



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1772/P# 2  
RCT&RNK:jld:md  
VMT

Monday, 10/31, if possible

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

note

X  
↓ please regenerate

1 AN ACT *to repeal* 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)  
2 (d); *to renumber and amend* 29.733 (2) (c) 1.; *to amend* 23.22 (1) (c), 23.22  
3 (2) (b) 6., 29.001 (76) (b), 29.733 (2) (f), 30.40 (1) and 281.36 (4) (a); and *to create*  
4 29.733 (1) (c) 3. and 36.58 (7) of the statutes; **relating to:** the regulation of  
5 aquaculture, *and invasive species, and requiring the exercise of rule-making authority.*

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

6 SECTION 1. 23.22 (1) (c) of the statutes is amended to read:  
7 23.22 (1) (c) "Invasive species" means nonindigenous species, other than  
8 microbial pathogens, whose introduction causes or is likely to cause economic or  
9 environmental harm or harm to human health.

1           **SECTION 2.** 23.22 (2) (b) 6. of the statutes is amended to read:

2           23.22 (2) (b) 6. Promulgate rules to identify, classify, and control invasive  
3 species for purposes of the program. In promulgating these rules, the department  
4 shall consider the recommendations of the council under sub. (3) (a). As part of these  
5 rules, the department may establish procedures and requirements for issuing  
6 permits to control invasive species. The rules may not identify or classify gambusia  
7 affinis or gambusia holbrooki as invasive species.

8           **SECTION 3.** 29.001 (76) (b) of the statutes is amended to read:

9           29.001 (76) (b) A freeze-out pond, or a naturally occurring artesian flowage,  
10 for which a permit is issued under s. 29.733 (2).

11           **SECTION 4.** 29.733 (1) (c) 3. of the statutes is created to read:

12           29.733 (1) (c) 3. A naturally occurring artesian flowage.

13           **SECTION 5.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and  
14 amended to read:

15           29.733 (2) (c) ~~The department, subject~~ Subject to s. 29.024 (2g) and (2r), shall  
16 renew a permit issued under this subsection does not expire unless the department  
17 determines that there has been a substantial change in circumstances that is related  
18 to a determination made under par. (a) for the natural body of water or that is related  
19 to the application of the criteria promulgated under par. (f) to the body of water.

20           **SECTION 6.** 29.733 (2) (c) 2. of the statutes is repealed.

21           **SECTION 7.** 29.733 (2) (c) 3. of the statutes is repealed.

22           **SECTION 8.** 29.733 (2) (c) 4. of the statutes is repealed.

23           **SECTION 9.** 29.733 (2) (f) of the statutes is amended to read:

24           29.733 (2) (f) The department shall promulgate rules to establish the fees,  
25 criteria and procedures to be used in issuing permits under this subsection. The

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2-12 →  
RK

1 rules may not require the department, before issuing a permit under this subsection,  
2 to hold a hearing or to provide notice to any person, other than the applicant, that  
3 the department will proceed on an application for a permit without a hearing.

4 SECTION 10. 30.40 (1) of the statutes is amended to read:

5 30.40 (1) "Agricultural use" means beekeeping; dairying; egg production;  
6 feedlots; grazing; floriculture; aquaculture; raising of livestock; raising of poultry;  
7 raising of fruits, nuts and berries; raising of grains, grass, mint and seed crops;  
8 raising of vegetables; and sod farming.

9 SECTION 11. 36.58 (7) of the statutes is created to read:

10 36.58 (7) CONFIDENTIALITY OF RECORDS RELATING TO AQUACULTURE. Any  
11 information kept by the veterinary diagnostic laboratory that identifies the owners  
12 of farm-raised fish, as defined in s. 95.001 (1) (ah), and that relates to testing results  
13 or diagnosis is not subject to inspection or copying under s. 19.35 except as the  
14 veterinary diagnostic laboratory determines is necessary to protect the public  
15 health, safety, or welfare.

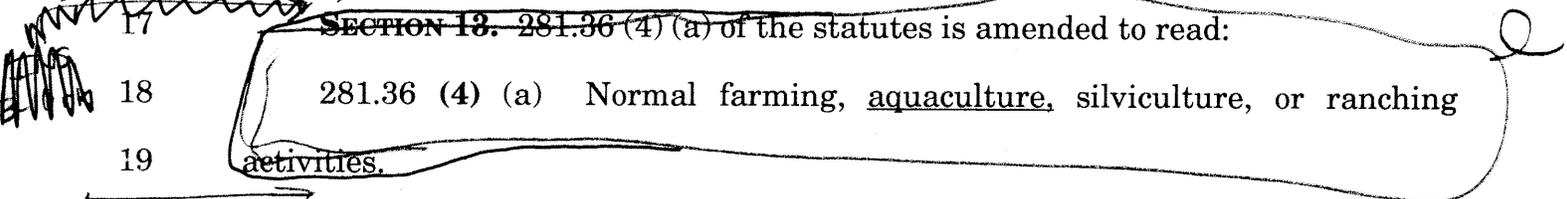
✓  
Insert 3-15

16 SECTION 12. 95.60 (2) (d) of the statutes is repealed.

Insert 3-16

17 ~~SECTION 13. 281.36 (4) (a) of the statutes is amended to read:~~

18 281.36 (4) (a) Normal farming, aquaculture, silviculture, or ranching  
19 activities.



20

(END)

Insert 3-19 ✓

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1772/P2ins  
RCT:.....

**Insert 3-15**

**SECTION 1.** 95.60 (2) (a) of the statutes is amended to read:

95.60 (2) (a) ~~No~~ Except as provided in par. (e). ~~no~~ person may bring any fish or fish eggs into this state for the purpose of introduction into the waters of the state, of use as bait or of rearing in a fish farm without an annual permit issued by the department.

(end ins)

History: 1997 a. 27, 237; 1999 a. 32; 2001 a. 16, 56; 2003 a. 136; 2005 a. 25; 2009 a. 28.

**Insert 3-16**

**SECTION 2.** 95.60 (2) (e) of the statutes is created to read:

95.60 (2) (e) A person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state is not required to have a permit under par. (a) if the person has a fish health certificate that covers the fish or fish eggs and that complies with the requirements for fish health certificates specified by the department by rule.

(end ins)

**Insert 3-19**

**SECTION 3.** 95.60 (4) (c) of the statutes is amended to read:

\* 95.60 (4) (c) ~~AE~~ Except as provided in par. (d). a person who operates a fish farm shall keep records on purchases, sales and production of fish and fish eggs and any other records required by the department by rule. The department may inspect these records upon request.

History: 1997 a. 27, 237; 1999 a. 32; 2001 a. 16, 56; 2003 a. 136; 2005 a. 25; 2009 a. 28.

**SECTION 4.** 95.60 (4) (d) of the statutes is created to read:

95.60 (4) (d) A person who operates a fish farm is not required to keep records on the sale of fish to an individual for the individual's personal use.

→ INSERT A (to Insert 3-19) ←  
**SECTION 5.** 283.11 (3m) of the statutes is created to read:



- 2 - INS 3-19  
CONT

LRB-1772/P2ins  
RCT:.....

283.11 (3m) ✓ STANDARDS FOR CERTAIN CONCENTRATED ✓ AQUATIC ANIMAL PRODUCTION FACILITIES. The department ✓ shall promulgate rules specifying requirements that are applicable to concentrated aquatic animal production facilities ✓ described in 40 CFR 451.10 and 451.20 and that are consistent with ✓ and not more stringent than the requirements in 40 CFR part 451.

SECTION 6. 299.15 (3) (am) 3. ✓ of the statutes is amended to read:

299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be paid by each person required to obtain a permit under s. 283.31, other than a person who owns or operates a fish farm, as defined in s. 95.001 (1) (aj), or a concentrated animal feeding operation. After June 30, 1992, the fee to be paid by a person under this paragraph shall be an amount determined under a rule promulgated by the department and shall be based on those pollutants included in the permit under s. 283.31 that are specified by the department by rule, the environmental harm caused by the pollutants discharged, the quantity of the pollutants discharged and the quality of the water receiving the discharge.

**History:** 1971 c. 125; 1973 c. 90; 1977 c. 29, 203, 377; 1979 c. 34 ss. 985n, 2102 (39) (a); 1979 c. 221 ss. 634, 2202 (39); Stats. 1979 s. 144.96; 1983 a. 27; 1985 a. 29; 1987 a. 27; 1991 a. 39, 269; 1993 a. 9, 16, 490; 1995 a. 227 s. 822; Stats. 1995 s. 299.15; 1997 a. 27; 1999 a. 9; 2009 a. 28.

(end ins 3-19)

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1772/P2insRK  
RNK:.....

INSERT 2-12

1           **SECTION 1.** 29.733 (2) (a) <sup>x</sup> of the statutes is amended to read:

2           29.733 (2) (a) The department, subject to s. 29.024 (2g) and (2r), shall issue a  
3           permit under this subsection for a natural body of water specified under sub. (1) (c)  
4           1. or 3. <sup>✓</sup> if the department determines that no substantial public interest exists in the  
5           body of water and that no public or private rights in the body of water will be  
6           damaged.

History: 1997 a. 27, 191, 237; 1997 a. 248 s. 581; Stats; 1997 s. 29.733; 1999 a. 32.

~~INSERT A~~      **Insert A** (to Ins 3-19)

7           **SECTION 2.** 281.17 (11) <sup>x</sup> of the statutes is created to read:

8           281.17 (11) If, in determining whether to issue water quality certifications  
9           under s. 281.36 (2) <sup>✓</sup> or under rules promulgated by the department <sup>✓</sup> to implement 33  
10          USC 1341 (a), the department <sup>✓</sup> considers whether proposed activities are water or  
11          wetland dependent, <sup>✓</sup> the department shall consider the activities of constructing and  
12          operating a fish farm, as defined in s. 95.001 (1) (aj), <sup>✓</sup> to be water or wetland  
13          dependent. <sup>✓</sup>

(end insert A to Insert 3-19)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1772/P2dn

RCT: x:...

date

JLD

Crystal Lee:

This is a second version of the proposal relating to aquaculture. This version adds the following:

1. An exception to the requirement for the annual importation permit, see s. 95.60 (2) (e). ✓
2. An exception to the record-keeping requirement for retail sales, see s. 95.60 (4) (d). ✓
3. A requirement for DNR to treat fish farms as water or wetland dependent, see s. 281.17 (11). ✓
- \* <sup>4</sup> §. A requirement for DNR to promulgate rules corresponding to the EPA regulations for concentrated aquatic animal production facilities, see s. 283.11 (3m). ✓
- \* <sup>5</sup> ¶. An exception to the water discharge fees for fish farms, see s. 299.15 (3) (am) 3. ✓

Please contact Robin Kite or me with any questions or redraft instructions. When the draft is finalized, we will add an analysis.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1772/P2dn  
RCT:jld:ph

October 28, 2011

Crystal Lee:

This is a second version of the proposal relating to aquaculture. This version adds the following:

1. An exception to the requirement for the annual importation permit, see s. 95.60 (2) (e).
2. An exception to the record-keeping requirement for retail sales, see s. 95.60 (4) (d).
3. A requirement for DNR to treat fish farms as water or wetland dependent, see s. 281.17 (11).
4. A requirement for DNR to promulgate rules corresponding to the EPA regulations for concentrated aquatic animal production facilities, see s. 283.11 (3m).
5. An exception to the water discharge fees for fish farms, see s. 299.15 (3) (am) 3.

