

Proposed Final Draft
November 30, 1998

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection proposes
2 the following order to amend ATCP 10.02(title) and (4); and to create ATCP 10.025,
3 10.68, 11.58 and 11.59; relating to fish farms, fish diseases and imports of live fish and
4 fish eggs.

**Analysis Prepared by the Department of Agriculture,
Trade and Consumer Protection**

Statutory authority: ss. 93.07(1), 95.60(4s)(a) to (e) and (5), Wis. Stats.
Statutes interpreted: ss. 93.07(10) and 95.60 Wis. Stats.

This rule implements s. 95.60, Stats., by doing all of the following:

- Establishing fish farm registration requirements.
- Regulating imports of live fish and fish eggs.
- Establishing health standards for fish introduced into the waters of the state.
- Requiring persons to report certain fish disease findings to the department.

The department prepared this rule in consultation with the Wisconsin aquaculture industry and the Wisconsin department of natural resources.

Fish Farms

Annual Registration

Under s. 95.60, Stats., the department of agriculture, trade and consumer protection (DATCP) must annually register fish farms in Wisconsin. This new registration program

replaces an annual licensing program previously administered by the department of natural resources (DNR).

Who Must Register

Under this rule, a person (including the state of Wisconsin or an agency of the state) operating a fish farm for any of the following purposes must hold an annual fish farm registration certificate from DATCP:

- Hatching fish eggs or holding live fish for any of the following purposes:
 - * Sale or distribution.
 - * Introduction into the waters of the state.
 - * Fishing.
 - * Use as bait or fertilizer.
 - * Use as human food or animal feed.
 - * Education, demonstration or research.
- Holding live fish or fish eggs owned by another person.

Exemptions

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

- Hatch or hold "ornamental" fish (including goldfish, koi, tropical freshwater fish that cannot survive in temperatures below 38°F, and saltwater fish) unless commingled with non-ornamental fish or reared for bait, human food or animal feed.
- Hold bait fish under a bait dealer license issued by the Wisconsin department of natural resources (DNR).
- Hatch or hold fish in a fully enclosed building solely for purposes of demonstration, education or research within that building, provided that no untreated water used to hold those fish is discharged to waters of the state.
- Exhibit fish in a public forum for not more than 15 days in a calendar year, or for a longer period of time which the department authorizes in writing.
- Hold fish 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 the facility does not discharge to waters of the state any untreated water used to hold or process those fish.

- Transport live fish or fish eggs to or from a fish farm.

Type 1 or Type 2 Registration

This rule establishes 2 types of fish farm registration:

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

Annual Expiration Date

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

Persons Operating 2 or More Fish Farms

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

Applying for a Registration Certificate

To obtain or renew a registration certificate, a fish farm operator must file an application with DATCP. The application must include:

- The name, address and telephone number of the fish farm operator.
- The fish farm location.
- The required fee (see below).
- The name, address and telephone number of the individual responsible for administering the fish farm on behalf of the operator, if other than the operator.
- Each species of fish hatched or kept at the fish farm.
- A description of the fish farm, including fish farm facilities and activities.

- A statement indicating whether the operator seeks a type 1 or type 2 registration certificate.
- A fish farm health certificate (see below).

DATCP must grant or deny an application for a fish farm registration certificate within 30 days after the department receives a complete application.

Registration Fees

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

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

The following persons are exempt from fish farm registration fees:

- A bona fide scientific research organization that is operating a fish farm solely for the purpose of scientific research.
- A primary or secondary school.
- The state of Wisconsin and its agencies.

A person applying for a fish farm registration certificate must pay, in addition to the normal annual registration fee, a surcharge equal to the amount of that fee if DATCP determines that, within 365 days prior to submitting an application, the applicant operated a fish farm without a required registration certificate.

Type 1 Fish Farm; Annual Health Certificate

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

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

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

Type 2 Fish Farm; Annual Health Certificate

Under this rule, no person may obtain a type 2 fish farm registration certificate for any calendar year beginning after December 31, 2001 unless an accredited veterinarian or certified fish inspector issues a health certificate for that fish farm not earlier than January 1 of the preceding calendar year.

The accredited veterinarian or certified fish inspector must issue the annual health certificate on a form provided by the department, based on a personal inspection of the fish farm. The accredited veterinarian or certified fish inspector must use inspection, sampling and diagnostic methods specified by the department on the certification form.

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

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

The accredited veterinarian or certified fish inspector who issues an annual health certificate must file the original certificate with the department, and must provide at least 2 copies to the fish farm operator. The fish farm operator must include a copy with the operator's application for a fish farm registration certificate.

Denying, Suspending or Revoking a Registration Certificate

DATCP may deny, suspend or revoke a fish farm registration certificate for cause. Grounds include:

- Filing an incomplete or fraudulent application, or misrepresenting any information on an application.
- Violating ch. 95, Stats., or department rules.
- Violating the terms of the registration certificate.
- Interfering with inspection.
- Failing to keep or provide required records.

Recordkeeping

A fish farm operator must keep the following records related to fish or fish eggs which the operator ships from or receives at the fish farm:

- The name, address, and fish farm registration number if any, of the person from whom the operator received, or to whom the operator delivered fish or fish eggs.
- The date on which the operator received or delivered the fish or fish eggs.
- The location at which the operator received or delivered the fish or fish eggs.
- The size or class, quantity and species of fish or fish eggs received or delivered.

An operator must retain these records for at least 5 years, and must make them available to the department, upon request, for inspection and copying.

Fish Source

Under this rule, no person selling or distributing fish or fish eggs may misrepresent, directly or by implication, the source or disposition of those fish or fish eggs. A person transporting fish or fish eggs from a fish farm shall have documentary evidence showing that the person obtained those fish from that fish farm. Evidence may include a bill of sale, bill of lading, import permit, health certificate, certificate of veterinary inspection or other document which identifies the fish farm.

Live Fish Imports

Annual Import Permit Required

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

- Introducing the live fish or fish eggs into waters of the state.
- Using the live fish or fish eggs as bait.
- Holding the live fish or hatching the fish eggs at a fish farm for which a registration certificate is required under this rule.
- Selling or distributing the live fish or fish eggs for any of the above purposes.

Import Permit; Exemptions

There are some exemptions to this import permit requirement. No permit is required to import any of the following:

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

Issuing an Import Permit

The department may issue an import permit for all or part of a calendar year, based on a permit application from the importer. An importer may, at any time, apply for an amendment to an annual import permit.

Import Shipments

A single annual permit authorizes multiple import shipments, as long as the importer complies with the terms of the permit. A copy of the annual permit must accompany each import permit.

Import Recipients

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

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

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

Import Permit; Contents

An import permit must specify all of the following:

- The expiration date of the import permit. An import permit expires on December 31 of the year for which it is issued, unless DATCP specifies an earlier expiration date.
- The name, address and telephone number of the permit holder.
- Each species of fish or fish eggs that the permit holder may import under the permit.
- The size or class of fish of each species, and quantity of fish or fish eggs of each species, that the permit holder may import under the permit.
- The sources from which the permit holder may import fish or fish eggs under the permit. The permit may incorporate, by reference, sources identified in the permit application.
- The type of import recipients to which the permit holder may import fish or fish eggs under the permit.

