

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 870
AQUACULTURE, TRANSPORTATION, STOCKING, IMPORTATION
AND/OR POSSESSION OF AQUATIC LIFE

Section

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SOURCE: Adopted July 12, 1974; effective July 24, 1974; codified at 5 Ill. Reg. 10649, amended at 7 Ill. Reg. 14947, effective November 1, 1983; amended at 10 Ill. Reg. 963, effective January 7, 1986; Part repealed and new Part adopted at 13 Ill. Reg. 10503, effective June 20, 1989; amended at 14 Ill. Reg. 11190, effective June 29, 1990; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 27 Ill. Reg. 7741, effective April 21, 2003; amended at 39 Ill. Reg. 10394, effective July 9, 2015.

Section 870.5 Definitions

The following definitions apply to this Part.

"Annual Report" means the *record of the annual operations* of an aquaculture permit holder *that shall be submitted to the Department* under Section 370.40(c).

"Aquaculture" means the *controlled breeding, hatching, propagation or raising of aquatic life* by an aquaculturist [515 ILCS 5/20-90].

"Aquaculture Permit" means a permit issued to any person who engages in the *breeding, hatching, propagating or raising of aquatic life, whether indigenous or*

nonindigenous. Aquatic life bred, hatched, propagated or raised by a permittee may be transported and sold for food or stocking purposes. [515 ILCS 5/20-90]

"Aquaculturist" means an individual involved in producing, transporting or marketing aquatic life or aquatic products from privately owned waters for commercial purposes [20 ILCS 215/4(b)].

"Aquatic Life" means fish, mollusks, crustaceans, algae and other aquatic plants and invertebrates [515 ILCS 5/1-20].

For purposes of this Part, "aquatic life" does not include amphibians or reptiles, which are governed by the Herptile-Herps Act [510 ILCS 68]; saltwater species commonly used as seafood that will not survive in freshwater, such as lobsters, clams, mussels and oysters; any species listed as endangered or threatened under Section 8 of the Illinois Endangered Species Protection Act [520 ILCS 10], which are governed under Section 3 of that Act; or any persons exempted by Section 870.80 of this Part.

"Aquatic Life Approved Species List" or "Approved List" means the list created by the Department under Section 870.10. The Approved List is used in the licensure of aquaculture facilities and the permitting of aquaculturists, and regulating importation and transportation of aquatic life.

"Chief" means the Chief of the DNR Division of Fisheries.

"Code" means the Fish and Aquatic Life Code [515 ILCS 5].

"Department" or "DNR" means the Illinois Department of Natural Resources.

"Division" means the DNR Division of Fisheries.

"Wholly Owned" means a pond or lake where the boundary of the pond or lake is completely contained within a landowner's property.

(Source: Added at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.10 Aquatic Life Approved Species List

- a) For the purposes of regulating aquaculture and the transportation, stocking, importation and/or possession of aquatic life specified in this Part, the Aquatic Life Approved Species List is established. The Approved List is created and maintained by the Department and is comprised of specific species of aquatic life, within the categories of fish, crustaceans, gastropods, mollusks and plants.

- b) Any species not on the Approved List shall not be imported or possessed alive without a letter of authorization to import/possess those species.
- c) Copies of the Aquatic Life Approved Species List may be obtained free of charge by writing to:

Aquaculture Specialist
Illinois Department of Natural Resources
Aquatic Nuisance Species and Aquaculture Program
One Natural Resources Way
Springfield IL 62702-1271

- d) The Aquaculture Advisory Committee shall review requests for letters of authorization to import/possess aquatic species not included on the Approved List, and recommend to the Division under what conditions species may be imported/possessed. The Committee shall be composed of:
 - 1) The Chiefs of the following DNR Divisions:
 - A) Fisheries (Chair);
 - B) Wildlife;
 - C) Natural Heritage;
 - D) Law Enforcement.
 - 2) Should they agree to participate:
 - A) The Chief of the Illinois Natural History Survey;
 - B) The Aquaculture Coordinator, Department of Agriculture;
 - C) The Director, Southern Illinois University Fisheries, Aquaculture and Aquatic Sciences;
 - D) The Chief, Division of Food, Drugs and Dairies, Department of Public Health.
- e) The Chief of the Division of Fisheries shall consider the recommendations of the Committee prior to rendering final decisions regarding requests for letters of authorization to import/possess species not included on the Approved List. The

Committee's recommendations and the decisions of the Chief shall be based upon the potential detriment to the natural fishery resource.

