

NATIONAL
Aquaculture
ASSOCIATION

May 22, 2017

Ms. Aurelia Skipwith
Deputy Assistant Secretary of Fish, Wildlife and Parks

Mr. Scott Cameron
Deputy Assistant Secretary of Water and Science

Dr. Jamie Reaser
Executive Director, National Invasive Species Council

U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Ms. Skipwith, Mr. Cameron and Dr. Reaser:

Please accept the thanks of the National Aquaculture Association (NAA) for meeting with us on Tuesday, April 25th. The NAA is a U.S. producer-based non-profit association founded in 1991 that supports the establishment of governmental programs that further the common interest of our membership, both as individual producers and as members of the aquaculture industry. We are committed to the continued growth of our industry, to working with state and federal governments to create a business climate conducive to our success, and to fostering cost-effective environmental stewardship and sustainability.

We are very appreciative of the opportunity to share perspectives relative to the Lacey Act, Injurious Wildlife Listing, and the quick ecological risk screen methodology. As outcomes of our meeting, we recognize the opportunities to:

- Open a joint and constructive dialogue that will be continued and strengthened with twice a year meetings.
- Identify and provide examples of administrative or regulatory burdens as well as potential solutions.
- Suggest improvements to the Lacey Act.
- Initiate a public – private partnership between Interior and the NAA to prevent the introduction of invasive species.
- Determine how the NAA can contribute to invasive species early detection and rapid response.

Please accept the following suggestions from the NAA concerning administrative policies or regulations that inhibit jobs or job creation; are outdated, unnecessary or ineffective; impose costs that exceed benefits; or create serious inconsistency or otherwise interfere with regulatory reform initiatives and policies.

Several administrative decisions, regulations or programs within the Department of Interior associated with the U.S. Fish and Wildlife Service (FWS) are of particular interest to the NAA to achieve specific changes and improvements. However, we would be remiss in not recognizing excellence in service, response and science that already exists. The Aquatic Animal Drug Approval Partnership (AADAP) is highly valued and respected for its long term, excellent work to gain or expand aquatic animal drug and chemical approvals from the U.S. Food and Drug Administration. The staff has effectively involved a wide variety of public and private entities to conduct complex drug and chemical trials, communicates effectively through an electronic newsletter and an annual coordination workshop, and organizes a drug approval technical session during the Aquaculture America. The AADAP is truly an exemplary public-private partnership that yields immeasurable benefits to the conservation, sport fishing and commercial aquaculture communities.

The NAA suggests the following administrative or regulatory issues for examination to improve governmental services.

Shellfish Aquaculture and the Red Knot Population of Delaware Bay
U.S. Fish and Wildlife Service
New Jersey Field Office

The lower Delaware Bay shoreline in Cape May County, New Jersey, provides important habitat for migratory shore birds including the red knot (*Calidris canutus rufa*). The red knot was listed as threatened under the Endangered Species Act (ESA) on January 12, 2015. This shoreline also serves as the center of a recovering oyster aquaculture industry with historic roots dating back through generations of local bayside oyster fishermen. Contemporary oyster farming is a relatively small but growing industry in New Jersey. To promote the development of oyster aquaculture the State developed an Aquaculture Development Zone in the late-2000s, intended to ease the permitting burden on potential oyster farms and locate farms in areas having least use conflicts.

Appreciating the potential for interactions with migratory shorebirds, the State established conservation measures in 2005 that positioned oyster farms away from the most important red knot foraging areas and restricted farm activities during critical spring migration periods. Since the ESA listing, the interplay between measures aimed at protecting the red knot and their effect on the oyster aquaculture industry has taken on critical focus. The FWS has implemented a Programmatic Biological Opinion (PBO) regarding red knots and aquaculture that includes an adaptive management strategy as uncertainty about the interaction is answered through experience and scientific study. The PBO defined an Agency Working Group that subsequently created a Stakeholder Committee to assist them with pursuing adaptive management required by the PBO. The Stakeholder Committee is in the process of developing a Science Advisory Group to evaluate how new and existing information addresses uncertainties and assumptions that have guided the development of conservation measures. The NAA requests that:

- A procedural means be created for members of the Stakeholder Committee to request adaptive management actions recognizing and amending restrictions as biological, ecological, and human and shellfish production gear interactions with the red knot are defined by scientific study.
- A conflict of interest restriction be developed and applied to membership to the Science Advisory Group.
- The Department of Interior sponsor, contribute to and participate in a two-day symposium entitled, Advancing Shellfish Aquaculture and Red Knot Conservation in Delaware Bay, NJ, with a goal of utilizing the symposium proceedings to inform the PBO.

Import/Export Inspection Fees – Title 50 CFR 14
U.S. Fish and Wildlife Service
Office of Law Enforcement

International trade of regulated live animals or their parts occurs primarily through international airports via air cargo. Authority to regulate this trade rests upon the Endangered Species Act and its authorization for the United States to participate in the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Lacey Act. Shipments may consist of regulated or non-regulated animals and live or dead animal parts. Inexplicable, the work of inspecting shipments whether they include live or dead or regulated or non-regulated animals requires the payment of different fees in addition to the salary and compensation received by FWS employees. Freight and passenger airline arrival and departure occurs on a 24 hour, seven day a week basis but FWS Port Inspector workday is typically 8 to 5. As a result, importers/exporters are required to pay overtime fees for inspections prior to the work day or after the work day, during weekends, and higher fees during federal holidays.

