



Wisconsin Aquaculture Association

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Dr. Egrie;

We believe that the Interim Rule **should not** go into effect on November 10, 2008 until key provisions are changed. For the past decade, Wisconsin has not only been a leader in fish health programs, but also understands the importance of preventive procedures, and initiated VHS testing for imports of susceptible species of fish in September 2006 (two months before the Federal Order). We have worked closely with USDA APHIS staff to communicate industry concerns regarding VHS by providing recommendations on regulations that secure the safety of the industry, slow the progression of VHS while allowing commerce to continue, and are supportive of sensible rules. However, Wisconsin fish farmers feel that the APHIS Interim Rule goes beyond reasonable regulations and that the costs associated with the rule will cause significant economic burden on our small businesses and may put many farmers in jeopardy of losing their businesses.

The Interim Rule on VHS - Docket No. APHIS-2007-0038 was written, according to the summary, to restrict the interstate movement and importation into the United States of fish susceptible to VHS to prevent further introductions into, and dissemination within, the United States of viral hemorrhagic septicemia. There is no doubt that the Interim Rule will accomplish restricted movement of fish (from farms) but at a cost that will cripple the aquaculture industry in the Great Lakes Region, and probably will not prevent the disease from spreading through natural conduits or by water via the thousands of boats and vessels that are involved in commercial transport, sport fishing and recreation in the region.

The Regulatory Impact Analysis is disjunctive with the Interim Rule by stating, "*Net impacts of the interim rule are expected to be small because of the existing State regulations and the Federal Order.*" And in the summary – "*The potential impacts of the interim rule are not known given the lack of information on aquaculture operations and commercial fisheries in the regulated areas.*" It is very disappointing that APHIS did not understand how the commerce of live fish shipments work as stipulated by the economic analysis that the interim rule would have no adverse economic consequences – in view of the fact that stakeholder meetings were conducted and many professional organizations offered assistance. While the assessment is correct that many states have adopted equal or more restrictive rules concerning VHS, the interim rule has many changes from the modified federal order and which **will** have an economic impact on the industry. The state and federal VHS rules are not allopathic to one another but add layers of regulations - all costing large sums of money in order to comply. If the Interim Rule goes into affect without modifications, the aquaculture industry in the Great Lakes region will be in jeopardy by being placed at a competitive disadvantage to other regions of the U. S. and it will certainly have a negative effect on the multi-billion dollar sport fish industry. It is imperative that a new Economic Analysis be completed that has input from affected stakeholders and aquaculture professionals in the region.

We offer the following comments and suggestions:

