

THE NATURAL RESOURCES AGENCY OF CALIFORNIA
Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

**MARINE REGION - INFORMATION LEAFLET¹ REGULATIONS GOVERNING THE
PREPARATION AND SUBMISSION OF ANNUAL PROOF-OF-USE REPORTS FOR
AQUACULTURE LEASES**

Reporting Requirements

State law provides authority for the California Fish and Game Commission (Commission) to lease State water bottoms to any person for aquaculture, i.e., "the cultivation of aquatic plants and animals," if such a lease is in the public interest.

Authority is also vested in the Commission to require periodic reports from aquaculture lessees that are considered necessary for the proper administration of such aquaculture leases. Specific State laws and regulations pertaining to aquaculture leases and their administration are found in Chapters 1 through 8 of Division 12 of the Fish and Game Code (commencing with section 15000) and the provisions of Chapter 9 of Division 1 of Title 14, California Code of Regulations (commencing with section 235).

This leaflet was prepared to assist aquaculture lessees in compiling and submitting the proof-of-use required to verify that the lessee's leasehold has been utilized in the manner prescribed in each aquaculture lease agreement and specified planting and harvesting rates were attained.

All person or companies leasing State water bottoms for aquaculture are required to maintain adequate records of their leases. The filing of an annual proof-of-use report is a condition of all aquaculture lease agreements, regardless of whether a lease is in a research and development mode, or in production.

Aquaculture Lessees Monthly Tax Report

All aquatic organisms cultivated on, and harvested from, an aquaculture lease are subject to a privilege tax (Fish and Game Code Sections 15003, 15406.7). The tax must be paid to the California Department of Fish and Wildlife (Department), P.O. Box 944209, Sacramento, CA 94244-2090, monthly and reported on an Aquaculture Lessees Monthly Tax Report (FG Form 60) furnished by the Department. Lessees are required to submit this tax form for each individual lease **once a month**, even if no taxable products were harvested during any monthly period. Section I of the Aquaculture Lessees Monthly Tax Report is provided for that purpose.

¹ Revised by Kirsten Ramey November 2010 and November 2014.

Copies of a lessee's monthly tax report must be submitted with the lessee's Annual Proof-of-Use Report (FG 660, attached) to allow for verification of the annual harvest of cultivated aquaculture products from a lease area.

Annual Proof-of-Use Reporting

Annual verification of planting and harvesting activities on all State water bottom aquaculture leases must be submitted to the Department's Marine Region Aquaculture Coordinator on or before February 1 each year, for the preceding year (January 1 - December 31). A separate Proof-of-Use Report is required for each lease and is to be accompanied by a map showing the location and type of structures used and the species growing on them. The Proof-of-Use Report shall include information on the planting schedule (i.e. date, quantity, species, and acreage in each planting) and the production record (i.e. month, quantity, and species harvested). Lessees will also include a narrative summary of activities within the 12-month period. Within the narrative portion of the Proof-of-Use Report, lessees need to determine annually the cost to clean-up their lease(s). The clean-up estimate will include the cost of labor and supplies for the removal of all materials, growing structures, and any other non-natural debris associated with aquaculture activities.

Failure to submit the required Proof-of-Use Report on or before February 1 will result in the lessee being required to appear before the Fish and Game Commission to show cause why the lease should not be declared abandoned.

CALIFORNIA GOVERNMENT CODE SECTIONS REGULATING MARINE AQUACULTURE
Note: Section headings are those used by LawTech editorial staff- Title, Division, Part, Chapter, and Article headings are included as enacted.

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FISH AND GAME CODE

DIVISION 0.5 GENERAL PROVISIONS AND DEFINITIONS

CHAPTER 1. GENERAL DEFINITIONS

14. Anadromous Fish

"Anadromous fish" means fish which spawn in fresh water and spend a portion of their lives in the ocean.

17. Aquaculture

"Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes, however, these species continue to be regulated under Chapter 2 (commencing with Section 2116) of Division 3.

61. Ocean Ranching

"Ocean ranching" means aquaculture where juvenile anadromous fish are reared and released into state waters to grow and return to an aquaculture facility to be harvested commercially.

DIVISION 12. AQUACULTURE

CHAPTER 1. GENERAL PROVISIONS

15000. Aquaculture Business; Governance; Exemptions; Exceptions

(a) The business of aquaculture is governed by this division and is exempt from Part 3 (commencing with Section 7600) of Division 6 and any other provision of this code relating to commercial fishing, harvesting, processing, and marketing.

(b) Except as provided in Sections 15005, 15200, 15201, and 15202, the business of aquaculture processing, distribution, and marketing is administered by the Secretary of Food and Agriculture.

(c) The director may enter into an agreement with the Secretary of Food and Agriculture for the resolution of any conflict that arises under subdivision (b).

(d) Any costs incurred by the department in implementing Sections 15005, 15200, 15201, and 15202 shall be recovered pursuant to this division.

15001. Ownership of Cultured Progenies

The cultured progeny of wild plants and animals lawfully obtained under Section 15300 are the exclusive property of that person who cultured them or that person's successor in interest.

15002. Take Aquaculture Products Without Lawful Entitlement

Any person who takes aquaculture products without lawful entitlement is subject to prosecution for theft.

15003. Fees on Products Grown on Public Lands and Waters

a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees, if any, may not exceed the rates as provided in Section 8051.

(b) The price per pound shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The fee imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

15004. Adequate Funding of Aquaculture Program; Inspection Costs

(a) Commencing in 1992, the department shall, at least once every five years, analyze the fees and taxes authorized by this division to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

(c) Aquaculturists operating under this division shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this division, or by regulations adopted pursuant to this division, when requested by the aquaculturists.

15005. Regulation of Specific Products; I.D. of Certain Products

(a) When necessary for the protection of native wildlife, the commission may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The commission may determine that aquaculture products shall be accompanied by a document containing any of the following information:

- (1) The name, address, and registration number of the aquaculture producer.
- (2) The species.
- (3) The weight, volume or count within the container.
- (4) The date of the shipment.
- (5) The name and address of the intended receiver.

(c) The commission may require that certain aquaculture products shall be additionally identified as being aquaculture produced, except for the following:

- (1) Trout.
- (2) Catfish.
- (3) Kelp and aquatic plants.
- (4) Frogs and amphibia.
- (5) All bivalve mollusks (except little neck clams).
- (6) All members of the family Centrarchidae.
- (7) Crayfish.
- (8) Sea urchins.
- (9) Shrimp and fresh water prawns.
- (10) Crab.

15006. Division Not Applicable to Animals and Plants for Pet and Hobby Purposes

Nothing in this division applies to authorized species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.

15007. Ocean Ranching Not Permitted by this Division; Exception

(a) In the waters of the Pacific Ocean that are regulated by this state, it is unlawful to spawn, incubate, or cultivate any species of finfish belonging to the family Salmonidae, transgenic fish species, or any exotic species of finfish. Except as authorized pursuant to subdivision (d), it is unlawful to spawn, incubate, or cultivate any transgenic species of finfish belonging to the family Salmonidae in this state. This section does not apply to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

- (1) Research conducted by, or on behalf of, the department.
- (2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California's native salmon and steelhead trout populations pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(b) Nothing in this section authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

(c) Research or experimentation for the commercial production of transgenic salmonids is prohibited.

(d) (1) Medical or scientific research conducted on transgenic finfish species by accredited California academic institutions or private entities for research only and not for commercial production may be

authorized pursuant to a permit issued by the department pursuant to Section 671 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

(2) At a minimum, research activities conducted pursuant to this subdivision shall be conducted in a closed system that has eliminated the risk of escape of transgenic finfish species and any potential disease they may transmit.

(3) A permit application applied for pursuant to this subdivision shall include a research plan specifying the objectives and goals of the proposed research.

(4) Nothing in this subdivision shall be construed to require the disclosure of proprietary information.

(e) The department shall notify the Joint Committee on Fisheries and Aquaculture and the commission upon receipt of a permit application applied for pursuant to subdivision (d) at least 30 days prior to the approval or disapproval of the permit.

(f) As used in this section, the following definitions shall apply:

(1) "Exotic species" means a fish that is not native to California waters and that does not currently exist as a viable population in a wild condition in the state.

(2) "Transgenic" has the same meaning as in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

15008. Programmatic environmental impact report; Preparation

(a) The department shall, in consultation with the Aquaculture Development Committee, prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the state if both of the following conditions are met:

(1) Funds are appropriated to the department for this purpose.

(2) Matching funds are provided by the aquaculture industry. For the purpose of this section, "matching funds" include, but are not limited to, any funds expended by the aquaculture industry before January 1, 2006, for the preparation of a programmatic environmental impact report.

(b) If the final programmatic environmental impact report is prepared pursuant to subdivision (a) for coastal marine finfish aquaculture projects and approved by the commission under the California Environmental Quality Act set forth in Division 13 (commencing with Section 21000) of the Public Resources Code, the report shall provide a framework for managing marine finfish aquaculture in an environmentally sustainable manner that, at a minimum, adequately considers all of the following factors:

(1) Appropriate areas for siting marine finfish aquaculture operations to avoid adverse impacts, and minimize any unavoidable impacts, on user groups, public trust values, and the marine environment.

(2) The effects on sensitive ocean and coastal habitats.

(3) The effects on marine ecosystems, commercial and recreational fishing, and other important ocean uses.

(4) The effects on other plant and animal species, especially species protected or recovering under state and federal law.

(5) The effects of the use of chemical and biological products and pollutants and nutrient wastes on human health and the marine environment.

(6) The effects of interactions with marine mammals and birds.

(7) The cumulative effects of a number of similar finfish aquaculture projects on the ability of the marine environment to support ecologically significant flora and fauna.

(8) The effects of feed, fish meal, and fish oil on marine ecosystems.

(9) The effects of escaped fish on wild fish stocks and the marine environment.

(10) The design of facilities and farming practices so as to avoid adverse environmental impacts, and to minimize any unavoidable impacts.

