

AQUACULTURE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill modifies provisions regarding aquaculture.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ creates the Private Aquaculture Advisory Council;
- ▶ states that the Department of Agriculture and Food shall consider the recommendations of the Private Aquaculture Advisory Council when adopting rules;
- ▶ modifies the documentation requirements for a transfer or shipment of live aquatic animals;
- ▶ states that the Division of Wildlife Resources may authorize:
 - an aquaculture facility, public aquaculture facility, or fee fishing facility upon a natural lake or reservoir constructed on a natural stream channel under certain circumstances; and
 - a private fish pond on a natural lake or reservoir constructed on a natural stream channel under certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-37-103, as last amended by Laws of Utah 2008, Chapter 69

4-37-109, as last amended by Laws of Utah 2010, Chapter 378

4-37-111, as enacted by Laws of Utah 1994, Chapter 153

4-37-203, as last amended by Laws of Utah 2010, Chapter 378

4-37-204, as last amended by Laws of Utah 2010, Chapter 378

23-13-2, as last amended by Laws of Utah 2011, Chapter 297

23-14-3, as last amended by Laws of Utah 1995, Chapter 211

23-15-10, as last amended by Laws of Utah 2008, Chapter 69

ENACTS:

23-14-2.8, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-37-103** is amended to read:

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) "Aquatic wildlife" means the same as that term is defined in Section [23-13-2](#).

59 ~~[(4)]~~ (5) "Fee fishing facility" means a body of water used for holding or rearing fish
60 for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.

61 (6) "Natural flowing stream" means the same as that term is defined in Section
62 23-13-2.

63 (7) "Natural lake" means the same as that term is defined in Section 23-13-2.

64 ~~[(5)]~~ (8) (a) "Private fish pond" means a body of water where privately owned fish are
65 propagated or kept for a noncommercial purpose.

66 (b) "Private fish pond" does not include any aquaculture facility ~~[or]~~, fee fishing
67 facility~~[-]~~, or short-term fishing event.

68 ~~[(6)]~~ (9) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream
69 reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S.
70 Fish and Wildlife Service, or an institution of higher education.

71 ~~[(7)]~~ (10) "Public fishery resource" means fish produced in public aquaculture facilities
72 and wild and free ranging populations of fish in the surface waters of the state.

73 (11) "Reservoir constructed on a natural stream channel" means the same as that term
74 is defined in Section 23-13-2.

75 (12) "Short-term fishing event" means the same as that term is defined in Section
76 23-13-2.

77 Section 2. Section **4-37-109** is amended to read:

78 **4-37-109. Department to make rules.**

79 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
80 Administrative Rulemaking Act:

81 (a) specifying procedures for the application and renewal of certificates of registration
82 for operating an aquaculture or fee fishing facility; and

83 (b) governing the disposal or removal of aquatic animals from an aquaculture or fee
84 fishing facility for which the certificate of registration has lapsed or been revoked.

85 (2) (a) The department may make other rules consistent with its responsibilities set
86 forth in Section **4-37-104**.

87 (b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall
88 be consistent with the suggested procedures for the detection and identification of pathogens
89 published by the American Fisheries Society's Fish Health Section.

(3) (a) The department shall consider the recommendations of the Private Aquaculture Advisory Council established in Section 23-14-2.8 when adopting rules under Subsection (1).

(b) If the Private Aquaculture Advisory Council recommends a position or action to the department pursuant to Section 23-14-2.8 and the department rejects the recommendation, the department shall provide a written explanation to the council.

Section 3. Section **4-37-111** is amended to read:

4-37-111. Prohibited sites.

~~[Aquaculture and fee fishing facilities]~~ (1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility may not be developed on:

~~[(1)]~~ (a) a natural ~~[lakes]~~ lake;

~~[(2)]~~ (b) a natural flowing ~~[streams]~~ stream; or

~~[(3) reservoirs]~~ (c) a reservoir constructed on a natural stream ~~[channels]~~ 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 23-15-10(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.

Section 4. Section **4-37-203** is amended to read:

4-37-203. Transportation of aquatic animals to or from aquaculture facilities.

(1) Any person holding a certificate of registration for an aquaculture facility may transport the live aquatic animals specified on the certificate of registration to the facility or to

any person who has been issued a certificate of registration or who is otherwise authorized by law to possess those aquatic animals.