- 1. Definitions (§§ 83.1 and 93.900) and §83.4 Regulated Fish.** The definition of Anadromous fish does not take into consideration that in the Great Lakes Region Natural Resource agencies stock specific strains of fish that are Anadromous, spending part of their lives in streams and part in the Great Lakes (non saltwater). This definition seems to then allow the exemption (from regulation) of anadromous fish species from VHS strain IV (a) that occur on both the East and West Coast. Although VHS strain IV (b) affects more species of fish, there are still unregulated shipments of frozen fish coming into the Great Lakes Region from areas known positive to VHS strain IV (a). The definition appears to be subjective to avoid regulations for VHS strain IV (a), and there is no regulation on frozen fish.
- 2. General Restrictions; Conditions of Movement (§§ 83.2 and 83.3)** This section appears to distinguish between VHS tested live shipments of fish and non-tested fish moved in interstate commerce for slaughter. However in Paragraph (b) the term transported in a sealed conveyance and accompanied by VS Form 1-27 needs better definition and if intended to mean sealed by a veterinarian or competent authority, this will be too costly and there is insufficient infrastructure to comply (see below). It should be noted that many fish processing plants are not located on municipal sewage systems. It seems reasonable that dewatering could be land based on fields (not subject to runoff), as the soil would neutralize the virus. The offal, including carcasses, should be allowed to be disposed via commercial waste companies (in compliance with state standards) or sold to companies that produce a product that in the process neutralizes the virus (cooking, change in pH - pet food, or fish emulsion).
- 3. Interstate Certificate of Inspection (ICI) (§ 83.5) Paragraph (b) – *the requirement of the 72 hour inspection by accredited veterinarian or a state, Tribal or Federal competent authority for aquatic animal health.*** There is insufficient infrastructure (accredited authorities) to carry out the inspection and, most notably, VHS carries no visual symptoms specific to VHS. Wisconsin Aquaculture Specialists called several accredited aquatic veterinarians and fish farmers who ship in interstate commerce to get an idea of the impact. The veterinarians told them that they charge \$1 per mile round trip and they may be hundreds of miles from clients. The sight (visual) inspection itself may cost up to \$150 due to disruption in their business day. The total cost for the inspection would be several hundreds of dollars and many said they could not comply because of frequency, and distance from clients would disrupt their business. The number of shipments at certain times of year runs several per week so the total cost of compliance runs into the tens of thousands of dollars per farm per year. We recommend that the 72 hour inspection be dropped for domestic interstate shipments. There may be need for the 72 hour inspection on international shipments.
- 4. Testing Requirements (§ 83.6) –** The incorporation of the farm level certification standard and reduction of percent prevalence with facilities showing negative testing results over a period of time is a welcome relief. However, the standard for water temperatures between 50 and 72 °F, coupled with the twice per year and at least 3 months between tests, will not work. Many farms have water sources that are below 50 °F most of the year and other farms will not have those water conditions at the interval needed to take samples in order to comply. We recommend that USDA APHIS allow the state competent authority and their clients to work out a schedule for testing that makes sense for the farm and meets scientific knowledge of VHS. The Interim Rule fails to address, and give credit for, the AFS Blue Book standard of 60 lot fish once a year, which was required in the modified Federal Order and adopted by many states in the Great Lakes Region. Although APHIS would like the Interim Rule to serve as a draft standard model for state regulations "for all other regulated diseases", many of the states have adopted the blue book standard in their statutes, which are not easy to change. The consequences are that farms that ship to several states will have double the testing costs causing excessive economic burdens with no benefit derived from the test results.
- 5. Testing Requirements (§ 83.6) Paragraph (c) – *testing for fish held on a water source that is not a secure water source will be valid for 30 days from the date of sample collection.*** This simply will not work since VHS testing takes a minimum of 28 days and longer with shipping. USDA APHIS should not be looking at "open water source" but rather if the fish are "cultured fish" as defined in the Interim Rule, or "wild source" indicating fish captured from unregulated waters, which are not aquaculture facilities. The 30 day testing requirement for cultured fish should be dropped.
- 6. Shipping Containers; Cleaning and Disinfection (§ 83.7)** Although we agree that cleaning and disinfection is part of a biosecurity program and should be practiced on farms, the requirement to be monitored by the accredited competent authority is unworkable. This suggests that the competent authority needs to be present during the cleaning and disinfection and that simply is too costly, and again there is not the infrastructure in place to comply. A better solution is to recognize that fish farmers are the last people that want VHS on their facilities and have taken steps (biosecurity plans or VHS HACCP plans) to prevent the disease from coming onto the farm. Again, USDA APHIS needs to recognize the risks associated with, and the difference between, fish coming from "wild source" and "cultured fish". The risks are greater in wild source fish.

The Wisconsin Aquaculture Association would like to acknowledge that USDA APHIS spent a lot of time, money and energy on the Interim Rule and Economic Analysis; there are sections that are improvements from the modified Federal Order. However because there are many provisions that are unworkable and will have disastrous effects on the aquaculture industry in the Great Lakes Region, we feel that the modified Federal Order should remain in place until these sections can be modified. WAA is willing to work with APHIS and other stakeholders to reconcile these points of concern. We suggest a meeting, sponsored by APHIS, which includes representatives from the eight Great Lakes States to include fish farmers, aquaculture extension specialists, state and national aquaculture organizations and State Competent Fish Health authorities. The meeting could be informational to allow APHIS to gain information about aquaculture commerce that is needed to complete the rule making process. Also WAA would like to invite Dr. Gary Egrie, to the Rules Workshop on December 5, 2008 to be held in Madison, Wisconsin to give an update on the Interim Rule. WAA also recognizes that APHIS has received comments from aquaculture concerns and scientists out of the region that believe that VHS has to be contained at all costs, even if this means significant hardship on fish farmers in the Great Lakes Region. APHIS has the difficult task of sorting out the wishes of competitors and the scientific validity of these concerns. VHS is out in the wild, not on any United States farm, and it is here to stay – regulations must be sensible, allowing commerce to continue while safeguarding fishery stocks. This is not an easy task but one that must be transparent and in conjunction with stakeholders.

We look forward to working with USDA APHIS on a modified version of the Interim Rule that will slow down the advancement of VHS without the heavy economic burden place on fish farmers. But, again, the Interim Rule must not go into effect on November 10, 2008.

Sincerely,

Jeff Taylor

Jeff Taylor, President WAA

Cc

Senator Herb Kohl

Senator Russell D. Feingold

Representative Paul Ryan

Representative Tammy Baldwin

Representative Ron Kind

Representative Gwen Moore

Representative F. James Sensenbrenner

Representative Thomas E. Petri

Representative David R. Obey

Representative Steve Kagen

Wisconsin Senator Bob Jauch

Wisconsin Senator Dale Schultz

Gary Jensen, National Program Leader USDA CSREES

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