

## CHAPTER 51

### PRIVATE FISH HATCHERIES

**Section 1. Authority.** These regulations are promulgated by authority of Wyoming Statutes § 23-1-102(a)(xiv), § 23-1-103, § 23-1-302, § 23-4-101, § 23-4-102, § 23-4-103, § 23-4-104, § 23-4-201, § 23-6-111 and § 23-6-207.

**Section 2. Definitions.** Definitions shall be as set forth in Title 23, Wyoming Statutes, Commission regulations, and the Commission also adopts the following definitions:

(a) “Aquaculture Facility” means any combination of buildings, ponds, tanks, raceways, or any other structure used for an aquaculture operation. Aquaculture facility includes facilities used for aquaponics and hobby fish farms, but does not include ornamental ponds (defined in Commission Regulation chapter 69, Importation and Possession of Live Cold-Blooded Wildlife).

(b) “Aquaculture Operation” means the propagation, rearing, or producing of aquatic wildlife in controlled aquatic environments. Aquaculture operations include aquaponics and hobby fish farms. Holding and feeding fish in ornamental ponds does not constitute an aquaculture operation.

(c) “Aquaponics” means an artificial system, not connected to the waters of this state, managed for sustainable food production, combining rearing of cold-blooded wildlife with the cultivation of plants in water, under an interrelated closed environment.

(d) “Aquatic Animal Health Inspector” means any individual approved by the Wyoming Game and Fish Department (Department) whose qualifications meet standards established by the Board of Certification of the Fish Health Section of the American Fisheries Society for certification as an aquatic animal health inspector.

(e) “Aquatic Invasive Species (AIS) Hatchery Inspection” means the physical inspection of aquaculture facilities and private fish hatcheries, including water sources, fish transport vehicles and equipment for the presence of plants and animals designated as AIS by Wyoming and by the state within which the hatchery resides.

(f) “Aquatic Invasive Species Hatchery Inspection Report” means a report provided by an aquatic invasive species hatchery inspector documenting presence or absence of AIS.

(g) “Aquatic Invasive Species Hatchery Inspector” means an employee of a state AIS program, state department of agriculture, county weed and pest district or other individual approved by the Department who has completed an AIS hatchery inspection training course that meets the requirements established by the Department to certify inspectors to conduct AIS hatchery inspections.

(h) “Aquatic Invasive Species of Concern” means emergency prohibited AIS, prohibited AIS and regulated AIS as described in Section 7 of this regulation.

(i) “Aquatic Laboratory Technician” means an employee of a professional diagnostic or analytical laboratory qualified to conduct specific analyses and approved in advance by the Department who is supervised by either an aquatic animal health inspector or fish pathologist and who is trained to collect non-lethal samples (e.g., collection of ovarian and seminal fluids) from fish broodstocks.

(j) “Assumed Pathogen Prevalence Level (APPL)” means the percent of a population assumed to have a pathogen, which determines the number of samples that must be taken to detect the pathogen with a 95% confidence level.

(k) “Authorized Agent” means any individual employed by, or responsible to the hatchery owner, who is engaged in the operation of the fish hatchery.

(l) “Coldwater Fish Species” means the following fishes as designated below by common name:

- Arctic Grayling (*Thymallus arcticus*);
- Brook Trout and Lake Trout (*Salvelinus* sp.);
- Brown Trout (*Salmo trutta*);
- Cutbow (Rainbow Trout/Cutthroat Trout hybrid);
- Mountain Whitefish (*Prosopium williamsoni*);
- Rainbow Trout, Cutthroat Trout, golden trout and kokanee salmon

(*Oncorhynchus* sp.);

- Splake (Brook Trout/Lake Trout hybrid); and,
- Tiger Trout (Brook Trout/Brown Trout hybrid).

(m) “Coolwater Fish Species” means the following fishes as designated below by common name:

- Sauger (*Sander Canadensis*);
- Shovelnose Sturgeon (*Scaphirhynchus platyrhynchus*);
- Tiger muskie (Northern Pike/Muskellunge, *Esox* sp. hybrid).

(n) “Department Approved Private Fish Hatchery” means an in-state or out-of-state Private Fish Hatchery that has a valid commercial fish hatchery license or meets the licensing requirement of the state where it is located and is currently authorized by the Chief of Fisheries based on fish health and AIS inspections as a legal source of fish for private fish hatcheries, private fish stocking and live bait dealers.

(o) “Fish Health Inspection” means an on-site, annual inspection by an inspecting agent and all lots of fish at each private fish hatchery. The inspection shall be designed to assay for pathogens as described in this regulation.

(p) “Fish Health Inspection Report” means a report signed by an aquatic animal health inspector documenting the last known disease status of all applicable lots at an aquaculture facility resulting from on-site inspection, sampling and subsequent examination of the collected tissues and fluids for the detection of disease agents listed in this regulation.

(q) “Fish Pathologist” means any individual approved by the Department whose qualifications meet standards established by the Board of Certification of the Fish Health Section of the American Fisheries Society for certification as a fish pathologist.

(r) “Hobby Fish Farm” means a small scale aquaculture operation that uses an aquaculture facility, not connected to the waters of this state, to raise fish for personal use. Hobby fish farms do not include aquaculture operations that raise fish for commercial use.

(s) “Inspecting Agent” means any individual approved by the Department who is certified as an aquatic animal health inspector or a fish pathologist.

