

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

DO NOT WRITE IN THIS BOX

FILED

JUL 15 1 34 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative Rule; CITE AUTHORITY WV Code 19-29-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 23

TITLE OF RULE BEING PROPOSED: WV Aquaculture Farm Rules

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 15, 1994 AT 8:00 a.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

West Virginia Department of Agriculture

Regulatory Protection Division

Attn: John Liggett

1900 Kanawha Blvd., East

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Robert Morris
Asst. Comm.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

5.40

Summary

West Virginia Aquaculture Farm Rules

§61-23-1 et seq.

Legislative Rule

This rule is intended to provide a level playing field for all aquaculture producers in the state and assure the domesticated production of aquatic species is done in a manner that will assure the quality and the safety of the finished product.

This rule requires every producer of fish for human consumption to develop and implement a Hazard Analysis Critical Control Point, or HACCP, plan. The content of the HACCP plan will be individualized for each producing operation and the minimum contents of that plan are outlined in the rule.

The rule requires the Commissioner to maintain or provide for a laboratory testing facility for the purpose of enforcing the analytical aspects of this rule. The rule also provides actions levels for specific contaminants in fish and fishery products.

The rule outlines specific prohibited acts. The rule also gives authority to the Commissioner to assess civil penalties of up to five hundred dollars for a first offense and up to two thousand dollars for subsequent offenses.

The rule has a provision for maintaining the confidentiality of trade secrets.

The rule gives the Commissioner the authority to inspect, embargo, quarantine, issue cease and desist orders, cooperate or enter into agreements with other agencies or associations, and to develop appropriate regulatory forms as necessary.

The rule provides an enforcement policy which determines inspection frequency based on "risk assessment".

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Aquaculture Farm Rules

Type of Rule: Legislative Interpretive Procedural

Agency: WV Department of Agriculture

Address: Regulatory Protection Division
1900 Kanawha Blvd., East
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$9000.00	\$	\$9000.00	\$8000.00	\$8000.00
PERSONAL SERVICES	0				
CURRENT EXPENSE	8000.00		8000.00	8000.00	8000.00
REPAIRS & ALTERNATIONS	0				
EQUIPMENT	1000.00		1000.00	0	0
OTHER	0				

2. Explanation of above estimates:

The equipment expense reflects the purchase of equipment necessary to perform inspection duties. The current expenses increase reflects added travel and miscellaneous expenses associated with the enforcement of these rules.

3. Objectives of these rules:

These rules are intended to provide a level playing field for all aquaculture producers in the state and assure the domesticated production of aquatic species is done in a manner that will assure the quality and safety of the finished product.

Rule Title: West Virginia Aquaculture Farm Rules

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

An estimated increase of \$8,000 annually for the enforcement of this rule.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

We estimate the total cost per firm to be less than \$500. There are currently 60 growers who will be covered by these regulations. Many of those are already in compliance and there would be no additional expense to them.

C. Economic Impact on Citizens/Public at Large.

No impact.

Date: 07-15-94

Signature of Agency Head or Authorized Representative

Robert G. Moore

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TITLE 61
LEGISLATIVE RULE
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

JUL 15 1 34 PM '94

SERIES 23
Proposed West Virginia Aquaculture Farm Rules

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§61-23-1. General

1.1 Scope - The Commissioner will inspect aquaculture production on a risk assessment basis with the sole purpose of assuring wholesome, unspoiled and unadulterated fish and fishery products.

1.2 Authority - WV Code 19-29-1 et seq.

1.3 Filing Date -

1.4 Effective Date -

1.5 This is a new legislative rule

61-23-2. Definitions

2.1 "Adulterated" means a fish or fishery product carries or contains any poisonous or deleterious substance or compound or pathogen in a quantity that may render it injurious to human health; was produced, processed, transported or held under unsanitary conditions; was treated with or exposed to chemicals, chemotherapeutics (drugs), heavy metals, pesticides, temperatures or any conditions in a manner that violates this rule; or was not produced according to an approved HACCP plan.

2.2 "Aquaculture" means the commercial production of fish and/or other aquatic life.

2.3 "Approved Laboratory" means a laboratory approved by the commissioner under the provisions of this rule.

