

Regulatory Language

Option 1

Live sales of restricted aquaculture product to the public to be restricted to Northern California areas and all importers, producers and sellers must be permitted.

Section 671, Title 14, CCR, is amended to read:

671. Importation, Transportation and Possession of Live Restricted Animals.

(a) It shall be unlawful to import, transport, or possess a live animals restricted in subsection (c) below except under permit issued by the ~~Department of Fish and Game department~~. Permits may be issued by the department as specified herein and for purposes designated in Section 671.1 subject to the conditions and restrictions designated by the department. Except for mammals listed in Fish and Game Code Section 3950 or live aquatic animals requiring a permit pursuant to Fish and Game Code Section 2271, no permit is required by this section for any animal being imported, transported, or possessed pursuant to any other permit issued by the department. Cities and counties may also prohibit possession or require a permit for these and other species not requiring a state permit.

(b) The commission has determined the below listed animals are not normally domesticated in this state. Mammals listed to prevent the depletion of wild populations and to provide for animal welfare are termed "welfare animals", and are designated by the letter "W". Those species listed because they pose a threat to native wildlife, the agriculture interests of the state or to public health or safety are termed "detrimental animals" and are designated by the letter "D". The department shall include the list of welfare and detrimental wild animals as part of DFG MANUAL NO. 671 (2/25/92) IMPORTATION, TRANSPORTATION AND POSSESSION OF RESTRICTED SPECIES, to be made available to all permittees and other interested individuals.

(c) Restricted species include:

(1) Class Aves -Birds

(A) Family Alaudidae -Larks

Alauda arvensis (Skylark) (D).

(B) Family Cuculidae -Cuckoos

All species (D).

(C) Family Corvidae -Crows, Ravens, Rooks, Jackdaws

All species (D).

(D) Family Turdidae -Thrushes, Blackbirds, Fieldfare

1. *Turdus merula* (European blackbird) (D).

2. *Turdus viscivorus* (Missel thrush) (D).

3. *Turdus pilaris* (Fieldfare) (D).

4. *Turdus musicus* (Song thrush) (D).

(E) Family Sturnidae -Starlings, Mynahs

All species (D), except *Sturnus vulgaris* (Starling), *Gracula religiosa* or *Eulabes religiosa* (Hill mynahs), and *Leucopsar rothschildi* (Rothchild's mynah) are not restricted.

(F) Family Ploceidae -Sparrows, Weavers, Queleas

1. Genus *Passer* (Sparrow)

All species (D), except *Passer domesticus* (English house sparrow) is not restricted.

2. *Foudia madagascariensis* (Madagascar weaver) (D).

3. *Ploceus baya* (Baya weaver) (D).

4. Genus *Quelea* (Queleas) -All species (D).

(G) Family Estrildidae -Waxbills, Munias, Ricebirds

1. *Padda oryzivora* (Java sparrow) (D).

(H) Family Emberizidae -Yellowhammer

Emberiza citrinella (Yellowhammer) (D).

(I) Order Falconiformes -Falcons, Eagles, Hawks, Vultures

All species (D)

(J) Order Strigiformes -Owls

All species (D)

(K) Family Pyconotidae -Bulbuls or Fruit Thrushes

Pycnonotus jocosus (Red-whiskered bulbul) (D).

(L) Family Zosteropidae -Whiteeyes

Genus *Zosterops* (Whiteeyes) -All species (D).

(M) Family Psittacidae -Parrots, Parakeets

Myiopsitta monachus (Monk or Quaker parakeet) (D).

(N) Family Anatidae (~~ducks, geese, and swans~~) - Duck, Geese, Swans

1. *Cygnus olor* (Mute Swan) (D)

(2) Class Mammalia -Mammals

(A) Order Primates -Monkeys, Apes

All species (W), except humans in the Family Hominidae ~~are not~~ are not restricted.

(B) Order ~~Euarchonta~~ Xenarthra - Sloths, Anteaters, Armadillos, etc.

All species:

1. Family Dasypodidae -Armadillos -All Species (D).

2. Family Bradypodidae -Sloths -(W).

3. Family Myrmecophagidae -Anteaters -(W).

(C) Order Marsupialia -Marsupials or Pouched Animals

All species (W).

(D) Order Insectivora -Shrews, Moles, Hedgehogs, etc.

All species (D).

(E) Order Dermoptera -Gliding Lemurs

All species (D).

(F) Order Chiroptera -Bats

All species (D).

(G) Order Monotremata -Spiny Anteaters, Platypuses

All Species (W).

(H) Order Pholidota -Pangolins or Scaly Anteaters

All species (W).

(I) Order Lagomorpha -Pikas, Rabbits, and Hares

All species, (D), except domesticated races of rabbits and hares of the Family Leporidae ~~not~~ are not restricted.

(J) Order Rodentia -Hamsters, Field Mice, Voles, Muskrats, Gerbils, Squirrels, Chipmunks, Woodchucks, and Prairie Dogs

1. All species (D), except:

a. *Ondatra zibethica* (Muskrats) ~~Not~~ are not restricted under conditions set forth in Fish and Game Code Section 2250;

b. Domesticated races of golden hamsters of the species *Mesocricetus auratus* and domesticated races of dwarf hamsters of the Genus *Phodopus* are not restricted;

c. Domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared) are not restricted;

d. Domesticated races of guinea pigs of the species *Cavia porcellus* are not restricted; and

e. Domesticated races of chinchillas of the species *Chinchilla laniger* are not restricted.

