

## CHAPTER 49

### PRIVATE STOCKING OF COLD-BLOODED WILDLIFE

**Section 1. Authority.** These regulations are promulgated by authority of Wyoming Statutes §23-1-102(a)(xiv), §23-1-103, §23-1-302, §23-4-101, §23-4-102 and §23-6-207.

**Section 2. Definitions.** Definitions shall be as set forth in Title 23, Wyoming Statutes, Commission regulations, and the Commission also adopts the following definitions:

(a) “Broker” means an individual or entity that acts as an intermediary between the hatchery of origin and the applicant listed on the private fish stocking authorization.

(b) “Brokerage Receipt” means the receipt that was provided to a broker by the Wyoming Game and Fish Department (Department) for completion and signature by the owner or authorized agent of the Department approved private fish hatchery upon transfer of fish to the broker.

(c) “Drainage” means the river or stream proper and the area of land, including all streams and standing waters, which drain into that river or stream. For the purpose of this regulation, drainage shall be defined at the eight digit hydrologic unit code (8-digit HUC).

(d) “Environmental Assessment” means identification and analysis of potential effects on wildlife resources as defined by the Department.

(e) “Fish Stocking” means the release of fish, fish eggs or fish gametes into the waters of this state.

(f) “Koi” means all ornamental varieties of *Cyprinus rubrofuscus*; ornamental varieties of domesticated carp sometimes identified as *C. carpio*.

(g) “Stocking Receipt” means the private fish stocking authorization receipt that was provided to the private fish hatchery owner by the Department with the private fish stocking authorization upon approval of the private fish stocking application or application renewal.

(h) “Transgenic” means an organism that contains genetic material into which DNA from an unrelated organism has been artificially introduced and shall not include hybrids of tropical, coldwater, coolwater or warmwater fish species as defined in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

### **Section 3. Stocking Restrictions.**

(a) The stocking of amphibians, reptiles, mollusks, crustaceans, their viable gametes (eggs and sperm), fertilized eggs, or any hybrid into the waters of this state is prohibited in

Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife unless authorized in writing by the Chief of Fisheries.

(b) The possession or stocking of transgenic cold-blooded wildlife is prohibited.

(c) No aquatic invasive species or fish that are determined by the Department to pose a threat to existing wildlife populations shall be authorized for stocking.

(d) Live amphibians and reptiles shall not be placed in ornamental ponds (as defined in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife), except that legally obtained aquatic turtles may be held in ornamental ponds that have been constructed or fenced to prevent escape, but shall also require an importation/possession permit per Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

(e) Mollusks and crustaceans shall not be placed in ornamental ponds per Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

**Section 4. Application for Authorization to Stock Fish.** No fish, fish eggs or fish gametes shall be stocked in the waters of this state unless authorized in accordance with this regulation.

(a) Any person intending to acquire fish for stocking waters on privately owned lands shall submit an application for Private Fish Stocking Authorization on forms provided by the Department to the Chief of Fisheries at least ten (10) business days before the intended stocking date, unless otherwise specified in this regulation. A separate application is required for each body of water or stream for which fish stocking authorization is requested and for each time stocking is to occur.

(b) Any person wishing to stock marine fish, tropical fish, Goldfish (*Carassius auratus*) or koi into ornamental ponds (as defined in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife) is exempted from the private fish stocking authorization requirements of this section. Application for authorization is not required. Those fish shall not be released or allowed to escape into the waters of this state.

(i) Stocking any other nongame fish (as defined in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife) into ornamental ponds is subject to all of the requirements of this regulation and requires an importation/possession permit in accordance with Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife.

(ii) Stocking of game fish in ornamental ponds shall be restricted to coldwater, coolwater and warmwater fish (as defined in Commission Regulation Chapter 51, Private Fish Hatcheries) in accordance with Section 6 of this regulation and is subject to all other requirements of this regulation and requirements described in Commission Regulation Chapter

69, Importation and Possession of Live Cold-Blooded Wildlife.