2.4 "Aquaculture production area" means the site and the immediate vicinity where fish are produced and kept for aquaculture purposes, i.e. tanks, raceways, ponds, etc.

2.5 "Aquaculture water source" means springs, wells, ponds, streams, lakes, rivers, impoundments and/or any other manmade or natural source of water where fish are grown or from which water is taken to conduct aquaculture.

2.6 "Chemotherapeutic" or "Drug" means any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in

animals, other than man; and substances other than nutritive components, intended to affect the structure or any function of the animal body.

2.7 "Commissioner" means the commissioner of agriculture or his/her designee.

2.8 "Control" means managing the points, steps and procedures of an operation to maintain compliance with established criteria.

2.9 "Corrective Action" means procedures to be followed when a deviation occurs, including disposition of products, avoidance of further deviations, and records of actions taken as a result of the deviation.

2.10 "Critical Control Point" means any point, step or procedure in a production or food process where there is a high probability that improper control may cause, allow, or contribute to a safety hazard in the final product or food.

2.11 "Critical Limit" means the maximum or minimum value to which a physical, biological or chemical parameter must be controlled at a critical control point to minimize the risk of occurrence of the identified hazard.

2.12 "Deviation" means failure to meet a critical limit at a critical control point or follow the HACCP plan.

2.13 "Fish" means fresh or saltwater finfish, molluscan shellfish, crustaceans, and other forms of aquatic animal life other than birds or mammals.

2.14 "Fishery product" means any edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

2.15 "Hazard Analysis Critical Control Point Plan" or "HACCP Plan" is an inspectional or quality control plan in written form, approved by the commissioner that assesses hazards associated with growing, harvesting, processing, manufacturing, marketing, preparation and or use of fish as a food product, identifies critical control points on a flow chart of the operation, sets critical limits for critical control points, establishes monitoring system, standards for evaluating compliance with the plan and corrective actions for the identified critical control points, verification procedures, and a record keeping system.

2.16 "Log for Notice of Unusual Occurrence and Corrective Action" means a record for situations or safety hazards taking place that are not anticipated by the HACCP plan, and corrective actions taken as a result of such situations or safety hazards.

2.17 "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, or scallops or edible portions thereof, except when the scallop product consists entirely of the shucked adductor muscle.

2.18 "Monitoring" means a planned sequence of observations or measurements of critical limits designed to produce an accurate record intended to insure that the critical limit maintains product safety.

2.19 "Official Sample" means any sample of water, soil, fish, feed, drugs, pesticides, other ingredients, containers and/or products taken by the commissioner or approved laboratory in accordance with these rules.

2.20 "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

2.21 "Record" means a book, ledger or other written or printed means used to log required information.

2.22 "Risk Assessment Basis" means considering grades from past inspections, violations, trends, conditions, observations and other information to estimate the likelihood of a danger or safety hazard occurring and to determine the frequency and priority of future inspections.

2.23 "Safety Hazard" means any biological, chemical, or physical property that may cause, allow, or contribute to an unacceptable human health risk in the final product or food.

2.24 "Shellstock" means live molluscan shellfish in the shell.

2.25 "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

2.26 "Terrestrial Livestock" means cattle, sheep, horses, swine, goats, poultry and/or other domestic animals inhabiting the land.

2.27 "Verification" means methods, procedures, and tests used to determine if the HACCP system is in compliance with the HACCP Plan.

2.28 "Wholesome" means in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

§61-23-3. Hazard Analysis Critical Control Point Plan

3.1 All producers of fish for human consumption shall have and implement a written Hazard Analysis Critical Control Point Plan approved by the commissioner, for each location where fish are grown.

3.2 The HACCP plan shall include all seven recognized principles of HACCP. The HACCP plan shall:

3.2.a. Identify the safety hazards associated with aquaculture production. Assess the likelihood of the hazards occurring and identify

the preventative measures for their control;

3.2.b. Determine critical control points, or the points, procedures and operational steps that must be controlled to eliminate or minimize the likelihood of the safety hazards occurring; and will include as applicable:

- i) Site Selection
- ii) Aquaculture Water Source
- iii) Feed
- iv) Drugs
- v) Pesticides
- vi) Feed and Color Additives
- vii) Holding and Transportation

The commissioner may identify and require other critical control points based on inspection and/or observation of aquaculture operations to prevent an unacceptable risk to consumers.