(K) Order Carnivora -Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.

1. Family Felidae -All species (W) except:

a. *Acinonyx jubatus* (cheetahs) -(D).

b. Domestic cats and hybrids of domestic cats are not restricted.

2. Family Canidae -All species (W).

a. Wolf hybrids *Canis familiaris* (domestic dog) x *Canis lupus* (wolf) are considered F1 generation wolf hybrids and are restricted (W).

~~i. Any F1 (first) generation wolf hybrid whelped on or before February 4, 1988 may be possessed under permit from the department.~~

~~ii. i. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit.~~

b. Domesticated dogs are not restricted.

3. Family Viverridae -All species (D).

4. Family Procyonidae -All species -(D), except:

a. *Ailuris fulgens* (Lesser Panda ~~panda~~) -(W).

b. *Ailuropoda melanoleuca* (Giant panda) -(W).

c. *Bassariscus astutus* (Ringtail or Ringtailed cat) -(W).

d. *Jentinkia sumichrasti* (Mexican and Central American ~~Cacomistle~~ cacomistle) -(W).

5. Family Mustelidae -All species (D), except:

a. *Ambloynx cinerea* (Oriental small-clawed otter) -(W).

b. *Aonyx capensis* (African clawless otter) -(W).

c. *Pteronura brasiliensis* (Giant otter) -(W).

d. All species of Genus *Lutra* (River otters) -(W).

6. All others Families -(W).

(L) Order Tubulidentata -Aardvarks

All species -(W).

(M) Order Proboscidae -Elephants

All species -(W).

(N) Order Hyracoidea -Hyraxes

All species -(W).

(O) Order Sirenia -Dugongs, Manatees

All species -(W).

(P) Order Perissodactyla -Horses, Zebras, Tapirs, Rhinoceroses, etc.

All species (W), except Family Equidae ~~is~~ are not restricted.

(Q) Order Artiodactyla -Swine, Peccaries, Camels, Deer, Elk, Moose, Antelopes, Cattle, Goats, Sheep, etc.

All species (D) except:

1. *Bos taurus* and *Bos indicus* (Domestic cattle); *Bos grunniens* (Yak); *Bubalus bulalis* (Asian water buffalo); *Ovis aries* (Domestic sheep); *Capra hircus* (Domestic goat); *Sus scrofa domestica* (Domestic swine); *Llama glama* (Llama); *Llama pacos* (Alpaca); *Llama guanicoe* (Guanaco); Hybrids of llama, alpaca and guanacos; *Camelus bactrianus* and *Camelus dromedarius* (Camels); and *Bison bison* (American bison), are not restricted.

2. Permits may be issued for species of Elk (Genus *Cervus*) which are already maintained within California; and

3. Permits may be issued pursuant to Section 676, ~~Title 14, CCR,~~ for importing, breeding, slaughter and sale of the meat and other parts of fallow deer (*Dama dama*) for commercial purposes.

(3) Class Amphibia -Frogs, Toads, Salamanders

(A) Family Bufonidae -Toads

Bufo marinus, *Bufo paracnemis*, *Bufo horribilis* (Giant toad or marine toad group) and all other large toads from Mexico and Central and South America-(D).

(B) Family Pipidae -Tongueless Toads

~~All species of the 1. Genus *Xenopus* (Clawed frog)-(D).~~

(C) Family Ambystomatidae-Mole Salamanders

~~All species of the genus 1. Genus *Ambystoma* (tiger salamanders)-D~~ (D)

(D) Family Leptodactylidae -Neotropical Frogs

1. *Eleutherodactylus coqui* -Common Coqui or Coqui frog (D).

(4) Class Agnatha -Jawless Fishes

(A) Family Petromyzontidae -Lampreys

All nonnative species (D).

(5) Class Osteichthyes -Bony Fishes

(A) Family Percichthyidae -Temperate Basses

1. *Morone americana* (White perch) (D).

2. *Morone chrysops* (White bass) (D).

(B) Family Clupeidae -Herrings

Dorosoma cepedianum (Gizzard shad) (D).

(C) Family Sciaenidae -Drums

Aplodinotus grunniens (freshwater drum) (D).

(D) Family Characidae -Characins

1. *Astyanax fasciatus* (Banded tetra) (D).

