



## UNITED STATES ANIMAL HEALTH ASSOCIATION

### Resolution

114th Annual Meeting ~ November 11-17, 2010

Minneapolis, MN

**RESOLUTION NUMBER: 8 APPROVED**

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

**SUBJECT MATTER:** USE OF THE LACEY ACT TO REGULATE ANIMAL PATHOGENS

#### **BACKGROUND INFORMATION:**

In September 2009, the Defenders of Wildlife petitioned the United States Department of the Interior and the United States Department of Agriculture (USDA), for the Fish and Wildlife Service (FWS) and Animal and Plant Health Inspection Service (APHIS) to promulgate regulations to prohibit the interstate and international trade and movement of live amphibians unless they are demonstrated to be free of the chytrid fungus, *Batrachochytrium dendrobatidis* (*Bd*), in accord with World Organization for Animal Health (OIE) standards. *Bd* is currently an OIE notifiable disease.

USDA-APHIS has not yet formally responded to the Defenders of Wildlife petition, but in September 2010, the FWS published (Federal Register, vol. 75, #180) a request for public comment on the need to regulate the importation and transportation of live amphibians or their eggs infected with chytrid fungus as injurious wildlife under the Lacey Act. The Lacey Act is intended to list animals as injurious to endangered species; this proposal is to list all amphibians infected with the *Bd* fungus as injurious. To be regulated under the Lacey Act, the FWS would have to conclude that *Bd* infected amphibians, their offspring or eggs "are injurious or potentially injurious to wildlife or wildlife resources, to human beings, or to the interests of forestry, horticulture, or agriculture of the United States."

Chytridiomycosis affects more than 120 species of wild and domesticated amphibians (some of which are considered threatened or endangered) and is endemic in the United States. The ownership and use of infected amphibians would be prohibited, except by permit for zoological, educational, medical, or scientific purposes; regulatory violations would be excessively punitive; diagnostic laboratory services would need to be expanded; the listing will impact other species that may serve as vectors or carriers of *Bd*; and, it would set an inappropriate precedent for regulating animal diseases as "injurious species."

#### **RESOLUTION:**

The United States Animal Health Association strongly recommends that the United States Fish and Wildlife Service (USFWS) not use the injurious species provisions of the Lacey Act to regulate animal pathogens. Further, the United States Department of Agriculture, Animal and Plant Health Inspection Service, USFWS and National Oceanic and Atmospheric Administration should clearly determine the appropriate federal agency for regulatory oversight of wildlife diseases and domestic animal diseases, without regulatory duplication.

#### **FINAL RESPONSE:**

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS) recognizes the concerns of the United States Animal Health Association (USAHA) and appreciates the opportunity to respond.

VS expects that future aquatic animal health regulations, including amphibian regulations, if any, will be developed within the context of the National Aquatic Animal Health Plan (NAAHP). Efforts are

underway within each of the co-competent authorities for aquatic animal health under NAAHP (APHIS, U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration) to clarify their regulatory authority to reduce regulatory duplication and to better serve the aquatic animal health community that USAHA represents.