(t) “Lot” means a group of eggs or fish of the same species and age group originating from the same spawning population, and sharing the same water supply. More than one (1) year class may comprise the same lot under certain conditions; for example, yearlings and two (2) year old progeny may be considered the same lot as the adult, spawning brood stock provided the other criteria in the definition are present. Fish of the same species but from different spawning populations, adequately inspected, then combined into one (1) group may henceforth be regarded as one (1), single lot as long as they continue to share the same rearing space.

(u) “Pathogen(s) of Concern” means emergency prohibited fish pathogens, prohibited fish pathogens, regulated fish pathogens and reportable/notifiable fish pathogens as described in Section 6 of this regulation.

(v) “Prevalence” means the proportion or percent of cases of a disease, or a disease agent, present in a population at a given time.

(w) “Private Fish Hatchery” means an aquaculture facility, including some aquaponics operations and hobby fish farms, used for propagating, rearing or producing any or all life stages of fish that is not owned or operated by federal, state, local or tribal government agencies. Private fish hatcheries include aquaculture facilities that are connected to the waters of this state and used to confine or rear ornamental fish.

(x) “Reasonable Action” means Department prescribed action to eliminate the risk of establishment or spread of pathogens of concern or AIS of concern that is consistent with the risk or severity of the fish health or AIS threat. These actions shall be prescribed in writing by the Chief of Fisheries and may include, but are not limited to, sampling and clinical inspections, fish stock destruction or other disposal, quarantine, pathogen or AIS eradication and aquaculture facility disinfection.

(y) “Warmwater Fish Species” means the following fishes as designated below by common name:

- Black and White Crappie (*Pomoxis* sp.);
- Black Bullhead (*Ameiurus melas*);
- Bluegill/Green Sunfish Hybrid;
- Channel Catfish (*Ictalurus punctatus*);
- Fathead Minnow (*Pimephales promelas*);

- Grass Carp (*Ctenopharygodon idella*) that are certified triploid;
- Green Sunfish, Bluegill and Pumpkinseed (*Lepomis* sp.); and,
- Largemouth Bass (*Micropterus salmoides*).

**Section 3. Application for a Fish Hatchery license.**

(a) Any person intending to operate a private fish hatchery shall obtain a commercial fish hatchery license and post a surety bond with the Department in accordance with W.S. § 23-4-102. The owner or operator shall submit an application, including proper fees, on a form provided by the department. The application shall be legible, fully completed and include the following:

(i) The name, complete mailing address and telephone number of the applicant, the name of the hatchery and the name of the owner, if different from the applicant.

(ii) The address of the hatchery, the geographic coordinates of the hatchery or the range, township, section, quarter (1/4) section and county name.

(iii) The water source and name of the water that receives effluent from the hatchery.

(iv) The species and source of all fish, fish eggs or fish gametes to be possessed, propagated, sold, traded or transported to or from the fish hatchery for which the license application is being made.

(A) Fish used in a private fish hatchery shall be limited to coldwater, coolwater, warmwater and tropical fish species.

(I) Private fish hatcheries dealing primarily in tropical or ornamental fish may also be authorized to use nongame fish (as defined in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife).

(B) The Department may exempt private fish hatcheries licensed primarily for tropical or ornamental fish from the specific requirements of this subsection.

(v) A legal description to the quarter-quarter (1/4 – 1/4) section, or latitude-longitude coordinates in degrees, minutes and seconds, or in universal transverse mercator (UTM) coordinates of all fee title lands on which the hatchery will operate shall be included.

(vi) If fee title lands are leased for operation of any portion of the hatchery, a copy of the lease agreement shall be included with the application form.

(vii) Application for a new private fish hatchery shall also include, but not be limited to, a map and diagrammatic sketch of all aquaculture facilities, water supplies and effluent drainages. The name of the stream or body of water into which effluent from the hatchery is discharged or would possibly be discharged into in the event of flooding shall be provided. Any ponds shall be identified with a unique name or number and size in surface acres.

(viii) Application for transfer of an existing private fish hatchery to a new licensee shall include a record of fish, fish eggs and fish gametes upon transfer. A new licensee shall receive the last three (3) years fish production records from the previous licensee.

(A) Before an existing private fish hatchery is licensed to a new licensee, the Department may inspect aquaculture facilities and request full disclosure of all fish production records for the past three (3) years of operation including complete inventory of fish, fish eggs or fish gametes at the time of transfer.

(b) Buildings, ponds, tanks, raceways, or other structures used for the containment of fish separated by more than one-quarter (1/4) mile, or facilities that lack a common effluent are considered to be separate facilities, regardless of ownership, and require a separate commercial fish hatchery license and surety bond. The Chief of Fisheries may grant an exception to the one-quarter (1/4) mile stipulation for aquaculture facility separation. Any exception shall be evaluated upon formal written request submitted to the Department by the applicant.

(c) No wild fish shall be contained or captured within an aquaculture facility as a result of facility construction, impoundment of waters, or utilization of existing ponds.

(d) Before a license is issued to operate a new private fish hatchery, Department personnel may inspect the applicant's proposed aquaculture facility to ensure protection of Wyoming's wildlife resources. Aquaculture facilities shall be constructed to meet Department approval prior to importation or possession of fish, fish eggs or fish gametes.

(i) Private fish hatcheries dealing primarily in ornamental or tropical fish shall be constructed to include sufficient water treatment to ensure that fish pathogens and live parasites, plants and animals are eliminated from all water discharged from the aquaculture facility.

(e) A licensee shall be legally responsible for all operations of the private fish hatchery and the actions of all authorized agents.