2. All species of the genera *Serrasalmus*, *Serrasalmo*, *Pygocentrus*, *Taddiyella*, *Rooseveltiella*, and *Pygopristis* (Piranhas) (D).
3. *Hoplias malabaricus* (Tiger fish) (D).
 - (E) Family Salmonidae -Trouts
Salmo salar (Atlantic salmon) -Restricted in the Smith River watershed (D).
 - (F) Family Lepisosteidae -Gars
All species (D).
 - (G) Family Amiidae -Bowfins
All species (D).
 - (H) Family Poeciliidae -Livebearers
Belonesox belizanus (Pike killifish) (D).
 - (I) Family Channidae -Snakeheads
All species (D).
 - (J) Family Cyprinidae -Carp and Minnows
 1. *Leuciscus idus* (ide)(D).
 2. *Ctenopharyngodon ~~idellus~~ idella* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.
 3. *Hypophthalmichthys molitrix* (Silver carp) (D).
 4. *Aristichthys nobilis* (Bighead carp) (D).
 5. *Hypophthalmichthys harmandi* (Largescale Silver carp) (D).
 6. *Mylopharyngodon piceus* (Black carp) (D).
 - (K) Family Trichomycteridae (*Pygidiidae*) -Parasitic Catfishes.
All species (D).
 - (L) Family Cetopsidae -Whalelike Catfishes.
All species (D).
 - (M) Family Clariidae -Labyrinth Catfishes
All species of the genera *Clarias*, *Dinotopterus*, and *Heterobranchus*(D).
 - (N) Family Heteropneustidae (Saccobranchidae) -Airsac Catfishes
All species (D).
 - (O) Family Cichlidae -Cichlids
 1. *Tilapia sparrmani* (Banded Tilapia) (D).
 2. *Tilapia zilli zillii* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.
 3. ~~*Tilapia Oreochromis aurea aureus*~~ (*Oreochromis aureus*) (Blue tilapia) (D).
 4. ~~*Tilapia Oreochromis nilotica niloticus*~~ (*Oreochromis niloticus*) (Nile tilapia) (D).
 - (P) Family Anguillidae -Freshwater Eels.
All species of genus *Anguilla*(D).
 - (Q) Family Esocidae -Pikes all species (D).
 - (R) Family Percidae -Perches
 1. *Perca flavescens* (Yellow perch) (D).
 2. ~~*Stizostedion vitreum*~~ *Sander vitreus* (Walleye) (D).
 - (S) Family Catostomidae -Suckers

All members of the genus *Ictiobus* (Buffaloes) (D).

(T) Family Cyprinodontidae-Killifishes

Cyprinodon variegatus (Sheepshead minnow) (D).

(U) Family Latidae -Lates perches

Lates calcarifer (Barramundi also know as Barramundi perch or Silver barramundi) (D),
except permits may be issued to a person or organization for importation,
transportation, possession, or sales of barramundi. Live sales for direct human
consumption of barramundi that range from one to three pounds in weight or 300 mm
(11.8 inches) to 500 mm (19.6 inches) in total length is allowed in all counties except for
San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial, under
conditions set forth in Section 671.7. under the following conditions:

1. All live importation, possession, transportation and sales must also adhere to the
conditions set forth in Section 671.7.

2. Live retail sales for human consumption are allowed for barramundi that range from
one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total
length.

3. Live retail sales for human consumption are allowed in all counties except for Santa
Barbara, Ventura, San Bernardino, Los Angeles, Orange, Riverside, San Diego, and
Imperial.

(6) Class Elasmobranchiomorphi -Cartilaginous Fishes

(A) Family Carcharhinidae -Requiem Sharks

All species of genus *Carcharhinus* (Freshwater sharks) (D).

(B) Family Potamotrygonidae -River stingrays

All species (D).

(7) Class Reptilia -Reptiles

(A) Order Crocodylia -Crocodyles, Caimans, Alligators and Gavials

All species (D).

(B) Family Chelyridae -Snapping Turtles

All species (D).

(C) Family Elapidae -Cobras, Coral Snakes, Mambas, Kraits, etc.

All species (D).

(D) Family Viperidae -Adders and Vipers

All species (D).

(E) Family Crotalidae -Pit Vipers

All species (D), except *Crotalus viridis* (Western rattlesnake), *Crotalus atrox* (Western
diamondback rattlesnake), *Crotalus ruber* (red diamondback rattlesnake), *Crotalus
scutulatus* (Mojave rattlesnake), *Crotalus mitchelli* (speckled rattlesnake) and *Crotalus
cerastes* (Sidewinder) not restricted.

(F) Family Colubridae -Colubrids

1. *Dispholidus typus* (Boomslang) (D).

2. *Theoltornis kitlandii* (Bird or vine snake) (D).

3. All species of genus *Nerodia* (watersnakes) (D).

(G) Family Helodermatidae

1. Genus *Heloderma suspectum suspectum* (reticulate-Gila monster) (D).

(8) Class Crustacea -Crustaceans

(A) All species of Family Cambaridae -Crayfish, etc. (D), except *Procambarus clarkii* and *Orconectes virilis* not restricted.

(B) All species of genus *Eriocheir* (D).

(9) Class Gastropoda -Slugs, Snails

(A) *Potamopyrgus antipodarum* (New Zealand mudsnail) (D).

(B) All nonnative species of slugs and land snails (D), except:

1. *Rumina decollata* (decollate snail) in the counties of San Bernardino, Riverside, Imperial, Orange, San Diego, Los Angeles, Ventura, Kern, Fresno, Madera, Tulare and Santa Barbara not restricted with the concurrence of the appropriate county agricultural commissioners.

2. *Helix aspersa* (brown garden snail) not prohibited.

