

NOTICE OF INTENT

Department of Wildlife and Fisheries

Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission hereby advertises its intent to modify rules and regulations regarding approved Domestic Aquatic Organisms (R.S. 56:411). The proposed changes add a species of sturgeon to Domesticated Aquatic Organisms that are approved for use in aquaculture. This will allow the development of additional non-native aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species.

Title 76

Wildlife and Fisheries

Part VII Fish and Other Aquatic life

Chapter 9 Aquaculture

§905. Domesticated Aquatic Organisms

A. Procedures for Approving a New Species of Domesticated Aquatic Organism

1. – 6. ...

B. The following is a list of "Domesticated Aquatic Organisms" approved for use in aquaculture:

1. – 20. ...

21. Sterlet Sturgeon (*Acipenser ruthenus*) see LAC 76:VII.909

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327.A.(2) and R.S. 56.411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009), repromulgated LR 35:1263 (July 2009).

§909. Sterlet Sturgeon

A. Rules and Regulations on Importation, Culture, Disposal and Sale of Sterlet Sturgeon in Louisiana. The following terms shall have the following meanings in this Section.

Culture—all activities associated with the rearing and nurturing of Sterlet Sturgeon.

Culture System—shall be an approved recirculating indoor system designed such that all water containing, or that at any time might contain, Sterlet Sturgeon (adult fish, juvenile fish, fingerlings) is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries or an authorized employee of the department.

Disposal—the business of processing, selling, or purposely removing Sterlet Sturgeon from the culture system.

Permittee—the individual or organization that possesses a valid Louisiana Sterlet Sturgeon permit.

Process—the act of killing Sterlet Sturgeon, and proper disposal of Sterlet Sturgeon in such manner as the department deems necessary to prevent any possibility of accidental release of live fish.

Secretary—the Secretary of the Department of Wildlife and Fisheries.

Sterlet Sturgeon— pure strain of fish (adult fish, juvenile fish, fingerlings), belonging to the species *Acipenser ruthenus*.

Sterlet Sturgeon Permit—official document pertaining to culture of Sterlet Sturgeon, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of Sterlet Sturgeon in Louisiana as approved by the Secretary or his designee.

B. Sterlet Sturgeon Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live Sterlet Sturgeon in Louisiana must first request a Sterlet Sturgeon permit from the Secretary or his designee of the Department of Wildlife and Fisheries. A separate permit will be required for each facility or location. The following procedures will be necessary.

a. Applications for permits can be obtained by contacting the:

Louisiana Department of Wildlife and Fisheries

Fisheries Permit Manager

P.O. Box 98000

Baton Rouge, LA 70898-9000.

b. The completed applications should be returned to the same address whereby Office of Fisheries personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a Sterlet Sturgeon permit. Department personnel will then recommend to the secretary or his designee if the applicant's request should be approved or disapproved.

d. The secretary or his designee will notify the applicant, in writing, as to whether or not the permit has been granted and if not, why. In the event of disapproval, applicants may reapply after correcting specified deficiencies noted in the secretary's or his designee's letter of denial.

C. Rules on Transport of Live Sterlet Sturgeon

1. Export of Live Sterlet Sturgeon will not be allowed for Louisiana Sterlet Sturgeon Permit holders.

2. For each occurrence of live Sterlet Sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the

department. These requests shall be made 3 business days before the expected date of shipment.

Procedures and necessary information for obtaining approval are:

a. requests shall be made to either via email to the Designated departmental contact or via mail:

Louisiana Department of Wildlife and Fisheries

Fisheries Permit Manager

P.O. Box 98000

Baton Rouge, LA 70898-9000.

b. requests shall include:

i. Louisiana Sterlet Sturgeon permit number,

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. species certification made within the past 30 days identifying

shipped stock to species;

viii. total number of Sterlet Sturgeon;

ix. identification of seller and buyer and any permit numbers from the jurisdiction of origin through to the jurisdiction of destination.

3. A bill of lading must accompany the live Sterlet Sturgeon during import, transport, transfer or sale and shall include:

a. copy of the permittee's written approval as described in LAC 76:VII.909.C.2. above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of Sterlet Sturgeon;

e. name, address and phone number of seller,

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of Sterlet Sturgeon;

i. destination;

j. the source must provide certificate of health from a veterinarian or other certified expert stating that Sterlet Sturgeon are not showing signs of diseases;

k. display the words "STERLET" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

D. Rules for Security of Sterlet Sturgeon Culture Facility

1. Sterlet Live holding facilities will not be permitted east of the Mississippi River.

2. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the live holding facility that will guard against vandalism and theft of Sterlet Sturgeon.

