

## Part 5 Health Approval

### 4-37-501 Health approval -- Exceptions.

- (1)
  - (a) Except as provided in Subsections (2) and (3), live aquatic animals may be acquired, purchased, sold, or transferred only from sources that have been health approved by the department or the Division of Wildlife Resources in accordance with policy and rules of the Fish Health Policy Board and assigned a health approval number.
  - (b)
    - (i) The department shall be responsible for certifying as health approved:
      - (A) aquaculture facilities;
      - (B) fee fishing facilities; and
      - (C) any out-of-state source.
    - (ii) The Division of Wildlife Resources shall be responsible for certifying as health approved:
      - (A) public aquaculture facilities within the state;
      - (B) private ponds within the state; and
      - (C) wild populations of aquatic animals in waters of the state.
- (2)
  - (a) The Division of Wildlife Resources shall waive the health approval requirement for wild populations of aquatic animals pursuant to guidelines of the Fish Health Policy Board.
  - (b) The Fish Health Policy Board shall develop guidelines for waiving the health approval requirement for wild populations of aquatic animals which:
    - (i) are listed by the federal government as threatened or endangered;
    - (ii) are listed by the Division of Wildlife Resources as species of special concern; or
    - (iii) exist in such low numbers that lethal sampling for health approval could threaten the population.
  - (c) When wild populations of aquatic animals are exempted from the health approval requirement, precautions shall be taken to protect other wild populations and any other aquatic animals from undetected pathogens.
- (3) Subsection (1) does not apply to the sale or transfer of live aquatic animals to an out-of-state destination approved by the receiving state.
- (4) In certifying a public aquaculture facility as health approved, the Division of Wildlife Resources may use:
  - (a) employees or contractors to conduct the inspection required by Section 4-37-502; and
  - (b) sampling or testing procedures that are more thorough or sensitive in detecting prohibited pathogens than the procedures required by rule.

Amended by Chapter 191, 2007 General Session

### 4-37-502 Inspections -- Health approval report -- Report for quarantine facility -- Qualifications of inspectors -- Notification of department.

- (1)
  - (a) Except as provided by Subsection (1)(b), approval shall be based upon inspections carried out in accordance with standards and rules of the Fish Health Policy Board made pursuant to Section 4-37-503.

- (b) An owner or operator of an aquaculture facility that is under quarantine or whose health approval has been canceled or denied prior to July 1, 2007 may seek health approval without submitting or complying with a biosecurity plan required by rule by submitting a new health inspection report to the department.
- (2)
  - (a) The inspections shall be done by an individual who has received certification from the American Fisheries Society as a fish health inspector.
  - (b) An inspection of an aquaculture facility may not be done by an inspector who is employed by, or has pecuniary interest in, the facility being inspected.
  - (c) The department shall post on its website a current list of:
    - (i) certified fish health inspectors; and
    - (ii) approved laboratories to which a fish health inspector may send the samples collected during the inspections required by this section.
  - (d)
    - (i) If the fish health inspector conducting the inspection is not an employee of the department, the owner or operator of the aquaculture facility shall notify the department of the date and time of the inspection at least five business days before the date on which the inspection will occur.
    - (ii) The department may be present for the inspection.
- (3) To receive a health approval number, inspection reports and other evidence of the disease status of a source facility shall be submitted to the agency responsible for certifying the source as health approved pursuant to Section 4-37-501.

Amended by Chapter 378, 2010 General Session

**4-37-503 Fish Health Policy Board.**

- (1) There is created within the department the Fish Health Policy Board which shall establish policies designed to prevent the outbreak of, control the spread of, and eradicate pathogens that cause disease in aquatic animals.
- (2) The Fish Health Policy Board shall:
  - (a) in accordance with Subsection (6)(b), determine procedures and requirements for certifying a source of aquatic animals as health approved, including:
    - (i) the pathogens for which inspection is required to receive health approval;
    - (ii) the pathogens that may not be present to receive health approval; and
    - (iii) standards and procedures required for the inspection of aquatic animals;
  - (b) establish procedures for the timely reporting of the presence of a pathogen and disease threat;
  - (c) create policies and procedures for, and appoint, an emergency response team to:
    - (i) investigate a serious disease threat;
    - (ii) develop and monitor a plan of action; and
    - (iii) report to:
      - (A) the commissioner of agriculture and food;
      - (B) the director of the Division of Wildlife Resources; and
      - (C) the chair of the Fish Health Policy Board; and
  - (d) develop a unified statewide aquaculture disease control plan.
- (3) The Fish Health Policy Board shall advise the commissioner of agriculture and food and the executive director of the Department of Natural Resources regarding:

- (a) educational programs and information systems to educate and inform the public about practices that the public may employ to prevent the spread of disease; and
  - (b) communication and interaction between the department and the Division of Wildlife Resources regarding fish health policies and procedures.
- (4)
- (a)
    - (i) The governor shall appoint the following seven members to the Fish Health Policy Board:
      - (A) one member from names submitted by the Department of Natural Resources;
      - (B) one member from names submitted by the Department of Agriculture and Food;
      - (C) one member from names submitted by a nonprofit corporation that promotes sport fishing;
      - (D) one member from names submitted by a nonprofit corporation that promotes the aquaculture industry;
      - (E) one member from names submitted by the Department of Natural Resources and the Department of Agriculture and Food;
      - (F) one member from names submitted by a nonprofit corporation that promotes sport fishing; and
      - (G) one member from names submitted by a nonprofit corporation that promotes the aquaculture industry.
    - (ii) The members appointed under Subsections (4)(a)(i)(E) through (G) shall be:
      - (A)
        - (I) faculty members of an institution of higher education; or
        - (II) qualified professionals; and
      - (B) have education and knowledge in:
        - (I) fish pathology;
        - (II) business;
        - (III) ecology; or
        - (IV) parasitology.
    - (iii) At least one member appointed under Subsections (4)(a)(i)(E) through (G) shall have education and knowledge about fish pathology.
  - (iv)
    - (A) A nominating person shall submit at least three names to the governor.
    - (B) If the governor rejects all the names submitted for a member, the recommending person shall submit additional names.
- (b) Except as required by Subsection (4)(c), the term of office of board members shall be four years.
- (c) Notwithstanding the requirements of Subsection (4)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (e) The board members shall elect a chair of the board from the board's membership.
- (f) The board shall meet upon the call of the chair or a majority of the board members.
- (g) An action of the board shall be adopted upon approval of the majority of voting members.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

- (6)
- (a) The board shall make rules consistent with its responsibilities and duties specified in this section.
  - (b) Except as provided by this chapter, all rules adopted by the Fish Health Policy Board shall be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section.
  - (c)
    - (i) Rules of the department and Fish Health Policy Board pertaining to the control of disease shall remain in effect until the Fish Health Policy Board enacts rules to replace those provisions.
    - (ii) The Fish Health Policy Board shall promptly amend rules that are inconsistent with the current suggested procedures published by the American Fisheries Society.
  - (d) The Fish Health Policy Board may waive a requirement established by the Fish Health Policy Board's rules if:
    - (i) the rule specifies the waiver criteria and procedures; and
    - (ii) the waiver will not threaten other aquaculture facilities or wild aquatic animal populations.

Amended by Chapter 286, 2010 General Session

Amended by Chapter 378, 2010 General Session