(C) *Pomacea canaliculata* (Channel Apple Snail) (D).

(D) All species of genus *Haliotis* (Abalone) (D), except *Haliotis rufescens* (Red abalone), *Haliotis sorenseni* (White abalone), *Haliotis eorugate corrugata* (Pink abalone), *Haliotis fulgens* (Green abalone), *Haliotis cracherodii* (Black abalone), *Haliotis kamtschatkana* (Pinto abalone), *Haliotis walallensis* (Flat abalone) and *Haliotis assimilis* (Threaded abalone) are not restricted. 1. Note: Unpermitted nonnative abalone are determined to be detrimental to native populations, therefore the exemptions provided in Fish and Game Code subsection 2271(b) and subsection 236(b), Title 14, CCR, of these regulations are not applicable.

(10) Class Bivalvia-Bivalves

All members of the genus *Dreissena* (zebra and quagga mussels) -(D).

(11) Transgenic Aquatic Animals.

Includes freshwater and marine fishes, invertebrates, ~~crustaceans, mollusks,~~ amphibians, and reptiles (D). Note: Unpermitted transgenic aquatic animals are determined to be detrimental to native wildlife, therefore the exemption provided for in Fish and Game Code Section 2150(e) is not applicable.

NOTE

Authority cited: Sections 2118 and 2120, Fish and Game Code. Reference: Sections 1002, 2116, 2118, 2118.2, 2118.4, 2119, 2120, 2122, 2123, 2124, 2125, 2126, 2127, 2150, 2190, and 2271, ~~3005.9 and 3005.92~~, Fish and Game Code.

Section 671.1, Title 14, CCR, is amended to read:

671.1. Permits for Restricted Species.

(a) General. It is unlawful for any person to import, export, transport, maintain, dispose of, or use for any purpose any animal restricted by Section 671 except as authorized in a permit issued by the department.

(1) Limited Scope. A permit issued pursuant to this Section 671.1 does not supersede any ~~Federal, State~~ federal, state, or local law regulating or prohibiting the animals or the activities authorized in the permit.

(2) Inspections. The department may approve an application prior to facilities being built, inspected and approved. A permit shall not be issued unless the applicant's facilities have been inspected and approved by the department or persons designated by the department. The department may enter ~~any facility at a reasonable hour~~, all holding facilities, vehicles, vessels or other places where restricted species are kept or may be kept to inspect animals, facilities, animal equipment, or to inspect, audit, or copy any permit, book or record required to be kept by these regulations or federal regulations relating to such species. Inspections may be made at any time with or without prior notification.

(3) Change of Address or Name. The permittee must notify the ~~Department's department's License and Revenue Branch Division, 3211 S Street, Sacramento, California 95816~~, in writing of any change of address or name related to the permit within ~~fourteen (14)~~ five days of the change.

(4) Records. Any record, log, invoice, or other document required by this Section 671.1 shall be maintained at the facility by the permittee for at least three years from the date issued, and be made available to the department immediately upon demand. All required records shall be legible and in the English language.

(5) Transportation Records Required of Broker/Dealer and Importers. The permittee shall prepare and sign an invoice in duplicate prior to any animals leaving or being imported into their facility. The invoice shall contain the name and address of the Broker/Dealer or Importers, a phone number where the Broker/Dealer or Importers and the consignee can be reached ~~24 hours~~, the name and address of the consignee, the date of the shipment, and the number or poundage, sex (if applicable) and scientific name of each animal. The invoice shall accompany the animals being shipped. The consignee shall sign and date the invoice receipt of the shipment and retain a copy.

(6) Permits for Business. Any person (as defined in Fish and Game Code Section 67) ~~other than a natural person~~ can qualify for and be issued a permit, only by employing at least one full time employee who possesses the ~~requirements~~ qualifications specified in subsection 671.1(c)(1) for obtaining a permit. The permittee must continue to employ such qualified persons as long as the animals are possessed in California. The person who owns the business shall submit annually annual proof of continued employment for a full time employee if the owner continues not to meet the qualifications specified in subsection 671.1(c)(1).

(7) Financial Responsibility. The department may require an applicant for a nonresident permit to provide proof he/she will immediately cover all expenses incurred by the department for personnel, equipment, and facilities used to locate, capture, house, care for, and transport animals that escape or that are released or abandoned. The written proof must be in the form of a department approved ~~an insurance bond or other~~ financial guarantee payable to the department, local government agency, or entity contracting for the animals.

(8) Health Certificates. The department may require as a condition on any permit that restricted animals be approved for interstate shipment pursuant to applicable federal or state agency standards for diseases such as but not limited to tuberculosis, brucellosis, and pseudo rabies. Permit conditions may be more restrictive than federal standards.

(9) Transgenic Aquatic Animals. The department may issue permits for importation, possession, transportation or rearing of, or research on, transgenic aquatic animals pursuant to the following terms and conditions:

(A) All transgenic aquatic animals shall be held, raised, and transported in a closed-water system or in a system which treats effluent discharge from the facility with a disinfection system adequate to ensure against the inadvertent release of live animals. A closed-water system means that there is no discharge to waters of the state. For purposes of this section, municipal ~~Municipal~~ treated sewage systems are not considered waters of the state. The ~~Commission~~ commission may grant an exception to subsection 671.1 (a)(9)(A) ~~of this regulation~~ if it is determined that doing so shall not pose a significant risk to the waters or wildlife of the state.

