

## **Chapter 37**

### **Aquaculture Act**

#### **Part 1**

#### **General Provisions**

##### **4-37-101 Title.**

This chapter is known as the "Aquaculture Act."

Enacted by Chapter 153, 1994 General Session

##### **4-37-102 Purpose statement -- Aquaculture considered a branch of agriculture.**

- (1) The Legislature declares that it is in the interest of the people of the state to encourage the practice of aquaculture, while protecting the public fishery resource, in order to augment food production, expand employment, promote economic development, and protect and better utilize the land and water resources of the state.
- (2) The Legislature further declares that aquaculture is considered a branch of the agricultural industry of the state for purposes of any laws that apply to or provide for the advancement, benefit, or protection of the agricultural industry within the state.

Amended by Chapter 378, 2010 General Session

##### **4-37-103 Definitions.**

As used in this chapter:

- (1) "Aquaculture" means the controlled cultivation of aquatic animals.
- (2)
  - (a)
    - (i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture.
    - (ii) "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.
  - (b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.
- (3)
  - (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.
  - (b) "Aquatic animal" includes a gamete of any species listed in Subsection (3)(a).
- (4) "Fee fishing facility" means a body of water used for holding or rearing fish for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.
- (5) "Natural flowing stream" means the same as that term is defined in Section 23A-1-101.
- (6) "Natural lake" means the same as that term is defined in Section 23A-1-101.
- (7) "Private fish pond" means the same as that term is defined in Section 23A-1-101.
- (8) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S. Fish and Wildlife Service, a mosquito abatement district, or an institution of higher education.
- (9) "Public fishery resource" means fish produced in public aquaculture facilities and wild and free ranging populations of fish in the surface waters of the state.

- (10) "Reservoir constructed on a natural stream channel" means the same as that term is defined in Section 23A-1-101.
- (11) "Short-term fishing event" means the same as that term is defined in Section 23A-1-101.

Amended by Chapter 34, 2023 General Session

**4-37-104 Department's responsibilities.**

- (1) The department is responsible for enforcing laws and rules made by the Wildlife Board governing species of aquatic animals that may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities.
- (2) Subject to the policies and rules of the Fish Health Policy Board, the department shall:
- (a) act to prevent the outbreak and act to control the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and
  - (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to wild aquatic animals, other animals, and humans.

Amended by Chapter 295, 2021 General Session

**4-37-105 Responsibilities of Wildlife Board and Division of Wildlife Resources.**

- (1) The Wildlife Board and Division of Wildlife Resources are responsible for determining the species of aquatic animals which may be imported into, possessed, and transported within the state.
- (2) Subject to the policies and rules of the Fish Health Policy Board, the Wildlife Board and the Division of Wildlife Resources shall:
- (a) act to prevent the outbreak and act to control the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities; and
  - (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to wild aquatic animals, other animals, and humans.

Amended by Chapter 412, 2017 General Session

**4-37-106 Cooperative agreements.**

In fulfilling their respective responsibilities under this chapter, the department, Division of Wildlife Resources, and Wildlife Board may make memorandums of understanding or enter into other agreements for mutual cooperation.

Enacted by Chapter 153, 1994 General Session

**4-37-108 Prohibited activities.**

- (1) Except as provided in this chapter, in the rules of the department made pursuant to Section 4-37-109, rules of the Fish Health Policy Board made pursuant to Section 4-37-503, or in the rules of the Wildlife Board governing species of aquatic animals which may be imported into, possessed, transported, or released within the state, a person may not:
- (a) acquire, import, or possess aquatic animals intended for use in an aquaculture or fee fishing facility;
  - (b) transport aquatic animals to or from an aquaculture or fee fishing facility;

- (c) stock or propagate aquatic animals in an aquaculture or fee fishing facility;
  - (d) harvest, transfer, or sell aquatic animals from an aquaculture or fee fishing facility; or
  - (e) release aquatic animals into the waters of the state.
- (2) If a person commits an act in violation of Subsection (1) and that same act constitutes wanton destruction of protected wildlife as provided in Section 23A-5-311, the person is guilty of a violation of Section 23A-5-311.

