

Utah Admin. Code R657-59a. Private Fish Ponds.

R657-59a-1. Purpose and Authority.

(1) Under the authority of Sections 23A-9-305 and 23A-9-2023, this rule provides the standards and procedures for private fish ponds.

(2) Fee fishing facility and private aquaculture facility licensing is regulated by the Utah Department of Agriculture and Food under Title 4, Chapter 37 and Rule R58-17.

(3) A person operating a private fish pond must also comply with all requirements established by Title 4, the Utah Agricultural Code and all rules promulgated by the Utah Department of Agriculture and Food, including:

- (a) requirements for the importation of aquaculture products into Utah; and
- (b) requirements for fish health approval for aquaculture products.

(4) Any violation of, or failure to comply with, any provision of Title 23, the Wildlife Resources Code of Utah, this rule, or any specific requirement contained in a certificate of registration issued pursuant to this rule may be grounds for suspension of the certificate of registration or denial of future certificates of registration, as determined by the division.

R657-59a-2. Definitions.

(1) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms undercontrolled, artificial conditions.

(2) "Aquaculture facility" means any facility used for the husbandry, production, harvest, and use of aquatic organisms under controlled, artificial conditions that holds a valid aquaculture facility license from the Utah Department of Agriculture and Food.

(3)(a) "Aquaculture product" means privately purchased, domestically produced aquatic organisms, or their gametes.

(b) "Aquaculture product" does not mean aquatic wildlife obtained from the wild, aquatic wildlife produced by the state or federally owned aquaculture facilities, or ornamental aquatic animal species.

(4) "Aquaponics facility" means a facility that combines fish and plant culture for a non-commercial purpose where:

- (a) all water flowing into or through the facility is completely isolated from any other water source via a self-contained water transport system;
- (b) all water and waste flowing from the facility is discharged into a permitted sewer or septic system;
- (c) the aquatic animals held within the facility are used for non-commercial purposes only;
- (d) no aquatic animals or their gametes are transported from the facility alive; and
- (e) the primary use of the facility is for food production and not for the general display of fish in aquaria.

(5) "Aquatic wildlife" for the purposes of this chapter means:

(a) fish, mollusk, or crustacean species that are spawned and hatched in public waters, state or federal aquaculture facilities, and;

(b) fish, mollusk, or crustacean species that escape a private fish pond into a public water.

(6) "Certified sterile aquaculture product" means any fish or gamete that originates from a health certified source, as described in Title 4, Chapter 37 and is incapable of reproduction due to triploidy or hybridization, and is confirmed as sterile using the protocol described in Sections R657-59-7 and R657-59a-5.

(7) "Division" means the Utah Division of Wildlife Resources.

(8) "FEMA" means Federal Emergency Management Administration.

(9) "HUC" or "Hydrologic Unit Code" means a cataloging system developed by the U.S. Geological Survey and the Natural Resource Conservation Service to identify watersheds in the United States.

(10) "Institutional aquaculture" means aquaculture engaged in by a school, college, university, or other educational program, or public agency other than the division.

(11) "Lake" means a naturally formed, perennial or intermittent, non-flowing waterbody that collects and keeps water in quantity for use.

(12) "Lot" means fish of the same species that are subject to a health inspection under the Aquatic Animal Health Inspection Policy in Subsection R58-17-2 (26), which establishes guidelines for lot designation for salmonid and non-salmonid fish.

(13) "Natural stream channel" means a body of water that maintains continuous, seasonal or potential flow, as determined by the division.

(14)(a) "Ornamental aquatic animal species" means any species of fish, mollusk, or crustacean that is cultured for display and then sold in the United States' aquarium industry for display.

(b) "Ornamental aquatic animal species" does not include:

(i) fresh water;

(A) sport fish - aquatic animal species regulated for angling or harvest for recreation or sport;

(B) baitfish - aquatic animal species authorized for use as bait in Section R657-13-12, or any other species used by anglers as bait in sporting fishing;

(C) food fish - aquatic animal species cultured or harvested from the wild for human consumption; or

(D) native species; or

(ii) aquatic animals and marine aquatic animals prohibited for importation or possession by any state, federal, or local law; or

(iii) aquatic animals and marine aquatic animals listed as prohibited or controlled in Sections R657-3-22 and R657-3-23.

(15) "Private fish pond" means a standing body of water or any fish culture system which:

(a) is not located on a natural lake, natural flowing stream, or reservoir constructed on a natural stream channel;

(b) is contained entirely on privately owned land; and

(c) is used for holding or rearing fish for a private, noncommercial purpose.

(16) "Purchase" means to buy, or otherwise acquire or obtain through barter, exchange, or trade for monetary consideration or advantage.

