

Part 1

General Provisions

4-37-101 Title.

This chapter is known as the "Aquaculture Act."

Enacted by Chapter 153, 1994 General Session

4-37-102 Purpose statement -- Aquaculture considered a branch of agriculture.

- (1) The Legislature declares that it is in the interest of the people of the state to encourage the practice of aquaculture, while protecting the public fishery resource, in order to augment food production, expand employment, promote economic development, and protect and better utilize the land and water resources of the state.
- (2) The Legislature further declares that aquaculture is considered a branch of the agricultural industry of the state for purposes of any laws that apply to or provide for the advancement, benefit, or protection of the agricultural industry within the state.

Amended by Chapter 378, 2010 General Session

4-37-103 Definitions.

As used in this chapter:

- (1) "Aquaculture" means the controlled cultivation of aquatic animals.
- (2)
 - (a)
 - (i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture.
 - (ii) "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.
 - (b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.
- (3)
 - (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.
 - (b) "Aquatic animal" includes a gamete of any species listed in Subsection (3)(a).
- (4) "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.
- (5) "Natural flowing stream" means the same as that term is defined in Section 23A-1-101.
- (6) "Natural lake" means the same as that term is defined in Section 23A-1-101.
- (7) "Private fish pond" means the same as that term is defined in Section 23A-1-101.
- (8) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S. Fish and Wildlife Service, a mosquito abatement district, or an institution of higher education.
- (9) "Public fishery resource" means fish produced in public aquaculture facilities and wild and free ranging populations of fish in the surface waters of the state.
- (10) "Reservoir constructed on a natural stream channel" means the same as that term is defined in Section 23A-1-101.
- (11) "Short-term fishing event" means the same as that term is defined in Section 23A-1-101.

Amended by Chapter 34, 2023 General Session

4-37-104 Department's responsibilities.

- (1) The department is responsible for enforcing laws and rules made by the Wildlife Board governing species of aquatic animals that may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities.
- (2) Subject to the policies and rules of the Fish Health Policy Board, the department shall:
 - (a) act to prevent the outbreak and act to control the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and
 - (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to wild aquatic animals, other animals, and humans.

Amended by Chapter 295, 2021 General Session

4-37-105 Responsibilities of Wildlife Board and Division of Wildlife Resources.

- (1) The Wildlife Board and Division of Wildlife Resources are responsible for determining the species of aquatic animals which may be imported into, possessed, and transported within the state.
- (2) Subject to the policies and rules of the Fish Health Policy Board, the Wildlife Board and the Division of Wildlife Resources shall:
 - (a) act to prevent the outbreak and act to control the spread of disease-causing pathogens among aquatic animals in public aquaculture facilities; and
 - (b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from public aquaculture facilities and private ponds to wild aquatic animals, other animals, and humans.

Amended by Chapter 412, 2017 General Session

4-37-106 Cooperative agreements.

In fulfilling their respective responsibilities under this chapter, the department, Division of Wildlife Resources, and Wildlife Board may make memorandums of understanding or enter into other agreements for mutual cooperation.

Enacted by Chapter 153, 1994 General Session

4-37-108 Prohibited activities.

- (1) Except as provided in this chapter, in the rules of the department made pursuant to Section 4-37-109, rules of the Fish Health Policy Board made pursuant to Section 4-37-503, or in the rules of the Wildlife Board governing species of aquatic animals which may be imported into, possessed, transported, or released within the state, a person may not:
 - (a) acquire, import, or possess aquatic animals intended for use in an aquaculture or fee fishing facility;
 - (b) transport aquatic animals to or from an aquaculture or fee fishing facility;
 - (c) stock or propagate aquatic animals in an aquaculture or fee fishing facility;
 - (d) harvest, transfer, or sell aquatic animals from an aquaculture or fee fishing facility; or
 - (e) release aquatic animals into the waters of the state.

- (2) If a person commits an act in violation of Subsection (1) and that same act constitutes wanton destruction of protected wildlife as provided in Section 23A-5-311, the person is guilty of a violation of Section 23A-5-311.

Amended by Chapter 34, 2023 General Session

4-37-109 Department to make rules.

- (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (a) specifying procedures for the application and renewal of licenses for operating an aquaculture or fee fishing facility; and
 - (b) governing the disposal or removal of aquatic animals from an aquaculture or fee fishing facility for which the license has lapsed or been revoked.
- (2)
- (a) The department may make other rules consistent with its responsibilities set forth in Section 4-37-104.
 - (b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 154, 2020 General Session

4-37-110 Inspection of records and facilities.

- (1) The following records and information shall be maintained by an aquaculture or fee fishing facility for a period of two years and shall be available for inspection by a department representative during reasonable hours:
- (a) records of purchase, acquisition, distribution, and production histories of aquatic animals;
 - (b) a license; and
 - (c) valid identification of stocks, including origin of stocks.
- (2) Department representatives may conduct pathological, fish culture, or physical investigations at any aquaculture, public aquaculture, or fee fishing facility during reasonable hours.

Amended by Chapter 79, 2022 General Session

Amended by Chapter 378, 2010 General Session

4-37-111 Prohibited sites.

- (1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility may not be developed on:
- (a) a natural lake;
 - (b) a natural flowing stream; or
 - (c) a reservoir constructed on a natural stream channel.
- (2) The Division of Wildlife Resources may authorize an aquaculture facility, public aquaculture facility, or fee fishing facility on a natural lake or reservoir constructed on a natural stream channel upon inspecting and determining:
- (a) the facility and inlet source of the facility neither contain wild game fish nor are likely to support such species in the future;

- (b) the facility and the facility's intended use will not jeopardize conservation of aquatic wildlife or lead to the privatization or commercialization of aquatic wildlife;
 - (c) the facility is properly screened as provided in Subsection 23A-9-203(3)(c) and otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and applicable law; and
 - (d) the facility is not vulnerable to flood or high water events capable of compromising the facility's inlet or outlet screens and allowing escapement of privately owned fish into waters of the state.
- (3) Any authorization issued by the Division of Wildlife Resources under Subsection (2) shall be in the form of a certificate of registration.

Amended by Chapter 34, 2023 General Session

4-37-112 Screens.

- (1) Each aquaculture and fee fishing facility shall be equipped with screening or another device to prevent the movement of fish into or out of the facility.
- (2) The department may conduct site inspections to assure compliance with Subsection (1).

Enacted by Chapter 153, 1994 General Session