Applying for an Annual Import Permit

A person must apply for an annual import permit on a form provided by DATCP. There is no fee. A permit application must include all of the following:

- The applicant's name, address and telephone number.
- Each species of fish or fish eggs that the applicant proposes to import.
- The size or class of fish of each species, and the quantity of fish or fish eggs of each species, that the applicant proposes to import.
- Every wild source from which the applicant proposes to capture and import fish or fish eggs.
- The name, address and telephone number of every fish farm from which the applicant proposes to import fish or fish eggs, and a copy of any annual health certificate issued for that out-of-state fish farm under this rule (see below).
- The type of import recipient to whom the applicant proposes to import fish or fish eggs.

Action on Permit Application

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

Denying, Suspending or Revoking an Import Permit

DATCP may deny, suspend or revoke an import permit for cause, including any of the following:

- Filing an incomplete or fraudulent permit application, or misrepresenting any information on a permit application.
- Violating ch. 95, Stats., or DATCP rules.
- Violating the terms of the import permit.
- Interfering with inspection.
- Failing to keep or provide required records.

Import Records

A person importing fish or fish eggs under a DATCP permit must keep all of the following records related to each import shipment:

- The date of the import shipment.
- The wild source, if any, from which the importer obtained the imported fish or fish eggs.
- The name, address and telephone number of the fish farm, if any, from which the importer obtained the imported fish or fish eggs.
- The name, address and telephone number of the person receiving the import shipment if that person is not the importer. The importer must also record the recipient's fish farm registration number, stocking permit number and bait dealer license number, if any.
- The location at which the import shipment was received in this state.
- The size or class, quantity and species of fish or fish eggs included in the import shipment.

An importer must retain these records for at least 5 years, and must provide them to DATCP upon request. DATCP may suspend or revoke an import permit if the importer fails to provide the required records.

Health Certificate Required

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

- The import shipment is accompanied by a health certificate issued for that particular shipment (see below).
- The import shipment originates from a fish farm and all of the following apply:
 - * The shipment is labeled with the name and address of that fish farm.
 - * No fish or fish eggs in the import shipment were ever collected from a wild source.
 - * An accredited veterinarian or certified fish inspector has issued an annual health certificate for that fish farm (see below), and has filed a copy with DATCP.
 - * The importer has included a copy of the annual fish farm health certificate with the importer's application for an annual import permit or, if DNR is the importer, DNR has provided a copy of the annual fish farm health certificate to the department.

Health Certificate for Individual Import Shipment

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

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

- * White sturgeon iridovirus (WSI) if the import shipment includes sturgeon.
 - * Other diseases, if any, which the department specifies on the certification form.
- The accredited veterinarian or certified fish inspector who issues the health certificate must file the original certificate with the department, and must provide at least 2 copies to the importer. The importer must include a copy with the import shipment.

Fish Imported from Fish Farm; Annual Health Certificate

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

- An accredited veterinarian or certified fish inspector must issue the annual health certificate in the state of origin, on a form provided by the department, based on a personal inspection of the fish farm. The accredited veterinarian or certified fish inspector must use inspection, sampling and diagnostic methods specified by the department on the certification form.
- The annual health certificate must certify that the fish farm is free of all the following:
 - * Visible signs of infectious or contagious disease.
 - * Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*, or *WD*), if the health certificate is used for imports of salmonids.
 - * White sturgeon iridovirus (WSI) if the health certificate is used for imports of sturgeon.
 - * Other diseases, if any, which the department specifies on the certification form.
- The accredited veterinarian or certified fish inspector who issues the annual health certificate must file the original certificate with the department, and must provide at least 2 copies to the fish farm operator. The importer must include a copy with the importer's application for an annual import permit.

Health Standards For Fish Introduced Into Waters of the State

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

Health Standards for Salmonids

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

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

Health Standards for Other Fish

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

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

Issuing a Health Certificate

An accredited veterinarian or certified fish inspector must issue a health certificate on a form provided by the department, based on a personal inspection of the fish or fish farm. The accredited veterinarian or certified fish inspector must use inspection, sampling and diagnostic methods specified by the department on the certification form and must file the original certificate with the department.

Knowingly Introducing Diseased Fish into Waters of the State

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

Reportable Diseases

Under this rule, a person who diagnoses or finds evidence of any of the following diseases must report that diagnosis or finding to DATCP, in writing or by telefax, within 10 days:

- Any aquatic animal disease that is foreign or exotic to Wisconsin.
- Channel catfish virus (CCV).
- Enteric septicemia of catfish (ESC).
- Infectious hematopoietic necrosis virus (IHN).
- White sturgeon iridovirus (WSI).
- Mycobacteriosis infection.
- Proliferative kidney disease.
- *Streptococcus iniae*.
- Viral hemorrhagic septicemia (VHS).
- Whirling disease (*Myxobolus cerebralis*, or *WD*).

1 **SECTION 1.** ATCP 10.02(title) is amended to read:

2 **ATCP 10.02(title) REPORTABLE DISEASES; GENERAL.**

3 **SECTION 2.** ATCP 10.02(4) is amended to read:

1 ATCP 10.02(4) EXEMPTION. This section does not require a veterinarian to
2 report a diagnosis or finding made by the department or the Wisconsin department of
3 health and ~~social~~ family services.

4 **SECTION 3.** ATCP 10.025 is created to read:

5 **ATCP 10.025 REPORTABLE DISEASES; FISH.** (1) REPORT

6 REQUIRED. A person who diagnoses or finds evidence of any of the following diseases
7 in this state shall report that diagnosis or finding to the department, in writing or by
8 telefax, within 10 days after making the diagnosis or finding:

9 (a) Any aquatic animal disease that is foreign or exotic to Wisconsin.

10 (b) Channel catfish virus (CCV).

11 (c) Enteric septicemia of catfish (ESC).

12 (d) Infectious hematopoietic necrosis virus (IHN).

13 (e) White sturgeon iridovirus (WSI).

14 (f) Mycobacteriosis infection.

15 (g) Proliferative kidney disease (PKD).

16 (h) *Streptococcus iniae*.

17 (i) Viral hemorrhagic septicemia (VHS).

18 (j) Whirling disease (*Myxobolus cerebralis*, or *WD*).

19 (2) EXEMPTION. Subsection (1) does not require a person to report a diagnosis
20 or finding made by the department or the Wisconsin department of health and family
21 services.

22 **SECTION 4.** ATCP 10.68 is created to read:

1 **ATCP 10.68 FISH FARMS.** (1) DEFINITIONS. In this section:

2 (a) "Certified fish inspector" means any of the following:

3 1. An individual who is currently certified by the American fisheries society as a
4 fish health inspector or fish pathologist.

5 2. An individual whom a state authorizes and the department approves to certify,
6 on behalf of that state, the health of fish in that state.

7 (b) "Commingled" means kept or brought in contact with other fish or fish eggs
8 in any environment which permits direct contact between fish or use of the same water
9 system.

10 (c) "Fish farm" means a facility at which a person hatches fish eggs or holds live
11 fish.

12 (d) "Food processing plant" means a facility licensed under s. 97.29, Stats.

13 (e) "Individual" means a natural person.

