

# ***Notice of Inquiry for Injurious Species Listing for Amphibians with Chytrid Fungus***

## **Questions and Answers**

### **Question 1: What is a *Notice of Inquiry* in the *Federal Register*?**

**Answer 1:** A *Notice of Inquiry* (also called a Notice for Information) is simply a document that explains to the public what a particular problem is, gives the public basic information that is currently available on that problem, and encourages the public to provide information on the subject regarding a set of specific questions.

This information is then reviewed by the agency and a decision is made whether to proceed with a proposed rule or to take no further action. A *Notice of Inquiry* is often used when an agency does not have sufficient information to set forth a proposed rule. Therefore, the objective of publishing a *Notice of Inquiry* is to obtain the necessary substantive data and other information for use in a proposed rule. A *Notice of Inquiry* is not a request for public comments because there is nothing proposed yet to comment on.

### **Question 2: What is the problem that the U.S. Fish and Wildlife Service is addressing through the *Notice of Inquiry*?**

**Answer 2:** On September 9, 2009, the Defenders of Wildlife petitioned the Secretary of the Interior to list all live amphibians or their eggs in trade as “injurious wildlife” under the Lacey Act (50 CFR 16.14) unless free of chytrid fungus (*Batrachochytrium dendrobatidis* or Bd). The listing would require a health certification that live amphibians or their eggs were free of chytrid fungus before importing or transporting.

The Defenders of Wildlife assert that “the absence of Federal protective measures applied to the import, interstate commerce and export of live amphibians has led to excessive risk that the globally devastating *Batrachochytrium dendrobatidis* (“Bd”) pathogen, which causes the deadly disease chytridiomycosis, will continue to enter, spread within and be shipped out of the United States.” The petitioner and Service are concerned with the spread of the disease which is closely linked to amphibian trade. The Service is in no way attempting to curtail the trade in amphibians — only the spread of the deadly disease. The petition can be found here:

[http://www.defenders.org/resources/publications/programs\\_and\\_policy/international\\_conservation/petition\\_to\\_interior\\_secretary\\_salazar.pdf](http://www.defenders.org/resources/publications/programs_and_policy/international_conservation/petition_to_interior_secretary_salazar.pdf)

### **Question 3: What is the next step following the publication of the *Notice of Inquiry*?**

**Answer 3:** The Service has published the *Notice of Inquiry* in the *Federal Register*. The notice provides 90 days (December 16, 2010) for the public to submit information. The Service will then review the information and decide whether to proceed with a proposed rule (which would be published in the *Federal Register*) or take no further action. The petition and the *Notice of Inquiry* are available at: <http://www.regulations.gov> under Docket No. FWS-R9-FHC-2009-0093.

For more information on this notice, including how to submit information, as well as links to partner agencies, visit <http://www.fws.gov/fisheries/ans/ANSInjurious.cfm>.

**Question 4: What information does the Service hope to obtain from the public?**

**Answer 4:** The *Notice of Inquiry* provides a list of questions for which it hopes to receive input from the public. Please see the complete notice for more information.

**Question 5: When can the Service be expected to make a determination on the next step?**

**Answer 5:** That will depend on the quantity and nature of the information received. The agency will make every effort to complete a thorough review as quickly as possible. Please note this petition is simply at the information-gathering phase and no rules have been proposed.

**Question 6: Why is chytrid fungus a concern to the Service?**

**Answer 6:** Populations of amphibians are declining worldwide, and chytrid fungus is considered one of the primary threats. The fungus causes chytridiomycosis, a disease deadly to amphibians. Wherever amphibians occur in the United States, they are at risk of infection and death from chytrid fungus. Chytrid fungus is identified as a primary factor leading to the listing of threatened and endangered amphibians.

Chytrid fungus is a stressor preventing the recovery of populations of amphibians. Amphibians (which include frogs, toads, salamanders, and caecilians) are a vital part of temperate and tropic ecosystems around the world, providing a food source for other animals and consuming enormous quantities of insects. Tadpoles (larval forms of frogs and toads) provide a major benefit to the environment by consuming algae in ponds that would otherwise deplete oxygen for all aquatic organisms.

**Question 7. Is chytrid fungus contagious to humans, dogs, or other pets?**

**Answer 7.** Chytrid fungus infects only amphibians because of their thin, sensitive skin. Humans, other mammals, reptiles, birds, fish, and invertebrates are not affected.

**Question 8. How does chytrid fungus spread?**

**Answer 8.** Chytrid fungus can be spread in water that carries fish; in aquaria used by the pet trade; on boots worn in ponds, wetlands, and other waterways; and on equipment, such as fishing gear. Amphibians that are imported alive are often kept in water that may carry the fungus.

**Question 9. Isn't chytrid fungus already in the United States? If so, what good would it do to prevent infected amphibians from being imported or transported?**

**Answer 9.** Yes, chytrid fungus is already contaminating many waterbodies in the United States. However, there are still many places where it does not exist, and the Service hopes to prevent the spread of the disease to those locations and the possibility of new strains anywhere.

**Question 10: What does an injurious wildlife listing under the Lacey Act mean to the public?**

**Answer 10:** Under the Lacey Act, wildlife can be listed as injurious because the species has been demonstrated to be harmful to either the health and welfare of humans, interests of forestry, agriculture, or horticulture, or the welfare and survival of wildlife or the resources that wildlife depend upon. To control the spread of an injurious species, the importation and interstate transport of the listed species are prohibited without a permit issued by the Service.

