

The Honorable Fred Risser
The Honorable Scott Jensen
February 5, 1999
Page 3

Exemptions

There are some exemptions to the fish farm registration requirement. Under this rule, a person may do any of the following without a fish farm registration certificate:

- Hatch or hold "ornamental" fish, including goldfish, koi, tropical freshwater fish that cannot survive in temperatures below 38°F, and saltwater fish, unless commingled with non-ornamental fish or reared for bait, human food or animal feed.
- Hold bait fish under a DNR bait dealer license.
- Hatch or hold fish in a fully enclosed building solely for purposes of demonstration, education or research within that building, provided that no untreated water used to hold those fish is discharged to waters of the state.
- Exhibit fish in a public forum for not more than 15 days in a calendar year.
- Hold fish for not more than 30 days at a food processing plant, retail food store or restaurant pending slaughter or sale to consumers, provided the facility does not discharge to waters of the state any untreated water used to hold or process those fish.
- Transport live fish or fish eggs to or from a fish farm.

Type 1 or Type 2 Registration

This rule establishes 2 types of fish farm registration:

- Type 1: The holder of a type 1 registration certificate may operate a fish farm. The operator may not sell or distribute live fish, except to a food processing plant, retail food establishment or restaurant. However, the operator may allow public fishing for a fee.
- Type 2: The holder of a type 2 registration certificate may operate a fish farm, and may engage in any of the activities authorized under a type 1 certificate. In addition, the operator may sell or distribute live fish from the fish farm.

Annual Expiration Date

A fish farm registration certificate expires on December 31 of the calendar year for which it is issued.

Persons Operating 2 or More Fish Farms

A person who operates 2 or more fish farms must obtain a separate registration certificate for each fish farm. A person may register 2 or more fish farms by filing a single annual application and paying a single annual fee. There is no additional fee for additional fish farms.

Applying for a Registration Certificate

To obtain or renew a registration certificate, a fish farm operator must file an application with DATCP. DATCP must grant or deny an application within 30 days.

Registration Fees

An operator must pay the following fee to register one or more fish farms:

- A total fee of \$25.00 if the operator registers all of the fish farms as type 1 fish farms.
- A total fee of \$50.00 if the operator registers any of the fish farms as a type 2 fish farm.

Type 1 Fish Farm: Annual Health Certificate

Under this rule, no person may obtain a type 1 fish farm registration certificate for any calendar year beginning after December 31, 2001 unless one of the following applies:

- An accredited veterinarian or certified fish inspector issues a health certificate for that fish farm not earlier than January 1 of the preceding calendar year.
- An accredited veterinarian or certified fish inspector issues a health certificate not earlier than January 1 of the preceding calendar year, for each fish farm from whom the fish farm operator received fish or fish eggs in the preceding calendar year.

Health certificates issued for a type 1 fish farm or its source fish farms must comply with the same requirements that apply to health certificates issued for type 2 fish farms.

Type 2 Fish Farm: Annual Health Certificate

Under this rule, no person may obtain a type 2 fish farm registration certificate for any calendar year beginning after December 31, 2001 unless an accredited veterinarian or

certified fish inspector issues a health certificate for that fish farm not earlier than January 1 of the preceding calendar year. The accredited veterinarian or certified fish inspector must issue the annual health certificate on a form provided by the department, based on a personal inspection of the fish farm.

An annual health certificate must certify that the fish farm is free of all of the following:

- Visible signs of infectious or contagious disease.
- Whirling disease (*Myxobolus cerebralis*, or *WD*) if trout, salmon or other salmonids are hatched or kept at the fish farm.
- Other diseases, if any, which the department specifies on the certification form.

Denying, Suspending or Revoking a Registration Certificate

DATCP may deny, suspend or revoke a fish farm registration certificate for cause, including violations of this rule.

Recordkeeping

This rule requires a fish farm operator to keep a record of fish received at the fish farm, or shipped from the fish farm. Records must include the source or destination of the fish, the quantity of fish and the species of fish. The operator must keep the records for at least 5 years, and must provide them to DATCP upon request.

