



Animal &
Plant Health
Agency

**Risk Based Fish Export Certification of
Fishery Products and Live Bivalve Molluscs
by Food Competent Certifying Officers from
Premises that are subject to Regulation
853/2004 as Approved Food Establishments
August 2021**



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APHA is an Executive Agency of the Department for Environment, Food and Rural Affairs and also works on behalf of the Scottish Government, Welsh Government and Food Standards Agency to safeguard animal and plant health for the benefit of people, the environment and the economy.

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Overview

1. This guidance provides certifying officers and local authorities in Great Britain with an overview of the risk based approach to the certification of fishery products (including fresh fish) and Live Bivalve Molluscs (LBM) that may be utilised by Food Competent Certifying Officers (FCCOs) when certifying exports from Great Britain to the EU and, where relevant, movements from Great Britain to Northern Ireland. The Chief Veterinary Officers (CVOs) in the UK, have agreed a risk assessed basis to certification and inspection of fishery products and shellfish intended for export to the EU and movements to Northern Ireland under the Northern Ireland Protocol.
2. Risk Based Fish Export Certification (RBFEC) enables relevant exports to be certified by FCCOs on the basis of risk assessments undertaken in line with the principles of the Food Law Code of Practice (FLCoP), supported by declarations from Food Business Operators.
3. Food Competent Certifying Officers (FCCOs) are Certifying Officers (COs) who are not veterinarians and are designated by the relevant competent authority based upon their competency in line with FLCoP.
4. FCCOs can sign EU Export Health Certificates (EHCs) for certain products of animal origin including fishery products and LBM. This applies where EHCs may be required under the Northern Ireland Protocol to facilitate trade in fishery products and LBM to Northern Ireland. Appropriately qualified Official Veterinarians (OVs) can also certify these products, however most fishery products destined for the EU and NI are expected to be certified by FCCOs, who are Local Authority based Certifying Officers. The approach in this guidance is limited to certification undertaken by FCCOs.
5. From 21 August 2021, FCCOs will not be able to sign EU EHCs for live listed (Regulation (EU) 2018/1882) aquaculture animals, hand gathered wild listed aquatic animals or POAO from these animals that require or will undergo further processing¹ in the EU before human consumption. Under Regulation (EU) 2020/2235 an OV is required to sign for these EHCs. The specific EHC with its Notes for Guidance sets out where FCCOs can sign the EHC.
6. The risk based principles outlined in this guidance can apply to exports to the EU, or movements to NI, both directly from the premises of production and to exports via a logistics hub. The principles can also apply to movements of product from Northern Ireland to Great Britain for onwards export to the EU/back to NI via a hub. This document, however, focusses on exports directly from the premises of production, i.e. from a fresh fishery products plant or LBM dispatch centre. Where

products are exported via a logistics hub, additional reference should be made to the guidance notes 'Export Health Certification for Products of Animal Origin Away from the Premises of Origin' (ET197) available on the APHA Vet Gateway: http://apha.defra.gov.uk//External_OV_Instructions/Export_Instructions/Certification_Procedures/Products_Exports.html.

7. The official certification of Products of Animal Origin (POAO) by FCCOs is not a statutory duty under the FLCoP. However, specific attestations within the Export Health Certificates for fishery products and live bivalve molluscs do require assessment of compliance with Food Hygiene Regulations (852/2004 and 853/2004) and the Official Controls Regulation (OCR) (Regulation (EU) 2017/625). Therefore, RBFEC builds on official controls that are within the scope of the FLCoP.
8. The OCR¹ makes reference to all official export certification being a form of official inspection and that all such tasks and their outcome should be utilised and communicated to relevant Competent Authorities (CAs) to contribute to the wider program and assessment of official hygiene controls. Therefore, inspections in relation to export consignments are regarded as official activities even though they fall outside the FLCoP scope.

EU and UK Requirements

9. The certification process and methodology must be able to stand up to scrutiny by domestic and international auditors. The UK expects high standards from countries which we allow to export products of animal origin to us. Similarly, EU rules require that Third Countries that trade with the EU have procedures and safeguards in place to ensure that export certification is at least of a similar standard and delivery to certification procedures and production requirements within the EU.
10. The CVOs' agreement to the implementation of Risk Based Fish Export Certification (RBFEC) and separately, the EU's requirements for Third Countries' export certification systems, require that appropriate training, processes, a risk assessment framework and Central Competent Authority control exists, including quality assurance of export certification.
11. This document must be read alongside other training, legal requirements and guidance in the context of export certification to the EU. Certifying Officers should be aware of the legal requirements regarding the issuing of certificates, such as contained in Regulation (EU) 2017/625 Articles 88 and 89, and Regulation (EU) 2019/628 Article 3 (detailed in Annex II).
12. Defra and the Devolved Administrations will monitor the RBFEC in the light of the UK's new trading relationship with the EU, the implementation of the NI Protocol,

practical experience of implementation of the system, COs' compliance with procedures, and any other international developments, and may introduce changes to the risk-based export certification process, as necessary.