(f) A licensee or authorized agent shall not modify operations from those described on the original license without an approved amendment.

(i) It shall be a violation of this regulation for a licensee or authorized agent to possess, receive, ship, purchase, rear, sell or otherwise dispose of any species of fish, fish eggs or fish gametes not listed on the license approved by the Department.

(ii) A detailed request specifying proposed amendments to the original license shall be submitted to the Chief of Fisheries for consideration of approval.

(g) A commercial fish hatchery license expires on the last day of the calendar year for which the license was issued.

#### **Section 4. Designation as a Department Approved Private Fish Hatchery.**

Private fish hatcheries shall not stock, sell or transfer or receive any live fish, fish eggs or fish

gametes in Wyoming unless designated as a Department approved private fish hatchery by the Chief of Fisheries.

(a) The Chief of Fisheries may designate an in-state private fish hatchery as a Department approved private fish hatchery if they meet the following requirements:

(i) The hatchery owner is in possession of a valid commercial fish hatchery license;

(ii) Valid fish health and AIS hatchery inspection reports that are required in Section 5 of this regulation indicate that the hatchery is free of AIS of concern and all lots at the hatchery are free of pathogens of concern in accordance with this regulation; and,

(iii) The licensee has met the reporting and record keeping requirements in Section 14 of this regulation.

(b) Out of state private fish hatcheries shall not import fish, fish eggs or fish gametes into Wyoming unless designated as a Department approved private fish hatchery by the Chief of Fisheries. The Chief of Fisheries may designate an out-of-state private fish hatchery as a Department approved private fish hatchery if they meet the following requirements:

(i) The hatchery owner or authorized agent has submitted a fish hatchery importation permit application on a form provided by the Department;

(ii) Valid fish health and AIS hatchery inspection reports indicate that the hatchery is free of AIS of concern and all lots at the hatchery are free of pathogens of concern in accordance with this regulation; and,

(iii) The private fish hatchery meets the licensing requirements to legally operate in the state where it is located.

(c) A private fish hatchery shall not be designated as a Department approved private fish hatchery until having received written notice from the Chief of Fisheries.

(d) The Chief of Fisheries may deny or rescind designation as a Department approved private fish hatchery if the private fish hatchery is located in a watershed known to contain an AIS of concern or pathogen of concern to ensure protection of Wyoming's aquatic wildlife resources.

(e) The Chief of Fisheries may deny designation as a Department approved private fish hatchery if an AIS of concern or pathogen of concern was detected at the private fish hatchery within the past three (3) years to ensure protection of Wyoming's wildlife resources.

(f) Designation as a Department approved private fish hatchery shall expire on the last day of the calendar year for which the certification was issued or on the expiration date of the fish health inspection report or the AIS fish hatchery report, whichever comes first.

(g) It shall be an express condition of operating as a Department approved private fish hatchery that the owner or authorized agent shall notify the Chief of Fisheries within forty-

eight (48) hours if at any time the owner or authorized agent finds, suspects or becomes aware of an AIS of concern or pathogen of concern at their aquaculture facility.

(h) Failure to comply with any portion of this regulation may result in the revocation of a private fish hatchery's designation as a Department approved private fish hatchery.

#### **Section 5. Private Fish Hatchery Inspections.**

(a) A fish health inspection and AIS hatchery inspection shall be required of all fish hatcheries seeking designation as a Department approved private fish hatchery unless exempted below. Fish health and AIS hatchery inspections shall be conducted annually in accordance with this regulation.

(i) The Department shall exempt private fish hatcheries licensed primarily for tropical or ornamental fish from the specific fish health inspection requirements of this section.

(ii) The Department may exempt private fish hatcheries licensed primarily for tropical or ornamental fish or solely for baitfish from the specific AIS inspection requirements of this section.

(A) Private fish hatcheries exempted from the specific inspection requirements of this section may be required to provide evidence, allow inspections, or implement procedures necessary to ensure AIS of concern and pathogens of concern will not be spread or introduced to the waters of this state.

(iii) A fish hatchery seeking designation as a Department approved private fish hatchery may request an exception to the specific requirements of this section by submitting a written proposal to the Department. The Chief of Fisheries may approve such exceptions so long as the probability of introducing an AIS of concern or pathogen of concern is minimal.

(b) Fish Health Inspections. All fish health inspections shall be performed in accordance with Appendix I of this regulation and documented in a fish health inspection report.

(i) The collection of fish health samples at in-state private fish hatcheries shall be conducted by the Department at the Department's expense. A completed application shall be submitted to the Department to request this inspection no less than fifteen (15) days prior to inspection. The application shall be legible, fully completed, signed and dated by the applicant. It shall be a violation of this regulation for the applicant to make a false statement on the application. Incomplete applications will not be accepted by the Department.

(A) Laboratory analyses associated with fish health inspections shall be conducted at the licensee's expense.

(ii) A fish health inspection shall include lethal sampling of all lots present at the private fish hatchery at the time of inspection.

(iii) The fish health inspection report shall include results of tests for each pathogen of concern for which a water source or lot was sampled.

(iv) Fish health inspection reports shall be valid for 365 consecutive days from the final report date unless subsequent testing detects a pathogen(s) that poses a health risk(s) to Wyoming's wildlife.

(A) Fish shall not be moved from a facility unless the owner or authorized agent is in possession of a valid, unexpired fish health inspection report.

(v) Aquaculture facilities operating in Wyoming or requesting authority to import into Wyoming shall provide fish health inspection reports from the past three (3) years upon request by the Department.

