

## Regulatory Language

Section 243, Title 14, CCR is amended to read:

### **§ 243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs from the Wild for Use as Broodstock for Aquaculture Purposes.**

Pursuant to the provisions of sections 5503 and 15300, of the 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 sections 8460-8463 of the Fish and Game Code and sections 200-200.31 of title 14, CAC~~) (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, CAC~~) (See Section 226.7, Title 14, CCR).

(3) ~~The take of anadromous fish under restrictions applied to ocean ranching (see sections 15900-15908 of the Fish and Game Code and section 235.2, title 14, CAC).~~

**(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, ~~period for which the permit is valid~~ collection dates. and any special collection requirements 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 ~~according to section 15101 of the~~ pursuant to Section 15101, Fish and Game Code and ~~section 235 of title 14, CAC~~ 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 ~~\$50~~ [\$100 - \$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.

~~The department may waive any portion of the fees, except the \$50 administrative fee, if the permittee agrees to restock into the wild a portion of the cultured progeny of wild broodstock. Fees waived may not be in excess of the current wholesale market value of the progeny stocked. The number of progeny and place to be stocked may be negotiated by the department and the permittee.~~

(3) How to Apply for the Permit. ~~Application for the permit shall be made on forms provided by the department. Application forms are~~ The permit application, FG 794 (Rev. 07/08), is available on request from the Aquaculture Development Section, Department of Fish and Game, 1416 Ninth Street, Sacramento, CA 95814 Aquaculture Coordinator at the address provided on the application. Completed and signed application forms and the ~~\$25 administrative nonrefundable application~~ fee shall be submitted to the Department of Fish and Game, Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814 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 At least one of the persons 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. Such 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 may require that animals obtained under this permit be returned alive and in good condition to the water where taken or donated to a charitable organization approved by 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.

~~Inspections may be made during normal working hours or with prior notification, if some other time is agreeable to both parties.~~

**(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 for the collection of wild broodstock 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 pertaining to activities covered by this permit 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.

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

Note:

Authority cited: Sections 1050, 1907, 5503, 15001 and 15300, Fish and Game Code. Reference: Sections 2000, 2052, 2273, 5503, 8430, 8433, 8435, 8436, 8460 and 15004, Fish and Game Code.