CHAPTER 2. AQUACULTURE DEVELOPMENT SECTION

15100. Duties of Aquaculture Coordinator

There is within the department an aquaculture coordinator who shall perform all of the following duties:

(a) Promote understanding of aquaculture among public agencies and the general public.

(b) Propose methods of reducing the negative impact of public regulation at all levels of government on the aquaculture industry.

(c) Provide information on all aspects of regulatory compliance to the various sectors of the aquaculture industry.

(d) Provide advice to the owner of a registered aquaculture facility on project siting and facility design, as necessary, to comply with regulatory requirements.

(e) Coordinate with the Aquaculture Development Committee regarding the duties described in subdivisions (a) to (d), inclusive.

15101. Registration; Requirements; Fees

(a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

(1) The owner's name.

(2) The species grown.

(3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of eight hundred dollars (\$800) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of five hundred dollars (\$500). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

15102. Detrimental Operations May Be Prohibited

The department may prohibit an aquaculture operation or the culturing of any species at any location where it is determined it would be detrimental to adjacent native wildlife.

15103. Aquaculture Facility Additional Surcharge

(a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each registered aquaculturist shall maintain sales and production records which shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall become operative on January 1, 2023, at which time the surcharge fee specified in this section shall be adjusted pursuant to subdivision (d) as if this section had not been inoperative.

15104. Delinquent Fees; Penalty

(a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of one hundred fifty dollars (\$150).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2013 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

15105. Moneys Collected; Disposition

(a) Notwithstanding Section 13001 or 13002, all moneys collected by the department pursuant to this division shall be deposited in the Fish and Game Preservation Fund and shall be expended solely on the department's aquaculture program pursuant to this division.

(b) Notwithstanding Section 13220, these moneys are available for appropriation by the Legislature in the annual Budget Act for purposes of this division.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met and shall provide an accounting of the aquaculture program account balance and expenditures upon request of the Aquaculture Development Committee or the Joint Committee on Fisheries and Aquaculture.

(d) Revenues pursuant to this chapter may be used only to pay the costs incurred in the administration and enforcement of the department's aquaculture program.

(e) The department shall prepare and submit to the Legislature on or before February 1, 2022, a report regarding the aquaculture program undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the aquaculture program requirement, if any.

(f) (1) A report to be submitted pursuant to subdivision (e) shall be submitted in compliance with Section 9795 of the Government Code.

(2) The requirement for submitting a report imposed under subdivision (e) is inoperative on February 1, 2026, pursuant to Section 10231.5 of the Government Code.

CHAPTER 3. STOCKING AQUATIC ORGANISMS

15200. Placing Plants and Animals; Move Live Fish Between Aquaculturists

The commission may regulate the placing of aquatic plants and animals in waters of the state. Movement of live fish between two registered aquaculturists who are registered for those species does not require a permit.

15201. Place Fish Above Fish Hatchery; Permit Required

A permit is required to place fish on public or private land or water in any watershed above an established public or private fish hatchery. The department shall deny the permit if there is evidence that water quality and potential disease transfers will be adverse to the established hatchery.

15202. Placing of Species; Prohibitions

The commission may prohibit the placement of specific species of aquatic plants or animals in designated waters of the state. The prohibition may not include species that are found to be native or that are stocked by the state in a location where prohibition is contemplated.

CHAPTER 4. BROOD STOCK ACQUISITION

15300. Brood Stock Sources

Aquatic plants or animals may be legally obtained for use as brood stock from all of the following sources:

- (a) A holder of a commercial fishing license.
- (b) A registered aquaculturist.
- (c) The department.
- (d) Imported sources authorized by Chapter 7 (commencing with Section 15600).

15301. Sale of Wild Species by Department; Collection of Wild Species by Aquaculturists

(a) The department may sell wild aquatic plants or animals, except rare, endangered, or fully protected species, for aquaculture use at a price approximating the administrative cost to the department for the collection or sale of the plants or animals. The commission shall set this price.

(b) Aquatic plants and animals may be collected by a registered aquaculturist only with the written approval of the department. The department may specify the time, place, and manner of collection and

may collect a fee from the aquaculturist in an amount sufficient to cover the cost of processing the approval.

(c) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped bass broodstock shall be five hundred dollars (\$500).

CHAPTER 5. LEASING OF STATE WATER BOTTOMS

15400. Leasing of State Water Bottoms

(a) Except as prohibited by Section 15007, the commission may lease state water bottoms or the water column to any person for aquaculture, including, but not limited to, marine finfish aquaculture. Upon appropriation of funds for that purpose, or if funds are otherwise available, the commission shall adopt regulations governing the terms of the leases, after consulting with affected stakeholder in a public process. No state leases shall be issued, unless the commission determines that the lease is in the public interest in a public hearing conducted in a fair and transparent manner, with notice and comment, in accordance with commission procedures. Leases issued, and regulations adopted, pursuant to this section shall not be construed to be fishery management plans.

(b) A person shall not engage in marine finfish aquaculture in ocean waters within the jurisdiction of the state without a lease from the commission. Leases and regulations adopted by the commission for marine finfish aquaculture shall meet, but are not limited to, all of the following standards:

(1) The lease site is considered appropriate for marine finfish aquaculture in the programmatic environmental impact report if prepared and approved by the commission pursuant to Section 15008.

(2) A lease shall not unreasonably interfere with fishing or other uses or public trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably harm the ability of the marine environment to support ecologically significant flora and fauna. A lease shall not have significant adverse cumulative impacts.

(3) To reduce adverse effects on global ocean ecosystems, the use of fish meal and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be utilized, taking into account factors that include, but need not be limited to, the nutritional needs of the fish being raised and the availability of alternative ingredients.

(4) Lessees shall establish best management practices, approved by the commission, for each lease site. Approved best management practices shall include a regular monitoring, reporting, and site inspection program that requires at least annual monitoring of lease sites to ensure that the operations are in compliance with best management practices related to fish disease, escapement, and environmental stewardship, and that operations are meeting the requirements of this section. The commission may remove fish stocks, close facilities, or terminate the lease if it finds that the lessee is not in compliance with best management practices, that the lessee's activities have damaged or are damaging the marine environment, or that the lessee is not in compliance with this section. The commission shall take immediate remedial action to avoid or eliminate significant damage, or the threat of significant damage, to the marine environment.

(5) Before issuance of the lease, the lessee shall provide baseline benthic habitat and community assessments of the proposed lease site to the applicable regional water quality control board or the State Water Resources Control Board, and shall monitor the benthic habitat and community during the operation of the lease in a manner determined by the regional board or the State Water Resource Control Board. The regional board and the State Water Resources Control Board may establish and impose reasonable permit fees to pay for the costs of administering and conducting the assessment and monitoring program.

(6) Finfish numbers and density shall be limited to what can be safely raised while protecting the marine environment, as specified by the terms of the lease, subject to review and amendment by the commission.

(7) The use of all drugs, chemicals, and antibiotics, and amounts used and applied, shall be minimized. All drugs, therapeutic substances, and antibiotics shall be used and applied only as approved by the United States Food and Drug Administration for marine finfish aquaculture. The lessee shall report that use and application to the commission on a regular schedule, as determined by the commission, but no less than annually, that shall be included in the terms of the lease. The commission shall review those reports on a regular basis and at least annually.

(8) The commission shall require all farmed fish to be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the commission, unless the commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses.

(9) All facilities and operations shall be designed to prevent the escape of farmed fish into the marine environment and to withstand severe weather conditions and marine accidents. The lessee shall maintain records on all escapes in a manner determined by the commission. In the event of more than de minimis escapement, the number of escaped fish and the circumstances surrounding the incident shall be reported immediately to the commission, and the lessee shall be responsible for damages to the marine environment caused by those escaped fish, as determined by the commission.

(10) The lessee shall, at a minimum, meet all applicable requirements imposed by the State Water Resources Control Board and the regional water quality control boards, and shall prevent discharges to the maximum extent possible. Monitoring and testing of water quality shall be required on a regular basis as deemed appropriate by the State Water Resources Control Board or the regional water quality control boards. All inspection and monitoring reports and other records, and all data on the discharge of chemical and biological pollutants shall be kept on file and available for public review.

(c) If a restoration or enhancement plan is submitted to, and approved by, the commission, and that plan, among other things, provides for monitoring and protecting the benthic habitat, the prevention of pollution, and the prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations, subdivision (b) shall not apply to any of the following:

(1) Artificial propagation, rearing, and stocking projects for the purpose of recovery, restoration, or enhancement of native fish stocks carried out under either of the following:

(A) A scientific collecting or research permit issued by the department.

(B) The California Ocean Resources Enhancement and Hatchery Program, as set forth in Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6, for the enhancement of white sea bass.

(2) Nonprofit hatcheries and nonprofit artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishermen and fisherwomen for the purpose of recovery, restoration, or enhancement of California's native marine fish populations, pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(d) Nothing in this section shall be construed to limit or expand the application of any other state law or regulation pertaining to marine finfish aquaculture conducted within the ocean waters under the jurisdiction of this state.

15401. Public Clam Digging Area Not for Lease

Areas used by the public for digging clams shall not be leased. The department shall designate those areas.

15402. Lessee Owns Organisms Described in Lease Application; Exclusive Cultivation Rights

A lessee of a state water bottom owns all lawfully cultivated organisms that are described in the application for the lease and produced in the area leased. The lessee has the exclusive right to cultivate and harvest the aquatic organisms in the area leased.

15403. Lease Application' Fee; Contents

Persons wishing to lease a state water bottom shall make a written application to the commission. An application shall contain all of the following information:

(a) A map showing the area to be leased, its general vicinity, and all ownership and boundary lines in the vicinity.

(b) A description of the organisms to be grown and the culture techniques to be used.

(c) An estimate of the acreage to be leased.

(d) A nonrefundable filing fee of five hundred dollars (\$500).