Permits may be granted by the Service for the importation or transportation of live specimens of injurious wildlife for scientific, medical, educational, or zoological purposes. The Lacey Act does not

allow for permits to be granted for the movement of personal pets, however. The Lacey Act does not regulate intrastate (with-in state) transport. In the case of this petition, the request is for the Service to list as injurious only those amphibians not accompanied by a health certificate verifying that they are free of chytrid fungus. A health certificate would be obtained from a qualified laboratory for a small fee. It is not the same as a permit from the Service.

**Question 11: What does “interstate transport” include? For example, does it include Puerto Rico?**

**Answer 11:** Yes, Puerto Rico is included, as well as the District of Columbia. Species designated as injurious (including their gametes and viable eggs) may not be imported into the United States or transported between any State, territory or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, by any means without a permit issued by the Service. Permits for infected amphibians may be issued for zoological, educational, medical, or scientific purposes. However, permits are not issued for pets (in this case, they would not be issued for pet amphibians infected with chytrid fungus). Pet amphibians certified as free of chytrid fungus (that is, having a health certificate) do not need a permit from the Service to cross State lines. A listing of injurious wildlife would potentially offer protection to areas in the United States that currently do not contain the chytrid fungus.

**Question 12: Would someone be able to take a pet amphibian, such as a frog, to another State just for a visit, to go to a veterinarian, or to move?**

**Answer 12:** Amphibian owners would be allowed to transport their pet amphibians to another State provided the animals are accompanied by a health certificate showing the pet is free of chytrid fungus. A permit from the Service would not be required.

**Question 13: What is the difference between an invasive species and injurious wildlife?**

**Answer 13:** Invasive species, as defined by Executive Order 13112 of February 3, 1999, “means an *alien* species whose introduction does or is likely to cause economic or environmental harm or harm to human health.”

Injurious wildlife include those species that meet the standard for listing under the Lacey Act. They are mammals, birds, amphibians, reptiles, fish, crustaceans, and mollusks, as well as their offspring or gametes that are injurious to the interests of human beings, agriculture, horticulture, forestry, wildlife, or wildlife resources of the United States. Plants and organisms other than those listed above cannot be listed as injurious wildlife by the U.S. Fish and Wildlife Service. Please visit the Service’s Web site for more information on injurious wildlife at: <http://www.fws.gov/fisheries/ans/ANSInjurious.cfm>.

**Question 14: Who would be affected by a listing of amphibians infected with chytrid fungus?**

**Answer 14:** Groups affected by the listing would include: (1) companies importing live amphibians; (2) companies (retailers, breeders, and wholesalers) with interstate sales of live amphibians; (3) companies selling amphibian-related products and services; (4) pet owners who want to move their amphibians to other States or purchase amphibians from businesses located in other States, and (5) the food industry that deals with live frogs and other amphibians (note: importation and interstate transportation of dead amphibians would not be affected). Impacts to these groups depend on the amount of importation and interstate sales within the amphibian market and the number of amphibians

that are infected with chytrid fungus. Impacts are also dependent upon whether consumers would purchase other animals or foods instead that are not listed as injurious.

**Question 15: Will a person who owns an amphibian be able to keep it if amphibians not certified as free of chytrid fungus are listed as injurious? How about pet retailers?**

**Answer 15:** Yes, for both, provided their amphibians do not cross State lines (including by internet sales and by air travel) and are not otherwise regulated by a State law. Amphibians that stay within a State would not need to be certified as free of chytrid fungus unless required by State law or regulation.

**Question 16: “I’ve tried donating my amphibian to the zoo and the humane society, and neither will take it; what am I to do?”**

**Answer 16:** If you are in a position where you must give up your pet amphibian, and zoos and humane societies have declined your efforts to donate the animal, you should contact either your State fish and wildlife agency or your local U.S. Fish and Wildlife Service office. These two government agencies are the legal authorities that co-manage fish and wildlife in this country, and they can help you to resolve this issue. The U.S. Fish and Wildlife Service is working with States around the country and the pet and aquarium industry through a campaign called Habitattitude to help pet owners adopt environmentally responsible actions for surrendering their pets, such as:

- Contacting the retailer for proper handling advice or for possible return;
- Giving to or trading with another pet owner;
- Donating to a zoo, humane society, nature center, school or pet retailer; and
- Contacting a veterinarian or pet retailer for additional guidance.

Please visit <http://www.habitattitude.net/> for more information.

**Question 17: Why shouldn’t people release their pet amphibians into the wild? Aren’t they just part of nature?**

**Answer 17:** It may seem like a good idea to release pet frogs, salamanders, other amphibians into natural areas, such as National Parks and National Wildlife Refuges. However, releasing animals into areas where they are not native or where they didn’t originate causes an imbalance in the food chain and other serious ecological problems. For example, if the amphibian is carrying chytrid fungus or another disease, that disease could spread to the native amphibians and devastate local populations. Native amphibian species do not appear to be resistant to chytrid fungus.

Furthermore, releasing amphibians from captivity into the wild is illegal, unless otherwise specifically permitted by law or regulation. Thus, people who have good intentions of being kind to their amphibians should seek alternatives. (Please see Question 16.)

**Question 18: Why is the Service addressing this issue? What about other Federal agencies?**

**Answer 18:** The U.S. Department of Agriculture also received the same petition from the Defenders of Wildlife. We are coordinating with them; however, the USDA should be contacted with any questions concerning its response to the petition.