

**REPORT OF THE
VIRGINIA DEPARTMENTS OF GAME AND
INLAND FISHERIES AND AGRICULTURE
AND CONSUMER SERVICES**

**A STUDY OF THE
COMMONWEALTH'S
AQUACULTURE PERMITTING
PROGRAMS**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 16

**COMMONWEALTH OF VIRGINIA
RICHMOND
1998**



COMMONWEALTH of VIRGINIA

George Allen

Governor

Becky Norton Dunlop

Secretary of Natural Resources

Department of Game and Inland Fisheries

November 7, 1997

William L. Woodfin, Jr.

Director


TO: The Honorable George Allen, Governor of Virginia, and
Members of the General Assembly

Senate Joint Resolution 339 directed the Virginia Department of Game and Inland Fisheries (VDGIF) and the Virginia Department of Agriculture and Consumer Services (VDACS) to study their aquaculture permitting programs, and to determine the advisability of exempting aquaculture from fees and permits. The agencies' responses to the resolution are included in the following materials, including three recommendations developed by the advisory committee. Prominent in the study's findings was the recognition that no significant problems were found with the current aquaculture permitting system as administered by the VDGIF. Input to the agencies was provided through the private agriculture sector and the recreational fishing/conservation organizations. At the current time, there is no aquaculture permitting system in place within the Department of Agriculture, and as such, an evaluation of that system was not possible.

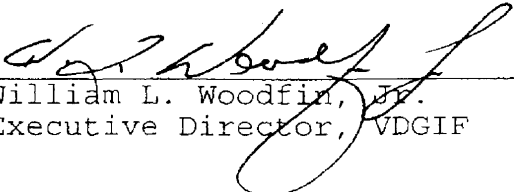
Exemption of aquaculture facilities was discussed by the committee, and it was decided that VDGIF which is a "Special Fund" agency, is not in a position to exempt aquaculture activities from other similar activities which would still require permits from the Department. The recommendations proposed within the resolution were not universally accepted by the committee members providing input to our agencies. Both supporting and dissenting opinions from committee participants are included as appendices. Neither VDACS nor VDGIF support or reject the positions established within these appendices.

The total cost to the agencies to conduct this study was \$10,700. This figure includes staff time and expenses. It does not include expenses or time by the non-state committee members. "Non-General" funds (VDGIF) made up \$5,451 of the total figure.

We have the honor of submitting herewith this report.



J. Carlton Courter, III
Commissioner, VDACS



William L. Woodfin, Jr.
Executive Director, VDGIF

WLW/GFM/fha

An Agency of the Natural Resources Secretariat

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PREFACE

The following report and recommendations are the result of Senate Joint Resolution No. 339 requesting the Departments of Game and Inland Fisheries (VDGIF) and Agriculture and Consumer Services (VDACS) to study their aquaculture permitting programs. The SJR339 Advisory Committee was Co-Chaired by Gary F. Martel, Director of Fisheries, VDGIF, and William P. Dickinson, Assistant Commissioner, VDACS. Staff and resource support was provided by Ronald Southwick, Assistant Director of Fisheries, VDGIF, and T. Robins Buck, Project Manager, VDACS.

SJR339 calls for appointment of an advisory committee to assist the Departments in this study. The Advisory Committee was comprised of the following individuals: Bryan P. Plemmons, Diana M. Pavlik and James R. Hilton representing the Virginia Trout Farmers Association; Janet M. Sutton and Susan L. Perry representing the Virginia Fish Farmers Association; Robert R. Steiner representing the Virginia Council of Trout Unlimited; W. Mitchell Perkins (and R. Edward Rhodes) representing the Virginia B.A.S.S. Federation; John M. Epifanio representing the Virginia Wildlife Federation; and J. Parks Rountrey representing the Coastal Conservation Association. Ms. Vivian L. Carnegie, Department of Housing and Community Development served as the Committee facilitator.

Though no major problems were found with the current permitting system and regulations for aquaculture facilities administered by VDGIF, philosophical differences surfaced among the various groups represented on the Advisory Committee. In most cases, these differences represented minority positions held by individuals representing the aquaculture industry (agriculture) versus the sport fisheries (natural resources). The recommendations offered later in the report (Study Report - III) are not a total consensus of the Committee, but represent what VDACS and VDGIF believe to be the best solutions to a complicated issue at the present time.

The Advisory Committee gratefully acknowledges the contribution of the Florida Department of Agriculture and Consumer Services (FDACS) for the "Case Study" they provided, which outlines the process and results in Florida dealing with this same issue. Please see Appendix VII at the end of this report.

EXECUTIVE SUMMARY

The SJR339 Advisory Committee approached the topic of aquaculture permitting by asking the question "What are the major characteristics of an effective permitting system?" The Committee identified and discussed the following issues: *consistency and clarity of the purpose of the permitting system, effectiveness in enforcement of regulations, ability to protect natural resources, amount of coordination cooperation between agencies and constituents, and the level of permit fees.*

Once issues were identified, the Committee asked/answered the question "Is the Virginia system, as currently managed by VDGIF effective?" Finally, the Committee concluded by addressing the questions "Is there a continuing need for a permitting system?" and, also "should there be exemptions to the process?" In responding to the questions identified, there was no total consensus about the problems (disadvantages) or positives (advantages) of the current permitting system.

The following recommendations, found in the "Study Report - III" of the report, are offered as findings of the SJR339 Advisory Committee.

- ◆ **Recommendation #1:** No major problems were found with the current aquaculture permitting system administered by the Virginia Department of Game and Inland Fisheries (VDGIF). VDGIF will continue to permit aquaculture facilities raising and stocking native and naturalized species in the Commonwealth.
- ◆ **Recommendation #2:** Exempt aquaculture facilities that produce and process native and naturalized trout or catfish for market sales (excluding in-state stockings). Catfish or trout must be raised in a VDACS "registered" aquaculture facility and cannot be shipped live, except for processing or out-of-state sales, without a permit from the VDGIF.
- ◆ **Recommendation #3:** All catfish and trout aquaculture facilities permitted by VDGIF will automatically be "registered" with VDACS. Permittees will not have to duplicate efforts to be "registered" with VDACS. (Note: Aquaculture facilities which qualify for exemption from VDGIF permits must still "register" with VDACS)

STUDY REPORT

I. The Current Aquaculture Permitting Process and Regulations

Department of Game and Inland Fisheries

Presently, the Department's "Permit Section" processes over 5,600 permits and special licenses annually including 63 permits for aquaculture (Appendix II). Most of these permits have to be renewed on an annual basis. This is done with a staff of three employees (one full-time and two part-time). All permits and special licenses are maintained in a computerized data base developed by VDGIF.

Freshwater aquaculture facilities are required to have either the Hold and Sell or Propagate and Sell permit issued by VDGIF. The Propagate and Sell permit allows a facility to maintain certain native, naturalized, and exotic species broodstock to produce offspring for commercial purposes. The Hold and Sell permit allows facilities to hold and sell certain native and/or naturalized species which have been obtained from legally permitted sources. In addition to the Hold and Sell permit, facilities holding and selling the exotic fish Tilapia (for food purposes only) are also required to have an **Exotic Species Importation** permit. Hold and Sell permits are required by bait stores, pet stores, aquaculture facilities which do not propagate stock, and fee fishing catchout ponds where a state fishing license is exempted.

The fee for Hold and Sell permit is \$10.00 (\$50.00 for fee-fishing ponds). The annual fee for the Propagate and Sell permit is \$12.50. Exotic Species Importation permit is \$10.00. Other related permits issued by VDGIF include the **Collect and Sell** (\$50.00) permit which allows for the collection of certain wildlife for commercial purposes, and a no cost **Stocking Authorization** which allows someone to stock fish into public waters. Both permits, which must be reviewed and approved by staff fisheries biologists before issuance, are handled by the Department's Fisheries Division.

VDGIF works closely with both the Virginia Department of Agriculture and Consumer Services (VDACS) and the Virginia Marine Resource Commission (VMRC) to promote aquaculture in Virginia, and to ensure the protection of native wildlife throughout the Commonwealth.

Department of Agriculture and Consumer Services

The VDACS presently has no aquaculture permitting requirements or regulations.

As noted above, the VDGIF is the responsible agency for aquaculture permitting. In addition to the permitting responsibilities and regulations at the VDGIF, the VMRC is responsible for permitting aquaculture facilities that raise hybrid striped bass, and the VMRC is responsible for marine aquaculture permitting and regulations for shellfish and finfish.

II. Definition and Analysis of Problems with the Current Permitting Process

During the SJR339 Advisory Committee meetings (May 19, June 30 & August 15), the group addressed major challenges for a permitting system to work effectively. Among the characteristics the group cited as characteristics of an effective permitting system are: 1) consistent, effective enforcement; 2) protection of natural resources; 3) a clearly defined purpose for permitting; 4) coordination and cooperation between agencies and constituents; and 5) reasonable fees.

Among the topics addressed under consistent, effective enforcement were: frequency of update of regulations, consistency in granting the permits (i.e., who gets the permits), uniformity in enforcement of permits, education of permittees, public confidence in the system, and the manpower required to maintain the system (i.e., collection of data, maintenance of data, and enforcement).

Topics addressed under protection of natural resources were as follows: biological risks (environment, ecological and disease) posed by various types of aquaculture facilities, species being raised and sold, and general oversight (health, safety and welfare of the citizens, as well as the industry).

Topics addressed under clearly defined permitting process were as follows: the issue of why permits are necessary, definitions of game/wildlife versus aquaculture species, and the need to provide exemptions in certain cases.

Under the topic coordination and cooperation between agencies and constituents subject discussed were: coordination between agencies, information exchange, and the need for clarity and simplicity in a permitting system.

Under reasonable fees the Advisory Committee discussed the reasonableness of the current fee structure and the cost of administering the permitting system.

The Committee then addressed the specific actions which could be taken to address the challenges identified. In the area of enforcement, the Advisory Committee recommended continued training for VDGIF personnel, a clear grievance process for producers, and institution of a provision of automatic renewal notice for permittees. As for protection of natural resources, the Committee made no suggestion except to continue current strategies. Under the purpose of the permitting process, the Committee recommended that a task force be commissioned to look at/define issue of aquaculture and wildlife and address the issue of advisability for possible exemptions to the permitting process. As for the coordination issues, the Committee requested that VDACS provide estimates of what it would cost if it were to do permitting, recommended continued coordination and cooperation between VDACS and VDGIF, and recommended greater involvement on the part of Land Grant Institutions and Extension offices. On the subject of fees, the Committee made no recommendation, because VDGIF reduced and redefined their fee structure, effective July 1, 1997.

After looking at the possible improvements to the current system, the Committee addressed the question of the continuing need for a permitting system. Arguing for a permitting system were: the information exchange/technical assistance coming out of such a system, the fact that exotic species could be a danger to "wildlife"; that such a system delineates between "farm raised" and "wild" catches, provides a revenue source, protects the environment, provides quality control for fish (disease prevention), and provides certain types of assistance in marketing.

Those arguing against a permitting system maintained that "aquaculture" is "agriculture - and most other agriculture activities are not permitted. Among the other reasons cited by those opposing aquaculture regulation were: a concern about further government intrusion into business, absence of a documented need (Committee members making this argument maintained that registration (i.e., no fee), but not permitting (with a fee) would be acceptable. Those groups arguing against the current permitting system cited the fact that the *Code of Virginia* designates aquaculture as agriculture, yet aquaculture is not treated like agriculture.

The Committee reviewed a "Florida Case Study" in which, effective July 1, 1997, the Florida Department of Agriculture and Consumer Services assumed the responsibility of "certifying" and "registering" all aquaculture operations, both fresh water and marine. This was a three year process that included a major legislative review, changes to the "Florida Code" and a united position by the Florida Marine Fisheries Commission, the Florida Game and Fresh Water Fish Commission (FDACS) and the industry to arrive at their present structure.

As requested by the Committee, VDACS staff reviewed with them a cost proposal to have all aquaculture register with VDACS rather than VDGIF. The proposal concluded that a VDACS fee structure would be substantially higher than the present VDGIF fee structure for many reasons, such as the need to provide for the cost of personnel, training, lack of personnel, learning curve for implementation, absence of an existing computer system and others. The Committee set this document aside for future reference.

III. Recommendations for Resolving Current Problems

Based on the Committee's discussion and input, as noted above, the following three proposed recommendations have been developed for consideration by and submission to the Virginia General Assembly. Please note that these recommendations do not represent total consensus of the SJR339 Advisory Committee.

Recommendation #1 No major problems were found with the current aquaculture permitting system administered by the Virginia Department of Game and Inland Fisheries. VDGIF will continue to permit aquaculture facilities raising and stocking native and naturalized species in the Commonwealth.

Recommendation #2 Exempt aquaculture facilities that produce and process native and naturalized trout and catfish for market sales (excluding in-state stockings). Catfish or trout must be raised in a VDACS "registered" aquaculture facility and cannot be shipped live, except for processing or out-of-state sales, without a permit from VDGIF.

Recommendation #3 All catfish and trout aquaculture facilities permitted by VDGIF will automatically be "registered" with VDACS. Permittees will not have to duplicate efforts to be "registered" with VDACS. (Note: Aquaculture facilities which qualify for exemption from VDGIF permits must still "register" with VDACS.)

As appendixes to the recommendations provided above, we present the attached documents, which reflect the minority positions adopted by the different groups of the Committee. Appendix I contains a copy of the SJR 339 resolution; Appendix II provides the VDGIF Permit Information; Appendix III provides the position of the Virginia Trout Farmers Association; Appendix IV is the position of the Virginia Capital Chapter (Virginia Council) of Trout Unlimited; Appendix V is the position of the Virginia B.A.S.S. Federation; Appendix VI is the position of the Virginia Wildlife Federation; and Appendix VII contains the Florida "Case Study." These positions are not included as a part of the report in support of or opposition to the above three recommendations, but are for information purposes only. The Virginia Fish Farmers Association and the Coastal Conservation Association did not offer a position other than that represented in the three report recommendations.

APPENDIXES

Appendix I: *Senate Joint Resolution No. 339*

Appendix II: VDGIF Permit Information

Appendix III: Position of the Virginia Trout Farmers Association in response to this study.

Appendix IV: Position of the Virginia Capital Chapter of Trout Unlimited in response to this study.

Appendix V: Position of the Virginia B.A.S.S. Federation in response to this study.

Appendix VI: Position of the Virginia Wildlife Federation in response to this study.

Appendix VII: Florida "Case Study"

Appendix I

SENATE JOINT RESOLUTION NO. 339

Requesting the Departments of Game and Inland Fisheries and Agriculture and Consumer Services to study their aquaculture permitting programs.

