

301 KAR 1:125. Transportation of fish.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.180, 150.235, 150.485

STATUTORY AUTHORITY: KRS 13A.350, 150.025(1)(c), (1)(h), 150.180(6), 150.235, EO 2008-516

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(c) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations to regulate the buying, selling, or transporting of game and fish. EO 2008-516, effective June 16, 2008, reorganized and renamed the Commerce Cabinet as the new Tourism, Arts and Heritage Cabinet. This administrative regulation provides for control of the transportation of fish, fish eggs, live bait, and other aquatic organisms into, through, and within the state in order to protect the resident fish population.

Section 1. Definitions. (1) "APHIS" means U.S. Department of Agriculture Animal and Plant Health Inspection Service.

(2) "APHIS-approved laboratory" means a laboratory authorized by a state, tribal, or federal primacy authority to analyze aquatic animal health and perform assays for the detection of the VHS virus.

(3) "Aquarium species" means the species of fish that are legally sold in the pet and ornamental trade business and not stocked into waters of the Commonwealth.

(4) "Certified VHS free facility" means a fish-rearing facility that has been certified VHS free by an APHIS approved laboratory.

(5) "Roe-bearing fish" means paddlefish, shovelnose sturgeon, and bowfin, regardless of the sex of the fish or the presence or absence of roe.

(6) "VHS" means Viral Hemorrhagic Septicemia, a disease of fish.

(7) "VHS positive state" means any state in the United States, or any Canadian province, listed on the APHIS Web site www.aphis.usda.gov as being positive for Viral Hemorrhagic Septicemia (VHS).

(8) "VHS-regulated fish species" means any species of fish deemed susceptible to VHS and listed on the APHIS Web site at www.aphis.usda.gov.

Section 2. A Fish Transportation Permit is not needed:

(1) By an individual to transport aquarium species;

(2) By permitted Kentucky fish propagators as established in 301 KAR 1:115, except if transporting fish into Kentucky from another state or country;

(3) By individuals with a sport or commercial fishing license to transport legally caught bait or fish;

(4) By individuals transporting fish purchased from a licensed live bait dealer for stocking in private waters;

(5) By agents of the department while performing their normal duties; or

(6) To transport live fish or other aquatic organisms that were purchased for consumption from a licensed retailer.

Section 3. Live Fish, Live Bait, or Other Aquatic Organisms. (1) All individuals, corporations, or other business entities that transport any live fish, live bait as defined in 301 KAR 1:132, Section 1, or other live aquatic organism, except those individuals listed in Section 2 of this administrative regulation, into, within, or through Kentucky shall have in possession a:

(a) Fish Transportation Permit issued in the name of the individual, corporation, or other business entity transacting the business; and

(b) Bill of lading showing the origin and destination of the organisms being transported.

(2) An individual shall also possess a Live Fish and Bait Dealers License, as established in 301 KAR 1:132, if the organisms shall be sold to another individual, corporation, or other business entity in Kentucky or transported from Kentucky to be sold outside of Kentucky.

(3) All organisms in transport shall be disease free and prohibited species listed in 301 KAR 1:122 shall not be present.

(4) If any VHS-regulated fish species from a VHS positive state are transported and unloaded in Kentucky, in addition to the requirements established in subsections (1), (2), and (3) of this section of this administrative regulation, the following requirements shall apply:

(a) If the origin of the VHS-regulated fish species is from a certified VHS free facility, the individual shall possess a copy of the documentation showing that the facility is VHS free.

(b) If the origin of the VHS-regulated fish species is from a non-certified VHS free facility then:

1. The VHS-regulated fish species shall only be unloaded at a state inspected fish-processing plant or research and diagnostic laboratory;

2. The individual shall possess a copy of the APHIS VS 1-27 permit for Movement of Restricted Animals issued by an APHIS Veterinary Services office or by a state, tribal, or federal accredited veterinarian shall also be in possession; and

3. Water from the fish transportation tank shall only be discharged into a municipal sewage system that includes waste water disinfection or into a nondischarging settling pond devoid of fish.

(5) If the origin of the VHS-regulated fish species is from a VHS positive state and are only being transported through Kentucky then only the requirements established in subsections (1) and (3) of this section and Section 4 of this administrative regulation shall apply.

(6) VHS-regulated fish species being transported from a known VHS positive state into, within, or through Kentucky that do not meet all requirements established in Sections 3 and 4 of this administrative regulation shall be confiscated for disposal purposes.

Section 4. Fish Transportation Permit Application. (1) If an individual, corporation, or other business entity wants to transport fish, live bait, or other aquatic organisms into, within, or through Kentucky they first shall submit a completed Application for Fish Transportation Permit to the department, along with permit fees as established in 301 KAR 3:022.

(2) If an individual, corporation, or other business entity wants to transport VHS-regulated fish species into or through Kentucky from a VHS positive state, in addition to the requirements established in subsection (1) of this section they shall also submit a:

(a) Copy of the documentation showing that the facility that the VHS-regulated fish species are coming from is Certified as being VHS free; or

(b) Copy of the APHIS VS 1-27 permit if the facility is not certified as being VHS free.

(3) An individual, corporation, or other business entity shall not transport fish, live bait, or other aquatic organisms into, within, or through Kentucky without an approved Fish Transportation Permit is in possession.

(4) If an individual, corporation, or other business entity desires to transport VHS-regulated fish species from a facility in a VHS positive state that is currently not listed on their Fish Transportation Permit, the permittee shall:

(a) Notify the department; and

(b) If approved by the commissioner based on risk of contagion to fish of the Commonwealth be sent an updated Fish Transportation Permit listing the approved facility.

Section 5. Transportation of Roe-Bearing Fish and Roe. (1) All individuals, with the exception of permitted roe-bearing fish harvesters as established in 301 KAR 1:155, who transport roe-bearing fish or unprocessed roe as established in 301 KAR 1:155 into, within, or through Kentucky, shall

have in possession a Fish Transportation Permit issued in the name of the individual with the associated roe-bearing fish harvester's name and commercial fishing license and roe-bearing harvester's permit numbers listed.

(2) All individuals who transport unprocessed roe from a fish processing facility to a permitted roe-bearing fish dealer shall also have in possession a bill of lading as established in 301 KAR 1:155, Section 4(4)(d)3.

Section 6. All officers and agents of the department have the authority to demand of the transporter, at any time, that prohibited species listed in 301 KAR 1:122 shall not be present and proof that the transporter possesses all appropriate permits and documentation.

Section 7. Fish Transportation Permit Revocation and Nonrenewal. (1) The Department shall revoke and not renew the Fish Transportation Permit of an individual, corporation, or other business entity for a period of two (2) years if they;

(a) Falsify the documentation needed to transport fish, eggs, live bait, or any other aquatic organism into, within, or through Kentucky;

(b) Falsify information on the Application for Fish Transportation Permit; or

(c) Are convicted of any federal or state violation involving the transportation of fish, eggs, live bait, or any other aquatic organism.

(2) An individual, corporation, or other business entity whose Fish Transportation Permit has been denied, revoked or not renewed may request an administrative hearing pursuant to KRS Chapter 13B.

Section 8. Incorporated by Reference. (1) "Application for Fish Transportation Permit", 2008 is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (KFWR-F-TP1-1; 1 Ky.R. 346; eff. 2-5-75; 35 Ky.R. 992, 1829, 1742, eff. 3-6-09.)