(Source: Amended at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.20 Aquaculture Facility Permit Application and Requirements

- a) **Facility Permit**
Entities wishing to import/possess aquatic life for sale for food or stocking purposes shall apply for a permit for the facility where the aquatic life will be maintained.
- b) **Facility Intended for Species Not on the Approved List**
Entities wishing to import/possess aquatic life not on the Aquatic Life Approved Species List must submit with their application an aquaculture facilities plan, which the Department must approve prior to issuing a permit for the facility. The facility will be inspected by the Department as part of the application review process.
- c) **Permit Standards**
The Department will issue a facility permit if it concludes, after consideration of the application and any required facility plan and inspection of the facility, that the facility will not pose a danger to the natural fishery resource of the State. A facility will be deemed eligible for a permit based on the following standards.
 - 1) The facility must be self-contained and not capable of overflowing into other waters of the State.
 - 2) The facility is not located in a 100-year flood plain, as defined by the DNR Division of Water Resources (see 17 Ill. Adm. Code 3706), unless the location is approved by the Department based upon the facility's susceptibility to flooding.
 - 3) The facility, if it needs to drain or discharge water, shall do so:
 - A) into a municipal water treatment facility;
 - B) into an on-site waste treatment facility incorporating sand filtration and chlorination; or
 - C) in another manner approved by the Department.
- d) **Facility Permit Conditions**

The Department may impose additional conditions on the facility permit, specific to the facility, that are deemed necessary or appropriate for the protection of the State's aquatic resources.

- e) Timing of the Facility Permit Process
 - 1) The Department will approve or deny an application for a facility permit within 8 weeks after it is submitted.
 - 2) An applicant may apply under Section 870.30 for the aquaculture permit. Any aquaculture permits the Department issues prior to permitting the facility are conditional pending permit approval for the receiving facility. Aquatic life introduced to the facility prior to final permitting of the facility is at the applicant's own risk.
- f) Authorized Department personnel may conduct an inspection of any permitted facility at any time.

(Source: Former Section 870.20 renumbered to Section 870.30 and Section 870.20 renumbered from former Section 870.30 and amended at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.30 Aquaculture Permit Application and Requirements

- a) Persons wishing to propagate, grow and harvest aquatic life for food or stocking purposes must obtain an aquaculture permit from the Department prior to the commencement of those activities.
 - 1) The application for a permit shall be obtained from and must be submitted to the Aquaculture Specialist at the address in Section 870.10(c)
 - 2) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected.
 - 3) The Department will issue permits to applicants who meet the requirements of the Code and this Part.
 - 4) The permit fee of \$50 shall be assessed online or from an approved Point of Sale Location using a Customer ID Number issued by the Department after approval of the application. Paper payments are not accepted. Illinois DNR license vendors can be found at www.dnr.illinois.gov/LPR/pages/LicensePermitVendors.
 - 5) Aquaculture permits expire on March 31 annually. Upon expiration of the

aquaculture permit, the permittee may renew the permit by submitting the renewal application and the Annual Report required by Section 870.40(c) to the Department by January 31. The Department will review the Annual Report in determining whether the permit will be renewed.

- b) Timing of the Aquaculture Permit Application/Letter of Authorization Process
 - 1) Applicants wishing to import/possess aquatic life that appears on the Approved List shall submit their aquaculture permit application at least 4 weeks prior to the importation/possession.
 - 2) Applicants wishing to import/possess aquatic life not on the Approved List may submit an application for the aquaculture permit with the Department. The Department will review the permit application and make its determination within 8 weeks after receipt of the application.
 - 3) Letters of authorization shall have a beginning and ending date.
- c) Inspection of Permit and Letters of Authorization
The aquaculture permit with any letters of authorization shall be available for inspection by the Department upon request.