Agreed to by the Senate, February 11, 1997

Agreed to by the House of Delegates, February 7, 1997

WHEREAS, Virginia freshwater aquaculture producers grossed over \$5.2 million in sales in 1995, thus positively contributing to Virginia's rural and economic development, resulting in agricultural diversification and increased quality of the food supply and recreation; and

WHEREAS, the wild freshwater fishery in Virginia provided the Commonwealth over \$460 million in economic benefits in 1995, with \$404.2 million provided by native or naturalized warm water species, and \$55.2 million provided by trout species; and

WHEREAS, aquaculture represents a new and expanding economic opportunity for Virginia agricultural and seafood industries, just as recreational fishing has provided a constantly expanding market for the equipment, food, lodging, fuel, tourism and other goods and services industries for the entire 20th century; and

WHEREAS, aquaculture, by definition, is the cultivation of aquatic animals and plants for the production of food for consumers and for the production of fish to stock private or public waters; and

WHEREAS, the products of this industry are a result of research and time-tested husbandry which have developed aquaculture for food production and the support of the recreational fishing industries, as well as for protecting the integrity of valuable natural fishery resources; and

WHEREAS, farm-raised fish and fish eggs may be purchased from private sources outside the control of resource management officials, held in confinement on private property, taxed as private property, and sold to the food processing industry or to persons who release them into the waters of the Commonwealth; and

WHEREAS, the National Aquaculture Act of 1980 and Virginia Aquaculture Development Act of 1992 legally recognize aquaculture as an agricultural activity, with the Department of Agriculture and Consumer Services established as the lead agency for aquaculture, while the Department of Game and Inland Fisheries remains responsible for the protection of all wildlife resources; and

WHEREAS, the current public perception that all fish raised in aquaculture facilities are considered to be wildlife has caused numerous problems relating to issues of fish ownership; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, that the Departments of Game and Inland Fisheries and Agriculture and Consumer Services be requested to study their aquaculture permitting programs. They are also requested to determine the advisability and procedures for exempting aquaculturists who produce and sell farm-raised native and naturalized fish species from permits and fees required by the Department of Game and Inland Fisheries. The departments shall appoint an advisory committee of individuals selected from the Virginia Fish Farmers Association, the Virginia Trout Farmers Association, the Virginia Council of Trout Unlimited, the Virginia B.A.S.S. Federation, the Coastal Conservation Association, and the Virginia Wildlife Federation to assist with this study.

The departments shall complete their work in time to submit their findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Appendix II:

VDGIF Permit Information

1. Types and numbers of permits and special licenses issued by VDGIF Permits Section in FY 96/97
2. Lifetime licenses issued by Permits Section in FY 96/97
3. Number of Propagate & Sell and Hold & Sell permits issued in FY96/97
4. Propagate and Sell permit application and conditions
5. Hold and Sell permit application and conditions
6. Exotic Species Importation application and conditions
7. Excepts from the Code of Virginia that are referenced in the Propagate and Sell, Hold and Sell, Collect and Sell, and Exotic Importation permits

PERMIT		96/97	AMOUNT
Collect for Sell		6	\$50.00
Crossbow		844	\$0.00
Exhibitor	Educator	29	\$20.00
	Business	28	\$50.00
Exotic Importation		2	\$10.00
Falconry		65	\$20.00
	New	7	\$50.00
Fallow Deer Farm		5	\$0.00
Foxhound Training Preserve		27	\$50.00
Fur Dealer-NonRes		6	\$125.00
Fur Dealer-Res		41	\$50.00
Gill Net		65	\$8.00
Haul Seine -Commerical		10	\$45.00
Haul Seine Personal Use		4	\$17.50
Haul Seine-Minnows & Chubs		6	\$45.00
Hold & Sell		171	\$10.00
	Catch Out	26	\$50.00
Nonresident Harvester		1	\$350.00
Propagate and Sell-Fish		28	\$50.00
Propagate and Sell-Wildlife		55	\$50.00
Propagate for Private Use		130	\$20.00
Propagate for Shooting Preserves		15	\$20.00
Rehabilitator		238	\$10.00
Shooting Preserve	Public	32	\$50.00
	Private	73	Variable
Taxidermy		378	\$40.00

EVENT PERMITS

Coon Hound Trials	137	\$25.00
Dog Trials	150	\$25.00
Freshwater Fishing Tournaments	190	\$50.00
Marine Events *	26	\$50.00
	Total:	2795

* Fee per day-permit may include more than one day.

September 11, 1997

1996-1997 LIFETIME LICENSES

CODE	DESCRIPTION	PRICE	QUANTITY
136	Disabled Veterans	\$5.00	81
136D	Dup Disabled Veterans	\$0.00	19
346D	Dup 65+ Lifetime	\$0.00	85
346TD	Dup 65+ Hunt, Fish, Trap	\$0.00	1
347D	Dup Dis Resident - Old	\$0.00	8
349D	Dup Lifetime Hunt & Fish \$300	\$0.00	36
811	Dis Res Life Hunt	\$5.00	57
811D	Dup Dis Res Life Hunt	\$0.00	0
813	Resident St Lifetime Hunt	\$250.00	120
813D	Dup Res Life Hunt	\$0.00	17
814	Nonresident Lifetime Hunt	\$500.00	18
814D	Dup Nonres Life Hunt	\$0.00	4
825	Dis Res Hunt & Fr Fish	\$10.00	859
825D	Dup Dis Res Hunt & Fr Fish	\$0.00	75
831	Dis Res Life Fr Fish	\$5.00	520
831D	Dup Res Life Fr Fish	\$0.00	42
833	Resident State Lifetime Fr Fish	\$250.00	62
833D	Dup Res State Life Fr Fish	\$0.00	13
834	Nonresident Lifetime Fr Fish	\$500.00	0
834D	Dup Nonres Lifetime Fr Fish	\$0.00	0
840	65+ Res Lifetime Hunting	\$10.00	248
840D	Dup 65+ Res Lifetime Hunting	\$0.00	11
841	65+ Lifetime Res Freshwater Fish	\$10.00	980
841D	Dup 65+ Res Lifetime Fresh Fish	\$0.00	17
842	65+ Res Lifetime Hunt & Fr Fish	\$20.00	1112
842D	Dup 65+ Res Life Hunt & Fr Fish	\$0.00	25
850	Dis Res Saltwater Fish	\$5.00	77
850D	Dup Dis Res Saltwater Fish	\$0.00	6
852	Dis Res Freshwater & Saltwater	\$10.00	314
852D	Dup Dis Res Freshwater & Salt	\$0.00	18
854	Dis Res Hunt, Freshwater & Salt	\$15.00	567
854D	Dup Res Dis Hunt ,Freshwater & Salt	\$0.00	34
856	Dis Res Hunt & Saltwaterf Fish	\$10.00	5
856D	Dup Dis Res Hunt & Salt Fish	\$0.00	0

TOTAL: 5431

July 1, 1996 - June 30, 1997 Propagation Permit Totals by Species

Propagation Permit Type	Total	Sub-Total	Species
Propagate for Private Use	130	130	Game Birds and Waterfowl (quail, pheasant, chukar, partridge, ducks, geese, swans)
Propagate and Sell - Regular	83		
		0	Frogs
		7	Snakes
		21	Fish and Crayfish
		55	Game Birds and Waterfowl
Propagate and Sell - Shooting Preserve	15	15	Game Birds and Waterfowl
Totals for three permit types	228	228	

July 1, 1996 - June 30, 1997 Hold and Sell Permit Totals by Sub-Type

Hold and Sell Permit Sub-Types	Total
Retail or Wholesale Bait Store	126
Retail or Wholesale Pet Store	36
Catfish and Trout Catchout Pond (Fishing License not Required)	26
Catfish and Trout Catchout Pond (Fishing License Required)	0
Aquaculture Facility	16
Totals for these permit sub-types	204*

*197 Hold and Sell Permits have been issued, seven people have multiple subtypes

VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES

APPLICATION TO POSSESS, PROPAGATE, BUY, AND SELL CERTAIN WILDLIFE IN VIRGINIA

(Under Authority of § 29.1-412, § 29.1-103, §29.1-417 of the Code of Virginia, 4 VAC 15-20-200)

Fee: \$12.50 Permit (circle one): NEW RENEWAL Previous VDGIF Permit No: _____

Name of Applicant _____ SS# _____

Home Address _____

County _____ Home Telephone Number _____

Business or Facility Name _____

Business Address _____

County _____ Business Telephone Number _____

Name and location of facility if different from above, where animal(s) will be propagated:

_____ County _____

Indicate Species (✓) to be Propagated (Captive-bred and raised only):

The following species may only be sold in Virginia to bona fide research or education institutions or processed for human consumption.

- Bull Frog (*Rana catesbeiana*)
- Green Frog (*Rana clamitans melanota*)
- Southern Leopard Frog (*Rana utricularia*)
- Green Tree Frog (*Hyla cinerea*)
- Tongueless or Clawed Frog (*Xenopus spp.*) * Must also obtain a permit to import non-native (exotic) wildlife

The following species may be propagated and sold in Virginia provided that no snakes exceeding the maximum total lengths may be sold without authorization.

- Eastern Kingsnake (*Lampropeltis getula getula*)
- Mole Kingsnake (*Lampropeltis calligaster rhombomaculata*)
- Corn Snake (*Elaphe guttata guttata*)

The following species may be propagated and sold for stocking private ponds. Trout and catfish may also be sold for human consumption.

- Trout (including all Salmonidae) (List specific species in space provided below)
- Catfish (Family Ictaluridae except madtoms) (List specific species in space provided below)

The following species may be propagated and sold for stocking private ponds.

- All Sunfish Family Members (Including largemouth bass, smallmouth bass, spotted bass, rock bass, bluegill, crappie) (List specific species in space provided below)
- Walleye (*Stizostedion vitreum*)
- White Bass (*Morone chrysops*)
- Chain Pickerel (*Esox niger*)
- Muskellunge (*Esox masquinongy*)
- Northern Pike (*Esox lucius*)

The following species may be propagated and sold for stocking private ponds and for bait and for commercial sale by individuals with a valid hold and sell permit as bait dealers.

- Minnows and Chubs (Family Cyprinidae) (List specific species in space provided below)

May be propagated and sold for human consumption and for sale to other facilities that possess a valid hold and sell or propagation permit and a permit to import and possess non-native (exotic) wildlife.

- Mossambique Tilapia (*Tilapia mossambicus*)
- Nile Tilapia (*Tilapia nilotica*)
- Blue Tilapia (*Tilapia aurea*)
- Zanzibar Tilapia (*Tilapia hornorum*)

Crayfish and Hellgrammites may be propagated and sold to individuals for bait or for commercial sale by individuals with a valid hold and sell permit. Crayfish may be sold for human consumption.

- Crayfish (List specific species in space provided below)
- Hellgrammites

Common Name

Scientific Name

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Use back side for additional species)

Applicant signature _____ Date _____

Remit check for \$12.50 per year (payable to Treasurer of Virginia) and your completed application form (also enclose annual report form and federal permit where applicable, if applying for permit renewal) to:

Permits Section
Department of Game & Inland Fisheries
P.O. Box 11104
Richmond, Virginia 23230-1104

VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES
PERMIT REQUIREMENTS TO POSSESS, PROPAGATE, BUY, AND SELL CERTAIN WILDLIFE
CONDITIONS OF PERMIT

Pursuant to 4 VAC 15-30-10 it shall be unlawful to import, export, buy, sell, offer for sale, or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Under authority of § 29.1-103 (11) and § 29.1-412 of the Code of Virginia, the **Possess, Propagate, Buy, and Sell Permit** shall authorize the holder to buy, possess, propagate, and sell certain wildlife for commercial use. A permit holder shall comply with all terms and conditions of any permit issued by the Department per Department Regulation 4 VAC 15-290-130.

PERMIT INFORMATION

1. **Application:** Application for a permit and an application fee (see subsection of this section) shall be submitted to the Commonwealth of Virginia Department of Game and Inland Fisheries, Permits, P. O. Box 11104, Richmond, VA 23230-1104. (All checks made payable to the "Treasurer of Virginia".)
2. **Term of Permit:** Permits issued under the provisions of this section shall be issued for period determined by the Board and designated on the permit.
3. **Renewal:** It shall be the responsibility of the permittee to initiate any and all renewals.
4. **Authorized Stocks:** The following species are authorized for possession and sale by this permit:

Amphibians (4 VAC 15-360-50)

(The five species of frogs listed below can only be sold in Virginia to bona fide research or education institutions or processed for human consumption.)

Bull Frog (Rana catesbeiana)

Green Frog (Rana clamitans melanota)

Southern Leopard Frog (Rana utricularia)

Green Tree Frog (Hyla cinerea)

* Tongueless or Clawed Frog (Xenopus spp.) (4 VAC 15-30-40)

* Must also obtain a permit to import non-native (exotic) wildlife

Reptiles (4 VAC 15-360-50)

Eastern Kingsnake (Lampropeltis getula getula)

Mole Kingsnake (Lampropeltis calligaster rhombomaculata)

Corn Snake (Elaphe guttata guttata)

Game fish

Species Authorized for Propagation: Trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bluegill and crappie), walleye, white bass, chain pickerel, muskellunge and northern pike (4 VAC 15-320-40) (§29.1-100).

- A. Gamefish can only be propagated and sold for stocking private ponds (without Department stocking authorization) (4 VAC 15-320-60) with the exception of trout (brown trout, brook trout, or rainbow trout) (4 VAC 15-330-190) which can also be sold for food purposes, (e.g. to restaurants, food stores).
- B. Propagation and stocking of striped bass or hybrid striped bass are not covered under this permit. A permit must be obtained from the Virginia Marine Resources Commission.

Non-game fish

- A. Minnows and chubs (family Cyprinidae) (4 VAC 15-360-20) and catfish (family Ictaluridae, except madtoms) (4 VAC 15-320-40) .
- B. Tilapia * (4 VAC 15-30-40)
Mossambique Tilapia (Tilapia mossambicuss)
Nile Tilapia (Tilapia nilotica)
Blue Tilapia (Tilapia aurea)
Zanzibar Tilapia (Tilapia hornorum)

*** Must also obtain a permit to import non-native (exotic) wildlife**

Aquatic invertebrates

Crayfish and hellgrammites may be propagated and sold per the authorities of this permit.

5. Maximum Size Sale Requirement:

No snakes exceeding the following maximum total lengths may be sold by permittee without prior authorization by the Department (4 VAC 15-360-50).

- Eastern Kingsnake - 16 inches
- Mole Kingsnake - 12 inches
- Corn Snake - 16 inches

6. Conditions of Sale:

- A. Any sales of reptiles and/or amphibians authorized by this permit must be accompanied by a numbered bill of sale, and a copy of such bill shall be retained by the permittee.
- B. Authorized persons or businesses engaged in the resale of reptiles and amphibians pursuant to this permit must retain all original bills of sale for such animal.
- C. The operator of a commercial catfish or trout fishing pond shall be required to furnish each fisherman taking catfish or trout therein a bill of sale, which shall include the name of the fisherman, date, species and number of catfish or trout creeled. The fisherman shall retain this bill of sale as long as the fish are in his possession and a duplicate thereof shall remain with the operator of the commercially operated fishing pond and be made available for inspection by all authorized department personnel (4 VAC 15-330-180).