(B) Access to facilities containing transgenic aquatic animals must be restricted through means determined to be adequate by the ~~Department~~ department to assure against unauthorized removal of animals.

(C) Movement of live transgenic aquatic animals from facilities is prohibited unless specifically permitted by the ~~Department~~ department.

(D) Release of transgenic aquatic animals or their progeny into waters of the state is prohibited.

(E) If transgenic aquatic animals are held with non-transgenic animals of the same species, all such animals that commingle with transgenic animals shall be treated as transgenic for the purposes of regulation and may not be introduced into waters of the state. Nontransgenic ~~individuals~~ animals that can be individually identified as nontransgenic may be exempt from this provision with prior department approval.

(F) In addition to any other penalty provided by law, any unauthorized release of transgenic aquatic animals or their progeny into the waters of the state may be subject to the penalties provided for under Fish and Game Code Sections 2125, 12007, and/or 12023.

(G) Any university, college, governmental research agency or other bona fide scientific institution, as determined by the department, may apply for an expedited permit review under subsection 671.1(b)(6)(9) ~~of this section~~ by demonstrating that they meet or exceed the requirements stipulated in subsections (A) through (F) as part of a federal program or permit, for example, National Institute of Health guidelines administered by an Institutional Animal Care and Use Committee (IACUC). ~~Such institutions shall have 120 calendar days from May 14, 2003 to submit supporting documentation for an initial permit.~~

(H) The ~~Department~~ department shall provide written notice of the filing of all permit applications to any interested party who submits a written request for such notice. The ~~Department~~ department shall consider all written comments regarding a permit application that are received from any interested party prior to approval of that application. All approved applications shall be reviewed by the ~~Fish and Game Commission~~ commission during a regularly scheduled public meeting; and the ~~Commission~~ commission, following public comment, may deny the issuance of a permit if it finds that an applicant is or will be unable to meet all regulatory requirements for importation, transportation, possession, and confinement of transgenic aquatic animals.

~~(l) The regulations under subsection 671.1(a)(9) shall be reviewed by the Department and other interested parties no later than one year after their effective date of May 14, 2003. A summary of the review shall be reported to the Commission at a regularly scheduled meeting within 90 days of May 14, 2004.~~

(10) Conferring. In addition to the departments of Food and Agriculture and Public Health, the department may confer with other state and federal agencies or any other person or entity in order to verify information on the application or to determine if the importation, transportation, or possession of any animal requested will be in the best interest of the state and animal.

(b) Permits and Fees. The following permits have fees that are adjusted annually as specified in Section 703. will be adjusted annually pursuant to Section 699, Title 14, CCR. The department may issue permits and amend existing permits with the conditions it determines are necessary to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety to: for:

~~(1) Animal Care. A person who is a resident and who has the demonstrated experience and ability to house an animal, and who legally possessed the animal in California prior to January 1992. The permittee may only possess and provide care for the animal(s) specifically listed on their department approved permit inventory. No other activity is authorized except that which is medically necessary for the care of the animal. The base permit fees for this activity in 1998 are \$34.75 for Welfare species and \$289.50 for Detrimental species.~~

~~(2) Exhibiting. A person who is a resident or nonresident who is in the business of exhibiting animals and who possesses the qualifications listed in 671.1(c)(1) to import, transport, and possess only those species listed on the department approved permit inventory for commercial exhibition purposes. The base permit fee for this activity in 1998 is \$289.50 for residents and \$579.00 for nonresidents.~~

~~(3) Single Event Breeding for Exhibitor. A person who is a resident and permitted pursuant to Section 671.1(b)(2) to conduct a one time, single breeding of an animal which is listed on the department approved permit inventory. The permit may be renewed annually, but only upon written verification by a veterinarian accredited by the U.S. Department of Agriculture (USDA) that the breeding authorized by the former permit was not successful. The base permit fee for this activity in 1998 is \$34.75.~~

~~(4) Breeding. A person who is a resident and who possesses the qualifications listed in Section 671.1(c)(1) to import, transport, and possess only those species listed on the department approved permit inventory for breeding, but only if the department determines the breeding will not result in unneeded or uncared for animals or the species is threatened or endangered. The base permit fee for this activity in 1998 is \$289.50.~~

~~(5) AZA. A person accredited by the American Association of Zoos and Aquariums (AZA) to import, transport, and possess only those species listed on the department approved permit inventory for breeding, exhibition, or for bona fide scientific or public health research. The base permit fee for this activity in 1998 is \$289.50.~~

~~(6) Research. A university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public~~

health research to import, transport, and possess only those species listed on the department approved permit inventory for breeding, or for bona fide scientific or public health research. The base permit fee for this activity in 1998 is \$289.50.

(7) ~~Broker/Dealer.~~ A person who is a resident or nonresident to act as a broker or dealer in a transaction involving the buying and/or selling of restricted species, or who is the business of transporting restricted species within the state between permittees. The base permit fee for this activity in 1998 is \$289.50 for residents and \$579.00 for nonresidents.

