

MEMORANDUM OF UNDERSTANDING
Between
the UNITED STATES FISH AND WILDLIFE SERVICE and
the PET INDUSTRY JOINT ADVISORY COUNCIL and
the ASSOCIATION OF FISH AND WILDLIFE AGENCIES
to COLLABORATE
ON THE DEVELOPMENT OF NONREGULATORY
APPROACHES TO REDUCE THE RISK OF INTRODUCING
POTENTIALLY INVASIVE SPECIES
THROUGH INTERNATIONAL TRADE AND
TO PROMOTE VOLUNTARY NO-TRADE
IN CERTAIN SPECIES NOT PRESENTLY IN TRADE

This Memorandum of Understanding (MOU) is entered into by the Pet Industry Joint Advisory Council (PIJAC) (hereinafter referred to as “nongovernmental parties”) and the following Federal agencies, hereinafter referred to as the “agencies” or by their name or initials:

United States Fish and Wildlife Service (FWS)

and the following State Government Trade Associations, hereinafter referred to as “Associations” or by their name or initials:

Association of Fish and Wildlife Agencies (AFWA)

I. PURPOSE

The purpose of this MOU is to establish a general framework for cooperating and collaborating among FWS, the States (via their Associations), industry, and other nongovernmental parties to promote nonregulatory approaches with the goal of reducing the risks of potentially invasive, nonnative species being introduced into the United States. The parties to this MOU desire to explore a variety of voluntary risk-management approaches that can be implemented collaboratively by industry and Federal and State governments. Under this Federal, State, and industry partnership, species that are not currently in trade and not currently found in the United States, but that are determined by FWS under section VIII to be of high or uncertain ecological risk to the United States, would voluntarily not be imported or traded, or if they enter the United States, such entry would be conducted only through voluntary biosecurity and mitigation practices designed to minimize the likelihood of release and establishment consistent with pledges made by companies, individuals, or other entities. While this approach is voluntary and therefore cannot guarantee that the trade of such species will not occur, the non-Federal parties to this MOU will endeavor to educate the respective industries on the benefits of preventative action.

II. AUTHORITIES

1. Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000, Public Law 106-408;
2. Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*;

3. Take Pride in America Act, Public Law 101-628;
4. Executive Order 13112 on Invasive Species, Executive Orders. February 8, 1999;
5. Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended (16 U.S.C. 4701 *et seq.*);
6. Lacey Act, as amended (18 U.S.C. 42);
7. Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544); and
8. National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

III. DEFINITIONS

For the purposes of this MOU, the following definitions are used:

1. Alien species: “. . . with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem.”¹ For the purposes of this MOU, this does not include nonnative species in such States where they are being managed under the authority of State Fish and Wildlife agencies.
2. Biosecurity: utilizing a combination of measures designed to protect the environment by preventing the escape to or establishment of species in the natural environment. Measures include, but are not limited to, preventing high-risk species from coming in contact with the natural environment by ensuring containment in facilities that are designed to maintain the species in closed systems in which effluent discharge and other waste materials are treated to prevent to prevent the release of live organisms.
3. Invasive species: “. . . an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.”² While current funding is limited to aquatic species, the MOU applies to any species.
4. Risk management: The process of identifying, evaluating, selecting, and implementing actions to reduce risk (Anderson *et al.* 2004)³; can include voluntary and regulatory approaches that prevent invasive species from entering the U.S. by limiting or prohibiting the importation of species classified as either high risk or uncertain risk.
5. Risk screening: a risk assessment system designed to rapidly evaluate the invasiveness (establishment and impact) potential of a nonnative species.

IV. THE PARTIES

1. The Pet Industry Joint Advisory Council (PIJAC) is a nonprofit, service-oriented organization composed of members from every segment of the pet industry. These include importers and exporters of live organisms, retail pet stores, product manufacturers, other industry trade associations in the United States and other countries, as well as hobby clubs and aquarium societies. PIJAC, a nonprofit corporation organized pursuant to the laws of the District of Columbia, enters into this MOU pursuant to the approval of its Board of Directors.

¹ Executive Order 13112, February 8, 1999

² Executive Order 13112, February 8, 1999

³ Andersen, M.C., H. Adams, B. Hope, and M. Powell. 2004. Risk Assessment for Invasive Species. Risk Analysis 24(4):787-793.