Please contact Robin Kite or me with any questions or redraft instructions. When the draft is finalized, we will add an analysis.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

## Kite, Robin

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**From:** Lee, Crystal  
**Sent:** Wednesday, December 21, 2011 11:55 AM  
**To:** Tradewell, Becky; Kite, Robin  
**Cc:** 'gollon bait'; 'Gollon Bait & Fish Farm'; Marklein, Howard; Johnson, Dan  
**Subject:** Aquaculture Legislation: LRB 1772/P2

**Attachments:** Aquaculture Proposed Changes 12-21.pdf

Rebecca & Robin,

Thank you for your help on this.

There are a couple of changes that I have outlined below and I have attached a document with additional changes.

1. 23.22 (1) c (Page 2)

In the invasive species portion, if you could please specify that this deals with fish diseases and not other animals and their potential diseases.

2. Section 15 95.60 (2) e (page 4)

Could we insert the line "Type 1 or Type 2 fish farm in this state", making it "A person bringing fish or fish eggs from a fish farm in another state to a Type 1 or Type 2 fish farm in this state..."

Please let me know if you have any questions.

Happy Holidays!

Sincerely,

*Crystal Lee*

Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
[Crystal.Lee@legis.wi.gov](mailto:Crystal.Lee@legis.wi.gov)



Aquaculture  
Proposed Changes 1

## ✓ CURRENT DRAFT ON PERMITS

SECTION 19. 283.11 (3m) of the statutes is created to read:

283.11 (3m) STANDARDS FOR CERTAIN CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES. The department shall promulgate rules specifying requirements that are applicable to concentrated aquatic animal production facilities described in 40 CFR 451.10 and 451.20 and that are consistent with and not more stringent than the requirements in 40 CFR part 451.

### PROPOSED DRAFT

SECTION 19. 283.11 (3m) of the statutes is created to read:

283.11 (3m) STANDARDS FOR CERTAIN CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES. Permits issued by the department under this section for concentrated aquatic animal production facilities described in 40 CFR 451.10 shall be based upon, and not be more stringent, than standards identified in 40 CFR 451.11.

*Comments: These proposed changes eliminate the need to develop unnecessary rules by the department. The other change removes reference to 40CFR 451.20 which refers to net penned fish, an issue that would be a big red flag to environmentalists who would say, right or wrong, this would allow raising commercial fish in natural, state owned bodies of water.*

## ✓ CURRENT DRAFT ON FEES

SECTION 20. 299.15 (3) (am) 3. of the statutes is amended to read:

299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be paid by each person required to obtain a permit under s. 283.31, other than a person who owns or operates a fish farm, as defined in s. 95.001 (1) (aj), or a concentrated animal feeding operation. After June 30, 1992, the fee to be paid by a person under this paragraph shall be an amount determined under a rule promulgated by the department and shall be based on those pollutants included in the permit under s. 283.31 that are specified by the department by rule, the environmental harm caused by the pollutants discharged, the quantity of the pollutants discharged and the quality of the water receiving the discharge.

### PROPOSED DRAFT

SECTION 20. 299.15 (3) (am) 3. of the statutes is amended to read:

299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be

paid by each person required to obtain a permit under s. 283.31, other than a person who owns or operates a concentrated animal or aquatic animal feeding operation. After June 30, 1992, the fee to be paid by a person under this paragraph shall be an amount determined under a rule promulgated by the department and shall be based on those pollutants included in the permit under s.283.31 that are specified by the department by rule, the environmental harm caused by the pollutants discharged, the quantity of the pollutants discharged and the quality of the water receiving the discharge.

*Comments: This removes the definition referencing fish farm definition in Chapter 95 of the Statutes which refers to different issues and simply clarifies that aquatic animal feeding operations are also not subject to this part of the statute related to fees.*

*As for fees, the currently proposed language would have no fees being assessed to fish farms for their permits. This would not be appropriate we believe. Some fees should be paid and they should be the same fees as are paid for concentrated animal feeding operations under Chapter 283.*

#### **CURRENT LANGUAGE**

**283(8)(a):** The holder of a permit under this section for a concentrated animal feeding operation shall annually pay to the department a fee of \$345.

#### **PROPOSED NEW LANGUAGE RELATED TO FEES**

283.31(8) (a) The holder of a permit under this section for a concentrated animal or aquatic animal feeding operation shall annually pay to the department a fee of \$345. Any fees previously collected under this section for a concentrated animal or aquatic animal feeding operation that have exceeded this amount shall be refunded.

*Comment: This change would provide clarification that fees to be collected for aquatic animal permits the same as for those assessed for other concentrated animal feeding operations. Additionally this language would result in refunding of fees that were inappropriately collected previously.*

**Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.**

(9) "Salmonid" means fish or fish eggs of the family that includes trout, salmon, grayling, char, Dolly Vardon, whitefish, cisco and inconnu.

(10) "Untreated water" means water that has not been rendered free of pathogens by a method approved by the department.

(11) "Wild source" means waters of the state that are not registered as fish farms, or waters outside this state that are not fish farms.

**Note:** The Wisconsin department of natural resources is considered a "person" for purposes of this subchapter. See s. ATCP 10.01 (77).

**History:** CR 06-009: cr. Register September 2006 No. 609, eff. 10-1-06; CR 07-107: renum. (1) to be (1m) and am., cr. (1) Register November 2008 No. 635, eff. 12-1-08.

**ATCP 10.61 Fish farms. (1) REGISTRATION CERTIFICATE REQUIRED.** Except as provided in sub. (2), no person may operate a fish farm for any of the following purposes without a current annual registration certificate from the department that identifies that fish farm:

(a) Hatching fish eggs or holding live fish for any of the following purposes:

1. Sale or distribution.
2. Introduction into the waters of the state.
3. Fishing.
4. Use as bait or fertilizer.
5. Use as human food or animal feed.
6. Education, demonstration or research.

(b) Holding live fish or fish eggs owned by another person.

**Note:** A Wisconsin department of natural resources (DNR) fish stocking permit is needed to stock fish into the waters of the state. However, a DNR fish stocking permit is not needed to stock fish into a fish farm registered under sub. (1). See s. 29.736, Stats.

A DNR sport fishing license is not required to fish at a registered fish farm. Persons fishing at a registered fish farm do not need to comply with season, size or bag limits. See s. 29.001 (27), Stats.

Toxicants required for fish farming operations may be used in self-contained fish rearing facilities (as defined in s. 29.001 (76), Stats.) if there is no discharge from the facility, or if the discharge of the chemical is allowed under a Wisconsin pollutant discharge elimination system (WPDES) permit. A DNR aquatic pesticide use permit is required in other cases. See ss. 29.088 (2) (g), 29.601 (5) (b) and 283.31, Stats.

Pesticide applications must comply with ch. ATCP 29, administered by the department of agriculture, trade and consumer protection. Pesticide applications may also be subject to other federal, state and local regulations.

(2) EXEMPTIONS. A person may do any of the following without a registration certificate under sub. (1):

(a) Hold, rear, sell or distribute live ornamental fish, or hatch the eggs of ornamental fish, unless the ornamental fish or fish eggs are commingled with non-ornamental fish or fish eggs or are reared for bait, human food or animal feed.

(b) Hold or rear live fish, or hatch fish eggs, in a fully enclosed building solely for purposes of display or research within that building, provided that they are not commingled with fish or fish eggs that will be used for any other purposes and the facility does not discharge to waters of the state any untreated water used to hold those fish or fish eggs.

(c) Exhibit live fish in a public forum for not more than 15 days in a calendar year, or for a longer period of time that the department authorizes in writing for a specific exhibit.

(d) Hold live fish or fish eggs for not more than 30 days at a food processing plant, retail food establishment or restaurant pending slaughter or sale to consumers at that facility, provided that they are not commingled with fish or fish eggs that will be used for other purposes and the facility does not discharge to waters of the state any untreated water used to hold or process those fish or fish eggs.

(e) Transport live fish or fish eggs to or from a fish farm.

(f) Operate as a bait dealer licensed under s. 29.509, Stats., provided that the person does not hatch fish eggs or rear fish for any purpose other than for retail sale as bait.

(3) REGISTRATION TYPE. (a) A fish farm registration certificate under sub. (1) shall specify whether the fish farm is registered as

a type 1, type 2 or type 3 fish farm. Except as provided in par. (g), the registration type may vary from year to year.

(b) Except as provided in par. (d), a fish farm operator may not sell or distribute live fish or fish eggs from that fish farm unless the fish farm is registered as a type 2 or type 3 fish farm.

(c) Except as provided in par. (d), the operator of a fish farm that receives any fish or fish eggs obtained from a wild source may not sell or distribute any live fish or fish eggs from that fish farm unless the fish farm is registered as a type 3 fish farm.

(d) The operator of a registered fish farm may do any of the following, regardless of whether that fish farm is registered as a type 1, type 2 or type 3 fish farm:

1. Allow public fishing at the fish farm, including public fishing for a fee.

2. Ship live fish or fish eggs from the fish farm to a food processing plant, retail food establishment or restaurant, for processing or direct sale to consumers, provided that the receiving entity does not do any of the following:

a. Hold any of the fish or fish eggs for more than 30 days prior to slaughter or direct sale to consumers.

b. Comingle the fish or fish eggs with fish or fish eggs that may be used for any other purpose.

c. Sell or distribute unprocessed fish or fish eggs to consumers at any place other than the food processing plant, retail food establishment or restaurant at which the entity first receives them.

d. Discharge to waters of the state any untreated water used to hold or process any of the fish or fish eggs.

e. Dispose of any dead fish, dead fish eggs or fish offal except by rendering, composting, municipal solid waste disposal, or other means approved by the department.

(e) A fish farm operator may, by paying the type 2 registration fee under sub. (7), re-register a fish farm as a type 2 fish farm during a registration year for which it was originally registered as a type 1 fish farm. The previous type 1 registration fee payment does not count toward payment of the type 2 fish farm registration fee.

(f) A person may, by paying the type 3 registration fee under sub. (7), re-register a fish farm as a type 3 fish farm during a registration year for which it was originally registered as a type 1 or type 2 fish farm. The previous type 2 registration fee payment does not count toward payment of the type 3 fish farm registration fee.

(g) A fish farm operator may not register, as a type 1 or type 2 fish farm, a fish farm that was previously registered as a type 3 fish farm unless one of the following conditions is met:

1. The fish farm operator first removes all fish and fish eggs from the fish farm and disinfects the fish farm.

2. A qualified fish health inspector issues a fish health certificate under s. ATCP 10.65 that covers all of the fish and fish eggs on the fish farm. The fish health certificate shall further certify that all fish or fish eggs received onto the fish farm from a wild source in the immediately preceding 12 months were accompanied by a fish health certificate that included all of the certifications required under s. ATCP 10.65 (4) (b).

(4) ANNUAL EXPIRATION DATE. An annual fish farm registration certificate under sub. (1) expires on March 31 of each year.

(5) REGISTERING 2 OR MORE FISH FARMS. A separate annual registration certificate is required for each fish farm registered under sub. (1). A person may obtain annual registration certificates for 2 or more fish farms by filing a single annual application under sub. (6) and paying for each registration certificate the applicable annual fee under sub. (7). A registration certificate is not transferable between persons or locations.

**Note:** See s. ATCP 10.60 (1) and (1m). A fish farm operator may register, as a single fish farm, all fish farm facilities that are located on the same land parcel or on contiguous land parcels. Fish farm facilities located on non-contiguous land parcels must be registered as separate fish farms. A fish farm operator may choose to register





State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1772/P 3  
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to repeal 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)  
2 (d); to renumber and amend 29.733 (2) (c) 1.; to amend 23.22 (1) (c), 23.22  
3 (2) (b) 6., 29.001 (76) (b), 29.733 (2) (a), 29.733 (2) (f), 30.40 (1), 95.60 (2) (a),  
4 95.60 (4) (c) and 299.15 (3) (am) 3.; and to create 29.733 (1) (c) 3., 36.58 (7),  
5 95.60 (2) (e), 95.60 (4) (d), 281.17 (11) and 283.11 (3m) of the statutes; relating

6 to: the regulation of aquaculture, invasive species, and requiring the exercise

7 of rule-making authority. making an appropriation

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓  
Insert  
1-8 →

8

SECTION 1. 23.22 (1) (c) of the statutes is amended to read:

1           23.22 (1) (c) "Invasive species" means nonindigenous species, other than  
2           aquatic microbial pathogens, whose introduction causes or is likely to cause economic or  
3           environmental harm or harm to human health.