Amended by Chapter 34, 2023 General Session

**4-37-109 Department to make rules.**

- (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (a) specifying procedures for the application and renewal of licenses for operating an aquaculture or fee fishing facility; and
  - (b) governing the disposal or removal of aquatic animals from an aquaculture or fee fishing facility for which the license has lapsed or been revoked.
- (2)
- (a) The department may make other rules consistent with its responsibilities set forth in Section 4-37-104.
  - (b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 154, 2020 General Session

**4-37-110 Inspection of records and facilities.**

- (1) The following records and information shall be maintained by an aquaculture or fee fishing facility for a period of two years and shall be available for inspection by a department representative during reasonable hours:
- (a) records of purchase, acquisition, distribution, and production histories of aquatic animals;
  - (b) a license; and
  - (c) valid identification of stocks, including origin of stocks.
- (2) Department representatives may conduct pathological, fish culture, or physical investigations at any aquaculture, public aquaculture, or fee fishing facility during reasonable hours.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 378, 2010 General Session

**4-37-111 Prohibited sites.**

- (1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility may not be developed on:
- (a) a natural lake;
  - (b) a natural flowing stream; or
  - (c) a reservoir constructed on a natural stream channel.
- (2) The Division of Wildlife Resources may authorize an aquaculture facility, public aquaculture facility, or fee fishing facility on a natural lake or reservoir constructed on a natural stream channel upon inspecting and determining:

- (a) the facility and inlet source of the facility neither contain wild game fish nor are likely to support such species in the future;
  - (b) the facility and the facility's intended use will not jeopardize conservation of aquatic wildlife or lead to the privatization or commercialization of aquatic wildlife;
  - (c) the facility is properly screened as provided in Subsection 23A-9-203(3)(c) and otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and applicable law; and
  - (d) the facility is not vulnerable to flood or high water events capable of compromising the facility's inlet or outlet screens and allowing escapement of privately owned fish into waters of the state.
- (3) Any authorization issued by the Division of Wildlife Resources under Subsection (2) shall be in the form of a certificate of registration.

Amended by Chapter 34, 2023 General Session

**4-37-112 Screens.**

- (1) Each aquaculture and fee fishing facility shall be equipped with screening or another device to prevent the movement of fish into or out of the facility.
- (2) The department may conduct site inspections to assure compliance with Subsection (1).

Enacted by Chapter 153, 1994 General Session

## **Part 2**

### **Aquaculture Facilities**

**4-37-201 License required to operate an aquaculture facility.**

- (1) A person may not operate an aquaculture facility without first obtaining a license from the department.
- (2)
  - (a) Each application for a license to operate an aquaculture facility shall be accompanied by a fee.
  - (b) The fee shall be established by the department in accordance with Section 63J-1-504.
- (3) The department shall coordinate with the Division of Wildlife Resources:
  - (a) on the suitability of the proposed site relative to potential impacts on adjacent wild aquatic animal populations; and
  - (b) in determining which species the holder of the license may propagate, possess, transport, or sell.
- (4) The department shall list on the license the species which the holder may propagate, possess, transport, or sell.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 412, 2017 General Session

**4-37-202 Acquisition of aquatic animals for use in aquaculture facilities.**

- (1) Live aquatic animals intended for use in aquaculture facilities may be purchased or acquired only from:

- (a) aquaculture facilities within the state that have a license and health approval number;
  - (b) public aquaculture facilities within the state that have a health approval number; or
  - (c) sources outside the state that are health approved as provided in Part 5, Health Approval.
- (2) A person holding a license for an aquaculture facility shall submit annually to the department a record of each purchase of live aquatic animals and transfer of live aquatic animals into the facility. This record shall include the following information:
- (a) name, address, and health approval number of the source;
  - (b) date of transaction; and
  - (c) number and weight by species.
- (3) The records required by Subsection (2) shall be submitted to the department before a license is renewed or a subsequent license is issued.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 189, 2014 General Session

#### **4-37-203 Transportation of aquatic animals to or from aquaculture facilities.**

- (1) Any person holding a license for an aquaculture facility may transport the live aquatic animals specified on the license to the facility or to any person who has been issued a license or who is otherwise authorized by law to possess those aquatic animals.
- (2) Each transfer or shipment of live aquatic animals from or to an aquaculture facility within the state shall be accompanied by documentation of the source and destination of the fish, including:
- (a) name, address, license number, and health approval number of the source;
  - (b) number and weight being shipped, by species;
  - (c) name of the recipient;
  - (d) address of the destination; and
  - (e)
    - (i) license number of the receiving facility; or
    - (ii) location of the private fish pond or short-term fishing event when authorized to receive the aquatic animal without a certificate of registration under Division of Wildlife Resources rules.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 412, 2017 General Session