14 (f) "Operator" means a person who owns or controls a fish farm. "Operator"
15 includes the operator's employees and agents.

16 (g) "Ornamental fish" means goldfish, koi, tropical freshwater fish that cannot
17 survive in temperatures below 38°F, saltwater fish and other fish which the department
18 designates in writing.

19 NOTE: You may obtain a current list of fish designated as "ornamental fish" by
20 contacting the department at the following address:

21
22 Wisconsin Department of Agriculture, Trade and Consumer Protection
23 Division of Animal Health
24 P.O. Box 8911
25 Madison, WI 53708-8911
26 Phone: (608) 224-4872

1
2 (h) "Person" means an individual, corporation, partnership, cooperative
3 association, limited liability company, trust, the state of Wisconsin or its agencies, or
4 other organization or entity.

5 (i) "Retail food establishment" means a facility licensed under s. 97.30, Stats.

6 (j) "Restaurant" means a facility licensed under s. 254.64, Stats.

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

10 (l) "Self-contained fish rearing facility" has the meaning given in s. 29.01(12r),
11 Stats.

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

14 (n) "Waters of the state" has the meaning given in s. 281.01(18), Stats.

15 (2) REGISTRATION CERTIFICATE REQUIRED. Except as provided in sub.
16 (3), a person operating a fish farm for any of the following purposes shall obtain a
17 registration certificate for that fish farm:

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

- 19 1. Sale or distribution.
- 20 2. Introduction into the waters of the state.
- 21 3. Fishing.
- 22 4. Use as bait or fertilizer.
- 23 5. Use as human food or animal feed.

1 6. Education, demonstration or research.

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

3 NOTE: A DNR fish stocking permit is not needed to stock fish into a fish farm
4 registered under sub. (2). However, a DNR stocking permit is needed to
5 stock fish into the waters of the state. (See s. 29.53, Stats.)

6
7 A DNR sport fishing license is not required to fish within a registered fish
8 farm. Persons fishing at a registered fish farm do not need to comply with
9 season, size or bag limits. (See s. 29.01(3), Stats.)

10 Toxicants required for fish farming operations may be used in self-
11 contained fish rearing facilities if there is no discharge from the
12 facility, or if the discharge of the chemical is allowed under a
13 Wisconsin Pollutant Discharge Elimination System (WPDES) permit.
14 Otherwise, a DNR aquatic pesticide use permit is required. (See ss.
15 29.29(5) and 283.31, Stats.) Pesticide applications must comply with
16 ch. ATCP 29, Wis. Adm. Code, administered by the department of
17 agriculture, trade and consumer protection. There may be other federal,
18 state, or local regulations pertaining to the use of these toxicants.
19
20

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

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

26 (b) Hold live bait fish under a bait dealer license issued by the state of Wisconsin
27 department of natural resources under s. 29.137, Stats.

28 (c) Hold or rear live fish, or hatch fish eggs, in a fully enclosed building solely
29 for purposes of display or research within that building, provided that no untreated water
30 used to hold those fish or fish eggs is discharged to waters of the state.

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

4 (e) Hold live fish or fish eggs for not more than 30 days at a food processing
5 plant, retail food establishment or restaurant pending slaughter or sale to consumers at
6 that facility, provided that the facility does not discharge to waters of the state any
7 untreated water used to hold or process those fish or fish eggs.

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

9 (4) TYPE 1 OR TYPE 2 REGISTRATION CERTIFICATE. (a) Except as
10 provided in par. (b), a person required to hold a fish farm registration certificate under
11 sub. (2) may hold either a type 1 or type 2 registration certificate.

12 (b) A person may not sell or distribute live fish or fish eggs from a fish farm
13 without a type 2 registration certificate, except that a person holding a type 1 registration
14 certificate may do any of the following:

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

16 2. Sell or distribute live fish or fish eggs to a food processing plant, retail food
17 establishment or restaurant at which the fish or fish eggs are held for not more than 30
18 days pending slaughter or sale to consumers at that facility, provided that the facility does
19 not discharge to waters of the state any untreated water used to hold or process those fish
20 or fish eggs.

21 3. Move live fish between type 1 fish farms which that person operates in this
22 state.

1 NOTE: A person holding a type 1 registration certificate may, at any time during
2 the registration year, convert that certificate to a type 2 certificate by
3 paying the additional fee under sub. (8) and complying with health
4 certification requirements under sub. (14).

5
6 (5) ANNUAL EXPIRATION DATE. A fish farm registration certificate under
7 sub. (2) expires on December 31 of the calendar year for which it is issued.

8 (6) PERSONS OPERATING 2 OR MORE FISH FARMS. A person who
9 operates 2 or more fish farms shall obtain a separate registration certificate under sub. (2)
10 for each fish farm. A person may obtain annual registration certificates for 2 or more fish
11 farms by filing a single annual application under sub. (7) and paying a single annual fee
12 under sub. (8). There is no additional charge for additional fish farms. A registration
13 certificate is not transferable between persons or locations.

14 NOTE: A person registering 2 or more fish farms may choose to register those
15 fish farms as type 1 or type 2 fish farms. The applicant submits only one
16 annual application and pays only one annual fish farm registration fee.
17 There is no additional charge to register additional fish farms. If any of
18 the fish farms is registered as a type 2 fish farm, the applicant must pay
19 the type 2 registration fee.

20
21 (7) APPLYING FOR A REGISTRATION CERTIFICATE. To obtain or renew a
22 fish farm registration certificate under sub. (2), a fish farm operator shall file an
23 application with the department. The operator shall file an application on a form
24 provided by the department. An operator may, by filing a single application form, obtain
25 registration certificates for 2 or more fish farms. The application shall include all of the
26 following:

27 (a) The name, address and telephone number of the fish farm operator.

1 (b) The location of each fish farm for which the operator seeks a registration
2 certificate. The location shall include the county, township, section number and fire
3 number of the fish farm.

4 (c) For each fish farm under par. (b), a statement indicating whether the operator
5 seeks a type 1 or type 2 registration certificate.

6 (d) The fee required under sub. (8).

7 (e) The name, address and telephone number of the individual responsible for
8 administering each of the fish farms under par. (b) on behalf of the operator, if the
9 individual administering that fish farm is not the operator.

10 (f) The species of fish hatched or kept at each fish farm under par. (b).

11 (g) A description of each fish farm under par. (b), including fish farm facilities
12 and activities.

13 (h) A copy of each health certificate required under sub. (13) for a type 1 fish
14 farm or under sub. (14) for a type 2 fish farm. If an operator is registering a fish farm for
15 the first time, the department may issue a registration certificate before the operator files a
16 health certificate, provided that the operator obtains and files the required health
17 certificate within 30 days after the department issues the registration certificate or within
18 30 days after the operator stocks fish at the fish farm.

19 (i) Other relevant information required by the department.