The lessee shall assume responsibility for any infringement on privately owned water bottoms, or water bottoms owned by, or under the jurisdiction of any city, county, or district.

15404. Lease Consideration; Public Notice

(a) If the commission finds that the area applied for is available for lease and that the lease would be in the public interest, it shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the water bottom, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. The publication shall comply with Sections 6060 and 6066 of the Government Code.

15405. Lease Term not to Exceed 25 Years

(a) Except as specified in subdivision (b), no initial term of a state water bottom lease shall exceed 25 years.

(b) The initial term of a state water bottom lease for marine finfish aquaculture shall not exceed 10 years.

15406. Renewal of Lease

(a) Each state water bottom lease shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If during this period the lessee is still actively engaged in aquaculture, as determined by the commission, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms are not agreed upon, the commission shall advertise for bids on the lease. If a request for renewal is not made by the lessee, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(b) Notwithstanding subdivision (a), with respect to any lease of state water bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew the lease. If the lessee does not renew the lease, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(c) Except as specified in subdivision (d), a lease may be renewed for additional periods not to exceed 25 years each.

(d) A lease for marine finfish aquaculture may be renewed for additional periods not to exceed five years each.

15406.5. Minimum Acceptable Annual Rent

(a) Except as specified in subdivision (b), the commission shall award water bottom leases to the highest responsible bidder, if the bid meets or exceeds the minimum annual rent established by the commission, which shall not be less than two dollars (\$2) per acre, for all species cultivated, unless the acreage applied for is 10 acres or less, in which case the minimum acceptable rent shall be ten dollars (\$10) per acre. The annual rent for any lease in effect on January 1, 1983, for the cultivation of oysters shall be one dollar (\$1) per acre until the expiration thereof. The commission may reject any or all bids for the lease of state water bottoms if it deems the rejection to be in the public interest.

(b) Fees for marine finfish aquaculture leases shall, at a minimum, be sufficient to pay for the costs of administering the marine finfish leasing program, and for monitoring and enforcing the terms of the leases.

15406.7. Oyster Lease Privilege Tax

(a) In addition to the rent provided in Section 15406.5, every person operating under an oyster lease shall pay a privilege tax of four cents (\$0.04) per packed gallon, or fraction thereof, of shucked oysters harvested by the lessee.

(b) If the oysters are marketed in the shell, the tax shall be based on the equivalent yield of shucked oyster meat. In determining the yield of oysters, it shall be deemed that 100 oysters are equivalent to one packed gallon of shucked oyster meat.

(c) The tax imposed by this section is the exclusive privilege tax that shall be imposed on lessees of state water bottoms for oyster cultivation, notwithstanding subdivision (a) of Section 15003.

15407. Rent Payment Schedule

The annual rent shall be paid to the department within 30 days of the commencement of the lease and within 30 days of the anniversary thereof. The commission may establish penalty fees for late payment and may cancel the lease if rent is not paid within 90 days of the commencement of the lease or within 90 days of any anniversary thereof.

15408. Termination of Lease; Commission to Establish Regulations

The commission shall promulgate regulations governing the termination of leases due to failure to pay rent or improper use of the leasehold.

15409. Removal of Structures When Lease Terminated

(a) Upon termination of a lease, for any reason, all structures shall be removed at the lessee's expense from the leasehold, and the area shall be restored to its original condition. If the lessee fails to remove the structures, the state may remove them and the lessee shall pay the removal costs incurred.

(b) The commission shall require financial assurances of each marine finfish aquaculture lessee to ensure that restoration is performed to the satisfaction of the commission. Financial assurances may take the form of surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the commission, as it determines are available and adequate to ensure the lease site is restored pursuant to this section.

(c) Marine finfish aquaculture lessees shall be responsible for any damages caused by their operations, as determined by the commission, including, but not limited to, reimbursement for any costs for natural resource damage assessment.

(d) Nothing in this section limits the state in pursuing additional remedies authorized by law.

15410. Leases Subject to Legislative Powers to Adjust Rates

All leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

15411. Public Access to Leased Area; Recreational Activity

Lessees under a state water bottom lease may not unreasonably impede public access to state waters for purpose of fishing, navigation, commerce, or recreation. The lessee may, however, limit public access to the extent necessary to avoid damage to the leasehold and the aquatic life culture therein.

The commission may prohibit any recreational activity in any aquaculture area subject to a state water bottom lease if it determines that the activity is detrimental to the enhancement of the resource.

15412. Assignment of Lease

No water bottom lease may be assigned without the prior approval of the commission. Application for approval of a lease assignment shall comply with all of the requirements for an original lease.

15413. Enter Area; Destroy Aquatic Life or Boundary Markers

No person may enter upon any area subject to a water bottom lease in which aquatic life is cultivated, or remove the aquatic life therefrom without the consent of the lessee, or willfully destroy the cultivated aquatic life or any markers intended to designate the boundaries and limits of the leased area.

15414. Water Bottom Leases; Periodic Reports

A water bottom lease may require periodic reports that the commission deems necessary for the proper administration of the state's water bottoms.

CHAPTER 6. DISEASE CONTROL**15500. Commission Shall Compile List of Diseases, etc., and Species Affected**

Upon the recommendation of the department and after consultation with the Aquaculture Disease Committee created pursuant to this chapter, the commission shall compile a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. All government activities

relating to aquaculture disease detection, control, and eradication that do not affect human health and safety are the responsibility of the department.

15501. Entry for Disease or Parasite Inspection

The department may enter, under an inspection warrant issued pursuant to Title 5 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, at any time, any car, warehouse, depot, ship, or growing area where any aquatic plants or animals are held or stored, for the purpose of making an examination to ascertain whether the aquatic plants or animals are infected, diseased, or parasitized.

15502. Aquaculture Disease Committee; Membership, etc.

The director, in consultation with the Aquaculture Industry Advisory Committee and the Interagency Committee for Aquaculture Development, shall appoint an 11-member Aquaculture Disease Committee consisting of at least six industry producers selected to represent geographic, specie, and other diverse aspects of the industry; two to represent the department; one to represent the Department of Food and Agriculture; an academic scientist who is an expert in aquatic Diseases; and one representative of the University of California Cooperative Extension. Members of the committee shall serve without compensation, but shall be paid their necessary expenses.

15503. Disease Committee May Recommend Regulations

The Aquaculture Disease Committee may recommend regulations to the commission designed to safeguard wild and cultured organisms from the list of harmful organisms compiled pursuant to Section 15500.

15504. Content of Recommended Regulations

Regulations recommended under Section 15503 and adopted by the commission may include all of the following:

- (a) Routine monitoring procedures.
- (b) Standardized diagnostic procedures.
- (c) A requirement for the confirmation of the diagnosis by the state through at least one other independent and qualified laboratory.
- (d) Criteria for ordering quarantine, condemnation, or destruction.
- (e) A stated maximum time period between diagnosis and destruction.
- (f) Methods to be employed in animal destruction and facility cleanup.
- (g) Procedures for determining fair and rapid compensation.
- (h) Any other related procedures that the commission may determine are necessary.

15505. Discovery of Disease or Parasite – Possible Actions

If any of the diseases or parasites listed pursuant to Section 15500 is found to exist which the director, in consultation with the Aquaculture Disease Committee and consistent with the regulations adopted under Section 15504, deems to be detrimental to the aquaculture industry or to wild stocks of aquatic plants and animals, the director may do any of the following:

- (a) Establish the area to be quarantined and list the aquatic plants and animals affected by it.
- (b) Post notices describing, as nearly as possible, the boundaries of an area within which specific disease or parasite infestations are found. Notices posted pursuant to this subdivision shall be published once a week for four successive weeks in a newspaper of general circulation in the county in which the infected area is located. If there is no newspaper of general circulation in that county, then the notice shall be published in a newspaper of general circulation published in an adjoining county.
- (c) Hold and impound diseased or parasitized plants and animals.
- (d) Forbid, prevent, or restrict the movement of all plants and animals subject to the disease or parasite from or into the area, or from place to place within it, during the existence of the quarantine.
- (e) Order the destruction and disposal of diseased or parasitized plants and animals consistent with Section 15504.

15506. Quarantine, etc., Only if Outbreak Determined to be Threat

Except for those diseases in the list compiled pursuant to Section 15500, infected plants or animals shall not be quarantined or destroyed, unless the director, in consultation with the Aquaculture Disease

Committee, finds that an outbreak of aquatic disease among privately cultured plants or animals presents a threat to the aquaculture industry or to fish life or plant life.

15507. Infections in Government and Private Facilities

If the director, in consultation with the Aquaculture Disease Committee, finds that a disease is present in a nearby government operated facility or in nearby wild stocks, infected plants or animals in a private aquaculture facility shall not be quarantined or destroyed unless similar action is taken with respect to the government facility and wild stocks.

15508. Reports of Diseases, etc., to the Director of Disease Committee – Expedite

Reports of those diseases and parasites compiled pursuant to Section 15500 shall be immediately forwarded by the director to the Aquaculture Disease Committee and shall be promptly investigated by the department.

15509. Movement of Species Quarantined; Permit Required

No person may move, or allow to be moved, any of the aquatic plants or animals which are subject to a quarantine established pursuant to Section 15505 across the quarantine line which is established, unless the person has first obtained a permit from the director authorizing the movement.

The director may issue a permit after inspection, if the aquatic plants or animals, premises, transportation vehicles, and equipment which are subject to the quarantine established pursuant to Section 15505 are properly cleaned and disinfected.

15510. Importation of Foreign, Infected Organisms

If the director determines that any disease designated pursuant to Section 15500 exists among domestic aquatic plants and animals, or that aquatic plants and animals have been exposed, or may have been exposed, to the disease, or to the vectors of the disease, in any other state or territory in the United States or in any foreign country, and the importation of aquatic plants or animals from the state, territory, or foreign country may transmit, carry, or disseminate the disease to domestic plants and animals within this state, the director shall notify the commission which may, after consulting the State Department of Health Services and the Department of Food and Agriculture, issue a regulation restricting or prohibiting the importation of the diseased or infected aquatic plants or animals into this state from any other state, territory, or foreign country.