Fish Source

Under this rule, no person selling or distributing fish or fish eggs may misrepresent, directly or by implication, the source or disposition of those fish or fish eggs. A person transporting fish or fish eggs from a fish farm shall have documentary evidence showing that the person obtained those fish from that fish farm.

Live Fish Imports

Annual Import Permit Required

Under this rule, a person importing live fish or fish eggs into this state for any of the following purposes must have an annual import permit from DATCP:

- Introducing the live fish or fish eggs into waters of the state.

- Using the live fish or fish eggs as bait.
- Holding the live fish or hatching the fish eggs at a fish farm.
- Selling or distributing the live fish or fish eggs for any of the above purposes.

Import Permit; Exemptions

No permit is required to import any of the following:

- Fish imported directly by DNR.
- "Ornamental" fish, unless they are commingled with non-ornamental fish or reared for bait, human food or animal feed.
- Fish held, for the remainder of their lives, in fully enclosed buildings solely for purposes of display or research, provided the facility does not discharge to waters of the state any untreated water used to hold those fish.
- Fish imported directly to a food processing plant, retail food store or restaurant for slaughter or sale to consumers where they will be held for not more than 30 days, provided the facility does not discharge to waters of the state any untreated water used to hold those fish.
- Fish imported and held in fully enclosed buildings for not more than 30 days pending shipment out of this state provided the facility does not discharge to waters of the state any untreated water used to hold those fish.

Import Shipments

A single annual permit authorizes multiple import shipments. A copy of the annual permit must accompany each import shipment.

Import Recipients

A person holding an import permit may import live fish or fish eggs to the following persons, and no others:

- A person holding a current DATCP fish farm registration certificate.
- A person holding a current DNR fish stocking permit.
- A person holding a current DNR bait dealer license.

- The DNR.
- Other persons identified by DATCP in the import permit.

Import Permit; Contents

An import permit identifies all of the following:

- The species of fish, the size or class and quantity of fish of each species, that a permit holder may import.
- The sources from which the permit holder may import fish or fish eggs under the permit. The importer identifies proposed sources in the permit application.

Action on Permit Application

DATCP must grant or deny an import permit application within 30 days after it receives a complete application.

Denying, Suspending or Revoking an Import Permit

DATCP may deny, suspend or revoke an import permit for cause, including violations of this rule.

Import Records

A person importing fish under a DATCP permit must keep records of each import shipment, including the import date, the source of the import shipment, the import recipient, and the size or class, quantity and species of fish included in the import shipment. An importer must retain these records for at least 5 years, and must provide them to DATCP upon request.

Health Certificate Required

Under this rule, no person may import any shipment of live fish or fish eggs into this state unless one of the following applies:

- The import shipment is accompanied by a health certificate issued for that particular shipment (see below).
- The import shipment originates from a fish farm and all of the following apply:
 - * The shipment is labeled with the name and address of that fish farm.

- * No fish or fish eggs in the import shipment were ever collected from a wild source.
- * An accredited veterinarian or certified fish inspector has issued an annual health certificate for that fish farm (see below).
- * The importer has included a copy of the annual fish farm health certificate with the importer's application for an annual import permit or, if the DNR is the importer, DNR has provided a copy of the annual fish farm health certificate to the department.

Health Certificate for Individual Import Shipment

A health certificate issued for an individual import shipment must comply with all of the following:

- An accredited veterinarian or certified fish inspector must issue the health certificate in the state of origin, on a form provided by the department, based on a personal inspection of the import shipment.
- The health certificate must certify that the import shipment is free of all the following:
 - * Visible signs of infectious or contagious disease.
 - * Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*, or *WD*), if the import shipment includes salmonids.
 - * White sturgeon iridovirus (WSI) if the import shipment includes sturgeon.
 - * Other diseases, if any, which the department specifies on the certification form.

Fish Imported from Fish Farm; Annual Health Certificate

An annual health certificate issued for an out-of-state fish farm, to justify import shipments from that fish farm, must comply with all the following:

- An accredited veterinarian or certified fish inspector must issue the annual health certificate in the state of origin, on a form provided by the department, based on a personal inspection of the fish farm. The annual health certificate must certify that the fish farm is free of all the following:

- * Visible signs of infectious or contagious disease.
- * Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*, or *WD*), if the health certificate is used for imports of salmonids.
- * White sturgeon iridovirus (WSI) if the health certificate is used for imports of sturgeon.
- * Other diseases, if any, which the department specifies on the certification form.