4           **SECTION 2.** 23.22 (2) (b) 6. of the statutes is amended to read:

5           23.22 (2) (b) 6. Promulgate rules to identify, classify, and control invasive  
6           species for purposes of the program. In promulgating these rules, the department  
7           shall consider the recommendations of the council under sub. (3) (a). As part of these  
8           rules, the department may establish procedures and requirements for issuing  
9           permits to control invasive species. The rules may not identify or classify gambusia  
10          affinis or gambusia holbrooki as invasive species.

11          **SECTION 3.** 29.001 (76) (b) of the statutes is amended to read:

12          29.001 (76) (b) A freeze-out pond, or a naturally occurring artesian flowage,  
13          for which a permit is issued under s. 29.733 (2).

14          **SECTION 4.** 29.733 (1) (c) 3. of the statutes is created to read:

15          29.733 (1) (c) 3. A naturally occurring artesian flowage.

16          **SECTION 5.** 29.733 (2) (a) of the statutes is amended to read:

17          29.733 (2) (a) The department, subject to s. 29.024 (2g) and (2r), shall issue a  
18          permit under this subsection for a natural body of water specified under sub. (1) (c)  
19          1. or 3. if the department determines that no substantial public interest exists in the  
20          body of water and that no public or private rights in the body of water will be  
21          damaged.

22          **SECTION 6.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and  
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24          29.733 (2) (c) ~~The department, subject~~ Subject to s. 29.024 (2g) and (2r), shall  
25          renew a permit issued under this subsection does not expire unless the department

1 determines that there has been a substantial change in circumstances that is related  
2 to a determination made under par. (a) for the natural body of water or that is related  
3 to the application of the criteria promulgated under par. (f) to the body of water.

4 **SECTION 7.** 29.733 (2) (c) 2. of the statutes is repealed.

5 **SECTION 8.** 29.733 (2) (c) 3. of the statutes is repealed.

6 **SECTION 9.** 29.733 (2) (c) 4. of the statutes is repealed.

7 **SECTION 10.** 29.733 (2) (f) of the statutes is amended to read:

8 29.733 (2) (f) The department shall promulgate rules to establish the fees,  
9 criteria and procedures to be used in issuing permits under this subsection. The  
10 rules may not require the department, before issuing a permit under this subsection,  
11 to hold a hearing or to provide notice to any person, other than the applicant, that  
12 the department will proceed on an application for a permit without a hearing.

13 **SECTION 11.** 30.40 (1) of the statutes is amended to read:

14 30.40 (1) "Agricultural use" means beekeeping; dairying; egg production;  
15 feedlots; grazing; floriculture; aquaculture; raising of livestock; raising of poultry;  
16 raising of fruits, nuts and berries; raising of grains, grass, mint and seed crops;  
17 raising of vegetables; and sod farming.

18 **SECTION 12.** 36.58 (7) of the statutes is created to read:

19 36.58 (7) CONFIDENTIALITY OF RECORDS RELATING TO AQUACULTURE. Any  
20 information kept by the veterinary diagnostic laboratory that identifies the owners  
21 of farm-raised fish, as defined in s. 95.001 (1) (ah), and that relates to testing results  
22 or diagnosis is not subject to inspection or copying under s. 19.35 except as the  
23 veterinary diagnostic laboratory determines is necessary to protect the public  
24 health, safety, or welfare.

25 **SECTION 13.** 95.60 (2) (a) of the statutes is amended to read:

1           95.60 (2) (a) ~~No~~ Except as provided in par. (e), no person may bring any fish or  
2 fish eggs into this state for the purpose of introduction into the waters of the state,  
3 of use as bait or of rearing in a fish farm without an annual permit issued by the  
4 department.

5           **SECTION 14.** 95.60 (2) (d) of the statutes is repealed.

6           **SECTION 15.** 95.60 (2) (e) of the statutes is created to read:

7           95.60 (2) (e) A person bringing fish or fish eggs from a fish farm in another state  
8 to a fish farm in this state <sup>that does not receive any fish or fish eggs obtained from a wild source</sup> is not required to have a permit under par. (a) if the person  
9 has a fish health certificate that covers the fish or fish eggs and that complies with  
10 the requirements for fish health certificates specified by the department by rule.

11           **SECTION 16.** 95.60 (4) (c) of the statutes is amended to read:

12           95.60 (4) (c) ~~A~~ Except as provided in par. (d), a person who operates a fish farm  
13 shall keep records on purchases, sales and production of fish and fish eggs and any  
14 other records required by the department by rule. The department may inspect these  
15 records upon request.

16           **SECTION 17.** 95.60 (4) (d) of the statutes is created to read:

17           95.60 (4) (d) A person who operates a fish farm is not required to keep records  
18 on the sale of fish to an individual for the individual's personal use.

19           **SECTION 18.** 281.17 (11) of the statutes is created to read:

20           281.17 (11) If, in determining whether to issue water quality certifications  
21 under s. 281.36 (2) or under rules promulgated by the department to implement 33  
22 USC 1341 (a), the department considers whether proposed activities are water or  
23 wetland dependent, the department shall consider the activities of constructing and  
24 operating a fish farm, as defined in s. 95.001 (1) (aj), to be water or wetland  
25 dependent.

1 SECTION 19. 283.11 (am) of the statutes is created to read:

2 283.11 (am) STANDARDS FOR CERTAIN CONCENTRATED AQUATIC ANIMAL PRODUCTION

3 FACILITIES. The department shall promulgate rules specifying requirements that are

4 applicable to concentrated aquatic animal production facilities described in 40 CFR

5 451.10 and 451.20 and that are consistent with and not more stringent than the

6 requirements in 40 CFR part 451.

✓ Insert  
5-6 →

7 SECTION 20. 299.15 (3) (am) 3. of the statutes is amended to read:

8 299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be

9 paid by each person required to obtain a permit under s. 283.31, other than a person

10 who owns or operates a fish farm, as defined in s. 95.001 (1) (a), or a concentrated

11 animal feeding operation. After June 30, 1992, the fee to be paid by a person under

12 this paragraph shall be an amount determined under a rule promulgated by the

13 department and shall be based on those pollutants included in the permit under s.

14 283.31 that are specified by the department by rule, the environmental harm caused

15 by the pollutants discharged, the quantity of the pollutants discharged and the

16 quality of the water receiving the discharge.

31 (5) permits ← (5)

31 (5)

requirements based on

451.11 care

Insert 5-11 ✓

17

(END)

Insert 5-16 ✓

On Note

1 **Insert 1-8**

2 **SECTION 1.** 20.370 (4) (ad) of the statutes is created to read:

3 20.370 (4) (ad) *Refund of wastewater discharge fees.* From the general fund,

4 a sum sufficient to refund wastewater discharge fees for concentrated animal

5 production facilities, as required under 2011 Wisconsin Act ... (this act) section.

6 **Insert 5-6**

7 **SECTION 2.** 283.31 (8) (a) of the statutes is amended to read:

8 283.31 (8) (a) The holder of a permit under this section for a concentrated

9 animal feeding operation or a concentrated aquatic animal production facility shall

10 annually pay to the department a fee of \$345.

11 History: 1973 c. 74; 1975 c. 349; 1983 a. 410; 1993 a. 16.; 1995 a. 227 s. 851, 857; Stats. 1995 s. 283.31; 1997 a. 27; 1999 a. 85; 2009 a. 28.

11 **Insert 5-11**

12 or a concentrated aquatic animal production facility

13 **Insert 5-16**

14 **SECTION 3. Nonstatutory provisions.**

15 (1) REFUND OF WASTEWATER DISCHARGE FEES. No later than the first day of the

16 6th month beginning after the effective date of this subsection, the department of

17 natural resources shall pay to each person who owns or operates a concentrated

18 animal production facility, from the appropriation under section 20.370 (4) (ad) of the

19 statutes, as created by this act, an amount equal to the total amount of wastewater

20 discharge fees paid by the person under section 299.15 (3), 2009 stats. before the

21 effective date of this subsection because of discharges from the concentrated aquatic

22 animal production facility.

aquatic  
animal  
Auto refs  
A + B

NO  
4

Auto ref A

auto ref B

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1772/P3dn

RCT:....

date

JLW

Crystal Lee:

This is a redraft of the aquaculture proposal, based on instructions that you sent on December 21.

One of the instructions was to refer to "Type 1 or Type 2 fish farm in this state." This would not have a clear legal meaning because there is no reference in the statutes to types of fish farms. I reviewed DATCP's rules and believe that the language in this draft limits the applicability of proposed s. 95.60 (2) (e) to fish farms that qualify as Type 1 and Type 2 under the rules. If this does not seem workable, please let me know.

This draft requires the operator of a concentrated <sup>aquatic</sup> animal production facility (the federal term) to pay the same fees as for a concentrated animal feeding operation. Please note that under s. 283.31 (8) (b), \$95 of each \$345 annual fee is credited to DNR's appropriation under s. 20.370 (4) (mi) and the rest is deposited into the general fund.

The instructions provide for refunds of "fees that were inappropriately collected previously." I concluded that this is a reference to the wastewater discharge fees that fish farms have been required to pay under s. 299.15 (3) (rather than to fees paid under s. 283.31). The fees under s. 299.15 (3) do not go to DNR, but are deposited into the general fund. In order to refund the fees, there needs to be a general fund appropriation created. This draft includes an appropriation and a nonstatutory provision requiring the fees to be refunded. Because I do not know how much the refunds amount to, I have created a sum sufficient appropriation. This authorizes the expenditure of the amount necessary to make full refunds.

Please contact me or Robin with any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1772/P3dn  
RCT:jld:rs

January 9, 2012

Crystal Lee:

This is a redraft of the aquaculture proposal, based on instructions that you sent on December 21.

One of the instructions was to refer to "Type 1 or Type 2 fish farm in this state." This would not have a clear legal meaning because there is no reference in the statutes to types of fish farms. I reviewed DATCP's rules and believe that the language in this draft limits the applicability of proposed s. 95.60 (2) (e) to fish farms that qualify as Type 1 and Type 2 under the rules. If this does not seem workable, please let me know.

This draft requires the operator of a concentrated aquatic animal production facility (the federal term) to pay the same fees as for a concentrated animal feeding operation. Please note that under s. 283.31 (8) (b), \$95 of each \$345 annual fee is credited to DNR's appropriation under s. 20.370 (4) (mi) and the rest is deposited into the general fund.

The instructions provide for refunds of "fees that were inappropriately collected previously." I concluded that this is a reference to the wastewater discharge fees that fish farms have been required to pay under s. 299.15 (3) (rather than to fees paid under s. 283.31). The fees under s. 299.15 (3) do not go to DNR, but are deposited into the general fund. In order to refund the fees, there needs to be a general fund appropriation created. This draft includes an appropriation and a nonstatutory provision requiring the fees to be refunded. Because I do not know how much the refunds amount to, I have created a sum sufficient appropriation. This authorizes the expenditure of the amount necessary to make full refunds.