15512. Destruction of Aquatic Plants or Animals Pursuant to Section 15505 (e); Repayment

(a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department under subdivision (b) if the claim is submitted pursuant to Section 15513. If the replacement value is not settled between the owner and the department, the replacement value shall be determined by an appraiser appointed by the director and an appraiser appointed by the owner. Appraiser's fees shall be paid by the appointing party. Disputes between these two appraisers shall be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) If the department provides replacement stock to an aquaculturist whose plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount to be paid to the aquaculturist pursuant to this section shall be reduced by the value of the replacement stock, as determined by the department.

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the Department of General Services pursuant to Section 15513.

15513. Submission of Claims Against the Department

Claims against the department arising under this chapter may be submitted pursuant to Section 905.2 of the Government Code.

15514. Payment of Claims

No claim arising under this chapter shall be paid where the director, in consultation with the Aquaculture Disease Committee, finds that the claimant's management practices were negligent or in violation of law, and that the negligence or violation was the proximate cause of the disease or infection prompting the order of destruction or finds the claimant willfully violated any provision of Section 15505.

15516. Owner's Responsibility to Pursue Eradication of Disease

The owner of an aquaculture product who does not diligently pursue the eradication of a disease from its facility when ordered to do so by the director shall be responsible for paying to the director the full costs of the department for all disease eradication efforts conducted by the department to eradicate the disease. Payment of the costs under this section shall not excuse compliance with the provisions of law, regulations of the commission, and orders of the director, nor be a defense in any criminal or civil proceedings.

CHAPTER 7. IMPORTATION OF AQUATIC PLANTS AND ANIMALS

15600. Importation of Live Organisms; Requirements and Restrictions

(a) No live aquatic plant or animal may be imported into this state by a registered aquaculturist without the prior written approval of the department pursuant to the regulations adopted by the commission.

(b) The department shall not approve the importation of, or renew a permit to import, any anadromous fish or roe thereof listed in Section 2118 or the regulations adopted under Section 2118 into the Smith River watershed by a person unless that person had a permit or authorization approved before February 22, 1988. However, the department may issue or renew a permit for the importation of any anadromous fish or roe thereof specifically for research purposes conducted at any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

15601. Approval of Written Application

A written application for the importation submitted in conformance with the procedural requirements established by the commission is deemed to be approved where it has not been denied within 60 days.

15604. Smith River Hatcheries not Exempt from California Environmental Quality Act

No facility constructed for the purpose of spawning, incubating, or raising of anadromous fish listed in Section 2118 in the Smith River watershed is exempt from any provision of the California Environmental Quality Act.

15605. Atlantic Salmon Importation or Possession in the Smith River Watershed

(a) Nothing in this chapter prohibits the importation of Atlantic Salmon or the roe thereof, or the continued possession of Atlantic salmon or the roe therefrom which were lawfully imported or possessed on or before February 22, 1988, in the Smith River watershed under a written approval of the department issued pursuant to Section 15600.

(b) Nothing in this chapter applies to the importation or possession of dead Atlantic salmon or nonviable roe therefrom imported for human consumption if the importer has the appropriate licenses issued by the department.

CHAPTER 8. AQUACULTURE DEVELOPMENT COMMITTEE

15700. Appointment of Members

The director shall appoint an Aquaculture Development Committee consisting of the following persons:

(a) At least 12 members representing all sectors of the fresh and salt water aquaculture industry.

(b) One member representing the department, two members from and chosen by the University of California, one with expertise in aquaculture science and one with expertise in outreach to the fisheries community, and one member each from and chosen by the Department of Food and Agriculture, the California Coastal Commission, the State Lands Commission, the State Water Resources Control Board, the State Department of Health Services, and the Joint Legislative Committee on Fisheries and Aquaculture. The member of the committee appointed by the Joint Legislative Committee on Fisheries

and Aquaculture shall meet and, except as otherwise provided by the California Constitution, advise the committee to the extent that this advisory participation is not incompatible with his or her position as a Member of the Legislature.

15701. Term of Membership and Compensation

(a) The term of membership for members other than representatives of public agencies shall be three years. The representatives of public agencies shall serve at the pleasure of the agency that the member represents.

(b) Members of the committee shall serve without compensation.

15702. Duty of Committee

(a) The committee shall be advisory to the director on all matters pertaining to aquaculture and shall coordinate activities among public entities.

(b) The committee shall assist the director in developing and implementing a state aquaculture plan, identify the opportunities for regulatory relief, assist in development of research and development priorities, assist in the development of criteria to assure that publicly financed pilot programs are compatible with industry needs, and identify other opportunities for industrial development.

15703. Committee Meetings – Frequency

The committee shall meet on the call of the director, but not less than twice each year.

FISH AND GAME COMMISSION REGULATIONS TITLE 14 CALIFORNIA CODE OF REGULATIONS

DIVISION 1. FISH AND GAME COMMISSION DEPARTMENT OF FISH AND WILDLIFE

SUBDIVISION 1. FISH, AMPHIBIANS & REPTILES

CHAPTER 9. AQUACULTURE

235. Aquaculture Registration

((a) Registration Required. Pursuant to the provisions of Section 15101 of the Fish and Game Code, all aquaculture facilities must be registered with the department each year. For purposes of Chapter 9, Subdivision 1, Division 1, Title 14, California Code of Regulations, an aquaculture facility is one that is devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish or fresh water. This registration is not required for: the maintenance of koi and goldfish in closed systems for personal, pet or hobby purposes; the harvest and sale of brine shrimp; and the sale or cultivation of tropical species of ornamental marine or fresh water plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems for personal, pet industry or hobby purposes.

(1) Who Shall Register. The owner of each aquaculture facility shall register each year on forms provided by the department. Individual forms must be completed for each aquaculture facility location. Application forms and a list of laws and regulations governing aquaculture are available from the department's Aquaculture Development Section, 1416 Ninth Street, Sacramento 95814, (or by postal delivery to by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090), and from the department's regional offices in Redding, Fairfield, Rancho Cordova, Fresno, Long Beach and Menlo Park, on request.

(2) Cost of Registration. The registration fee for each new registered owner or operator shall be the fee specified in Section 15101(b) of the Fish and Game Code.

(3) Where to Submit Applications. Application forms together with the registration fee shall be submitted to one of the department's regional offices listed in subsection (1) above. Applications will be processed within five working days after approval. Applications shall be made on a form (Application for Aquaculture Registration, FG 750 (2/91), which is incorporated by reference herein) supplied by the department.

(b) Registration Limitation. The applicant must certify that he/she has read, understands and agrees to be bound by the regulations of the com -mission and the Fish and Game Code sections governing aquaculture and its products.

(c) Duration of Registration. The annual term of registration shall be January 1 to December 31, or if issued after the beginning of such term, for the remainder of that calendar year. Aquaculturists must reregister their facilities by March 1 of each year. Reregistration (renewal) fees shall be the amount specified in Section 15101(b) of the Fish and Game Code. An additional surcharge, specified in Section 15103 of the Fish and Game Code, shall be paid at the time of renewal if the proceeds from sale of aquaculture products of the facility in the preceding year exceed \$25,000. Penalties for late renewal will be assessed in accordance with Section 15104 of the Fish and Game Code. Anyone failing to register under this section shall be operating unlawfully.

(d) All permits specified in this chapter, in addition to the aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code, shall be issued under the following conditions:

(1) Where Issued. Requests for permits required in Chapter 9, unless specifically directed otherwise, shall be submitted to the Department of Fish and Wildlife, Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814 (or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090).

(2) Cost of Permit. Except as otherwise provided, see Section 15101 of the Fish and Game Code.

(3) Duration of Permits. Except as otherwise provided, permits will be issued on a calendar year basis, or if issued after January 1, for the remainder thereof.

235.1 Screening Requirements for Aquaculture Facilities

All bodies of water or private hatcheries registered for aquaculture purposes shall be entirely within the exterior boundaries of the land owned or leased by the owner of the facility. No aquaculture facility shall be built or operated on a natural water course or lake without the prior written approval of the department. Prior written approval is not required for aquaculture facilities constructed below a spring rising on private property.

For purposes of this section, waters existing seasonally or intermittently and not serving as a passageway or nursery area for anadromous fish are not required to be screened.

Except for those facilities using marine water, all artificial inlets and outlets of such bodies of water or private hatcheries used for aquaculture purposes shall be screened to prevent the ingress or egress of aquatic plants or animals.

236. Importation of Live Aquatic Plants and Animals

The Provisions of this section shall apply to the importation of all live aquatic plants and animals.

(a) No person shall import into this state any prohibited species of live aquatic plant or animal listed pursuant to Section 2118 of the Fish and Game Code, or Section 671 of these regulations unless specifically authorized by the commission.

(b) Unless specifically prohibited by these regulations, plants and animals within the following groups may be imported without an importation permit from the department:

(1) Mollusks and crustaceans intended to go directly into the seafood market and which will not be placed into the waters of the state nor placed in waters which are discharged to waters of the state.

(2) Live ornamental tropical marine or freshwater plants or animals that are not utilized for human consumption or bait purposes, are maintained in closed systems for personal, pet industry or hobby purposes, and which will not be placed in waters of the state.

(3) Brine shrimp.

(c) With the exception of those importations described in Section 236(a) and (b), live aquatic plants and animals may be imported into this state only in accordance with the following terms and conditions:

(1) A standard importation permit signed by the director or his agent is required, and no shipment into the state may be made prior to the issuance of the permit authorizing the shipment or shipments. The department shall charge a fee for issuing each permit. See subsection 699(b) of these regulations for the fee for this permit. Fees charged for inspections shall be independent of the fees charged for issuing permits.