(A) ~~Special Restrictions.~~

(1) ~~Minimum Caging Period.~~ Animals may be kept in transport caging for a period not to exceed 48 hours. An additional 48 hours may be approved by an enforcing officer or a veterinarian accredited by the USDA.

(2) ~~Nonresident Restriction.~~ The nonresident dealer shall only transport animals between permittees authorized by this Section or between AZA accredited institutions and permittees or ship them out of state in compliance with Federal guidelines.

(8) ~~Shelter.~~ A person who is a resident, who possesses the qualifications listed in Section 671.1(c)(1), and who has a statement in writing signed by the department's regional manager verifying the need for a shelter or similar facility in the area, to transport and possess restricted species for humane purposes only. The base permit fee for this activity in 1998 is \$34.75. The permit fee may be waived upon recommendation of the regional manager when he/she determines it is in the best interest of the public, the animal, or the department to do so.

(A) ~~Special Authorizations.~~

(1) ~~A permittee may exhibit animals at its facility for fund-raising purposes.~~

(2) ~~The department may authorize a permittee to import restricted species upon receipt of written verification that appropriate facilities outside of California were contacted and no housing was available, and that these specific animals would be euthanized if they cannot be imported into California.~~

(Note: ~~Deer Farming Permits. See Section 676.~~)

(1) Animal Care. Issued to any person who is a resident and who has the demonstrated experience and ability to care for and house an animal, and who legally possessed the animal in California prior to January 1992. The permittee may only possess and provide care for the animal(s) specified on the department approved permit. No other activity is authorized except that which is medically necessary for the care of the animal.

(2) Aquaculture. Issued to any person who is a registered aquaculturist, pursuant to Section 235. The permittee may import, transport, possess and offer for sale only those species listed on the restricted species permit for aquaculture purposes. Additional requirements are in Section 671.7.

(3) AZA. Issued to any person accredited by the Association of Zoos and Aquariums (AZA) and who is in the business of exhibiting and breeding animals. The permittee may import, transport, breed, exhibit and possess for bona fide scientific or public health research only those species specified on the department approved permit.

(4) Breeding. Issued to any person who is a resident who is in the business of breeding animals and possesses the qualifications listed in subsection 671.1(c)(1), and provides

a breeding plan as specified in subsection 671.1(c)(2)(F). The permittee may import, transport, and possess only those species specified on the department approved permit.

(5) Broker/Dealer. Issued to any person who is a resident or nonresident and acts as a broker or dealer in a transaction involving the buying and/or selling of restricted species, or who is in the business of transporting restricted species within the state between permittees.

(A) Special Restrictions.

1. Minimum Caging Period. Animals may be kept in transport caging for a period not to exceed 48 hours. An additional 48 hours may be approved by an enforcing officer or a veterinarian accredited by the United States Department of Agriculture (USDA) in writing and attached to the transportation invoice.

2. Nonresident Restriction. Nonresident permittees shall only transport animals between permittees authorized by this section or between AZA accredited institutions and permittees or ship them out of state in compliance with Federal guidelines.

(6) Exhibiting. Issued to any person who is a resident or nonresident who is in the business of exhibiting animals at least half-time, for commercial and/or educational purposes, and who possesses the qualifications listed in subsection 671.1(c)(1). The permittee may import, transport, and possess only those species specified on the department approved permit.

(7) Native Species Exhibiting. Issued to any person who is a resident, is in the business of exhibiting animals, and possesses the qualifications listed in subsection 671.1(c)(1) to transport and possess only those species specified on the department approved permit. For the purposes of this permit, native species are defined as the restricted birds and mammals that are found injured and/or orphaned in the wild in California and are not suitable for release into the wild, but are suitable for educational purposes. Native species shall only be acquired from the department or, upon approval by the department, from a California Wildlife Rehabilitation Facility that is permitted with the department and only upon certification by a licensed veterinarian that the animal's injuries make it unsuitable for wildlife rehabilitation and release, but suitable for education purposes. The permit fee may be waived only if the AZA or exhibiting fee is paid and a permit specified in subsection 671.1(b)(2)(3) or 671.1(b)(6) is issued.

(8) Nuisance Bird Abatement. Issued to any person who is a resident or nonresident, is in the business of using raptors to abate nuisance birds, and possesses the qualifications listed in subsection 671.1(c)(1) to import, transport, and possess only those species specified on the department approved permit and under the conditions that follow.

(A) The permit only authorizes the harassing of nuisance birds. Harassment is defined in Section 251.1.

~~(B) The permit does not authorize the take as defined in Fish and Game Code Section 86.~~

~~(C)(B) The permit does not authorize the use for abatement purposes or intentional take of any bird protected by federal or state law, which includes but is not limited to the Federal Migratory Bird Treaty Act and Fish and Game Code Section 3500.~~

~~(D)~~(C) All birds imported into California must be accompanied by a current interstate health certificate issued by a USDA accredited veterinarian stating that the veterinarian has examined the bird(s) and has found that they are not exhibiting any signs or symptoms of any infectious or contagious disease.