(vi) No fish showing clinical signs or suspected clinical signs (lethargic behavior, abnormal mortality, lesions, etc.) of disease shall be stocked or imported. Suspected disease in any captive fish shall be reported to the Department immediately.

(c) AIS Inspections. All AIS hatchery inspections shall be conducted at least annually between June 15 and October 15 by an AIS hatchery inspector in accordance with this regulation and results shall be documented in an AIS hatchery inspection report.

(i) Inspection of in-state private fish hatcheries, including the collection of samples, shall be conducted by the Department at the Department's expense. A request for an AIS hatchery inspection shall be submitted to the Department on or before September 15 of the inspection year.

(ii) The AIS hatchery inspector shall inspect the hatchery water sources, aquaculture facilities, all fish handling areas and equipment used for the production, handling and transportation of fish using standard Department sampling and testing procedures.

(A) The annual AIS inspection shall include all ponds for facilities that utilize twenty five (25) ponds or fewer.

(B) For hatchery facilities that utilize more than twenty five (25) ponds, the annual AIS inspection shall include fifty percent (50%) of the total number of ponds on the facility or twenty five (25) ponds, whichever is greater. Every pond shall be inspected at least once every two (2) years.

(C) The Department may require samples of suspected AIS of concern to be shipped to the Department AIS coordinator for identification at the hatchery owner's expense.

(D) Laboratory analyses associated with AIS hatchery inspections shall be conducted at the Department's expense.

(iii) AIS hatchery inspection reports documenting an AIS hatchery inspection that failed to detect AIS of concern shall be valid for 365 consecutive days from the final report date unless subsequent testing detects an AIS of concern.



(iv) Aquaculture facilities operating in Wyoming or requesting authority to import into Wyoming shall provide AIS hatchery inspection reports from the past three (3) years upon request by the Department.

(d) A Department approved private fish hatchery shall allow additional fish health and AIS inspection(s) of aquaculture facilities, fish, fish eggs or fish gametes and inspection of all records during reasonable hours and with reasonable notice in order to ensure compliance with all requirements of this regulation.

(i) The Department shall have the right to collect blood, tissue and other biological samples (including lethal samples) for disease and AIS testing, genetic identification or other purposes to ensure protection of Wyoming's wildlife resources.

(e) Past fish health and AIS hatchery inspection reports shall be made available upon request to the Department and all Wyoming recipients of fish originating from the private fish hatchery.

**Section 6. Pathogens of Concern.** The following pathogens are based on their presence within Wyoming and the potential threat to the aquatic resources of the state.

(a) Emergency Prohibited Fish Pathogens shall include:

- (i) *Ceratonova Shasta* – Ceratomyxosis of Salmonids;
- (ii) *Herpesvirus salmonis* Type 2;
- (iii) Infectious Hematopoietic Necrosis – IHN virus;
- (iv) Infectious Pancretic Necrosis of Salmonids – IPN virus;
- (v) *Oncorhynchus masou* virus disease – OMVD;
- (vi) *Rhabdovirus carpio* – Spring Viremia of Carp; and,
- (vii) Viral Hemorrhagic Septicemia – VHS virus.

(b) Prohibited Fish Pathogens shall include:

- (i) *Edwardsiella ictaluri* – Enteric septicemia of catfish; and,
- (ii) *Tetracapsuloides bryosalmonae* – Proliferative Kidney Disease (PKD).

(c) Regulated Fish Pathogens shall include:

- (i) *Aeromonas salmonicida* – Furunculosis;
- (ii) *Myxobolus cerebralis* – Whirling Disease of Salmonids;
- (iii) *Renibacterium salmoninarum* – Bacterial Kidney Disease; and,
- (iv) *Yersinia ruckeri* – Enteric Redmouth.

- (d) Reportable/Notifiable Fish Pathogens shall include:
  - (i) *Bothricephalus acheilognathi* – Asian Tapeworm;
  - (ii) Largemouth Bass Virus – LMB Virus;
  - (iii) *Salmincola* species – Gill lice; and,
  - (iv) Any diseases/pathogens not listed but which are detected during routine fish health inspections shall be reported to the Department.

**Section 7. Aquatic Invasive Species of Concern.** The following AIS are categorized based on their presence or distribution within Wyoming and the potential threat to the aquatic resources of the state.

(a) Emergency prohibited AIS shall include all members of the genus *Dreissena*, including, but not limited to, Zebra Mussel *D. polymorpha* and Quagga Mussel *D. rostriformis*;

(b) Prohibited AIS shall include:

(i) All members of the genus *Hypophthalmichthys*, including, but not limited to, Bighead Carp *H. nobilis*, Silver Carp *H. molitrix*, and Largescale Silver Carp *H. harmandi*;

(ii) Black Carp – *Mylopharyngodon piceus*;

(iii) All members of the genera *Channa* and *Parachanna* in the family Channidae (snakeheads);

(iv) Rusty Crayfish – *Orconectes rusticus*;

(v) Hydrilla – *Hydrilla verticillata*; and,

(vi) Eurasian Watermilfoil – *Myriophyllum spicatu*.

(c) Regulated AIS shall include all other AIS defined in Commission Regulation Chapter 62, Regulation for Aquatic Invasive Species, that are not listed above as Emergency Prohibited AIS or Prohibited AIS.

(i) For the purpose of this regulation, regulated AIS at out-of-state private fish hatcheries shall also include all other species designated as prohibited, invasive or nuisance species by the state within which the hatchery resides.

