

**State of California
The Resources Agency
DEPARTMENT OF FISH AND GAME
1416 Ninth Street
Sacramento, California 95814**

Inland Fisheries - Information Leaflet No. 6

**REGULATIONS GOVERNING PRIVATE STOCKING OF
AQUATIC PLANTS AND ANIMALS (NONCOMMERCIAL)¹**

Stocking Lawsuit and Impacts to Private Stocking Permits

In 2006, a lawsuit was filed by the Pacific Rivers Council and the Center for Biological Diversity against DFG claiming that DFG's fish stocking operation did not comply with the California Environmental Quality Act (CEQA). In July, 2007, DFG was ordered by the Sacramento Superior Court to comply with CEQA regarding its fish stocking operations. The Department (DFG) completed and filed the Hatchery and Stocking Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on January 11, 2010.

Since the adoption of the EIR/EIS, the DFG has been implementing the mitigation measures that are outlined in our environmental document. These mitigation measures have assisted the DFG in approving and stocking those waters that pass our pre-stocking evaluation protocol outlined in our EIR/EIS. DFG will continue work to implement mitigation measures and monitoring protocols identified in the EIR/EIS to reduce stocking impacts to native species.

Before being stocked, each California water body may be evaluated to determine whether stocking can take place there with little or no impact to native species.

Permits Required

State law requires a permit from the Department of Fish and Game for private transportation and stocking of live aquatic plants and animals in many waters of the State. This applies to plants and animals reared within the State as well as those imported into California.

The purpose of the permit system is to prevent the introduction or spread of undesirable kinds of plants and animals and diseased or parasitized plants and animals which might prove harmful to aquaculture and the State's aquatic resources.

The pertinent laws and regulations for private stocking are attached at the end of this leaflet. You should pay particular attention to Section 238.5.

¹Prepared by Fisheries Branch, July, 2000, Updated February 2011

Contact your Regional Office with questions regarding private stocking permits. Regional offices work within these guidelines and make the final determination on all private stocking permits.

**ADDRESSES AND TELEPHONE NUMBERS OF
DEPARTMENT OF FISH AND GAME REGIONAL OFFICES**

NORTHERN REGION (1)	
601 Locust Street Redding, CA 96001 (530) 225-2300	Del Norte, Humboldt, Lassen, Mendocino, Modoc, Shasta, Siskiyou, Tehama, & Trinity
NORTH CENTRAL REGION (2)	
1701 Nimbus Road Rancho Cordova, CA 95670 (916) 358-2900	Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lake, Nevada, Placer, Plumas, Sierra, Sutter, Yuba and the portions of Sacramento, San Joaquin and Yolo counties that are north of I-80 and east of I-5
BAY-DELTA REGION (3)	
7329 Silverado Road Napa, CA 94558 (707) 944-5500	Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Santa Cruz, San Francisco, Solano, Sonoma and the portions of Sacramento, San Joaquin and Yolo counties that are south of I-80 and west of I-5
CENTRAL REGION (4)	
1234 East Shaw Avenue Fresno, CA 93710 (559) 243-4005	Fresno, Kern, Kings, Madera, Mariposa, Monterey, Merced, San Benito, San Luis Obispo, Stanislaus, Tulare and Tuolumne
SOUTH COAST REGION (5)	
3883 Ruffin Road San Diego, CA 92123 (858) 467-4201	Los Angeles, Orange, San Diego, Santa Barbara and Ventura
INLAND DESERTS REGION (6)	
3602 Inland Empire Boulevard, Suite C-220, Ontario, CA 91764 (909) 484-0167	Imperial, Inyo, Mono, Riverside and San Bernardino

A Fee is Required

If your privately-owned water is located outside of these areas and/or you desire to stock species not listed on page 3, then you will need to apply for a Private Stocking Permit (Form FG 749). Generally if there is a cooperative stocking agreement in place for a public water body, no permit is required for stocking public waters. A copy of the application may be obtained from regional offices of the Department. Fill in the form

to the best of your ability and submit it along with the appropriate fee to the regional office of the region in which your pond is located. The fee is adjusted annually, pursuant to changes in the consumer price index. The mailing addresses and counties of responsibility of the six regions are listed on the page 2.

Where to Get Fish

Fish for private stocking may be purchased from registered aquaculturists. Your regional office will provide a list of these aquaculturists upon request. You may not lawfully stock your pond with fish taken under the provisions of a sport fishing license.