Please contact me or Robin with any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

**Tradewell, Becky**

---

**From:** Lee, Crystal  
**Sent:** Tuesday, January 17, 2012 9:24 AM  
**To:** Tradewell, Becky; Kite, Robin  
**Cc:** Marklein, Howard; Lee, Crystal  
**Subject:** FW: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture  
Becky & Robin,

I hope you're both doing well.

The changes below were requested by our constituent. Let me know if you have any questions.

Thank you for your work on this!

Sincerely,

*Crystal Lee*

Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

---

**From:** Gollon Bait [mailto:gollon@frontier.com]  
**Sent:** Monday, January 16, 2012 12:13 PM  
**To:** Lee, Crystal  
**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Crystal

Here are the only changes.

Under Section 16 95.60 (2) (e) (line 12 & 13) delete: that does not receive any fish or fish eggs obtained from a wild source.

Also, add under section 18 wording such as: A person who retails farm raised fish including farm raised bait is not required to obtain a bait license under SS29.509 provided that the retailer keep records of where the farm raised fish were purchased from; the date of purchase, the amount purchased and the species of fish that were purchased.

Thanks  
Dave

---

**From:** Lee, Crystal [mailto:Crystal.Lee@legis.wisconsin.gov]  
**Sent:** Monday, January 09, 2012 1:55 PM  
**To:** gollon bait  
**Cc:** Marklein, Howard  
**Subject:** FW: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Dave,

1/17/2012

I hope you're doing well.

I just got this from LRB drafting today... take a look at it, share it with your fish farm colleagues and let me know if there should be any changes.

Let me know if you have any questions.

Sincerely,

*Crystal Lee*

Legislative Assistant

Office of State Representative Howard Marklein

51st Assembly District

608-266-7502

Crystal.Lee@legis.wi.gov

---

**From:** LRB.Legal

**Sent:** Monday, January 09, 2012 12:55 PM

**To:** Rep.Marklein

**Subject:** Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

**Following is the PDF version of draft LRB 11-1772/P3 and drafter's note.**

**Tradewell, Becky**

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**From:** Lee, Crystal  
**Sent:** Tuesday, January 31, 2012 3:02 PM  
**To:** Kite, Robin  
**Cc:** Tradewell, Becky; Marklein, Howard  
**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture  
Yes, sounds good! Thanks again for all your help with this continuing project.

*Crystal Lee*

Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

---

**From:** Kite, Robin  
**Sent:** Tuesday, January 31, 2012 3:01 PM  
**To:** Lee, Crystal  
**Cc:** Tradewell, Becky  
**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Thanks for getting back to me so quickly. I assume that you would like the new version to be in introducible form rather than in preliminary form. We will proceed to finalize the draft and get it to you as soon as possible.

Robin

---

**From:** Lee, Crystal  
**Sent:** Tuesday, January 31, 2012 2:37 PM  
**To:** Kite, Robin  
**Cc:** Marklein, Howard; 'Gollon Bait'  
**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

It is okay if you leave this exemption out.

Thanks, Robin.

*Crystal Lee*

Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

---

**From:** Kite, Robin  
**Sent:** Tuesday, January 31, 2012 1:14 PM  
**To:** Lee, Crystal

1/31/2012

**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Crystal:

You inquired about the status of this redraft. If, in fact, DNR is requiring a bait license despite the exemption in the statutes, we cannot put the exemption in the statutes again. Consequently, if DNR is requiring a license that the statutes specifically do not require, then the only thing to do is to address this directly with DNR. I would be happy to talk to DNR about this if you would like me to do so. Please let me know if you would like me to talk to DNR and, if so, if there is any particular person at DNR that you would like me to talk to.

Thanks.  
Robin

---

**From:** Lee, Crystal

**Sent:** Friday, January 20, 2012 10:45 AM

**To:** Kite, Robin

**Cc:** Marklein, Howard

**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Robin,

This is what I received from my constituent:

DNR has been issuing fines to our bait shops that are buying and selling only farm raised bait. They, the DNR, are saying the bait shops are required to have a DNR bait license. If the bait shops don't need a bait license why is DNR enforcing it?

I think he may just want to clarify that within the language.

Please let me know if you have any further questions.

Sincerely,

*Crystal Lee*

Legislative Assistant

Office of State Representative Howard Marklein

51st Assembly District

608-266-7502

Crystal.Lee@legis.wi.gov

---

**From:** Kite, Robin

**Sent:** Wednesday, January 18, 2012 3:16 PM

**To:** Lee, Crystal

**Cc:** Tradewell, Becky

**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Crystal:

I do not understand why the language in the second item below is necessary. Under current law, a person who is in the business of buying and selling bait is specifically exempt from the requirement to hold a bait dealer license if that bait is farm-raised fish. See s. 29.509 (6), stats. Can you provide any more information about why this language is being requested?

Thanks.

1/31/2012

Robin

---

**From:** Lee, Crystal  
**Sent:** Tuesday, January 17, 2012 9:24 AM  
**To:** Tradewell, Becky; Kite, Robin  
**Cc:** Marklein, Howard; Lee, Crystal  
**Subject:** FW: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Becky & Robin,

I hope you're both doing well.

The changes below were requested by our constituent. Let me know if you have any questions.

Thank you for your work on this!

Sincerely,

*Crystal Lee*  
Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

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**Sent:** Monday, January 16, 2012 12:13 PM  
**To:** Lee, Crystal  
**Subject:** RE: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Crystal

Here are the only changes.

Under Section 16 95.60 (2) (e) (line 12 & 13) delete: that does not receive any fish or fish eggs obtained from a wild source.

Also, add under section 18 wording such as: A person who retails farm raised fish including farm raised bait is not required to obtain a bait license under SS29.509 provided that the retailer keep records of where the farm raised fish were purchased from; the date of purchase, the amount purchased and the species of fish that were purchased.

Thanks  
Dave

---

**From:** Lee, Crystal [mailto:Crystal.Lee@legis.wisconsin.gov]  
**Sent:** Monday, January 09, 2012 1:55 PM  
**To:** gollon bait  
**Cc:** Marklein, Howard  
**Subject:** FW: Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

Dave,

1/31/2012

I hope you're doing well.

I just got this from LRB drafting today... take a look at it, share it with your fish farm colleagues and let me know if there should be any changes.

Let me know if you have any questions.

Sincerely,

*Crystal Lee*

Legislative Assistant

Office of State Representative Howard Marklein

51st Assembly District

608-266-7502

Crystal.Lee@legis.wi.gov

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**From:** LRB.Legal

**Sent:** Monday, January 09, 2012 12:55 PM

**To:** Rep.Marklein

**Subject:** Draft review: LRB 11-1772/P3 Topic: Changes related to aquaculture

**Following is the PDF version of draft LRB 11-1772/P3 and drafter's note.**



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1772/P3  
RCT&RNK:jld:rs

1

Mon., 2/6, if possible

VMY

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2011 BILL

✓

Regen

1 AN ACT *to repeal* 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)

2 (d); *to renumber and amend* 29.733 (2) (c) 1.; *to amend* 23.22 (1) (c), 23.22

3 (2) (b) 6., 29.001 (76) (b), 29.733 (2) (a), 29.733 (2) (f), 30.40 (1), 95.60 (2) (a),

4 95.60 (4) (c), 283.31 (8) (a) and 299.15 (3) (am) 3.; and *to create* 20.370 (4) (ad),

5 29.733 (1) (c) 3., 36.58 (7), 95.60 (2) (e), 95.60 (4) (d), 281.17 (11) and 283.31 (5m)

6 of the statutes; **relating to:** the regulation of aquaculture, invasive species,

7 and making an appropriation.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

INS. Anal. ✓

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

8 SECTION 1. 20.370 (4) (ad) of the statutes is created to read:

9 20.370 (4) (ad) *Refund of wastewater discharge fees.* From the general fund,

10 a sum sufficient to refund wastewater discharge fees for concentrated aquatic animal

**SECTION 1**

1 production facilities, as required under 2011 Wisconsin Act .... (this act), section 23  
2 (1).

3 **SECTION 2.** 23.22 (1) (c) of the statutes is amended to read:

4 23.22 (1) (c) "Invasive species" means nonindigenous species, other than  
5 aquatic microbial pathogens, whose introduction causes or is likely to cause  
6 economic or environmental harm or harm to human health.

7 **SECTION 3.** 23.22 (2) (b) 6. of the statutes is amended to read:

8 23.22 (2) (b) 6. Promulgate rules to identify, classify, and control invasive  
9 species for purposes of the program. In promulgating these rules, the department  
10 shall consider the recommendations of the council under sub. (3) (a). As part of these  
11 rules, the department may establish procedures and requirements for issuing  
12 permits to control invasive species. The rules may not identify or classify gambusia  
13 affinis or gambusia holbrooki as invasive species.

14 **SECTION 4.** 29.001 (76) (b) of the statutes is amended to read:

15 29.001 (76) (b) A freeze-out pond, or a naturally occurring artesian flowage,  
16 for which a permit is issued under s. 29.733 (2).

17 **SECTION 5.** 29.733 (1) (c) 3. of the statutes is created to read:

18 29.733 (1) (c) 3. A naturally occurring artesian flowage.

19 **SECTION 6.** 29.733 (2) (a) of the statutes is amended to read:

20 29.733 (2) (a) The department, subject to s. 29.024 (2g) and (2r), shall issue a  
21 permit under this subsection for a natural body of water specified under sub. (1) (c)  
22 1. or 3. if the department determines that no substantial public interest exists in the  
23 body of water and that no public or private rights in the body of water will be  
24 damaged.

1           **SECTION 7.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and  
2 amended to read:

3           29.733 (2) (c) ~~The department, subject~~ Subject to s. 29.024 (2g) and (2r), shall  
4 ~~renew~~ a permit issued under this subsection does not expire unless the department  
5 determines that there has been a substantial change in circumstances that is related  
6 to a determination made under par. (a) for the natural body of water or that is related  
7 to the application of the criteria promulgated under par. (f) to the body of water.

8           **SECTION 8.** 29.733 (2) (c) 2. of the statutes is repealed.

9           **SECTION 9.** 29.733 (2) (c) 3. of the statutes is repealed.

10          **SECTION 10.** 29.733 (2) (c) 4. of the statutes is repealed.

11          **SECTION 11.** 29.733 (2) (f) of the statutes is amended to read:

12          29.733 (2) (f) The department shall promulgate rules to establish the fees,  
13 criteria and procedures to be used in issuing permits under this subsection. The  
14 rules may not require the department, before issuing a permit under this subsection,  
15 to hold a hearing or to provide notice to any person, other than the applicant, that  
16 the department will proceed on an application for a permit without a hearing.

17          **SECTION 12.** 30.40 (1) of the statutes is amended to read:

18          30.40 (1) "Agricultural use" means beekeeping; dairying; egg production;  
19 feedlots; grazing; floriculture; aquaculture; raising of livestock; raising of poultry;  
20 raising of fruits, nuts and berries; raising of grains, grass, mint and seed crops;  
21 raising of vegetables; and sod farming.

22          **SECTION 13.** 36.58 (7) of the statutes is created to read:

23          36.58 (7) CONFIDENTIALITY OF RECORDS RELATING TO AQUACULTURE. Any  
24 information kept by the veterinary diagnostic laboratory that identifies the owners  
25 of farm-raised fish, as defined in s. 95.001 (1) (ah), and that relates to testing results

1 or diagnosis is not subject to inspection or copying under s. 19.35 except as the  
2 veterinary diagnostic laboratory determines is necessary to protect the public  
3 health, safety, or welfare.

4 **SECTION 14.** 95.60 (2) (a) of the statutes is amended to read:

5 95.60 (2) (a) ~~No~~ Except as provided in par. (e), no person may bring any fish or  
6 fish eggs into this state for the purpose of introduction into the waters of the state,  
7 of use as bait or of rearing in a fish farm without an annual permit issued by the  
8 department.