20 NOTE: You may obtain a registration form by contacting the department at the
21 following address:

22
23 Wisconsin Department of Agriculture, Trade and Consumer Protection
24 Division of Animal Health
25 P.O. Box 8911
26 Madison, WI 53708-8911

1 Phone: (608) 224-4872

2
3 A fish farm operator may also need certain permits from the Wisconsin
4 department of natural resources (DNR). Contact DNR to find out about
5 DNR permit requirements.
6

7 (8) REGISTRATION FEES. (a) Except as provided in par. (b), an operator shall
8 pay the following annual fee to obtain registration certificates for one or more fish farms:

- 9 1. A total fee of \$25 if the fish farms are all type 1 fish farms.
10 2. A total fee of \$50 if any of the fish farms is a type 2 fish farm.

11 (b) The following persons are exempt from registration fees under this
12 subsection:

- 13 1. A bona fide scientific research organization that is operating a fish farm solely
14 for the purpose of scientific research.
15 2. A primary or secondary school.
16 3. The state of Wisconsin and its agencies.

17 (c) A fish farm operator shall pay the full annual registration fee for a fish farm
18 registered for less than a full calendar year.

19 (d) An applicant for an annual fish farm registration certificate under sub. (2)
20 shall pay, in addition to the annual registration fee prescribed by this subsection, a
21 surcharge equal to the amount of that fee if the department determines that, within 365
22 days prior to submitting an application, the applicant operated a fish farm without a
23 registration certificate in violation of sub. (2) or (4)(b). Payment of the surcharge does
24 not relieve the applicant of any other civil or criminal penalty or liability that may result
25 from the violation, nor does it constitute evidence of a violation.

1 (9) ACTION ON REGISTRATION APPLICATION. The department shall grant
2 or deny a registration application within 30 days after the applicant files a complete
3 application under sub. (7).

4 (10) DENYING, SUSPENDING OR REVOKING A REGISTRATION
5 CERTIFICATE. The department may deny, suspend or revoke a fish farm registration
6 certificate for cause, including any of the following:

7 (a) Filing an incomplete or fraudulent application, or misrepresenting any
8 information on an application.

9 (b) Violating applicable provisions of ch. 95, Stats., this chapter, or ch. ATCP 11.

10 (c) Violating the terms of the registration certificate.

11 (d) Preventing a department employe from performing his or her official duties,
12 or interfering with the lawful performance of his or her duties.

13 (e) Physically assaulting a department employe while the employe is performing
14 his or her official duties.

15 (f) Refusing or failing, without just cause, to produce records under sub. (11) or
16 respond to a department subpoena.

17 (g) Paying a registration fee with a worthless check.

18 NOTE: The denial, suspension or revocation of a registration certificate is
19 subject to a right of hearing under ch. 227, Stats., and ch. ATCP 1, Wis.
20 Adm. Code. The department will not deny registration to a new owner of
21 a fish farm merely because ownership has changed.

22
23 (11) RECORDKEEPING. (a) A fish farm operator shall keep all of the
24 following records related to fish or fish eggs which the operator ships from or receives at
25 the fish farm:

1 1. The name, address, and fish farm registration number, if any, of the person
2 from whom the operator received, or to whom the operator delivered fish or fish eggs.

3 2. The date on which the operator received or delivered the fish or fish eggs.

4 3. The location at which the operator received or delivered the fish or fish eggs.

5 4. The size or class, quantity and species of fish or fish eggs received or
6 delivered.

7 (b) An operator required to keep records under par. (a) shall retain those records
8 for at least 5 years and shall make them available to the department, upon request, for
9 inspection and copying.

10 (12) FISH SOURCE. (a) No person selling or distributing fish or fish eggs may
11 misrepresent, directly or by implication, the source or disposition of those fish or fish
12 eggs.

13 (b) A person transporting fish or fish eggs from a fish farm shall have
14 documentary evidence showing that the person obtained those fish from that fish farm.
15 Evidence may include a bill of sale, bill of lading, import permit, health certificate,
16 certificate of veterinary inspection or other document which identifies the fish farm.

17 (13) TYPE 1 FISH FARM; ANNUAL HEALTH CERTIFICATE. (a) No
18 person may obtain a type 1 fish farm registration certificate for any calendar year
19 beginning after December 31, 2001 unless one of the following applies:

20 1. An accredited veterinarian or certified fish inspector has issued a health
21 certificate for that fish farm not earlier than January 1 of the preceding calendar year.

1 2. An accredited veterinarian or certified fish inspector has issued a health
2 certificate, not earlier than January 1 of the preceding calendar year, for each fish farm
3 from which the fish farm operator received fish or fish eggs in the preceding calendar
4 year.

5 (b) Health certificates issued under par. (a) shall comply with the same
6 requirements that apply to health certificates issued for type 2 fish farms under sub. (14).

7 (c) A fish farm operator shall include copies of all health certificates required
8 under par. (a) with the operator's application for an annual fish farm registration
9 certificate under sub. (7).

10 (14) TYPE 2 FISH FARM; ANNUAL HEALTH CERTIFICATE. (a) No
11 person may obtain a type 2 fish farm registration certificate for any calendar year
12 beginning after December 31, 2001 unless an accredited veterinarian or certified fish
13 inspector issues a health certificate for that fish farm not earlier than January 1 of the
14 preceding calendar year. The accredited veterinarian or certified fish inspector shall issue
15 the health certificate on a form provided by the department, based on a personal
16 inspection of the fish farm. The accredited veterinarian or certified fish inspector shall
17 use inspection, sampling and diagnostic methods specified by the department on the
18 certification form.

19 NOTE: To obtain a health certification form, contact the department at the
20 following address:

21
22 Wisconsin Department of Agriculture, Trade and Consumer Protection
23 Division of Animal Health
24 P.O. Box 8911

1 Madison, WI 53708-8911
2 Phone: (608) 224-4872

3 (b) A health certificate under par. (a) shall certify all of the following:

4 1. That fish at the fish farm are free of visible signs of infectious or contagious
5 disease.

6 2. That salmonids at the fish farm are free of whirling disease (*Myxobolus*
7 *cerebralis*, or *WD*), if any salmonids are hatched or kept at the fish farm.

8 3. That fish at the fish farm are free of other diseases, if any, which the
9 department specifies on the certification form.

10 (c) An accredited veterinarian or certified fish inspector who issues a health
11 certificate under this subsection shall file the original certificate with the department, and
12 shall provide at least 2 copies to the fish farm operator. A fish farm operator shall include
13 a copy of the certificate with the operator's application for an annual fish farm
14 registration certificate under sub. (7).

15 NOTE: A certification form which specifies disease inspection,
16 sampling and diagnostic procedures under sub. (14)(a), or additional
17 disease certification requirements under sub. (14)(b)3., constitutes an
18 order under s. 93.07(10), Stats., which is reviewable under ch. 227, Stats.,
19 and ch. ATCP 1 unless the department has adopted those requirements by
20 rule. If a health certification does not comply with instructions on the
21 certification form, the certification is invalid.
22

23 SECTION 5. ATCP 11.58 and 11.59 are created to read:
24

1

2 **ATCP 11.58 FISH IMPORTS.** (1) DEFINITIONS. In this section:

3 (a) "Certified fish inspector" means any of the following:

4 1. An individual who is currently certified by the American fisheries society as a
5 fish health inspector or fish pathologist.

6 2. An individual whom a state authorizes and the department approves to certify,
7 on behalf of that state, the health of fish in that state.

8 (b) "Commingled" means kept or brought in contact with other fish or fish eggs
9 in any environment which permits direct contact between fish or use of the same water
10 system.