**Section 8. Courses of Action for Fish Disease and AIS for In-State Department Approved Private Fish Hatcheries.**

(a) If at any time an AIS of concern or pathogen of concern is known or suspected to be present at the private fish hatchery or water supply, the Chief of Fisheries may rescind designation as a Department approved private fish hatchery.

(b) If a pathogen of concern is suspected present at the private fish hatchery or in the water supply, all fish, fish eggs and fish gametes shall be confined to their rearing units and no fish, fish eggs or fish gametes shall be transferred from, to or within the facility until confirmatory sampling has been completed, reasonable action has been determined and the Chief of Fisheries has authorized the hatchery to resume normal operations or reinstated designation as a Department approved private fish hatchery.

(c) Upon confirmation of the finding of a pathogen of concern, the hatchery owner shall immediately initiate reasonable action. Fish killed by a pathogen of concern shall be disposed of as prescribed by the Department.

(i) Reasonable action for emergency prohibited fish pathogens or prohibited fish pathogens shall include immediate destruction of all lots at the facility by incineration or burial (deep burial utilizing lime). Chemical disinfection of said facility shall then be planned and executed as prescribed in the reasonable action from the Chief of Fisheries.

(ii) Reasonable action for a regulated pathogen may include, but shall not be limited to, destruction of the infected lots or quarantine and treatment with the best available technology to eradicate the pathogen.

(A) Two (2) consecutive inspections shall be conducted within a six (6) month period at least one (1) month apart to determine that there is no occurrence of the regulated pathogen prior to stocking any fish, fertilized eggs or gametes.

(B) Eggs taken from broodstocks infected with Enteric Redmouth, Furunculosis or Whirling Disease that have been disinfected per Department protocol may be reared, shipped or sold if approved in writing by the Chief of Fisheries.

(C) Non-infected lots may be stocked, with written permission by the Chief of Fisheries, only into waters that would pose no threat to naturally reproducing fish populations (i.e., isolated "stock ponds" with no outlet or effluent).

(D) Stocking of infected lots into the waters of this state shall be prohibited.

(iii) Reasonable action for a reportable/notifiable pathogen may include, but shall not be limited to, destruction of the infected lots or quarantine and treatment with the best available technology to eradicate the pathogen. Follow up testing may be required to confirm the pathogen has been eradicated.

(d) If an AIS of concern is suspected present, no fish, fish eggs or fish gametes shall be transferred from the facility until confirmatory sampling has been completed, reasonable action has been determined and the Chief of Fisheries has authorized the hatchery to resume normal operations or reinstated designation as a Department approved private fish hatchery.

(e) Upon confirmation of the finding of an AIS of concern, the hatchery owner shall immediately initiate reasonable action. The Department may require that all or portions of the facility no longer be used as part of the fish hatchery if eradication of an AIS is not possible.

(i) Reasonable action for emergency prohibited AIS shall include immediate destruction of all fish at the facility. Complete disinfection and AIS eradication from the facility shall then be planned and executed on a Department approved schedule.

(A) The Department shall determine alternative reasonable action for emergency prohibited AIS for private fish hatcheries licensed primarily for tropical or ornamental fish if the AIS was confined to a portion of the aquaculture facility on an isolated water supply that does not contact other portions of the facility. The destruction of fish shall be limited to those exposed to the infected water supply.

(ii) Reasonable action for prohibited AIS may include, but shall not be limited to, quarantine or destruction of fish in the infested portions of the facility. Disinfection and AIS eradication from the facility shall then be planned and executed on a Department approved schedule as prescribed in the reasonable action from the Chief of Fisheries.

(iii) Reasonable action for regulated AIS may include, but shall not be limited to, eradication or containment of AIS and quarantine or destruction of fish in the infested portions of the facility.

(iv) Follow up testing shall be required to confirm the AIS of concern has been eradicated or adequately contained.

(f) The Chief of Fisheries may require a biosecurity plan prior to authorizing a hatchery to resume normal operations or reinstating designation as a Department approved private fish hatchery.

**Section 9. Courses of Action for Fish Disease and AIS for Out-of-State Department Approved Private Fish Hatcheries.** The following actions apply to all known or suspected cases of AIS of concern and pathogens of concern.

(a) It shall be a violation of this regulation to import any fish, fish eggs, fish gametes or other cold-blooded aquatic wildlife into Wyoming from an aquaculture facility known or suspected to have an AIS of concern or pathogen of concern unless an exception is approved by the Chief of Fisheries per Section 5(a) of this regulation.

(b) If at any time an AIS of concern or pathogen of concern is known or suspected at an out-of-state Department approved private fish hatchery, the Chief of Fisheries may prohibit the importation of fish, fish eggs or fish gametes and rescind designation as a Department approved private fish hatchery. Prohibition of importation may be lifted and designation as a Department approved private fish hatchery reinstated when reasonable action and prescribed follow up sampling have been completed.

**Section 10. Sale, Transfer or Stocking of Live Fish or Fish Eggs.**

(a) Importation of fish to an in-state private fish hatchery shall be in accordance with Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

(b) No live fish, fish eggs or fish gametes shall enter or leave a private fish hatchery for any purpose unless the hatchery is currently designated as a Department approved private fish hatchery.

(c) The hatchery owner or authorized agent shall only provide fish, fish eggs or fish gametes for the purpose of stocking into waters of this state after first obtaining a copy of a private fish stocking authorization issued to the approved applicant by the Department or a brokerage receipt issued to a broker by the Department per Commission Regulation Chapter 49, Private Stocking of Cold-Blooded Wildlife.