Health Standards for Fish Introduced Into Waters of the State

This rule establishes health standards for live fish and fish eggs introduced into waters of the state.

Health Standards for Salmonids

Beginning on the effective date of this rule, no person may introduce salmonids into the waters of the state unless an accredited veterinarian or certified fish inspector issues a health certificate for those salmonids, or for the fish farm from which they originate. (A fish farm health certificate may not be issued prior to January 1 of the preceding calendar year.) The health certificate must certify that the fish (or the fish farm from which they originate) are free of all the following:

- Visible signs of infectious or contagious disease.
- Whirling disease (*Myxobolus cerebralis*, or *WD*).
- Other diseases, if any, which the department specifies on the certification form.

Health Standards for Other Fish

Beginning on January 1, 2002, no person may introduce any fish into the waters of the state unless an accredited veterinarian or certified fish inspector issues a health certificate for those fish, or for the fish farm from which they originate. (A fish farm health certificate may not be issued prior to January 1 of the preceding calendar year.) The health certificate must certify that the fish (or the fish farm from which they originate) are free of all the following:

- Visible signs of infectious or contagious disease.

- Whirling disease (*Myxobolus cerebralis*, or *WD*), if the fish are salmonids.
- Other diseases, if any, which the department specifies on the certification form.

Issuing a Health Certificate

An accredited veterinarian or certified fish inspector must issue a health certificate on a form provided by the department, based on a personal inspection of the fish or fish farm.

Knowingly Introducing Diseased Fish into Waters of the State

This rule prohibits any person from introducing live fish or fish eggs into waters of the state if that person knows, or has reason to know, that those fish or fish eggs are infected or show clinical signs of any reportable disease (see below).

Reportable Diseases

Under this rule, a person who diagnoses or finds evidence of certain diseases identified in this rule must report that diagnosis or finding to DATCP, in writing or by telefax, within 10 days.

3. Rule Modifications After Public Hearings

In response to public hearing comments, the department modified the final draft rule as follows:

- Defined "ornamental fish" to mean goldfish, koi, tropical freshwater fish that cannot survive in temperatures below 38°F, saltwater fish and other fish which the department designates in writing.
- Modified "ornamental fish" exemptions.
- Clarified the definition of a "certified fish inspector."
- Defined "untreated water" to mean water that has not been rendered free of pathogens by a method approved by the department.
- Clarified references to DNR statutes and permits.
- Clarified exemptions for fish held solely for "display or research."

- Clarified that the rule applies to DNR and other state agencies (except where there are statutory exemptions); exempted DNR and other state agencies from fees; and exempted DNR from import permit requirements pursuant to s. 95.60 (2)(d), Stats.
- Required persons transporting fish or fish eggs from a fish farm to have documentary evidence showing that they obtained those fish from that fish farm.
- Clarified that "visible signs of disease" means "visible signs of infectious or contagious disease".
- Defined "wild source" to mean waters in this state that are not registered as fish farms, or waters outside this state that are not fish farms.
- Defined "commingled" to mean kept or brought in contact with other fish or fish eggs in any environment which permits direct contact between fish or use of the same water system.
- Exempted fish and fish eggs from import permit and health certification requirements if they are imported and held for not more than 30 days in a fully enclosed facility pending shipment out of state. The exemption does not apply if the facility discharges to waters of the state any untreated water used to hold the temporarily imported fish or fish eggs.
- Required import permit applicants to identify an import recipient (e.g., a registered fish farm operator or fish stocking permit holder) who is legally qualified to receive the import shipment.
- Clarify language related to "fish or fish eggs infected with or showing clinical signs of any reportable disease."
- Modified the health standards for fish introduced into waters of the state. An accredited veterinarian or certified fish inspector must issue a health certificate for the fish themselves, or for the fish farm from which they originate. The veterinarian or fish inspector must issue the certificate based on a personal inspection, and must use inspection methods which the department specifies on the certification form. The health certificate must certify that:
 - * The fish are free of visible signs of infectious or contagious disease.
 - * The fish are free of whirling disease (if the health certificate is used to justify the introduction of salmonids).

