

STATEMENT OF REASONS

WYOMING GAME AND FISH COMMISSION

CHAPTER 69

IMPORTATION AND POSSESSION OF LIVE COLD BLOODED WILDLIFE

This is a new chapter, created from Chapter 10, Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife. That chapter was split into two separate chapters, one to address warm blooded wildlife and another to deal with cold blooded wildlife. All content related to cold blooded wildlife and content that applies to all animals was included in this cold blooded chapter. Substantial effort was made to reorganize content from the previous chapter 10 into a more understandable format. Concurrently, we also revised Chapter 51, Private Fish Hatcheries and Chapter 49, Private Stocking of Cold Blooded Wildlife. We moved content between this chapter and those two chapters to the most appropriate chapter while also reducing redundancy. There were many fish health and fish hatchery regulations in Chapter 10 that we moved into Chapter 51. Because this is a new chapter we did not track changes but did try to provide comments to point out substantial changes from the previous version of Chapter 10.

Section 2 Definitions.

- 2(a). New definition of “Aquaria” from that has been in Chapter 52. Included it here due to the importance to several aspects of this regulation.
- 2(b). Shortened definition of “Certificate of Veterinary Inspection” from Ch 10. Took out things that are already required to be in a CVI. Since these come from other states we have limited authority to dictate the contents.
- 2(c). New definition of “Cold Blooded Wildlife” so it is clear which animals are impacted by this regulation.
- 2(e). Revised definition of “Drainage” to clarify the scale at which drainage is defined using a commonly known metric. There are approximately 80 eight-digit HUC watersheds in Wyoming. The average size is approximately 1,200 square miles. We used this definition in Chapters 49 and 69
- 2(f). Revised definition of “Holding Facility(ies)” to focus on cold blooded wildlife. It is a broad definition that includes a number of other types of facilities that are also defined terms in regulation; aquaculture facility, private fish hatchery, aquaria, and ornamental pond.
- 2(j). New definition of “Interstate Transportation Permit” to clarify this permit is issued under this regulation.
- 2(l). New definition of “Nongame Fish” to clarify which groups of fishes are considered “nongame” in Department regulations. The term is currently defined in Commission Regulation Chapter 46, Fishing Regulations. The new definition here does not contradict, but rather, clarifies that definition (e.g., Striped Bass and Lake Sturgeon;

game fish in many states, are considered nongame fish in WY). The definition of “nongame fish” will be removed from Chapter 46 when it is revised for 2024.

- 2(m). New definition of “Ornamental Fish” to describe fish that are reared or marketed primarily for use in hobby aquaria.
- 2(o). Definition of “Possess/possession” was revised to use language adopted by the 10th Circuit Court of Appeals.
- 2(p). Definition of “Quarantine” was shortened from chapter 10.
- 2(q). Definition of “Tropical Fish” revised from Chapter 10 to clarify that Tilapia and relatives are considered tropical fish.

Section 3 Disposition of Cold Blooded Wildlife was formerly Section 7 of Chapter 10. There were no substantive changes.

Section 4 Illegal Importation or Possession was formerly Section 18 Illegal Entry from Another Jurisdiction. Title changed to broaden and account for animals obtained illegally within the state.

- 4(b). New provision to clarify disposition of illegally held wildlife. This concept appeared in several places in chapter 10.

Section 5 Government Entities or Institutions of Higher Education is a new section. There was no substantive change to content previously in Section 3 (d) (iii) of Chapter 10.

Section 6 Commercial Use is a new section. Commercial use requirements that were previously scattered throughout chapter 10 were consolidated here. We attempted to clarify that not all cold blooded wildlife have restrictions on commercial use. Given their wide spread use in the pet trade we focused on uses that pose a threat to Wyoming’s wildlife, and did not want to attempt to regulate the pet trade unless necessary.

- 6(a). Describe the wildlife (prohibited wildlife and sensitive native species) that cannot be used commercially
 - 6(a)(i). We do not want to allow commercial use of the most ecologically dangerous animals.
 - 6(a)(ii). The animals protected in Chapter 52 are sensitive and should not be used commercially.
 - 6(a)(iii). The use of herptiles as fishing bait is not legal in Chapter 46 so we should not allow commercial use for that purpose.
- 6(b). Describe the animals that can be used commercially but do require a permit.
 - 6(b)(i). There is increasing concern over the number of potentially deadly reptiles and amphibians kept as pets in Wyoming and the danger the public faces when these species escape, especially in urban areas. Knowledge of the number, species, and responsible parties is essential to evaluating and mitigating risk to the public. Previously regulated in Ch 10 section 3 (c) which allowed possession without a permit if captured in the state of Wyoming and required a permit for importation. This would help protect native snakes from over exploitation.
 - 6(b)(ii). Native amphibian and reptile populations should be protected.
 - 6(b)(iii). Mollusk and crustacean populations could be negatively impacted from over harvest.
 - 6(b)(v). These are not the fish that are typically sold at pet stores and have the potential to negatively impact wild populations.