#### **4-37-204 Sale of aquatic animals from aquaculture facilities.**

- (1)
- (a) Except as provided by Subsection (1)(c) and subject to Subsection (1)(b), a person holding a license for an aquaculture facility may take an aquatic animal as approved on the license from the facility at any time and offer the aquatic animal for sale.
  - (b) A live aquatic animal may be sold within Utah only to a person who:
    - (i) has been issued a license to possess the aquatic animal; or
    - (ii) is eligible to receive the aquatic animal without a certificate of registration under Wildlife Board rules.
  - (c) A person who owns or operates an aquaculture facility may sell live aquatic animals if the person:
    - (i) obtains a health approval number for the aquaculture facility;
    - (ii) inspects the pond or holding facility to verify that the pond or facility is in compliance with Subsections 23A-9-203(2) and (3)(c); and

- (iii) stocks the species and reproductive capability of aquatic animals authorized by the Wildlife Board in accordance with Section 23A-9-203 for stocking in the area where the pond or holding facility is located.
- (2) An aquatic animal sold or transferred by the owner or operator of an aquaculture facility shall be accompanied by the seller's receipt that contains the following information:
  - (a) date of transaction;
  - (b) name, address, license number, and health approval number;
  - (c) number and weight of aquatic animal by:
    - (i) species; and
    - (ii) reproductive capability; and
  - (d) name and address of the receiver.
- (3)
  - (a) A person holding a license for an aquaculture facility shall submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals in Utah. The department shall forward the report to the Division of Wildlife Resources. The department or Division of Wildlife Resources may request copies of receipts from an aquaculture facility.
  - (b) The report shall contain the following information:
    - (i) name, address, and license number of the seller or supplier;
    - (ii) number and weight of aquatic animals by species and reproductive capacity;
    - (iii) date of sale or transfer; and
    - (iv) name, address, phone number, and license number of the receiver.
- (4) Geographic coordinates of the stocking location shall be provided if the receiver is eligible to stock the aquatic animal without a certificate of registration under Wildlife Board rules.
- (5) A report required by Subsection (3) shall be submitted before:
  - (a) a license is renewed or a subsequent license is issued; or
  - (b) a health approval number is issued.

Amended by Chapter 34, 2023 General Session

### **Part 3**

### **Fee Fishing Facilities**

#### **4-37-301 License required to operate a fee fishing facility.**

- (1) A person may not operate a fee fishing facility without first obtaining a license from the department.
- (2)
  - (a) Each application for a license to operate a fee fishing facility shall be accompanied by a fee.
  - (b) The fee shall be established by the department in accordance with Section 63J-1-504.
- (3) The department shall coordinate with the Division of Wildlife Resources:
  - (a) on the suitability of the proposed site relative to potential impacts on adjacent wild aquatic animal populations; and
  - (b) in determining which species the holder of the license may possess or transport to or stock into the facility.
- (4) The department shall list on the license the species which the holder may possess or transport to or stock into the facility.

- (5) A person holding a license for an aquaculture facility may also operate a fee fishing facility without obtaining an additional license, if the fee fishing facility:
- (a) is in a body of water meeting the criteria of Section 4-37-111 which is connected with the aquaculture facility;
  - (b) contains only those aquatic animals specified on the license for the aquaculture facility; and
  - (c) is designated on the license for the aquaculture facility.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 412, 2017 General Session

**4-37-302 Acquisition of aquatic animals for use in fee fishing facilities.**

- (1) Live aquatic animals intended for use in fee fishing facilities may be purchased or acquired only from:
- (a) aquaculture facilities within the state that have a license and health approval number;
  - (b) public aquaculture facilities within the state that have a health approval number; or
  - (c) sources outside the state that are health approved pursuant to Part 5, Health Approval.
- (2)
- (a) A person holding a license for a fee fishing facility shall submit to the department an annual report of all live fish purchased or acquired.
  - (b) The report shall contain the following information:
    - (i) name, address, and license number of the seller or supplier;
    - (ii) number and weight by species;
    - (iii) date of purchase or transfer; and
    - (iv) name, address, and license number of the receiver.
  - (c) The report shall be submitted to the department before a license is renewed or a subsequent license is issued.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 189, 2014 General Session

**4-37-303 Transportation of live aquatic animals to fee fishing facilities.**

- (1) Any person holding a license for a fee fishing facility may transport the live aquatic animals specified on the license to the facility.
- (2) Each transfer or shipment of live aquatic animals to a fee fishing facility within the state shall be accompanied by documentation of the source and destination of the fish, including:
- (a) name, address, license number, and health approval number of the source;
  - (b) number and weight being shipped by species; and
  - (c) name, address, and license number of the destination.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 378, 2010 General Session

**4-37-304 Sale or transfer of live aquatic animals from fee fishing facilities prohibited.**

Live aquatic animals may not be sold or transferred from fee fishing facilities.

