



UNITED STATES ANIMAL HEALTH ASSOCIATION

2014 RESOLUTION

118TH ANNUAL MEETING

OCTOBER 16-22, 2014 ~ KANSAS CITY, MO

RESOLUTION NUMBER: 7 **APPROVED AS AMENDED**

SOURCE: **USAHA/AAVLD COMMITTEE ON AQUACULTURE**

SUBJECT MATTER: **Use of the Lacey Act to Regulate Animal Pathogens**

BACKGROUND INFORMATION:

In the 2014 United States Congress, two bills (S.1153 & H.R.996) were introduced that will, if passed into law, undoubtedly create numerous problems not only for the movement of aquacultured animals within the United States (US) but also for the movement of all species of domesticated livestock.

Currently the United States Fish and Wildlife Service's (USFWS) authority is limited to the control over a few aquatic animal diseases under Title 50 regulations. Under the National Aquatic Animal Health Plan (NAAHP) many believe that this authority should be rescinded by Congress and given to United States Department of Agriculture (USDA), which has authority over all other animal diseases and is the internationally recognized competent authority by the International Office of Epizootics (OIE – World Organization of Animal Health). S.1153 and H.R. 996 seek to dramatically expand USFWS' disease authority over all animal diseases, including aquatic animal diseases, by giving USFWS the ability to arbitrarily list any nonnative pathogen or parasite as an injurious species, hence creating two competing competent authorities. Furthermore, these acts eliminate various safeguards that Congress put into the Injurious Species Act, such as complying with the Administrative Procedures Act, thereby allowing the USFWS to more quickly list a species as injurious, without adequate review by the United States Animal Health Association (USAHA), industry, and others. An example of what would occur with the passage of S.1153 and H.R. 996 is illustrated by USFWS' recently publishing in the Federal Register the agency's intent to list all amphibians infected with the Chytrid fungus as injurious species (see USAHA Resolution #8, 2010).

The seriousness of the problems that enactment of these bills will create for animal agriculture cannot be overstated. For instance, with the authority thus granted, USFWS could list Chytrid fungus as an injurious species, even though the USDA, Animal and Plant Health Inspection Service has refused to restrict the movement of animals infected with this organism because Chytrid fungus has been in the US for over 80 years and is already widely distributed. If this organism was to be listed by the USFWS as an injurious species, however, then any interstate shipment of aquatic animals, such as a semi-truck shipment of live fish with an inadvertent hitchhiker such as a single infected tadpole, would expose the shipper to felony prosecution under the Lacey Act, where the minimum fine would be \$100,000. The USFWS could also list a nonnative cattle or swine disease organism as injurious, if the disease organism could also infect deer or elk and hence was considered a "nonnative wildlife taxa." Such a listing would subject any interstate shipper of infected cattle or swine to the same felony Lacey Act prosecution as stated above. Such authority would also cover infected dead product being shipped interstate.

The extended authority that would be granted to the USFWS by passage of these bills would, unfortunately, open America's farmers to unnecessary regulations and litigation and severely limit our farmers' ability to conduct business.

The USDA is the competent federal agency with regulatory oversight over domestic animal diseases. The previous memorandum of understanding between the three agencies i.e. National Oceanographic and Atmospheric Administration [NOAA], USFWS, and USDA provides guidance and cooperation among the different agencies and gives stakeholders the knowledge and assurance of each agency's sphere of influence. This understanding has also been restated in the National Aquatic Animal Health Plan (2008). This cooperation is critical and has been strongly supported by the USAHA.

RESOLUTION:

The United States Animal Health Association (USAHA) strongly opposes the passage of S.1153 and H.R. 996 and any similarly worded bills that seek to allow the United States Fish and Wildlife Service to use the injurious species provisions of the Lacey Act to regulate animal pathogens. Further, the USAHA strongly encourages the United States Department of Agriculture, Animal and Plant Health Inspection Service, United States Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and the Association of Fish and Wildlife Agencies to clearly determine the appropriate agency or agencies for regulatory oversight of wildlife diseases and the appropriate agency for domestic animal diseases, without regulatory duplication.