11 (c) "Fish farm" means a facility at which a person hatches fish eggs or holds live
12 fish.

13 (d) "Food processing plant" means a facility licensed under s. 97.29, Stats.

14 (e) "Individual" means a natural person.

15 (f) "Operator" means a person who owns or controls a fish farm. "Operator"
16 includes the operator's employees and agents.

17 (g) "Ornamental fish" means goldfish, koi, tropical freshwater fish that cannot
18 survive in temperatures below 38°F, saltwater fish and other fish which the department
19 designates in writing.

20 NOTE: You may obtain a current list of fish designated as "ornamental fish" by
21 contacting the department at the following address:

22

23 Wisconsin Department of Agriculture, Trade and Consumer Protection

24 Division of Animal Health

25 P.O. Box 8911

1 Madison, WI 53708-8911
2 Phone: (608) 224-4872
3

4 (h) "Person" means an individual, corporation, partnership, cooperative
5 association, limited liability company, trust, the state of Wisconsin or its agencies, or
6 other organization or entity.

7 (i) "Retail food establishment" means a facility licensed under s. 97.30, Stats.

8 (j) "Restaurant" means a facility licensed under s. 254.64, Stats.

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

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

14 (m) "Waters of the state" has the meaning given in s. 281.01(18), Stats.

15 (n) "Wild source" means waters in this state that are not registered as fish farms,
16 or waters outside this state that are not fish farms.

17 (2) ANNUAL IMPORT PERMIT REQUIRED. Except as provided in sub. (3),
18 no person may import live fish or fish eggs into this state for any of the following
19 purposes except under an annual import permit from the department:

20 (a) Introducing the live fish or fish eggs into waters of the state.

21 (b) Using the live fish or fish eggs as bait.

22 (c) Holding the live fish or hatching the fish eggs at a fish farm for which a
23 registration certificate is required under s. ATCP 10.68(2).

1 (d) Selling or distributing the live fish or fish eggs for any of the purposes under
2 pars. (a) to (c).

3 NOTE: A person importing any of the following must also obtain an importation
4 permit from the state of Wisconsin department of natural resources
5 (DNR):

- 6
- 7 • Live fish or fish eggs of species that are not native to Wisconsin. (See
8 s. 29.525(1), Stats.)
- 9
- 10 • Live rough fish or rough fish eggs, except goldfish, dace and suckers.
11 (See s. 29.47(6), Stats.)
- 12

13 An application for an import permit under this section also serves as an
14 application for a DNR import permit. The department will forward the
15 permit application to DNR if DNR permit requirements apply.

16
17 Under s. 29.53, Stats., no person may use imported fish or fish eggs to
18 stock waters of the state without a stocking permit from DNR (unless the
19 stocking is subject to an exemption under s. 29.53, Stats.). An import
20 permit application under this section does not serve as an application for a
21 DNR stocking permit.

22
23 (3) EXEMPTIONS. No permit is required under sub. (2) to import any of the
24 following:

25 (a) Live ornamental fish or the eggs of ornamental fish, unless the ornamental
26 fish or fish eggs are commingled with non-ornamental fish or fish eggs, or are reared for
27 bait, human food or animal feed.

28 (b) Live fish or fish eggs that will be held, for the remainder of their lives, in
29 fully enclosed buildings solely for purposes of display or research, provided that no
30 untreated water used to hold those fish or fish eggs is discharged to waters of the state.

31 (c) Live fish imported directly to a food processing plant, retail food
32 establishment or restaurant where they will be held for not more than 30 days pending

1 slaughter or sale to consumers at that facility, provided that the facility does not discharge
2 to waters of the state any untreated water used to hold or process those fish or fish eggs.

3 (d) Live fish or fish eggs imported and held for not more than 30 days in fully
4 enclosed buildings pending shipment out of this state, provided that no untreated water
5 used to hold those fish or fish eggs is discharged to waters of the state.

6 (e) Live fish or fish eggs that are directly imported by the Wisconsin department
7 of natural resources.

8 (4) ISSUING AN ANNUAL IMPORT PERMIT. The department may issue an
9 import permit under sub. (2) for all or part of a calendar year, based on an application
10 under sub. (9). A permit holder may, at any time, apply under sub. (9) for an amendment
11 to an existing permit.

12 (5) COPY MUST ACCOMPANY IMPORT SHIPMENT. Every import
13 shipment under sub. (2) shall be accompanied by a copy of the import permit which
14 authorizes that shipment.

15 (6) IMPORT RECIPIENTS. A person holding an import permit under sub. (2)
16 may import live fish or fish eggs to the following persons, and no others:

17 (a) A person holding a current fish farm registration certificate, under s. ATCP
18 10.68, which authorizes that person to hold live fish or fish eggs of the type imported.

19 (b) The state of Wisconsin department of natural resources.

1 (c) A person holding a current fish stocking permit, under s. 29.53, Stats., which
2 authorizes that person to stock live fish or fish eggs of the type imported.

3 (d) A person holding a current bait dealer license under s. 29.137, Stats., which
4 authorizes that person to hold live fish or fish eggs of the type imported.

5 (e) Other persons identified by the department in the permit.

6 (7) UNAUTHORIZED IMPORTS. No person holding an import permit under
7 sub. (2) may violate the terms of the permit or exceed the authorization granted in the
8 permit. A permit is not transferable between importers.

9 (8) IMPORT PERMIT; CONTENTS. An import permit under sub. (2) shall
10 include all of the following:

11 (a) The expiration date of the import permit. An import permit expires on
12 December 31 of the year for which it is issued, unless the department specifies an earlier
13 expiration date.

14 (b) The name, address and telephone number of the permit holder.

15 (c) Each species of fish or fish eggs that the permit holder may import under the
16 permit.

17 (d) The size or class of fish of each species, and the quantity of fish or fish eggs
18 of each species, that the permit holder may import under the permit.

1 (e) The sources from which the importer may import live fish or fish eggs under
2 the permit. The permit may incorporate, by reference, sources identified in the permit
3 application under sub. (9).

4 (f) The type of import recipient under sub. (6) to which the importer may import
5 live fish or fish eggs under the permit.

6 (9) APPLYING FOR A PERMIT. A person seeking an import permit under sub.
7 (2) shall apply on a form provided by the department. There is no fee. A permit
8 application shall include all of the following:

9 (a) The applicant's name, address and telephone number.

10 (b) Each species of fish or fish eggs that the applicant proposes to import.

11 (c) The size or class of fish of each species, and quantity of fish or fish eggs of
12 each species, that the applicant proposes to import.

13 (d) Every wild source from which the applicant proposes to capture and import
14 fish or fish eggs.

15 (e) The name, address and telephone number of every fish farm from which the
16 applicant proposes to import fish or fish eggs, and a copy of any health certificate issued
17 for that fish farm under sub. (16).

18 (f) The type of import recipient under sub. (6) that the applicant proposes to
19 import fish or fish eggs to.