Authorisation, training and competencies of Certifying Officers that may engage in RBFEC

13. RBFEC may only be conducted in GB by APHA 'designated' Food Competent Certifying Officers (FCCOs). Authorisation is limited to LA Officers meeting the qualifying criteria as set out in the Policy for Authorisation of Food Competent Certifying Officers in GB. The official title for authorised Officers is "Food Competent Certifying Officer" i.e. FCCO.
14. Signing of Export Health Certificates may be undertaken by an FCCO who is also a food competent officer, or, if not yet fully competent, is working under the direction of a fully food competent officer. However, random audit inspections of export consignments must only be undertaken by a fully food competent officer. FCCOs may deploy Certification Support Officers (CSOs) as part of the certification team subject to the limitations that apply to the role of CSOs.
15. APHA intends to harmonise the training and designation for both OVs and FCCOs in due course. This will be an online training module leading to the FCCO qualification.

Risk Based Export checks

Background

16. The standard approach before issuing any official Export Health Certificate, is to inspect the premises, and assess the processes and review relevant records plus the consignment to determine whether it meets the requirements of the specific certificate. It includes checks on processes, quantities, labelling and identification, and may include details relating to any shipping container, any seals applied, mode and identity of transport as well as the origin of constituent parts or contributing parts of the consignment.
17. Article 88 of the Official Controls Regulation (OCR) 2017/625 makes provision for the basis on which a Certifying Officer (CO) is permitted to sign the relevant Export Health Certificate (EHC), i.e. ...‘facts and data relevant for the certification which were **obtained from the operators’ own control systems, complemented and confirmed by results from regular official controls**, where the certifying officer is thus satisfied that the conditions for issuing the official certificate are met’.

RBFE approach

18. The Risk Based Fish Export Certification (RBFE) approach aims to implement Article 88 of the OCR. It does this through the assessment of relevant premises and operators based on ‘results from regular official controls. The primary assessment undertaken is that specified in the appropriate FLCoP, as referenced below. Risk assessments undertaken for export purposes are distinct from any statutory inspections undertaken in line with the FLCoP, however.
19. The Official Controls framework as represented and implemented by the relevant FLCoP, is the documented basis for risk based certification. This needs to be backed up with recording the outcome (and actions taken as appropriate) for export related inspections undertaken.

20. This approach is also the basis on which Lead Food Officers may allow LA officers¹ who are designated FCCOs and members of their team working towards the Higher Certificate in Food Controls to assist in certifying compliance with the hygiene attestations of the fishery product or live bivalve mollusc certificates. This means the Lead Food Officer themselves does not always need to have made relevant inspections or been present at the approved premises of production, processing or dispatch.
21. Export certificates may be issued for risk assessed Food Business Operators (FBOs) without an additional initial on-site export focused inspection prior to the first consignment or inspections before each subsequent consignment. However, for businesses that do not meet the standards, or have not yet established the level of trust as set out below, an initial inspection should take place in order for the first consignment to be certified, following which, the appropriate random export audit inspections must take place as set out in this guidance.
22. FCCOs must use their professional judgement - alongside the latest available guidance and the specific EHC with its Notes for Guidance - to determine the nature and detail for any inspection of the premises and consignment to be exported. The intention is that the certifying officer should use the inspection to satisfy themselves that the consignment being inspected meets all the requirements of the particular EHC. Subsequent inspections at the same premises and for the same commodity, may be revised (e.g. may differ in time and detail) but Officers must always be able to satisfy themselves that the EHC requirements are being met, or continue to be met.
23. FCCOs may use their professional judgement to increase inspection frequencies over and above the guidance frequencies (detailed later in this document) but are not permitted to exceed the maximum intervals.
24. Where an investigation into, or a concern about, relevant compliance with official controls or meeting the requirements of the EHC exists, or arises, a certificate must not be issued under the RBFEC approach until the risks have been reassessed. An EHC may still be issued under these circumstances subject to each export consignment being appropriately inspected and verified as compliant. These inspections may serve to re-establish the level of trust or compliance needed. The table in this document provides guidance for an increased frequency of inspections.