(2) With the exceptions of the live aquatic animals listed in subsection 236(c)(6), a permit is required for each lot or load, and each shipment must be accompanied by the original copy of the importation permit. Unless otherwise authorized, the person who is to receive any shipments of aquatic plants and animals shall apply to the department for this importation permit.

(3) Application for a standard importation permit shall be made on a form (Application for Standard Importation Permit, FG 789 (2/91), which is incorporated by reference herein) supplied by the department, as directed in Section 235(d) and shall reach the department's headquarters office at least 10 working

days in advance of the probable arrival date of the shipment. A copy of the permit authorized by the director or his agent must accompany each load. If a change in date of shipment becomes necessary after a permit has been issued, the permittee shall notify the Aquaculture Development Section at least 5 days before the new date of shipment. Under special circumstances, the department may waive this 5-day notice requirement.

(4) All live aquatic plants and animals imported into California may be inspected by the department, either at the place of entry into the state or at other locations suitable to the department. The person importing the aquatic plants or animals may be required to provide facilities for inspecting and sorting them, and may be required to pay inspection costs, including salary and travel expenses of the inspector.

(5) Any lot or load of aquatic plants and animals found by the inspector to be diseased, parasitized or to contain species not authorized by the importation permit must be immediately destroyed or transported out of California within a period of time specified by the department. In such cases, the importation permit is automatically revoked.

(6) In lieu of the permits specified in Section 236(c)(1), long-term permits for the following aquatic animals may be issued by the department for periods of up to one year. Application shall be made on a form (Application for Long-term Permit to Import Animals into California, FG 786 (2/91), which is incorporated by reference herein) supplied by the department. The department shall charge a fee for issuing each permit. See subsection 699(b) of these regulations for the fee for this permit.

(A) Oyster, oyster larvae and oyster seed.

(B) Ghost shrimps (*Callinassa* Spp).

(C) Mud shrimps (*Upogebia* Spp).

(D) Longjaw mudsuckers (*Gillichthys mirabilis*).

(E) Red swamp crayfish (*Procambarus clarkii*).

(F) *Orconectes virilis*.

(G) Marine Annelid worms (Phylum Annelida).

(H) Sacramento blackfish (*Orthodon microlepidotus*).

(I) Other species under conditions which the department determines represent no significant risk to the fish and wildlife resources of the state.

(7) Importation of Salmonid Eggs. Applications to import eggs of fishes of the family salmonidae (trout, salmon and char) shall be accompanied by a health certificate signed by a person competent in the diagnosis of fish diseases stating that the hatchery or other sources of the eggs to be imported and the eggs themselves are free of the following diseases: infectious pancreatic necrosis (IPN); bacterial kidney disease (BKD); infectious hematopoietic necrosis (IHN); and viral hemorrhagic septicemia (Egtved). In questionable cases, the director of the department shall determine whether or not the person making the certification is technically qualified to do so.

(8) Only those aquatic plants and animals lawfully obtained in another state or country may be imported.

237. Leasing of State Water Bottoms for Aquaculture

(a) Definitions. The following definitions are established for terms used in this section:

(1) "Aquaculture Area" means any public waters or private waters contiguous to public waters set aside for the purpose of cultivating, harvesting or relaying of any aquatic plant or animal life.

(2) "Aquaculture Agreement" means an agreement for the establishment of an aquaculture area on private water bottoms contiguous to state water bottoms which may include a permit for relaying or depuration of shell fish under authority of Fish and Game Code Division 12. Permits may include use of state or private lands for aquaculture purposes.

(3) "Aquaculture Lease" means a lease of state water bottoms for the cultivation of aquatic plants and animals.

(4) "Depuration" means the process by which shellfish cleanse themselves of contaminants in a controlled process water environment.

(5) "Depuration Facility" means the physical structure, enclosure or device in which depuration is accomplished, including all appurtenances.

(6) "Growing Area" means any offshore ocean, coastal estuarine or freshwater area suitable for natural shellfish growth or artificial shellfish propagation and shall include open seawater systems.

(7) "Relaying" means the moving of shellfish from one water to another.

(8) "Shellfish" in this section means native or nonnative bivalve mollusks.

(9) "Classified Areas" include those waters that may be classified by the State Department of Health according to the following:

(A) "Approved Area": a shellfish-growing area not adversely affected by sewage or other wastes.

(B) "Conditionally Approved Area": a shellfish-growing area that may be occasionally affected by sewage or other toxic substances.

(C) "Prohibited Area": a shellfish-growing area not certified because of its proximity to a known waste discharge or because the area is influenced by other detrimental environmental factors.

(D) "Restricted Area": a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(10) "Lot" is a designated quantity of shellfish that is identifiable and may consist of one or more batches.

(11) "Batch" is a measurable, identifiable unit such as bushel, and one or more batches will comprise a lot.

(12) "Tidal Area" means the intertidal area between the high tide mark and 1,000 feet offshore. Commercial harvesting of native invertebrates in this area is subject to special permit requirements under Section 8500 of the Fish and Game Code.

(b) Applications.

(1) Applications for a lease of state water bottoms for aquaculture or for an aquaculture agreement or for a permit to relay or depurate shellfish shall be made to the commission.

(2) Applications shall be accompanied by proof of ownership of, or a valid lease on the lands on which the operations are to occur, or description of the state lands which the applicant has leased or intends to lease and on which the operations are to occur.

(3) Applications also shall be accompanied by a description of the area involved and a reference map clearly showing the exterior boundaries of the area. The description must be tied to monuments of record and maps must be in a form acceptable for recording in the county(ies) in which the aquaculture area is located. A copy of all maps shall be submitted by the commission to the State Lands Commission. No aquaculture agreement will be valid until the State Lands Commission has certified to the department that the area applied for is unencumbered or the private ownership is properly described, so as not to preclude its use for the proposed culture.

(4) No aquaculture lease for state water bottoms will be approved until the commission has held a public hearing at least 90 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture lease or aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such lease or agreement in the appropriate county(ies) within 30 days of approval by the commission.

(5) No aquaculture agreement for private water bottoms will be approved until the commission has held a public hearing at least 30 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such aquaculture agreement in the appropriate county(ies) within 30 days of approval by the commission.

(6) An explanation of the type of operation including the aquaculture practices, relay or depuration activities to be employed, shall be included in all applications for aquaculture leases or agreements.

(7) The change of any authorized cultural practices as specified in the aquaculture lease or agreement must have approval of the commission before the change is put into effect.

(8) The application shall include information as to whether each of the areas involved in the aquaculture relay or depuration operation has been classified by the Department of Health Services as approved, conditionally approved, prohibited, restricted or unclassified.

(c) Aquaculture Leases and Agreements.

(1) Aquaculture leases or agreements shall not be modified, amended, transferred, assigned or hypothecated without the approval of the commission.

(2) The holder of the aquaculture lease or agreement shall comply with the provisions of the Fish and Game Code and the rules and regulations of the commission and any special provisions set forth in the lease or agreement by the commission.

(3) Before an aquaculture lease or agreement is issued by the department, the applicant must present evidence that the applied for aquaculture area has been registered in compliance with Fish and Game Code Section 15101.

(4) The department may inspect the depuration facilities, culture or relay areas of a holder of an aquaculture lease or agreement at any time.

(5) Vessels used by holders of an aquaculture lease or agreement may be required to maintain clearly visible identifying numbers.

(6) The holder of an aquaculture lease or agreement shall record the size, numbers or pounds of shellfish or other marine life planted, relayed or taken in or from waters of the state on forms as designated by the department.

(7) Marking of leases. All aquaculture leases shall be clearly marked. Minimum marking requirements shall include:

(A) One buoy anchored on each of the four corners and one buoy, possessing radar-reflecting capabilities, anchored in the center of each aquaculture lease. All buoys used to define the boundaries of an aquaculture lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage system regulations (33 CFR Section 62.33 and 66.01-10).

(B) All buoys shall bear the Aquaculture Lease No. M- (followed by the appropriate number).

(C) Buoys marking the boundaries of an aquaculture lease shall be maintained at all times. If buoys are lost, displaced or are otherwise removed from an aquaculture lease, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to termination.

(D) If aquaculture leases are located in areas too shallow to effectively maintain buoys, the four corners (boundaries) of a lease may be defined by stakes extending no less than three feet above the surface of the water at mean higher high water supporting the markings prescribed in subsection (A). Stakes used to define the limits of an aquaculture lease shall be marked and maintained in the same manner as buoys in the preceding subsections.

(E) Each aquaculture lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and markings to be established on aquaculture leases.

(d) In addition to other requirements, a permit to relay or depurate shellfish shall contain the following conditions:

(1) An operation conducted under an aquaculture agreement or a relay or depuration permit that receives shellfish from the licensee's or permittee's own lands or lands leased by it, is not required to be licensed as a wholesale fish dealer and preserver, but shall maintain such records as are required by the department to monitor such operations, including but not limited to: data with respect to each batch of shellfish depurated or relayed that will show: its origin and quantity; date of reception by the depuration facility or relay bed and the length of time held in the facility or bed; and their final disposition. All depurated or relayed shellfish shall be identified by a tag or label securely fastened to the shipping container and bearing the certificate number of the shipper, his name and address, the name and address of the consignee, and the kind and quantity of shellfish in the container and the batch or lot number.

(2) The operator of a depurating facility receiving shellfish from other than the operator's owned or leased areas shall obtain a wholesale fish dealer's and preserver's license prior to the department's issuance of a permit and the permittee will maintain such records as required by the department.

(3) A relay or depuration permittee, moving shellfish for the purpose of cleansing, shall satisfactorily identify each lot of shellfish harvested and maintain its identity separate from other shellfish throughout its relaying or depuration process until certification by the Department of Health Services that edible shellfish standards have been met.

(4) Persons holding an aquaculture lease or agreement who relay shellfish from one area of the state to another, whether from private or public water bottoms, shall give the department notice two working days prior to the relay. Such notification shall be given to the department's office specified in the agreement.

(5) No shellfish shall be relayed without obtaining written permission from the department.