20

1 NOTE: You may obtain an application form by contacting the department at the
2 following address:

3
4 Wisconsin Department of Agriculture, Trade and Consumer Protection
5 Division of Animal Health
6 P.O. Box 8911
7 Madison, WI. 53708-8911
8 Phone: (608) 224-4872

9 (10) ACTION ON PERMIT APPLICATION. The department shall grant or
10 deny a permit application under sub. (9) within 30 days after the department receives a
11 complete application.

12 NOTE: The department may impose conditions on an import permit, pursuant to
13 s. 93.06(8), Stats.

14
15 (11) DENYING, SUSPENDING OR REVOKING AN IMPORT PERMIT. The
16 department may deny, suspend or revoke an import permit under sub. (2) for cause,
17 including any of the following:

18 (a) Filing an incomplete or fraudulent permit application, or misrepresenting any
19 information on a permit application.

20 (b) Violating applicable provisions of ch. 95, Stats., this chapter or ch. ATCP 10.

21 (c) Violating the terms of the import permit, or exceeding the import
22 authorization granted by the permit.

23 (d) Preventing a department employe from performing his or her official duties,
24 or interfering with the lawful performance of his or her duties.

25 (e) Physically assaulting a department employe while the employe is performing
26 his or her official duties.

1 (f) Refusing or failing, without just cause, to produce records under sub. (12) or
2 respond to a department subpoena.

3 NOTE: The denial, suspension or revocation of an import permit is subject
4 to a right of hearing under ch. 227, Stats., and ch. ATCP 1, Wis. Adm.
5 Code.
6

7 (12) IMPORT RECORDS. (a) A person, including the Wisconsin department of
8 natural resources, that imports fish or fish eggs under sub. (2) shall keep all of the
9 following records related to each import shipment:

- 10 1. The date of the import shipment.
- 11 2. The wild source, if any, from which the importer obtained the imported fish or
12 fish eggs.
- 13 3. The name, address and telephone number of the fish farm from which the
14 importer obtained the imported fish or fish eggs, if the importer obtained them from a fish
15 farm.
- 16 4. The name, address and telephone number of the person receiving the import
17 shipment if that person is not the importer. The importer shall also record the recipient's
18 fish farm registration number under s. ATCP 10.68, stocking permit number under s.
19 29.53, Stats., or bait dealer license number under s. 29.137, Stats., if any.

20 NOTE: See sub. (6).

- 21 5. The location at which the import shipment was received in this state.
- 22 6. The size or class, quantity and species of fish or fish eggs included in the
23 import shipment.

1 (b) A person required to keep records under par. (a) shall retain those records for
2 at least 5 years and shall make them available to the department, upon request, for
3 inspection and copying.

4 NOTE: An import permit holder must keep and provide records under sub. (12),
5 regardless of whether the importer is located in this state or another state.
6 The department may deny, suspend or revoke an import permit under sub.
7 (11) if the importer fails to keep records, or fails to provide them to the
8 department upon request.
9

10 (13) IMPORTING DISEASED FISH. No person may import any live fish or fish
11 eggs into this state if that person knows, or has reason to know, that those fish or fish
12 eggs are infected or show clinical signs of any reportable disease under s. ATCP 10.025.

13 (14) HEALTH CERTIFICATE REQUIRED. No person may import any
14 shipment of live fish or fish eggs into this state unless one of the following applies:

15 (a) The import shipment is accompanied by a health certificate issued for that
16 shipment under sub. (15).

17 (b) The import shipment originates from a fish farm and all of the following
18 apply:

- 19 1. The import shipment is labeled with the name and address of that fish farm.
- 20 2. No fish or fish eggs in the import shipment were ever collected from a wild
21 source.

1 3. An accredited veterinarian or certified fish inspector has issued an annual
2 health certificate for that fish farm under sub. (16), and has filed a copy of that certificate
3 with the department.

4 4. The importer has filed a copy of the annual fish farm health certificate with the
5 importer's permit application under sub. (9) or, if the state of Wisconsin department of
6 natural resources is the importer, the department of natural resources has filed a copy of
7 the annual fish farm health certificate with the department before importing fish to this
8 state in any calendar year.

9 (c) The import shipment consists solely of any of the following:

10 1. Live ornamental fish, or the eggs of ornamental fish, unless the ornamental fish
11 or fish eggs are commingled with non-ornamental fish or fish eggs, or are reared for bait,
12 human food or animal feed.

13 2. Live fish or fish eggs that will be held, for the remainder of their lives, in fully
14 enclosed buildings solely for purposes of display or research, provided that no untreated
15 water used to hold those fish or fish eggs is discharged to waters of the state.

16 3. Live fish imported directly to a food processing plant, retail food establishment
17 or restaurant where they will be held for not more than 30 days pending slaughter or sale
18 to consumers at that facility, provided that the facility does not discharge to waters of the
19 state any untreated water used to hold or process those fish or fish eggs.

1 4. Live fish or fish eggs imported and held for not more than 30 days in fully
2 enclosed buildings pending shipment out of this state, provided that no untreated water
3 used to hold those fish or fish eggs is discharged to waters of the state.

4 (15) HEALTH CERTIFICATE; INDIVIDUAL SHIPMENT. The following
5 requirements apply to a health certificate under sub. (14)(a):

6 (a) An accredited veterinarian or certified fish inspector shall issue the health
7 certificate in the state of origin, on a form provided by the department, based on a
8 personal inspection of the import shipment. The accredited veterinarian or certified fish
9 inspector shall use inspection, sampling and diagnostic methods specified by the
10 department on the certification form.

11 NOTE: To obtain a health certification form, contact the department at the
12 following address:

13
14 Wisconsin Department of Agriculture, Trade and Consumer Protection
15 Division of Animal Health
16 P.O. Box 8911
17 Madison, WI 53708-8911
18 Phone: (608) 224-4872

19 (b) The health certificate under par. (a) shall certify that the import shipment is
20 free of all the following:

21 1. Visible signs of infectious or contagious disease.

22 2. Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS)
23 and whirling disease (*Myxobolus cerebralis*, or *WD*), if the import shipment includes
24 salmonids.

1 Phone: (608) 224-4872

2 (b) The annual health certificate shall certify that the fish farm is free of all the
3 following:

4 1. Visible signs of infectious or contagious disease.

5 2. Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS)
6 and whirling disease (*Myxobolus cerebralis*, or *WD*), if the health certificate is used for
7 imports of salmonids.

8 3. White sturgeon iridovirus (WSI) if the health certificate is used for imports of
9 sturgeon.

10 4. Other diseases, if any, which the department specifies on the certification form.

11 (c) The accredited veterinarian or certified fish inspector who issues the annual
12 health certificate shall file the original certificate with the department, and shall provide
13 at least 2 copies to the fish farm operator.

14 NOTE: A certification form which specifies disease inspection,
15 sampling and diagnostic procedures under sub. (16)(a), or additional
16 disease certification requirements under sub. (16)(b)4., constitutes an order
17 under s. 93.07(10), Stats., which is reviewable under ch. 227, Stats., and
18 ch. ATCP 1 unless the department adopts those requirements by rule. If a
19 health certification does not comply with instructions on the certification
20 form, the certification is invalid.
21

22 **ATCP 11.59 HEALTH STANDARDS FOR FISH INTRODUCED INTO**

23 **WATERS OF THE STATE.** (1) DEFINITIONS. In this section:

24 (a) "Certified fish inspector" means any of the following:

1 1. An individual who is currently certified by the American fisheries society as a
2 fish health inspector or fish pathologist.