7. **Exceptions and Restrictions**

- A. Commercially operated fishing ponds - there shall be a continuous open season for taking catfish or trout in any department authorized commercially operated fishing ponds without creel or hours restricted.
- B. Possession and sale of goldfish do not require a permit.
- C. No species listed as threatened or endangered shall be possessed or sold (4 VAC 15-20-130, 15-20-140).
- D. It shall be unlawful to sell any species of salamander with the exception of nonnative newts (Salamandridae) (4 VAC 15-360-60).
- E. If a permittee is allowing others to fish in the permittee's ponds for a fee, they must purchase a Hold and Sell permit for a catch-out-pond.

8. **Record Keeping:** Permittee shall maintain detailed records which shall include an account of sales by date, purchaser, species and number or poundage sold. Records and receipts shall be retained by permittee for a period of one year.

Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale for human consumption or who shall import into the Commonwealth such trout for such purpose shall keep a record of the number and species, the number raised or, if imported, from whom purchased (4 VAC 15-330-190B).

Any eating establishment serving brown trout, brook trout or rainbow trout shall advertise on the menu that such trout are artificially raised (4 VAC 15-330-190D).

9. **Annual Report Requirement:** Propagators of permitted Tilapia shall submit an annual report containing certain information required by subsection 8 above to the Department by the date designated on the permit. Failure to submit the annual report may be grounds for non-renewal or revocation of an individual's permit.

10. **Prohibitions on Release of Stocks and Offspring to the Wild:** It shall be unlawful to stock any species of fish into any inland waters of the Commonwealth, without first obtaining written approval to do so from the Department (need Department stocking authorization form). Nothing in this section shall be construed as restricting the use of native and naturalized species of fish in privately-owned ponds and lakes (4 VAC 15-320-60). The permittee is expressly prohibited from releasing all other stocks or offspring to the wild.

11. **Inspections:** Authorized representatives of the Virginia Department of Game and Inland Fisheries may make periodic inspections of the facility and stocks of each operation, and permittee shall allow such inspections at any reasonable time.

12. **Other Laws and Regulations:** This permit does not absolve the permittee of any responsibilities or conditions of any other federal, state, or local laws and regulations, including those that apply to threatened or endangered species.

13. **Revocation:** The Department may revoke, or suspend, a permit for failure to comply with provisions of a permit, or failure to comply with these regulations. Any person whose permit is revoked, or suspended, may request a hearing before the Department to show cause why his/her permit should not be revoked, or suspended (4 VAC 15-290-130). The penalty for violation of this section is prescribed by §29.1-505 of the Code of Virginia as a Class 3 misdemeanor.

**VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES
ANNUAL REPORTING FORM FOR PROPAGATING AND SELLING OF TILAPIA**

(Report not needed for other species.)

Return Report By Date Designated on the Permit

NAME: _____ VDGIF PERMIT # _____

ADDRESS: _____

_____ TELEPHONE # _____

SALES OF OFFSPRING OR BROODSTOCK

SPECIES	NUMBER	SOLD OR	POUNDS
Mossambique Tilapia			
Nile Tilapia			
Blue Tilapia			
Zanzibar Tilapia			

SIGNATURE: _____ DATE: _____

RETURN TO: Dept. of Game & Inland Fisheries, Permits, P. O. Box 11104, Richmond, VA 23230-1104

VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES
APPLICATION
TO HOLD AND SELL CERTAIN FISH, SNAKES, SNAPPING TURTLES,
CRAYFISH, & HELLGRAMMITES FOR SALE
(Under Authority of § 29.1-412, and 471 of the Code of Virginia, 4 VAC 15-360)

Fee: (See below)

Permit (Circle one): **NEW** **RENEWAL** Previous VDGIF Permit No. _____

Name of Applicant _____ SS# _____

Address _____

County _____ Telephone Number (____) _____

Business Name _____ FIN# _____

Business Address _____

County _____ Telephone Number (____) _____

Name and location of facility if different from above, where animal(s) will be sold:

_____ County _____

Type of business: (Fee)

- | | |
|---|--|
| <input type="checkbox"/> Retail or wholesale bait store (\$10.00) | <input type="checkbox"/> Retail or wholesale pet store (\$10.00) |
| <input type="checkbox"/> Catfish & Trout catch-out pond (\$50.00)
(Fishing license not required) | <input type="checkbox"/> Catfish & Trout catch-out pond (\$10.00)*
(Fishing license and statewide creel limit required) |
| <input type="checkbox"/> Aquaculture Facility: Trout, catfish, Tilapia, snapping turtles or crayfish held for market (\$10.00) [no catch-out or propagation (spawning)] | |

* Permit required only if fish are being sold by weight (e.g. by the pound)

Indicate Species (✓) to be held and sold (check all that apply): **No threatened or endangered species can be held or sold.**

The following species may be held and sold for stocking private ponds. Trout and catfish may also be sold for human consumption.

- Trout (including all Salmonidae) (List specific species in space provided on back)
- Catfish (Family Ictaluridae except madtoms) (List specific species in space provided on back)

The following species may be held and sold for stocking private ponds.

- All Sunfish Family Members (Including largemouth bass, smallmouth bass, spotted bass, rock bass, bluegill, crappie) (List specific species in space provided on back)
- Walleye (*Stizostedion vitreum*)

- White Bass (*Morone chrysops*)
- Chain Pickerel (*Esox niger*)
- Muskellunge (*Esox masquinongy*)
- Northern Pike (*Esox lucius*)

The following species may be held and sold for human consumption only and for sale to other facilities that possess a valid Hold and Sell or Propagation Permit and a permit to import and possess non-native (exotic) wildlife.

- Mossambique Tilapia (*Tilapia mossambicuss*)
- Nile Tilapia (*Tilapia nilotica*)
- Blue Tilapia (*Tilapia aurea*)
- Zanzibar Tilapia (*Tilapia hornorum*)

The following species may be held and sold for stocking private ponds and for bait.

- Minnows and Chubs (Family Cyprinidae) (List specific species in space provided below)
(No permit required for holding and selling goldfish)

Only captive bred corn snakes, eastern kingsnakes, and mole kingsnakes may be held and sold. Maximum purchase size for corn snakes is 16 inches, eastern kingsnakes is 16 inches and mole kingsnakes is 12 inches. Maximum purchase size refers to wholesale purchases and does not apply to retail snakes.

- Eastern Kingsnake (*Lampropeltis getula getula*)
- Mole Kingsnake (*Lampropeltis calligaster rhombomaculata*)
- Corn Snake (*Elaphe guttata guttata*)

Snapping turtles may be held and sold for human consumption. Turtles must be legally obtained from a permitted dealer or collector.

- Snapping Turtles (*Chelydra serpentina serpentina*)

Crayfish and Hellgrammites may be held and sold to individuals for bait. Crayfish may be sold for human consumption.

- Crayfish (List specific species in space provided below)
- Hellgrammites

Common Name

Scientific Name

(Use a separate sheet for additional species)

Applicant signature _____ Date _____

Make check payable to: Treasurer of Virginia and
 return to: Permits Section, VDGIF, P.O. Box 11104, Richmond, Virginia 23230-1104
THIS PERMIT EXPIRES JUNE 30, 1998

**PERMIT REQUIREMENTS TO HOLD AND SELL (COMMERCIALY)
CERTAIN FISH, SNAKES, SNAPPING TURTLES,
CRAYFISH, AND HELLGRAMMITES**

CONDITIONS OF PERMIT

As provided for in § 29.1-412 and 417 of the Code of Virginia, the Hold and Sell for Commercial Use permit shall be required by any person or establishment which sells any of the species listed below in subsection "A" (e.g., bait stores, pet stores, trout catch-out ponds, or for human consumption).

A. Permitted Species:

1. Reptiles (4 VAC 15-360-50)

Eastern Kingsnake (*Lampropeltis getula getula*) (captive bred only - 16 inch maximum purchase size)

Mole Kingsnake (*Lampropeltis calligaster rhombomaculata*) (captive bred only - 12 inch maximum purchase size)

Corn Snake (*Elaphe guttata guttata*) (captive bred only - 16 inch maximum purchase size)

2. Game fish

Gamefish can only be held and sold for stocking private ponds (without Department stocking authorization) (4 VAC 15-320-60) with the exception of trout (brown trout, brook trout, or rainbow trout) (4 VAC 15-330-190) which can also be sold for food purposes, (e.g. to restaurants, food stores).

Gamefish species authorized for holding and for sale as outlined above, include trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bluegill and crappie), walleye, white bass, chain pickerel, muskellunge and northern pike (4 VAC 15-320-40) (§29.1-100).

Holding and stocking of striped bass or hybrid striped bass are not covered under this permit. A permit must be obtained from the Virginia Marine Resources Commission.

3. Non-game fish

a. Minnows and chubs (family Cyprinidae) (4 VAC 15-360-20) (examples - fathead minnows, golden shiners, creek chubs) and catfish (family Ictaluridae - channel, blue, flathead, white and bullheads, except madtoms) (4 VAC 15-320-40).

b. Tilapia * (4 VAC 15-30-40)

Mossambique Tilapia (*Tilapia mossambicuss*)

Nile Tilapia (*Tilapia nilotica*)

Blue Tilapia (*Tilapia aurea*)

Zanzibar Tilapia (*Tilapia hornorum*)

* Must also obtain a permit to import and possess non-native (exotic) wildlife

4. Snapping turtles

Common Snapping Turtle (*Chelydra serpentina serpentina*)

5. Aquatic invertebrates

Crayfish and hellgrammites may be held and sold per the authorities of this permit.

B. Possession Limits:

Commercial operations may possess and sell unlimited quantities when possession is accompanied by a valid invoice or bill of sale from an individual permitted by this Department or from a properly permitted aquaculture facility in Virginia or out-of-state.

C. Exceptions and Restrictions:

1. Catfish & \or Trout Catch-out Ponds (no fishing license required) \$50.00

a. Commercially operated catfish or trout fishing ponds shall have a continuous open season for taking catfish or trout in any department authorized commercially operated fishing ponds without creel or hours restricted. (§29.1-531D, Code of Virginia, 4 VAC 15-330-10)

b. The operator of a commercial catfish or trout fishing pond shall be required to furnish each fisherman taking catfish or trout therein a bill of sale, which shall include the name of the fisherman, date, species and number of catfish or trout creeled. The fisherman shall retain this bill of sale as long as the fish are in his possession and a duplicate thereof shall remain with the operator of the commercially operated fishing pond and be made available for inspection by all authorized department personnel (4 VAC 15-330-180).

c. A stream may not be used as a catch-out-pond. If a person wants to stock a stream and charge people to fish, he needs a Fish Stocking Authorization Letter from a Regional Fisheries Biologist. The customers must go by the state length and creel limits and have a fishing license. They do not need a trout license if the area of stream is not designated stocked water.

2. Catfish & \or Trout Catch-out Ponds (fishing license required) \$10.00

a. A Hold and Sell Permit is required by the operator if catfish or trout are sold by weight (e.g. by the pound).

b. Virginia residents (age 16 and over) and non-residents (age 12 and over) fishing in a catfish or trout fee catch-out pond are required to have a valid Virginia freshwater fishing license. The customers must also abide by the state length and creel limits.

c. A stream may not be used as a catch-out-pond. If a person wants to stock a stream and charge people to fish, he needs a Fish Stocking Authorization Letter from a Regional Fisheries Biologist. The customers must go by the state length and creel limits and have a fishing license. They do not need a trout license if the area of stream is not designated stocked water.

3. Trout Artificially Raised for Human Consumption

a. Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale for human consumption or who shall import into the Commonwealth such trout for such purpose shall keep a record of the number and species, the number raised or, if imported, from whom purchased (4 VAC 15-330-190B).

b. Any eating establishment serving brown trout, brook trout or rainbow trout shall advertise on the menu that such trout are artificially raised (4 VAC 15-330-190D).

4. Native Snakes

Maximum purchase size refers to wholesale purchases and does not apply to retail sales. Snakes larger than the maximum purchase size can be sold by the permittee if obtained under the conditions of the permit. (4 VAC 15-360-50)

5. Goldfish

No permit is required to hold and sell goldfish. (4 VAC 15-360-10-A3)

6. Threatened & Endangered Species

No species listed as threatened or endangered (attached) shall be possessed or sold (4 VAC 15-20-130C).

7. Salamanders (a.k.a. "spring lizards") & Madtoms

No species of native or naturalized salamanders or madtoms may be sold (§29.1-521, Code of Virginia, 4 VAC 15-360-60).

D. Term of Permit:

Permits are issued on a fiscal year basis beginning July 1 and expiring June 30. (§29.1-413, Code of Virginia)

E. Inspections:

Authorized representatives of the Virginia Department of Game and Inland Fisheries may make periodic inspections of the facility and stocks of each operation, and permittee shall allow such inspections at any reasonable time.

F. Violation of Permit Conditions and Revocation:

Regulation 4 VAC 15-290-130 states that a permit holder shall comply with all terms and conditions of any permit issued by the Department of Game and Inland Fisheries pursuant to Title 29.1 of the Code of Virginia and the regulations of the board pertaining to hunting, fishing, trapping, attempting to take, possession, sale, offering for sale, transporting or causing to be transported, importing or exporting, propagating, exhibiting, and rehabilitating of any wild bird, wild animal or fish. The penalty for violation of this section is a Class 3 misdemeanor unless another penalty is specified. Permit will be revoked for violation of any of the above conditions, restrictions or limitations.

G. Federal, State, or Local Laws:

This permit does not absolve the permittee of any responsibilities or conditions of any other Federal, State, or Local laws and regulations, including those that apply to Threatened/Endangered Species.

H. Collection from Wild:

1. Collection of minnows and chubs from the wild requires a Haul Seine Permit.
2. Collection of snapping turtles, crayfish, and hellgrammites from the wild requires a Collect and Sell Permit.

VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES

APPLICATION/PERMIT
TO IMPORT CERTAIN NON-NATIVE (EXOTIC) WILDLIFE INTO VIRGINIA

(Under Authority of § 29.1-542 of the Code of Virginia, 4 VAC 15-30)

Fee: **\$10.00**

Permit (circle one): NEW RENEWAL VDGIF Permit No. _____

Name of Applicant _____ SS# _____

Address _____

County _____ Telephone Number (_____) _____

Business Name _____ FIN# _____

Business Address _____

County _____ Telephone Number(_____) _____

Name and location of facility if different from above, where animal(s) will be sold: _____

County: _____

Name of nearest stream: _____

List species to be imported (common & scientific names): _____

Purpose of importation: _____

Person or facility where animal(s) are to be imported from:

Name: _____

Address: _____

Telephone number: _____ Permit No. _____

Applicant signature _____ Date _____

Make check payable to: Treasurer of Virginia and
return to: Permits Section, VDGIF, P.O. Box 11104, Richmond, Virginia 23230-1104

THIS PERMIT EXPIRES JUNE 30, 1998

-----FOR DEPARTMENT USE ONLY-----

Approved by _____ Date _____
Title _____

DEPARTMENT OF GAME AND INLAND FISHERIES

PERMIT REQUIREMENTS FOR THE IMPORTATION, POSSESSION, AND CULTURE OF TILAPIAS AND CLAWED FROGS IN VIRGINIA

Under authority of Sections 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the Board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.