(2) Each transfer or shipment of live aquatic animals from or to an aquaculture facility within the state shall be accompanied by documentation of the source and destination of the fish, including:

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

(b) number and weight being shipped, by species; ~~and~~

(c) ~~[name, address, and certificate of registration number]~~ name of the recipient;

(d) address of the destination[-]; and

(e) (i) certificate of registration number of the receiving facility; or

(ii) location of the private fish pond or short-term fishing event when authorized to receive the aquatic animal without a certificate of registration under Division of Wildlife Resources rules.

Section 5. Section **4-37-204** is amended to read:

4-37-204. Sale of aquatic animals from aquaculture facilities.

(1) (a) Except as provided by Subsection (1)(b), a person holding a certificate of registration for an aquaculture facility may take an aquatic animal as approved on the certificate of registration from the facility at any time and offer the aquatic animal for sale; however, live aquatic animals may be sold within Utah only to a person who:

(i) has been issued a certificate of registration to possess the aquatic animal[-]; or

(ii) is eligible to receive the aquatic animal without a certificate of registration under Division of Wildlife Resources rules.

(b) A person who owns or operates an aquaculture facility may stock a live aquatic animal in a private fish pond or at a short-term fishing event if the person:

(i) obtains a health approval number for the aquaculture facility;

(ii) provides the ~~[private fish pond's owner]~~ buyer with a brochure published by the Division of Wildlife Resources that summarizes the statutes and rules related to a private fish pond or short-term fishing event and the possession of an aquatic animal;

(iii) inspects the ~~[private fish]~~ pond or holding facility to verify that the ~~[private fish]~~ pond or facility is in compliance with Subsections **23-15-10**(2) and (3)(c); and

(iv) stocks the species, strain, and reproductive capability of aquatic animal authorized by the Wildlife Board in accordance with Section 23-15-10 for stocking in the area where the ~~[private fish]~~ pond or holding facility is located.

(2) An aquatic animal sold or transferred by the owner or operator of an aquaculture facility shall be accompanied by the seller's receipt that contains the following information:

(a) date of transaction;

(b) name, address, certificate of registration number, health approval number, and signature of seller;

(c) number and weight of aquatic animal by:

(i) species;

(ii) strain; and

(iii) reproductive capability; and

(d) name and address of the receiver.

(3) (a) A person holding a certificate of registration for an aquaculture facility shall submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals to:

(i) another aquaculture facility; or

(ii) a fee fishing facility.

(b) The report shall contain the following information:

(i) name, address, and certificate of registration number of the seller or supplier;

(ii) number and weight by species;

(iii) date of sale or transfer; and

(iv) name, address, phone number, and certificate of registration number of the receiver.

(4) (a) A person who owns or operates an aquaculture facility shall submit to the Division of Wildlife Resources an annual report of each sale or transfer of a live aquatic animal to a private fish pond or short-term fishing event.

(b) The report shall contain:

(i) the name, address, and health approval number of the person;

(ii) the name, address, and phone number of the private fish pond's owner or short-term fishing event's operator;

(iii) the number and weight of aquatic animal by:

(A) species;

(B) strain; and

(C) reproductive capability;

(iv) date of sale or transfer;

(v) the location of the private fish pond's [location] or short-term fishing event's holding facility; and

(vi) verification that the private fish pond or short-term fishing event's holding facility was inspected and is in compliance with Subsections 23-15-10(2) and (3)(c).

(5) The reports required by Subsections (3) and (4) shall be submitted before:

(a) a certificate of registration is renewed or a subsequent certificate of registration is issued for an aquaculture facility in the state; or

(b) a health approval number is issued for an out-of-state source.

Section 6. Section 23-13-2 is amended to read:

23-13-2. Definitions.

As used in this title:

(1) "Activity regulated under this title" means any act, attempted act, or activity prohibited or regulated under any provision of Title 23, Wildlife Resources Code of Utah, or the rules, and proclamations promulgated thereunder pertaining to protected wildlife including:

(a) fishing;

(b) hunting;

(c) trapping;

(d) taking;

(e) permitting any dog, falcon, or other domesticated animal to take;

(f) transporting;

(g) possessing;

(h) selling;

(i) wasting;

(j) importing;

(k) exporting;

(l) rearing;

(m) keeping;

(n) utilizing as a commercial venture; and

(o) releasing to the wild.

~~[(4)]~~ (2) "Aquaculture facility" ~~[has the meaning provided]~~ means the same as that term is defined in Section 4-37-103.

~~[(2)]~~ (3) "Aquatic animal" ~~[has the meaning provided]~~ means the same as that term is defined in Section 4-37-103.