- * The fish are free of other diseases, if any, which the department specifies on the certification form.

4. Response to Rules Clearinghouse Comments

The department modified the final draft rule in response to comments from the Legislative Council Rules Clearinghouse. The department made the following changes, among others:

- Modified the definition of "person" to include the state of Wisconsin and its agencies. The Legislative Council Rules Clearinghouse advised that DATCP had a statutory mandate to regulate DNR fish farming activities.
- Modified language requiring fish farms to register.
- Required annual health certification for type 1 fish farms. A type 1 fish farm must obtain its own health certificate, or must obtain a health certificate for each fish farm from which it receives fish.
- Clarified language related to health certification forms. DATCP may establish and modify health certification requirements by means of the instructions (orders) contained on health certification forms, but will adopt standard substantive requirements by rule.
- Incorporated minor editorial and drafting changes.

The department did not make the following changes suggested by the Rules Clearinghouse:

- The Clearinghouse suggested, in effect, that DATCP had no authority to deny, suspend or revoke a registration certificate. DATCP believes it has that authority pursuant to s. 93.06(7), Stats.
- The Clearinghouse suggested modifying a note to state that all fish farms are exempt from DNR fishing regulations, not just registered fish farms. DATCP does not agree. These exemptions existed under the previous DNR private fish hatchery licensing program. It is commonly accepted by DATCP, DNR and the aquaculture industry that these exemptions apply only to registered fish farms.
- The Clearinghouse also questioned why the department delayed the requirement for fish farms to obtain fish health certificates until January 1, 2002, when the corresponding statute took effect on October 14, 1997. The department provided a

delayed effective date because there is no real alternative. At this time, there are not nearly enough qualified fish inspectors or testing facilities to meet the health certification requirements. The delayed effective date will give the aquaculture industry reasonable time to create the necessary health infrastructure.

5. Fiscal Estimate

A fiscal estimate is attached. The new fish farm program created under s. 95.60, Stats., will have a significant fiscal impact on the department. The department must establish and maintain a fish farm registration and import permit system. The department must also conduct fish farm inspections, investigate law violations, and provide veterinary, technical and informational services. The Legislature appropriated \$265,000 GPR and 5.00 FTE for this program (for 1998-99, \$97,900 and 2.00 FTE are frozen). The department will receive approximately, \$64,000 PR each year from registration fees.

6. Small Business Analysis

A small business analysis ("final regulatory flexibility analysis") is attached. This rule will affect small businesses engaged in farming fish. For most fish farms, this rule will not increase fees. This rule will require fish farms to keep business records, but will not require any new reporting requirements. Fish farms and fish importers will incur additional costs to meet fish health certification requirements. These costs will be offset, in many cases, by better fish health and reduced disease transmission.

7. Hearing Testimony

The department held 3 hearings on October 13-15, 1998, in Madison, Eau Claire and Green Bay. The department also accepted written comments for the hearing record until October 30, 1998. Results are summarized as follows:

Testified in favor:

- Scott Barnes, Rushing Waters (fish hatchery), Palmyra, WI.

Testified in favor but suggested changes:

- Caryl Terrell, Sierra Club-John Muir Chapter, Madison, WI.
- Tim Gollon, Gollon Bait & Fish Farm, Dodgeville, WI.

The Honorable Fred Risser
The Honorable Scott Jensen
February 5, 1999
Page 14

- David Gollon, Gollon Bait & Fish Farm, Dodgeville, WI, also representing the Wisconsin Aquaculture Association.
- Roger Osegard, The Kramer Co. LLC, Plain, WI.
- Herby Radmann, Bullfrog Fish Farm, Menomonie, WI.
- Mac Graham, Star Prairie Trout Farm, Star Prairie, WI.