Under the authority of Section 29.1-542 of the Code of Virginia, non-native (exotic) animals otherwise classed as predatory or undesirable, may not be imported into the Commonwealth or liberated therein, or possessed therein, except under a special permit of the Board. Before such permit is issued, the importer shall make application to the Department of Game and Inland Fisheries (Department), giving the place of origin, the name and address of the exporter and a certificate from a licensed and accredited practicing veterinarian, or certified fish pathologist, certifying that the animal to be imported is not manifesting any signs of infectious, contagious, or communicable disease.

EXOTIC SPECIES IMPORTATION PERMIT INFORMATION

A special permit is required and may be issued by the Department, if consistent with the department's fish and wildlife management program, to import, possess, or sell those non-native (exotic) animals listed below that the board finds and declares to be predatory or undesirable within the meaning and intent of Section 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

AMPHIBIANS:

Genus/Species

Common Name

Xenopus spp.

Tongueless or clawed frog

FISH:

Genus/Species	Common Name
* <u>Tilapia mossambicuss</u>	Mossambique tilapia
* <u>Tilapia nilotica</u>	Nile tilapia
* <u>Tilapia aurea</u>	Blue tilapia
* <u>Tilapia homorum</u>	Zanzibar tilapia

* Genus may also be listed as Oreochromis or Sarotherodon

1. **APPLICATION:** Application for a permit and an application fee (see subsection of this section) shall be submitted to the Department of Game and Inland Fisheries, Permits Section, P. O. Box 11104, Richmond, VA 23230-1104. (All checks made payable to the "Treasurer of Virginia") The application for a non-native (exotic) permit shall state the name and address of the applicant, the location of the rearing facility, species to be imported, location of the nearest water body or stream and the purpose of importation.
2. **TERM OF PERMIT:** Permits issued under the provisions of this section shall be issued on a fiscal year basis beginning July 1 and expiring June 30.
3. **RENEWAL:** It shall be the responsibility of the permittee to initiate any and all renewals.
4. **REVOCATION:** The Department may revoke, or suspend a permit for failure to comply with provisions of a permit, or failure to comply with these regulations. Any person whose permit is revoked, or suspended, may request a hearing before the Department to show cause why his/her permit should not be revoked, or suspended (4 VAC 15-290-130).

CONDITIONS OF PERMIT

The following restrictions and limitations are recommended for approval of a permit to possess non-native (exotic) species for research or aquaculture.

1. Facilities holding or rearing non-native (exotic) species which are within the 100 year flood plain, referred to as Zone A on the National Flood Insurance Map¹ shall be enclosed within an earthen or concrete dike or levee raised to an elevation of at least one foot above the 100 year flood elevation. The dike should be constructed in such a manner to exclude all flood waters. Dike construction must be approved by the Department.
2. Open pond culture will not be permitted. All non-native (exotic) species listed in Paragraph 3 shall only be kept in closed aquaculture systems which must be covered or in a building.

3. There shall be no continuous discharge of water.
 - a. There shall be no direct discharge from any facility to any watercourse.
 - b. Discharge must be according to one of the following:
 1. the outfall shall pass over a dry ground percolation system in which ground absorption of the water is sufficient. The outfall shall pass through a screened filter box which will prevent fish and fish eggs from escapement prior to entering the percolation area.
 2. the outfall shall pass through a chlorination or other effective sterilization process and retention tank for dechlorination. The outfall from the chlorination system shall be screened to prevent escapement of eggs or fry. Such facilities must also comply with regulation of the Department of Environmental Quality.
4. Accidental spillage or escapement of non-native (exotic) species from the facility must be reported within 24 hours to the Department.
5. Non-natives or their hybrids (including eggs) may be obtained only from Virginia permitted dealers or dealers properly permitted out of state and must be certified by the seller as to species shipped, and having disease free status. Each purchase or acquisition of non-native species must be accompanied by a receipt or other written evidence showing date of sale, source, species, quantity of the acquisition and its destination. Such receipt must be in the possession of the permittee, and a copy sent to the Department.
6. The facility shall not sell any live non-native (exotic) species (including eggs) to any person not having a valid permit for purchasing such within the Commonwealth.
7. The permit authorizes agents of the Department to make periodic inspections of the facilities and the stock of each operation. Every person engaged in the business of non-native (exotic) species shall permit such inspection at any reasonable time.
8. Under no circumstances shall any non-native (exotic) species be released into the wild.

¹Available from the National Flood Insurance Program, U.S. Dept. of Housing & Urban Development (Tel. 1-800-638-6620).

9. **FEDERAL, STATE, OR LOCAL LAWS:** This permit does not absolve the permittee of any responsibilities or conditions of any other federal, state, or local laws and regulations, including those that apply to threatened and endangered species.

VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES
APPLICATION
TO HOLD AND SELL CERTAIN FISH, SNAKES, SNAPPING TURTLES,
CRAYFISH, & HELLGRAMMITES FOR SALE
(Under Authority of § 29.1-412, and 471 of the Code of Virginia, 4 VAC 15-360)

Fee: (See below)

Permit (Circle one): **NEW** **RENEWAL** Previous VDGIF Permit No. _____

Name of Applicant _____ SS# _____

Address _____

County _____ Telephone Number (____) _____

Business Name _____ FIN# _____

Business Address _____

County _____ Telephone Number (____) _____

Name and location of facility if different from above, where animal(s) will be sold:

_____ County _____

Type of business: (Fee)

- | | |
|--|--|
| <input type="checkbox"/> Retail or wholesale bait store (\$10.00) | <input type="checkbox"/> Retail or wholesale pet store (\$10.00) |
| <input type="checkbox"/> Catfish & Trout catch-out pond (\$50.00)
(Fishing license not required) | <input type="checkbox"/> Catfish & Trout catch-out pond (\$10.00)*
(Fishing license and statewide creel limit required) |
| <input type="checkbox"/> Aquaculture Facility: Trout, catfish, Tilapia, snapping turtles or crayfish held for market
(\$10.00) [no catch-out or propagation (spawning)] | |

* Permit required only if fish are being sold by weight (e.g. by the pound)

Indicate Species (✓) to be held and sold (check all that apply): **No threatened or endangered species can be held or sold.**

The following species may be held and sold for stocking private ponds. Trout and catfish may also be sold for human consumption.

- Trout (including all Salmonidae) (List specific species in space provided on back)
- Catfish (Family Ictaluridae except madtoms) (List specific species in space provided on back)

The following species may be held and sold for stocking private ponds.

- All Sunfish Family Members (Including largemouth bass, smallmouth bass, spotted bass, rock bass, bluegill, crappie) (List specific species in space provided on back)
- Walleye (*Stizostedion vitreum*)

- White Bass (*Morone chrysops*)
- Chain Pickerel (*Esox niger*)
- Muskellunge (*Esox masquinongy*)
- Northern Pike (*Esox lucius*)

The following species may be held and sold for human consumption only and for sale to other facilities that possess a valid Hold and Sell or Propagation Permit and a permit to import and possess non-native (exotic) wildlife.

- Mossambique Tilapia (*Tilapia mossambicuss*)
- Nile Tilapia (*Tilapia nilotica*)
- Blue Tilapia (*Tilapia aurea*)
- Zanzibar Tilapia (*Tilapia hornorum*)

The following species may be held and sold for stocking private ponds and for bait.

- Minnows and Chubs (Family Cyprinidae) (List specific species in space provided below)
(No permit required for holding and selling goldfish)

Only captive bred corn snakes, eastern kingsnakes, and mole kingsnakes may be held and sold. Maximum purchase size for corn snakes is 16 inches, eastern kingsnakes is 16 inches and mole kingsnakes is 12 inches. Maximum purchase size refers to wholesale purchases and does not apply to retail snakes.

- Eastern Kingsnake (*Lampropeltis getula getula*)
- Mole Kingsnake (*Lampropeltis calligaster rhombomaculata*)
- Corn Snake (*Elaphe guttata guttata*)

Snapping turtles may be held and sold for human consumption. Turtles must be legally obtained from a permitted dealer or collector.

- Snapping Turtles (*Chelydra serpentina serpentina*)

Crayfish and Hellgrammites may be held and sold to individuals for bait. Crayfish may be sold for human consumption.

- Crayfish (List specific species in space provided below)
- Hellgrammites

Common Name

Scientific Name

(Use a separate sheet for additional species)

Applicant signature _____ Date _____

Make check payable to: Treasurer of Virginia and
return to: Permits Section, VDGIF, P.O. Box 11104, Richmond, Virginia 23230-1104

THIS PERMIT EXPIRES JUNE 30, 1998

Excerpts from the Code of Virginia that are referenced in the Propagate and Sell, Hold and Sell, Collect and Sell, and Exotic Importation permits.

§ 29.1-103

Powers and duties of the Board

The Board is responsible for carrying out the purposes and provisions of this title and is authorized to:

11. Exercise powers it may deem advisable for conserving, protecting, replenishing, propagating and increasing the supply of game birds, game animals, fish and other wildlife of the Commonwealth.

12. Adopt resolutions or regulations conferring upon the Director all such powers, authorities and duties as the Board possesses and deems necessary or proper to carry out the purposes of this title.

§ 29.1-109

Department of Game and Inland Fisheries: Director

A. The Department of Game and Inland Fisheries shall exist to provide public, informational and educational services related to this title, and to serve as the agency responsible for the administration and enforcement of all rules and regulations of the Board, the statutory provisions of this title, and related legislative acts.

B. The Board shall appoint a Director to head the Department and to act as principal administrative officer. In addition to the powers designated elsewhere in this title, the Director shall have the power to:

1. Enforce or cause to be enforced all laws for the protection, propagation and preservation of game birds and game animals of the Commonwealth and all fish in the inland waters thereof. Inland waters shall include all waters above tidewater and the brackish and freshwater streams, creeks, bays, including Back Bay, inlets, and ponds in the tidewater counties and cities.

2. Initiate prosecution of all persons who violate such laws, and seize and confiscate wild birds, wild animals and fish that have been illegally killed, caught, transported or shipped.

3. Employ persons necessary for the administrative requirements of the Board and to designate the official position and duties of each. The salaries of all such employees shall be as provided in accordance with law.

§ 29.1-521

Unlawful to hunt, trap, possess, sell or transport wild birds and wild animals except as permitted: penalty

A. The following shall be unlawful:

10. To hunt, trap, take, capture, kill, attempt to take, capture or kill, possess, deliver for

transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit the use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law. A violation of this subdivision shall be punishable as provided in § 29.1-553.

B. A violation of subdivisions 1 through 10 of subsection A of this section shall be punishable as a Class 3 misdemeanor.

§ 29.1-412

Permits required

It shall be unlawful to exercise any privilege of the permits provided in this article without first having obtained the required permit.

Any person who violates any provision of this article shall be guilty of a Class 4 misdemeanor, and the permit shall be revoked.

§ 29.1-417

Capturing, holding, propagating, and disposing of wildlife for authorized purposes

The fee for a permit to capture, hold, propagate, and dispose of wildlife for purposes authorized by the Board, shall be an amount sufficient to defray the costs of processing the permit and administering the permitted activity. However, in no instance shall the fees established by the Board exceed the following:

1. For deer farming, \$350;
2. For wolf-hybrid kennels, \$100;
3. For endangered species, scientific collection and wildlife holder, \$20; and
4. For all other such permits, \$50.

The permit shall also authorize the permittee to artificially raise trout or catfish for sale from a privately owned facility where the permittee allows public fishing from its facilities. If this fee has been paid, no license shall be required to fish from such a facility.

§ 29.1-505

Penalty for violation of regulations

It shall be a misdemeanor to violate any regulation promulgated pursuant to this title. Any person violating such a regulation shall be guilty of a Class 3 misdemeanor unless another penalty is specified.

§ 29.1-100

Definitions

As used in this title, or in any of the regulations of the Board, unless the context clearly requires a different meaning:

"Fishing" means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon the inland waters of this Commonwealth.

"Game fish" means trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bream, bluegill and crappie), walleye or pike perch, white bass, chain pickerel or jackfish, muskellunge, and northern pike, wherever such fish are found in the waters of this Commonwealth and rockfish or striped bass where found above tidewaters or in streams which are blocked from access from tidewaters by dams.

"Wildlife" means all species of wild animals, wild birds and freshwater fish in the public waters of this Commonwealth.

§ 29.1-531

Unlawful to take or attempt to take, possess, sell or transport fish except as permitted

A. Unless otherwise provided by a regulation of the Board, it shall be unlawful for any person to take or attempt to take any fish in inland waters other than shad, herring or mullet, except by fishing with a hook and line or rod and reel, held in the hand.

B. It shall be unlawful to catch, trap, take, capture, kill, or attempt to take, capture or kill, possess, deliver for transportation, transport, cause to be transported, receive for transport, export, or import at any time or in any manner any species of game fish, or the carcass or any part thereof, except as specifically permitted by law and only by the means and within the numbers stated.

C. In Mecklenburg, Pittsylvania, Prince Edward, Charlotte, Campbell, Halifax, Amelia (except between Vaughn's Pond and Meadville Dam), Caroline and King George Counties, in the City of Danville, and in the Meherrin River in Lunenburg County, it shall be lawful to fish with fish traps, fish pots or haul seines in any streams and waters, provided that no person shall catch fish with fish traps or fish pots or haul seines for commercial purposes. However, it shall be unlawful in such localities to remove from the waters thereof any game fish caught with fish pots, fish traps or haul seines, and any person doing so shall immediately return them to the waters. The Board shall have the authority to close any streams or rivers or parts of streams or rivers in such localities when the waters are stocked with fish by the Department.

D. It shall be lawful to sell or offer to sell for human consumption trout which have been lawfully acquired, provided such trout have been propagated and raised in a hatchery or by other artificial means. The Board shall by appropriate regulation establish a practical system of identification of trout so offered for sale for table use.

E. It shall be unlawful to offer for sale, sell, offer to purchase, or purchase at any time or in any manner any species of game fish, or the carcass or any part thereof, except as specifically permitted by law and only by the means and within the numbers stated. A violation of the provisions of this subsection shall be punishable as provided in § 29.1-553.

F. A violation of the provisions of subsections A through D shall constitute a Class 2 misdemeanor.

Excerpts from the Administrative Code (Regulations) that are referenced in the Propagate and Sell, Hold and Sell, Collect and Sell, and Exotic Importation permits.

§ 4VAC15-30-10 Possession, importation, sale, etc. of wild animals.

Under the authority of §§29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale, or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.

§ 4VAC15-320-40 Sale of freshwater molluscs, mussels, game fish or catfish prohibited.

It shall be unlawful to sell, offer for sale or buy any species of freshwater mollusc or mussel, game fish or catfish, provided that this shall not apply to game fish sold alive for propagation purposes, or catfish artificially raised, by a holder of a Permit to Propagate and Sell Certain Wildlife or Permit to Hold and Sell Certain Wildlife, or sold pursuant to 4VAC15-330-180 and 4VAC15-330-190, or to any catfish taken from tidewater.