(17) "Reservoir" means an artificially constructed, non-flowing waterbody that is used to collect and keep water in quantity for use built by damming a natural stream channel.

(18) "Salmonid" means any fish belonging to the trout or salmon family.

(19) "Short-term fishing event" means an event where:

(a) privately acquired fish are held or confined for a period not to exceed ten days in a temporary event tank;

(b) for the purposes of providing a recreational opportunity; and

(c) no fee is charged as a requirement to fish.

(20) "Sterile" means the inability to reproduce.

R657-59a-3. Aquaculture Facility Requirements

(1) An aquaculture facility that possesses a valid license from the Utah Department of Agriculture and Food may stock aquatic wildlife into private fish ponds in Utah, provided:

(a)(i) The purchaser of the aquatic wildlife possesses a valid private fish pond certificate of registration as issued by the division, or

(ii) the species being stocked meets the criteria where a certificate of registration is not required as described in Section R657-59a-5;

(a) Any triploid aquaculture product that are stocked originate from a lot that has been tested and meet the requirements specified in Subsection R657-59a-9 (3); and

(b) The aquaculture facility provides the purchaser of any triploid fish a copy of the letter issued by the division certifying that the stocked fish originate from a lot that meets the requirements specified in Subsection R657-59a-9 (3).

(2) The division may collect aquatic wildlife from private fish ponds to verify that the species and ploidy meet the requirements of this rule.

(3) (i) It is unlawful for an aquaculture facility to release aquatic wildlife that violates the terms of Rule R657-59a or other rules established under Title 23, the Wildlife Resources Code of Utah, and the Wildlife Board.

(ii) Violation of this rule may result in a violation of Sections 23A-5-305 and 4-37-601.

R657-59a-4. Certificate of Registration Not Required.

(1) A certificate of registration is not required to receive and stock an aquaculture product in a private fish pond, provided:

(a) the pond is not a natural lake, natural flowing stream, or reservoir constructed on a natural flowing stream;

(b) the private fish pond satisfies the screening requirements established in Section R657-59a-7;

(c) the species, sub-species, and sterility of the aquaculture product received is authorized for stocking in the area where the private fish pond is located consistent with the requirements in Section R657-59a-9;

(d) the aquaculture product is:

(i) delivered to the private fish pond by a licensed aquaculture facility as defined in Title 4, Chapter 37; or

(ii) the owner, lessee, or operator of the private fish pond:

(A) possesses documentation from the aquaculture facility verifying the information itemized in Section R657-59a-6(4)(b) during transport; and

(B) assumes legal responsibility for directly transporting the fish from the aquaculture facility to the private fish pond;

(e) the owner, lessee, or operator of the private fish pond obtains from the aquaculture facility providing the aquaculture product a valid health approval number issued by the Utah Department of Agriculture and Food pursuant to Title 4, Chapter 37; and

(f) the owner or operator of the private fish pond provides the aquaculture facility a signed written statement that the pond and aquaculture product received are in compliance with this section.

(2) A certificate of registration is required to receive and stock an aquaculture product in a private fish pond when the criteria described in Subsection (1) are not met.

R657-59a-5. Certified Sterile Aquaculture Product.

(1) For the purposes of this rule, the following hybrid fish species are considered certified sterile aquaculture product:

(a) Splake;

(b) Tiger Muskellunge;

(c) Tiger Trout; and

(d) Wiper.

(2) Triloid grass carp is considered a certified sterile aquaculture product if documentation is submitted by an aquaculture facility to the Division that demonstrates that each fish is tested

individually and meets the standards of the U.S. Fish and Wildlife Service National Triploid Grass Carp Inspection and Certification Program. In addition, the same documentation must be provided by the aquaculture facility to customers who purchase triploid grass carp.

(3) All other species not specified in Subsections R657-59a-5 (1) and (2) may be considered certified sterile aquaculture product if they are triploid and the following procedures are followed:

(a) fish samples from each lot of triploid fish at an aquaculture facility are collected, prepared, and submitted to a certified laboratory by an independent veterinarian, certified fish health professional, or other professional approved by the division or Utah Department of Agriculture and food;

(b) certified laboratories shall be limited to independent, professional laboratories capable of reliably testing fish sterility and approved by the division;

(c) sterility shall be determined by sampling and testing 60 fish from each lot using either flow cytometry, particle analysis, or karyotyping;

(d) At least 95% of the fish test triploid; and

(e) The professional laboratory submitted the testing results directly to the division and the division issued the aquaculture facility a letter verifying that the lot meets the criteria established in R657-59a-5-(3)(a-d). A copy of this letter must be provided to all customers who purchase triploid fish.