¹ Officers that have completed the academic part of the HCFC and are working towards obtaining the Higher Certificate in Food Controls .
ET196 (Rev. 08/21)

Original EHCs must accompany consignments

25. Original hard copy certificates must be issued to the exporter to be presented at the Border Control Post of entry to the EU or Point of Entry into NI. The logistics for this are a matter to be decided locally between exporter and the Certifying Officers.
26. An official EHC may not be issued after the consignment has left the 'control' of the competent authority, which, in this case, is represented by the Certifying Officer at the point of handing over the certificate. This is a primary EU requirement². 'Control' is to be understood as an opportunity for intervention or the possibility to exercise official controls. In the context of an export of POAO it means the ability to withhold an EHC to prevent a risk to the importing country or region of destination.
27. FCCOs may not issue certificates in 'retrospect'. Under no circumstances should a consignment be allowed to be dispatched from UK shores before a signed certificate is available. Exporters are responsible for such non-compliant exports and will bear any consequences (rejection or destruction). FCCOs should vary the consignments selected and subjected to random checks to verify this does not happen.

Forwarding of details needed for the EHC to be issued - Business declarations

28. Where an on-site inspection of the consignment by the LA FCCO does not take place, relevant information needed to complete the certificate must be provided to the Certifying Officer, by the FBO and/or exporter.
29. Each exporter, or FBO, must make signed auditable declarations, or authorise one or more persons, to make declarations on their behalf. The person making the declaration must hold a position of sufficient seniority with responsibility for the processing, production and dispatch of the goods and for the details being declared.

² Implementing Regulation (EU) 2019/628 - Article 3 (5) and Article 4 (3)
ET196 (Rev. 08/21)

30. Declarations must be in writing, contain the relevant details and confirm responsibility for the accuracy of that information and for liabilities that may arise accordingly. A declaration may contain details for multiple consignments, but each consignment to be certified on a risk basis must be supported in this way. A template declaration is attached at Annex I which may be amended for use by a Local Authority, as long as the relevant details and confirmations are required. It is recommended that alternations are only made with input from legally competent persons serving the relevant Local Authority.

FLCoP risk levels and minimum inspection frequencies

31. RBFEC may only be deployed on the basis of a recorded export Risk Assessment (RA) for each 'exporting' premises undertaken by a fully food competent FCCO of the relevant Local Authority. Random inspections of export consignments and the associated evidence for that consignment, must be carried out to demonstrate the safety of, and allow monitoring of, RBFEC export certification.
32. For food processing establishments approved in line with 853/2004 in the UK, subject to the requirements of the relevant Hygiene Regulations and the relevant FLCoP, the (statutory) based inspections carried out by the LA may serve as the basis to determine the frequency of (non-statutory) auditing inspections of export consignments. This is set out in the table below.
33. If discrepancies, non-compliances, or other relevant problems are identified in relation to the exporter, the FBO or the consignment for export, EHCs must not continue to be issued under the RBFEC. Refusal to issue an EHC or initiating increased levels of physical inspections must begin immediately. The LA should determine whether the frequency of inspections should increase for all consignments associated with the exporter or FBO in line with a new risk assessment. This reclassification should be implemented at the earliest opportunity and should not be delayed until the subsequent FLCoP statutory inspection and classification is due.

FLCoP - Food Establishment Intervention Rating

Notes - officers should consider the relevant FLCoP scores for the exporting business and select the highest frequency for inspections. The maximum frequency between random inspections is six months. An exporting day is any day on which processing and/or loading and transportation of commodities for export takes place.

Food Hygiene scoring system in the Food Law Code of Practice:	
Part 2: level of current compliance	
Part 3: Confidence in management/control procedures	
Individual parameter score	Frequency of (random) export related inspections for exporters
<p>Either parameter scores higher than 10: Note – officers should consider the circumstances for scores greater than 10 as grounds for non-compliance with risk based EHC attestation. Each case must be considered on individual circumstances. (High risk)</p>	<p>Every consignment or a complete refusal to service and issue EHCs. If an EHC is to be issued, Officers must be satisfied via specific inspections of the premises and goods that all aspects of the EHC attestation are satisfactory for each consignment.</p>
<p>Neither parameter score higher than 10: i.e. 'broadly compliant' (Medium risk)</p>	1 per 10 exporting days
<p>Part 2 not higher than 10 Part 3 score not higher than 5 (Low risk)</p>	1 per 60 exporting days
<p>No score higher than 5 (Low to Very Low risk)</p>	1 per 180 exporting days (maximum 6 month interval)

For ease of reference: taken from the FSA FLCoP.