3 2. An individual whom a state authorizes and the department approves to certify,
4 on behalf of that state, the health of fish in that state.

5 (b) "Fish farm" means a facility at which a person hatches fish eggs or holds live
6 fish.

7 (c) "Individual" means a natural person.

8 (d) "Person" means an individual, corporation, partnership, cooperative
9 association, limited liability company, trust, the state of Wisconsin or its agencies, or
10 other organization or entity.

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

14 (f) "Waters of the state" has the meaning given in s. 29.53(1)(c), Stats.

15 (2) HEALTH CERTIFICATE REQUIRED. (a) No person may introduce live
16 salmonids into waters of the state after the effective date of this rule **[revisor inserts**
17 **effective date]**, and no person may introduce other live fish or fish eggs into waters of the
18 state after December 31, 2001, unless an accredited veterinarian or certified fish inspector
19 does one of the following:

20 1. Issues a health certificate for those fish or fish eggs.

1 2. Issues a health certificate, not earlier than January 1 of the calendar year
2 preceding the year in which the fish are introduced into waters of the state, for the fish
3 farm from which those fish or fish eggs originate.

4 NOTE: See fish stocking regulations under s. 29.53, Stats. In addition to fish
5 stocked from private fish farms, this subsection also pertains to fish
6 stocked by the Wisconsin department of natural resources.

7 (b) A fish health certificate under par. (a) shall certify that the fish or fish eggs, or
8 the fish farm from which they originate, are free of all the following:

9 1. Visible signs of infectious or contagious disease.

10 2. Whirling disease (*Myxobolus cerebralis*, or *WD*), if the health certificate is
11 used for introducing salmonids.

12 3. Other diseases, if any, which the department specifies on the certification form.

13 (3) ISSUING A HEALTH CERTIFICATE. (a) An accredited veterinarian or
14 certified fish inspector shall issue a health certificate under sub. (2) on a form provided by
15 the department, based on a personal inspection of the fish or fish farm. The accredited
16 veterinarian or certified fish inspector shall use inspection, sampling and diagnostic
17 methods specified by the department on the certification form.

18 NOTE: To obtain a health certification form, contact the department at the
19 following address:

20
21 Wisconsin Department of Agriculture, Trade and Consumer Protection
22 Division of Animal Health
23 P.O. Box 8911
24 Madison, WI 53708-8911
25 Phone: (608) 224-4872

1 (b) An accredited veterinarian or certified fish inspector who issues a health
2 certificate under sub. (2) shall file the original certificate with the department, and shall
3 provide at least 2 copies to the person introducing the fish or fish eggs into waters of the
4 state.

5 NOTE: A certification form which specifies disease inspection,
6 sampling and diagnostic procedures under sub. (3)(a), or additional
7 disease certification requirements under sub. (2)(b)3., constitutes an order
8 under s. 93.07(10), Stats., which is reviewable under ch. 227, Stats., and
9 ch. ATCP 1 unless the department adopts those requirements by rule. If a
10 health certification does not comply with instructions on the certification
11 form, the certification is invalid.

12 (4) INTRODUCING DISEASED FISH. No person may introduce live fish or
13 fish eggs into waters of the state if that person knows, or has reason to know, that those
14 fish or fish eggs are infected or show clinical signs of any reportable disease under s.
15 ATCP 10.025.

16 **EFFECTIVE DATE:** The rules contained in this order shall take effect on the
17 first day of the month following publication in the Wisconsin administrative register, as
18 provided in s. 227.22(2)(intro.), Stats.

Dated this ____ day of _____, 19____.

STATE OF WISCONSIN DEPARTMENT
OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION

By _____
Ben Brancel, Secretary

FISCAL ESTIMATE

DOA-2048 (R 10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.
 ATCP 10 & 11

Amendment No. (If Applicable)

Subject
 Fish Farms

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation
 or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs - May be possible
 to Absorb Within Agency's
 Budget Yes No
 Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Unit
 Affected:

- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Source Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations
 20.115 (2)(a) & (2)(ha)

Assumptions Used In Arriving at Fiscal Estimate

This rule proposal states how the Department of Agriculture, Trade and Consumer Protection (DATCP) will implement 1997 Wisconsin Act 27, which transfers the regulatory authority for fish farms to the department. This proposal will be effective for calendar year 1999 and beyond.

For purposes of this fiscal estimate, it is estimated that 2,400 fish farms will register with the department during 1999. These farms will register under one of two types; it is estimated that 2,250 will register as Type 1 and 150 will register as Type 2. It is also estimated that 100 import permit applications for live fish or fish eggs will be processed by the department annually.

This proposal will establish a registration fee of \$25.00 for a Type 1 registration and \$50.00 for a Type 2 registration. These fees are applicable as of January 1, 1999, for the calendar year 1999 and after. Any fish farm registered by the department in 1998 is eligible for renewal with the department in 1999. This proposal does not establish a fee at this time for an import permit for live fish or fish eggs. Revenues from fish farm registrations will be used to administer the fish farm program within the Division of Animal Health. In addition to these proposed program revenues, \$265,000 of GPR funds and 5.00 FTE have been appropriated to support the program within the division (for 1998-99, \$97,900 and 2.00 FTE are frozen).

Per s. 95.60, Stats., a person who operates a fish farm must annually register the fish farm with the department and a person who brings any fish or fish eggs into Wisconsin must have an annual permit issued by the department. Besides maintaining a registry and an import processing system, the department is required to inspect fish farms and to ensure the health of fish and fish eggs. The fiscal impact on the department will be expenses incurred with establishing and maintaining a registration and an import permit process as proposed in this rule. Additional expense will be incurred by the department in providing veterinary services and fish related lab work, inspecting fish farms, performing investigatory and enforcement activities and in providing technical and educational assistance to the public by providing information on various aspects of the program, on statutory requirements related to fish farming and on aquaculture in general.

Program annualized costs for 1999 and after are estimated to be \$328,800 and 5.00 FTE. On an ongoing basis, a veterinarian specialist-sr., microbiologist-sr., two animal consultants/inspectors and a program assistant will be required.

Long - Range Fiscal Implications

Growth in fish farms is anticipated, along with a greater need for fish disease control and prevention. As proposed, registration fees will continue beyond 1999 to help support the fish farm program within the department.

Agency/prepared by: (Name & Phone No.)

DATCP
 Lynn Jarzombek 608-224-4883

Authorized Signature/Telephone No.

Barbara Knapp
 Barbara Knapp (608) 224-4746

Date

7/20/98

FISCAL ESTIMATE WORKSHEET

1997 SESSION

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No/Adm.Rule No.
ATCP 10 & 11

Amendment No.

Subject

Fish Farms

I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Cost:

Annualized Fiscal Impact on State funds from:

A. State Costs by Category

Increased Costs

Decreased Costs

State Operations - Salaries and Fringes

\$ 207,800

\$ -

(FTE Position Changes)

(5.00 FTE)

(- FTE)

State Operations - Other Costs

121,000

-

Local Assistance

-

Aids to Individuals or Organizations

-

TOTAL State Costs by Category

\$ 328,800

\$ -

B. State Costs by Source of Funds

Increased Costs

Decreased Costs

GPR

\$ 265,000

\$ -

FED

-

PRO/PRS

63,800

-

SEG/SEG-S

-

III. State Revenues -

Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)

Increased Rev.