~~(E)~~(D) The permittee shall notify the regional manager where abatement activities are to occur at least five days prior to activity taking place. The notification shall include the following information:

1. copy of the permit;
2. name(s) and address where the activity will be conducted;
3. date(s) the abatement will take place;
4. the temporary housing location in California for the birds listed on the permit.
5. The information shall also be provided to the department's License and Revenue Branch and attached to the permit.

~~(F)~~(E) A regional manager, or regional manager designee, may restrict activities authorized by this permit at any time ~~in order to~~ address the ~~needs~~ biological issues occurring within his/her region.

~~(G)~~(F) Every effort shall be made to keep birds used for abatement from escaping into the wild and every effort must be made to retrieve any that escape into the wild. The permittee must notify the regional manager and the department's License and Revenue Branch within 48 hours if a bird escapes and is not retrieved.

~~(H)~~(G) Birds used for abatement shall be housed in facilities that meet or exceed the permanent caging standards described in Section 671.3.

(9) Research. Issued to any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, who engages in scientific or public health research. The permittee may import, transport, breed, and possess only those species specified on the department approved permit. The research institution shall demonstrate to the department that they meet or exceed the requirements as part of a federal program or permit, for example, the National Institute of Health (NIH) guidelines that are administered by an IACUC to qualify for the permit.

(10) Shelter. A person who is a resident, who possesses the qualifications listed in subsection 671.1(c)(1), and who has a statement in writing signed by the department's regional manager with jurisdiction over the proposed facility verifying the need for a shelter or similar facility in the area, to transport and possess restricted species for humane purposes only. The permit fee may be waived upon recommendation of the regional manager when they determine it is in the best interest of the public, the animal, or the department to do so.

(A) Special Authorizations.

1. A permittee may exhibit animals at its facility for fund-raising purposes.
2. The department may authorize a permittee to import restricted species upon receipt of written verification that appropriate facilities outside of California were contacted and no housing was available, and that these specific animals would be euthanized if they cannot be imported into California.

(11) Single Event Breeding for Exhibitor. Issued to any person who is a resident and permitted pursuant to subsection 671.1(b)~~(2)~~(6), possesses the qualifications listed in

subsection 671(c)(1), and provides a breeding plan as specified in subsection 671.1(c)(2)(F) to conduct a one time, single breeding of an animal specified on the department approved permit. The permit may be renewed annually, but only upon submitting written verification by a veterinarian accredited by the USDA that the breeding previously authorized was not successful.

(12) Wholesale/Importation. Issued to any person who is a resident and is in the wholesale or importation business of selling fish or aquaculture product. The permittee may import, transport, possess and offer for sale only those species listed on the restricted species permit. Additional requirements are in Section 671.7.

(c) Qualifications, Application Fees, and Permit Information.

(1) Qualifications. Applicants shall be at least 18 years of age and possess the equivalent of at least two years, full-time, paid or volunteer, hands-on experience caring for restricted species at ~~a facility(ies)~~ facilities engaged in a similar or directly related activity to the permit requested. Applicants shall have at least one year full-time hands-on professional experience working with ~~prohibited~~ restricted species in the same family or closely related taxonomic family as each species being requested. Experience will be considered only for the periods the applicant was directly involved in and responsible for the animals while engaged in the activity requested on the permit and only when acquired within ~~40~~ five years of the date of the initial permit application. ~~Applicants must be residents of California, except permits for an exhibiting permit or a broker/dealer permit may be issued to nonresidents.~~ Applicants must be residents of California, except that exhibiting, broker/dealer and nuisance bird abatement permits may be issued to nonresidents.

~~Persons~~ Any person or facilities accredited by the American Association of Zoological Parks and Aquariums ~~(AZA)~~ AZA, universities, colleges, governmental research agencies or other bona fide scientific institutions, as determined by the department, engaging in scientific or public health research are exempt from meeting these qualifications.

Persons who apply for an Aquaculture or Wholesale/Importation permit are exempt from these qualifications and shall instead follow the requirements in Section 671.7.

(2) Application. ~~Completed applications and all fees shall be submitted to the Department of Fish and Game, License and Revenue Branch, Sacramento (see Section 671.1(a)(3) above for address) for each permit, permit amendment, or renewal. Application fees are nonrefundable and are in addition to permit fees. The applicant for a permit, amendment to an existing permit, or renewal shall submit the completed application and the appropriate fees, as specified in Section 703, to the address listed on the application.~~

Persons who apply for an Aquaculture or Wholesale/Importation permit are exempt from the application requirements (A) through (M) and shall instead follow the requirements in Section 671.7.

{The following information and documents shall accompany an application for each permit, amendment, ~~or~~ renewal, or upon change or expiration and if applicable to the permit type and/or species:

(A) An inventory of each animal requested including the common and scientific name, sex, and age of each animal;

(B) Written certification from a veterinarian accredited by the USDA, that he/she has observed each of the permittee's animals at least twice during the prior year, that the animals have been appropriately immunized and are being housed and cared for as required by law. The certification must be signed by the veterinarian and must include the veterinarian's printed name, address and license number. In the case of animals to be acquired by the permittee, the certification shall include the future dates the animals will be inspected by the veterinarian;

(C) A resume which provides the dates and description of the applicant's experience. The resume is required only when applying for the original permit, an amendment, or when applying to add new species to the inventory upon renewing a permit.