~~[(3)]~~ (4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or its parts.

(8) "Certificate of registration" means a document issued under this title, or any rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

(10) "Conservation officer" means a full-time, permanent employee of the Division of Wildlife Resources who is POST certified as a peace or a special function officer.

(11) "Dedicated hunter program" means a program that provides:

(a) expanded hunting opportunities;

(b) opportunities to participate in projects that are beneficial to wildlife; and

(c) education in hunter ethics and wildlife management principles.

(12) "Division" means the Division of Wildlife Resources.

(13) (a) "Domicile" means the place:

(i) where an individual has a fixed permanent home and principal establishment;

(ii) to which the individual if absent, intends to return; and

(iii) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) To create a new domicile an individual shall:

(i) abandon the old domicile; and

(ii) be able to prove that a new domicile has been established.

(14) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(15) "Fee fishing facility" [~~has the meaning provided~~] means the same as that term is defined in Section 4-37-103.

(16) "Feral" means an animal that is normally domesticated but has reverted to the wild.

(17) "Fishing" means to take fish or crayfish by any means.

(18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

(19) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

(20) "Guide" means a person who receives compensation or advertises services for assisting another person to take protected wildlife, including the provision of food, shelter, or transportation, or any combination of these.

(21) "Guide's agent" means a person who is employed by a guide to assist another person to take protected wildlife.

(22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

(23) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

(24) (a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use

pursuant to a certificated water right.

(25) (a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where all surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

~~[(24)]~~ (26) "Nonresident" means a person who does not qualify as a resident.

~~[(25)]~~ (27) "Open season" means the period of time during which protected wildlife may be legally taken.

~~[(26)]~~ (28) "Pecuniary gain" means the acquisition of money or something of monetary value.

~~[(27)]~~ (29) "Permit" means a document, including a stamp, that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

~~[(28)]~~ (30) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the foregoing.

~~[(29)]~~ (31) "Possession" means actual or constructive possession.

~~[(30)]~~ (32) "Possession limit" means the number of bag limits one individual may legally possess.

~~[(31)]~~ (33) (a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned protected aquatic wildlife fish:

(i) are propagated or kept for a private noncommercial purpose; and

(ii) may be taken without a fishing license.

(b) "Private fish pond" does not include an aquaculture facility ~~[or]~~, fee fishing facility, or short-term fishing event.

(34) (a) "Private stocking" means an authorized, noncommercial release of privately owned, live fish in the waters of the state not eligible as a private fish pond under Section [23-15-10](#) or aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

(b) Fish released under private stocking become the property of the state and subject to the fishing regulations set forth in this title and the rules and proclamations of the Wildlife Board.

307 ~~[(32)]~~ (35) "Private wildlife farm" means an enclosed place where privately owned
308 birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

- 309 (a) commingling with wild birds or furbearers; and
310 (b) escaping into the wild.

311 ~~[(33)]~~ (36) "Proclamation" means the publication used to convey a statute, rule, policy,
312 or pertinent information as it relates to wildlife.

313 ~~[(34)]~~ (37) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in
314 Subsection (3), except as provided in Subsection ~~[(34)]~~ (37)(b).

- 315 (b) "Protected aquatic wildlife" does not include aquatic insects.

316 ~~[(35)]~~ (38) (a) "Protected wildlife" means wildlife as defined in Subsection ~~[(49)]~~ (54),
317 except as provided in Subsection ~~[(35)]~~ (38)(b).

318 (b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel,
319 jack rabbit, muskrat, and raccoon.

320 ~~[(36)]~~ (39) "Released to the wild" means to be turned loose from confinement.

321 (40) (a) "Reservoir constructed on a natural stream channel" means a body of water
322 collected and stored on the course of a natural flowing stream by impounding the stream
323 through excavation or diking.

324 (b) "Reservoir constructed on a natural stream channel" does not mean an
325 impoundment on a natural flowing stream where all surface water sources supplying the
326 impoundment originate from groundwater springs no more than 100 yards upstream.

327 ~~[(37)]~~ (41) (a) "Resident" means a person who:

328 (i) has been domiciled in the state for six consecutive months immediately preceding
329 the purchase of a license; and

330 (ii) does not claim residency for hunting, fishing, or trapping in any other state or
331 country.

332 (b) A Utah resident retains Utah residency if that person leaves this state:

333 (i) to serve in the armed forces of the United States or for religious or educational
334 purposes; and

335 (ii) the person complies with Subsection ~~[(37)]~~ (41)(a)(ii).