9 **SECTION 15.** 95.60 (2) (d) of the statutes is repealed.

10 **SECTION 16.** 95.60 (2) (e) of the statutes is created to read:

11 95.60 (2) (e) A person bringing fish or fish eggs from a fish farm in another state  
12 to a fish farm in this state <sup>✓</sup> that does not receive any fish or fish eggs obtained from  
13 a wild source is not required to have a permit under par. (a) if the person has a fish  
14 health certificate that covers the fish or fish eggs and that complies with the  
15 requirements for fish health certificates specified by the department by rule.

16 **SECTION 17.** 95.60 (4) (c) of the statutes is amended to read:

17 95.60 (4) (c) ~~A~~ Except as provided in par. (d), a person who operates a fish farm  
18 shall keep records on purchases, sales and production of fish and fish eggs and any  
19 other records required by the department by rule. The department may inspect these  
20 records upon request.

21 **SECTION 18.** 95.60 (4) (d) of the statutes is created to read:

22 95.60 (4) (d) A person who operates a fish farm is not required to keep records  
23 on the sale of fish to an individual for the individual's personal use.

24 **SECTION 19.** 281.17 (11) of the statutes is created to read:

1           281.17 (11) If, in determining whether to issue water quality certifications  
2 under s. 281.36 (2) or under rules promulgated by the department to implement 33  
3 USC 1341 (a), the department considers whether proposed activities are water or  
4 wetland dependent, the department shall consider the activities of constructing and  
5 operating a fish farm, as defined in s. 95.001 (1) (aj), to be water or wetland  
6 dependent.

7           **SECTION 20.** 283.31 (5m) of the statutes is created to read:

8           283.31 (5m) PERMITS FOR CERTAIN CONCENTRATED AQUATIC ANIMAL PRODUCTION  
9 FACILITIES. The department shall include in permits issued under this section for  
10 concentrated aquatic animal production facilities described in 40 CFR 451.10  
11 requirements that are based on, and are not more stringent than, the requirements  
12 in 40 CFR 451.11.

13           **SECTION 21.** 283.31 (8) (a) of the statutes is amended to read:

14           283.31 (8) (a) The holder of a permit under this section for a concentrated  
15 animal feeding operation or a concentrated aquatic animal production facility shall  
16 annually pay to the department a fee of \$345.

17           **SECTION 22.** 299.15 (3) (am) 3. of the statutes is amended to read:

18           299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be  
19 paid by each person required to obtain a permit under s. 283.31, other than a person  
20 who owns or operates a concentrated animal feeding operation or a concentrated  
21 aquatic animal production facility. After June 30, 1992, the fee to be paid by a person  
22 under this paragraph shall be an amount determined under a rule promulgated by  
23 the department and shall be based on those pollutants included in the permit under  
24 s. 283.31 that are specified by the department by rule, the environmental harm

1 caused by the pollutants discharged, the quantity of the pollutants discharged and  
2 the quality of the water receiving the discharge.

3 **SECTION 23. Nonstatutory provisions.**

4 (1) REFUND OF WASTEWATER DISCHARGE FEES. No later than the first day of the  
5 6th month beginning after the effective date of this subsection, the department of  
6 natural resources shall pay to each person who owns or operates a concentrated  
7 aquatic animal production facility, from the appropriation under section 20.370 (4)  
8 (ad) of the statutes, as created by this act, an amount equal to the total amount of  
9 wastewater discharge fees paid by the person under section 299.15 (3), 2009 stats.,  
10 before the effective date of this subsection because of discharges from the  
11 concentrated aquatic animal production facility.

12 (END)

INSERT ANALYSIS

REGULATION OF INVASIVE SPECIES

Current law requires the Department of Natural Resources (DNR) to establish a statewide program to control invasive species. This bill provides that the term "invasive species" does not include aquatic microbial pathogens. The bill also specifies that DNR rules may not identify or classify two species of fish, *Gambusia affinis* and *Gambusia holbrooki*, as invasive species.

AQUACULTURE

*Use of natural bodies of water*

Current law generally prohibits a person from using a natural body of water as a fish farm unless the person has been issued a permit from DNR (natural waters permit) and the body of water is a freeze-out pond or a preexisting fish rearing facility. Under this bill, a person may also use a naturally occurring artesian flowage as a fish farm if the person has been issued a natural waters permit.

Generally, under current law, DNR must issue a natural waters permit for a qualified body of water if DNR determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be damaged. This bill provides that a natural waters permit, once issued, does not expire unless DNR finds that there has been a substantial change in circumstances related to DNR's initial determination concerning the body of water or finds that the body of water does not meet criteria established in rules promulgated by DNR.

This bill also prohibits DNR from promulgating rules that require DNR, before it issues a natural waters permit, to hold a hearing or provide notice that it will not hold a hearing.

*Wastewater discharge fees and permits*

Current law generally prohibits a person from discharging pollutants into the surface water or groundwater without a wastewater discharge permit from DNR. The law requires persons required to have permits, other than persons who operate livestock farms, to pay an annual wastewater discharge fee based in part on the amount of pollutants discharged. The fees are deposited into the general fund.

This bill exempts persons who operate fish farms from the wastewater discharge fee. The bill also requires this state to pay to each fish farm operator an amount equal to the total amount of wastewater discharge fees paid by the operator before this bill takes effect. The payment is from the general fund.

Current law requires a person who operates a livestock farm with a wastewater discharge permit to pay an annual fee of \$345, \$95 of which goes to DNR for its expenses in managing the state's water resources and the rest of which is deposited into the general fund.

This bill requires a person who operates a fish farm to pay the annual \$345 fee. The bill also requires DNR to include, in wastewater discharge permits for fish farms that produce more than 100,000 pounds of fish per year, requirements that are based on, and are not more stringent than, requirements in a specified regulation of the federal Environmental Protection Agency applicable to those fish farms.



**Wetlands**

Under current law, a person must obtain a water quality certification from DNR in order to discharge dredged or fill material into a wetland, with certain exceptions. Under its current rules, DNR applies a different analysis in determining whether to grant a water quality certification depending on whether the activity is or is not water or wetland dependent. ✓

This bill requires DNR to consider the activities of constructing and operating a fish farm to be water or wetland dependent in determining whether to grant a water quality certification.

**Record-keeping**

Current law requires a person who operates a fish farm to keep ✓ records on purchases, sales, and production of fish and fish eggs and any other records required by ~~DNR~~. the Department of Agriculture, Trade and Consumer Protection

This bill provides that a person who operates a fish farm is not required to keep records on the sale of fish to an individual for the individual's personal use. (DATCP)

**Importing fish**

Current law generally requires a person who brings fish or fish eggs into this state for the purpose of introduction into lakes or streams, of use as bait, or of rearing in a fish farm without an annual permit issued by the Department of Agriculture, Trade and Consumer Protection, DATCP. ✓

This bill exempts a person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state from the requirement to have an importation permit if the person has a fish health certificate that covers the fish or fish eggs and that complies with DATCP's rules on fish health certificates. ✓

Current law exempts DNR from the requirement to have a permit from ✓ DATCP to bring fish into this state. This bill eliminates that exemption. ✓

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

(end insert analysis)

## Kite, Robin

---

**From:** Lee, Crystal  
**Sent:** Thursday, February 16, 2012 3:02 PM  
**To:** Kite, Robin; Tradewell, Becky  
**Cc:** Bruhn, Michael L - DNR; Marklein, Howard; Lee, Crystal  
**Subject:** FW: Aquaculture Draft

**Attachments:** 20120216145748656.pdf



201202161457486  
56.pdf (2 MB)

Robin & Becky,

Thank you for all your work on this. After we sat down with the DNR, they had a few revisions for the draft and after these revisions, we should be good for introduction.

We've scanned a copy of the revised version and hopefully, it's clean enough for you to understand. Highlighted orange and "OUT" means that we would like it taken out of the draft.

Please let me know if you have any further questions. Also, I have included some NR 101 language below that we would like included in the beginning.

We would like to put a RUSH on this, please. Representative Marklein would like to introduce it this session. Thank you for your patience.

Crystal Lee  
Legislative Assistant  
Office of State Representative Howard Marklein 51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

If you want to exclude permitted fish farms from NR 101 fees, an exemption could be created under s. 299.15, Stats. It may tie in nicely with the 75 federal issues statutory package where we are adding a definition of concentrated aquatic animal production (CAAP) facility in state statutes (the draft bill adds the federal definition for CAAP facilities to s. 283.01(1m) and 283.01(12)(a)).

Specifically, you could create the following statutory exemption:

Create 299.15(3)(f):

S. 299.15(3)(f) A concentrated aquatic animal production facility under s. 283.01(1m) is exempt from any environmental fees established under this subsection.

-----Original Message-----

From: Network Scanning  
Sent: Thursday, February 16, 2012 2:58 PM  
To: Lee, Crystal  
Subject: Message from "217NORTH"

This E-mail was sent from "217NORTH" (Aficio MP 6001).

Scan Date: 02.16.2012 14:57:48 (-0600)  
Queries to: networkscanning@legis.wisconsin.gov



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1772/1  
RCT&RNK:jld:rs

## 2011 BILL

1 AN ACT *to repeal* 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)  
2 (d); *to renumber and amend* 29.733 (2) (c) 1.; *to amend* 23.22 (1) (c), 23.22  
3 (2) (b) 6., 29.001 (76) (b), 29.733 (2) (a), 29.733 (2) (f), 30.40 (1), 95.60 (2) (a),  
4 95.60 (4) (c), 283.31 (8) (a) and 299.15 (3) (am) 3.; and *to create* 20.370 (4) (ad),  
5 29.733 (1) (c) 3., 36.58 (7), 95.60 (2) (e), 95.60 (4) (d), 281.17 (11) and 283.31 (5m)  
6 of the statutes; **relating to:** the regulation of aquaculture, invasive species,  
7 and making an appropriation.

---

### *Analysis by the Legislative Reference Bureau*

Current law requires the Department of Natural Resources (DNR) to establish a statewide program to control invasive species. This bill provides that the term "invasive species" does not include aquatic microbial pathogens. The bill also specifies that DNR rules may not identify or classify two species of fish, *gambusia affinis* and *gambusia holbrooki*, as invasive species.

#### AQUACULTURE

##### *Use of natural bodies of water*

Current law generally prohibits a person from using a natural body of water as a fish farm unless the person has been issued a permit from DNR (natural waters permit) and the body of water is a freeze-out pond or a preexisting fish rearing

**BILL**

facility. Under this bill, a person may also use a naturally occurring artesian flowage as a fish farm if the person has been issued a natural waters permit.

Generally, under current law, DNR must issue a natural waters permit for a qualified body of water if DNR determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be damaged. This bill provides that a natural waters permit, once issued, does not expire unless DNR finds that there has been a substantial change in circumstances related to DNR's initial determination concerning the body of water or finds that the body of water does not meet criteria established in rules promulgated by DNR.

This bill also prohibits DNR from promulgating rules that require DNR, before it issues a natural waters permit, to hold a hearing or provide notice that it will not hold a hearing.

***Wastewater discharge fees and permits***

Current law generally prohibits a person from discharging pollutants into the surface water or groundwater without a wastewater discharge permit from DNR. The law requires persons required to have permits, other than persons who operate livestock farms, to pay an annual wastewater discharge fee based in part on the amount of pollutants discharged. The fees are deposited into the general fund.

This bill exempts persons who operate fish farms from the wastewater discharge fee. The bill also requires this state to pay to each fish farm operator an amount equal to the total amount of wastewater discharge fees paid by the operator before this bill takes effect. The payment is from the general fund.