- (c) The Department may deny an application for private fish stocking if;
  - (i) Information is falsified on the application;
  - (ii) The application is not filled out completely, correctly and legibly;
  - (iii) The private fish hatchery listed on the application is not designated a Department approved private fish hatchery as defined in Commission Regulation Chapter 51, Private Fish Hatcheries;
  - (iv) The fish requested do not meet the requirements of Section 6 of this regulation;
  - (v) The application is to stock game fish in a stream that has been documented by the Department to support naturally reproducing game fish populations; or,
  - (vi) The Department determines that the species requested may threaten native species due to predation, hybridization or competition or otherwise conflicts with Department management goals for the drainage.

**Section 5. Terms of Authorization.**

- (a) Upon approval, the applicant shall ensure that stocking of the authorized stocking site is completed prior to the end of the calendar year as indicated on the Private Fish Stocking Authorization.
- (b) The water to be stocked, species, numbers and source for stocking shall not deviate from the private fish stocking authorization except that the number of fish to be stocked may exceed the authorized number by a maximum of twenty-five percent (25%).
- (c) If any changes to an authorization are desired, a request for an amended private fish stocking authorization shall be submitted to the Chief of Fisheries for approval. Upon approval, the original authorization shall be void.
- (d) Failure to comply with any portion of this regulation may result in denial of future private fish stocking in Wyoming.

**Section 6. Types of Fish Stocking.** Unless otherwise specified in this section, only fish originating from a Department approved private fish hatchery, as defined in Commission Regulation Chapter 51, Private Fish Hatcheries, shall be approved for stocking. A list of Department approved private fish hatcheries is available from the Department.

- (a) Game Fish Stocking. The only game fish that may be approved for private fish

stocking shall be coldwater, coolwater, or warmwater fish species as defined in Commission Regulation Chapter 51, Private Fish Hatcheries.

(b) Nongame Fish Stocking.

(i) Vegetation Control. Only Grass Carp (*Ctenopharygodon idella*) shall be authorized for stocking to control aquatic vegetation. Any person intending to acquire Grass Carp for stocking waters on privately owned lands shall submit a Grass Carp stocking application on a form provided by the Department to the Chief of Fisheries at least thirty (30) days before the intended stocking date.

(A) Stocking of grass carp in any canal, stream, river or water impounded by the damming of any natural stream is prohibited. Applications to stock Grass Carp shall be considered only for lakes or ponds that meet the following escape prevention criteria:

(I) The lakes or ponds must be contained entirely within privately owned lands which derive their source of water from surface runoff, natural springs, wells or waters lawfully diverted from a natural stream;

(II) The lakes or ponds will not be inundated by a 100 year flood on any adjacent stream or river or have been adequately bermed to prevent inundation by a 100 year flood event; and,

(III) All lake or pond inflows and outflows have been adequately screened to prevent escape of Grass Carp.

(B) The Grass Carp stocking application shall be completed fully and shall include:

(I) Water name, location (UTM or latitude and longitude), surface area and average depth;

(II) A detailed drawing or schematic of the water to be stocked that includes inflow and outflow location(s) and approximate locations of problem vegetation;

(III) Map(s) of the 100 year flood plain of adjacent streams or rivers from the Federal Emergency Management Agency, county or a professional engineer that include the water proposed for stocking;

(IV) If the lake or pond is within the 100 year flood plain of any stream or river, the application shall also include detailed plans for berming that would prevent inundation of the water by a 100 year flood event from a professional engineer; and,

(V) A detailed description of how the inflow(s) and outflow(s) will be screened to prevent escape of Grass Carp.

(C) A Grass Carp stocking application may be denied if the Department determines that one (1) or more of the escape prevention criteria has not been met.

(D) Upon Department approval of a Grass Carp stocking application and the completion of proposed berming and screening at the applicant's expense, the applicant shall request a Department inspection of the lakes or ponds proposed for stocking at least fifteen (15) business days before the intended inspection date.

(E) Following Department inspection and receipt of written Department approval of escape prevention measures from the Chief of Fisheries, the applicant shall submit an application for private fish stocking authorization in accordance with Section 4 of this regulation.

(F) Only Grass Carp that are from a Department approved private fish hatchery and Coulter counter certified triploid by the U.S. Fish and Wildlife Service may be authorized for stocking to control aquatic vegetation.

(G) Grass Carp must be obtained directly from a Department approved private fish hatchery that produced the fish and shall not be obtained from a broker.