- 6(c). These animals that can be used commercially and do not require a permit.
 - 6(c)(i) and (ii). Clarify that a chapter 69 permit is not required for these fish since they are regulated in Chapters 49 and 51 and we do not need redundant permitting.
 - 6(c)(iii). We do not want to require permits for marine fish, tropical fish, goldfish and koi when they are confined to aquaria or ornamental ponds.
 - 6(c)(iv). We do not want to require permits for herptiles that are imported or possessed for the pet trade.
 - 6(c)(iv). We do not want to require permits for the importation of crayfish for food.

Section 7 Transportation of Live Cold Blooded Wildlife is a new section. It consolidates interstate transportation content that was included in sections 3, 4 and 6 of chapter 10. It also includes information on transportation within the state. The contents of the material did not change substantially but was reorganized.

- 7(a). Interstate transportation. Not all cold blooded wildlife requires an interstate transportation permit, particularly the pet trade.
 - 7(a)(i) to (iii). These are unchanged from Chapter 10.
 - 7(a)(iv). AIS cannot be transported through the state per W.S. § 23-4-202 (a)(ii)
 - 7(a)(v) to (viii). Describe the animals that do not require an interstate transportation permit.
- 7(b) and (d). These are unchanged from Chapter 10.
- 7(c) Explicitly state that conveyances must stop at open AIS inspection stations per W.S. § 23-4-203 (b).

Section 8 Cold Blooded Wildlife Prohibited From Importation or Possession is a new section. Content was formerly in Section 3 (d) of Chapter 10. Some species were added to the list.

- 8(b). Most of these were prohibited by name in chapter 10. This change provides consistency between chapters and allows changes in the most concerning species list in Chapter 62 without requiring a change in this chapter.
- 8(c). New provision to reduce the risk of zebra/quagga mussel introduction.
- 8(e) and (f). Widespread use of clawed frogs and American Bullfrogs for research and food are believed to be the cause of the spread of amphibian chytrid fungus, a pathogen responsible for global amphibian declines, as these species carry but are resistant to the fungus. These species are highly adaptable and invasive when released outside their native range and the resulting loss of native amphibian diversity due to disease and direct predation has been well documented across multiple continents.
- 8(h). Green frogs are closely related to American bullfrogs, have very similar ecology and disease tolerance, have the capacity to become invasive in areas outside their range, and are increasingly being added to the list of prohibited species in western states.
- 8(i). Prohibited in Chapter 10, section 3 (b) (i) (D) (II)
- 8(j). The prohibition on Western mosquitofish is not new since the species is neither native nor established in any Wyoming drainage which were requirements in Chapter 49. This addition makes it explicit.
- 8(k). Clarify the only legal source for live baitfish.

- 8(l). Clarify intent not to allow fish obtained in Wyoming to leave the state and come back as that provides a loophole for illegal importation.

Section 9 Cold Blooded Wildlife Requiring an Importation/Possession Permit is new. Content was formerly in Section 3 (c) of Chapter 10.

- 9(a). There is increasing concern over the number of potentially deadly reptiles and amphibians kept as pets in Wyoming and the danger the public faces when these species escape, especially in urban areas. Knowledge of the number, species, and responsible parties is essential to evaluating and mitigating risk to the public. Previously regulated in Ch 10 section 3 (c) which allowed possession without a permit if captured in the state of Wyoming and required a permit for importation.
- 9(b). Previously regulated in Ch 10 section 3 (c) which required a permit for these animals.
- 9(c). To protect native herptiles we need to control commercial importation.
- 9(d). Turtles are capable of moving long distances across land and, unless confined, movement of captive turtles from ornamental ponds results in the establishment of populations outside the species range as well as the spread of disease to native populations.
- 9(e). Mosquito control is regulated in Chapter 51, Stocking of Cold Blooded Wildlife. Importation of these native fish was not previously explicitly regulated and was evaluated on a case by case basis for each importation permit.
- 9(f). Clarify that some nongame fish will require a permit.
- 9(g). This new provision is to require evaluation of species that are considered harmful elsewhere. Some species may be permitted in Wyoming but this will require evaluation prior to issuing the permit.
- 9(h). This new provision is to reduce the risk of introducing additional AIS.