3.2.c. Establish the critical limits, or target levels and tolerances that must be met to ensure the identified critical control points are under control.

3.2.d. Establish a monitoring system to ensure control of each critical control point by scheduled testing or observations, including procedures and frequency thereof, that will be used to control and monitor each critical control point to ensure compliance with the critical limits. Such procedures shall include calibration of instruments and the use of consumer complaints relating to a critical control point received by the producer.

3.2.e. Establish corrective actions to be taken when there is a deviation or loss of control at a critical control point identified by monitoring.

3.2.f. Provide for a verification system to ensure the HACCP plan is working correctly. This system shall consist of procedures, tests and documentation as necessary to assess compliance with the HACCP plan and to ensure the HACCP plan is working effectively. The HACCP plan and all records shall be reviewed, evaluated and signed by the producer on at least an annual basis to confirm the adequacy of the HACCP plan and system.

3.2.g. provide for a record keeping system that will document all procedures, the monitoring of the critical control points, these principles and the HACCP plan.

3.2.g.1. Records shall be kept for critical control points, indicating that the critical control points have been monitored according to the approved HACCP plan.

3.2.g.2. Records shall indicate the actual values obtained during monitoring, documentation of the verification process and what

corrective action was taken if critical limits were exceeded.

3.2.g.3. Records shall also include a Log for Notice of Unusual Occurrence and Corrective Action.

3.2.g.4. Records shall include the date, appropriate lot numbers, and signature of the individual logging the information.

3.3 Records required by this rule must be kept for a minimum of 2 years unless otherwise specified. Records kept on computer files shall have a backup file on a separate disk, or hardcopy.

3.4 Failure of a producer of fish for human consumption to have and implement a HACCP plan that complies with this rule will render fish and/or fishery products adulterated and subject to actions under this rule.

§61-23-4. Site Selection and Water Source Critical Control Points

4.1 Aquaculture water sources shall be tested for pesticide and chemical residues by an approved laboratory prior to commencing aquaculture production, except aquaculture water sources utilizing a public water system certified by State or Local Health Authorities.

4.2 Aquaculture water sources utilizing surface waters shall be tested for pesticide and chemical residues by an approved laboratory on at least an annual basis, except aquaculture water sources utilizing a public water system certified by State or Local Health Authorities.

4.3 Aquaculture water sources and aquaculture production areas shall be tested by an approved laboratory whenever the commissioner suspects contamination which could present a safety hazard has occurred.

4.4 The commissioner may require testing for other possible contaminants that he/she concludes is necessary to protect the safety of consumers.

4.5 Terrestrial livestock shall be excluded by fencing or a permanent structure from the immediate vicinity of aquaculture water sources and aquaculture production areas where fish are raised for human consumption.

4.6 Septic systems shall not be located within 200 feet of an aquaculture water source or aquaculture production area in order to prevent fecal and other contamination of water where fish are raised for human consumption, except that tanks or other aquaculture production systems with an impervious barrier preventing possible contamination may be located closer.

4.7 Manure or fertilizer shall not be applied within 500 feet of an aquaculture water source or aquaculture production area.

4.8 Every reasonable effort shall be made to keep water used for

aquaculture production pure and free from contamination.

4.9 Permanent records of all analysis of aquaculture water sources and aquaculture production areas for contaminants shall be kept.

§61-23-5. Feed Critical Control Point

5.1 Aquaculture feeds shall conform to the West Virginia Commercial Feed Law (Chapter 19 -14-1 et seq.) and West Virginia Department of Agriculture Feed rules (Chapter 61-5-1 et seq.),

5.2 Medicated feeds shall not contain chemotherapeutics or drugs not approved by the U.S. Food and Drug Administration Center for Veterinary Medicine and the West Virginia Department of Agriculture.

§61-23-6. Drugs, Feed and Color Additives and Pesticides Critical Control Points

6.1 Only drugs approved for food fish aquaculture or listed as low regulatory priority by the U.S. Food and Drug Administration's Center for Veterinary Medicine, used under an Investigational New Animal Drug application or prescribed by a licensed veterinarian following FDA Compliance Policy Guide 7126.06, Extra-label Use of New Animal Drugs in Food-Producing Animals may be used for the production of human food fish. Except that veterinary biological products (vaccines) licensed by the United States Department of Agriculture Animal and Plant Health Inspection Service may be used.

