



PIJAC DRAFTING POINTS For Preparing a Response to the USFWS Notice of Inquiry Regarding Amphibians and the Chytrid Fungus, *Batrachochytrium dendrobatidis*

The Issue: PIJAC is in the process of preparing a detailed response to the U.S. Fish and Wildlife Service (USFWS) Notice of Inquiry (NOI) entitled, Injurious Wildlife Species; Review of Information Concerning a Petition To List All Live Amphibians in Trade as Injurious Unless Free of *Batrachochytrium dendrobatidis*. We offer you the following points as a means to assist you in drafting your own constructive response to the NOI (due December 16th, details below). Please state the following facts in your own words when making a response. Submissions that are identical or very similar will have less impact than those which are personal and unique. Submissions that are well written (e.g., carefully organized, grammatically correct, free of typos), clearly address the USFWS questions and/or other technical issues, and have a professional tone are most likely to be considered “constructive responses” by USFWS staff. Only “constructive responses” are taken into account in the policy making process.

NOI Background: For background information on the NOI, please read the [September 17, 2010 Federal Register notice](#) and associated [PIJAC PetAlert](#).

PIJAC Position: PIJAC urges all members and other stakeholders to submit comments to USFWS opposing the listing of live amphibians infected with the chytrid fungus, *Batrachochytrium dendrobatidis*, as injurious wildlife under the Lacey Act. We encourage you to submit your comments electronically on December 15 or 16th. More information is provided at the end of this letter.

DRAFTING POINTS

State that you are responding to NOI question #14 from your personal perspective and that PIJAC will be responding to questions #1-13 on behalf of its members. [Note: If you have data and are confident in the technical accuracy of your responses to questions 1-13, we do encourage you to address those as well.]

- Research indicates that the chytrid fungus, *Batrachochytrium dendrobatidis* (*Bd*), is pathogenic to some, but not all, amphibian species. Maps produced by a team of researchers, including Federal agency scientists, indicate that it is already widespread in the United States. Furthermore, some scientists believe that it may be native to – or long established in – the eastern US.
- In response to the Defenders of Wildlife petition referenced in the NOI, the US Department of Agriculture (USDA) has determined that *Bd* is “non-actionable” because it is already widespread within the US. The Department of the Interior and USDA are partners under the National Aquatic Animal Health Plan (NAAHP) and we question the ability of the USFWS to provide the administration, infrastructure, and budget necessary to unilaterally implement an injurious wildlife listing that is consistent with the NAAHP, as well as international guidance and law (e.g., OIE standards).

- We do not believe that it was the intent of the authors of the Lacey Act to list native wildlife as injurious. Nor do we believe that there is authority under the Lacey Act to list micro-organisms or vertebrate species that might carry micro-organisms as hitchhikers (whether or not those micro-organisms might/might not cause disease).
- Amphibians imported and transported for the pet trade are intended for life-long, secure containment. Escapes or deliberate releases in the natural environment are extremely rare given the volume of amphibians in trade. The greatest risk of *Bd* spread within the US is via “on-the-ground” pathways, e.g., fish stocking, fishing, boating, water transport (e.g., canals, irrigation).
- The pet industry is already well-aware of the risks posed by *Bd* and has led the way in taking proactive responsibility/measures for minimizing *Bd* spread via its pathway/practices (e.g., *Bd*-free ‘Phibs campaign and individual company programs for testing/treatment of *Bd*). Members of the pet industry care about their stock for both animal welfare and economic purposes. The pet industry is well-positioned to self-regulate the spread of *Bd*.
- It is not clear how the USFWS would implement a program of *Bd* treatment, testing, surveillance, reporting, and permitting. The USFWS must be consistent with international trade law and the OIE has not yet completed its guidance on amphibians and *Bd*. We strongly suspect that the USFWS will not have the capacity to implement the guidance that the OIE develops in a timely and economically-feasible manner.
- Treatment protocols for amphibians need to be carefully developed in accordance with animal welfare standards. If an amphibian has to be dosed when it crosses into the US and again each time it crosses a state-line, that single animal might receive a chemical treatment 3 or more times within a matter of a week. The pet industry is strongly opposed to any treatment protocol that would kill an amphibian or shorten its lifespan.
- Based on the language in the Federal Register Notice, it appears that the USFWS would treat the intentional and unintentional movement of amphibians in trade equally – meaning that someone unintentionally moving larvae or eggs in a shipment (e.g., aquatic plants) would be subject to a felony-level violation if they crossed state lines. If a listing proceeds with these conditions, numerous private sector, as well as agency, activities that are not intentionally associated with the amphibian trade would be severely compromised.
- The economic impact of listing all amphibians as injurious unless proven *Bd*-free could devastate the reptile/amphibian segment of the pet industry. Not only would people be put out of work, but the public would have far less of an opportunity to build an appreciation for amphibians – an appreciation that ultimately translates into a desire to help conserve these and other animals in the wild.
- We question the willingness/ability of the average pet amphibian owner to treat, test, and report *Bd* prior to relocating their pets across state lines. We further question the ability of state and Federal agencies to enforce the Lacey Act under these circumstances.
- Although pet amphibians are rarely released into the natural environment, hobbyists and pet owners who fear that they would be in violation of the Lacey Act may be inclined to release their amphibians rather than euthanize them. Listing could, thus, foster the conditions that both the USFWS and pet industry would like to prevent.

Your comments must be received or postmarked by December 16, 2010 to Federal eRulemaking Portal: <http://www.regulations.gov> following the instructions for commenting to Docket No. FWS-R9-FHC-2009-0093 or by U.S. Mail addressed to Attn: Docket No. FWS-R9-FHC-2009-0093, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203.

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