



**TESTIMONY OF  
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EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL  
PET INDUSTRY JOINT ADVISORY COUNCIL**

**BEFORE THE  
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS  
HOUSE NATURAL RESOURCES COMMITTEE**

Madam Chair and members of the Subcommittee, I am Marshall Meyers, Executive Vice President and General Counsel of the Pet Industry Joint Advisory Council (PIJAC). Thank you for providing the pet industry an opportunity to submit testimony for inclusion in the record on aquatic nuisance species and the activities of the Aquatic Nuisance Species Task Force (ANSTF).

PIJAC recognizes the potential impacts of aquatic invasive species on the environment and believes effective measures should be in place to reduce the risk of biological invasion in all ecosystems. We believe that the appropriate directives for risk management have been in place for years (as contained in the Lacey Act, the National Invasive Species Management Plan and several ANSTF initiatives). However, the requisite human and financial resources have yet to be made available to the relevant federal agencies so that they can fully implement and enforce these policies and programs. Furthermore, although pending reauthorization legislation has the potential to further clarify, codify and strengthen these directives, there is little evidence that adequate resources will be provisioned to support policy changes. Whether or not the federal government takes new action, PIJAC will continue to provide leadership on these issues with the aim of minimizing the impact of invasive species through open, transparent and scientifically-based processes.

**Background**

PIJAC is a nonprofit service-oriented organization comprised of members who care about pets and the pet industry. As a trade association, PIJAC represents all segments of the pet industry: companion animal importers/exporters/breeders, wholesale distributors, product manufacturers, retail outlets, and affiliated hobby clubs, aquarium societies, and other industry trade associations. Our members serve the 63% of the US households that care for and maintain pets of all types, sizes and descriptions. We also work in service of animal welfare and environmental protection. PIJAC's explicit mission is to:

“Promote responsible pet ownership and animal welfare, foster environmental stewardship, and ensure the availability of pets.”

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Our staff is comprised of experts in law and policy, ecology and conservation biology, and public education. Through these individuals, PIJAC has been represented on several ANSTF regional panels and its Risk Assessment Subcommittee and the Invasive Species Advisory Committee (ISAC) ever since their founding. We also played a significant role in the development of the first National Invasive Species Management Plan. Furthermore, PIJAC leads and is developing a number of proactive campaigns and other initiatives designed to minimize the introduction and impact of invasive species. Examples include:

- **The National Reptile Improvement Plan**, a volunteer import screening and bio-security program developed in collaboration with USDA/APHIS and state authorities to prevent the introduction of Heartwater and other diseases that might accompany reptile and amphibian shipments as “hitchhikers;”
- **Habitattitude™** is a proactive partnership between the pet industry and federal and state agencies and others to prevent the release of unwanted pets, with an emphasis on aquatic species (fish and plants);
- **The *Bd*-Free ‘Phibs Campaign** is an education outreach initiative targeting amphibian retailers, distributors/importers and hobbyists, with the intent of preventing the spread and impact of an invasive *Chytrid* fungus commonly referred to as “*Bd*” (*Batrachochytridium dendrobatidis*); and
- **Codes of Conduct for Water Gardeners and Water Garden Retailers** are guidelines for preventing the introduction of aquatic invasive species through water gardening developed in collaboration with the American Nursery and Landscape Association, the Invasive Species Advisory Committee and Partners in Amphibian and Reptile Conservation.

In addition to proactively promoting work in screening, risk analysis and public outreach and education, PIJAC has supported permit systems, as well as prohibitions on the trade in specific species, at the federal and state level when adequate data and enforcement capacities justified such action. PIJAC has and will continue to oppose broad brushed bans and moratoriums for the following reasons:

1. There is and will likely be in the foreseeable future inadequate data justifying such actions at the state, national and international level;
2. Such measures will undoubtedly foster illegal trade that is difficult if not impossible to address and is likely to open new pathways or become aligned with other illicit activities; and
3. The human-animal bond is strong and bans on companion animal imports or interstate commerce are likely to encourage people to extract the U.S.’s native wildlife (often in violation of existing federal and state laws) in order to meet the demand for companion animals.

In light of comments often made with respect to the pet trade, let me offer some background information on the history of PIJAC’s position regarding regulations to limit the importation of aquatic animals intended as pets.

Although, PIJAC has been actively engaged with federal and state agencies dealing with invasive species issues for more than 30 years, our “invitation” to come to the table has not always been a constructive one. Starting in the 1970s, the pet industry (the ornamental aquarium industry in particular) became the subject of consistent allegations that it serves as a major pathway for the introduction of invasive species, including pathogens and parasites, into natural systems. In response to the accusations, PIJAC, in the early 1970s, provided grants to the University of Georgia’s Veterinary School to study the disease potential of imported aquarium fish. That research, conducted by Dr. Jack Gratzek, revealed that condition of imported ornamental fish was similar to those being produced in the U.S. No pathogens not already present in the U.S. were found in those shipments. This year, we worked with the State of Florida, academics, and industry representatives to conduct a risk analysis of the marine ornamental trade. That investigation revealed that there is a very low risk of marine fish species introduction into U.S. waters, largely as a result of bio-security measures put in place by the pet industry.