6.2 Only pesticides registered with the U.S. Environmental Protection Agency for use with fish intended as human food may be used in or within 500 feet of aquaculture water sources or aquaculture production areas containing fish in aquaculture production for human food.

6.3 A locked cabinet or area shall be maintained and used to store only drugs, medicated feeds and/or pesticides used for the production of fish for human consumption.

6.4 Drugs shall be used in accordance with FDA regulations and labelling. Feed and color additives shall be used according to FDA regulations and labelling. Biological veterinary products (vaccines) shall be used in accordance with USDA regulations and labelling. Pesticides shall be used in accordance with EPA regulations and labelling.

6.5 A permanent record shall be kept when drugs, pesticides, feed and color additives or medicated feeds are used to produce fish intended as human food. The record shall include the name and dose of any or all drugs, pesticides, feed and color additives, or medicated feeds; date and/or dates administered and length of required withdraw period; date of sale; lot number of fish; and name and address of the purchaser of the treated fish.

6.6 Pesticides not approved for use with fish intended for human consumption shall not be used, stored or otherwise present within 500 feet of an aquaculture water source or aquaculture production area when fish are produced for human food.

6.7 Aquaculture pesticide use shall otherwise conform to the West Virginia Pesticide Control Act (Chapter 19-16A-1 et seq.).

6.8 Fish and fishery products containing levels of the following chemicals in excess of action levels set by the Food and Drug Administration in Table 1 will be considered adulterated and subject to actions under this rule.

6.8.a Table 1 - Action levels for chemicals in Fish and Fishery products

Chemical	Action Level
Aldrin plus Dieldrin	0.3 ppm
Chlordane	0.3 ppm
Endrin	0.3 ppm
Heptachlor plus Heptachlor epoxide	0.3 ppm
Chlordecone	0.3 ppm
DDT plus TDE plus DDE	5.0 ppm
Mirex	0.1 ppm
Toxaphene	5.0 ppm
PCB	2.0 ppm
Methyl Mercury	1.0 ppm
Sulfite	100 ppm

6.9 Fish and fishery products containing levels of the following drugs in excess of action levels set by the Food and Drug Administration in Table 2 will be considered adulterated and subject to actions under this rule.

6.9.a Table 2 - Action levels for drugs in Fish and Fishery products

Drug	Action Level
Oxytetracycline	0.1 ppm
Sulfamerazine	0.0 ppm
Sulfadimethoxine plus ormetoprim	0.1 ppm

§61-23-7. Transport

7.1 All fish transported for sale and/or processing for human food in the state of West Virginia shall be:

7.1.a. Alive and in good health when harvested from the water

7.1.b. Maintained alive; or maintained in a constanticed or mechanically refrigerated state ensuring an internal body temperature of 40 F (4.4 C) or below; except that:

7.1.b.1. Shellstock shall be maintained in a constantly iced or mechanically refrigerated state ensuring an internal body temperature of 50 F (10 C) or below after harvest.

7.1.b.2. Shucked shellfish shall be maintained in a constant iced or mechanically refrigerated state ensuring an internal temperature of 40 F (4.4 C) or below.

7.1.b.3. Processed fish that have a water-phase salt level of at least 17 percent do not require refrigeration.

7.2 All fish intended for human consumption shall be transported or held in clean non-toxic, pathogen-free containers. 7.3 Unprotected raw fish and fishery products, cooked ready-to-eat fishery products, smoked fishery products and molluscan shellfish shall be physically separated to minimize the possibility of cross contamination during transport.

7.4 No other cargo shall be placed on or above fish or fishery products unless all cargo is packed in sealed, crush resistant waterproof containers.

7.5 All shipments of human food fish to other producers, wholesalers, retailers and/or processors shall be a written notification of any and all drugs, feed and color additives, pesticides and/or medicated feeds administered, including the name, address, and telephone number of the grower; name and dose of the drug, color additive, feed additive, pesticide or medicated feed and dose; date administered and length of required withdraw period; date of sale; lot number of fish; this notification shall be signed by the grower.