Current law requires a person who operates a livestock farm with a wastewater discharge permit to pay an annual fee of \$345, \$95 of which goes to DNR for its expenses in managing the state's water resources and the rest of which is deposited into the general fund.

This bill requires a person who operates a fish farm to pay the annual \$345 fee. The bill also requires DNR to include, in wastewater discharge permits for fish farms that produce more than 100,000 pounds of fish per year, requirements that are based on, and are not more stringent than, requirements in a specified regulation of the federal Environmental Protection Agency applicable to those fish farms.

***Wetlands***

Under current law, a person must obtain a water quality certification from DNR in order to discharge dredged or fill material into a wetland, with certain exceptions. Under its current rules, DNR applies a different analysis in determining whether to grant a water quality certification depending on whether the activity is or is not water or wetland dependent.

This bill requires DNR to consider the activities of constructing and operating a fish farm to be water or wetland dependent in determining whether to grant a water quality certification.

***Record-keeping***

Current law requires a person who operates a fish farm to keep records on purchases, sales, and production of fish and fish eggs and any other records required by the Department of Agriculture, Trade and Consumer Protection (DATCP).

**BILL**

This bill provides that a person who operates a fish farm is not required to keep records on the sale of fish to an individual for the individual's personal use.

***Importing fish***

Current law generally requires a person who brings fish or fish eggs into this state for the purpose of introduction into lakes or streams, of use as bait, or of rearing in a fish farm without an annual permit issued by DATCP.

This bill exempts a person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state from the requirement to have an importation permit if the person has a fish health certificate that covers the fish or fish eggs and that complies with DATCP's rules on fish health certificates.

Current law exempts DNR from the requirement to have a permit from DATCP to bring fish into this state. This bill eliminates that exemption.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 20.370 (4) (ad) of the statutes is created to read:

20.370 (4) (ad) *Refund of wastewater discharge fees.* From the general fund, a sum sufficient to refund wastewater discharge fees for concentrated aquatic animal production facilities, as required under 2011 Wisconsin Act ... (this act), section 23 (1).

**SECTION 2.** 23.22 (1) (c) of the statutes is amended to read:

23.22 (1) (c) "Invasive species" means nonindigenous species, other than aquatic microbial pathogens, whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

**SECTION 3.** 23.22 (2) (b) 6. of the statutes is amended to read:

23.22 (2) (b) 6. Promulgate rules to identify, classify, and control invasive species for purposes of the program. In promulgating these rules, the department shall consider the recommendations of the council under sub. (3) (a). As part of these rules, the department may establish procedures and requirements for issuing

\* INSERT  
NR 101 Lang.

1 OUT

**BILL**

**SECTION 3**

1 permits to control invasive species. The rules may not identify or classify gambusia  
2 affinis or gambusia holbrooki as invasive species.

3 *modify* **SECTION 4.** 29.001 (76) (b) of the statutes is amended to read:

4 29.001 (76) (b) A freeze-out pond, ~~or a naturally occurring artesian flowage.~~ *or other body approved by the Dept. of Nat. Res.*  
5 for which a permit is issued under s. 29.733 (2). *under a permit issued under - Ch 30 or 31.*

6 ~~SECTION 5. 29.733 (1) (c) 3. of the statutes is created to read:~~

7 ~~29.733 (1) (c) 3. A naturally occurring artesian flowage.~~ *IF a permit under Ch. 30 or 31 is approved, a permit under 29.733 is not Required.*

8 **SECTION 6.** 29.733 (2) (a) of the statutes is amended to read:

9 *?* 29.733 (2) (a) The department, subject to s. 29.024 (2g) and (2r), shall issue a  
10 permit under this subsection for a natural body of water specified under sub. (1) (c)  
11 1 or 3 if the department determines that no substantial public interest exists in the  
12 body of water and that no public or private rights in the body of water will be  
13 damaged.

14 **SECTION 7.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and  
15 amended to read:

16 29.733 (2) (c) The department, subject Subject to s. 29.024 (2g) and (2r), shall  
17 ~~renew~~ a permit issued under this subsection does not expire unless the department  
18 determines that there has been a substantial change in circumstances that is related  
19 to a determination made under par. (a) for the natural body of water or that is related  
20 to the application of the criteria promulgated under par. (f) to the body of water.

21 **SECTION 8.** 29.733 (2) (c) 2. of the statutes is repealed.

22 **SECTION 9.** 29.733 (2) (c) 3. of the statutes is repealed.

23 **SECTION 10.** 29.733 (2) (c) 4. of the statutes is repealed.

24 **SECTION 11.** 29.733 (2) (f) of the statutes is amended to read:

BILL

*Add: The Department shall post notice of the application on its website.*

1           29.733 (2) (f) The department shall promulgate rules to establish the fees,  
2 criteria and procedures to be used in issuing permits under this subsection. The  
3 rules may not require the department, before issuing a permit under this subsection,  
4 to hold a hearing or to provide notice to any person, other than the applicant, that  
5 the department will proceed on an application for a permit without a hearing.\*

*Keep*  
*Leave alone* →

~~SECTION 12.~~ 30.40 (1) of the statutes is amended to read:

7 30.40 (1) "Agricultural use" means beekeeping; dairying; egg production;  
8 feedlots; grazing; floriculture; aquaculture; raising of livestock; raising of poultry;  
9 raising of fruits, nuts and berries; raising of grains, grass, mint and seed crops;  
10 raising of vegetables; and sod farming.

11           SECTION 13. 36.58 (7) of the statutes is created to read:

12           36.58 (7) CONFIDENTIALITY OF RECORDS RELATING TO AQUACULTURE. Any  
13 information kept by the veterinary diagnostic laboratory that identifies the owners  
14 of farm-raised fish, as defined in s. 95.001 (1) (ah), and that relates to testing results  
15 or diagnosis is not subject to inspection or copying under s. 19.35 except as the  
16 veterinary diagnostic laboratory determines is necessary to protect the public  
17 health, safety, or welfare.

18           SECTION 14. 95.60 (2) (a) of the statutes is amended to read:

19           95.60 (2) (a) ~~No~~ Except as provided in par. (e), no person may bring any fish or  
20 fish eggs into this state for the purpose of introduction into the waters of the state,  
21 of use as bait or of rearing in a fish farm without an annual permit issued by the  
22 department.

23           SECTION 15. 95.60 (2) (d) of the statutes is repealed.

24           SECTION 16. 95.60 (2) (e) of the statutes is created to read:

**BILL****SECTION 16**

1           95.60 (2) (e) A person bringing fish or fish eggs from a fish farm in another state  
2 to a fish farm in this state is not required to have a permit under par. (a) if the person  
3 has a fish health certificate that covers the fish or fish eggs and that complies with  
4 the requirements for fish health certificates specified by the department by rule.

5           **SECTION 17.** 95.60 (4) (c) of the statutes is amended to read:

6           95.60 (4) (c) ~~A. Except as provided in par. (d), a person who operates a fish farm~~  
7 shall keep records on purchases, sales and production of fish and fish eggs and any  
8 other records required by the department by rule. The department may inspect these  
9 records upon request.

10          **SECTION 18.** 95.60 (4) (d) of the statutes is created to read:

11          95.60 (4) (d) A person who operates a fish farm is not required to keep records  
12 on the sale of fish to an individual for the individual's personal use.

13          \* *No person who purchases fish under this section may stock a*  
14          **SECTION 19.** 281.17 (11) of the statutes is created to read: *Public waterway.*

15          04H → 281.17 (11) If, in determining whether to issue water quality certifications  
16 under s. 281.36 (2) or under rules promulgated by the department to implement 33  
17 USC 1341 (a), the department considers whether proposed activities are water or  
18 wetland dependent, the department shall consider the activities of constructing and  
19 operating a fish farm, as defined in s. 95.001 (1) (aj), to be water or wetland  
20 dependent.

21          **SECTION 20.** 283.31 (5m) of the statutes is created to read:

22          283.31 (5m) PERMITS FOR CERTAIN CONCENTRATED AQUATIC ANIMAL PRODUCTION  
23 FACILITIES. The department shall include in permits issued under this section for  
24 concentrated aquatic animal production facilities described in 40 CFR 451.10  
25 requirements that are based on, and are not more stringent than, the requirements  
in 40 CFR 451.11.

## BILL

1 *out* SECTION 21. 283.31 (8) (a) of the statutes is amended to read:

2 283.31 (8) (a) The holder of a permit under this section for a concentrated  
3 animal feeding operation or a concentrated aquatic animal production facility shall  
4 annually pay to the department a fee of \$345.

5 *out* SECTION 22. 299.15 (3) (am) 3. of the statutes is amended to read:

6 299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be  
7 paid by each person required to obtain a permit under s. 283.31, other than a person  
8 who owns or operates a concentrated animal feeding operation or a concentrated  
9 aquatic animal production facility. After June 30, 1992, the fee to be paid by a person  
10 under this paragraph shall be an amount determined under a rule promulgated by  
11 the department and shall be based on those pollutants included in the permit under  
12 s. 283.31 that are specified by the department by rule, the environmental harm  
13 caused by the pollutants discharged, the quantity of the pollutants discharged and  
14 the quality of the water receiving the discharge.

15 *out* SECTION 23. **Nonstatutory provisions.**

16 (1) REFUND OF WASTEWATER DISCHARGE FEES. No later than the first day of the  
17 6th month beginning after the effective date of this subsection, the department of  
18 natural resources shall pay to each person who owns or operates a concentrated  
19 aquatic animal production facility, from the appropriation under section 20.370 (4)  
20 (ad) of the statutes, as created by this act, an amount equal to the total amount of  
21 wastewater discharge fees paid by the person under section 299.15 (3), 2009 stats.,  
22 before the effective date of this subsection because of discharges from the  
23 concentrated aquatic animal production facility.

24

(END)

**Tradewell, Becky**

---

**From:** Lee, Crystal  
**Sent:** Thursday, February 16, 2012 3:05 PM  
**To:** Tradewell, Becky; Kite, Robin  
**Cc:** Bruhn, Michael L - DNR  
**Subject:** FW: Aquaculture Draft

Also,

Sections 2 and 3 weren't highlighted and labeled "out," and they should be. We hadn't made that decision when I left, so I hadn't highlighted them...

Thanks!

*Crystal Lee*

Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

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**From:** Bruhn, Michael L - DNR [mailto:Michael.Bruhn@wisconsin.gov]  
**Sent:** Thursday, February 16, 2012 3:04 PM  
**To:** Lee, Crystal  
**Subject:** RE: Aquaculture Draft

Sections 2 and 3 weren't highlighted and labeled "out," and they should be. We hadn't made that decision when I left, so I hadn't highlighted them...

Michael Bruhn  
Legislative Liaison  
Wisconsin Department of Natural Resources  
( ) phone: (608) 266-5375  
( ) e-mail: michael.bruhn@wisconsin.gov  
Website: dnr.wi.gov  
Find us on Facebook: www.facebook.com/WIDNR

-----Original Message-----

**From:** Lee, Crystal [mailto:Crystal.Lee@legis.wisconsin.gov]  
**Sent:** Thursday, February 16, 2012 03:02 PM  
**To:** Kite, Robin - LEGIS; Tradewell, Becky - LEGIS  
**Cc:** Bruhn, Michael L - DNR; Marklein, Howard - LEGIS; Lee, Crystal - LEGIS  
**Subject:** FW: Aquaculture Draft

Robin & Becky,

Thank you for all your work on this. After we sat down with the DNR, they had a few revisions for the

2/16/2012



State of Wisconsin  
2011 - 2012 LEGISLATURE

Thurs 2/16/23



LRB-1772/2  
RCT&RNK:jld:rs

IMV

**2011 BILL**

D-Note

✓

regen

1 AN ACT *to repeal* 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)  
 2 (d); *to renumber and amend* 29.733 (2) (c) 1.; *to amend* 23.22 (1) (c), 23.22  
 3 (2) (b) 6., 29.001 (76) (b), 29.733 (2) (a), 29.733 (2) (f), 30.40 (1), 95.60 (2) (a),  
 4 95.60 (4) (c), 283.31 (8) (a) and 299.15 (3) (am) 3.; and *to create* 20.370 (4) (ad),  
 5 29.733 (1) (c) 3., 36.58 (7), 95.60 (2) (e), 95.60 (4) (d), 281.17 (11) and 283.31 (5m)  
 6 of the statutes; **relating to:** the regulation of aquaculture, ~~invasive species,~~  
 7 ~~and making an appropriation~~

**Analysis by the Legislative Reference Bureau**

Current law requires the Department of Natural Resources (DNR) to establish a statewide program to control invasive species. This bill provides that the term "invasive species" does not include aquatic microbial pathogens. The bill also specifies that DNR rules may not identify or classify two species of fish, gambusia affinis and gambusia holbrooki, as invasive species.