(i) It shall be a violation of this regulation to release any aquatic wildlife into waters of this state except those authorized on the private fish stocking authorization issued per Commission Regulation Chapter 49, Private Stocking of Cold-Blooded Wildlife.

(d) The hatchery owner or authorized agent shall not make any deviations from a private fish stocking authorization. At the time fish are stocked the hatchery owner or authorized agent shall sign the private fish stocking authorization receipt that was provided by the Department.

(e) Falsified or incomplete private fish stocking authorization receipts are in violation of regulation and may be grounds for revocation of a private fish hatchery license or designation as a Department approved private fish hatchery and may be prosecuted under penalty of law.

#### **Section 11. Transportation of Fish, Fish Eggs or Fish Gametes.**

(a) Only water from a well, protected or treated spring, or municipal water supply shall be used to transport fish or fish eggs within Wyoming. Surface water including rearing units, ponds or streams shall not be used for transport.

(b) Shipments shall only include fish species authorized by the Department and shall not contain any plants designated as AIS or any other cold-blooded wildlife.

(i) Any person transporting fish shall immediately notify the Chief of Fisheries if the shipment is found or suspected to contain an AIS. No water, fish, plants or other organisms shall leave the stocking tank until the Department has inspected the shipment and determined an appropriate course of action.

(ii) The stocking of any fish species not authorized by the Department shall be a violation of W.S. § 23-4-101 and the hatchery owner shall be subject to the penalties described therein.

(iii) The stocking of any amphibians, reptiles, mollusks, crustaceans, their viable gametes (eggs and sperm) or fertilized eggs not authorized by the Department shall be a violation of Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

(c) Each fish species transported shall be held in separate containers to facilitate species identification unless the fish in the container are to be stocked into one (1) individual stocking site authorized for multiple species of fish and all fish in the container are released at that site.

(d) When transporting fish or fish eggs from an in-state aquaculture facility to stock directly into a Wyoming water, the shipment of fish shall be accompanied by a copy of the letter to the Wyoming recipient of the fish from the Chief of Fisheries authorizing the stocking of a Wyoming water.

(e) When transporting fish or fish eggs from one (1) in-state aquaculture facility to another, the shipment of fish shall be accompanied by either a receipt of sale or transfer issued to the recipient of the fish from the hatchery of origin or a written statement from the hatchery of origin indicating the species, numbers, destination hatchery and contact information for the recipient.

(f) Any person transporting eggs or fish obtained from a Department hatchery shall have in their possession an egg delivery confirmation form or other appropriate written authorization issued by the Department.

(g) Each shipment of live fish or fish eggs imported into Wyoming from an out-of-state aquaculture facility shall be accompanied by the appropriate written authorization or a valid interstate transportation permit as described in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

(i) Any person transporting live fish or fish eggs into Wyoming from an out-of-state aquaculture facility shall stop at every open AIS check station that is on their route of travel and allow inspection of the conveyance.

(h) A broker transporting eggs or fish shall have in their possession a brokerage receipt in addition to the appropriate forms and authorizations described in this section. A broker shall stock fish or fish eggs directly into the water(s) indicated on the private fish stocking authorization(s). No fish or fish eggs obtained by a broker shall be temporarily stocked into any other water or temporarily held at any facility.

(i) Vehicles used for the transport of fish, fish eggs or fish gametes to or from an aquaculture facility shall be placarded with signage indicating that the equipment is being used to transport fish, fish eggs or fish gametes. Letters, numbers or symbols displayed on the placard shall be at least three (3) inches in height, excluding shading and bordering, and shall be of a color that contrasts with the placard background color. Vehicle operators transporting fish, fish eggs or fish gametes shall be in possession of all documents required by Wyoming Statute and Commission regulations. Persons transporting live fish, fish eggs or fish gametes by common carrier (e.g., UPS, Federal Express) are exempted from this requirement.

(j) Hatcheries licensed primarily for ornamental fish shall be exempted from the requirements of this section, except that the Chief of Fisheries shall be notified immediately if any shipment is found or suspected to contain an AIS. No water, fish, plants or other organisms shall leave the shipping container until the Department has inspected the shipment and determined an appropriate course of action.

**Section 12. Live Baitfish Hatcheries.**

(a) For the purposes of this regulation, “commercially produced live baitfish” shall be defined as set forth in Commission Regulation Chapter 46, Fishing Regulations.

(b) Live baitfish shall only be obtained as commercially produced live baitfish and shall only be obtained as adult fish from a Department approved private fish hatchery.

(c) Commercially produced live baitfish shall not be imported for use in a private fish hatchery without appropriate written authorization as described in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife, Section 10.

**Section 13. Aquaponics, Fish Farms and Mollusk and Crustacean Aquaculture Operations.**

(a) Aquaponics operations and hobby fish farms that utilize only marine fish, tropical fish, Goldfish (*Carassius auratus*) or koi (as defined in Commission Regulation Chapter 49, Private Stocking of Cold-Blooded Wildlife) are exempt from all requirements of this regulation except that those fish shall not be stocked, released or allowed to escape into the waters of this state.

(b) Aquaponics operations and hobby fish farms that utilize game fish or nongame fish other than those listed in subsection (a) of this section shall be considered private fish hatcheries, shall be licensed and bonded in accordance with Section 3 of this regulation, and shall meet all AIS, fish health inspection and other requirements of this regulation.