(6) Shellfish harvested from a conditionally approved or restricted area for relaying or depuration, shall be identified by a lot number. Shellfish so identified must be kept separate throughout the relaying or depuration process.

(7) Oysters, clams and mussels harvested for human consumption from the waters of Districts 12 and 13 by commercial fishermen, shall be taken only for the purposes of relaying or depuration.

(8) Shellfish produced by a registered aquaculture facility within the state may be relayed at any time. Such shellfish shall be free of disease and parasites so as to pose no threat to the environment.

Hatcheries producing shellfish to be planted in state waters shall be inspected by the department for the

presence of disease organisms at least once a year and, following such inspection, a permit authorizing planting of specified species for the ensuing year may be issued.

In lieu of the hatchery inspection, at the option of the registrant, inspection of each lot from the hatchery that is to be planted in state waters shall be requested. Request for inspecting each lot shall be made by the registrant at least two working days prior to the transfer. A written permit authorizing the planting shall be obtained before planting the shellfish.

(9) Subsection (d)(8) does not preclude inspections under Section 1006 of the Fish and Game Code.

(e) Shellfish relayed from Districts 12 and 13.

(1) Native shellfish taken from Districts 12 and 13 under an aquaculture lease or agreement for purposes of purification, whether from public or private lands, are subject to a royalty of 0.0125H per pound after taking the shellfish from the relaying or depurating sit. For the purpose of computing the royalty, the charge shall be based on the weight (including shell) of the shellfish after completion of the cleansing process. The royalty is payable within 30 days after close of the calendar month in which it became due. If not paid within 60 days after the close of the month for which it became due, a penalty equal to 10% of the royalty shall be added to it.

(2) Nonnative shellfish relayed from Districts 12 and 13 and relayed for the purposes of purification, are subject to a 0.02H per pound fee after taking them from the relaying or depuration site. The fee is charged to cover administrative costs and is subject to adjustment and penalty as described in subsection (e)(1).

(f) Persons holding an aquaculture lease or agreement and using state water bottoms shall, in addition to the acreage rental fee for use of state water bottoms, be assessed a fee on all shellfish harvested not to exceed the privilege tag as provided in Fish and Game Code Section 15003. The fees shall be subject to the penalty and adjustment as described in subsection (e)(1). These fees shall not apply to the harvesting of shellfish from state or private water bottoms in Districts 12 and 13 for the purposes of cleansing. When water quality in Districts 12 and 13 permits direct use of the shellfish from state water bottoms or native shellfish from private water bottoms, the fee established by Fish and Game Code Section 15003 shall apply.

(g) Agar-bearing plants taken from state waters are subject to the fees of Section 165(a)(2)(E) of this title.

(h) Oysters, clams and mussels harvested from Districts 12 and 13 for commercial purposes must be taken by licensed commercial fishermen. In addition to a commercial fishing license, every fisherman when harvesting shellfish, must have in his possession a current permit issued pursuant to Section 123 of this title. Only those species listed on the permit for harvest from Districts 12 and 13 may be taken.

(i) Improvements of aquaculture leases.

(1) Oyster Cultivation.

(A) Bottom culture: leases must be improved at an average rate of at least two cases of seed-bearing shell (160 pounds of seed-bearing shell) or 30 bushels of shellfish one or more years of age per acre over the allotted acreage per year. Improvements by unattached, single seed (less than one year old) shall consist of planting an average rate of 10,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(B) Off-bottom culture: leases must be improved at an average rate of at least one case of seed-bearing shell (80 pounds of seed-bearing shell), or 15 bushels of oysters one or more years of age per acre over the allotted acreage per year. Improvement by unattached single seed (less than one year old) shall consist of planting an average rate of 5,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(C) Production requirements: the annual harvest rate shall be an average of 2,000 oysters per acre (over one year of age) over the allotted acreage effective three years after the effective date of the lease. Harvest reports shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(2) Miscellaneous Aquatic Species.

(A) A lease of state water bottoms for the cultivation of species other than oysters will include minimum planting and harvesting requirements for the species to be cultivated to insure that water bottoms so encumbered will be used for the purpose intended.

(B) Harvest amounts shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(j) As proof of use, holders of aquaculture leases shall submit to the department office designated in the lease agreement, a written declaration under penalty of perjury showing the date, quantity of species and acreage in each planting, also including a map showing acres, amounts and dates planted.

238. Sale and Transportation of Aquatic Plants and Animals

Importation of live aquatic plants and animals is governed by Section 236 of these regulations. Except as provided for by Section 236, aquaculture products may be sold or transported in this state only in accordance with the following general terms and conditions:

(a) All aquaculture products sold or transported under the provisions of this section must have been legally reared or imported by an aquaculturist registered in this state.

(b) The following provisions apply to transactions of aquaculturists involving aquaculture products:

(1) A registered aquaculturist may sell and transport live aquaculture products authorized by that registration to any other aquaculturist authorized to possess the same species.

(2) All shipments of authorized aquaculture products shall be accompanied by a duplicate of a sales invoice or waybill showing the name of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume or count of each species in the shipment, and the name and address of the consignee.

(3) Duplicates of the required sale or shipping documents shall be retained by the producer, and by the shipper, if different from the producer, for a period of one year from the date of sale. The records shall be shown upon written demand by the director of the department. The information contained in these documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(c) A registered aquaculturist may sell and transport live those aquaculture products authorized by that registration to any of the following whose licenses or permits authorize the possession of the same live plants and animals for commercial purposes. Documents as described in Section 238(b)(2) shall accompany each shipment. Aquaculture products may not be stocked in any water of the state, except as provided for in Section 238.5 of these regulations.

(1) Scientific or educational establishments;

(2) Aquarium Dealer Permittees (See Section 227 of these regulations);

(3) Live Freshwater Bait Fish Licensees (See Sections 200 through 200.31 of these regulations);

(4) To any other legal purchaser or possessor for whom possession is legal.

(d) The following provisions apply to the operator of any commercial establishment where aquaculture products are maintained alive for human consumption:

(1) Under no condition shall these aquaculture products be stocked in any waters of this state.

(2) The operator may transport live aquaculture products between aquaculture facilities, retail sales stores, and/or wholesale distribution points. Documents as described in Section 238(b)(2) shall accompany each shipment.

(3) The operator shall retain copies of all sales invoices or waybills received with the products. Such invoices or waybills shall be retained by the operator for a period of at least one year following receipt of the aquaculture products listed thereon, and such invoices or waybills shall be produced upon request of an official of the department.

(4) All aquaculture products, except live shellfish, sold and leaving the premises of the operator shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with Section 240 of these regulations.

(e) Marking and Tagging Requirements.

(1) Abalone.

(A) All abalone produced by an aquaculturist registered pursuant to Section 15101 of the Fish and Game Code may be possessed, harvested, sold and transported, provided the abalone are identifiable as being cultivated or are packaged in sealed containers as provided for in Section 240 of these regulations.

Such abalone are exempt from the size limits established by Section 8304 of the Fish and Game Code.

(B) Abalone which spend part of their life in marine waters of the state, other than while in an aquaculture facility, must have an identifying mark or tag approved by the Department, or be otherwise

identified as a product of aquaculture by a method approved by the Commission. Such identifying mark or method must be approved, or a tag attached, prior to the abalone being placed in waters outside the aquaculture facility. For purposes of this section, the term "aquaculture facility" includes a hatchery, rearing facility, pen, cage or any similar structure or device.

(C) Any person other than a registered aquaculturist processing cultured abalone at the wholesale level must possess a revocable processing permit for cultured abalone, as issued by the department.

(f) Retail Sales of Aquaculture Products at an Aquaculture Facility. All aquaculture products sold at an aquaculture facility shall be dead at the time of sale except for:

(1) Aquaculture products sold under the provisions of Sections 238(c), 238(d)(2), or 238.5 of these regulations. Aquaculture products sold under provisions of Section 238.5 of these regulations may be transported live and stocked as provided for by Section 238.5 of these regulations by retail customers. Documents as described in Section 238(b)(2) shall accompany each shipment, and records as described in Section 238(b)(3) shall be maintained by the aquaculturist and the retail customer.

(2) Striped bass, hybrid striped bass, abalone, steelhead trout and sturgeon sold pursuant to the provisions of Section 240 of these regulations.

(3) Aquaculture produced shellfish purchased at retail and taken from the aquaculture facility by the purchaser need only be accompanied by a sales receipt showing the name and aquaculture registration number of the producer, the item(s) and quantity purchased and the date of purchase. All other shipments of aquaculture products shall be accompanied by a sales invoice or waybill as provided in Section 238(b)(2) of these regulations.

(4) Those freshwater bait fishes that would be legal for sale as live bait by a licensed Live Freshwater Bait Fish Dealer in the same sport fishing district or portion of sport fishing district in which the aquaculture facility is located (see Sections 4.10 through 4.30 and Sections 200.13 through 200.31 for legal live bait fishes).

238.5. Stocking of Aquaculture Products

Upon stocking, aquaculture products are wild and therefore "fish" as defined by Section 45 of the Fish and Game Code, except when stocked into a registered aquaculture facility. No person shall stock aquaculture products in this state except in accordance with the following general terms and conditions:

(a) All aquaculture products stocked under these provisions must be legally reared or possessed by an aquaculturist registered in this state. No person shall stock aquaculture products which are parasitized, diseased or of an unauthorized species.

(b) Live aquaculture products shipped to Inyo or Mono counties must be certified by the department as disease and parasite-free before being stocked in waters in those counties.

(c) A registered aquaculturist producing or possessing rainbow trout (*Oncorhynchus mykiss*), largemouth bass (*Micropterus salmoides*), bluegill (*Lepomis macrochirus*), redear sunfish (*Lepomis microlophus*), Sacramento perch (*Archoplites interruptus*), channel catfish (*Ictalurus punctatus*), blue catfish (*Ictalurus furcatus*) and white catfish (*Ictalurus catus*), may stock these species under the following terms and conditions.

