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Washington, DC 20250-7602

**RE: OMB Control Number: 0579-NEW – Health Certificate for Export of Live Crustaceans, Finfish, Mollusks, and Related Products**

Dear Sir or Madam:

I am writing on behalf of the American Veterinary Medical Association (AVMA), established in 1863 and the largest veterinary medical association in the world. As a not-for-profit association established to advance the science and art of veterinary medicine, AVMA is the recognized national voice for the veterinary profession on issues dealing with the health and welfare of animals, public health and food safety. The association's more than 73,000 members represent approximately 86% of U.S. veterinarians, all of whom are involved in myriad areas of veterinary medical practice including private, corporate, academic, industrial, governmental, military, and public health services.

As veterinarian members of AVMA have had the responsibility for issuing health certificates (codified as Certificates of Veterinary Inspection) for animals for many decades, we appreciate the opportunity to comment on the proposed Health Certificate for Export of Live Crustaceans, Finfish, Mollusks, and Related Products.

The AVMA has reviewed the summary information provided in this Federal Register notice and a copy of the proposed "Health Certificate for Export of Live Crustaceans, Finfish, Mollusks, and Related Products [VS Form 17-141 (OCT 2005)]" that was provided to OMB. We have examined appropriate parts of existing Codes of Federal Regulations that apply to animal health and disease appropriate to USDA-APHIS, DOI-USFWS and DOC-NOAA-NMFS (9CFR21 [Animals and Animal Products – Inspection and Handling of Livestock for Exportation], 15CFR [Commerce and Foreign Trade] and 50CFR [Wildlife and Fisheries]). We have also examined the Memorandum of Understanding between the three agencies and the respective U.S. Code cited therein (7USC8301-8316; 16USC742e; 16USC661 *et seq.*; 7USC1621-1627; 84Stat.2090).

Based on these reviews:

- The AVMA is unable to find any regulations that specifically apply to issuing health certificates for farm-raised or wild aquatic animals and their (live) products in 9CFR, 15CFR or 50CFR;

- The AVMA is unable to locate any text in the U.S. Code that states or suggests the USFWS or the NMFS have any authority for issuing health certificates for farmed or wild aquatic animals. Indeed, we believe the Animal Health Protection Act of 2002 (7USC8301-8316) provided clear, unequivocal, and full authority to the Secretary of USDA for promulgating regulations concerning the health of “any member of the animal kingdom (except a human)”, and for certifying their health and disease status for U.S. import and export, and for interstate movement. Furthermore, this authority would supersede any inferred, implied or interpreted authority that USFWS and NMFS may have over these issues; and,
- For numerous technical reasons (not elaborated here), the contents, statements and process required for issuing this proposed health certificate, attesting to optimal health and disease status of aquatic animals intended for export, are inadequate and will not achieve this desired end-point.

In response to the specific requests in this Federal Register notice, the AVMA therefore finds:

- That the collection of information and use of this proposed health certificate instrument, claiming regulatory authority of an agency other than USDA-APHIS, is inappropriate, unnecessary, is of no practical utility for the functioning of USDA-APHIS, and is based on false assumptions of authority of USFWS and NMFS for issuing health certificates;
- That proposing duplicative agency oversight allowing this certificate to be issued by either an “Accredited Veterinarian”, an “AFS Certified Fish Health Inspector” or an “AFS Certified Fish Pathologist”, and being endorsed by an APHIS, USFWS or NMFS official is inappropriate, unnecessary, and of no practical utility to the aquaculture industries, the United States, or any country receiving aquatic animals from the U.S., nor enhances the efficiency and competitiveness of the U.S. aquaculture industries.
- That if implemented this Certificate will completely undermine existing programs, such as the National Veterinary Accreditation Program that is codified (9CFR) and run by USDA-APHIS in safeguarding the U.S. from disease outbreaks and that protect other countries from U.S endemic aquatic animal diseases; and,
- That the proposed contents and statements of assurance in the proposed certificate, that animals being exported to other countries are not diseased or carry contagious pathogens, are based on invalid approaches and methods. In addition, these are inconsistent with how USDA-APHIS Certificates of Veterinary Inspection (“Health Certificates”; e.g. VS Form 17-140), are issued and endorsed for the export of terrestrial animals and their products.

Therefore, if approved by OMB, this certificate and the process proposed for issuing these health certificates would severely undermine, and set precedence for altering the well-established process for issuing Certificates of Veterinary Inspection that attests to the health and disease status of animals moved internationally and throughout the U.S. Furthermore, it is likely to compromise the U.S. animal agriculture and aquatic animal industries, U.S. trading partners, and negatively affect U.S. relations with other countries.

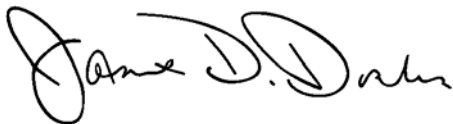
The AVMA contends that proposed rules must be promulgated by USDA-APHIS to incorporate the provisions Congress stipulated in the Animal Health Protection Act of 2002 into 9CFR. In the process USDA-APHIS will need to ensure that aquatic animal "health certificates", and the processes for issuing them are in harmony with current certificates and processes in place for terrestrial livestock, companion animals and poultry. For this to occur, the agency is required to proceed through the regular rule-making process and publish their proposals in the Federal Register for public comment.

The AVMA has been a strong supporter of the Animal Health Protection Act and of the admirable efforts of USDA-APHIS in safeguarding the health and welfare of all animals, including issuing certificates for all animals that provide the assurance that animals are not diseased or carry contagious pathogens. We compliment the USDA-APHIS as this Federal Register announcement clearly indicates USDA-APHIS' support for addressing Certificates of Veterinary Inspection within the National Veterinary Accreditation Program. Therefore the AVMA encourages USDA-APHIS to promulgate the appropriate regulations to adequately safeguard the aquaculture industries through well formulated, practical and easily applied regulations, as it does for other companion animals, livestock and poultry. To this effort the AVMA therefore intends to meet with USDA-APHIS to provide technical comments and offer suggestions for developing future aquatic animal certificates that will optimally serve the agency, the aquatic animal industries, and the U.S.

The AVMA clearly recognizes the authority of DOI-USFWS and DOC-NOAA-NMFS for oversight of wild and harvest fisheries, including those that are endangered and threatened, in the Exclusive Economic Zone and other U.S. waters. Therefore the AVMA is very interested in encouraging, supporting and assisting these agencies in developing and implementing similar aquatic animal health certification programs for federal and state hatcheries, and wild and harvest fisheries, as harmonized programs for these industries would substantially enhance, promote and contribute to the overall biosecurity and development of all U.S. aquatic animal industries and to U.S. trade.

We thank you for this opportunity to comment. If needed, please feel free to contact Dr. David Scarfe (847-285-6634) concerning technical issues.

Respectfully,

A handwritten signature in black ink, appearing to read "Janet D. Donlin". The signature is fluid and cursive, with the first name "Janet" being the most prominent.

Janet D. Donlin, DVM  
Assistant Executive Vice President

JDD/ADS