

**Testimony of Andy Buchsbaum
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**United States House of Representatives
Natural Resources Committee, Subcommittee on Fisheries, Wildlife, Oceans
and Insular Affairs**

Testimony on H.R. 3105, “Aquaculture Risk Reduction Act.”

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Chairman Fleming, Ranking Member Sablan, members of the Subcommittee, thank you for the opportunity to be here today. I am Andy Buchsbaum, and I serve as the Regional Executive Director of the Great Lakes Region for the National Wildlife Federation (NWF). National Wildlife Federation is the nation’s largest member-based conservation, education and advocacy organization. Our mission is to inspire Americans to protect wildlife for our children’s future. National Wildlife Federation is comprised of 48 state and territorial affiliates and more than 4 million members and supporters. Our members include hunters, anglers, backyard gardeners, birdwatchers and many other outdoor enthusiasts from throughout the nation. I appreciate the opportunity to share our views on H.R. 3105, the “Aquaculture Risk Reduction Act.”

Wildlife conservation has been the focus of National Wildlife Federation for over 75 years, since our inception in 1936. Time and again, threats to wildlife have unified diverse people from across our nation to take action in the interest of conserving the nation’s rich wildlife heritage. Through voluntary collaboration and effective conservation laws, the people of this nation have saved many species from extinction, restored many game and fish wildlife species, and preserved our outdoor heritage.

We appreciate the intent of the author and supporters of H.R. 3105 in trying to ensure that we enforce our conservation laws in a fair and effective way. However, we do not agree with their approach on this particular bill. We feel that this is an amendment in search of a problem. H.R. 3105 would create an exemption to the Lacey Act for animals accidentally included in shipments of aquatic species produced in commercial aquaculture in accordance with the Lacey Act. The National Wildlife Federation opposes this exemption for the simple reason that it would significantly reduce existing safeguards that are in place to protect our country’s economy, wildlife, and natural resources.

The Lacey Act is celebrating its 114th birthday this year. This landmark legislation has been highly successful in preventing and reducing destructive wildlife-related activities, including helping to curb the importation of many aquatic invasive species. The Act’s achievements include invasive species prevention, cracking down on horrific wildlife poaching, and protecting our domestic timber industry from illegal logging and deforestation. However, the Lacey Act’s injurious species listing section (18 U.S.C. 42), is in many ways not equipped to deal with the 21st century age of globalized trade. Many stakeholders agree that this particular section is too

reactive, too slow, and not cost-effective for our nation. In terms of preventing the introduction and spread of injurious fish and wildlife, the language of the Act needs to be modernized, improved, and strengthened, not watered down. We should not be in the business of creating new loopholes and exemptions in the law as doing so further reduces the Act's ability to prevent the next big threat to our wildlife heritage.

The invasive species problem is enormous and severely damaging to our native wildlife. Invasive species are a common factor in federal endangered and threatened species listings. More than 400 of the 1,352 species protected under the Endangered Species Act are at risk at least partly due to competition with, or predation by, non-native, invasive species. Not only do these invasives spread widely, out-compete and eat our native wildlife, and fundamentally alter natural systems, they can also carry infectious pathogens and harmful parasites. Diseases brought to the U.S. via imported wild animals, for example, include exotic Newcastle's disease, heartwater, malignant catarrhal fever, monkeypox, chytrid fungus and ranavirus. The total cost born by the U.S. attributed to invasive animals and associated diseases is estimated at \$35 billion per year (Pimentel et al, 2005). This estimate includes the ongoing impacts of animals introduced historically, such as the feral hogs and Norway rats brought to the U.S. centuries ago, as well as the costs and damages caused by more recent invasions and disease outbreaks.

The U.S. is a leading import market, receiving hundreds of millions of risky, potentially invasive or disease-carrying live animals each year. Some of these animals end up on our lands and in our waters, either escaping from captivity or being discarded by their owners. Many non-native animals survive only a brief time. But some animals, unconstrained by the natural limiting factors of their native environments, flourish and cause serious environmental, health and economic problems.

Thus it is troubling that H.R. 3105 would, in effect, give up on maintaining accountability for the interstate transport and import of harmful aquatic invasive species. We urge you not to be swayed by exaggerated assertions from aquaculturists about possible felony sanctions, with unsupported claims of hundreds of thousands of dollars of fines and mandatory jail time for violators. These statements are irrelevant to our discussion of H.R. 3105. The Lacey Act criminal penalty section in 16 U.S.C. 3373(d) has a maximum fine of \$10,000 or \$20,000 (depending on the offense) and the potential for a non-mandatory jail sentence for *knowing* criminal violations. However, *knowing* violations would not be impacted by H.R. 3105 because this bill clearly applies only to *accidental* violations under Section 2(a)(2)(B). Accidental violations would incur much less severe civil fines in enforcement cases, a rarity in any event. Assertions of extreme criminal sanctions are irrelevant and misleading as far as our discussion of H.R. 3105 goes.

The Great Lakes are a key resource for the people of the Great Lakes region and the entire country, with over 1.5 million jobs (and over \$62 billion in annual wages) directly connected to the Lakes (Vaccaro, L., and Read, J., 2011). At least 180 non-native species have been established in the Great Lakes since the late 1800s from all major invasion pathways. Ranging from large predacious fish like the sea lamprey to microscopic plankton, biological invaders have wreaked havoc on the ecosystem and caused severe economic hardship (Pimentel et al, 2005). A recent peer-reviewed study on impacts from ship-borne aquatic invasive species in the Great Lakes indicated an average estimated impact of \$138 million annually, with a potential five percent

chance of the impact to sport-fishing alone being as high as \$800 million annually (Rothlisberger, J.D., Finnoff, D.C., Cooke, R.M., Lodge, D.M. 2012).