In December 1973, the U.S. Fish and Wildlife Service (USFWS) published a proposed list of “Low Risk” wildlife. According to the proposal, all wildlife not otherwise listed would be banned as being “injurious” under the provisions of the Lacey Act. The pet industry challenged the approach taken by the Fish and Wildlife Service because (1) it failed to provide science-based support for how it classified “low” versus “high risk” species, and (2) the broad-based conclusion that all other wildlife were injurious *per se* until proven innocent was specious. PIJAC also challenged the Department’s authority to do by regulation what was not authorized in the enabling statute – the Lacey Act. Following a series of regional hearings, the USFWS published a revised list in 1975. PIJAC challenges to the USFWS’ myriad proposals focused on the scientific findings, or more particularly the lack thereof, in reaching the conclusions justifying their action. PIJAC did not stand alone in questioning this approach and was joined by a number of prestigious organizations that similarly challenged the Department approach.

Following a contentious series of Interior led “field hearings” and rulemakings, Representative Robert Leggett, a member of the House Merchant Marine and Fisheries Committee, convened what he termed as an “informal oversight” meeting where he sat at the witness table and asked people in the audience to have an informative discussion. During that process in June 1975, PIJAC recommended that the Department of Interior should finalize its proposed regulations and

- Create a FACA-compliant advisory committee comprised of diverse stakeholders and model the committee after similar committees in California and Florida;
- Develop and publish meaningful listing criteria to determine “injuriousness;” the criteria to be based on scientific and professional knowledge and periodically reviewed and updated to reflect current knowledge; and that such criteria be published and the assessment process transparent;
- Create a licensure system for commercial entities importing wildlife;
- Create procedures whereby one desiring inclusion of certain species or exclusion of a listed species could petition the Department and the Department would be required to make some form of determination within a prescribed time period; and,

- Enact legislation that would avoid duplication and/or conflicting rules and regulations which effectively prevent proper and efficient handling of the many types of animals in trade.

Due to the continued challenges as to methodology, the USFWS in March 1977 published a revised proposed regulation listing a number of species for listing as “injurious” and, equally important clearly delineated the criteria utilized to make its findings.

Furthermore, with passage of the Nonindigenous Aquatic Nuisance Prevention Act of 1990, the emphasis on aquatic invasive species dramatically changed.<sup>1</sup> Section 1207 of the Act mandated that the ANSTF conduct an “Intentional Introductions Policy Review” -- a task that produced the ANSTF Report to Congress in March 1994 after two years of meetings with affected stakeholders, including PIJAC. The ANSTF focused on two main concerns:

1. “the need to make ecologically credible decisions, and
2. the need to strike a balance between greater risk reduction and accommodating current activities and economies that depend on the use of nonindigenous species.”

The Task Force went on to conclude that:

1. “to the maximum extent possible, decisions should be based on ecosystem considerations, and
2. the recommendations should generally apply only to *new introductions*.” (emphasis added).

ANSTF Recommendation 4A called for establishing a Federal permitting system for first time imports coupled with a credible review process and called for improvements in implementing the Lacey Act involving, *inter alia*, expediting the injurious species listing process, fostering compliance through clearer listings, and initiating a review system for species not listed. Finally, the ANSTF, being proactive, recommended creation of good business practices through codes of conduct promoting “continued commercial operations in a manner that is compatible with the conservation of natural ecosystems.” A recommended component of such initiatives would include education and public outreach programs on invasive species issues.<sup>2</sup>

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<sup>1</sup> Subsequent to passage of the 1990 Prevention Act, PIJAC was part of the process that produced the Office of Technology Assessment (OTA) 1993 report: *Harmful Non-Indigenous Species in the United States*. A number of the issues highlighted in that report remain today, particularly as they relate to lack of funding, the need to develop new techniques to increase the listing of injurious species and the need to intensify environmental education as a prevention tool.

<sup>2</sup> In 1996, the ANSTF Risk Assessment Committee published *The Generic Nonindigenous Aquatic Species Review Process*. PIJAC, as a member of the Committee supported implementation of this process for species be they a “first-time introduction” or a species in trade.

The National Invasive Species Council's (NISC) 2001 Management Plan called for

“the development of a risk-based screening process for intentionally introduced species in a series of steps or phrases. During the first phase a screening system for first-time intentional introductions will be developed...The screening system will then be modified ... during the second phase to deal with species already in the U.S.”  
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Currently, subcommittees of the Invasive Species Advisory Committee,<sup>3</sup> are evaluating different approaches to screening as well as risk analysis as called for in the National Management Plan. PIJAC participates in these efforts.

Let me conclude my general remarks by emphasizing the very unfortunate circumstances that could arise from a ban on companion animal imports.