336 (c) (i) A member of the armed forces of the United States and dependents are residents
337 for the purposes of this chapter as of the date the member reports for duty under assigned

orders in the state if the member:

(A) is not on temporary duty in this state; and

(B) complies with Subsection [~~(37)~~] (41)(a)(ii).

(ii) A copy of the assignment orders shall be presented to a wildlife division office to verify the member's qualification as a resident.

(d) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:

(i) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and

(ii) complies with Subsection [~~(37)~~] (41)(a)(ii).

(e) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.

(f) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

[~~(38)~~] (42) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

(43) (a) "Short-term fishing event" means any event where privately acquired fish are held or confined for a period not to exceed 14 days for the purpose of providing fishing or recreational opportunity and where no fee is charged as a requirement to fish.

(b) A fishing license is not required to take fish at a short-term fishing event.

[~~(39)~~] (44) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes; and

(b) not classified as big game, aquatic wildlife, or furbearers and excluding turkey, cougar, and bear.

[~~(40)~~] (45) "Spoiled" means impairment of the flesh of wildlife which renders it unfit for human consumption.

[~~(41)~~] (46) "Spotlighting" means throwing or casting the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

[~~(42)~~] (47) "Tag" means a card, label, or other identification device issued for attachment to the carcass of protected wildlife.

[~~(43)~~] (48) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected wildlife; or

(b) attempt any action referred to in Subsection [~~(43)~~] (48)(a).

[~~(44)~~] (49) "Threatened" means wildlife designated as such pursuant to Section 3 of the federal Endangered Species Act of 1973.

[~~(45)~~] (50) "Trapping" means taking protected wildlife with a trapping device.

[~~(46)~~] (51) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat - a male or female;

(f) pronghorn antelope - a buck with horns exceeding 14 inches; or

(g) bison - a bull.

[~~(47)~~] (52) "Waste" means to abandon protected wildlife or to allow protected wildlife to spoil or to be used in a manner not normally associated with its beneficial use.

[~~(48)~~] (53) "Water pollution" means the introduction of matter or thermal energy to waters within this state that:

(a) exceeds state water quality standards; or

(b) could be harmful to protected wildlife.

[~~(49)~~] (54) "Wildlife" means:

(a) crustaceans, including brine shrimp and crayfish;

(b) mollusks; and

(c) vertebrate animals living in nature, except feral animals.

Section 7. Section **23-14-2.8** is enacted to read:

23-14-2.8. Private Aquaculture Advisory Council.

(1) The executive director of the department may establish a Private Aquaculture Advisory Council to give advice and make recommendations to the:

(a) commissioner of the Department of Agriculture and Food on rules adopted under Subsection 4-37-109(1); and

(b) Wildlife Board on rules adopted concerning the regulation of:

(i) private fish ponds;

(ii) private stocking;

(iii) short-term fishing events; and

(iv) aquatic animal species authorized for importation or use in aquaculture facilities, fee fishing facilities, private fish ponds, short-term fishing events, and private stocking.

(2) The advisory council shall consist of 10 members appointed to four-year terms by the executive director of the department, in consultation with the commissioner of the Department of Agriculture and Food and the director of the division, as follows:

(a) two members representing the division selected from four or more names submitted by the director of the division;

(b) two members representing the Department of Agriculture and Food selected from four or more names submitted by the commissioner of the Department of Agriculture and Food;

(c) one member representing angling interests selected from two or more names submitted by a nonprofit corporation that promotes sport fishing;

(d) two members representing the private aquaculture industry selected from four or more names submitted by a nonprofit corporation that promotes the aquaculture industry; and

(e) three members representing private ponds or fee fishing facilities selected from six or more names submitted by a nonprofit corporation that promotes the aquaculture industry.

(3) Notwithstanding the requirements of Subsection (2), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of advisory council members are staggered so that approximately half of the advisory council is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) Six members of the advisory council shall constitute a quorum.

(b) A quorum is necessary for the advisory council to act.

(c) Advisory council recommendations to the commissioner and Wildlife Board pursuant to Subsection (1) shall be supported by majority vote.

(d) The advisory council shall elect a chair and vice chair from the advisory council's

membership.

(e) The advisory council shall determine:

(i) the time and place of meetings, not to exceed four meetings per calendar year; and

(ii) other procedural matters not specified in this Subsection (5).

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 8. Section 23-14-3 is amended to read:

23-14-3. Powers of division to determine facts -- Policymaking powers of Wildlife Board.