(Source: Former Section 870.30 renumbered to Section 870.20 and Section 870.30 renumbered from former Section 870.20 and amended at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.40 Cessation of Business; Recordkeeping and Reporting

- a) Permittee with Letters of Authorization – Cessation of Business
 - 1) In the event that the holder of an aquaculture permit with letters of authorization for aquatic life not on the Approved List goes out of business or possesses the aquatic life contrary to the Code, the Department shall determine disposition of the aquatic life as it deems necessary, based upon the potential detriment to the aquatic resource of the State.
 - 2) Holders of permits with letters of authorization who cease operation, for whatever reason, are required to notify the Department in writing within 30 days after their cessation of business. Permits/letters of authorization are not transferrable to other persons or businesses, including heirs or assigns.
 - 3) When a holder of a permit with letters of authorization ceases doing

business voluntarily or involuntarily, his or her permit/letters of authorization expire at the cessation of business.

- b) Recordkeeping
Records shall be maintained as required in Sections 20-90 and 20-125 of the Code. These *records shall be made available to any authorized employee of the Department or any peace officer, upon request* [515 ILCS 5/20-125]. *Records shall be kept for a minimum of 2 years after the transaction* [515 ILCS 5/20-90].
- c) Annual Report
 - 1) All aquaculture permit holders shall submit to the Department, on forms provided by the Department, by January 31 of each year, an Annual Report providing information on the previous calendar year's activity for aquatic life possessed, bought, sold or shipped. The information required in this Annual Report shall include:
 - A) *name, address and license number of buyer;*
 - B) *name, address and license number of seller;*
 - C) *transaction date;*
 - D) *species;*
 - E) *number of pounds, to the nearest half pound;*
 - F) *origin* [515 ILCS 5/20-125(a)];
 - G) *price paid per pound (optional); and*
 - H) *any other information (e.g., receipt number, carrier type, etc.) as required by the Department on the form.*
 - 2) Failure of the permittee to submit the required Annual Report in the manner and time frame specified shall be grounds for refusal by the Department to renew a permit for the following year until all required reports are received and approved by the Department.

(Source: Amended at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.50 Unlawful Acts

- a) **Release of Aquatic Life**
It is unlawful to release (or allow escape of) any aquatic life into the waters of this State without first securing permission of the Department to do so, except that the owners of a body of water or their agents may release aquatic life on the Approved List *into waters that are wholly on their property. All aquatic life may be immediately returned unharmed to waters from where they were taken* [515 ILCS 5/10-100(a)]. Permission will be based upon the potential detriment to the aquatic resource.
- b) **Transportation**
It is unlawful for any person to transport, ship or convey within the State any live grass carp/white amur (*Ctenopharyngodon idella*), black carp (*Mylopharyngodon piceus*), bighead carp (*Hypophthalmichthys nobilis*), silver carp (*Hypophthalmichthys molitrix*), tilapia (*Oreochromis* species) or any hybrid of these species, or any other species not on the Approved List, unless that person possesses a Restricted Species Transportation Permit issued by the Department.
- c) It is unlawful to transport, ship or convey live trout, salmon or char into the State unless a salmonid import permit has been issued to the source hatchery, as required by Section 10-105 of the Code. A copy of the salmonid import permit must accompany each shipment. A salmonid import permit will be issued only if the source hatchery has been inspected by the Department within the last 12 months and found free of the following disease agents: VHS – Viral Hemorrhagic Septicemia Virus; IHN – Infectious Hematopoetic Necrosis Virus; CS – Ceratomyxosis (*Ceratomyxa shasta*); PKD – Proliferative Kidney Disease agent; and/or any other disease agents that are not known to be present in the Great Lakes Basin.
- 1) A salmonid import permit may be issued for a period of up to 6 months following the inspection of the source hatchery. The salmonid import permit will be reissued if the owner/operator of the source hatchery certifies that there has been no change in the disease status of the source hatchery in the 6 month period following the annual inspection. A bill of sale, listing quantity, species, and hatchery of origin shall be provided to and retained by the final recipient of the fish, until the fish are disposed of.
 - 2) The Department recognizes persons inspecting hatcheries using the methods of diagnosis found in "Suggested Procedures for the Detection and Identification of Certain Finfish and Shellfish Pathogens" 4th ed., Version 1 (1994), published by the Fish Health Section of the American Fisheries Society or the "Manual of Compliance to the Fish Health Protection Regulations of the Department of Fisheries and Oceans, Canada (1988) (no further amendments or editions are included), as competent in

the diagnosis of fish diseases, unless a clearcut conflict of interest exists (such as the inspector being related to the hatchery owner by blood, adoption, marriage or economic interest).