Section 10 Cold Blooded Wildlife Not Requiring an Importation/Possession Permit is new. Content was formerly in Section 3 (b) of Chapter 10. Attempted to clarify the specifics for each taxa group and be consistent with other regulations (46, 49, 51, 52 and 62). Grouped the species that do not require a permit or any additional authorization from the Chief of Fisheries to import. This is not a substantive change in the requirements. There are no substantive changes, the list is formatted much differently.

- 10(b). Clarify the species that do not need a chapter 69 permit but do require additional approvals that are regulated in other chapters.
- 10(c). Describe the additional importation authorization requirements. These were previously in Chapter 51.

Section 11 Certificate of Veterinary Inspection Requirements was formerly Section 17 Wildlife Health Requirements in Chapter 10.

- 11(a). Changed previous period of validity that was in Chapter 10 from 10 days to 30 to align with state standard for a certificate of veterinary inspection.

Section 12 Department Notification Required for Health, Aquatic Invasive Species or Escape of Permitted Wildlife was formerly section 6. There were some changes to focus on cold blooded wildlife and add an AIS section comparable to the health section that was in Chapter 10.

- 12(a)(i). Changed notification time from 24 to 48 hours to be consistent with notification requirements in Chapter 51, Private Fish Hatcheries. Broadened statement about removing diseased wildlife from a holding facility to add that permitted wildlife cannot be imported if they get sick after the permit is issued and before they are imported.
- 12(b). New section address Aquatic Invasive Species in a manner comparable to the previous paragraph on health.

Section 13 Stocking and Personal Use of Cold Blooded Wildlife is a new section. The stocking of non-fish cold blooded wildlife was not previously addressed.

- 13(a). Limit movement of amphibian and reptiles
 - 13(a)(i). New provision to protect amphibians and reptiles. Previously it was illegal to import amphibians and reptiles for use as live fishing bait, but wild caught animals could be used alive or dead.
 - 13(a)(ii). New provision to limit human movement of amphibians and reptiles due to the high risk of escape from ornamental ponds.
- 13(b). Limit movement of mollusks and crustaceans
 - 13(b)(i). New provision to limit human movement of mollusks and crustaceans due to the high risk of escape from ornamental ponds.
 - 13(b)(ii). Changed mollusks and crustaceans to be consistent with recently revised fishing regulations (chapter 46). Crayfish shall only be used as live fishing bait in the water body from which they were captured. Once transported away from the water of capture, crayfish shall not be used as live fishing bait.

Section 14 Application Requirements was formerly Section 4 Application and Importation/Possession Permit Requirements. Some requirements were elsewhere in Chapter 10 and consolidated here.

- 14(d). This subsection is based on holding facility requirements in Chapter 10 and modified slightly for herptiles.
- 14(e). This requirement was revised to address the fact that some federal permits will not be issued until the state permit is issued.

Section 15 Permit Conditions is a new section. The conditions here were previously in other sections of Chapter 10.

- 15(c). This subsection is based on holding facility requirements that were previously listed in detail in the Application Requirements section of Chapter 10. They were abbreviated and moved to Permit Conditions in this regulation.

Section 16 Inspection by Department Personnel was previously section 5 of Chapter 10.

- 16(c). Added this to clarify AIS statutory requirements for conveyances to stop at AIS check stations.

Section 17 Permit Renewal was formerly Section 14 in Chapter 10. Shortened the time prior to expiration required to renew from 90 to 60 days.

Section 18 Permit Application Denial Review Process was previously Section 12. Minor changes were made. Removed position titles from the board composition in subsection (b)(i) and clarified that no more than two (2) members of the review board could have been involved in the initial review.

Section 19 Revocation of Permit was formerly section 13. The only change was in (b) to have the written request for a hearing go to the Chief of Fisheries rather than the Chief of the Wildlife Division.

Section 20 Disposition of Live Cold Blooded Wildlife if Permit is Revoked or Expires was formerly section 15. No substantive changes were made.

Section 21 Disposition of Live Cold Blooded Wildlife Upon Death of Permittee was formerly section 16. No substantive changes were made.