**AQUACULTURE**

**Use of natural bodies of water**

Current law generally prohibits a person from using a natural body of water as a fish farm unless the person has been issued a permit from DNR (natural waters permit) and the body of water is a freeze-out pond or a preexisting fish rearing

**BILL**

~~facility. Under this bill, a person may also use a naturally occurring artesian flowage as a fish farm if the person has been issued a natural waters permit.~~

~~Generally, under current law, DNR must issue a natural waters permit for a qualified body of water if DNR determines that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be damaged. This bill provides that a natural waters permit, once issued, does not expire unless DNR finds that there has been a substantial change in circumstances related to DNR's initial determination concerning the body of water or finds that the body of water does not meet criteria established in rules promulgated by DNR.~~

INS.  
ANALYSIS ✓  
PK \*

This bill also prohibits DNR from promulgating rules that require DNR, before it issues a natural waters permit, to hold a hearing or provide notice that it will not hold a hearing. ~~In addition, the bill requires DNR to post notice of every application for a natural water body permit on DNR's Internet web site.~~

**Wastewater discharge fees and permits**

Current law generally prohibits a person from discharging pollutants into the surface water or groundwater without a wastewater discharge permit from DNR. The law requires persons required to have permits, other than persons who operate livestock farms, to pay an annual wastewater discharge fee based in part on the amount of pollutants discharged. The fees are deposited into the general fund.

This bill exempts persons who operate fish farms from the wastewater discharge fee. ~~The bill also requires this state to pay to each fish farm operator an amount equal to the total amount of wastewater discharge fees paid by the operator before this bill takes effect. The payment is from the general fund.~~

~~Current law requires a person who operates a livestock farm with a wastewater discharge permit to pay an annual fee of \$345, \$95 of which goes to DNR for its expenses in managing the state's water resources and the rest of which is deposited into the general fund.~~

~~This bill requires a person who operates a fish farm to pay the annual \$345 fee.~~

⊕ The bill also requires DNR to include, in wastewater discharge permits for fish farms that produce more than 100,000 pounds of fish per year, requirements that are based on, and are not more stringent than, requirements in a specified regulation of the federal Environmental Protection Agency applicable to those fish farms.

**Wetlands**

~~Under current law, a person must obtain a water quality certification from DNR in order to discharge dredged or fill material into a wetland, with certain exceptions. Under its current rules, DNR applies a different analysis in determining whether to grant a water quality certification depending on whether the activity is or is not water or wetland dependent.~~

~~This bill requires DNR to consider the activities of constructing and operating a fish farm to be water or wetland dependent in determining whether to grant a water quality certification.~~

**Record-keeping**

Current law requires a person who operates a fish farm to keep records on purchases, sales, and production of fish and fish eggs and any other records required by the Department of Agriculture, Trade and Consumer Protection (DATCP).

**BILL**

This bill provides that a person who operates a fish farm is not required to keep records on the sale of fish to an individual for the individual's personal use.

***Importing fish***

Current law generally requires a person who brings fish or fish eggs into this state for the purpose of introduction into lakes or streams, of use as bait, or of rearing in a fish farm without an annual permit issued by DATCP.

This bill exempts a person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state from the requirement to have an importation permit if the person has a fish health certificate that covers the fish or fish eggs and that complies with DATCP's rules on fish health certificates.

Current law exempts DNR from the requirement to have a permit from DATCP to bring fish into this state. This bill eliminates that exemption.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

~~SECTION 1. 20.370 (4) (ad) of the statutes is created to read:~~

~~20.370 (4) (ad) *Refund of wastewater discharge fees.* From the general fund, a sum sufficient to refund wastewater discharge fees for concentrated aquatic animal production facilities, as required under 2011 Wisconsin Act ... (this act), section 23 (1).~~

~~SECTION 2. 23.22 (1) (c) of the statutes is amended to read:~~

~~23.22 (1) (c) "Invasive species" means nonindigenous species, other than aquatic microbial pathogens, whose introduction causes or is likely to cause economic or environmental harm or harm to human health.~~

~~SECTION 3. 23.22 (2) (b) 6. of the statutes is amended to read:~~

~~23.22 (2) (b) 6. Promulgate rules to identify, classify, and control invasive species for purposes of the program. In promulgating these rules, the department shall consider the recommendations of the council under sub. (3) (a). As part of these rules, the department may establish procedures and requirements for issuing~~

**BILL**

**SECTION 3**

Q

1 permits to control invasive species. ~~The rules may not identify or classify gambusia~~  
2 ~~affinis or gambusia holbrooki as invasive species.~~

3 **SECTION 4.** 29.001 (76) (b) of the statutes is amended to read:

4 29.001 (76) (b) A freeze-out pond, or a naturally occurring artesian flowage,  
5 for which a permit is issued under s. 29.733 (2).

6 **SECTION 5.** 29.733 (1) (c) 3. of the statutes is created to read:

7 29.733 (1) (c) 3. A naturally occurring artesian flowage.

8 **SECTION 6.** 29.733 (2) (a) of the statutes is amended to read:

9 29.733 (2) (a) The department, subject to s. 29.024 (2g) and (2r), shall issue a  
10 permit under this subsection for a natural body of water specified under sub. (1) (c)  
11 1. or 3. if the department determines that no substantial public interest exists in the  
12 body of water and that no public or private rights in the body of water will be  
13 damaged.

INS.  
4-13

14 **SECTION 7.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and  
15 amended to read:

16 29.733 (2) (c) ~~The department, subject~~ Subject to s. 29.024 (2g) and (2r), shall  
17 renew a permit issued under this subsection does not expire unless the department  
18 determines that there has been a substantial change in circumstances that is related  
19 to a determination made under par. (a) for the natural body of water or that is related  
20 to the application of the criteria promulgated under par. (f) to the body of water.

21 **SECTION 8.** 29.733 (2) (c) 2. of the statutes is repealed.

22 **SECTION 9.** 29.733 (2) (c) 3. of the statutes is repealed.

23 **SECTION 10.** 29.733 (2) (c) 4. of the statutes is repealed.

24 **SECTION 11.** 29.733 (2) (f) of the statutes is amended to read:

**BILL**

1           29.733 (2) (f) The department shall promulgate rules to establish the fees,  
2 criteria and procedures to be used in issuing permits under this subsection. The  
3 rules may not require the department, before issuing a permit under this subsection,  
4 to hold a hearing or to provide notice to any person, other than the applicant, that  
5 the department will proceed on an application for a permit without a hearing.

6           **SECTION 12.** 30.40 (1) of the statutes is amended to read:

7           30.40 (1) "Agricultural use" means beekeeping; dairying; egg production;  
8 feedlots; grazing; floriculture; aquaculture; raising of livestock; raising of poultry;  
9 raising of fruits, nuts and berries; raising of grains, grass, mint and seed crops;  
10 raising of vegetables; and sod farming.

11           **SECTION 13.** 36.58 (7) of the statutes is created to read:

12           36.58 (7) CONFIDENTIALITY OF RECORDS RELATING TO AQUACULTURE. Any  
13 information kept by the veterinary diagnostic laboratory that identifies the owners  
14 of farm-raised fish, as defined in s. 95.001 (1) (ah), and that relates to testing results  
15 or diagnosis is not subject to inspection or copying under s. 19.35 except as the  
16 veterinary diagnostic laboratory determines is necessary to protect the public  
17 health, safety, or welfare.

18           **SECTION 14.** 95.60 (2) (a) of the statutes is amended to read:

19           95.60 (2) (a) ~~No~~ Except as provided in par. (e), no person may bring any fish or  
20 fish eggs into this state for the purpose of introduction into the waters of the state,  
21 of use as bait or of rearing in a fish farm without an annual permit issued by the  
22 department.

23           **SECTION 15.** 95.60 (2) (d) of the statutes is repealed.

24           **SECTION 16.** 95.60 (2) (e) of the statutes is created to read:

**BILL**

1           95.60 (2) (e) A person bringing fish or fish eggs from a fish farm in another state  
2 to a fish farm in this state is not required to have a permit under par. (a) if the person  
3 has a fish health certificate that covers the fish or fish eggs and that complies with  
4 the requirements for fish health certificates specified by the department by rule.

5           **SECTION 17.** 95.60 (4) (c) of the statutes is amended to read:

6           95.60 (4) (c) ~~A~~ Except as provided in par. (d), a person who operates a fish farm  
7 shall keep records on purchases, sales and production of fish and fish eggs and any  
8 other records required by the department by rule. The department may inspect these  
9 records upon request.

10           **SECTION 18.** 95.60 (4) (d) of the statutes is created to read:

11           95.60 (4) (d) A person who operates a fish farm is not required to keep records  
12 on the sale of fish to an individual for the individual's personal use.

13           **SECTION 19.** 281.17 (11) of the statutes is created to read:

14           281.17 (11) If, in determining whether to issue water quality certifications  
15 under s. 281.36 (2) or under rules promulgated by the department to implement 33  
16 USC 1341 (a), the department considers whether proposed activities are water or  
17 wetland dependent, the department shall consider the activities of constructing and  
18 operating a fish farm, as defined in s. 95.001 (1) (aj), to be water or wetland  
19 dependent.

20           **SECTION 20.** 283.31 (5m) of the statutes is created to read:

21           283.31 (5m) **PERMITS FOR CERTAIN CONCENTRATED AQUATIC ANIMAL PRODUCTION**  
22 **FACILITIES.** The department shall include in permits issued under this section for  
23 concentrated aquatic animal production facilities described in 40 CFR 451.10  
24 requirements that are based on, and are not more stringent than, the requirements  
25 in 40 CFR 451.11.

*A person who buys fish under this paragraph may not introduce the fish into a public water body.*

**BILL**

**SECTION 21.** 283.31 (8) (a) of the statutes is amended to read:

283.31 (8) (a) The holder of a permit under this section for a concentrated animal feeding operation or a concentrated aquatic animal production facility shall annually pay to the department a fee of \$345.

**SECTION 22.** 299.15 (3) (am) 3. of the statutes is amended to read:

299.15 (3) (am) 3. After June 30, 1992, the fee under this paragraph shall be paid by each person required to obtain a permit under s. 283.31, other than a person who owns or operates a concentrated animal feeding operation or a concentrated aquatic animal production facility. After June 30, 1992, the fee to be paid by a person under this paragraph shall be an amount determined under a rule promulgated by the department and shall be based on those pollutants included in the permit under s. 283.31 that are specified by the department by rule, the environmental harm caused by the pollutants discharged, the quantity of the pollutants discharged and the quality of the water receiving the discharge.

