

Utah Admin. Code R657-59d. Institutional Aquaculture.

R657-59d-1. Purpose and Authority.

(1) Under the authority of Sections 23A-9-305 and 23A-9-203, this rule provides the standards and procedures for institutional aquaculture.

(2) This rule does not regulate fee fishing or private aquaculture as provided in Title 4, Chapter 37 and Rule R58-17.

(3) A person engaging in institutional aquaculture 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 or denial of future certificates, as determined by the division.

R657-59d-2. Definitions.

(1)(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.

(2) "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.

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

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

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

(6) "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.

(7) "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.

(8) "Short-term fishing event" means any 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.

R657-59d-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 institutional aquaculture facilities within Utah, provided:

(a)(i) The purchaser of the aquatic wildlife possesses a valid institutional aquaculture facility 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-4;

(b) Any triploid aquaculture product that are stocked originate from a lot that has been tested and meet the requirements specified in Subsection R657-59a-5 (3); and

(c) The aquaculture facility provides the purchaser of any triploid fish a copy of the letter issued by the division certifying that the stocked fish originated from a lot that meets the requirements specified in Subsection R657-59a-5 (3).

(2) The division may collect aquatic wildlife from institutional aquaculture facilities to verify that the species and ploidy meet the requirements of Rule R657-59a

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

(ii) Violation of this rule may result in a violation of Sections 23A-5-305 and 4-37-6.

R657-59d-4. Certificate of Registration Required

(1)(a) A certificate of registration is required for any public agency, institution of higher learning, school, or educational program to engage in aquaculture.

(b) A certificate of registration is not required for any public agency, institution of higher learning, school, or educational program to engage in the hobby of aquaponics, so long as the aquaponics facility complies with the regulations in Subsection R657-59c.

(2) Aquaculture products produced by institutional aquaculture facility may not be:

(a) sold;

(b) stocked; or

(c) transferred into waters of the state unless specifically authorized by the certificate of registration.

(i) All fish transferred into waters of the state must receive a valid fish health certification number from the Utah Department of Agriculture and Food as described in Title 4, Chapter 37.

R657-59d-5. 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.

R657-59d-6. Inspection of Records and Fish Stocking Locations.

(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 an institutional aquaculture facility during reasonable hours to verify compliance with the requirements of Title 23, the Wildlife Resources Code of Utah and this rule.

(3) Consistent with the provisions of Rule R58-17, the division and its authorized representatives may inspect aquaculture products stocked pursuant to this rule to conduct sterility, pathological, fish culture, or physical investigations during reasonable hours to verify compliance with the requirements of Title 23, the Wildlife Resources Code of Utah and this rule.

R657-59d-7. Application for a Fish Stocking Certificate of Registration; Application Criteria; Amendment of Certificate of Registration.

(1) Only persons who are full-time employees of the institution of higher learning, school, or other educational program, or public agency seeking to engage in institutional aquaculture may apply for a certificate of registration.

(2)(a) A person may apply to receive a certificate of registration for an aquaponics facility 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 where:

(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 23, 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.

(2) A certificate of registration for an institutional aquaculture facility may remain effective for up to 5 years from the date of issuance as identified on the certificate of registration, unless:

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

(b) terminated or modified by the division pursuant to Section R657-59d-8; or

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

R657-59d-8. 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.

R657-59d-9. Prohibited Activities.

(1) Live aquatic wildlife shall not be collected from the wild and used in stocking activities unless authorized by the Wildlife Board consistent with the requirements in Rule R657-3c.

(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.

R657-59d-10. 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.