- d) No live aquatic life not on the Approved List produced at the facilities operated or owned by an aquaculture permit holder may be removed from the site unless it is being transferred to another permit holder who has permission to possess them, or to a fish market as food, or to an aquarium shop.

(Source: Amended at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.60 Restricted Species Transportation Permit Procedures

- a) Generally Applicable Provisions; Exemptions
- 1) Triploid Grass Carp
Triploid grass carp under 4 inches in length cannot be shipped, transported or stocked at any time and may be possessed only by authorized aquaculture permit holders.
 - 2) For the purposes of this Section, a shipment is defined as one load of fish; for example, 3 truckloads of fish being transported in convoy would be 3 shipments.
 - 3) Landowner Exemption
 - A) Landowners South of I-80
 - i) Pre-Order from Retail Outlet
If the triploid grass carp are listed on a Restricted Species Transportation Permit (RSTP) issued to the Illinois aquaculturist or Illinois licensed aquatic life dealer that supplied the triploid grass carp to the entity from which the landowner pre-ordered the fish, the landowner is exempt from the RSTP requirement while transporting those fish for stocking in his or her wholly owned waters south of I-80. During the transport, the landowner must have available the receipt from the entity from which the landowner purchased the fish. The exemption applies only during the first 24 hours after the purchase.
 - ii) Purchase Over-the-Counter
Lake or pond owners purchasing no more than 20 triploid

grass carp over-the-counter are exempt from the RSTP requirement while transporting triploid grass carp purchased and obtained in Illinois for stocking in their wholly owned waters south of I-80, as long as they have a receipt from an aquaculturist selling over-the-counter in Illinois. (See subsection (c).) During the transport, the landowner must have available the receipt from the entity from which the landowner purchased the fish. The exemption applies only during the first 24 hours after the purchase.

- B) Landowners North of I-80 – Pre-Order from Retail Outlet
Those landowners wanting to stock wholly owned lakes/ponds north of I-80 with triploid grass carp must procure those fish through an Illinois aquaculturist or Illinois licensed aquatic life dealer who holds an RSTP authorizing transport and stocking of those fish. (See subsection (c).) During transport of those fish by the landowner to his or her wholly owned lake/pond, the landowner is exempt from the RSTP requirement, but must have available the receipt from the entity from which the landowner purchased the fish. The exemption applies only during the first 24 hours after the purchase.

- b) Fish Importers, Aquaculturists and Commercial Fishermen
An RSTP is required for live grass carp, black carp, bighead carp, silver carp, tilapia (*Oreochromis* species) or any hybrid of these species, or any other species not on the Approved List, including commercial fishermen that are holding Asian carp in a crib for later transport or that are transporting directly to a rendering facility for slaughter (with restrictions (see Section 870.50(b))). RSTPs are available from the Aquaculture Specialist at the address in Section 870.10(c). Applications must be received by the Program ~~Division of Fisheries~~ at least two weeks prior to the proposed shipment date. IDNR will evaluate the potential for escapement into glacial lakes, sloughs, potholes, bottom land, backwater lakes, streams, rivers, water areas known to harbor animals or plants on the national or Illinois threatened or endangered species list, natural areas or nature preserves, or wetlands. An RSTP shall be required for each shipment, except that extended permits covering regular periodic deliveries may be granted by the Department, pursuant to Section 10-105 of the Code. An RSTP is valid only:
- 1) on the dates listed on the permit; and
 - 2) for names and addresses listed for delivery on the application/permit.

- c) Aquaculturists Selling Certified Triploid Grass Carp Over-the-Counter The receipt issued by an aquaculturist in an over-the-counter sale shall contain:
- 1) Accession number of USFWS certifying triploid status of grass carp.
 - 2) Total number of fish sold. (Total amount in any one sale shall not exceed 20 individuals.)
 - 3) Name, address and driver's or fishing license number of the buyer and the location of the wholly owned waterbody where stocking will occur. The signature of the buyer is confirmation that this information is true and accurate, the lake/pond is south of I-80, and the fish purchased will only be released in the identified lake/pond. Township/range, latitude and longitude, or equivalent is acceptable to identify the lake/pond location.
 - 4) Name, address and aquaculture license number of seller. The signature of the seller is required to confirm information such as the buyer's license number and fish count and certification information.
 - 5) Transaction date and time. (The landowner exemption from an RSTP is only for 24 hours after purchase. No more than 20 triploid grass carp may be carried in any vehicle/fish hauler at any one time under this exemption.)
 - 6) The transaction documents must clearly state:
 - A) that the transaction involves the sale of triploid grass carp;
 - B) the number of fish sold;
 - C) where the fish are to be transported; and
 - D) the average length of the fish in each batch of fish sold.
- d) Fish Importers and Aquaculturists
Any person hauling any live triploid grass carp must subject the shipment to examination by IDNR. Except for persons exempt under subsection (a)(3), batches of fish subject to testing and containing more than 56 individuals will have 56 fish tested; for a batch containing fewer than 56 individuals, 100% will be tested.
- e) Commercial Fishermen