You do not need a Private Stocking Permit to stock one of these eight common species in a private pond obtained from a registered aquaculturist:

white catfish	channel catfish	blue catfish	largemouth bass
bluegill	Sacramento perch	rainbow trout	redeer sunfish

and if your water is located in certain portions of the California Great Central Valley or in southern California (with minor exceptions, the permissible areas are approximately the same as the Valley and the Southern California Sport Fishing Regulations Districts). The exact boundaries of these areas are listed below:

AREAS WHERE CERTAIN SPECIES OBTAINED FROM A REGISTERED AQUACULTURIST MAY BE STOCKED WITHOUT A STOCKING PERMIT

The permissible areas include the following counties or portions of counties:

Alameda	Kern (except in the Kern River drainage above Democrat Dam)	San Benito	Stanislaus	
Butte		San Bernardino	Sutter	
Colusa	Kings	Napa	San Diego	Tehama
Contra Costa	Lake (except in the Eel River drainage)	Orange	San Joaquin	Ventura
Glenn	Merced	Riverside	Santa Barbara	Yolo
Imperial	Los Angeles	Sacramento	Solano	Yuba

Plus, the following counties west of Highway 49: Amador, El Dorado, Nevada, Tuolumne, Calaveras, Mariposa, Placer,

Plus, Fresno, Madera, and Tulare counties west of the national park and national forest boundaries.

A Private Stocking Permit does not permit you to sell aquatic plants or animals. If you are interested in raising aquatic plants or animals commercially, you may need to

become a “Registered Aquaculturist. You may want to request Informational Leaflet No. 35, “Aquaculture in Inland Waters of California”, or Marine Resources Informational Leaflet titled: “Regulations Governing Marine Aquaculture”. Both leaflets are available from: Department of Fish and Game, Fisheries Branch, 830 S Street, Sacramento, CA 95811 or the regional offices listed on page 2.

Importation

This leaflet does not cover the importation of live aquatic plants and animals. If you wish to import them into California, you should obtain Informational Leaflet No. 36, “Importation of Live Aquatic Plants, Invertebrates, Fish, Amphibians, and Reptiles”. A permit is required to import live aquatic plants or animals from locations outside California if the plants and animals are to be introduced to a private pond or other waters of the State.

Inspection May Be Required

In certain circumstances, the Department may require an inspection of waters to be stocked before issuing a Private Stocking Permit.

Your regional office will make an appointment with you for an inspection, if the Department determines that an inspection is necessary. Contact the appropriate regional office to determine the waiting period for an inspection. The Department may require that the expense of any such inspection be borne by the applicant.

Regular State Sport Fishing Regulations Apply

Seasons, bag limits, and other California angling regulations apply to all waters on private lands in California, except registered aquaculturist’s ponds.

A fishing license, however, is not required for sport fishing by an owner of real property, or the owner’s invitee, who takes fish for purposes other than profit from a lake or pond that is wholly enclosed by that owner’s real property and that is located off stream and does not have a hydrological connection to any permanent or intermittent waterway of the State.

General Restrictions and Allowances

Private waters, and under some circumstances, public waters may be stocked with suitable fish by private groups or individuals, or civic organizations, in conformity with Fish and Game Commission regulations.

There are few restrictions on the stocking of trout, other than that they must be free from diseases and parasites. Some species of trout may not be permitted in certain drainages.

Warmwater fish, such as sunfish, catfish, crappie, and black bass, may usually be stocked in private waters only in drainages where they are already present. They may not be stocked in private waters draining into salmon and steelhead streams, in mountain trout areas, or in public waters.

Consult your regional office for advice on kinds and numbers of fish to stock, and for more information on the kinds which may be stocked in your area.

Stocking of Trout by the Department in Private Waters

The Department has a policy against stocking the trout it raises in waters which are posted or are not accessible to the public. The Department may stock catchable-sized trout in streams on private lands, provided free public access is permitted during the fishing season when stocking occurs. Consult your regional office for more information.

Stocking of Warmwater Fish in Private Farm Ponds

Warmwater fish, such as catfish, largemouth bass, and sunfish, can usually be obtained from registered aquaculturists. The Department recommends this source for stocking farm ponds. Contact your regional office for more information and a listing of registered aquaculturists.

Grass Carp Stocking

Reproducing grass carp may not be stocked anywhere in the State. The stocking of non reproducing (sterile) triploid grass carp is governed by special laws and regulations, and may be done only for control of nuisance aquatic vegetation under the provisions of a valid Special Triploid Grass Carp Stocking Permit. For information on triploid grass carp stocking, please see Information Leaflet No. 45. Contact your regional office for more information.