Only publicly owned lakes covered by a cooperative agreement between the department and the lake operator and privately owned reservoirs, lakes and ponds in the following counties or portions thereof may be stocked without a stocking permit: Alameda, Butte, Colusa, Contra Costa, Glenn, Imperial, Kern, except in the Kern River drainage above Democrat Dam; Kings, Lake except in the Eel River drainage; Los Angeles, Merced, Napa, Orange, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Ventura, Yolo, Yuba; those portions of Amador, Calaveras, El Dorado, Mariposa, Nevada, Placer and Tuolumne west of Highway 49; Fresno west of the Sierra and Sequoia National Forest boundaries; Madera west of the Sierra National Forest boundary; and Tulare west of the Sequoia National Forest and Sequoia National Park boundaries.

(d) Except for those species listed in Section 238.5(c) when planted into those specific areas and waters covered in Section 238.5(c), no person shall stock aquatic plants and animals except as follows:

(1) Each stocking of fish shall require a separate Private Stocking Permit (FG 749 (Rev. 5/93), which is incorporated by reference herein) issued by the department. A copy of this permit shall accompany all shipments. However, a copy of the same permit (FG 749 (Rev. 5/93)) may be used for additional consignments of the same species when stocked in the same water or waters, until cancelled by the department. See subsection 699(b) of these regulations for the fee for this permit.

(2) Application for the private stocking permit shall be made to the regional manager of the Fish and Wildlife region in which the fish are to be stocked. An application will be supplied to each applicant upon request.

(3) No person shall stock any species of fish in any water in which the stocking of such fish is contrary to the fisheries management programs of the department for that water or drainage, or in any water from which such fish might escape to other waters where such fish are not already present. All applicants will be advised upon request of the said departmental fisheries management programs.

(4) Permittee shall notify the regional office of the department not less than 10 days in advance of stocking in order to make arrangements for inspection. Such inspection may be waived at the discretion of the department. If, upon inspection, diseased or parasitized fish or fish of unauthorized species are found by the department to be present, they shall be disposed of by the permittee as directed by the department. The department may require that the expense of any inspection made necessary by the provisions of these regulations be borne by the permittee.

(5) A stocking permit may be cancelled or suspended by the department upon conviction of a violation of these regulations by a court of competent jurisdiction. Cancellation or suspension may be appealed to the commission.

(6) A stocking permit is valid only when signed by the applicant.

(e) A registered aquaculturist selling and transporting aquatic plants and animals for the purpose of stocking in this state shall retain copies of documents required by Section 15005(b) of the Fish and Game Code for a period of three years following stocking of the fish. The documents shall be shown upon written demand by the director of the department. The information contained in the documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(f) Except for Inyo, Mono, San Bernardino, Riverside and Imperial counties, mosquitofish (*Gambusia affinis*) may be planted for purposes of mosquito control without obtaining a permit otherwise required by these regulations. In Inyo and Mono counties and in public waters of San Bernardino, Riverside and Imperial counties, mosquitofish may not be planted without the written concurrence of the department.

243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs From the Wild for Use as Broodstock for Aquaculture Purposes

Pursuant to sections 5503 and 15300, Fish and Game Code, aquatic plants, invertebrates, fishes and bullfrogs (*Rana catesbeiana*) may be taken from the wild for aquaculture purposes only in accordance with the following regulations:

(a) Exceptions. This section does not apply to the following:

(1) The take of live freshwater fish for sale as bait (See Section 8460, Fish and Game Code and Section 200, Title 14, CCR).

(2) The take of aquatic animals by commercial fishermen (See Section 226.7, Title 14, CCR).

(b) Permits. The department may issue a revocable, nontransferable permit to collect aquatic plants, invertebrates, fishes and bullfrogs from the wild for use in developing a domesticated broodstock for aquaculture purposes. Permits shall not be issued for striped bass or white sturgeon except by specific commission authorization. The permit shall be valid for one year from the issue date listed on the permit unless the expiration date on the permit specifies a shorter time period. No permits shall be issued for golden trout, steelhead trout, chinook salmon or coho salmon, or for those animals listed by the state or federal government as endangered, threatened or fully protected. Permits shall state the name, mailing and business addresses and phone of permittee, permittee's aquaculture registration number, name of the collector(s) if different from permittee, collector(s) phone number, collector(s) driver's license, or DMV identification number, name of assistant(s), assistant(s) phone number, assistant(s) driver's license, or DMV identification number, species to be collected, number or total weight to be collected, collection locations and methods, and collection dates. Any special notifications, requirements and conditions shall attached to the permit on a separate page.

(1) Who May Obtain Permits. Permits shall be issued only to the owner or operator of an aquaculture facility currently registered pursuant to Section 15101, Fish and Game Code and Section 235, Title 14, CCR. The aquaculturist must be authorized by said registration to possess the species to be taken. The aquaculturist may designate, on the permit application, a person to collect for him.

(2) Cost of the Permit. An administrative fee of \$500 shall be charged for processing the permit and initial site inspection. The department shall assess an additional fee, equal to the actual costs to the department in salaries, travel expenses and equipment use, if any department personnel are required to assist in the collection or inspection of the wild broodstock.

(3) How to Apply for the Permit. The permit application, FG 794 (Rev. 07/08), is available on request from the Aquaculture Coordinator at the address provided on the application. Completed and signed application forms and the \$25 nonrefundable application fee shall be submitted to the Aquaculture Coordinator.

(c) Who May Collect Wild Broodstock. Wild broodstock shall be collected only by the permittee or those persons listed as collectors on the permit. The permittee or one of the collectors designated by the permit shall be present when animals are collected. Collectors shall have the collection permit in their possession while engaged in collection activities and while transporting species collected to the permittee's registered facility. Any person listed on the permit as a collector and who is attempting to take broodstock, shall have a commercial fishing license in their possession. All collectors and assistants must have a driver's license or DMV identification in their possession.

Persons assisting the collector, and under their direct supervision, need not have a broodstock collection permit, but they shall be listed as assistants on the permit. The assistant may only assist in the landing of the broodstock or assist with equipment such as boat operation. The assistant is not allowed to take or collect broodstock independently.

The department may require that an employee of the department be present to monitor collection operations, or that the broodstock be collected by department personnel. All costs to the department for monitoring or collecting shall be borne by the permittee. Any special conditions applied to the collection of wild broodstock shall be stated on the permit or attached page(s).

(d) Collection Methods and Gear. All aquatic plants and animals authorized to be taken by the permit shall be captured only in those waters and only with those types of gear specified in the permit. All species other than those specified in the permit shall be returned immediately in good condition to the water of origin.

The permittee shall comply with department requirements concerning construction and deployment of collection gear. Locations and times of collecting and the amount taken may be restricted by the department to protect the wild populations of authorized species or other species found in the collecting area, or to reduce interference with angling.

No recreational take of any kind may be done by the person(s) listed on the permit while taking the wild plants and animals authorized under the permit.

(e) Notification of Department. Before making any collection, the permittee and/or the other persons listed on the permit shall notify the department's regional office having responsibility for the area where the permittee wishes to collect or any other department office specified in the permit. Unless otherwise specified in the permit, the notification shall reach the regional office or other specified office by letter, telephone or personal contact at least 48 hours in advance of the collection date(s) and shall include the locality, dates and time(s) during which collecting is to be done.

(f) Written Reports and Logbooks.

(1) Permittee shall submit a written report to the Aquaculture Coordinator and the department office specified on the permit within six months of the permit's expiration date or prior to application for any additional broodstock collection permits, whichever is earlier. The report shall state the number of plants or animals collected, the location and condition of the wild broodstock and the number or amount of progeny cultured and provide other information as specified in the permit.

(2) When the logbooks are required to be filled out as a condition on the permit, the logbooks shall be in the immediate possession of the permittee and/or the collector working under the authority of the permit. The logbook shall be accurate and complete at all times and shall contain the require information as prescribed by the department.

(g) Disposition of Wild Broodstock and Their Cultured Progeny. Wild plants and animals taken under the authority of this permit remain the property of the state and shall not be sold, bartered or traded without written permission of the department. Wild broodstock shall be held only at an aquaculture facility registered by the permittee and may be required to be held separate from non-wild broodstock. The department will determine the final disposition of all wild broodstock. Any wild broodstock taken and possessed shall be marked in a manner specified in the permit. The cultured progeny of plants and

animals lawfully obtained under the authority of a broodstock collection permit are the exclusive property of that person who cultured them, or that person's successor in interest.

(h) Inspections. Permittees shall allow authorized department employees to inspect any and all wild broodstock authorized by this permit and their holding facilities, vehicles, vessels or other places that the broodstock may be held. Inspections may be made at any time with or without prior notification.

(i) Permit Denial or Revocation. The department may deny or revoke a permit to take wild plants and animals for use in developing a domesticated broodstock for any of the following reasons:

(1) To protect an aquatic resource.

(2) To protect public safety.

(3) A commercial source is available.

(4) The applicant does not have facilities or experience necessary to develop a domesticated broodstock from wild plants or animals.

(5) The applicant or permittee has demonstrated repeated failure to develop a domesticated broodstock from wild plants or animals.

(6) The applicant or permittee, his designated collector or an employee or assistant has violated the terms of a wild broodstock collection permit issued pursuant to this section, or has been convicted by a court of competent jurisdiction of any violation of the Fish and Game Code or commission regulations as determined by the department.

(7) Any person who currently has a permit under revocation or suspension by the department or commission.

(j) Violations. All permit requirements and conditions shall be followed. Any violation of any provision of the permit is a violation of this section and may lead to immediate permit revocation or suspension.

(k) Appeal. Any denial, suspension or revocation may be appealed to the commission

245. Aquaculture Disease Control Regulations

(a) General Conditions.

(1) All fish inspections and examinations for diseases/pathogens shall be conducted in accordance with the most recent edition of "Procedures for Detection and Identification of Certain Fish Pathogens" published by the Fish Health Section of the American Fisheries Society (FHS Blue Book). All such inspections and examinations shall be conducted by a fish pathologist.