Registered in opposition:

- Sue Marquenski, DNR, Madison, WI
- Mike Rohde, Rohde AquaFarms, Montello, WI

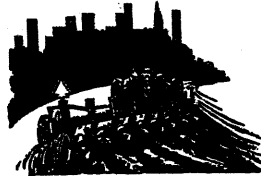
Registered neither for nor against:

- Joe Ramcheck, prospective fish farmer, Green Bay, WI
- Cheryl Gain, Wisconsin Department of Commerce-small business ombudsman, Madison, WI
- Hui-Min Hsu, DNR, Monona, WI
- Jim Moore, DNR, Sturgeon Bay, WI
- Steve Hogler, DNR, Mishicot, WI
- Scott Szymanski, DNR, Green Bay, WI
- Dave Bougie, DNR, Sobieski, WI
- Terrence Lychwick, DNR, Casco, WI
- Cindy Partridge, DATCP, McFarland, WI
- Duane Brandner, DATCP, Eau Claire, WI

The Honorable Fred Risser
The Honorable Scott Jensen
February 5, 1999
Page 15

Other Comments:

The department received written comments from 14 persons, including DNR. Many offered suggestions for changes and either stated or implied opposition to the proposed rule. Most of the comments addressed issues connected to the bait industry.



Al Ott

State Representative • 3rd Assembly District

Assembly Agriculture Committee

MEMO

TO: Members of the Assembly Agriculture Committee

FROM: Representative Al Ott, Chair

DATE: February 9, 1999

The following clearinghouse rules have been referred to the Assembly Agriculture Committee:

Clearinghouse Rule 98-123

Relating to fish farms, fish diseases, and imports of live fish and fish eggs. Submitted by the Department of Agriculture, Trade and Consumer Protection.

Clearinghouse Rule 98-152

Relating to licensing fees charged to livestock markets, livestock dealers, and livestock truckers, registration fees charged to the keepers of farm-raised deer, fees charged for a permit to operate an approved feedlot, and the fee charged to an accredited veterinarian when the veterinarian obtains, from the department of agriculture, trade and consumer protection, forms to be used in issuing interstate health certificates or certificates of veterinary inspection. Submitted by the Department of Agriculture, Trade and Consumer Protection.

The deadline for action on this rule is March 9, 1999. If you would like a copy of either of these rules, please contact Linda at 266-5831.

Chairman:
Agriculture Committee



Member:
Consumer Affairs
Government Operations
Natural Resources

Al Ott

State Representative • 3rd Assembly District

March 9, 1999

Mr. Ben Brancel, Secretary
Dept. of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
PO Box 8911
Madison, WI 53708-8911

SUBJECT: Clearinghouse Rule 98-123

Dear Secretary Brancel:

By this letter, I am requesting a meeting with the Department regarding Clearinghouse Rule 98-123, relating to fish farms, fish diseases and imports of live fish and fish eggs.

This will extend our 30-day review period another 30 days from today's date. Please feel free to contact me with any questions or concerns.

Sincerely,

Alvin R. Ott, Chair
Assembly Agriculture Committee

ARO:ln

cc: Assembly Agriculture Committee
Chair, Senate Agriculture Committee
Sen. Dale Schultz
Rep. Steve Freese

DATCP interested in health issue, etc not to boost the industry through import permit fees. Industry needs to address this.

No import permit fee or any fee amount in CR 98-123
 Anyone can get an import permit. No fee

Bob Ehlenfeldt
 DATCP
 224-4880
 Left message -
 No response
 LN

STATE OF WISCONSIN

To AI Ott
 Date 02/17 Time 12:55

WHILE YOU WERE OUT

M Rep. Groenewys
 of _____
 Phone 6-7015

Telephoned	<input checked="" type="checkbox"/>	Please Call	
Called to See You		Rush	
Returned Your Call		Will Call Again	

Message Wants hearing on both Clearinghouse Rules 98-123 and 98-152

Party Receiving Call

LN

STATE OF WISCONSIN

To Linda
 Date 3/10 Time 11:00

WHILE YOU WERE OUT

M Lynn Jarzabek / Bob Ehlenfeldt
 of Dept. of Agr. Fax 224-4871
 Phone 224-4883 phone

Telephoned	<input checked="" type="checkbox"/>	Please Call	
Called to See You		Rush	
Returned Your Call		Will Call Again	

Message has a comm. question about the fish farm clearinghouse rules.