7.5.a. If no drugs, feed and color additives, pesticides or medicated feeds have been administered, a written statement including the lot number of fish signed by the grower indicating such shall accompany the shipment.

7.6 Every reasonable effort shall be made to keep fish and fishery products intended for human consumption wholesome, unspoiled, and unadulterated.

7.7 Ice used for cooling fish and fishery products shall be made from drinking water certified potable by State or County Health authorities.

7.7.a. After use for cooling fish or fishery products, ice shall not be used as human food.

§61-23-8 Laboratory Testing

8.1 The Commissioner of Agriculture shall establish and maintain or make provisions for approved laboratory testing facilities for the purpose of enforcing the analytical aspects of this rule.

8.2 The methods used for analyzing samples will be those found in the Official Methods of Analysis by the Association of Analytical Chemists, 15th edition 1990; or the United States, Food and Drug Administrations Bacteriological Analytical Manual, 7th edition, 1992; or The Pesticide Analytical Manual, Volume I, and II, Foods and Feeds; or other methods as approved by the commissioner.

§61-23-9. Prohibited Acts

9.1 It shall be unlawful to:

9.1.a. Produce, hold, transport, sell or offer for sale fish or fishery products in violation of this rule.

9.1.b. Sell or offer for sale any fish or fishery product for human consumption which is adulterated or not wholesome.

9.1.c. Remove any tag or order affixed by the commissioner unless such removal is authorized by him\her.

9.1.d. To impede, hinder or otherwise prevent, or attempt to prevent the commissioner in the performance of his/her duties in connection with the provisions of this rule.

9.1.e. Falsify or falsely log any values on any record or records required by this rule.

9.1.f. To remove or dispose of such detained, embargoed, or quarantined fish or fishery products by sale or otherwise without the permission of the Commissioner or the courts.

9.1.g. To continue aquaculture operations until released from the cease and desist order by the Commissioner or the courts.

§61-23-10. Penalties

10.1 Civil Penalties

10.1.a. Any person violating any of the provisions of this rule may be assessed a civil penalty of up to five hundred dollars for a first offense and up to two thousand dollars for subsequent offenses. In determining the amount of the civil penalty, the commissioner shall give due consideration to the history of previous violations of any person; the seriousness of the violation, including any irreparable harm to the environment, any hazards to the health and safety of the public and any economic damages to the public and the demonstrated good faith of any

person charged in attempting to achieve compliance with this rule before and after written notification of the violation.

10.1.b. The civil penalty is payable to the West Virginia Department of Agriculture and is collectable in any manner now or hereafter provided for the collection of debt. If any person liable to pay the civil penalty neglects or refuses to pay the same, the amount of the civil penalty, together with interest at ten percent, is a lien in favor of the state of West Virginia upon the property, both real and personal, of such a person after the same has been entered and docketed to record in the county where such property is situated. The clerk of the county, upon receipt of the certified copy of such, shall enter same to record without requiring payment of costs as a condition precedent to recording.

10.1.c. Nothing in these rules shall be construed as requiring the commissioner to assess a civil penalty or to institute an embargo, detainment, quarantine or cease and desist order for violation of these rules when he/she believes that the public interest may best be served by a written notice.

§61-23-11. Confidentiality of Trade Secrets

11.1 The commissioner may not make public information which relates to trade secrets, commercial, or financial information obtained from a person or privileged or confidential information: Provided that when the information is necessary to carry out the provisions of this rule, this information may be revealed, subject to protective order, to any federal, state or local agency consultant or may be revealed, subject to protective order, at a closed hearing or in findings of fact issued by the commissioner.

