

MEMORANDUM OF UNDERSTANDING ON THE ISSUANCE OF HEALTH CERTIFICATES FOR THE EXPORT OF LIVE AQUATIC ANIMALS BETWEEN THE UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS); THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL MARINE FISHERIES SERVICE (NOAA FISHERIES); AND, THE UNITED STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE (FWS).

Purpose:

Recognizing the legal authorities and mandates of the respective Federal agencies for the management of aquatic animal health in the United States and its territories, this memorandum of understanding (MOU) between APHIS, NOAA Fisheries, and FWS, will delineate those responsibilities in the issuance of animal health certificates for the export of live aquatic animals to foreign countries. This MOU does not deal with the issuance of health certificates in relation to human health issues affected by live or dead aquatic animals or their products.

Legal authorities allowing APHIS to enter into this MOU:

The APHIS enters into this agreement pursuant to the Department of Agriculture's programmatic authority to participate in such activities pursuant statutory authorities including the Animal Health Protection Act (7 USC 8301-8316).

Legal authorities allowing FWS to enter into this MOU:

The FWS enters into this agreement pursuant to the Department of Interior's programmatic authority to participate in such activities pursuant statutory authorities including the Fish and Wildlife Act of 1956, as amended (16 USC 742e) and the Fish and Wildlife Coordination Act (16 USC 661 et seq.).

Legal authorities allowing NOAA Fisheries to enter into this MOU:

NOAA Fisheries enters into this agreement pursuant to the Department of Commerce's programmatic authority to participate in such activities pursuant statutory authorities including the Agriculture Marketing Act of 1946, as amended (7 USC 1621-1627), the Fish and Wildlife Act of 1956, as amended (16 USC 742e) and the Reorganization Plan No. 4, dated 1970 (84 Stat. 2090).

Definitions:

"Aquatic animal" means all species of the animal kingdom living in or in direct association with water to include (but not all inclusive) fish, reptiles, amphibians, crustaceans, mollusks, zooplankton, and marine mammals.

"Competent authorities" means the official federal agencies which can attest to the health status of an aquatic animal and who can issue an *export animal health certificate*. For the purposes of this MOU, APHIS, NOAA Fisheries, and FWS shall be considered and represented as *Competent Authorities* of the United States.

“Export animal health certificate” means the official document issued by a competent authority of the exporting country attesting to the health and pathogen status of the aquatic animals to be exported as required by the importing country.

“Feral” means aquatic animals existing outside the confines of a government owned or leased, or privately owned or leased farm site. These animals at one time may have been in captivity or are descended from animals held in captivity for some part of their lives.

“Livestock” means all farm-raised animals.

“Wildlife” means any wild animal, whether dead or alive, including without any limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg or offspring thereof.

Agency Responsibilities

APHIS shall be the lead agency and responsible for the issuance of export animal health certificates for farm-raised aquatic livestock cultured in the United States and its territories, to include livestock reared in academic institutions, research facilities, and public aquaria. This authority does not include the Exclusive Economic Zone (EEZ) which is under the jurisdiction of NOAA Fisheries.

NOAA Fisheries shall be the lead agency and responsible for the issuance of export health certificates for marine wildlife or feral aquatic animals, in captivity or captured from the wild, to include academic institutions, research facilities, and public aquaria, and for all aquatic animals cultured in the EEZ, privately and publicly owned. Export certificates issued by NOAA Fisheries for , farm-raised livestock cultured in the EEZ will be consistent with, and in cooperation with the rules and policies of USDA/APHIS.

FWS shall be the lead agency and responsible for the issuance of export health certificates for freshwater wildlife and feral aquatic animals, in captivity or captured from the wild, to include academic institutions, research facilities, and public aquaria.

This MOU does not pertain to export health certificates issued by FWS for mammals and birds.

NOAA Fisheries and **FWS** shall share the responsibility for the issuance of export health certificates for wild or feral diadromous aquatic animals (e.g., salmon and marine sturgeon).

APHIS, NOAA Fisheries, and FWS, when acting as the lead agency, shall consult with the other Federal agencies party to this MOU, when negotiating the terms of an export agreement with a foreign country of a live aquatic animal. The appropriate contact in the State Department and the USTR will be advised of these negotiations.

Mutual recognition, collaboration, and cooperation as Competent Authorities

APHIS, NOAA Fisheries, and FWS shall recognize the issuance of export aquatic animal health certificates by each other and shall recognize each other as a *Competent Authority* of the United States in the issuance of said export aquatic animal health certificates.

APHIS, NOAA Fisheries, or FWS may request assistance from each other in issuing an export health certificate from within their respective legal jurisdiction(s).

The Federal Executive Committee of the National Aquatic Animal Task Force (Task Force) shall serve as a body which will review rules proposed by an agency signatory to this MOU for the implementation and issuance of export health certificates. For the purpose of collaboration, cooperation, and the protection of cultured and wild aquatic resources, prior to the publication in the Federal Register of any proposed rule(s) or rule(s) dealing with the aquatic animal health by APHIS, NOAA Fisheries, or FWS, consensus will be reached by the Federal Executive Committee of the National Aquatic Animal Task Force on the language of the proposed rule(s) or rule(s).

General Provisions:

Nothing in this MOU is intended to obligate any appropriated funds from any agency in conflict with any federal law or regulation.

Length of time for MOU to be in force:

This MOU shall be in place for a period of not more than three years, commencing on the effective date of this agreement. By written agreement of the signatories, the MOU may be extended for an additional three years at the end of the first three years of this agreement.

Effective date of agreement:

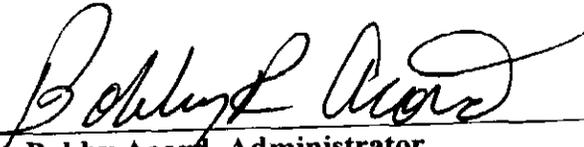
This MOU between APHIS, FWS, and NOAA Fisheries shall become effective by the signatures of the representing authorities on or about November, 1, 2003.

Termination of memorandum of understanding

Nothing herein is intended to conflict with the current authorities of the parties. If the terms of this memorandum of understanding are inconsistent with existing directives of the respective agencies entering into this agreement, then those portions of the agreement which are determined to be inconsistent may be considered to be invalid; but the remaining terms and conditions of this agreement not affected by inconsistency shall remain in full force and effect. At the first opportunity for review of the memorandum of understanding, such changes as deemed necessary will be accomplished by either an amendment or entering into a new agreement, whichever is deemed expedient by the parties.

Any signatory to this memorandum of understanding wishing to terminate their participation may do so thirty (30) days following the written notification of the other signatory parties.

Authorized Agency Signatories to this memorandum of understanding on the issuance of export health certificates for live aquatic animals



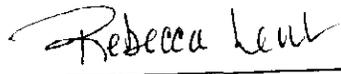
Mr. Bobby Acord, Administrator
Animal and Plant Health Inspection Service

2/19/04
Date



Dr. Steve Williams, Director
Fish and Wildlife Service

4/4/04
Date



 Dr. William Hogarth, Assistant Administrator
National Marine Fisheries Service

2/27/04
Date