Party Receiving Call



Wisconsin Speaker Pro Tempore
Representative Stephen J. Freese

February 15, 1999

FEB 16 1999

Representative Al Ott, Chairman
Committee on Agriculture
Room 318 North, State Capitol
Madison, WI 53702

Dear Representative Ott:

I have been contacted by a constituent of mine, David Gollon, asking that I respectfully request your support in adopting a non-resident import fee for live fish imports. Mr. Gollon is president of the Wisconsin Aquaculture Association (WAA) and vice-chairman of the Wisconsin Aquaculture Industry Advisory Council (WAIAC).

The Department of Agriculture, Trade and Consumer Protection (DATCP) adopted an emergency rule to create ATCP 10.68 and 11.58 relating to fish farms and imports of live fish and fish eggs. The final draft "permanent" rules were approved by the DATCP Board on December 9, 1998, but they cannot adopt them until the rules undergo legislative committee review. It is my understanding the rules are now in your committee awaiting review.

I believe a very good argument can be made for establishing a nonresident fee for an import permit for live fish or fish eggs. Mr. Gollon operates a fish farm in Dodgeville and does business with many other states, such as, Illinois, Iowa, Minnesota, Arkansas and Louisiana, and he is currently exploring options in Michigan and Ohio. Most of these states require fees for importing live fish. According to Mr. Gollon, Illinois' fee to haul fish in is \$100 per truck. Iowa charges \$65 to haul fish in with limits on hauling fish out of the state. Minnesota's fee is \$675 plus \$15 for one truck to haul fish out of the state, and it is against the law to import fish into the state. Michigan charges \$500 to import live fish. Every state that Mr. Gollon does business with has a nonresident import permit fee.

The main reasons we require import permits are to record fish types and numbers and to track fish health. Because DATCP has no authority in other states, who would cover the legal costs if a problem develops? We are providing a free service for nonresident importers, and yet Wisconsin taxpayers foot the bill if problems arise. I believe we

Fifty-First Assembly District

Capitol Office: P.O. Box 8952 • Madison, Wisconsin 53708-8952
(608) 266-7502 • Toll-Free: (888) 534-0051 • Fax: (608) 261-9474 • Rep.Freese@legis.state.wi.us
District: 310 E. North • Dodgeville, Wisconsin 53533 • (608) 935-3789

would alleviate some, if not all, of these potential costs if we were to establish some type of fee structure for nonresident import permits.

It is my hope that you will give serious consideration to this request and give greater scrutiny to the issue of nonresident import permit fees.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen J. Freese".

Stephen J. Freese
State Representative

SJF:rlr

cc Senator Dale Schultz
David Gollon

ASSEMBLY AGRICULTURE COMMITTEE

Distribution List

- Rep. Jerry Petrowski - ~~Call on Monday~~ - No response - Called staff twice
4 West 515/845 6193
- Rep. Tom Sykora - No - ✓
8 North
- Rep. Joan Spillner - ~~Not available until Tues~~ - No ✓
10 West
- Rep. Eugene Hahn - No - ✓
15 West
- Rep. Steve Kestell - No - ✓
17 West
- Rep. John Ainsworth - No - ✓
302 North
- Rep. Scott Suder - No - ~~2~~ No response
21 North
- Rep. Barbara Gronemus - N/A - Will call - Phoned - OK to return rules -
112 North (04/05) No hearing
- Rep. John Steinbrink - Left message on recording ~~Phoned - No response~~
307 West No - ✓
- Rep. Joe Plouff - ~~Will respond (No call - No internet)~~
306 West No response (04/01)
- Rep. Julie Lassa - Will respond - No response (04/01)
122 North
- Rep. Tom Hebl - Left message on machine ~~Phoned - No response (04/01)~~
304 West No response (04/01)
- Rep. Marty Reynolds - Will respond - No response (04/01)
126 North

Mark Patrosky
Legis. Council
401, 1 E. Main