(c) No person shall utilize mollusks or crustaceans in any aquaculture operation unless authorized in writing by the Chief of Fisheries.

(d) The use of any AIS of concern is prohibited in aquaculture operations.

(i) Wyoming Department of Agriculture regulations may apply to the use of certain plants not listed as AIS of concern in aquaponics operations.

**Section 14. Records.** On forms provided or approved by the Department, a licensee or authorized agent shall maintain on the premises of the private fish hatchery, or at the licensee’s residence, legible, current, accurate and complete records and fish health and AIS inspection reports for a minimum of the past three (3) years.

(a) Records shall identify the lot, species, numbers, age and lengths of all fish, fish eggs and fish gametes in possession and that have been received, shipped, purchased, reared, sold, disposed of, escaped or died. Records shall also include the names and addresses of all suppliers and recipients, fish rearing locations, the identifying numbers of any authorizations

required for a transaction and the dates of all transactions. Upon request, all records shall be produced for inspection by the Department.

(i) Required records, or legible copies, shall be submitted semi-annually to the Chief of Fisheries by January 15 and July 15 for activities that occurred during the six (6) month period prior to the month records are due.

(b) All fish health and AIS inspection reports shall be provided for inspection to the Department upon request.

(i) The Chief of Fisheries may grant exceptions to the requirements of this section to private fish hatcheries licensed primarily in ornamental fish.

**Section 15. Escaped or Disposed of Fish.** If fish escape into the drainage receiving effluent from a private fish hatchery, the licensee or authorized agent shall notify the Chief of Fisheries within twenty-four (24) hours. Dead fish shall not be disposed into hatchery effluent waters or waters of this state.

**Section 16. Catchout Ponds.** Fish hatcheries may operate one (1) catchout pond per licensed location in accordance with W.S. § 23-4-102 for the sole purpose of fishing. The catchout pond shall not be used for fish, fish egg or fish gamete production.

(a) Method of take. Fish can only be taken from a catchout pond by legal fishing methods. Each hatchery owner may set creel or size limits. A fishing license is not required. All other Commission fishing regulations apply.

(b) Receipt for Removal of Fish. The commercial fish hatchery licensee or authorized agent shall issue a written statement to any person removing fish from a catchout pond. The statement shall include species and number harvested, date harvested, licensee name and name of person in possession of harvested fish. The person in possession of the harvested fish shall retain possession of the written statement while in possession of the fish.

(c) Transportation of Live Fish Prohibited. No person shall transport live fish, live fish eggs or fish gametes from a catchout pond unless authorized in writing by the Chief of Fisheries.

**Section 17. Requesting an Appeal to a Department Decision.**

(a) The licensee or owner of a private fish hatchery may appeal a Department decision made under the authority of this regulation by submitting a written request to the Chief of Fisheries at Department headquarters for reconsideration within thirty (30) consecutive days from the date of receipt of written notification of the decision being contested. If a licensee or owner of a private fish hatchery fails to request an appeal within thirty (30) consecutive days, the licensee or owner shall waive their ability to make any future appeal of the Department's decision. Appeals shall be conducted in accordance with the Department Decision Appeals process in this Regulation.

**Section 18. Department Decision Appeals Process.**



(a) This process applies to appeals allowed in the Requesting an Appeal to a Department Decision section of this regulation and Commission Regulations Chapter 49, Private Stocking of Cold-Blooded Wildlife; Chapter 50, Fishing Preserves and Chapter 53, Landowner Fishing Lakes or Ponds.

(b) Upon receipt of a written request for reconsideration, the Chief of Fisheries shall establish a Department Decision Review Board (Board) consisting of five (5) Department employees no more than two (2) of whom were directly involved in the initial decision.

(i) The Board shall review the Department's decision and may consider any additional information provided by the applicant.

(ii) The Board shall either uphold the Department's decision or approve the appeal request, in full or in part. The Board's decision shall be sent to the appellant as a certified, registered letter with return receipt within fifteen (15) consecutive days of the Board receiving the written request for appeal.

(c) The appellant may appeal the decision of the board by submitting a written request to the Director of the Department at Department headquarters for reconsideration. This request shall be received at Department headquarters no later than thirty (30) consecutive days after the appellant receives the Board's decision letter. If the appellant fails to request an appeal within thirty (30) consecutive days from the date they received the Board's decision letter, the appellant shall waive their ability to make any future request for reconsideration of the Department's decision.

(i) The Director, or designee, shall conduct a review of the Department's and the Board's decision, and may consider any additional information provided by the appellant.

(ii) The Director shall either uphold the Department's decision or approve the appeal request in full or in part. The Director's decision shall be sent to the appellant as a certified, registered letter with return receipt within fifteen (15) consecutive days of receipt of the request for reconsideration.

(d) The appellant may appeal the decision of the Director by submitting a written request to the President of the Commission at Department headquarters no later than thirty (30) consecutive days after the appellant receives the Director's decision letter. If the appellant fails to submit a request for reconsideration within thirty (30) consecutive days from the date they received the Director's decision letter, the appellant shall waive their ability to make any future request for reconsideration of the Department's decision.

(i) The Commission shall hold a contested case hearing under Commission Regulation Chapter 27, Rules of Practice Governing Contested Cases Before the Wyoming Game and Fish Commission to review the Director's decision.

(ii) The Commission shall either uphold the Director's decision or approve the appeal and issue a new decision. The Commission shall provide its final decision on the matter to the appellant at their next regularly scheduled Commission Meeting.