§ 4VAC15-320-60 Approval required to stock fish into inland waters.

It shall be unlawful to stock any species of fish into any inland waters of the Commonwealth, without first obtaining written approval to do so from the department. Nothing in this section shall be construed as restricting the use of native and naturalized species of fish in privately-owned ponds and lakes.

§ 4VAC15-330-10 Season: general open season.

Except as otherwise specifically provided in the sections appearing in this chapter, there shall be a year-round season for taking trout. However, angling in designated stocked trout waters shall only be permitted from 5 a.m. until one hour after sunset.

§ 4VAC15-330-180 Bills of sale for trout creeled in commercially operated fishing ponds.

The operator of a commercially operated fishing pond shall be required to furnish each fisherman taking trout therein a bill of sale, which shall include the name of the fisherman, date, species and number of trout creeled. The fisherman shall retain this bill of sale as long as the fish are in his possession and a duplicate of that shall remain with the operator of the commercially operated fishing pond and be made available for inspection by all authorized department personnel.

§ 4VAC15-330-190 Trout artificially raised for human consumption.

A. Permit required. It shall be unlawful to artificially raise brown trout, brook trout or rainbow trout for human consumption or to import into Virginia such trout for human consumption without first having obtained a permit from the department so to do.

B. Records. Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale for human consumption or who shall import into the Commonwealth such trout for such purpose shall keep a record of the number and species, the number raised or, if imported, from

whom purchased.

C. Inspection of premises or establishments. Any establishment raising trout or ordering, importing or possessing trout, as provided for in subsection A of this section, shall be open to inspection at all reasonable hours to any representative of the department.

D. Notice on menu of eating establishments serving trout. Any eating establishment serving brown trout, brook trout or rainbow trout shall advertise on the menu that such trout are artificially raised.

§ 4VAC15-360-10 Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use.

A. Possession limits. Except as otherwise provided for in §29.1-418 of the Code of Virginia, 4VAC15-20-130, and the sections of this chapter, it shall be lawful to capture and possess live for private use and not for sale no more than five individuals of any single native or naturalized (as defined in 4VAC15-20-50) species of amphibian and reptile and 20 individuals of any single native or naturalized (as defined in 4 VAC 15-20-50) species of aquatic invertebrate and nongame fish unless specifically listed below:

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, bowfin, longnose gar, mullet, bullhead catfish, suckers, gizzard shad, blueback herring, white perch, yellow perch, alewife, stoneroller (hornyhead), fathead minnow, golden shiner, and goldfish.
2. The following species may be taken in unlimited numbers from inland waters below the fall line: channel catfish, white catfish and blue catfish.
3. For the purpose of this chapter, "fish bait" shall be defined as native or naturalized species of minnows and chubs (Cyprinidae), salamanders, crayfish, and hellgrammites. The possession limit for taking "fish bait" shall be 50 individuals in aggregate, unless said person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders which cannot be sold pursuant to the provisions of 4VAC15-360-60. However, stonerollers (hornyheads), fathead minnows, golden shiners, and goldfish may be taken and possessed in unlimited numbers as provided for in subdivision 1 of this subsection.
4. The daily limit for bullfrogs and snapping turtles shall be 15 and bullfrogs and snapping turtles may not be taken from the banks or waters of designated stocked trout waters.

B. Methods of taking species in subsection A. Except as otherwise provided for in the Code of Virginia, 4VAC15-20-130, other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A may only be taken by hand, hook and line, with a seine not exceeding four feet in depth by 10 feet in length, an umbrella type net not exceeding five by five feet square, small minnow traps with throat openings no larger than one inch in diameter, cast nets not to exceed six feet in radius and hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of §29.1-416 of the Code of Virginia). Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire.

C. Areas restricted from taking mollusks. Except as provided for in §§29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take mussels and the spiny riversnail (*Io fluviialis*) in the Tennessee drainage in Virginia (Clinch, Powell and the North, South and Middle Forks of the Holston Rivers and tributaries), and it shall be unlawful to take mussels in the James River and tributaries west of U.S. Route 29 and in the entire North Fork of the Shenandoah River.

D. Areas restricted from taking salamanders. Except as provided for in §§29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take salamanders in Grayson Highlands State Park and on National Forest lands in the Jefferson National Forest in those portions of Grayson, Smyth and Washington counties bounded on the east by State Route 16, on the north by State Route 603 and on the south and west by U.S. Route 58.

§ 4VAC15-360-20 Taking minnows and chubs for sale.

A. "Haul seine" defined. "Haul seine," as used in this section, when used in the inland waters of the Commonwealth above where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 15 feet in length, and when used in the public inland waters below where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 100 feet in length. Such a term shall be construed also to include umbrella type nets without limit as to size and also small minnow traps with throat openings no larger than one inch in diameter.

B. Permit required. It shall be lawful to take minnows and chubs (Cyprinidae) for sale from the inland waters of the Commonwealth with a permit as provided for in §29.1-416 of the Code of Virginia except that it is unlawful to take threatened and endangered species as listed in 4 VAC 15-20-130.

C. Permit holder to be present when seine operated; persons assisting. The holder of a permit to seine for minnows and chubs (Cyprinidae) must be present at all times when the seine is being operated to catch minnows and chubs (Cyprinidae). Persons assisting in the operation of the haul seine need not obtain permits.

D. Records. The holder of a permit to take minnows and chubs (Cyprinidae) for sale shall keep a record of the approximate number of minnows and chubs (Cyprinidae) taken by location (name and county of water body) and sold, together with the amount received therefor.

E. Commercial bait operations. Commercial bait operations must have a Permit to Hold or Sell Certain Wildlife or a Permit to Propagate and Sell Certain Wildlife. With the exception of those species listed in 4 VAC 15-20-130, these operations may possess and sell unlimited quantities of minnows and chubs (Cyprinidae), when possession is accompanied by a valid invoice or bill of sale from an individual permitted under subsection B of this section or from a properly permitted aquaculture facility in Virginia or out-of-state.

§ 4VAC15-360-30 Taking of snapping turtles, crayfish and hellgrammites for sale.

It shall be lawful to take and sell snapping turtles, crayfish and hellgrammites with a Permit to Collect and Sell Snapping Turtles, Crayfish and Hellgrammites or a Permit to Hold and Sell

Certain Wildlife under such restrictions and conditions as the board may prescribe.

§ 4VAC15-360-50 Propagation and sale of certain amphibians and reptiles.

It shall be lawful to propagate and sell certain native species of captive bred amphibians and reptiles with a Permit to Propagate and Sell Certain Wildlife or a Permit to Hold and Sell Certain Wildlife under such restrictions and conditions as the board may prescribe.

§ 4VAC15-360-60 Prohibit the sale of salamander species.

It shall be unlawful to sell any species of salamander with the exception of nonnative newts (Salamandridae).

§ 4VAC15-20-130 Endangered and threatened species; adoption of federal list; additional species enumerated.

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 USC §§ 1531-1543), as amended, and declares all species listed thereon to be endangered or threatened species in the Commonwealth.

B. In addition to the provisions of subsection A, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6 (§29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia:

1. Fish:

Endangered:

Dace, Tennessee	Phoxinus Tennesseeensis
Darter, duskytail	Etheostoma sp
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, Tippecanoe	Etheostoma tippecanoe
Darter, greenfin	Etheostoma chlorobranchium
Darter, longhead	Percina macrocephala
Darter, western sand	Ammocrypta clara
Madtom, orange fin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus

2. Amphibians:

Endangered:

Salamander, eastern tiger	Ambystoma tigrinum
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Threatened:

Salamander, Mabee's
Treefrog, barking

Ambystoma mabeei
Hyla gratiosa

3. Reptiles:

Endangered:

Rattlesnake, canebrake
Turtle, bog
Turtle, chicken

Crotalus horridus tricaudatus
Clemmys muhlenbergii
Deirocheilus reticularia

Threatened:

Lizard, eastern glass
Turtle, wood

Ophisaurus ventralis
Clemmys insculpta

4. Birds:

Endangered:

Plover, Wilson's
Wren, Bewick's

Charadrius wilsonia
Thryomanes bewicki

Threatened:

Sandpiper, upland
Shrike, loggerhead
Sparrow, Bachman's
Sparrow, Henslow's
Tern, gull-billed

Bartramia longicauda
Lanius ludovicianus
Ammophila aestivalis
Ammodrammus henslowii
Sterna nilotica

5. Mammals:

Endangered:

Bat, eastern big-eared
Hare, snowshoe
Shrew, water
Vole, rock

Plecotus rafinesquii macrotis
Lepus americanus
Sorex palustris
Microtus chrotorrhinus

6. Molluscs:

Endangered:

Bean, purple
Cavesnail, Unthanks
Coil, rubble
Coil, shaggy
Combshell, Cumberland
Deertoe
Elephant-ear
Floater, brook
Heelsplitter, Tennessee
Lilliput, purple

Villosa perpurpurea
Holsingeria unthanksensis
Helicodiscus lirellus
Helicodiscus diadema
Epioblasma brevidens
Truncilla truncata
Elliptio crassidens
Alasmidonta varicosa
Lasmigona holstonia
Toxolasma lividus

Mussel, oyster	Epioblasma capsaeformis
Mussel, slippershell	Alasmidonta viridis
Pigtoe, Ohio	Pleurobema cordatum
Pigtoe, pink	Pleurobema rubrum
Snuffbox	Epioblasma triquetra
Spectaclecase	Cumberlandia monodonta
Supercoil, spirit	Paravitrea hera

Threatened:

Papershell, fragile	Leptodea fragilis
Pearlymussel, slabside	Lexingtonia dolabelloides
Pigtoe, Atlantic	Fusconaia masoni
Pimpleback	Quadrula pustulosa pustulosa
Rabbitsfoot, rough	Quadrula cylindrica strigillata
Riversnail, spiny	Io fluvialis
Sandshell, black	Ligumia recta
Sheepnose	Plethobasus cyphus
Supercoil, brown	Paravitrea septadens

7. Arthropods:

Threatened:

Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

C. It shall be unlawful to take, transport, process, sell, or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife.

§ 4VAC15-20-140 Endangered species--definitions.

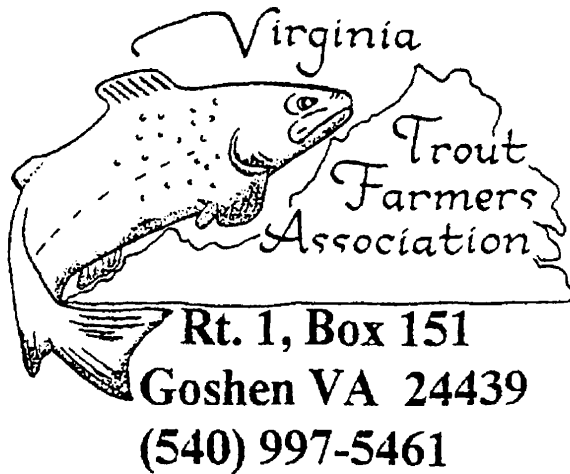
For the purposes of §§29.1-564 through 29.1-570 of the Code of Virginia, 4 VAC 15-20-130 of this chapter and this section:

1. "Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range within the Commonwealth, other than a species of the class Insecta deemed to be a pest whose protection would present an overriding risk to the health or economic welfare of the Commonwealth.
2. "Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, without limitation, and includes any part, products, egg, or the dead body or parts of it.
3. "Harass," in the definition of "take," means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

4. "Harm," in the definition of "take," means an act which actually kills or injures wildlife. Such act may include significant habitat modifications or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
5. "Person" means any individual, firm, corporation, association or partnership.
6. "Special concern" means any species, on a list maintained by the director, which is restricted in distribution, uncommon, ecologically specialized or threatened by other imminent factors.
7. "Species" includes any subspecies of fish or wildlife and any district population segment of any species or vertebrate fish or wildlife which interbreed when mature.
8. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess or collect, or to attempt to engage in any such conduct.
9. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the Commonwealth.

§ 4VAC15-290-130 Duty to comply with permit conditions.

A permit holder shall comply with all terms and conditions of any permit issued by the Department of Game and Inland Fisheries pursuant to Title 29.1 of the Code of Virginia and the regulations of the board pertaining to hunting, fishing, trapping, taking, attempting to take, possession, sale, offering for sale, transporting or causing to be transported, importing or exporting, propagating, exhibiting, and rehabilitating of any wild bird, wild animal or fish. The penalty for violation of this section is prescribed by § 29.1-505 of the Code of Virginia.



AUG 27 1997

August 25, 1997

William P. Dickenson, Jr.
Assistant Commissioner
Virginia Department of Agriculture and Consumer Services
P.O. Box 1163
Richmond, VA 23218

Dear Bill:

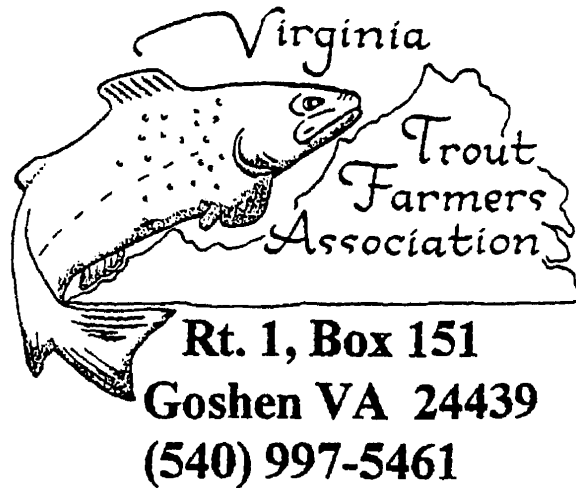
Enclosed please find our recommendations and a compilation of the notes you requested which I presented at our last SJR 339 advisory meeting. We have also included a partial listing of some of the Code that probably needs revision to reflect aquaculture as an agricultural commodity. Let me know if there are any questions.

Again, on behalf of the trout and catfish farmers in Virginia, I thank you, Robins, and Commissioner Courter for your time and efforts in studying this surprisingly complex issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bryan Plemmons", is written over a horizontal line.

Bryan Plemmons
President Ex officio



**Rt. 1, Box 151
Goshen VA 24439
(540) 997-5461**

August 25, 1997

In response to the August 11, 1997 memorandum regarding SJR339 recommendations, the Virginia Trout Farmers Association would like to propose the following changes:

1. This recommendation should be stricken, or amended to portray that there is a need to update the Code to reflect the agricultural nature of fish farming.
2. Exempt aquaculture facilities that produce, hold, and/or sell native and/or naturalized trout and/or catfish for market sales, including in-state stockings. Catfish or trout must be produced, held in or sold from a VDACS "registered" aquaculture facility.
3. All catfish and trout culture, holding, and/or selling facilities registered with VDACS will automatically be "registered" with VDGIF.

