

**Utah Admin. Code R657-59e. Stocking into Natural Lakes, Natural Flowing Streams, or Reservoirs on Natural Stream Channels.**

**R657-59e-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 the stocking of fish into natural lakes, natural flowing streams, and reservoirs built on natural stream channels.

(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 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.

**R657-59e-2. Definitions.**

(1) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms under controlled, 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 are:

(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 Section R657-59a-5.

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

(8) "Fee fishing facility" means a body of water used for holding or rearing fish for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.

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

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

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

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

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

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

(15)(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 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.

(16) "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.

(17)(a) "Private stocking" means an authorized release of privately owned live fish into waters of the state that are not eligible as a private fish pond, aquaculture facility, or fee fishing facility.

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

(19) "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.

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

(21) "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.

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

**R657-59e-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 natural lakes, natural flowing streams, or reservoirs on natural stream channels within Utah, provided:

(a)(i) The purchaser of the aquatic wildlife possesses a valid certificate or registration to stock in natural lakes, natural flowing streams, or reservoirs on natural stream channels, 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 Natural Lakes, Natural Flowing Streams, or Reservoirs on Natural Stream Channels to verify that the species and ploidy stocked 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 R657-59e 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.

**R657-59e-4. Certificate of Registration Required.**

(1) A certificate of registration is required for all private stocking events.

(2) An application for a certificate of registration for a private stocking event may be approved only if all the following requirements are met:

(a) The waterbody to be stocked is a lake or reservoir;

(b) The lake or reservoir to be stocked is wholly owned by the applicant;

(c) The lake or reservoir and its inlet neither contains feral fish nor are likely to support such species in the future;

(d) The intended use of the lake or reservoir will not jeopardize conservation of aquatic wildlife populations or lead to the privatization or commercialization of aquatic wildlife;

(e) The lake or reservoir being stocked satisfies the screening requirements established in Section R657-59e-7;

(f) The lake or reservoir is not vulnerable to flood or high water events capable of compromising the inlet or outlet screens which may cause privately owned fish to escape into waters of the state;

(g) The species, sub-species, and sterility of the aquaculture product received is authorized for stocking consistent with the requirements in Section R657-59a-9;

(h) the aquaculture product is delivered to the lake, natural stream channel, or reservoir:

(i) by a licensed aquaculture facility as defined in Title 4, Chapter 37; or

(ii) by the owner, lessee, or operator of the private stocking event provided this individual:

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

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

(i) The individual purchasing fish provides the aquaculture facility with a signed written statement that the pond and aquaculture product received are in compliance with this section.

**R657-59e-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.

#### **R657-59e-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 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.

(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.

**R657-59e-7. Screening Requirements.**

(1)(a) Except as provided in Subsection (b), all permanent and intermittent inlets and outlets shall be screened to prevent the movement of aquatic wildlife from the private stocking event 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 for the purposes of licensing requirements, bag limits, and allowable methods of take.

(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.

**R657-59e-8. Fishing License and Transportation of Dead Aquaculture Product.**

(1) A fishing license is required to:

(a) take fish from a legally recognized private stocking event; and

(b) to transport dead aquaculture product from a private stocking event.

(2) Any aquaculture product that escapes a private stocking event are considered aquatic wildlife and are 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.

**R657-59e-9. Escapement of Fish from Private Stocking Events.**

Fish that escape from privately stocked natural lakes, natural flowing streams, or reservoirs on natural stream channels become the property of the state and are subject to the fishing regulations set forth in this title and proclamations of the Wildlife Board.

**R657-59e-10. 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 as a property manager.

(2)(a) A person may apply to receive 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 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 that relates to the applicant's ability to responsibly carry out the stocking activity.
- (3) A certificate of registration for a private stocking event may remain effective for the length of time identified on the certificate of registration. During the effective period of the issued 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 R657-59e are adhered to, unless the certificate of registration is:
- (a) amended by the division at the request of the certificate of registration holder;
  - (b) terminated or modified by the division pursuant to Section R657-59-10; or
  - (c) suspended by the division or a court pursuant to Section 23-19-9.

**R657-59e-11. 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.

**R657-59e-12. 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.

**R657-59e-13. 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.