Part 2 score 10 level:

‘Some non-compliance with statutory obligations and industry codes of recommended practice* that are not considered significant in terms of risk (but may become significant if not addressed). Standards are being maintained or improved.’

Part 2 score 5 level:

‘Good standard of compliance with statutory obligations and industry codes of recommended practice* with only minor contraventions.’

Part 3 score 10 level:

‘Satisfactory record of compliance.’

Access to relevant food safety advice source and/or Guides to Good Practice or assurance schemes commensurate with type of business. Understanding of significant hazards and control measures in place. Has implemented satisfactory food safety management procedures or is making satisfactory progress towards documented food safety management procedures, commensurate with type of food business. Officers will need to ensure that a business is demonstrating it is actually ‘making satisfactory progress’ towards food safety management procedures. A score of 10 can be awarded for more than one intervention cycle if:

- the previous non-compliances have been addressed but different non-compliances have arisen, and
- the overall risk has not increased.’

Part 3 Score 5 level:

‘Good record of compliance. Food safety advice available in-house or access to, and use of, technical advice from a Primary or Home Authority, trade associations and/or from Guides to Good Practice or assurance scheme commensurate with type of business. Effective management control of hazards. Having effective self-checks with satisfactory documented food safety management procedures commensurate with type of business. Audit by Competent Authority confirms general compliance with procedures with minor non-conformities not identified as critical to food safety.’

RB FEC Random Inspections of an export consignment

34. Random inspections should be undertaken to be representative of the type and scale of exports by the Food Business Operator.
35. Random inspections of export consignments, and the procedures operated by FBOs to provide the relevant information for export consignments, should establish that the consignment being inspected is completely compliant with the requirements of the relevant certificate. Where aspects of this are provided by inspections and support attestation at source then this must be taken into account and only inspection of relevant local aspects of exporting the goods need be checked. Officers must exercise their professional judgement as described in this document.
36. Inspections should consider:
 - a. verification that ingredients were sourced appropriately - e.g. catch certification,
 - b. checking relevant production records,
 - c. hygiene processes around production,
 - d. packaging and labelling of the consignment,
 - e. storage,
 - f. dispatch bay facilities, and
 - g. loading of a consignment into a container or onto the intended transport.
 - h. application and recording of commercial seals, if to be certified.
37. Random inspections, their outcome and associated findings must be recorded. Random inspections must inform and update the FLCoP Risk Assessment, as appropriate.
38. Records must be kept by the appropriate Certifying Officer, or the team responsible for Export Certification, for at least three years.

General Obligations and other matters

39. COs must exercise reasonable precautions and due diligence when relying on information provided by the exporter, or other third parties, to ensure that the information is correct and 'can be verified'³.
40. The 'Notes for Guidance' (NfG) issued with the EHC may be updated from time to time. COs should check for changes online on GOV.UK or via the EHC Online system as appropriate, especially where a sequence of numbered certificates⁴ are held locally ready for issuing.
41. Issuing of pre-signed/stamped certificates that leave spaces blank for the exporter to complete is not permitted. Certificates must be completed and relevant empty boxes or entry fields scored through before the certificate is signed and stamped.

Quality Assurance and records

42. Auditable records must be kept by the FCCO. Records will provide evidence and safeguards for the CO in cases where discrepancies in consignments, relative to the certification, are subsequently identified. Records will be necessary to safeguard against possible legal challenge or compensation claims where consignments are rejected at the EU border or upon entry into NI.
43. Records will be needed to demonstrate compliance in any audits undertaken by the EU.
44. FCCOs must keep a copy (which may be electronic) of the issued EHCs and any declarations and evidence that supported the certification for each consignment for at least three years and may be asked to supply a copy of the EHC and supporting evidence to APHA on an ad hoc basis.

³ i.e. the consignment has not departed and can still be inspected, that relevant records are being kept by the exporter/Food Business Operator and are available for inspection, that supporting attestations can be checked with the issuing authority.

⁴ Known as 'block' certificates.

Annex I: Model declaration by an FBO senior representative

I, the undersigned, declare that I am the exporter/duly authorised person⁵ on behalf of the exporter/Food Business Operator⁵, for the goods (commodities), detailed in this declaration.