(2) When diseases/pathogens are identified by a fish pathologist in aquatic plants or animals in an aquaculture facility, or in transit to or from such a facility, or in animals intended to be imported into the state, pursuant to Section 236 of these regulations, which require restrictive action by the department, the owner or consignee involved shall be notified by the department immediately. The owner or consignee may accept the original identification or may request that the department seek confirmation of the identification by another fish pathologist.

(3) Upon confirmation, if requested, or acceptance of the identification of any listed disease/pathogen which requires restrictive action by the department as set forth in subsection (c), a compliance agreement describing the action to be taken may be drawn up between the owner and the director. The department shall commence negotiation of the terms of the compliance agreement within 48 hours after acceptance or confirmation as defined in subsection (b). The agreement must be signed by the owner and the director within 30 days of acceptance or confirmation. If the compliance agreement is not signed within 30 days, a quarantine as specified in Fish and Game Code Section 15505 may be imposed while the owner appeals to the commission. The agreement shall be designed in consultation with the Aquaculture Disease Committee to bring the least amount of economic hardship possible to the affected party while affording maximum protection to other growers and the fishery resources of the State.

(4) If at any time a fish pathologist identifies one or more pathogens listed in this section anywhere within the State of California, he must immediately report the identification to the director of the department.

(5) Methods for disposal of aquatic plants and animals and for disinfection of aquaculture equipment and facilities shall be specified in the compliance agreement in accordance with the disease category and the threat to other aquatic plant or animal life or aquaculture facilities.

(6) Any live aquatic plants, animals or eggs originating outside California shall be certified by a fish pathologist as free of subsection (c) listed diseases/pathogens before a permit for importation is issued.

(7) Anyone interested in conducting research on those diseases/pathogens designated as catastrophic must submit a written research proposal to the director of the department and obtain written approval

from the director before the pathogen is brought to their facility. Anyone denied approval pursuant to this subsection may appeal such denial to the commission.

(8) Upon identification of a disease/pathogen which presents a threat to the aquaculture industry or aquatic animal or plant life, but which is not listed in this section, the director of the department shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee, impose an immediate holding action and develop a plan of action, which may include prohibiting an intended importation of aquatic plants or animals infected by the disease.

(b) Definitions.

(1) Compliance Agreement. A written agreement between the director of the department and the owner or consignee of the diseased or infected aquaculture product which outlines the steps for disposal of the infected aquatic plants or animals and the procedures, both chemical and mechanical, for clean up of the facility.

(2) Confirmation. The second identification of a disease agent from the original sample or source by another fish pathologist.

(3) Disposal. The destruction or marketing of animals by methods prescribed in a compliance agreement.

(4) Eradication. The elimination of disease agents.

(5) Fish Pathologist. A department veterinarian or fish pathologist, or a fish pathologist certified by the Board of Certification of the Fish Health Section of the American Fisheries Society pursuant to their guidelines adopted effective January 1, 1982 or a fish health specialist recognized by a state or federal governmental authority and approved by the department.

(6) Immediate Holding Action. A prohibition of moving any plant or animal from an aquaculture facility for up to 30 days.

(7) Other Holding Action. Restrictions outlined in the compliance agreement on plant or animal movement to specific markets, watersheds or geographic areas deemed necessary by the department to protect other aquaculture facilities and the aquatic plants and animals of the State.

(8) Q Diseases. Diseases for which there is so little information they cannot be given a permanent classification.

(9) Disease. An abnormal condition of an organism as a consequence of infection by a pathogen, that impairs normal physiological function.

(10) Pathogen. A biological agent that has the potential to cause disease.

(11) Infection. Invasion of an organism by a pathogenic biological agent.

(c) Disease Categories. The diseases/pathogens of concern are grouped in four categories as to their seriousness and the specific action to be taken when diagnosed.

(1) Significant Diseases/Pathogens. On identification by a fish pathologist and confirmation, if requested, of any of these diseases/pathogens, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action, other holding action or no restrictions as the director in consultation with the Aquaculture Disease Committee may deem necessary.

(A) Viruses

1. White Sturgeon Iridiovirus (WSIV).

(B) Bacteria

1. Enteric Redmouth (ERM) *Yersinia ruckeri*.

2. Furunculosis *Aeromonas salmonicida*.

3. Vibriosis in finfish raised in freshwater *Vibrio* spp.

(C) Parasites

1. Copepod *Lernaea* spp., *Salmincola* spp., and *Ergasilus* spp.

2. Oyster Disease (MSX) *Haplosporidium nelsoni*.

3. Sabellid Polychaete Fan Worm *Terebrasabella heterouncinata*.

(D) Fungi

1. Ichthyophonous *Ichthyophonus hoferi*.

(E) Dinoflagellate Algae

1. Oyster Perkinsosis *Perkinsus marinus*.

(2) Serious Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then the action will be disposal or

other holding action the director in consultation with the Aquaculture Disease Committee may deem necessary, as specified in the compliance agreement.

(A) Viruses

1. Koi Herpes Virus (KHV).
2. Largemouth Bass Virus (LMBV).

(B) Bacteria

1. Bacterial Kidney Disease (BKD) *Renibacterium salmoninarum*.

(C) Parasites

1. Bonamiasis of Oysters *Bonamia* spp.
2. Ceratomyxosis *Ceratomyxa shasta*.
3. Microsporiasis *Pleistophora ovariae*.
4. Proliferative Kidney Disease (PKD) *Tetracapsuloides bryosalmonae*
5. Seaside Disease *Haplosporidium costale*.
6. Whirling Disease *Myxobolus cerebralis*.

(3) Catastrophic Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then other holding action, disposal and eradication shall be required, as specified in the compliance agreement.

(A) Viruses

1. Abalone Herpesvirus.
2. Channel Catfish Virus (CCV).
3. Infectious Hematopoietic Necrosis Virus (IHNV).
4. Infectious Pancreatic Necrosis Virus (IPNV).
5. Infectious Salmon Anemia Virus (ISAV).
6. Spring Viremia of Carp Virus (SVCV) *Rhabdovirus carpio*.
7. Viral Hemorrhagic Septicemia Virus (VHSV).

(B) Bacteria

1. Salmon Rickettsiosis *Piscirickettsia salmonis*.

(C) Parasites

1. *Marteilioides chungmuensis*.

(4) Q Diseases. On identification by a fish pathologist and confirmation, if requested, of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action pending determination of a course of action for diseases in this classification.

(A) Viruses

1. Herpesvirus salmonis (HPV).
2. Viral Erythrocytic Necrosis Virus (VENV).

(B) Bacteria

1. *Edwardsiella ictaluri*.

(C) Parasites

1. Denman Island Disease of Oysters *Mikrocytos mackini*.

(d) Aquatic Diseases and Host Organisms. Pursuant to Section 15500 of the Fish and Game Code, the commission has compiled a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. Infected plants or animals are considered detrimental to the aquaculture industry and to wild stocks of aquatic plants and animals.

Disease/Pathogen	Host
(1) Viruses	
(A) Abalone Herpesvirus	Abalone
(B) Channel Catfish Virus (CCV)	Channel catfish
(C) Herpesvirus salmonis (HPV)	Rainbow trout

(D) Infectious Hematopoietic Necrosis Virus (IHNV)	Salmonids
(E) Infectious Pancreatic Necrosis Virus (IPNV)	Salmonids
(F) Infectious Salmon Anemia Virus (ISAV)	Salmonids
(G) Koi Herpes Virus (KHV)	Common Carp
(H) Largemouth Bass Virus (LMBV)	Centrarchids
(I) Spring Viremia of Carp Virus (SVCV) <i>Rhabdovirus carpio</i>	Carp
(J) Viral Erythrocytic Necrosis Virus (VENV)	Marine and anadromous finfish
(K) Viral Hemorrhagic Septicemia Virus (VHSV)	Marine/ freshwater finfish
(L) White Sturgeon Iridovirus (WSIV)	Sturgeon
(2) Bacteria	
(A) Bacterial Kidney Disease (BKD) <i>Renibacterium salmoninarum</i>	Salmonids
(B) Enteric Redmouth (ERM) <i>Yersinia ruckeri</i>	Finfish
(C) <i>Edwardsiella ictaluri</i>	Channel catfish
(D) Furunculosis <i>Aeromonas salmonicida</i>	All finfish
(E) Salmon Rickettsiosis <i>Piscirickettsia salmonis</i>	Salmonids
(F) Vibriosis in finfish raised in freshwater <i>Vibrio</i> spp.	Finfish
(3) Parasites	
(A) Bonamiasis of Oysters <i>Bonamia</i> spp.	Oyster
(B) Ceratomyxosis <i>Ceratomyxa shasta</i>	Salmonids, polychaetes
(C) Copepod <i>Lernaea</i> spp., <i>Salmincola</i> spp., and <i>Ergasilus</i> spp.	Freshwater finfish
(D) Denman Island Disease <i>Mikrocytos mackini</i>	Oysters
(E) <i>Marteilioides chungmuensis</i>	Oysters
(F) Microsporiasis <i>Pleistophora ovariae</i>	Golden shiner, fathead minnow
(G) Oyster Disease (MSX) <i>Haplosporidium nelsoni</i>	Oysters
(H) Proliferative Kidney Disease (PKD) <i>Tetracapsuloides bryosalmonae</i>	Salmonids

(I) Sabellid Polychaete Fan Worm <i>Terebrasabella heterouncinata</i>	Gastropod Molluscs
(J) Seaside Disease <i>Haplosporidium costale</i>	Oyster
(K) Whirling Disease <i>Myxobolus cerebralis</i>	Salmonids, tubifex
(4) Fungi	
(A) Ichthyophonous <i>Ichthyophonus hoferi</i>	Finfish
(5) Dinoflagellate Algae	
(A) Oyster Perkinsosis <i>Perkinsus marinus</i>	Oysters