Decreased Rev.

GPR Taxes

\$

\$ -

GPR Earned

-

FED

-

PRO/PRS

63,800

-

SEG/SEG-S

-

TOTAL State Revenues

\$ 63,800

\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ 328,800

\$ _____

NET CHANGE IN REVENUES

\$ 63,800

\$ _____

Agency Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

DATCP
Lynn Jarzombek (608) 224-4883

Barbara Knapp
Barbara Knapp (608) 224-4746

7/17/98

Final Regulatory Flexibility Analysis

General Overview

This rule establishes policies and procedures for the department of agriculture, trade and consumer protection to implement 1997 Wisconsin Act 27 which transferred the primary authority for regulating fish farms from the department of natural resources to the department of agriculture, trade and consumer protection.

This rule will affect small businesses in Wisconsin. It includes provisions which relate to small businesses engaged in farming fish and importing live fish and fish eggs into Wisconsin.

Fish Farm Registration

The statute requires that any person who operates a fish farm must annually register the fish farm with the department. This rule identifies two categories of fish farms that must register and imposes annual registration fees, as follows:

- **Type 1 (\$25 annual fee):** The holder of a type 1 registration certificate may operate a fish farm. The operator may not sell or distribute live fish, except to a food processing plant, retail food establishment or restaurant. However, the operator may allow public fishing for a fee.
- **Type 2 (\$50 annual fee):** The holder of a type 2 registration certificate may operate a fish farm and may engage in any of the activities authorized under a type 1 certificate. In addition, the operator may sell or distribute live fish and fish eggs from the fish farm.

All private fish hatcheries previously licensed by the department of natural resources in 1997 were eligible for renewal with the department of agriculture, trade and consumer protection under the department's fish farm emergency rule in 1998. This rule establishes a permanent registration system for fish farms. In registering, fish farm operators will need to complete a form providing owner and custodian name and address and fish farm information such as the species of fish kept on the fish farm and a description of the fish farm.

The rule requires fish farm operators to maintain records for at least five years relating to all fish and fish eggs which the operator receives from or delivers to another person, including the names, addresses and fish farm registration numbers, if applicable, of the parties involved, the date and location of each transaction and the size or class, quantity and species of fish or fish eggs involved in each transaction.

The rule also requires that a person obtaining a registration certificate for any calendar year beginning after December 31, 2001, must have a health certificate issued by an accredited veterinarian or certified fish inspector for the fish farm not earlier than January 1 of the preceding calendar year. This annual health certificate must certify that the fish farm is free of all visible signs of infectious or contagious disease, whirling disease (*Myxobolus cerebralis*, or WD), if trout, salmon or other salmonidae are kept on the fish farm and any other disease which the department of agriculture, trade and consumer protection specifies on the health certification form. A type 1 fish farm may meet this requirement by obtaining health certificates, issued not earlier than January 1 of the preceding calendar year, for each fish farm from whom the type 1 fish farm operator received fish or fish eggs in the preceding calendar year.

About 2,400 fish farms scattered across Wisconsin will be affected by the fish farm requirements in this rule. These farms were previously licensed by the department of natural resources, by completing an annual license application form, paying an annual fee (\$5, \$25 or \$50 depending upon the classification) and submitting year end reports on business operations. Under the department of agriculture, trade and consumer protection, the proposed annual fees are \$25 for a type 1 and \$50 for a type 2 registration. Most small business fish farms will have no change in fees. Recordkeeping requirements will be less burdensome for fish farm operators since they will only be required to maintain records and not file yearend reports. Beginning in 2002, the requirement for an annual health certificate for all registered fish farms will increase the costs of operating a fish farm. The weight of this expense will be offset in the future with better fish health leading to increased production and marketability of product due to higher fish health standards.

Live Fish Imports

The statute requires any person who brings live 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 to have an annual permit issued by the department of agriculture, trade and consumer protection. The permit may authorize multiple import shipments. A copy of the permit must accompany every import shipment. In addition, imports of non-native species must also be approved by the department of natural resources. There is no fee for an import permit.

In requesting an import permit, a person will need to complete a form providing name and address information of the requester, fish farm registration number, if applicable, the size or class, quantity and species of fish or fish eggs to be imported, the type of import recipient the fish will be imported to and source location information.

The rule requires a person who imports live fish or fish eggs to obtain a health certificate for each shipment of fish, if the fish originate from a wild source, or an annual health certificate, if the fish originate from an out-of-state fish farm. Issued by an accredited

veterinarian or certified fish inspector, the health certificate must certify that the shipment or fish farm is free of all the following:

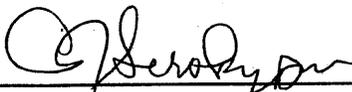
- Visible signs of infectious or contagious disease.
- Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*, or WD), if the health certificate is for salmonid imports.
- White sturgeon iridovirus (WSI) if the health certificate is for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

The rule requires a person importing live fish or fish eggs to maintain records for at least five years relating to each import shipment, including the import source, the import date and destination, and the size or class, quantity and species of fish or fish eggs imported.

Under the department of natural resources a person importing live fish and fish eggs had to acquire a permit and for salmonid fish or fish eggs, had to provide health certification for five specific diseases. The department of agriculture, trade and consumer protection is requiring a permit and health certification for all imports of live fish or fish eggs. The fish or fish eggs must be certified free of the diseases listed above. The requirement of health certification might increase the cost of importing live fish and fish eggs from out-of-state fish farms and will increase the cost of importing from wild sources, since this requirement did not exist before. It is assumed the source of the fish and fish eggs will pass the cost of the certification on to the importer. Health certification for imports will offer some degree of assurance that a healthy product is being imported which will result in savings for fish farms in the long run and reduced risks of diseased fish being released into the waters of the state. The requirement to maintain import records will add minimal costs since these records are standard business operational records.

Dated this 30th day of November, 1998.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 

Dr. Clarence Siroky
Administrator,
Animal Health Division



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary



DATE: February 5, 1999

TO: The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, WI 57303

The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Room 211 North, State Capitol
Madison, WI 57303

FROM: Ben Brancel, Secretary
Department of Agriculture, Trade and
Consumer Protection

**SUBJECT: Proposed Rule Relating to Fish Farms, Fish Diseases and
Fish Imports (Clearinghouse Rule 98-123)**

Pursuant to ss. 227.19(2) and (3), Stats., the Department of Agriculture, Trade and Consumer Protection hereby transmits the above rules for legislative committee review. We are enclosing three copies of the final draft rule, together with the following report. Pursuant to s. 227.19(2), Stats., the department will publish a notice of this referral in the Wisconsin Administrative Register.

1. Background

The department is adopting this rule in response to a legislative directive under s. 95.60, Stats., which was created by 1997 Wis. Act 27. The legislation created a new fish farm registration program in DATCP to replace the fish farm licensing program previously administered by DNR. The Legislature directed DATCP to adopt rules for fish farms, fish imports and the control of fish diseases.