(1) The Division of Wildlife Resources may determine the facts relevant to the wildlife resources of this state.

(2) (a) Upon a determination of these facts, the Wildlife Board shall establish the policies best designed to accomplish the purposes and fulfill the intent of all laws pertaining to wildlife and the preservation, protection, conservation, perpetuation, introduction, and management of wildlife.

(b) In establishing policy, the Wildlife Board shall:

(i) recognize that wildlife and its habitat are an essential part of a healthy, productive environment;

(ii) recognize the impact of wildlife on man, his economic activities, private property rights, and local economies;

(iii) seek to balance the habitat requirements of wildlife with the social and economic activities of man;

(iv) recognize the social and economic values of wildlife, including fishing, hunting, and other uses; and

(v) seek to maintain wildlife on a sustainable basis.

(c) (i) The Wildlife Board shall consider the recommendations of the regional advisory councils established in Section 23-14-2.6 and the Private Aquaculture Advisory Council

established in Section 23-14-2.8.

(ii) If a regional advisory council or the Private Aquaculture Advisory Council recommends a position or action to the Wildlife Board, and the Wildlife Board rejects the recommendation, the Wildlife Board shall provide a written explanation to the ~~[regional]~~ advisory council recommending the opposing position.

(3) No authority conferred upon the Wildlife Board by this title shall supersede the administrative authority of the executive director of the Department of Natural Resources or the director of the Division of Wildlife Resources.

Section 9. Section **23-15-10** is amended to read:

23-15-10. Private fish pond.

(1) A private fish pond is not required to obtain a certificate of registration from the division to receive ~~[an aquatic animal]~~ fish from an aquaculture facility~~[-]~~ if:

(a) the pond is properly screened as provided in Subsection (3)(c); and

(b) the fish species being stocked is authorized by this chapter or rules of the Wildlife Board.

(2) ~~(a) [A]~~ Except as provided in Subsection (2)(b), a private fish pond or a short-term fishing event may not be developed or held on:

~~[(a)]~~ (i) a natural lake;

~~[(b)]~~ (ii) a natural flowing stream; or

~~[(c)]~~ (iii) a reservoir constructed on a natural stream channel.

(b) The division may authorize a private fish pond on a natural lake or reservoir constructed on a natural stream channel upon inspecting and determining:

(i) the pond and inlet source of the pond neither contain wild game fish nor are likely to support such species in the future;

(ii) the pond and the pond's intended use will not jeopardize conservation of aquatic wildlife populations or lead to the privatization or commercialization of aquatic wildlife;

(iii) the pond is properly screened as provided in Subsection (3)(c) and otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and applicable law; and

(iv) the pond is not vulnerable to flood or high water events capable of compromising the pond's inlet or outlet screens allowing escapement of privately owned fish into waters of the

state.

(c) Any authorization issued by the division under Subsection (2)(b) shall be in the form of a certificate of registration.

(3) A person who owns or operates a private fish pond may receive ~~[an aquatic animal]~~ a fish from an aquaculture facility if:

(a) the aquaculture facility has a health approval number required by Section 4-37-501;

(b) the species, strain, and reproductive capability of the ~~[aquatic animal]~~ fish is authorized by the Wildlife Board in accordance with Subsection (4) for stocking in the area where the private fish pond is located;

(c) the private fish pond is screened in accordance with the Wildlife Board's rule to prevent ~~[an aquatic animal]~~ the fish from moving into or out of the private fish pond;

(d) the ~~[aquatic animal]~~ fish is not:

(i) released from the private fish pond; or

(ii) transported live to another location; and

(e) the person provides the aquaculture facility with a signed statement that the private fish pond is in compliance with this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules that:

(a) specify the screen requirements to prevent the movement of ~~[an aquatic animal]~~ fish into or out of the private fish pond;

(b) specify the ~~[aquatic animal]~~ fish species that may not be stocked in a private fish pond located in the state; ~~[and]~~

(c) establish a location or region where a specified species, strain, and reproductive capability of ~~[aquatic animal]~~ fish may be stocked in a private fish pond~~[-]; and~~

(d) specify procedures and requirements for authorizing development of a private fish pond, fee fishing facility, or aquaculture facility on a natural lake, natural flowing stream, or reservoir on a natural stream channel pursuant to Subsection (2) and Section 4-37-111.

(5) The division may inspect a private fish pond to verify compliance with this section and rules of the Wildlife Board.

Legislative Review Note
Office of Legislative Research and General Counsel