Invasive species often move across the nation, and invasions that originated in far reaches of the United States are now threatening the Great Lakes. For example, zebra and quagga mussels invaded the Great Lakes in the 1980s from foreign ballast water, causing large-scale disruptions in the food web and clogging water intake pipes. Though the mechanisms are still not completely understood, food web changes in Lake Huron have included a decline in excess of 90% in important forage fish species (i.e., prey for predator fish such as lake trout) over the past 20 years. Following their invasion of the Great Lakes, zebra and quagga mussels have since rapidly spread through the Mississippi River Basin and across the Rocky Mountain Continental Divide.

Meanwhile, a crisis is spreading throughout the Mississippi River Basin that is threatening the Great Lakes. Asian carp, a species recently listed as injurious, have infested waters from Louisiana to South Dakota, Minnesota and West Virginia. Asian carp were imported to the U.S. without determining beforehand whether their potential escape from captivity could cause harm. Four different Asian carp species that now live in U.S. waters can grow very large and one, the silver carp, is like a “live missile” leaping out of the water when startled. The bighead and silver carp (most threatening to the Great Lakes) feed on plankton and algae and can eat tremendous amounts every day. Initially imported in the 1960s for aquaculture and research purposes, some fish escaped shortly thereafter; grass carp were observed in the wild in the 1970s, with bigheaded and silver carp showing up in the 1980s. Since then their populations have expanded exponentially, with the greatest populations currently existing in the Mississippi, Illinois and Missouri Rivers.

Now the fish are poised to gain a foothold in the Great Lakes through a canal system in the Chicago area which artificially connects the Mississippi basin with Lake Michigan. In fact, NWF urges Congress to take action on efforts to physically separate the Great Lakes and Mississippi River basins in the Chicago Waterway System to stop the advance of Asian carp invading the Great Lakes. A recent binational U.S.-Canadian risk assessment found potentially suitable habitat for bigheaded carp in all five Great Lakes, with particular risks to Lakes Erie, Michigan and Huron. Once established, scientists predict they could out-compete other plankton-eating species and further disrupt an already altered food web. This crisis illustrates the stark need to strengthen national animal importation policies and screen potential invaders out of the live animal trade, to ensure a preventable crisis like this never happens again.

The passage of H.R. 3105 could lead to more frequent and devastating aquatic species invasions in the United States. These invasions lead to an increase in the direct cost of protecting native fish and wildlife species, habitats, and ecosystems, as well as negatively impacting all the people, communities and businesses that depend on native fish and wildlife for recreation and commercial activities. In recent years, the federal budget allocated hundreds of millions of dollars in an effort to control the growing carp population; in 2010 alone, the federal government spent \$79 million trying to prevent the invasion of Asian carp in the Great Lakes. If we fail to control these invasive populations, we risk losing a substantial boost to the regional economy. By one estimate, the Great Lakes fishery is worth as much as \$7 billion annually to the U.S. and Canada, the majority of which comes from recreational fishing.

The injurious species clause, while reactive and often slow, is an absolutely vital safeguard to prevent the purposeful importation and interstate commerce of harmful animal species that can have a devastating effect on the economy, wildlife, and ecosystem services. Perhaps even more importantly, it is a deterrent that is crucial to ensuring a certain standard of practice in the animal trade and other business sectors, such as aquaculture. Currently, criminal penalties only apply to criminal violators who knowingly broke the law, not to people who accidentally transported an injurious species. If importers are no longer concerned with facing any consequences for inadvertently introducing harmful wildlife species, they will cease to exercise due care to ensure that these new and dangerous animals don't make their way into existing habitat. We would ask the committee: Is this amendment designed to excuse the aquaculture industry from exercising the due care required of other commercial entities? Should Congress be picking winners and losers?

If there was a devastating human disease or some other harmful biological agent that was hitching a ride into the country, accidentally or otherwise, we would want to make sure we had every opportunity to screen and prevent its introduction. Injurious species, including aquatic invaders, should be considered an immediate threat to our national security and our government should implement a response that matches the severity of this threat. A deterrent ensures that companies and industries work together with federal and state inspectors and regulators to keep the process as clean and transparent as possible. H.R. 3105's exemption for inadvertent importation significantly reduces that deterrent.

Again, we appreciate and understand the goal of ensuring fair rules for industries and companies with regard to the Lacey Act. Many of these businesses care just as much about wildlife, hunting, fishing, and healthy aquatic ecosystems as we do. However, it is clear that H.R. 3105 would create a loophole leading to more invasions of species like the Asian carp, putting more stress on the native species we are all working to keep healthy.

We need to look for opportunities to modernize and improve the listing process, making it faster and more effective, rather than weakening existing safeguards. For instance, H.R. 996, the Invasive Fish and Wildlife Prevention Act, would advance our nation's laws on non-native animals from the 19th century to now by improving the ability to make rapid, science-based decisions on whether a non-native species is harmful or not. Strengthening this process can stop introductions of scientifically-identified non-native species that pose a high risk to the economy, the environment, human health or native wildlife, which can save taxpayers hundreds of millions of dollars every year in damages and control costs (Springborn et al, 2011). If enacted, H.R. 996 would lead to quicker injurious species decisions, which would add clarity for industry groups, such as aquaculture companies, that depend on certainty to be able to make strategic business decisions.

NWF calls on the members of this committee to oppose the exemption proposed by H.R. 3105 and we urge the committee to look at different approaches to help modernize and add flexibility for the benefit of all stakeholders involved.