

July 10, 2014

Daniel Ashe  
Director, U.S. Fish and Wildlife Service  
1849 C Street, NW  
Washington, DC 20240

**RE: Listing the Reticulated Python, Three Anaconda Species, and the Boa Constrictor as Injurious Reptiles**

Dear Mr. Ashe:

The Office of Advocacy at the U.S. Small Business Administration (Advocacy) respectfully submits these comments to the Department of the Interior, U.S. Fish and Wildlife Service (FWS) regarding its proposal to list five species of snakes as injurious reptiles under the Lacey Act.

**Office of Advocacy**

Congress established Advocacy under Pub. L. 94-305 to represent the views of small entities before Federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA); as such the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), gives small entities a voice in the Federal rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, Federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy. The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to these written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so.

## **Background**

On March 12, 2010, FWS published a proposed rule that would list nine species of constrictor snakes as injurious species under the Lacey Act.<sup>1</sup> The agency also published an Initial Regulatory Flexibility Analysis (IRFA). On May 10, 2010, Advocacy submitted a comment letter expressing concerns about the IRFA and the effect the proposed rule would have on small businesses in the industry.<sup>2</sup> On January 23, 2012, FWS finalized the listing of four of the nine snakes from the March 12, 2010 proposal.<sup>3</sup> On June 24, 2014, FWS announced its intention to list the remaining five snakes by reopening the comment period.<sup>4</sup>

## **The IRFA does not adequately describe the impacts of the proposed rule on small entities and does not discuss significant alternatives to the proposed rule**

Advocacy reiterates its concerns regarding the IRFA published on March 12, 2010 which purports to examine the economic impact this rule will have on small businesses in this industry. The IRFA failed to identify all of the small entities directly affected by the rule such as reptile shippers and supply manufacturers. The IRFA also underestimated the impact that the listing would have on the small businesses that were identified. Many of the comments submitted during the prior comment period stated that listing these snakes would have devastating economic effects on small businesses.<sup>5</sup> Yet, FWS failed to integrate these comments into their analysis. In addition, FWS did not include a full discussion of all the significant alternatives to the proposed rule as required by the RFA.

## **Conclusion**

Given the above concerns with the IRFA, Advocacy reiterates its suggestion that at a minimum FWS publish a supplemental IRFA that fully addresses these issues. For additional information or assistance please contact me or Kia Dennis at (202) 205-6936 or [Kia.Dennis@sba.gov](mailto:Kia.Dennis@sba.gov).

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<sup>1</sup> Listing the Boa Constrictor, Four Python Species, and Four Anaconda Species as Injurious Reptiles, 48 *Fed. Reg.* 75 (March 12, 2010).

<sup>2</sup> See Letter from Winslow Sargeant, Chief Counsel, to The Honorable Ken Salazar, Secretary of the Department of the Interior, May 10, 2010 at <http://www.sba.gov/sites/default/files/advocacy/Letter%20dated%202005-10-10%20-%20Department%20of%20Interior,%20Fish%20and%20Wildlife%20Service.pdf>.

<sup>3</sup> Listing the Boa Constrictor, Four Python Species, and Four Anaconda Species as Injurious Reptiles, 48 *Fed. Reg.* 75 77 FR 3330 (January 23, 2012).

<sup>4</sup> Listing the Reticulated Python, Three Anaconda Species, and the Boa Constrictor as Injurious Reptiles, 79 *Fed. Reg.* 35719 (June 24, 2014).

<sup>5</sup> See, e.g., letter from Wall to Wall Reptiles to U.S. Fish and Wildlife Service (May 12, 2010); letter from Renick Reptiles to U.S. Fish and Wildlife Service (May 11, 2010); letter from Chase~N~Reptiles to U.S. Fish and Wildlife Service (May 10, 2010).

Sincerely,

/s/ Winslow Sargeant, Ph.D.  
Chief Counsel for Advocacy

/s/ Kia Dennis  
Assistant Chief Counsel for Advocacy

Attachment

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**Attachment**

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