2. The Association of Fish and Wildlife Agencies (AFWA) is a nonprofit trade association representing North America's State and territorial fish and wildlife agencies, promoting sound management and conservation policy that speaks with a collective voice at the national level.
3. The mission of the Fish and Wildlife Service includes working with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The vision of the FWS is to continue to be a leader and trusted partner in fish and wildlife conservation, known for its scientific excellence, stewardship of lands and natural resources, dedicated professionals, and commitment to public service. The conservation principles of FWS include:
 - “Science – Our work is grounded in thorough, objective science.
 - Stewardship – Our ethic is to conserve natural resources for future generations.
 - Service – It is our privilege to serve the American people.
 - Professionalism – We hold ourselves to the highest ethical standards, strive for excellence and respect others.
 - Partnerships – We emphasize creative, innovative partnerships.
 - People – Our employees are our most valued asset.
 - Legacy – We ensure the future of natural resource conservation by connecting people with nature.”

V. STATEMENT OF MUTUAL INTERESTS AND BENEFITS

1. FWS manages 150 million acres in 556 national wildlife refuges and other units of the Refuge System, owns or manages 38 wetland management districts, and includes nearly 16,000 acres of lands and waters in the National Fish Hatchery System. FWS's responsibilities include conservation of threatened and endangered species, migratory birds, fisheries, and native habitats both on and off refuge lands.
2. AFWA represents the State and district fish and wildlife agencies charged with the management of fish and wildlife resources in the public trust.
3. Each of the parties participating in this MOU is a national entity with an interest in fostering environmental stewardship within its respective community, including protecting the environment from the release of nonnative invasive species.
4. Each of the parties acknowledges that the introduction of various invasive, nonnative species may be detrimental to, and not in the best interests of, their respective communities and the natural resources of the United States.
5. The parties recognize that the most effective way to manage invasive species is to prevent importation, and that nonregulatory methods of prevention are beneficial.
6. All parties would benefit from the development of science-based assessments of the likely adverse ecological effects of potentially invasive species that could guide their internal management or policy decisions.

VI. PRINCIPLES

The parties agree that invasions by nonnative, species imported for the live animal and plant trade can cause the United States incalculable environmental and human harm as well as financial losses every year. Stopping initial importation of risky, nonnative species is the most effective way of preventing these invasions in the United States. The industries that trade in live, nonnative species can take a voluntary, responsible, proactive approach to assist the regulatory agencies in preventing these introductions.

Coordination of these voluntary actions will be facilitated by the nongovernmental parties with FWS as described in section VII.

VII. IMPLEMENTATION

To the extent authorized by law and consistent with agency management objectives, all of the parties to this MOU agree:

1. To provide consistent and effective communication among the MOU parties, the non-Federal entities shall appoint representatives to a steering committee of no fewer than three or greater than nine, where committee members may be asked to complete assigned tasks and to discuss and consider new activities as appropriate that may be pursued under this MOU.
2. To develop a work plan (through the steering committee) that includes, but is not limited to:
 - a. Participating in scheduled Steering Committee meetings and conference calls;
 - b. Participating in an annual strategic planning meeting of the Steering Committee and identifying goals and objectives as appropriate under this MOU;
 - c. Reviewing the Ecological Risk Screening protocol and standard operating procedures and providing recommendations with respect to its application and implementation;
 - d. Explaining how FWS would logistically receive species nominations from individual representatives on the steering committee of species that would be covered by the MOU;
 - e. Developing and implementing a collaborative communication strategy to increase public awareness about the need to prevent the introduction of living organisms that the parties have identified as species of high or uncertain ecological risk to the United States and that may present a high or uncertain risk of becoming an invasive species.
3. The parties agree that the highest priority is to promote a collaborative and comprehensive voluntary approach to prevent the introduction into the United States of species not present in the United States that have been demonstrated through ecological risk screening procedures to possess a high or uncertain risk of becoming an invasive species if introduced into the United States. Furthermore, the parties agree to similarly address low risk species as resources permit.

4. The parties will explore the alternatives of industry-supported initiatives that may include: (a) no-trade, (b) implementation of mitigation measures or best management practices, and (c) regionally based trade through which an ecological risk screening procedure identifies species that are of low risk of population establishment, spread, and harm. The companies, individuals, or other entities may pledge to refrain from trading (see (a) of this paragraph). The species determined to be high or uncertain risk through the Ecological Risk Screenings are listed on FWS's website, which may be amended as appropriate.

5. The parties recognize and acknowledge that the collaborative voluntary approach implemented pursuant to this MOU in no way preempts the FWS from listing a species as injurious wildlife under Title 18 of the Lacey Act or other applicable statutes or regulations, or precludes any State or Territory from enforcing existing, or implementing new, statutes or regulations concerning nonnative or invasive wildlife species. The Service retains all existing discretion and authority under applicable laws.

