



New York State Department of Environmental Conservation

Eliot Spitzer, Governor

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DEC ADOPTS REVISED EMERGENCY REGULATIONS TO HELP PREVENT SPREAD OF VHS TO ADDITIONAL NEW YORK STATE WATERS

The New York State Department of Environmental Conservation (DEC) today announced the adoption of new emergency regulations to help prevent the spread of the Viral Hemorrhagic Septicemia (VHS) virus to additional waters in the State. The new emergency regulations, which were filed with the Department of State and took effect on Friday, March 9, 2007, replace previously enacted emergency regulations and reflect some changes incorporated as a result of public comments on the limits of the possession, sale, transfer, taking and release of certain baitfish and other live fish species to be placed in New York waters. VHS is a pathogen of fish and does not pose any threat to public health.

VHS was first confirmed in New York waters in May 2006 in Lake Ontario and the St. Lawrence River, and has now also been confirmed in several fish species in Great Lakes basin waters in New York State, Conesus Lake and in other states. Once a fish is infected with VHS, there is no known cure. Because of the often fatal virus's ability to spread, and potential impact to fisheries, recreation, and the economy, the World Organization of Animal Health has categorized VHS as a transmissible disease with the potential for profound socio-economic consequences.

VHS can be spread from water body to water body through a variety of means, not all of them known at this point. One known pathway is through the movement of fish, including baitfish. DEC, in cooperation with the College of Veterinary Medicine at Cornell University, has sampled fish from waters across the state, and except for Conesus Lake, VHS has not been confirmed in fish from any water outside the Great Lakes basin.

The Amended Federal Order that was issued on November 14, 2006, to prevent the spread of VHS to other waters and to protect economically important sport fisheries and aquaculture remains in effect. Information on the Federal Order can be found on the APHIS website at www.aphis.usda.gov/vs/aqua/.

The Amended Federal Order does not address the movement of fish within New York State. In-state movement of fish for use as bait or for stocking could spread VHS in New York and cause significant adverse impacts to the state's fish resources. Therefore, in order to protect New York's valuable fishery resources, DEC has adopted emergency regulations that, along with a revised proposed rule making, include the following provisions:

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- \$ **Limit the personal use of baitfish to the same water body from which they were collected.** The rule restricts the personal use of baitfish to the specific water body from which such baitfish were collected, with no motorized, overland transport allowed. This provision has changed from the originally proposed provision as there will be no limit on the number of baitfish that may be possessed. Also, baitfish can be taken from the water body's tributaries upstream to the first impassable barrier for use on such water body. (This rule does not pertain to the personal possession of baitfish collected in the Marine District for use in the Marine District.)
- \$ **Limit the use of commercially collected and sold baitfish to the same water from which they were collected.** The rule restricts the use of baitfish collected for commercial sale, to the water body from which such baitfish were collected, with no motorized overland transport allowed, unless pursuant to a permit from DEC. (This rule does not pertain to the possession of baitfish collected in the Marine District for use in the Marine District.)
- \$ **Require that baitfish offered for wholesale sale be certified disease free of fish pathogens and accompanied by a fish health inspection report.** Except under permit from DEC, any wholesale sale of baitfish, other than sale on the same water body from which the baitfish were collected, shall require a fish health inspection report certifying that the fish are free of certain serious diseases. Retail sale of baitfish, other than sale on the same water body from which the baitfish were collected, shall also require that the fish are free of specified diseases and that the purchaser shall retain a receipt of the transaction. This does not apply to the possession and sale of baitfish collected in the Marine District for use in the Marine District.
- \$ **Allow baitfish packaged for commercial purposes and preserved by methods other than by freezing only to be sold and used wherever it is legal to use baitfish.**
- \$ **Require that all live fish, destined for release into the waters of the state, or imported for release into the waters of the state, be inspected by certified professionals and be certified to be free of certain fish pathogens.** The rule making prohibits the release of any live fish into the waters of the state unless the fish have been determined to be free of the pathogens listed below, and documented by a fish health inspection report issued within the previous 12 months. For all species of freshwater fish, a fish health inspection report shall certify that the fish are free of VHS and Spring Viremia of Carp Virus, as well as certify the presence or absence of: Furunculosis, Enteric Red Mouth, and Infectious Pancreatic Necrosis Virus (IPN). In addition, for salmon and trout (Salmonidae), a fish health certification report shall certify that they are free of Whirling Disease and Infectious Hematopoietic Necrosis Virus (IHN), as well as certify the presence or absence of bacterial kidney disease. The fish health certificate reports must be on a standard form supplied by the DEC, must be issued by an independent qualified inspector, must conform with specific testing methods and procedures, and must be filed with DEC.

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In addition to the above, there are existing regulations that continue to be in place that govern which waters anglers are allowed to use baitfish, as well which waters where the commercial collection of baitfish is allowed.

With the adoption of the new emergency regulations, DEC simultaneously filed revisions to the pending proposal to adopt these regulations permanently. The provisions of the emergency regulations and the revised rule making are identical. The revisions are responsive to the public comments received on the proposed rule making which was filed on November 21, 2006. These changes are intended to further balance protection of the resource with concerns of commercial bait dealers and recreational anglers. Text of the regulation is available at <http://www.dec.state.ny.us/website/dfwmr/propregs/#10e> on the DEC website. Hard copies of the rule making can also be requested from DEC by writing to: Shaun Keeler, NYS DEC, 625 Broadway, Albany, NY 12233-4750; or by calling DEC at (518) 402-8920.

There will be a public comment period on the revised proposed rulemaking, which concludes on April 27, 2007. During this time, the public may submit comments by mailing comments to: Shaun Keeler, NYS DEC, 625 Broadway, Albany, NY 12233-4750 or by email to fwfish@gw.dec.state.ny.us with "Proposed Parts 10, 35, and 188 (VHS) Regulations" in the subject line of the email.

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