Notes relative to SJR 339 seeking wildlife permit exemption for trout and catfish culturists

National Scope

- ◆ According to all USDA reports, aquaculture is the fastest growing segment of **agriculture**. In 1983, US aquaculture produced 308 million pounds. In just 10 years production increased to over 700 million pounds. Since 1985 to present, US aquaculture production has increased by 145% (Virginia's Commercial Fishing Industry, VIMS publication, 1997, p. 34).
- ◆ In 1994, 20% of the seafood eaten by people came from fish farms. (March 1, 1997, New York Times, Jon Christensen, "Cultivating the World's Demand for Seafood").
- ◆ 1998 Federal legislation: National Aquaculture Development, Research, and Promotion Act will seek to:
 - 1) Establish aquaculture as a form of agriculture and extend USDA programs to aquaculture farmers, and
 - 2) Assign responsibility to the Secretary of Agriculture for coordinating aquaculture programs and policy, while recognizing the expertise of other federal agencies (Commerce and Interior).
- ◆ United States Trout Farmers Association Policy Book:
"AQUACULTURE IS AGRICULTURE"
"Background"
"Aquaculture by definition, is the husbandry or cultivation of aquatic animals and plants. This cultivation occurs to produce food for consumers or to produce fish for stocking into private or public waters. Production may occur for commercial purposes or as part of public policy and resource management.
"Farm raised trout and trout eggs are purchased from private sources, are held in confinement on private property are used in interstate commerce, and are considered private property for tax purposes. Further, aquaculture was recognized as agriculture in the Agriculture Act of 1980."

"Policy"

"USTFA:
 - 1) insists that all agencies with jurisdiction over trout aquaculture regard aquaculture as agriculture;

2) insists that commercially aquacultured trout be regarded as private property, able to be traded in interstate commerce; and

3) insists that trout be regarded as livestock for fish health management purposes.”

◆ Washington State Senator Dan Swecker:

Referring to the number and complexity of permits involved with aquaculture: “There is only one solution, to appoint one agency as having full authority over aquaculture in the United States. That agency should be the Department of Agriculture. It is the only agency which is not driven by a natural resource preservation mind set. Aquaculture is agriculture. We own livestock and are dependent on moving fish to our customers whether they are across the street or across the ocean. The Department of Agriculture is the only agency which understands this mission.” (Northern Aquaculture, Oct. 96, p. 4).

◆ Mark Jenner, Ph.D., economist and commodity policy specialist for the Public Policy Division of the American Farm Bureau Federation and chair of the National Aquaculture Industry Forum:

“...the American Farm Bureau Federation is working with other industry groups to coordinate industry efforts for aquaculture legislation. A successful legislative initiative will depend on the industry speaking uniformly.

“The primary focus of this effort is based on the federal government’s failure to recognize private ownership rights for farmed (commercially produced) aquatic species. This is a fundamental problem that must be corrected.

“The secondary focus is to guide natural resource agencies to an understanding that commercial aquaculture production and natural resource protection can co-exist. The industry needs legislation that clarifies agency jurisdictions for the federal government.

“...The slogan “aquaculture is agriculture” has been popular over the years with a number of aquatic species groups...Even more fundamental than “aquaculture is agriculture” is seeing to it that farmed aquatic plants and animals are treated as commodities rather than as natural resources.

“This is, in essence, how USDA treats the traditional agricultural commodities. The focus of agricultural agency missions is on standards regarding production, marketing, food safety, and environmental objectives. Regulatory oversight must respond to growth of the industry or the industry will die.

“To the extent that USDA already treats agricultural products as commodities and not as natural resources, it is a logical candidate to be the administrative lead department in industry-government relations at the federal level.

“ This does not imply the exclusion of the Departments of the Interior or Commerce from aquaculture. There are services provided by Interior regarding the monitoring of indigenous aquatic species disease levels that are clearly within the natural resource orientation of that department and necessary for growth of the farmed aquatic plant and animal industry... Inter-departmental and inter-agency

jurisdictional disputes are intolerable." (Fish Farming News, Mar/Apr 1997, p. 3-4).

- ◆ Dr. Randy MacMillan, USTFA Chairman of the Board, Director of Research, Clear Springs Foods, Inc., Buhl, Idaho:

"The USDA Animal Plant Health Inspection Service (APHIS) held a meeting with various aquaculture producers and associations on May 1, 1997 in Riverdale, Maryland. This meeting was designed as a forum for the "aquaculture industry" to discuss aquatic animal health problems and industry needs, ask questions of senior APHIS decision makers and make suggestions about future APHIS programs. It also provided APHIS the opportunity to describe their activities and accomplishments since the first roundtable meeting held in March 1995. Specific issues discussed were export health certification, diagnostic laboratory approval, impact of trade agreements (NAFTA and GATT) and regulations on the movement of aquatic animals and products, and the possible role of or need for a national aquatic animal health management strategy. I represented the USTFA AND NAA in these discussions and provide some observations below. A final report will be developed by APHIS (with review by all participants) for later distribution.

"Besides USTFA and NAA representation, several other interests were present. These included the Salmonid Breeders Association, Catfish Farmers of America, Maine Aquaculture Association, Goldfish Breeders Association, National Fisheries Institute, Pet Industry Joint Advisory Council, National Ornamental Goldfish Association and the American Veterinary Medical Association. Participants also included individual company representatives who spoke on behalf of their particular interests. There were no representatives of the U. S. shellfish industry.

"Within the attending aquaculture community, it was universal presentation that aquaculture was agriculture and that farm raised animals should be considered as livestock. APHIS officials universally agreed." (APHIS Aquaculture Industry Round Table No. 2, Salmonid Vol. XXI, Number 2, page 11),

State by State Scope

West Virginia

- ◆ West Virginia Aquaculture Association Policy 1993-94:

POLICY 2: REGISTRATION Recognizing that registration of other agriculture enterprises is not required in West Virginia, we believe that registration of aquaculture operations is unnecessary. In the event permits are required for any

portion of the operation, a consolidation of permitting requirements should be made.

POLICY 3: AQUACULTURE LEGISLATION AND REGULATION The regulation and control of the aquaculture industry should be under the West Virginia Department of Agriculture with all laws and regulations promulgated separate and distinct from those designed to protect and enforce the taking of wild stocks.

North Carolina

- ◆ In 1993, North Carolina transferred licensing authority from their Wildlife Resources Commission to their Department of Agriculture. Testimony from Mr. Tom Ellis before Virginia's Aquaculture Advisory Board revealed a smooth and successful transition, with a three-fold increase in the number of fish farmers reporting.

- ◆ Mr. Jim Graham, North Carolina Commissioner of Agriculture:
"I am especially proud of the cooperation and communication among the government agencies, universities and the private sector. North Carolina enjoys an aquacultural infrastructure which is second to none. The General Assembly has provided the leadership to make North Carolina "Aquaculture Friendly" through the declaration in 1989 that "Aquaculture is Agriculture." This was further supported in 1993 by the transfer of the licensing authority to the North Carolina Department of Agriculture...Raising fish and crawfish is agriculture. Raising these species in a controlled environment is no different than raising swine and poultry. We need to provide our farmers with opportunities and flexibility while protecting our state's wildlife; this legislation accomplishes this mission." (1995 North Carolina Aquaculture Development Conference. "Tipping the Economic Scales" pp. 4,13).

Maryland

- ◆ Maryland recently passed a bill which included aquaculture in the current regulatory authority of their Department of Agriculture.

Pennsylvania

- ◆ In 1994, the Pennsylvania Department of Agriculture formed the Pennsylvania Aquatic Animal Health subcommittee as a branch of its Animal Health and Diagnostic Commission. Among its objectives, listed as number one is to "transfer aquaculture authority from the Pennsylvania Fish Commission to the State's Department of Agriculture for the regulation and

sale of commercially raised freshwater fish and crustacean species.” (National Aquaculture Association Newsletter, July 1994).

Wisconsin

- ◆ In 1996, Wisconsin passed an aquaculture bill which recognizes farmed fish as an agricultural commodity, and establishes the Department of Agriculture as the lead agency for aquaculture.

Florida

- ◆ “A comprehensive “Aquaculture Bill” (CS/HB 605) became law October 1, 1996.

- ◆ “...Aquaculture has had its share of struggles... Topping the list is the fact that aquaculturists have not been able to insure their crop and risk losing an entire year’s harvest as a result of natural disasters such as storms, freezes, and disease.

“The new bill corrects this oversight by declaring, for the first time in Florida, that aquaculture is classified as a valid agricultural pursuit and provides for it to be regulated similarly--a strong indicator that Florida’s legislature is now committed to promoting aquaculture ventures.

“Obtaining permits has also been a headache. For years, the state didn’t officially recognize *aquaculture* as *agriculture*, and “water farming” remained in a regulatory gray zone...Kal Knickerbock, with the Florida Department of Agriculture and Consumer Services (DACS), stated recently, “The aquaculture bill gives DACS two new responsibilities: The first one involves the department running an Agricultural Certification Program to identify and certify aquaculture producers, and products (such as fish and plants) as separate entities from Florida wildlife. DACS will not be setting or regulating standards, or dealing with quality control, but will be simply identifying the products.” (Aquaculture Magazine, Vol. 23, No. 3, pp. 8-10).

New Jersey

- ◆ “Legislation is underway in New Jersey’s Senate and Assembly to establish the Department of Agriculture as the lead agency in aquaculture development and managing. The legislation will also tie in other agencies such as the Department of Environmental Protection and Energy to effect the balance and cooperation needed for aquaculture to succeed in the Garden State.” (Aquaculture Magazine, Jan/Feb 1997).

Virginia

- ◆ Exemption of wildlife permits for fish farms has support from Virginia's two largest agricultural proponents, the Virginia Farm Bureau Federation, and the Virginia Agribusiness Council.
- ◆ In 1997, the Virginia Farm Bureau Federation listed in its state policy handbook that "We recommend that aquaculture producers be exempt from permits and fees required as a prerequisite to allow them to hold, raise, and sell aquaculture species."
- ◆ Also in 1997, the Virginia Agribusiness Council placed the following under its High Priority Issues section of its Policy on State Issues: "The Council supports the exemption of the wildlife permit process to hold and sell raised native or naturalized fish from the Virginia Department of Game and Inland Fisheries."
- ◆ The wildlife permit exemption has unanimous support from the Virginia Trout Farmers Association and majority support from the Virginia Fish Farmers Association.

Excerpts from the Code of Virginia that probably need updating to reflect recognition of farm raised fish as agricultural livestock.

§ 29.1-103

Powers and duties of the Board

The Board is responsible for carrying out the purposes and provisions of this title and is authorized to:

11. Exercise powers it may deem advisable for conserving, protecting, replenishing, propagating and increasing the supply of game birds, game animals, fish and other wildlife of the Commonwealth.

§ 29.1-109

Department of Game and Inland Fisheries: Director

B.

1. Enforce or cause to be enforced all laws for the protection, propagation and preservation of game birds and game animals of the commonwealth and all fish in the inland waters thereof. Inland waters shall include all waters above tidewater and the brackish and freshwater streams, creeks, bays, including Back Bay, inlets, and ponds in the tidewater counties and cities.

2. Initiate prosecution of all persons who violate such laws, and seize and confiscate wild birds, wild animals and fish that have been illegally killed, caught, transported or shipped.

§ 29.1-521

Unlawful to hunt, trap, possess, sell or transport wild birds and wild animals except as permitted; penalty

A. The following shall be unlawful:

10. To hunt trap, take, capture, kill, attempt to take, capture or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated.

§ 29.1-412

Permits required

It shall be unlawful to exercise any privilege of the permits provided in this article without first having obtained the required permit.

Any person who violates any provision of this article shall be guilty of a Class 4 misdemeanor, and the permit shall be revoked.

§ Capturing, holding, propagating, and disposing of wildlife for authorized purposes

The fee for a permit to capture, hold, propagate, and dispose of wildlife for purposes authorized by the Board, shall be an amount sufficient to defray the costs of processing the permit and administering the permitted activity. However, in no instance shall the fees established by the Board exceed the following:

...

4. For all other such permits, \$50.

The permit shall also authorize the permittee to artificially raise trout or catfish for sale from a privately owned facility where the permittee allows public fishing from its facilities. If this has been paid, no license shall be required to fish from such a facility.

§ 29.1-100

Definitions

As used in this title, or in any of the regulations of the Board, unless the context clearly requires a different meaning:

“Fishing” means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon the inland waters of this Commonwealth.

“Wildlife” means all species of wild animal, wild birds and freshwater fish in the public waters of this Commonwealth.

§29.1-531

Unlawful to take or attempt to take, possess, sell or transport fish except as permitted

A. Unless otherwise provided by a regulation of the Board, it shall be unlawful for any person to take or attempt to take any fish in inland waters other than shad, herring or mullet, except by fishing with a hook and line or rod and reel, held in the hand.

B. It shall be unlawful to catch trap, take, capture, kill, or attempt to take, capture or kill, possess, deliver for transportation, transport, cause to be transported, receive for transport export, or import at any time or in any manner any species of game fish, or the carcass or any part thereof, except as specifically permitted by law and only by the means and within the numbers stated.

D. It shall be lawful to sell or offer to sell for human consumption trout which have been lawfully acquired, provided such trout have been propagated and raised in a hatchery or by other artificial means. The Board shall by appropriate regulation establish a practical system of identification of trout so offered for sale for table use.

E. It shall be unlawful to offer for sale, sell, offer to purchase, or purchase at any time or in any manner any species of game fish, or the carcass or any part thereof, except as specifically permitted by law and only by the means and within the numbers stated. A violation of the provisions of this subsection shall be punishable as provided in §29.1-553.

F. A violation of the provisions of subsections A through D shall constitute a Class 2 misdemeanor.

Excerpts from the Administrative Code (Regulations) that probably need updating to reflect recognition of farm raised fish as agricultural livestock.

§ 4VAC15-30-10 Possession, importation, sale, etc., of wild animals.

Under the authority of §§29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale, or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation...

§4VAC15-320-40 Sale of freshwater molluscs, mussels, game fish or catfish prohibited.

It. shall be unlawful to sell, offer for sale or buy any species of freshwater mollusc or mussel, game fish or catfish, provided that this shall not apply to game fish sold alive for propagation purposes, or catfish artificially raised, by a holder of a Permit to Propagate and Sell Certain Wildlife or Permit to Hold and Sell Certain Wildlife, or sold pursuant to 4VAC15-330-180 and 4VAC15-330-190, or to any catfish taken from tidewater.

§4VAC15-330-190 Trout artificially raised for human consumption.

A. Permit required. It shall be unlawful to artificially raise brown trout, brook trout or rainbow trout for human consumption or to import into Virginia such trout for human consumption without first having obtained a permit from the department to do so.

B. Records. Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale for human consumption or who shall import into the Commonwealth such trout for such purpose shall keep a record of the number and species, the number raised or, if imported, from whom purchased.