(ii) Mosquito control. Only Fathead Minnow (*Pimephales promelas*) shall be considered for authorization statewide for stocking to control mosquitoes. Plains Topminnow (*fundulus sciadicus*), Northern Plains Killifish (*Fundulus kansae*) or Plains Killifish (*Fundulus zebrinus*) shall require a permit per Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife. Western Mosquitofish (*Gambusia affinis*) shall not be approved for mosquito control.

(iii) Fish forage. Only warmwater fish species, as defined in Commission Regulation Chapter 51, Private Fish Hatcheries, that are available from a Department approved private fish hatchery may be approved for forage fish stocking.

(c) Tagged fish stocking. No person shall tag or mark fish and release them into the waters of this state without prior written approval from the Department per Commission Regulation Chapter 46, Fishing Regulations.

**Section 7. Species New to a Drainage.** If an applicant for a private fish stocking authorization requests to stock a fish species not already existing in a drainage, the applicant shall prepare and submit an environmental assessment as defined by the Department at the expense of the applicant. The Department shall review the environmental assessment and private fish stocking authorization application for final approval or denial.

**Section 8. Requesting an Appeal to a Department Decision.** The applicant for a Grass Carp stocking application or a private fish stocking authorization application or amendment may appeal any Department decision made under the authority of this regulation by submitting a written request to the Chief of Fisheries at Department headquarters for

reconsideration within thirty (30) consecutive days from the date of receipt of their denial letter. If an applicant fails to request an appeal within thirty (30) consecutive days from the date they received notification that a stocking application or amendment has been denied, the applicant shall waive their ability to make any future appeal request regarding the denied stocking authorization. Appeals shall be conducted in accordance with the Department Decision Appeals Process described in Commission Regulation Chapter 51, Private Fish Hatcheries.

**Section 9. Transportation of Fish.** Transportation of live fish shall be in accordance with Commission Regulation Chapter 51, Private Fish Hatcheries. Persons Transporting Goldfish (*Carassius auratus*) or koi for stocking into ornamental ponds (as defined in Commission Regulation Chapter 69, Importation and Possession of Live Cold-Blooded Wildlife) are exempted from the placarding requirements of that regulation.

**Section 10. Records.** Upon completion of fish stocking under a Private Fish Stocking Authorization, the owner or authorized agent of the Department approved private fish hatchery or broker shall immediately complete the stocking receipt. The stocking receipt shall be legible, shall include the date stocked, species stocked, lengths of fish stocked, number stocked, and shall be signed and dated. Upon signature, the stocking receipt shall serve as affirmation from the private fish hatchery or broker that fish have been stocked in accordance with the approved private fish stocking authorization and that the stocking receipt is an accurate record of the fish stocking event. The Department approved private fish hatchery owner, authorized agent or broker shall submit a copy of the completed and signed stocking receipt to the applicant and submit the original completed and signed receipt to the Chief of Fisheries within fifteen (15) days after stocking. An incomplete or illegible stocking receipt will not be accepted by the Department.

(a) In the event that a broker is authorized to transport or stock the fish, the broker shall have the owner or authorized agent of the Department approved private fish hatchery that is providing the fish complete the brokerage receipt. The receipt shall be legible and shall include the date of transfer, species, lengths of fish, numbers of fish transferred and the signature of the private fish hatchery owner or authorized agent. The broker shall submit the completed brokerage receipt to the Chief of Fisheries within fifteen (15) days of the stocking event. An incomplete or illegible receipt will not be accepted by the Department.

(b) Following the stocking of Grass Carp, the applicant shall submit the U.S. Fish and Wildlife Service Grass Carp Ploidy Release Authorization to the Chief of Fisheries within fifteen (15) days of the stocking event.

**Section 11. Removal of Unauthorized Species.** Unauthorized stocking of cold-blooded wildlife may require removal of said species or complete depopulation within a time frame and method determined by the Department at the expense of the private fish stocking applicant.

**Section 12. Effective Date.** These regulations are effective January 1, 2023 and shall remain in effect until modified or rescinded by the Commission.

WYOMING GAME AND FISH COMMISSION

By: \_\_\_\_\_  
Kenneth Roberts, President

Dated: July 19, 2022