VIII. TO THE EXTENT AUTHORIZED BY LAW AND CONSISTENT WITH AGENCY MANAGEMENT OBJECTIVES, THE ASSOCIATIONS AND THE AGENCIES AGREE TO:

1. FWS agrees to:

a. Provide background materials to the parties, including protocols and standard operating procedures, associated with the "Ecological Risk Screening" process being utilized by the FWS to evaluate nonnative species;

b. Provide a public FWS website with:

1. all completed Ecological Risk Screening Summaries;
2. an email address for the general public to provide information and observations on the Ecological Risk Screening Summaries that will be provided to the author(s) for consideration; and
3. the revised Ecological Risk Screening Summaries;

c. Work with the parties to foster integration of regulatory and nonregulatory approaches to reduce the risks of invasive nonnative species affecting the United States;

d. Conduct an Ecological Risk Screening for species that are nominated by individual representatives of the steering committee, within available funding or personnel constraints;

e. Conduct an Ecological Risk Screening for species that are nominated by the public through the FWS website soliciting public input, within available funding or personnel constraints;

f. Inform the Steering Committee of additional Ecological Risk Screenings conducted based on FWS's scientific knowledge; and

g. Provide a list of species of low, uncertain, and high risk that will be posted online at a publicly available FWS website and provided to the Steering Committee, along with explanations for the risk categories (found in the Standard Operating Procedures being posted on FWS's website).

2. AFWA, in its role in providing a national forum for coordinated action among State and territorial fish and wildlife agencies, agrees to:
 - a. Facilitate compilation of responses to data requests by State and territorial members of the AFWA Invasive Species Committee (and other committees as relevant and appropriate) as requested by one or more of the parties, within available personnel and resource constraints;
 - b. Coordinate review by State and territorial agencies of ecological risk screening procedures, best management practices, or other related reports and policies through the AFWA Invasive Species Committee (and other committees as relevant and appropriate), within available personnel and resource constraints;
 - c. Provide a foundation for discussion and development of strategic prioritization of invasive species threats through the AFWA Invasive Species Committee; and
 - d. Inform its State and territorial members of opportunities to engage in educational and outreach campaigns being conducted by one or more of the parties, and inform the parties of such campaigns that any of its State and territorial members may be conducting.

3. Each of the nongovernmental parties agrees to:
 - a. Take steps to engage members within their respective communities to conduct proactive public outreach and education campaigns that promote awareness of species determined to be of high or uncertain ecological risk to the United States;
 - b. Evaluate various voluntary mitigation practices that include sterilization, single sex trade, facility biosecurity protocols, rating systems for certain species that may be appropriate by region of the country, and other best management practices;
 - c. Encourage their members to review and consider the environmental covenant pledge in the Appendix; and
 - d. Provide to its respective Steering Committee representative nominations for species to be screened by FWS.

IX. PRINCIPAL CONTACTS

The principal contact for the Fish and Wildlife Service concerning this MOU is:

Name Jeff Underwood (Acting)
 Title Assistant Director, Fish and Aquatic Conservation
 Address MS 3043, 1849 C Street, NW, Washington, DC 20240
 Telephone 202-208-6393

The principal contact for the Pet Industry Joint Advisory Council concerning this MOU is:

Name Marshall Meyers
 Title Senior Advisor
 Address 1620 L Street, NW, Suite 610, Washington, DC 20016
 Telephone 202-256-6726

The principal contact for the Association of Fish and Wildlife Agencies concerning this MOU is:

Name _____
Title _____
Address _____
Telephone _____

The principal contact information for other agencies or nongovernmental parties shall be indicated in an Addendum to this Agreement.