VIRGINIA CAPITAL CHAPTER, TROUT UNLIMITED
P.O. Box 6075, Glen Allen, VA 23058

August 25, 1997

MEMORANDUM

TO: Bill Dickinson, VDACS ✓
Gary Martel, VDGIF

FROM: Bob Steiner for Virginia Council, TU

RE: SJR 339, Comments on Draft Recommendations

AUG 27 1997

After reviewing the draft recommendations for SJR 339, and hearing comments from fellow members of the committee at the last meeting, I feel the following comments need to be made before the final recommendations are drawn up. I hope you will give due consideration to these while composing the final draft.

1. The draft recommendations, as written, are a good start toward delineating the work which was done by the committee. Although changes to the final wording will obviously take place, the intent of the statements presented should remain. These recommendations allow for a continued commitment toward good aquaculture practices, while opening many opportunities for the aquaculturists to have a greater presence in the agricultural programs of the Commonwealth. They also allow for better communications between two agencies which have enormous authority over aquaculture operations. From the standpoint of Trout Unlimited, the enduring enforcement aspect of the current permitting program will serve to protect the incredibly valuable cold-water resources we have in Virginia from disease and loss of native strains of trout.
2. One aspect of the information presented at the committee meetings, which was not addressed in the draft recommendations, was the greater role of VDACS in promoting the aquaculture industry, especially through the Marketing Division. It occurs to me that a bigger voice in the *promotion* of the aquaculture industry would help the industry to grow into a very viable commodity market. Although there are regular exhibits at State and local fairs, and the odd newspaper article on a particular aquaculture operation, I'm sure most residents of Virginia don't have the slightest clue to the existence of aquaculture in this state. Some ideas I have had to promote aquaculture would be:
 - A. Involvement of the print media in the promotion of aquaculture operations, either through feature stories of particular operations or through press releases detailing the location, products and services of aquaculture operations across the state.
 - B. A new directory of facilities, which is shared with all agencies concerned with aquaculture, and is available to the general public at various locations, such as, local stores that carry aquacultural products, travel and tourist destinations, welcome centers, sporting goods shops, etc. This new directory should clearly define the

various types of aquacultural operations and the goods and services they provide. This directory should also have a clearly stated, single phone number which would allow anyone with a question to call for referral to the proper agency which can handle the request. Referral of the person to the proper agency should be done from this one call, possibly even by transferring the call through the state phone system. Additional phone numbers should accompany listings for all agencies which govern the industry.

- C. Better promotion of aquaculture in Virginia through the electronic media. Prominent links to aquaculturist's homepages through the VDACS Internet page, would help immensely to allow the newest type of tourist (cyber-tourist?) to "visit" these interesting facilities, hopefully making an actual (in-person) visit, or purchase of a product, a reality. The directory of facilities should also be included as a link from the VDACS homepage.
3. It was apparent from the beginning - and throughout the sessions - that there seemed to be no articulated reasons for changing the permitting structure which is now in place. Unfortunately, the real reasons for forming this committee in the first place did not emerge until the final meeting. I think I now have a clearer understanding of the position of the trout farmers and what their ultimate goal is. Several changes to the draft recommendations were suggested by the representative of the trout farmers. These were delineated on the note sheets, written by our facilitator, so I will not repeat them here. I would like to comment that adoption of these changes would terribly dilute the good work done by the committee. These changes would only serve to narrow the scope of the recommendations and literally exempt the most important aquaculture operations (especially trout operations) from permitting, *and subsequent enforcement*, by VDGIF. Without the enforcement aspect VDGIF brings to the aquaculture equation, many forms of environmental damage may occur from this industry. Whereas the current value of the wild freshwater fishery in the Commonwealth far outweighs the current value of the aquaculture industry, it would not take many 'unfortunate incidents' in this industry to destroy this precious resource. I urge you not to make changes to the draft recommendations which would attenuate the original intent of the recommendations.

I would like to thank you for the opportunity to work with you on this committee and to provide these written comments. I have learned a great deal about the practice of aquaculture in Virginia and what goes on 'behind the scenes' in the industry. I look forward to seeing the final draft of the recommendations. If I can be of further service to you, please do not hesitate to call on me.

CC: Bob Belton
Bill Hobson



Virginia B.A.S.S. Federation, Inc.

Dedicated to the realistic conservation of Virginia's water resources.

R. Edward Rhodes

Conservation / Natural Resources Director

11210 Brewer Road Richmond, Virginia 23233-2245

Telephone 804.360.4867 Facsimile 804.360.8502 Pager 804.213.7444

September 2, 1997

5

Mr. Gary Martel, Chief of Fisheries
Virginia Department of Agriculture
4010 West Broad Street
Richmond, Virginia 23230-1104

Mr. William Dickinson
Virginia Department of Agriculture and Consumer Services
Post Office Box 1163
Richmond, Virginia 23218

SUBJECT: Comments and Position -- Senate Joint Resolution 339

I would first like briefly thank you and your staff for the effort placed in completing this study. We have been very much opposed to this legislation since it was first introduced in 1996.

Our representatives met and discussed the points raised during the meetings and we submit the following position:

- We remain extremely concurred that a situation could arise in Virginia as did in Maryland. (See attached news articles.) By removing controls from the DGIF to VDACS this would open the door for opportunities for this type of crime.¹
- Having listened to the aquaculture representatives, we question their true desires in this issue. We feel that they really do not know what they want or how to obtain it.
- Previously, this group asked that legislation be introduced by defining their lively hood as agriculture. With the agreement of other organizations, it was promised they would not be back, that this was only for tax purposes. In 1996, legislation was brought forward and again in 1997.

¹ Copy of March 12, 1995 Washington Post article attached



Affiliate of the
NATIONAL B.A.S.S. FEDERATION



We Support
BASS RESEARCH FOUNDATION

- We do agree with the statements made that VDACS needs to further increase their efforts in marketing this industry. The public needs to be educated about the requirements to register and that the two agencies must work closely together by sharing information.
- The comments made during the meetings and more especially the last one were completely irrelevant to the substance of the study. Comments or promises that this issue would return to the legislature apparently mean the results were not acceptable and the quest will continue. It has been obvious from the beginning that certain factions do not want to pay the DGIF permit fee nor meet the DGIF regulations and guidelines. They are very much aware that VDACS has neither the biologists nor the enforcement capabilities that DGIF has. I feel that the statement not needing a permit until fish are stocked in public waters is incorrect. Allen Creek and its tributaries flow into the Little Pasture, which in turn flow to the Maury River. Would this not make it a public water way for which is being used to make a profit? Additionally, the headwaters of Allen Creek are on property belonging to DGIF.
- The fish farmers must also realize that this is the Commonwealth of Virginia, not North Carolina or Maryland or Pennsylvania. Virginia does not follow, Virginia leads, conservatively and thoughtfully. Should VDACS take over the responsibility of the permitting, etc., then we would recommend that the fee be placed at no less than \$60.49, as stated in the last meeting. This is the "break-even" figure given, but it should be set at a minimum of \$75.00 annually. This would cover any additional expenses.

In December, 1996, the Joint Legislative Audit and Review Commission of the Virginia General Assembly recommended that the "*DGIF should permit hybrid striped bass aquaculture farms along with all other fish aquaculture farms. VMRC should provide DGIF with any information necessary to assume this responsibility.*"² DGIF already has aquaculture experts on staff and maintains their own fish hatcheries. VDACS does not, nor do they have the responsibility for inspections of this type of facility. We feel that any change in the aquaculture status would be out of step with the recommendations of the JLARC report.

In closing, we see no reason in which to remove any authority from DGIF in the regulation of aquaculture. The fact that VDACS will escalate their efforts in advertising the industry, that two agencies will share the information should be enough latitude for this industry. Aquaculturists must remember, they are not dealing with corn, cows, or pigs but they are dealing with an aquatic species that is closely regulated and controlled, whether it is native or farm raised. These species are regulated by DGIF, whether native or naturalized, it is wildlife.

² JLARC report of December 1996, pages 46 -- 47

Letter to Mr. Martel and Mr. Dickinson

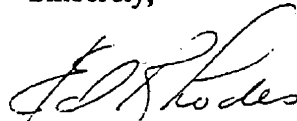
September 2, 1997

Page 3

The Virginia B.A.S.S. Federation feels that, from the draft recommendations submitted on August 11, that the first proposal is in accordance with the content of the study. Any further legislative agendas or proposals should be refrained from by all parties involved for a period of not less than two years. This would give VDACS a chance to pursue the enhancement of their advertising of the aquaculture industry, to better understand the industry and for the two agencies to work more closely with this industry.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Edward Rhodes".

R. Edward Rhodes

cc: The Honorable Emmett W. Hanger, Jr.
The Honorable R. Creigh Deeds
W. Mitchell Perkins

Md. Bass-Tracking Project Uncovers Something Fishy: Alleged Poaching Scheme

By Todd Shields
Washington Post Staff Writer

All biologists meant to do by injecting electronic bugs into the bellies of thousands of Potomac River bass a few years ago was track fish.

Instead, they reeled in a surprise catch—what law enforcement authorities are calling Maryland's largest fish-poaching case.

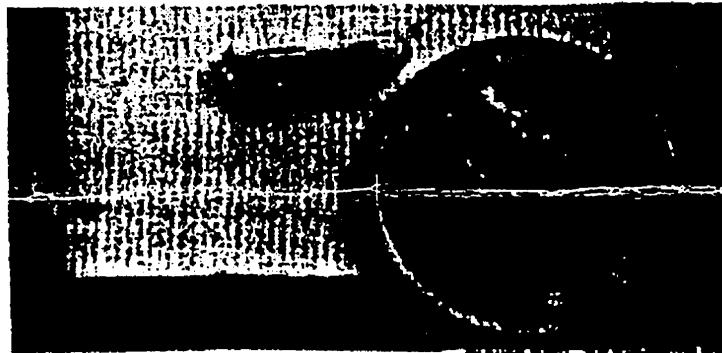
By emitting radio signals that identified the fish as Potomac River natives, the bugs became key evidence in a 22-month investigation that began with an alert Canadian customs inspector and wound through Ohio and Michigan to Charles County.

A federal indictment alleges that for three years, four commercial watermen netted tens of thousands of largemouth bass, a protected species that underpins a booming sport fishing industry at Washington's doorstep. The fish were sold live under false documents, primarily to Asian restaurant owners for use in tanks from which customers choose their dinners, authorities allege.

Two of the accused poachers deny the charges and the other two declined to comment. All are Southern Maryland residents.

The case has drawn vivid reactions from the bass fishing indus-

See BASS, B7, Col. 2



A tracking device, shown here next to a penny, is about one-third of an inch long. The device works by emitting radio signals.

Canadian authorities already had contacted police in Michigan, reporting that a customs officer in Niagara Falls had noticed the shipment contained dark bass in mixed sizes; bass raised in ponds usually are similar in size and are lightly colored.

In interviews, some experts doubted that it was possible to tell hatchery and wild bass apart solely on the basis of color. But Beaven, who works at a state fish hatchery, said largemouth bass are "extremely cannibalistic" and must be segregated by size to prevent the large from eating the small—a condition that makes it unlikely that pond-raised fish would be of the varied sizes reported in court documents.

Burnham went on to investigate Woodruff's property and uncovered a paper trail of payments and invoices—some misrepresenting largemouth bass as carp—that stretched through a wholesale company in Ohio and on to Michigan and Ontario, according to court documents. When the indictment was handed up in Baltimore on Feb. 15, it alleged sales in New York, Georgia and Ontario.

Anglers, commercial fishermen and fisheries officials all said they doubted that the case points toward a large-scale poaching problem, although small-scale poaching is believed to be chronic. Many agreed, however, that the case underscores how thinly the Natural Resources Police are spread. They have five small boats to patrol the Potomac from the Woodrow Wilson Bridge to the Chesapeake Bay, typically with only one officer per boat.

"You're looking at the entire marine police force for Prince George's County," said resources police Cpl. Leonard Schukas one recent day as he piloted his Boston whaler on a chilled and deserted river. "When I go home, that's it. I do my eight hours, and the other 16 hours are open."

That makes large-scale poaching a possibility, Burnham said.

Local officials are watching the court case closely as it unfolds.

"Bass fishing is our biggest tourist attraction," said Joanne Roland, an official with Charles County, where an 800 telephone number draws 600 inquiries a month about fishing. "You can see how devastating this would be if this activity continued—taking all our fish."

Like many connected to the river, her reaction fell somewhere between indignation and outrage: "I feel certain if any bass fishermen had seen them, their nets would have been cut."

29 September 1997

OCT - 2 1997

Mr. William P. Dickinson,
Assistant Commissioner
Department of Agriculture
& Consumer Services
P.O. Box 1163
Richmond, VA 23218

Mr. Gary F. Martel,
Chief of Fisheries
Department of Game & Inland Fisheries
P.O. Box 11104
Richmond, VA 23230-1104

Dear Commissioner Dickinson and Chief Martel,

On behalf of the Virginia Wildlife Federation, Thank You for permitting me to participate in the permitting study for fish growers in Virginia (S.J.R. 339). I hope that the process attained outcomes that will be beneficial to the citizens of the Commonwealth. Although my summer schedule unfortunately prevented me from attending all meetings of the panel, I followed the proceedings via the published minutes. Thank you for supplying these. Please feel free to use this letter as an addendum to any documentation supplied to the Virginia legislature. In doing so, I wish to convey and reinforce several points and positions by Virginia Wildlife Federation.

First and foremost, we wish to emphasize the recognized importance of including scientific perspective into this and other decision-making processes. Although we recognize that sound biological principles are not the only criterion for levying decisions regarding resource use and impacts, we submit that without it the chances for correct decisions are gravely diminished. In this specific case, scientific perspectives become important in terms of a variety of potential biological effects. For example, from a wildlife resource and conservation perspective, there a number of inherent concerns with the culture or release of fish (as with any plant or animal species). We also recognize that these concerns do not imply that because there is a *risk* of undesirable effect, that necessarily there will be *harm*. If a production lot of any kind is a closed and self-contained system, our concerns largely become moot. However, wherever and whenever intentional release occurs or accidental escapement is likely to occur, the chances of a harmful effect increases.

Our primary concerns emerge primarily from the biological and scientific literature. The kinds of risks that are likely to apply will, of course, vary among species and the specifics of the culture system. Therefore, we are hesitant to support *categorical exclusions for any species*. The following is a brief sketch of three areas of risks. I would be happy to provide references or further explanation, if desired.

Ecological Risks:

1. Competition for resources, space, and food.

a. Interspecific (between species) – Niche overlap among native and introduced species. Generally speaking, two species cannot utilize the same resource in identical ways (that is, occupy the same niche simultaneously). There will either be a shift away from the overlap by one or both competitors, a movement of one or both toward more marginal habitats or resources, or the complete displacement (or local extirpation) of one of the competitive species. For example, if a cultured species were to have similar important biological characteristics as a local wild species, this risk becomes important.

b. Intraspecific (between individuals within a species) – Increase in density of the species beyond the sustainable carrying capacity of the ecosystem. Not only is the food base of a species generally limited (especially for ecological specialists), but there are also limits for spawning or nursery habitats and other important resources. For example, if a cultured species is found locally and the densities would affect local wild species, this risk becomes important.