**SECTION 23. Nonstatutory provisions.**

(1) REFUND OF WASTEWATER DISCHARGE FEES. No later than the first day of the 6th month beginning after the effective date of this subsection, the department of natural resources shall pay to each person who owns or operates a concentrated aquatic animal production facility, from the appropriation under section 20.370 (4) (ad) of the statutes, as created by this act, an amount equal to the total amount of wastewater discharge fees paid by the person under section 299.15 (3), 2009 stats., before the effective date of this subsection because of discharges from the concentrated aquatic animal production facility.

Note →

made

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Section #. CR, 299.15(3)(F) (END)  
299.15(3)(F) Notwithstanding par. (a), a person who owns or operates a concentrated aquatic animal production facility is not required to pay the wastewater discharge environmental fee under this subsection.

INSERT ANALYSIS RK  
Department of Natural Resources (DNR) issues  
the

Under current law, a person may not use a natural body of water as a fish farm unless the water body is a freeze-out pond or preexisting fish rearing facility and unless the person is issued a permit by DNR (natural water body permit). The person and the water body must also meet certain additional conditions. One of those conditions requires the department to determine that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be damaged (interest and rights determination). This bill provides that the requirement to obtain a natural water body permit, the requirement that the water body be a freeze-out pond or preexisting fish rearing facility, and the requirement that DNR make an interest and rights determination do not apply to a person seeking to use a natural body of water as a fish farm if the person has been issued a permit with respect to that body of water that authorizes the person to change the course of or straighten a stream, to enlarge a waterway, or to construct a dam. DNR

Generally, under current law, DNR must renew a natural water body permit unless DNR finds that there has been a substantial change in circumstances related to DNR's interest and rights determination. This bill provides that a natural water body permit, once issued, does not expire unless DNR makes such a finding.

INSERT 4-13

1           **SECTION 1.** 29.733 (1) (c) 3. of the statutes is created to read:

2           29.733 (1) (c) 3. A body of water for which the department has issued a permit  
3 under s. 30.19, 30.195, or 31.04.

4           **SECTION 2.** 29.733 (1) (d) of the statutes is amended to read:

5           29.733 (1) (d) If the department has not issued a permit for the body of water  
6 under s. 30.19, 30.195, or 31.04, a permit for the body of water has been issued under  
7 sub. (2).

History: 1997 a. 27, 191, 237; 1997 a. 248 s. 581; Stats; 1997 s. 29.733; 1999 a. 32.

8           **SECTION 3.** 29.733 (1m) of the statutes is created to read:

9           29.733 (1m) The department shall post notice of every application submitted  
10 to the department under this section on the department's Internet web site.

(end ins 4-13)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1772/2dn

RCT+ RNK:.....

date

JLD

Crystal:

I drafted the part of this proposal that concerns permits issued for natural bodies of water used for fish farming under s. 29.733. At your request, I spoke with Mike Bruhn at DNR for clarification of the redraft instructions that I received with regard to this item. This redraft reflects my understanding of the issue based on my discussion with Mike Bruhn.

Under this redraft, a person who receives a permit from DNR under s. 30.19, 30.195, or 31.04 may be eligible to use a natural body of water without obtaining a permit under s. 29.733, although that person must still meet some of the other requirements under s. 29.733. Please note that s. 29.024(2g) and (2r) in current law prohibits the issuance of a permit under s. 29.733 based on child support or tax delinquency. Under this draft, a person who is authorized under s. 29.733 to use a natural body of water as a fish farm based on a permit issued under s. 30.19, 30.195, or 31.04 rather than a permit issued under s. 29.733 is not subject to the prohibitions established in s. 29.024 (2g) or (2r). Is this consistent with your intent?

Also, under this draft, a permit issued under s. 29.733 does not expire unless DNR determines that there has been a substantial in circumstances with regard to certain public and private interests and rights in the body of water. The draft does not change current law with regard to the expiration of a permit issued under s. 30.19, 30.195, or 31.04. Is this consistent with your intent?

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

environmental

\* As redrafted, a person who operates a fish farm is not required to pay the wastewater discharge fee under s. 299.15 or the \$345 fee that currently applies to concentrated animal feeding operations. The proposed language for the fee exemption under s.



299.15 included a reference to s. 283.01 (1m). Because that provision does not exist (it is only proposed in another draft), it is not possible to include the reference to it.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1772/2dn  
RCT&RNK:jld:rs

February 22, 2012

Crystal:

I drafted the part of this proposal that concerns permits issued for natural bodies of water used for fish farming under s. 29.733. At your request, I spoke with Mike Bruhn at DNR for clarification of the redraft instructions that I received with regard to this item. This redraft reflects my understanding of the issue based on my discussion with Mike Bruhn.

Under this redraft, a person who receives a permit from DNR under s. 30.19, 30.195, or 31.04 may be eligible to use a natural body of water without obtaining a permit under s. 29.733, although that person must still meet some of the other requirements under s. 29.733. Please note that s. 29.024 (2g) and (2r) in current law prohibits the issuance of a permit under s. 29.733 based on child support or tax delinquency. Under this draft, a person who is authorized under s. 29.733 to use a natural body of water as a fish farm based on a permit issued under s. 30.19, 30.195, or 31.04 rather than a permit issued under s. 29.733 is not subject to the prohibitions established in s. 29.024 (2g) or (2r). Is this consistent with your intent?

Also, under this draft, a permit issued under s. 29.733 does not expire unless DNR determines that there has been a substantial in circumstances with regard to certain public and private interests and rights in the body of water. The draft does not change current law with regard to the expiration of a permit issued under s. 30.19, 30.195, or 31.04. Is this consistent with your intent?

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

As redrafted, a person who operates a fish farm is not required to pay the wastewater discharge environmental fee under s. 299.15 or the \$345 fee that currently applies to concentrated animal feeding operations. The proposed language for the fee exemption

under s. 299.15 included a reference to s. 283.01 (1m). Because that provision does not exist (it is only proposed in another draft), it is not possible to include the reference to it.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

**Parisi, Lori**

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**From:** Rep.Marklein  
**Sent:** Thursday, February 23, 2012 10:50 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-1772/2 Topic: Changes related to aquaculture

Please Jacket LRB 11-1772/2 for the ASSEMBLY.

**Kite, Robin**

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**From:** Lee, Crystal  
**Sent:** Tuesday, February 28, 2012 10:14 AM  
**To:** Kite, Robin; Tradewell, Becky  
**Cc:** Marklein, Howard; Lee, Crystal; Meinholz, Susan  
**Subject:** FW: Aquaculture Amendment

**Importance:** High

Robin & Becky,

DNR found an additional source of concern in our legislation. Could we get an amendment drafted to remove any changes to the definition of "Agricultural Use" on Page 4, Lines 3-7?

Also, I believe Senator Holperin wanted a senate version drafted, so I will give permission to release this draft to his office.

Please let me know if you have any questions or concerns.

Sincerely,

*Crystal Lee*

Legislative Assistant  
Office of State Representative Howard Marklein  
51st Assembly District  
608-266-7502  
Crystal.Lee@legis.wi.gov

#1 Preferred recommendation

- Page 4, Lines 3-7; Recommend no change to the definition of "Agricultural Use" under 30.40(1)

*per Crystal 2/29/12  
Prepare as redraft of 1772 instead  
of amendment*



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run  
3

LRB-1772/2

RCT&RNK;jld:rs

stays

## 2011 BILL

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1 AN ACT *to repeal* 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)  
 2 (d); *to renumber and amend* 29.733 (2) (c) 1.; *to amend* 29.733 (1) (d), 29.733  
 3 (2) (f), 30.40 (1), 95.60 (2) (a) and 95.60 (4) (c); and *to create* 29.733 (1) (c) 3.,  
 4 29.733 (1m), 36.58 (7), 95.60 (2) (e), 95.60 (4) (d), 283.31 (5m) and 299.15 (3) (f)  
 5 of the statutes; **relating to:** the regulation of aquaculture.

### *Analysis by the Legislative Reference Bureau*

#### AQUACULTURE

##### *Use of natural bodies of water*

Under current law, a person may not use a natural body of water as a fish farm unless the water body is a freeze-out pond or preexisting fish rearing facility and unless the Department of Natural Resources (DNR) issues person a permit (natural water body permit). The person and the water body must also meet certain additional conditions. One of those conditions requires DNR to determine that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be damaged (interest and rights determination). This bill provides that the requirement to obtain a natural water body permit, the requirement that the water body be a freeze-out pond or preexisting fish rearing facility, and the requirement that DNR make an interest and rights determination do not apply to a person seeking to use a natural body of water as a fish farm if the person has been issued a permit with respect to that body of water that authorizes

**BILL**

the person to change the course of or straighten a stream, to enlarge a waterway, or to construct a dam.

Generally, under current law, DNR must renew a natural water body permit unless DNR finds that there has been a substantial change in circumstances related to DNR's interest and rights determination. This bill provides that a natural water body permit, once issued, does not expire unless DNR makes such a finding.

This bill also prohibits DNR from promulgating rules that require DNR, before it issues a natural water body permit, to hold a hearing or provide notice that it will not hold a hearing. In addition, the bill requires DNR to post notice of every application for a natural water body permit on DNR's Internet Web site.

***Wastewater discharge permits***

Current law generally prohibits a person from discharging pollutants into the surface water or groundwater without a wastewater discharge permit from DNR. The law requires persons required to have permits, other than persons who operate livestock farms, to pay an annual wastewater discharge fee based in part on the amount of pollutants discharged. The fees are deposited into the general fund.

This bill exempts persons who operate fish farms from the wastewater discharge fee.

The bill also requires DNR to include, in wastewater discharge permits for fish farms that produce more than 100,000 pounds of fish per year, requirements that are based on, and are not more stringent than, requirements in a specified regulation of the federal Environmental Protection Agency applicable to those fish farms.

***Record-keeping***

Current law requires a person who operates a fish farm to keep records on purchases, sales, and production of fish and fish eggs and any other records required by the Department of Agriculture, Trade and Consumer Protection (DATCP).

This bill provides that a person who operates a fish farm is not required to keep records on the sale of fish to an individual for the individual's personal use.

***Importing fish***

Current law generally requires a person who brings fish or fish eggs into this state for the purpose of introduction into lakes or streams, of use as bait, or of rearing in a fish farm without an annual permit issued by DATCP.

This bill exempts a person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state from the requirement to have an importation permit if the person has a fish health certificate that covers the fish or fish eggs and that complies with DATCP's rules on fish health certificates.

Current law exempts DNR from the requirement to have a permit from DATCP to bring fish into this state. This bill eliminates that exemption.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**BILL**

1           **SECTION 1.** 29.733 (1) (c) 3. of the statutes is created to read:

2           29.733 (1) (c) 3. A body of water for which the department has issued a permit  
3 under s. 30.19, 30.195, or 31.04.

4           **SECTION 2.** 29.733 (1) (d) of the statutes is amended to read:

5           29.733 (1) (d) ~~A~~ If the department has not issued a permit for the body of water  
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11           **SECTION 4.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and  
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13           29.733 (2) (c) ~~The department, subject~~ Subject to s. 29.024 (2g) and (2r), shall  
14 ~~renew~~ a permit issued under this subsection does not expire unless the department  
15 determines that there has been a substantial change in circumstances that is related  
16 to a determination made under par. (a) for the natural body of water or that is related  
17 to the application of the criteria promulgated under par. (f) to the body of water.

18           **SECTION 5.** 29.733 (2) (c) 2. of the statutes is repealed.

19           **SECTION 6.** 29.733 (2) (c) 3. of the statutes is repealed.

20           **SECTION 7.** 29.733 (2) (c) 4. of the statutes is repealed.

21           **SECTION 8.** 29.733 (2) (f) of the statutes is amended to read:

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## BILL

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25 the requirements for fish health certificates specified by the department by rule.