Recreational Fish-Out Ponds

Recreational fish-out ponds, fee fishing lakes, farm ponds, or other privately owned or operated water impoundments where privately produced fish are purchased and stocked for fishing, fall into one of two categories:

1. Private Aquaculture Facilities registered pursuant to Division 12 of the Fish and Game Code.
 - a. Fishing at private aquaculture facilities is exempt from California sport fishing regulations. However, the fish taken from the facility must be killed and be accompanied by a sales receipt [Title 14, CCR, Section 238(d)].
 - b. The operator of a registered aquaculture facility is not limited by law in what he may charge for the fish opportunity or the poundage of fish taken.
2. Private waters (usually, ponds), or waters stocked under authority of the private stocking regulations (Title 14, CCR, Section 238.5).

- a. Fishing in private waters is governed by the California sport fishing regulations, even though the operation may be on private property and stocked with privately produced aquaculture product. Exception: at facilities not operated for profit, private pond owners and their invitees may legally fish without sport fishing licenses.

Important Fish and Game Code Laws Governing Private Stocking and Transportation of Live Aquatic Plants and Animals

6400. It is unlawful to place, plant, or cause to be placed or planted, in any of the waters of this state, any live fish, any fresh or salt water animal, or any aquatic plant, whether taken without or within the state, without first submitting it for inspection to, and securing the written permission of, the Department (see Sections 12023 and 12024 for penalties).

6401. Any person may under the terms of a permit first obtained from the Department, under regulations the commission may prescribe, purchase or receive live fish from any registered aquaculturist, and may stock the fish in a stream or a lake.

12023. (a) Notwithstanding Section 12002, any person who violates Section 6400 through the uses of an aquatic nuisance species, as defined in Section 6431, is guilty of a misdemeanor, punishable by all of the following:

(1) Imprisonment in the county jail for not less than six months or more than one year, a fine of not more than fifty thousand dollars (\$50,000) for each violation, or both that imprisonment and fine.

(2) Revocation of all of the defendant's licenses and permits issued pursuant to this code.

(b) A person who personally or through another violates Section 6400, through the use of an aquatic nuisance species, is liable to the owner of any privately or publicly owned property for any damages to that property caused by the violation. A person who violates Section 6400 through the use of an aquatic nuisance species shall also be liable for all monetary damages directly, indirectly, and proximately caused thereby, including, but not limited to, damages to any commercial fishery, sport fishery, or to the public communities which depend upon those fisheries for a portion of their annual income. The Attorney General may file a civil action on behalf of the fisheries or communities that are damaged as a result of the violation. In addition, a private citizen who suffers damages as a result of the violation may file a civil action against the violator.

(c) A person who allows an aquatic nuisance species to escape from his or her property to the property of another, whether privately or publicly owned, is liable to the owner of the intruded upon property for any damages caused by the species.

(d) This section shall not apply to the placement of any live fish, any fresh or salt water animal, or any aquatic plant from the discharge or exchange of ballast water from any vessel as defined by Section 21 of the Harbors and Navigation Code.

(e) This section does not apply to the placement of an aquatic plant by a person who was unaware that he or she was in possession of the plant. This exception includes circumstances in which a plant becomes unknowingly and temporarily attached or

affixed to a boat, boat trailer, or boat motor.

12024. (a) In addition to Section 12023, a person who violates Section 6400 through the use of an aquatic nuisance species is liable for all public and private response, treatment, and remediation efforts resulting from the violation. The cost of these efforts shall constitute a debt of that person, and shall be collectible by the federal, state, county, public agency, or private individual or individuals, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Public agencies participating in a response to a violation of Section 6400 through the use of an aquatic nuisance species may designate one or more of the participating agencies to bring an action to recover costs incurred by all of the participating agencies.

(c) The costs relating to an accounting for a violation of Section 6400 through the use of an aquatic nuisance species and the collection of any funds, including, but not limited to, the administrative, legal, and public relations costs of operating a response and remediation program may also be the subject of an action to recover costs which are charged against the responsible person.

15200. 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. 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. 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.

Important Fish and Game Commission Regulations (Title 14, California Code of Regulations) Governing Private Stocking

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 waters 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 dealer 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 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. 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 canceled 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 Game 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 canceled 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.