(e) The appellant may appeal a decision of the Commission by filing with the appropriate Wyoming District Court.

**Section 19. Revocation of License.** Failure to comply with any portion of this regulation may result in a Department request to the Commission for revocation of license. Revocation of a license by the Commission shall be carried out in accordance with Commission Regulation Chapter 27, Rules of Practice Governing Contested Cases before the Wyoming Game and Fish Commission.

**Section 20. Disposition of Fish, Fish Eggs or Fish Gametes Upon Revocation or Denial of or Failure to Renew License.** If a commercial fish hatchery license is revoked or renewal application denied or a licensee fails to renew a license after a private fish hatchery has begun operations, no fish or fish eggs or fish gametes may be imported into or removed from the aquaculture facility. All fish, fish eggs or fish gametes at the aquaculture facility must be inventoried and disposed of in a manner approved by the Chief of Fisheries within sixty (60) days of the date of license revocation or renewal denial or failure to renew. After this sixty (60) day period, all fish, fish eggs or fish gametes on the premises shall become the property of the State and may be disposed of by the Department.

**Section 21. Effective Date.** These regulations are effective January 1, 2023 and shall remain in effect until modified or rescinded by the Commission.

WYOMING GAME AND FISH COMMISSION

By: \_\_\_\_\_

Kenneth Roberts, President

Dated: July 19, 2022

APPENDIX I  
COLD-BLOODED WILDLIFE  
FISH HEALTH INSPECTION PROCEDURES

**Section 1. Fish Health Inspection Procedures.**

(a) All inspections shall be conducted following sampling and testing procedures and protocols documented as standard operating procedures (SOP) from the Department Fish Health Laboratory.

(b) Approved inspection procedures shall be available as SOP from the Department Fish Health Laboratory upon request.

(c) All fish health inspections at in-state private fish hatcheries shall be completed by an aquatic animal health inspector or fish pathologist except as provided below.

(i) An aquatic laboratory technician is authorized only for compliance collection of non-lethal samples (e.g., ovarian fluids) for a broodstock fish health inspection after the initial lethal and non-lethal sampling has been conducted by an aquatic animal health inspector or fish pathologist.

(d) All fish health inspections at out-of-state private fish hatcheries shall be completed by an aquatic animal health inspector, fish pathologist or United States Department of Agriculture accredited veterinarian.

(e) Determining Sample Size. The minimum sample size for each lot shall be in accordance with a plan which provides at least 95% confidence of detecting a pathogen (see table below). Attribute sampling shall be based upon the assumption of a pathogen's prevalence in facilities (hatcheries) as follows:

Lot Population	Assumed Pathogen Prevalence Level	
	2%	5%
	Required Sample Size	
50	50	35
100	75	45
250	110	50
500	130	55
1,000	140	55
2,000	145	60
10,000	145	60
100,000 or greater	150	60

(f) Sample Procedures

(i) Production Fish

(A) When sampling for viruses, all lots including broodstock lots, shall be sampled at the 5% (or lower) APPL. This pertains to lethal sampling of all fish species.

(B) When sampling for the bacterial pathogens *Y. ruckeri* (enteric redmouth) and *A. salmonicida* (furunculosis), the minimum sampling shall be sixty (60) fish from the most susceptible species as determined by the Department on each water supply at each facility.

(C) When sampling for *R. salmoninarium* (bacterial kidney disease), the minimum sampling shall be sixty (60) fish from all lots over six (6) months of age at the time of sampling.

(D) When sampling for *E. ictaluri* (enteric septicaemia of catfish), sampling shall be sixty (60) fish from the lot being tested.

(E) When sampling for the detection of *M. cerebralis* (salmonid whirling disease) at a facility, the minimum sample size shall be sixty (60) fish from the most susceptible lot on each water source, as determined by the Department. Sampled fish shall have been on the same water source for a cumulative minimum of 1,800 Celsius temperature units (CTU=sum of the average daily water temperature in degrees Celsius) exposure at the time of inspection.

(I) The Department may require that certain lots be sampled individually in addition to sampling conducted on each water source (e.g., lots reared in dirt ponds where conditions are conducive to enabling of the parasite life cycle). Fish sampled from individual lots shall have been on the same water source (e.g., in the same pond) for a minimum of 900 CTU.

(ii) Broodstocks

(A) Conduct lethal and nonlethal sampling (e.g., ovarian fluid sampling) of all broodstock lots at the 5% or lower APPL of listed pathogens annually if adequate numbers of broodstock fish are available.

(I) Individuals sampled for ovarian fluids shall not be used to obtain kidney/spleen samples.

(B) Three (3) consecutive, pathogen free, annual fish health inspections shall be required before gametes are used to develop a confined broodstock.

(C) Fish health inspections shall include sampling all age classes of the broodstock population held at the facility.

(iii) Baitfish and Grass Carp

(A) Viral-Sampling of all lots shall occur at the 5% APPL for the following viruses: Viral Hemorrhagic Septicemia (VHS) virus, Infectious Hematopoietic Necrosis (IHN) virus, Infectious Pancreatic Necrosis (IPN) virus and Spring Viremia of Carp (SVC) virus.

(B) Bacterial-Sampling of all lots shall occur at the 5% APPL for *Y. ruckeri* (enteric redmouth) and *A. salmonicida* (furunculosis).

(C) Certified triploid grass carp (*Ctenopharygodon idella*) shall be tested at the 5% APPL for *B. cheilognathi* (Asian tapeworm).