest Environmental Advocates, *et al.* v. U.S. EPA – ballast water