Enacted by Chapter 153, 1994 General Session

**4-37-305 Fishing license not required to fish at fee fishing facilities -- Transportation of dead fish.**

- (1) A fishing license is not required to take fish from fee fishing facilities.
- (2) To transport dead fish from fee fishing facilities the fish shall be accompanied by the seller's receipt containing the following information:
  - (a) species and number of fish;
  - (b) date caught;
  - (c) license number of the fee fishing facility; and
  - (d) name, address, and telephone number of the seller.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 378, 2010 General Session

**Part 4**  
**Importation of Aquatic Animals**

**4-37-401 License required to import aquatic animals for aquaculture or fee fishing facilities.**

- (1) A person may not import aquatic animals classified as controlled species by rules of the Wildlife Board into the state for use in aquaculture or fee fishing facilities without first obtaining a license from the department.
- (2) The department shall:
  - (a) coordinate with the Division of Wildlife Resources in determining which species the holder may import into the state; and
  - (b) specify those species on the license.
- (3) A person may not import species into the state that are not listed on the license.

Amended by Chapter 79, 2022 General Session

Enacted by Chapter 153, 1994 General Session

**4-37-402 Documentation required to import aquatic animals.**

Any aquatic animals classified as controlled species by rules of the Wildlife Board that are imported into the state for use in aquaculture or fee fishing facilities shall be accompanied by documentation indicating the following:

- (1) the health approval number assigned by the department to the source facility;
- (2) common or scientific names of the imported animals;
- (3) name and address of the consignor and consignee;
- (4) origin of shipment;
- (5) final destination;
- (6) number or pounds shipped;
- (7) purpose for which shipped;
- (8) method of transportation; and
- (9) any other information required by the department.

Amended by Chapter 378, 2010 General Session



## **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) 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.
- (2)
  - (a) An inspection shall be conducted under the direction of an individual certified by the American Fisheries Society as an aquatic animal health inspector or fish pathologist. A sample may be

- collected by a federally accredited veterinarian, a state or federal animal health official, or an American Fisheries Society certified aquatic animal health inspector or fish pathologist.
- (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 295, 2021 General Session

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

- (1) There is created within the department the Fish Health Policy Board that 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, rules adopted by the Fish Health Policy Board may be consistent with the suggested procedures for the detection and identification of pathogens

published by the American Fisheries Society's Fish Health Section or the World Organisation for Animal Health, Manual for Diagnostic Tests for Aquatic Animals.

(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 may promptly amend rules that are inconsistent with the current suggested procedures published by the American Fisheries Society or the World Organisation for Animal Health, Manual for Diagnostic Tests for Aquatic Animals.
- (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 295, 2021 General Session

## **Part 6**

### **Enforcement and Penalties**

#### **4-37-601 Enforcement and penalties.**

- (1) Any violation of this chapter is a class B misdemeanor and may be grounds for revocation of the license or denial of any future license as determined by the department.
- (2) A violation of any rule made under this chapter may be grounds for revocation of the license or denial for future license as determined by the department.

Amended by Chapter 79, 2022 General Session

Enacted by Chapter 153, 1994 General Session

#### **4-37-602 Adjudicative proceedings -- Presiding officer.**

- (1) Adjudicative proceedings under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (2) The revocation of an aquaculture facility's license, the denial of an aquaculture facility's future license, and a denial or cancellation of an aquaculture facility's health approval number is a state agency action governed by Title 63G, Chapter 4, Administrative Procedures Act.
- (3)
- (a) An owner or operator of an aquaculture facility may ask for an agency review, as provided by Section 63G-4-301, of an agency action specified in Subsection (2).
  - (b) The presiding officer, as defined in Section 63G-4-103, conducting the agency review shall consist of three members as follows:
    - (i) the person representing sport fishermen, appointed under Subsection 4-37-503(4)(a)(i)(C);
    - (ii) one person representing the aquaculture industry, appointed by the governor from names submitted by a nonprofit corporation, as defined in Section 16-6a-102, that promotes the efficient production, distribution, and marketing of aquaculture products and the welfare of all persons engaged in aquaculture; and
    - (iii) one person, appointed by the governor, who is knowledgeable about aquatic diseases and is employed by an institution of higher education.

- (c) If the governor rejects all the names submitted under Subsection (3)(b)(ii), the recommending nonprofit corporation shall submit additional names.
  - (d) The final decision of the presiding officer shall be adopted upon approval of at least two of the members.
  - (e) The term for the member listed in Subsection (3)(b)(i) shall be the same as provided in Section 4-37-503.
  - (f) The term for the members appointed under Subsections (3)(b)(ii) and (iii) shall be four years.
- (4) 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.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 286, 2010 General Session