(4) An aquaculture facility that receives certified sterile aquaculture product from another aquaculture facility is not required to conduct additional sterility testing prior to stocking the aquaculture product, provided the Division is given documentation demonstrating that the fish meet the requirements of Subsection R657-59a-5 (3) and the sterile fish are kept segregated from other fertile fish.

R657-59a-6. Acquiring, Importing, and Transferring Aquaculture Products

(1)(a) Species of aquaculture products that may be imported into the state are provided in Section R657-3c-5.

(b) Applications to import aquaculture products are available from all division offices and must be submitted to the division's Wildlife Registration Office in Salt Lake City.

(c) Complete applications may require up to 30 days for processing after submission.

(2) Live aquaculture products, other than ornamental fish, may only be:

(a) purchased or acquired from sources approved by the Utah Department of Agriculture and Food to sell such products; and

(b) acquired, purchased or transferred from sources which have been health approved by the Utah Department of Agriculture and Food and assigned a number as provided in Title 4, Chapter 37.

(3) Triploid fish may only be acquired, purchased or transferred from lots that have been certified triploid by the division.

(4)(a) Any person who has been issued a valid aquaculture license from the Utah Department of Agriculture and Food may transport live aquaculture products as specified on the certificate of registration to a stocking location.

(b) All transfers or shipments of live aquaculture products must be accompanied by documentation of the source and destination of the product, including:

(i) name, address, certificate of registration number, and fish health approval number of the source;

(ii) number and weight being shipped by species;

(iii) name, address, and certificate of registration number, if applicable, of the destination; and

(iv) a copy of the importation permit provided by the Utah Department of Agriculture and Food.

(c) Once stocked in a water body, aquaculture products may not be transferred or relocated while live.

(5)(a) To import, transport, or stock live grass carp (*Ctenopharyngodon idella*), each fish must be verified as being triploid by the U.S. Fish and Wildlife Service.

(b) The form verifying triploidy must be obtained from the supplier and be on file with the Wildlife Registration Office of the division in Salt Lake City prior to importation.

(c) A copy of the triploidy verification form must also accompany the fish during transport.

(6)(a) Live aquaculture products may be shipped through Utah without a certificate of registration, provided that:

(i) aquaculture products are not sold or transferred;

(ii) aquaculture products remain in the original container;

(iii) water is not exchanged or discharged; and

(iv) the shipment is in Utah no longer than 72 hours.

(b) Proof of legal ownership and destination must accompany the shipment.

R657-59a-7. Inspection of Records and Private Fish Ponds.

(1) Records of purchase, distribution, and acquisition of aquaculture products and copies of certificates of registration must be kept for the duration of the certificate of registration and must be available for inspection by a division representative during reasonable hours.

(2) The division and its authorized representatives may inspect a private fish pond or other stocking location during reasonable hours to verify compliance with the requirements of Title 23, the Wildlife Resources Code of Utah and this rule.

R657-59a-8. Pond Screening Requirements.

(1)(a) Except as provided in Subsection (b), all permanent and intermittent inlets and outlets of a private fish pond shall be screened to prevent the movement of aquatic wildlife into the private pond or the escapement of any aquaculture product from the private fish pond into public waters.

(b) Upon request of the owner or lessee, the division may conduct a site analysis and waive screen requirements if the division determines waiving screen requirements will not be detrimental to the wildlife resource.

(c) Any aquaculture product that escapes a private fish pond is considered aquatic wildlife and is subject to the licensing requirements, bag limits, and allowable methods of take described in the current Utah Fishing Guidebook issued by the Utah Wildlife Board.

(2) If a screen is required, the screen must meet the following provisions:

(a) the screen should be constructed of durable materials that are capable of maintaining integrity when exposed to water and air for an extended period of time;

(b) the screen shall have no openings, seams or mesh width greater than the width of the fish being stocked;

(c) all water entering or leaving the pond, including runoff and other high water events, shall flow through a screen consistent with the requirements of this subsection; and

(d) the screen shall be maintained and in place at all times while any aquaculture product remains in the pond.

R657-59a-9. Species and Reproductive Capabilities of Aquaculture Product Authorized by Area for Stocking in Private Fish Ponds

(1) Aquaculture product may be stocked into a private fish pond without a certificate of registration provided the pond stocked with aquaculture product is outside the 100 year floodplain of the Colorado River and its tributaries; and the aquaculture product stocked belongs to one of the following species:

(i) In all drainages except the Virgin River drainage:

(1) any species defined as certified sterile aquaculture product as established in Subsection R657-59a-5 (1); and

(2) triploid individuals from the following species, provided the stocked aquaculture product is from a lot that meets the requirements specified in Subsection R657-59a-5 (3):

- (a) Bluegill;
- (b) Black Crappie;
- (c) Yellow Perch;
- (d) Brook Trout;
- (e) Brown Trout;
- (f) Lake Trout; and
- (g) Rainbow Trout.

