



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

SEP 23 2022

The Honorable Jared Huffman
Chair, Natural Resources Subcommittee
on Water, Oceans, and Wildlife
U.S. House of Representatives
Washington, DC 20515

Dear Chair Huffman:

Enclosed are responses prepared by the Department of the Interior to the questions for the record received following the June 16, 2022, legislative hearing on H.R. 6936, Stamp Out Invasive Species Act, H.R. 7398, Prohibit Wildlife Killing Contests Act of 2022, H.R. 6949, To amend the Water Infrastructure Improvements for the Nation Act to reauthorize Delaware River Basin conservation programs, H.R. 7792, To provide for a national water data framework, and H.R. 7793, To provide for the water security of the Rio Grande Basin, to reauthorize irrigation infrastructure grants.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Cliff Bentz
Ranking Member

Questions for the Record

Subcommittee on Water, Oceans, and Wildlife

House Natural Resources Committee

Legislative Hearing on H.R. 6936, H.R. 6949, H.R. 7398, H.R. 7792, and H.R. 7793

June 16, 2022

Questions from Rep. Graves

Question 1: Invasive species cause havoc on our coast and natural systems, costing U.S. taxpayers hundreds of millions of dollars every year. In Louisiana, nutria is one of these invasive species that is damaging our marsh and hampering efforts to restore Louisiana's coast. If left unchecked, nutria overgraze root systems of marsh plants—accelerating the destabilization, erosion, and eventual destruction of shoreline—without revegetation, these areas quickly become open water and leave our coast more flood prone and less resilient. Nutria rodeos are an important tool for combatting this harmful invasive species and for protecting our coastal environment and way of life.

Department of Interior testimony suggests a clarification may be needed to ensure the exceptions for contests that target invasive and injurious species—please explain how the bill can better clarify this exception to ensure that harmful invasive species—like nutria—are excluded from this prohibition?

Response: H.R. 7398 currently exempts lethal control actions by State or Federal agencies that target wildlife classified as invasive by the National Invasive Species Information Center (NISIC). This includes species like nutria, which have caused substantial damage to coastal ecosystems in Louisiana and the mid-Atlantic. The U.S. Fish and Wildlife Service (FWS) suggests several changes to this exception to ensure that it fully exempts lethal control actions of both invasive species and injurious wildlife on public lands. First, the FWS suggests that the exception allow for the control of invasive species, as they are defined in Executive Order 13751, rather than targeting only those species classified as invasive by NISIC. NISIC's invasive species profiles are designed primarily for public outreach and information sharing and are not inclusive of all invasive species. Using the definition of "invasive species" found in Executive Order 13751 would ensure that the exception captures a broader list of species currently considered invasive at the national, regional, and local levels. Second, the FWS recommends including injurious wildlife, as defined in the Lacey Act (18 U.S.C. § 42(a)-(c)), in the exception as these species also cause harm to wildlife, ecosystems, and people. Finally, the FWS recommends exempting lethal control actions of invasive species and injurious wildlife by District of Columbia, Territorial, and Tribal agencies, in addition to those conducted by State and Federal agencies.

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Question 2: Second, please define and explain the definition and difference between an invasive and an injurious species? Do the two types of species overlap? And is the Department supportive of excluding both invasive species and injurious species from the bill's intent, or just species that are both?

Response: While there is overlap between the terms, and both “invasive species” and “injurious wildlife” address species that cause harm to wildlife, ecosystems, and people, they have different definitions and are used in different contexts.

Executive Order 13751 defines “invasive species” to mean, “with regard to a particular ecosystem, a non-native organism whose introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health.” “Injurious wildlife” is specified by statute or by regulation under the authority of the Lacey Act, 18 U.S.C. § 42(a)-(c). In addition to injurious wildlife listed by Congress in 18 U.S.C. § 42(a), the Secretary of the Interior may prescribe by regulation that species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing are injurious wildlife, if they are “injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States.” Under 18 U.S.C. § 42(a)(2), the term “wild” relates to any creatures that, whether or not raised in captivity, normally are found in a wild state; and the terms “wildlife” and “wildlife resources” include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent. The FWS has always applied the term “injurious wildlife” to a wildlife species that causes harm to the interests protected by 18 U.S.C. § 42(a). That harm could be direct, such as a highly venomous, non-native snake that could kill humans and wildlife. That harm could also be indirect, such as a species becoming so widespread and numerous that it outcompetes native wildlife for food and habitat or a species that carries a pathogen that could cause devastating impacts to native wildlife species or humans.

There is overlap between invasive species and injurious wildlife with both having the ability to cause significant damage to wildlife, ecosystems, and people. The most significant differences between invasive species and injurious wildlife are 1) that an injurious wildlife species must be listed by the Secretary of the Interior by rulemaking or by Congress through statute, under 18 U.S.C. § 42(a); 2) injurious wildlife prescribed by regulation may not include plants, pathogens, or certain animals; and 3) 18 U.S.C. § 42(a) prohibits certain activities with injurious wildlife, including importation and transport between the jurisdictions enumerated in the statute.

FWS supports excluding both invasive species and injurious wildlife from the bill's intent.