2. Predation – introduction of novel predators (or prey) or change in concentration of existing predators (or prey). For example, a cultured species introduces a new predator or at densities that affect local wild species, this risk becomes important.

3. Alteration of nutrient base or energetic pathways in a system (often referred to as shifts in trophic organization). These alterations can be direct or indirect. For example, if through production, aquatic nutrients are produced in a way that changes the food chain, this risk becomes important.

4. Environmental – biological or chemical pollution (point or non-point source) as a by-product of metabolic waste from thousands or millions of fish. Similar to above, but extends beyond nutrients, including biological (pathogenic) agents or harmful chemical compounds.

5. Alteration of habitat – introductions of nonindigenous species, or stocking in excess of habitat or carrying capacity, may result in damage to aquatic habitat. For example, introduction of benthic feeders can mechanically change lake or stream substrates.

Genetic Risks:

1. Interspecific

a. Direct – loss of a gene pool identity (or genetic integrity) due to hybridization. Among-group community diversity (*Beta*-diversity) is lost through a blending effect. If crossbreeding is sufficiently common, the parental species' identity may be lost entirely resulting in a local extinction, even though both sets of parental genes are still present in the hybridized (introgressed) population. Examples of this phenomenon have occurred where rainbow trout have been introduced on top of cutthroat trout, brook trout on top of bull trout, rock bass on top of Roanoke bass, smallmouth bass on top of Guadeloupe bass, and so on.

b. Indirect – loss of within-population diversity due to small population size reduced primarily through habitat loss, competition, predation, or other ecological processes. For example, the reduction of a population's range (due to predation or competitive displacement), can reduce its population size. A reduction in population (demographic) size can cause a reduction of the *genetic effective population size*. This reduction, if severe, can lead to a further risk of local extinction or population reduction leading to what has been called an *extinction vortex*.

2. Intraspecific – due to gene flow among divergent genomes. Different populations of the same species may have very different patterns of genetic diversity – differences that can be lost through mixing. Conceptually, this risk is the same as that described above for inter-specific gene flow; the difference between genetic divergence at the population level and that at the species level is one of degree rather than kind. At one level, the introgression of divergent genomes effectively represents an extinction of one or both genomes. At another level, such introgression can also reduce long-term fitness due to loss of local adaptation.

Disease Risks:

1. Introduction of non-endemic pathogens – due to transport of live fish (and sometimes gametes) across watershed boundaries. In areas where pathogen and fish have co-evolved, a pathogen may be relatively benign with the local population serving as a carrier but not displaying serious disease impacts. If these carriers are transported to a region devoid of the pathogen, the carriers can facilitate spread, perhaps into other populations lacking prior adaptive immunities.

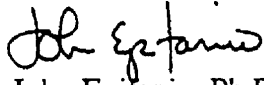
2. Increased abundance of pathogens in systems where they are already endemic. Even in systems where a pathogen is already found, introduction of fish carrying the pathogen can increase the incidence (% of population carrying the pathogen) and severity (extent of pathological impacts) of infection.

There are also a number of social and economic costs to exotic invasion, accidental release of conspecific competitors, or carriers of exogenous diseases. Furthermore, the economic benefit to recreational activities associated with fishing, hunting, and viewing of wildlife to the citizens of Virginia is not trivial. A discussion of these costs is beyond my expertise, but are no less acute. I recommend more intensive investigation and thorough consideration of these. I can provide contact information for local and national experts in this field, should you desire.

Regarding the requirement for permits, we hope they will be continued to allow accurate reporting of status and trends in the industry. They also will allow a more rapid response to any kind of disease outbreak or other deleterious biological effects that may occur in the future. We also hope that the interested parties with a stake in this issue will continue to work together in the future to work out differences in funding and cost, however, we view these as details that should not be used as wedges to dismantle a vital program.

Please do not hesitate to contact me if I can help out in any way in the future. I would be pleased to help with any of these issues in the future.

Warmest regards,



John Epifanio, Ph.D.

c/o Virginia Wildlife Federation
1005 E. Broad St., LL5
Richmond, VA 23219-1928

(703) - 284 - 9415
jepifan@atlas.vcu.edu

cc: Ed Tillet, President, VWF



J. Carlton Courter III
Commissioner

COMMONWEALTH of VIRGINIA

Department of Agriculture and Consumer Services

PO Box 1163, Richmond, Virginia 23218

Phone: 804/786-3501 FAX 804/371-2945

Hearing Impaired: 804/371-6344

June 20, 1997

MEMORANDUM

TO: Bill Dickinson

FROM: Robins Buck

A handwritten signature in black ink, appearing to read "R. Buck".

RE: SJR339

As a result of information learned at NASAC '97, my counterpart in Florida supplied me with volumes of information related to their involvement with aquaculture permitting and their dealing with the industry, the Florida Marine Fisheries Commission, and the Florida Game and Fresh Water Fish Commission.

I have taken that information and developed the attached "case study" for our use with Carlton and Don, the Virginia Game and Inland Fisheries and, possibly, the SJR339 Advisory Committee. Personally, I feel that what Florida has done is quite an undertaking. Also, at this point we have not involved nor does SJR339 direct us to involve the marine aspect of aquaculture or VMRC.

Prior to the meeting on June 30, I will attempt to arrive at a "fee" that VDACS would need to charge based on the number of permits presently being issued by G&IF, should VDACS agree to offer this service, and more so, G&IF will still get information it needs.

c: Gary Martel
Ron Southwick

RE: AQUACULTURE PERMITTING PROGRAM - SJR339

CASE STUDY: THE FLORIDA DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES' EXPERIENCE WITH THIS ISSUE AND OUTCOME

- WHEN:** At least three years ago the Florida Marine Fisheries Commission (MFC) began arguing that a means to recognize legitimate aquaculture facilities was needed.
- They were already reluctantly "exempting" farms from seasonality and size limits through "special activity licenses."
 - However, for the farmer, acquiring a special activity license was a cumbersome and time-consuming process.
 - MFC suggested they would license farms, but the aquaculture community suspected the license would become an expensive revenue generating plan because not enough marine aquaculture farms existed to support a new licensing program.
- WHAT:** The Bureau of Seafood and Aquaculture's (within FDACS) "Aquaculture Certification Program."
- After continued farmer-MFC conflict, in 1995, FDACS agreed to undertake a program to "certify" aquaculture facilities.
 - The FDACS proposed "certification program" encountered aquaculture industry opposition.
 - However, extensive changes to the Florida Aquaculture Policy Act and other Florida statutes, during 1996, created the "certification program" within FDACS for all aquaculture farms (fresh and marine); cost to the farmer is \$50.00.
- HOW:** FDACS is being very flexible, as their goal is to efficiently recognize legitimate farms. (They are using off-the-shelf software "Paradox".
- The Florida Game and Fresh Water Fish Commission (GFC) was to lose significant license revenue, so FDACS is returning \$40 to GFC for each freshwater facility certified by FDACS.
 - Clam farmers were counting on the income from their farm-raised clam operations to maintain/justify their saltwater commercial licenses (a fisherman must prove \$5,000 annual income from commercial fisheries to maintain a commercial fishing license).
 - FDACS has negotiated with the saltwater license people (MFC) to emboss a plastic card with a 10-digit numerical sequence that will "fit" their program; the farmers will use the "department's card" in the same manner as they used their saltwater products license card to record landings and value.
 - FDACS was given one professional and one support staff to administer the certification program; over 500 farms are currently certified.
 - FDACS is handling the program within the Bureau of Seafood and Aquaculture; they had no prior experience in issuing licenses; they have had some glitches, but the industry has been patient, and sister agencies have been cooperative.

WHY:

Benefits to the industry include:

- 1) Elimination of four licenses.
 - 2) Exemption from marine species season and limits. (we already have this)
 - 3) Immediate qualification for environmental permitting assistance.
 - 4) Income qualifies for saltwater products license.
 - 5) An opportunity was created to culture marine gamefish species.
- MFC is pleased because they quickly amended all rules as to recognize FDACS certified farms, which exempted them from resource management regulations.

A copy of the letter, application and information sheet sent to each aquaculturist to start the program (7-1-97) is attached. Once they are certified by FDACS, a certificate is sent back to the aquaculturist and is renewable each year.

Prepared by Robins Buck from information gleaned from material supplied by the Florida Department of Agriculture and Consumer Services Bureau of Seafood and Aquaculture.



Florida Department of Agriculture & Consumer Services
BOB CRAWFORD, Commissioner

Please Respond To:

Bureau of Seafood and Aquaculture
2051 East Dirac Drive
Tallahassee, Florida 32310
Phone: (904) 488-4033
FAX: (904) 922-3671

Dear Aquaculturist:

For the last decade aquaculture growth and development in Florida has been difficult and sometime tumultuous. Yet it continues to be one of the State's most promising potential industries. To that end the 1996 Legislature made it a priority to identify the problems and issues that are preventing this industry from achieving its potential. Chapter No. 96-247, Laws of Florida (1996 aquaculture legislation) is a culmination of time and cooperative effort from industry and various agencies. All parties involved are to be congratulated for their dedicated efforts, willingness to compromise and broad base support for the development of this legislation. This law clarifies the legislative intent to:

- promote aquaculture production and development;
- exempts certain marine aquaculture species from resource management rules;
- provides for the exemption from certain licensure;
- provides for consolidation of permits;
- establishes certain general permits;
- revises the power and duties of the Department of Agriculture and Consumer Services with regard to aquaculture;
- creates an aquaculture certification program;
- imposes fines and penalties for theft of aquaculture products;
- creates a grant program to encourage research and development of the industry
- creates positions in the Department of Environmental Protection and Department of Agriculture and Consumer Services to implement these programs.

Specifically the Department of Agriculture and Consumer Services will be administering an aquaculture certification program. This program enables you to identify your operation and products as an agriculture commodity. Aquaculture certification will entitle you to all the rights, privileges and regulations of any other agriculture commodity. Certain operations will no longer be required to have a Saltwater Products License, Special Activity Licenses, Resident Freshwater Fish Dealer's License and Aquaculture Game fish Licenses. Alligator operations and aquatic plant nurseries that are already regulated by the department will receive aquaculture certification at the same time.

Enclosed is your application to become a certified aquaculture operation. This is an annual requirement of all aquaculturists per Chapter No. 96-247, Laws of Florida. Please provide the required information. Upon review and determining eligibility, the department will certify you as a Florida aquaculturist. Please return all information prior to November 15, 1996, to the Bureau of Seafood and Aquaculture, 2051 East Dirac Drive, Tallahassee, Florida 32310. Because the possibility exists that there may be overlap of varying agency permits and fees, the department will issue all certifications for the remainder of fiscal year 1996-1997 at no charge. Subsequently, with each fiscal year beginning July 1, 1997, the annual fee will be \$50. Call 904/488-0163 if you have any questions.

Sincerely

Joanne McNeely
Joanne McNeely, Chief
Bureau of Seafood and Aquaculture



EXAMPLE
FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES

APPLICATION AQUACULTURE CERTIFICATION
CHAPTER NO. 96-247, LAWS OF FLORIDA

Temporary Aquaculture Certification No: AQUALST.EVO.C
Applicant's Name: AQUALST.EVO.First Name [A40] AQUALST.EVO.Last
Company's Name: AQUALST.EVO.Company Name
Complete Mailing Address: AQUALST.EVO.Address 1 [A40]
AQUALST.EVO.City [A40] AQ AQUALST.EVO.Zip
Phone: AQUALST.EVO.Telephone [A14]
FAX: AQUALST.EVO.Fax [A14]
E-Mail: _____

Legal Property Description:

(if applicable: submerged land lease number (s)) _____

Description of Production Facilities:

(include size/anticipated annual production) _____

Aquaculture Products to be Produced: AQUALST.EVO.Products Produced

If additional space is needed, please attach another page. Thank you.

In signing this document, I attest that the statements made here in regarding my business, legal property, production facilities and products are accurate and truthful. My \$50 annual certification fee is enclosed.

SIGNATURE

DATE

Mail to
Bureau of Seafood and Aquaculture
2051 East Dirac Drive
Tallahassee, Florida 32310
Phone: (850) 488-0163 or FAX: (850) 922-3671



Florida Department of Agriculture & Consumer Services
BOB CRAWFORD, Commissioner

INFORMATION SHEET

IDENTIFICATION OF AQUACULTURE

PRODUCTS.—Aquaculture products shall be identified while possessed, processed, transported, or sold as provided in this subsection, except those subject to the requirements of chapter 372 and the rules of the Game and Fresh Water Fish Commission.

- Aquaculture products shall be identified by an aquaculture certificate of registration number from harvest to point of sale. Any person who possesses aquaculture products must show, by appropriate receipt, bill of sale, bill of lading, or other such manifest where the product originated.
- Marine aquaculture products shall be transported in containers that separate such product from wild stocks, and shall be identified by tags or labels that are securely attached and clearly displayed.
- Each aquaculture registrant who sells food products labeled as "aquaculture or farm raised" must have such products containerized and clearly labeled in accordance with s. 500.11. Label information must include the name, address, and aquaculture certification number. This requirement is designed to segregate the identity of wild and aquaculture products.

SALE OF AQUACULTURE PRODUCTS

- Aquaculture products, except shellfish, snook, and freshwater aquatic species identified in chapter 372 and rules of the Game and Fresh Water Fish Commission, may be sold without restriction so long as product origin can be identified.
- Aquaculture shellfish must be sold and handled in accordance with shellfish handling regulations of the Department of Environmental Protection established to protect public health.

REGISTRATION AND RENEWALS

- Not later than December 1, 1996, each aquaculture producer must apply for an aquaculture certificate of registration with the department. Upon department approval, the department shall issue the applicant an aquaculture certificate of registration only for the period covering December 1, 1996, through June 30, 1997. The department shall not require a registration fee only for the period covering December 1, 1996, through June 30, 1997. However, beginning July 1, 1997, and each year thereafter, each aquaculture certificate of registration must be renewed with fee, pursuant to this chapter, on July 1.
- The department shall send notices of registration to all aquaculture producers of record requiring them to register for an aquaculture certificate. Thereafter, the department shall send a renewal notice to the registrant 60 days preceding the termination date of the certificate of registration. Prior to the termination date, the registrant must return a completed renewal form with fee, pursuant to this chapter, to the department.

PROHIBITED ACTS; PENALTIES

It is unlawful for an aquaculture registrant to:

- Commingle in the same container any shellfish aquaculture product with any wild product;
- Transport by vessel over water both wild and aquaculture products of the same species at the same time; or
- Violate any provision of this chapter or chapter 500.

- Any person who violates any provision of this chapter or any rule promulgated hereunder is subject to a suspension or revocation of his or her certificate of registration under this chapter. The department may, in lieu of, or in addition to the suspension or revocation, impose on the violator an administrative fine in an amount not to exceed \$1,000 per violation per day.

- Any person who violates any provision of this chapter, or rule hereunder, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

- Any person certified under this chapter who has been convicted of taking aquaculture species raised at a certified facility shall have his or her license revoked for 5 years by the Department of Agriculture and Consumer Services pursuant to the provisions and procedures of s. 120.60.