(ii) In the Virgin River Drainage, only Triploid Rainbow Trout may be stocked without a certificate of registration

(iii) Fertile rainbow trout and brown trout may be stocked into all waters without a certificate of registration except those identified in a table entitled Table 59-1, dated 08-14-2023 is incorporated by reference. Table 59-1 can be accessed in person or by contacting the Salt Lake division office located at 1594 West North Temple, Salt Lake City, Utah 84114, and on the division's Certificates of Registration webpage at <https://wildlife.utah.gov/licenses/certificates-of-registration.html>, copy currently available at: <https://docs.google.com/document/d/16KMRRSp5pZnvZforuCdWwzF9tRdiEObqFW-mvTqAsWE/edit?usp=sharing>)

(2)(a) A certificate of registration must be obtained from the division pursuant to Section R657-59a-11 prior to stocking any private fish pond with any species or sterility of aquaculture product not specifically authorized in this Section.

(b)(i) A certificate of registration application to stock triploid grass carp for control of aquatic weeds will be evaluated based upon:

- (1) adequacy of screening to contain the grass carp; and
- (2) potential for conflict with division management objectives or detrimental interactions with other species of fish or wildlife.

(ii) To import, transport, or stock live grass carp, each fish must be verified as being sterile triploid by the U.S. Fish and Wildlife Service.

R657-59a-10. Fishing License and Transportation of Dead Aquaculture Product.

(1) A fishing license is not required to:

(a) take fish from a legally recognized private fish pond; or

(b) to transport dead aquaculture product from a private fish pond, provided that the person in possession of the dead aquaculture product can provide the name, address, and phone number of the owner of the private fish pond if requested by the division.

R657-59a-11. Application for a Fish Stocking Certificate of Registration; Application Criteria; Amendment of Certificate of Registration.

(1) The following persons may apply for a certificate of registration for a private fish pond:

(a) The owner of the private fish pond;

(b) The president of a homeowners association, if the pond is on homeowners association property; or

(c) An individual who is a full-time employee of the private pond owner, who represents the pond owner or is a property manager.

(2)(a) A person may apply for a certificate of registration for a fish stocking activity by submitting an application with the required handling and inspection fee following the instructions provided at: (insert URL for updated private pond website that describes the process).

(b) The application may require up to 30 days for processing.

(c) The division may require a site inspection of the stocking location be performed to confirm compliance with the provisions found in this rule.

(d) The division may deny an application when:

(i) the application is incomplete, filled out incorrectly, or submitted without the appropriate fee;

(ii) receiving or stocking the aquaculture product or aquatic wildlife may:

(A) violate any federal, state or local law or any agreement between the state and another party;

(B) negatively impact native wildlife species listed by the division as sensitive or by the federal government as threatened or endangered;

(C) pose an identifiable adverse threat to other wildlife species or their habitat;

(D) pose an identifiable adverse impact to the division's game fish stocking regimes or wildlife management objectives; or

(iii) the applicant has violated any provision of Title 23a, the Wildlife Resources Code of Utah, Title R657, a guidebook of the Wildlife Board, a certificate of registration, an order of the Wildlife Board, or any other law related to the applicant's ability to responsibly carry out the stocking activity.

(3) A certificate of registration for a private fish pond is effective 5 years from the date of issuance as identified on the certificate of registration. During the effective period of the certificate of registration, the certificate of registration holder may stock any of the aquaculture products approved by the certificate of registration at the locality identified on the certificate of registration so long as all stipulations under R657-59a are adhered to, unless the certificate of registration is:

(a) amended by the division at the request of the certificate of registration holder.

Amendments do not change the expiration date of a certificate of registration and the original expiration date will remain after an amendment;

(b) terminated or modified by the division pursuant to Section R657-59-13; or

(c) suspended by the division or a court pursuant to Section 23-19-9.

R657-59a-12. Expiration and Termination of Certificates of Registration.

If a certificate of registration expires or the division suspends or terminates the certificate of registration, all live aquaculture products permitted under the certificate of registration shall be disposed of in a manner that complies with all Federal, state, and local laws.

R657-59a-13. Prohibited Activities.

(1) Live aquatic wildlife shall not be collected from the wild and used in stocking activities unless authorized by the Wildlife Board and Fish Health Policy Board.

(2) A person shall not release or transport any live aquaculture product received or held under the provisions of this rule without prior written authorization of the division and the Fish Health Policy Board.

R657-59a-14. Administrative Appeal Procedures.

(1) An aggrieved party to a final division action under this rule may file a request for agency action with the division under Rule R657-2.

(2) The Director or a designee appointed by the Director shall be the presiding officer for any adjudicative proceedings initiated under this rule.