Calls for moratoria or outright bans on all non-native species are neither warranted nor overly beneficial. Admittedly, a few species of non-native ornamentals have been released into the natural environment (likely by well-meaning owners) and contributed to environmental impacts (mostly in systems that are already quite disturbed). However, there is little evidence to suggest that a substantial number of the millions of ornamental fish brought into the U.S. over the last few decades have: 1) been released into the natural environment, 2) established viable populations, and 3) caused significant harm. Frankly, the majority of the studies regarding the ecological impacts caused by introduced fish implicate the deliberate introductions made by federal and state agencies for recreational and bio-control purposes.

Several industries, including the pet trade, are dependent on importation of non-native freshwater living organisms, most of which are farm raised in other countries. However, many of these species are also produced throughout the U.S.<sup>4</sup> Although the pet industry acknowledges that the current listing process is inefficient and time consuming, it also recognizes that a moratorium or ban listed on even a single key species could put the industry out of business. Therefore, the industry strongly endorses the “first-time introduction” review process as a means of protecting both the environmental and American business operations. Such a process, of course, would not prevent the USFWS from initiating assessments of individual species already in trade (such as it did with the Northern Snakeheads, a species incidentally that was in the food trade and trade for traditional medicine, not the pet trade.<sup>5</sup>) PIJAC would support such assessments if scientifically-based and conducted through an open and transparent process.

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<sup>3</sup> ISAC was created by EO 13112, February 3, 1999. PIJAC representatives have served on the Committee since its inception. Jamie K. Reaser, PhD, PIJAC's current ISAC representative is the Chair of the Prevention Subcommittee and a member of the Organization and Collaboration Subcommittee.

<sup>4</sup> For example, Florida is the major producer of ornamental fish. Arkansas, Missouri and Mississippi are major producers of Goldfish as well as number of food fish.

<sup>5</sup> Interestingly, the pet trade had previously supported bans in a number of southern states where several species of *Channa* in the aquarium trade could be injurious in southern waters. Thus, the trade was supportive of the USFWS' recommendation to list all species of *Channa* and *Parachanna* under the Lacey Act.

## Recommendations

Finally, I would like to offer the following recommendations:

1. Increase human and financial resources so that the USFWS has the capacity to effectively and efficiently conduct the requisite screening or risk assessments called for to list a species. Congress needs to deal with the reality that additional appropriations are essential to listing a new species under the Lacey Act.
2. Implementing the federal screening process for “first-time introductions” as called for in the 1994 ANSTF Report to Congress and in the National Invasive Species Management Plan is long overdue.<sup>6</sup> The Congress should encourage the Service, ANSTF and NISC to continue their ongoing efforts to design and test protocols
3. Increase funding, training, and informational capacities to the benefit of the USFWS inspection personnel at the ports of entry as called for in the recently released report by J. Reaser and J. Waugh (IUCN 2007); [www.iucn.org/places/usa/](http://www.iucn.org/places/usa/).
4. Increase collaboration among impacted stakeholders as well as increased funding for agencies and the NGO community to implement effective education and outreach programs, such as *Habitatitude*<sup>™</sup>.
5. Provide additional funds to assist the ANSTF regional panels in promoting regional collaboration, harmonization of state regulations governing common watersheds, and ongoing outreach and education programs.<sup>7</sup>
6. Require a single Federal list of regulated species, a position PIJAC recommended during hearings in the mid-1980s to amend the Lacey Act. Such a list could easily be coded to indicate how the species is regulated (Lacey Act, CITES, ESA) rather than compel the review of multiple lists.
7. Require that implementation of all screening and/or risk assessment processes follow the basic tenants recommended by the National Academy of Sciences. They should be:
  - a. Transparent
  - b. Subject to replication
  - c. Quantitative and fully explain the “unknowns”
  - d. Inclusive of affected stakeholders
  - e. Conducted by qualified persons other than the regulators
  - f. Provided with adequate time for public review and comment
8. Increase collaboration with state fish and game agencies since many states desire to regulate non-native species in a variety of ways far short of prohibitions, bans, etc.<sup>8</sup>
9. Call for investigations into the role of the internet in promoting the distribution of illegal non-native aquatic species subject to federal and state regulations.

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<sup>6</sup> PIJAC supports certain language in the proposed National Invasive Aquatic Species Act amendments calling for such a screening process for “first-time” introductions and the industry’s production of a list of “species in trade” to facilitate a “first-introductions” import process.

<sup>7</sup> PIJAC serves on four of the ANSTF regional panels and applauds their on-the-ground initiatives despite their limited funding.

<sup>8</sup> For example, Florida and Texas adopted new laws this year to require permits for possession of venomous and large constrictor snakes as an alternative to a ban which would result with driving possession and trade underground.

10. Call for a study of the role of live food markets and cultural practices in the introduction of non-native aquatic organisms.

### **Conclusion**

On behalf of the Pet Industry Joint Advisory Council, thank you for providing us an opportunity to share our industry's position regarding invasive species. We appreciate being afforded an opportunity to include our comments in the record. We remain committed to working with Congress and all affected agencies to address an important environmental issue.

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