§61-23-12. Powers and Duties of the Commissioner

12.1 The commissioner has the power and authority to:

12.1.a. Enter and inspect, during reasonable hours, any location, except fish hatcheries operated by the State of West Virginia or the United States of America, where fish are produced, sold, stored or transported for human consumption. Such inspection includes, but is not limited to photographing, video taping, verifying, copying, and auditing, computer files, records and papers relating to the production of fish for human food as is necessary to determine compliance with this rule and to investigate consumer complaints. Such inspection also includes, but is not limited to photographing, video taping, observing, and verifying the premises, vehicles, personnel and activities;

12.1.b. Examine, sample and test water, soil, fish, feed, drugs, pesticides, other ingredients, containers and/or products used or intended for use in the production, storage and/or transportation of fish or fishery products for human consumption;

12.1.c. Cooperate with and enter into agreements with governmental agencies of this state and any other states, agencies of the federal government and foreign governments, and private associations in order to carry out the purpose and provisions of this rule;

12.1.d. Detain, embargo, quarantine or issue a cease and desist order by affixing thereto or in the vicinity of the aquaculture production area, holding area or transporting vehicle a tag or other appropriate marking, and giving notice thereof in writing to the producer, holder or transporter. The Commissioner may take this action when:

12.1.d.1. Fish or fishery products have been found by the commissioner to be or are believed to be in violation of the provisions of this rule. Upon confirmation of such violation he/she may condemn and order the fish or fishery product disposed of as necessary to ensure the safety of consumers.

12.1.d.2. Fish or fishery products have been found by the Commissioner to be or are believed to be infected with a fish or human pathogen that the Commissioner concludes could affect other aquaculture areas and wild fish stocks or present a public health hazard. Upon confirmation of such pathogen he/she may condemn and order the fish or fishery products disposed of as necessary to prevent the spread of the pathogen;

12.1.e. Embargo a perishable product, even if the practical result is to bring about the involuntary disposal of the product.

12.1.e.1. The Commissioner shall exercise this power using all reasonable means to determine if the product is adulterated or otherwise not in compliance with this rule in as short a time frame as possible and shall promptly lift the embargo order if the product is found to be in compliance with this rule.

12.1.f. Inspect or copy all records required by these rules. All requested records must be made available to the commissioner within 24 hours of his/her request;

12.1.g. Inspect all aquaculture water sources and aquaculture production areas producing fish for human food;

12.1.h. Develop appropriate inspection, embargo, quarantine, detainment and other regulatory forms as necessary for the enforcement of this rule;

12.1.i. Assess civil penalties of up to five hundred dollars for the violation of this rule.

12.2. The Commissioner shall be guided by the analytical results of an official sample when determining whether fish or fishery products

conform to this rule and other rules or laws of the state of West Virginia;

§61-23-13 Enforcement Policy

13.1 Aquaculture farms will receive a grade of "A", "B", "C", or "Unsatisfactory". Farms will be initially inspected at least once every three months for a minimum of two inspections. After this initial inspection period:

13.1.a. A grade of "A" will require reinspection on at least an annual basis.

13.1.b. A grade of "B" during an inspection will require reinspection at least once every six months.

13.1.c. A grade of "C" during an inspection will require reinspection at least once every three months.

13.1.d. An aquaculture farm receiving a grade of "Unsatisfactory" will not be permitted to sell fish for use as human food until a subsequent inspection results in a grade of "A", "B" or "C".

13.2 In no way is this enforcement policy intended to prohibit the Commissioner from inspecting a producer's facility more frequently in the event that he/she believes it is necessary.

13.3 All fish raised for sale as human food shall be produced according to all provisions in this rule. Fish raised exclusively for consumption of the producer, their immediate family, nonpaying guests, and employees, and fish raised in fish hatcheries operated by the State of West Virginia or the United States of America shall be exempt from these rules.

13.4 Aquaculture producers in operation prior to the issuance of the final rule shall have one year to comply with all its provisions.

Summary

West Virginia Aquaculture Farm Rules

§61-23-1 et seq.

Legislative Rule

This rule is intended to provide a level playing field for all aquaculture producers in the state and assure the domesticated production of aquatic species is done in a manner that will assure the quality and the safety of the finished product.

This rule requires every producer of fish for human consumption to develop and implement a Hazard Analysis Critical Control Point, or HACCP, plan. The content of the HACCP plan will be individualized for each producing operation and the minimum contents of that plan are outlined in the rule.

The rule requires the Commissioner to maintain or provide for a laboratory testing facility for the purpose of enforcing the analytical aspects of this rule. The rule also provides actions levels for specific contaminants in fish and fishery products.

The rule outlines specific prohibited acts. The rule also gives authority to the Commissioner to assess civil penalties of up to five hundred dollars.

The rule has a provision for maintaining the confidentiality of trade secrets.

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