



**COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE**

COAC 1USG Fish & Wildlife Service Working Group

Draft Recommendations

(The actual final recommendations will be voted on during the August 23, 2017 public meeting).

FWS Working Group – Interim Pilot Recommendations

Recommendation #1

Fish and Wildlife Interim Pilot:

- The trade recommends that Fish and Wildlife (FWS) include small, medium and large importers as part of the pilot.
- The trade recommends that FWS exclude type 06 entries (FTZ –Foreign Trade Zone weekly withdrawals) from the interim pilot.
- The trade would like the opportunity to provide recommendations, as needed, in regards to policies and procedures prior to the publication of the revised Implementation Guide.
- Once the pilot begins, the trade would like the opportunity to work with FWS and evaluate the pilot and provide feedback for long term solutions.

Recommendation #2

Increase Outreach and Education

The trade recommends that Fish and Wildlife increase its overall outreach and education with the trade. In particular the trade recommends the following:

- The trade recommends that Fish and Wildlife (FWS) work with Customs and Border Protection (CBP) to further integrate themselves and interact with the Centers of Excellence and Expertise. The Centers have a lot of knowledge about the importers that are managed within the CEE. Increased collaboration between the CEEs and FWS could allow better targeting and resolution by FWS.
- The trade recommends that FWS host additional webinars to the trade on the upcoming interim pilot and other information pertinent to the trade.
- The trade recommends that FWS attend CBP and other industry conferences and provide updates as part of the actual sessions at these conferences.
- The trade recommends that FWS participate in “trade days” at the ports of entry to disseminate information.
- The trade recommends that FWS hold webinar and training sessions about their requirements with overseas companies that export to the United States.

Recommendation #3

Increase Outreach and Education

The trade recommends that Fish and Wildlife (FWS) further enhance and simplify their website, adding links to provide key information to importers, Customs brokers and any trading partners who bring goods subject to Fish and Wildlife into the United States.

- The trade recommends that FWS add fact sheets and FAQs to their website.
- The trade recommends that FWS work together with the trade to further develop a FWS on-line tool that will enable traders to understand whether a product is subject to FWS.

FWS Working Group – Long Term Recommendations

Recommendation #4

The trade recommends that Fish and Wildlife Service research and work with CBP to adopt the same “Hold Intact” concept used by the Food and Drug Administration (FDA) and as outlined by CBP under 19 CFR 141.113(c),(d). This would allow importers to obtain a conditional release from CBP to move cargo from the port of entry to another location within port boundaries of the importer’s choosing and hold the cargo intact until it is fully released by FWS or hold only those items designated by FWS that need to be held.

Recommendation #5

The trade understands that FWS is part of the Convention on International Trade in Endangered Species and Wild Fauna and Flora (eCITES) committee. As such the trade recommends that FWS participates in the CITES electronic permitting exchange and requests a report, when able, on its efforts to implement this electronic process in the United States. This would include implementing electronic permit standards and norms in order to issue and receive CITES permits generated through an electronic permit information exchange with participating countries.

Recommendation #6

The trade understands that FWS is currently conducting a port study in relation to the Designated Port Exception Permit process. The trade recommends that FWS provide updates to the FWS working group, as they are able, on the status, results and next steps of the port study.

Recommendation #7

The current Harmonized Tariff System is not clear enough to determine whether a commodity meets FWS exemptions. Currently a large percentage (number) of the HTS numbers flag for Fish and Wildlife (FWS). The purpose of this

recommendation is to have fewer tariff numbers flagged for FWS and still allow FWS to collect necessary information. The trade recommends partnering with FWS to request further tariff number break-outs from the appropriate parties at the International Trade Commission and CBP to address the following areas:

- Separating domesticated specimens from non-domesticated specimens
- Determining shellfish/fishery product for human or animal consumption
- Separating animal from non-animal product

The FWS working group has put together a white paper with further recommendations on tariff number break-outs.

Recommendation #8

The trade has a concern surrounding the number of HTS numbers flagged for FWS. The recommendation to further break-out HTS numbers is an effort to partner with FWS to find ways to comply with FWS' requirements, but to also reduce the number of HTS numbers flagged for FWS. The trade recommends that in the interim, until such time as the previous recommendation is adopted, FWS work with CBP to explore flagging only those HTS numbers which require a response, and are in direct proportion to FWS' high risk HTS numbers.

Recommendation #9

The trade recommends that Fish and Wildlife (FWS) create a "Compliant Trader" program for importers. FWS, together with the trade, would determine the conditions for entering and remaining in the program. This program would allow FWS to focus on importers and commodities that truly pose a risk versus those parties who have demonstrated they are a "Compliant Traders." One of the reasons for this program would be for the trade to work with FWS on how the trade can provide proof under the Y/N scenarios without providing additional data elements when disclaiming a product from filing Form 3-177.

- Example: Specifically under the "N" scenario where additional data is required to provide proof of claim, if an importer is deemed to be a "Compliant Trader," they would not need to provide the additional data elements as they have already satisfied the proof of claim under entering the "Compliant Trader" program.

- Example: The trade recommends that FWS adopt a registry process similar to the registry process piloted by the Consumer Product Safety Commission (CPSC). This process would be made available to those importers deemed to be a Compliant Trader.
 - This registry would allow the Compliant Tmporter who imports recurring SKUs into the U.S., subject to FWS and excluded from CITES, to file the information with FWS and receive a “registration” number from FWS that could be applied to subsequent shipments of the exact same SKU filed in ACE subject to FWS. This would mean that FWS has the ability to pull up the original information on file for the SKU and apply it to subsequent SKUs on entries imported with the same SKU. The “registration” number would be provided by the trade on all subsequent FWS filings through ACE when importing that SKU.

The trade recommends that the current FWS working group scope out this process with FWS during the interim pilot. This process could possibly be utilized by other PGAs.

In addition the trade recommends that FWS work together with CBP to align the “Compliant Trader” program with other Trusted Trader programs.

Recommendation #10

The trade has a concern surrounding the burden of proof for an exemption, specifically in relation to animal species and the requirement of additional data elements under the ‘N’ scenarios where the importer claims the product is exempt from the 3-177 form. Absent development of a Compliant Trader program, the trade recommends the following:

- The trade recommends that FWS utilize the one letter disclaimer code that indicates the product contains certain domesticated species, as provided for in 50 CFR 14.4.
- The trade encourages FWS to adopt the one letter disclaimer code to be used in the Interim Pilot as part of the final implementation.
- If FWS determines that the domesticated disclaimer code will not be part of the final implementation, the working group recommends FWS support its

need to obtain the genus and species information on certain domesticated species by issuing a notice of proposed rulemaking to amend 50 CFR.