X. MISCELLANEOUS PROVISIONS

1. The parties will carry out their own activities related to this MOU and use their own resources, including the expenditure of their own funds, in pursuing the objectives outlined in this MOU.
2. In implementing this MOU, each Party will operate under its own applicable laws, regulations, and policies, subject to the availability of funds and personnel constraints.
3. Nothing in this MOU authorizes any of the parties to obligate or transfer funds. Specific projects or activities that involve the transfer of funds, services, or property among the parties requires execution of separate agreements and are contingent upon the availability of funds. These activities must be independently authorized as appropriate. Negotiation, execution, and administration of these agreements must comply with all applicable laws.
4. Other than the agencies' and Associations' support of the principles in this MOU, nothing in this MOU constitutes or shall be interpreted to imply an endorsement by the United States of any product, service, or opinion of any of the nongovernmental parties.
5. Nothing in this MOU is intended to alter, limit, or expand the agencies' or States' statutory and regulatory authorities.
6. This MOU in no way restricts any of the parties from participating in similar activities with other public or private agencies, organizations, and individuals.
7. This MOU is not intended to (nor does it) create any rights, benefits, or trust responsibilities, substantive or procedural, enforceable by law or equity, by a party against the United States and its individual States or territories, its agencies, its officers, or any person.
8. Each nongovernmental party recognizes and acknowledges that the MOU does not provide immunity from Federal or State antitrust laws.
9. Each party represents that its participation in the MOU, and any action it takes relating to the MOU (including the nomination of species to be included in this agreement), is independent and voluntary, is not conditioned upon the participation or actions of any other entity, and is not the result of any agreement or understanding with any actual or potential competitor.
10. Each party represents that, in conducting activities relating to the MOU, it shall not disclose directly or indirectly to another party any information regarding its business plans, strategies, costs, production, inventories, prices, sales, customers, or other competitively sensitive information.
11. Pursuant to Federal Law, no member of, or delegate to, Congress may benefit from this MOU either directly or indirectly.

12. Any information furnished to the agencies or States (via their representative Associations) under this MOU is subject to the Freedom of Information Act, 5 U.S.C. Section 552.
13. All parties will comply with the Federal Advisory Committee Act to the extent that it is applicable.
14. Other Federal agencies and nongovernmental entities may be added to this MOU with the unanimous written concurrence of all of the parties.
15. This MOU takes effect on the date it is fully executed and will expire 10 years from its effective date. This MOU may be extended or amended upon written agreement of all of the parties.
16. Either the Federal agencies collectively, Associations collectively, or the nongovernmental parties collectively may terminate this MOU 60 days after written notice. Any individual party may terminate its participation in the MOU 60 days after written notice to the other parties.

XI. SIGNATORIES

DOM Aule

Name
Director
U.S. Fish and Wildlife Service

6.10.2013
DATE

Michael Flanagan

Name
President and CEO
Pet Industry Joint Advisory Council

6/13/13
DATE

Ronald J. Rega

Name
Title *Executive Director*
Association AFWA

6/21/13
DATE

Name
Title
Association

DATE

Name
Title
Organization

DATE

Name
Title
Organization

DATE

Appendix. Pledge of Refrain from Trade

I, _____, _____, of _____, located at
(Name) (Title) (Company or other entity)

_____, recognize and acknowledge the importance of protecting
(Address)

the biodiversity of the United States and desire to prevent the introduction, establishment, spread, and potential environmental harm caused by certain nonnative species that are identified as “high risk” or “uncertain risk” species by the United States Fish and Wildlife Service [Service] with the potential to cause harm if such species enter trade, are imported into the United States, and are released into the environment.

Recognizing the consequences of importing such high risk or uncertain risk species not currently in trade, I pledge that _____ will:
(Company, individual, or other entity)

- support nonregulatory initiatives with the goal of reducing the risks of introducing into the United States high risk or uncertain risk species not currently in the United States pursuant to the terms of a Memorandum of Understanding (MOU) dated _____, 2013;
- implement measures to ensure that we:
 - either will not trade in the species listed below that are classified as high risk or uncertain risk pursuant to the terms of the MOU by and supporting voluntary no-trade in such species; or
 - ensure that any activities involving such species be subject to the adoption of mitigation processes, which include biosecurity and mitigation measures (for example, single sex, sexually sterile, containment), that will prevent the release of the species into the environment and prevent their becoming established in the environment in the event of an escape;
- contribute, to the extent we are able, to the improvement of the MOU’s goals by: (1) reviewing Species Ecological Risk Screening Summaries, when published by the Service, and (2) providing comments and additional information to the Service, as appropriate, to ensure that those Summaries reference the most current and accurate substantive information;
- incorporate, into our standard operating procedures, maintenance of a current list of high risk and uncertain risk species that we voluntarily will not import into the United States, and that said list will be updated as additional species are determined by the Service and made publicly available in an Ecological Risk Screening Summary as high risk and uncertain risk species; and,

- initiate our commitment by adopting an initial list of species that we acknowledge we will not import into the United States or will mitigate in conformance with the provisions of the MOU:

- _____ (common and scientific name)

- Periodically update this Pledge with additional species that we will not import into the United States.
- Provide executed copies of this Pledge, including amendments, to

 (Organization (e.g., PIJAC, NAA, AZA))

and agree that our company or other entity may be identified to the public as supporting sustainable practices and environmental stewardship provided for in the MOU.

 Name (Company or other entity) Date