- 1) Commercial fishermen shall be allowed to harvest from the wild and transport to a State-licensed wholesale aquatic life dealer bighead carp, silver carp, grass carp and black carp, providing either of the following criteria are met:
 - A) the fish are dead. Transportation of dead fish is allowed if:
 - i) the fish are packed on ice only while directly en route to a fish market or processor (addition of water to iced and packed fish is not permitted);
 - ii) the packed fish are dry (in box, barrel, crate, etc.) while directly en route to a fish market or processor;
 - iii) the isthmus has been severed;
 - iv) the gills have been removed; or
 - v) the fish have been eviscerated.
 - B) the fish are not transported in an aerated live tank or in any other manner intended to maintain the fish alive unless commercial fisherman first obtains an RSTP. An RSTP can be obtained by applying to the Aquaculture Specialist at the address in Section 870.10(c).
- 2) With a Department approved RSTP, commercial fishermen are allowed to:
 - A) transport live grass carp to a State-licensed slaughter facility or equivalent outside the State of Illinois, provided this facility is not located in the counties of Will, Cook or Lake and that the fish are processed or stored on ice immediately upon arrival at the facility; and
 - B) transport live bighead carp, silver carp, grass carp and black carp directly to a crib (net pen) or State-licensed slaughter facility, provided that the fish are transported no more than a 15 mile radius to or from a crib or facility, or as otherwise designated on the RSTP, and that the fish are processed or stored on ice immediately upon arrival at the slaughter facility.
- 3) Asian carp may be held live in a crib (net pen) provided that:

- A) they are cribbed in the waters where caught (within a 15 mile radius of the crib) and not transported upstream of a lock and dam or other barrier;
- B) they are removed within 72 hours;
- C) they are killed by one of the methods specified in subsection (e)(1)(C), (D) or (E) immediately upon removal from the crib; and
- D) all other regulations pertaining to commercial fishing and commercial fishing devices are followed.

(Source: Amended at 39 Ill. Reg. 10394, effective July 9, 2015)

Section 870.70 Penalties

Any person who violates this Part, falsifies or makes any misrepresentation on his or her application, permit required records, or any other information required to be given to the Department or consumer, shall be subject to penalties described in Sections 2.4, 5.7, 5.16 and 5.19 of the Fish Code of 1971 (Ill. Rev. Stat. 1987, ch. 56, pars. 2.4, 5.7, 5.16 and 5.19).

Section 870.80 Exceptions

- a) Except as otherwise provided in subsection (b), this Part does not apply to:
 - 1) aquarists/hobbyists (e.g., keepers of any non-injurious aquatic life, including carp (koi) and goldfish (not including amphibians or reptiles), within home aquaria, private water gardens and aquascapes), as long as the aquatic life are not offered for sale, trade or barter and the aquarist/hobbyist activity does not violate other aquatic life regulations (e.g., 17 Ill. Adm. Code 875);
 - 2) the aquarium industry (those businesses regulated and licensed by the Department of Agriculture under the Animal Welfare Act [225 ILCS 605]); or
 - 3) State agencies or universities.
- b) Exceptions from Subsection (a)
 - 1) The exemption in subsection (a) does not apply to any injurious species, as described in 17 Ill. Adm. Code 805.

- 2) The exemption in subsection (a) does not apply to any VHS-susceptible species or any wild caught aquatic life coming from affected regions without Fish Health Certificates (FHC) and Department approval.
- 3) The entities cited in subsection (a) are exempt as long as the excepted activity operates in a manner that will prevent escape of aquatic life into the waters standing on or flowing over the soil of the State of Illinois.

(Source: Amended at 39 Ill. Reg. 10394, effective July 9, 2015)