I⁶ have responsibility/am authorised to sign on behalf of those who have responsibility, for the details provided and have the necessary knowledge to make this declaration.

The information provided is correct and accurate regarding the consignment(s) requiring an official Export Health Certificate (EHC). The consignment(s) will not be exported until the appropriate and specific EHC(s) for the consignment(s) has/have been issued.

I accept full responsibility for the accuracy, validity and completeness of the information I have provided, or cause to be provided, and accept that none of the Certifying Officer(s), their employer(s), their agent(s) and/or the relevant Competent Authority can be held responsible for any liability that may arise from the provision of information in this declaration, or the failure to provide complete and/or accurate and/or valid information.

I understand that the provision of false information may result in the withdrawal of the Export Health Certification service, and may, additionally, result in criminal proceedings.

Name (printed):

Status in relation to the exporting business:

Signature:

Date:

⁵ Delete as appropriate

⁶ Delete as appropriate

Annex II: EU Certificate Requirements

Regulation EU 2017/625 Article 88

Signature and issuance of Official Certificates

1. Official certificates shall be issued by the competent authorities.
2. Competent authorities shall designate the certifying officers who are authorised to sign official certificates and shall ensure that these officers:
 - (a) are impartial, free from any conflict of interest, and in particular are not in a situation which may, directly or indirectly, affect the impartiality of their professional conduct in relation to what is being certified; and
 - (b) have received appropriate training on the rules with which compliance is certified by an official certificate and on the technical assessment of compliance with those rules as well as with the relevant rules laid down in this Regulation.
3. Official certificates shall be signed by the certifying officer and issued on one of the following grounds:
 - (a) direct knowledge by the certifying officer of up-to-date facts and data relevant for the certification that is obtained through:
 - (i) an official control or
 - (ii) the acquisition of another official certificate issued by the competent authorities
 - (b) facts and data relevant for the certification, knowledge of which was ascertained by another person authorised for that purpose by, and acting under the control of, the competent authorities, provided that the certifying officer can verify the accuracy of such facts and data;

(c) facts and data relevant for the certification which were obtained from the operators' own control systems, complemented and confirmed by results from regular official controls, where the certifying officer is thus satisfied that the conditions for issuing the official certificate are met.4. Official certificates shall be signed by the certifying officer and issued only on the basis of point (a) of paragraph 3 of this Article when rules referred to in Article 1(2) so require.

Regulation EU 2017/625 Article 89

Guarantees for reliability of official certificates

1. Official certificates shall:

- (a) bear a unique code;
- (b) not be signed by the certifying officer where they are blank or incomplete;
- (c) be drawn up in one or more of the official languages of the institutions of the Union understood by the certifying officer and, where relevant, in one of the official languages of the Member State of destination;
- (d) be authentic and accurate;
- (e) allow for the identification of the person who signed them and the date of issue; and
- (f) allow the easy verification of the links between the certificate, the issuing authority and the consignment, lot or individual animal or good covered by the certificate.

2. The competent authorities shall take all appropriate measures to prevent the issuance of false or misleading official certificates or the abuse of official certificates.

Commission Implementing Regulation EU (2019/628) Article 3

Requirements for model official certificates not submitted in IMSOC (Integrated Management System for Official Controls)

The model official certificates for those animals, products of animal origin, composite products, germinal products, animal by-products, sprouts and seeds intended for the production of sprouts originating from third countries or regions thereof which are required by Union legislation for the entry into the Union and are not submitted in IMSOC, shall meet the following requirements:

1. In addition to the signature of the certifying officer, the certificate shall bear an official stamp. The colour of signature shall be different to the colour of the printing. This requirement also applies to stamps other than those embossed or watermarked.
2. Where the model certificate contains statements, the statements which are not relevant shall be crossed out, initialled and stamped by the certifying officer, or completely removed from the certificate.
3. The certificate shall consist of:
 - a) a single sheet of paper; or
 - b) several sheets of paper where all sheets are indivisible and constitute an integral whole; or c) a sequence of pages numbered so as to indicate that it is a particular page in a finite sequence.
4. Where the certificate consists of a sequence of pages, each page shall indicate the unique code as referred to in Article 89(1)(a) of Regulation (EU) 2017/625 and bear the signature of the certifying officer and the official stamp.
5. The certificate shall be issued before the consignment to which it relates leaves the control of the competent authorities of the third country issuing the certificate.