3. Any changes or modification of a permitted security system must first have the approval of department officials.

4. The department will have just cause to revoke a Sterlet Sturgeon permit for lapses in security if:

a. the permittee is found to be in noncompliance with Paragraphs 1 and 2 above;

b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;

c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

4. It shall be the responsibility of the permittee to immediately notify the Secretary or his designee of any Sterlet Sturgeon that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism, failure of facilities or structure and theft.

5. It shall be the responsibility of the permittee to have at least one individual who is familiar with the live holder system readily available for emergencies and inspections, both announced and unannounced.

E. Rules of Sterlet Sturgeon Culture Site

1. A legal description of the Sterlet Sturgeon live holding facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the Sterlet Sturgeon culture facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

4. The department will require an approved live holding contingency plan for disposal of live Sterlet Sturgeon in the event of impending flooding or other natural disasters.

5. All Sterlet Sturgeon shall be tagged with a Departmental approved non-removable tag.

F. Rules for the Sterlet Sturgeon Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the Sterlet Sturgeon culture system.

2. The Sterlet Sturgeon culture system shall be an approved indoor recirculating system designed such that Sterlet Sturgeon eggs, larvae, fingerlings, juveniles or adults cannot escape.

3. All water utilized in the culture of Sterlet Sturgeon shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the Sterlet Sturgeon culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of Sterlet Sturgeon through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department-approved live-holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department's satisfaction a basic knowledge and understanding of the culture, rearing (care and feeding), biology, and potential local ecological impacts of Sterlet Sturgeon.

G. Rules for the Processing of Sterlet Sturgeon

1. All Sterlet Sturgeon and Sterlet Sturgeon parts other than live Sterlet Sturgeon specifically permitted by the department must be killed and properly processed prior to leaving the Sterlet Sturgeon culture facility. At no time will live sterlet be allowed to be moved within Louisiana without expressed approval of the Department. No live sterlet shall be sold or transferred to any party from either within Louisiana or outside of Louisiana from Louisiana Sterlet Sturgeon Permittees.

2. Records shall be kept of all Sterlet Sturgeon processed at a culture facility and shall include the following information:

a. source of fish;

b. processed pounds of both meat and caviar

c. date processed.

3. A copy of this information shall be sent to the department's Baton Rouge office at the end of each year, or at any time upon the request of department officials.

H. General Rules for Sterlet Sturgeon

1. The cost of a Sterlet Sturgeon live holding permit shall be \$250, plus the actual cost of the on-site inspection. Qualified universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License;

b. Wholesale/Retail Dealers license or a Retail Dealer's license

3. Permits are valid for 12 months and expire December 31 every year.

4. Permits are not transferable from person to person, or property to property.

5. Live Sterlet Sturgeon shall not be sold from a Louisiana Sterlet Sturgeon Permittee.

6. No breeding or artificial fertilization of Sterlet Sturgeon or sterlet hybrids are allowed in Louisiana.

7. No person may release live Sterlet Sturgeon, fish or eggs, into the waters of Louisiana (whether public or private).

8. Permittee must agree to collect and provide an adequate number of Sterlet Sturgeon to the department or a department-approved contractor upon request for identification and analysis, at the permittee's expense.

9. The only sturgeon allowed in commercial aquaculture under the Louisiana Sterlet Sturgeon permit is *Acipenser ruthenus*. No Sterlet Sturgeon hybrids are allowed.

10. Sterlet Sturgeon Permittees shall be required to submit an annual report to the Secretary or his designee on a form provided by the department.

11. The department may employ whatever means it deems necessary to prevent the release or escapement of Sterlet Sturgeon or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

12. The department shall review all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill or recapture fish. The permittee shall agree to reimburse the Department of Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the Secretary that the permittee will fulfill their financial obligations, the Sterlet Sturgeon Permittee shall, post a \$1,000,000 performance bond, or present a letter of credit from a financial institution stating that the \$1,000,000 is available to the department on a certificate of deposit.

13. If a permittee terminates Sterlet Sturgeon culture, the permittee shall notify the Secretary or his designee immediately and dispose of the Sterlet Sturgeon according to methods approved by the department.

14. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Sterlet Sturgeon shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

15. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the Secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319, R.S. 411, and R.S. 412.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed rule to Mr. Robert Bourgeois, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, September 29, 2017.

Chad J Courville

Date: August 3, 2017