We recommend elimination of the various fees to recognize that inspecting import/export products and animals, live or dead, is the service that has to be performed and that employee working hours and shifts should be scheduled to coincide with the needs of the public and businesses that are engaged in international trade. Examples of the variety of current fees can be found here: <https://www.fws.gov/le/pdf/SampleFeeAssessments.pdf>.

Ecological Risk Screening Summaries
U.S. Fish and Wildlife Service
Fish and Aquatic Conservation

We appreciate the effort the FWS has made in proposing species additions to the list of injurious wildlife authorized by the Lacey Act and to inform the public that certain native and foreign species may pose a risk to the environment, economic activities or human health. Within several letters to the FWS over the last five years the NAA has expressed reservations with the Ecological Risk Screening Summary methodology and disagreed with the science contained in

the publicly published reports derived from the methodology. We have recommended methodological and scientific revisions, provided peer-reviewed literature to support corrections based upon peer-reviewed science, and identified subject matter experts to peer-review the methodology and draft reports.

We request that draft reports be reviewed by subject matter experts for scientific accuracy. We also request that an introductory language be added to each report to inform the reader that:

- There are significant scientific uncertainties associated with quick ecological screens because they are performed quickly.
- Quick ecological risk screens do not reflect the complexity of science associated with the animal biology, ecology, and novel environments.
- State regulations that may restrict or prohibit species were not considered during the assessment and may significantly reduce risk.
- Readily available air temperature data was utilized to predict climate match for aquatic animals which may inaccurately predict species range.
- A “high risk” finding may not apply to the entire United States.
- Quick ecological risk screens do not produce results that are actionable in a regulatory setting.

The NAA suggests the following to improve the Lacey Act.

Title 50, Chapter I, Subchapter B, Part 16

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs

The FWS was provided the authority to regulate diseases in salmonid species within Title 50 C.F.R. 16.13 (3)(4) and (b) at a time when the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA APHIS) did not have an aquaculture health and pathogen program and salmonid production was primarily a state or federal effort for stocking public waters. Today, salmonids are a major component of commercial production, and consolidating federal authority for animal diseases under USDA APHIS leverages their existing programmatic expertise to foster interstate and international trade, as well as protect our nation’s wildlife and captive stock from the introduction of foreign animal diseases. Having two federal agencies regulating the same issue has resulted in weakening the budgets and efforts of both agencies.

The NAA recommends amending the Lacey Act to concede authority for salmonid disease regulations in Title 50 of the Code of Federal Regulations to the USDA APHIS. The USDA APHIS is the competent authority for animal diseases in the United States. One competent authority would achieve the: 1) elimination of duplicative programs that are inconsistent with each other in testing methods, pathogens and legal authorities, 2) eliminate the potential for duplicative international negotiations with trade partners, 3) strengthen the nation’s ability to support the growing aquaculture sector, especially producers of salmon and trout, and 4) provide

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for APHIS and state cooperation to adaptively manage and prevent salmonid pathogen introductions.

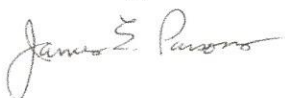
As an initial activity for a public-private partnership to prevent the spread of nonnative species, we suggest a joint update and revision to a 2009 aquaculture extension publication that the NAA helped to create entitled, *Preventing Hitchhiking Nonindigenous Species in Live Shipments*. The purpose of the publication was to communicate commonsense and effective methods to prevent nonnative species distribution and informing regulatory agencies of typical prevention practices that were in use. The publication can be read or downloaded from this link:

https://www.ncrac.org/files/video/files/SRAC_3902.pdf.

The NAA requests a follow-up meeting to answer questions related to the regulatory reform and Lacey Act issues identified in this letter, the next steps in updating and revising the nonnative species prevention publication, and further discussion relative to nonnative species early detection and rapid response. We also extend an invitation to you to participate in a Special Session that will be held during Aquaculture America 2018, February 20-22, in Las Vegas entitled *Aquaculture and Federal Regulatory Reform*. Aquaculture America is the annual conference for US aquaculture, presentations and symposia cover science, production, policy and regulation, it is co-sponsored by the US Aquaculture Society, National Aquaculture Association and Aquaculture Suppliers Association and we are expecting 2,000 attendees. The session will be devoted to presentations by federal agencies that describe the regulatory issues identified, what has been accomplished and the on-going efforts to improve the regulatory environment. Mr. Jim Parsons, President of the National Aquaculture Association, will moderate. Conference information can be found here: <https://www.was.org/meetings/default.aspx?code=AA2018>.

We appreciated the opportunity to create this dialogue and contribute to constructive future discussion. If there are any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "James E. Parsons".

Jim Parsons
President