(D) A copy of current license or registration document required by the ~~United States Department of Agriculture (USDA)~~ USDA (for mammals only) and a copy of the most recent USDA facility inspection form completed for the facility shall be on file with the department at all times. The department may waive compliance for initial applications by California residents. However, a copy of the issued USDA license or registration document shall be provided to the department within 10 business days of receipt.

(E) A letter of recommendation, written in the previous ~~40~~ five years, on letterhead stationary signed in ink by the owner or operator of a facility where the applicant or their employee gained his/her experience. The letter must provide the printed name of the owner or operator and detailed information regarding the quality and extent of the applicant's or their employee's, knowledge and experience related to the permit requested.

~~(F) Applicants for a breeding permit shall include a statement describing why the progeny are necessary. The statement must be in writing on letterhead stationary from a university, research facility, exhibitor, breeder, zoological garden or other authorized recipient. The statement must contain the printed name and be signed in ink by an official representative of the organization providing the statement. The statement is required only with the original application and when applying to add new species to the breeding inventory.~~

(F) Breeding Plan. A breeding plan shall include the items listed below and allow the department to determine that the breeding of the species will not result in risk to animal welfare, wildlife populations, livestock and poultry health, public health and safety; and there is an authentic and legitimate scientific, conservation, exhibition, or educational use certified by a recognized scientific, conservation or educational institution, or licensed professional in breeding or exhibition of restricted species. Breeding of restricted species is prohibited unless specifically authorized by the department. The breeding plan is required ~~only~~ with the original application annually and when applying to add a new species to the breeding plan. The breeding plan shall include all of the following in order to be considered complete:

1. An official signed document on letterhead from a bona fide scientific, conservation or educational institution, or licensed professional in the breeding or exhibition of restricted species, confirming that there is a legitimate scientific, conservation, exhibition, or

educational need for the breeding in the coming year. The person confirming the need for the breeding shall demonstrate that they have at least five years experience working with the species identified in the breeding plan. The statement must contain the printed name and be signed in ink by an official representative of the organization providing the statement.

2. A plan of operation that includes the anticipated number of progeny produced per in the coming year, caging availability, and veterinarian care.

3. A list of designated people who will receive the progeny in the coming year and for what purposes the purpose for acquiring them.

4. A description of how the progeny will be uniquely identified if required under subsection 671.1(c)(2)(J).

5. The department may deny the renewal of a breeding permit if it determines that the use of a permitted animal was inconsistent with the breeding plan. The Department may require a permittee seeking to renew a breeding permit to provide documents, including but not limited to client lists with contact information or contracts with clients, demonstrating that the use of a permitted animal was consistent with the breeding plan.

(G) Nonresident Exhibitors. Applicants shall submit a copy of a current and valid contract or other written confirmation that specifies each place and length of time where the exhibition will take place in California. If no contract is in effect at the time of application, copies of past contracts and/or written descriptions of anticipated performances being negotiated shall be substituted. Applicants shall submit a complete exhibiting itinerary with their initial or renewal application or upon change to its current itinerary. The department shall receive itinerary changes at least 72 hours prior to entry. The itinerary shall provide the location(s) and date(s) where the nonresident applicant or permittee intends to perform within this state.

~~(H) A statement of purpose/use for all animals, including any websites, scripts, brochures or flyers promoting or describing their use. If the animals will be used in an educational program, the applicant shall provide an explanation why restricted species are necessary and samples of the educational material and message that will be distributed.~~

(H) A statement of purpose describing in detail the planned use for each animal. Except for applicants applying for a breeding permit pursuant to subsection 671.1(b)(4), applicants should include relevant materials including, as appropriate, any lists of prospective clients with their contact information or contracts with clients or websites, scripts, brochures or flyers promoting or describing the planned use of the animals. If the animals will be used in an educational program, the applicant shall provide an explanation why live restricted species are necessary and samples of the educational material and message that will be distributed. The department may deny the issuance of a permit if it determines that the statement of purpose for the animal(s) does not sufficiently describe the planned use for each animal or is not supported by the permit application materials. The department may deny the renewal of a permit if it determines that the use of a permitted animal was inconsistent with the statement of purpose. The Department may require a permittee seeking to renew a permit to provide documents, including but not limited to client lists with contact information or contracts with clients,

demonstrating that the use of a permitted animal was consistent with the statement of purpose.

(I) A copy of all current permits required by the United States Fish and Wildlife Service (USFWS) shall be on file with the department at all times. The department may waive compliance for initial applications by California residents. A copy of the issued USFWS license or registration document shall be provided to the department within 10 business days of receipt.

(J) Emergency Action Plan.

1. Every restricted species permittee shall have a written Emergency Action Plan readily available and posted in a conspicuous place in the event of an escape, an attack or an emergency evacuation, and shall submit a copy to the department upon initial application, renewal of a permit and addition of species. The Emergency Action Plan shall be titled, with a revision date, updated annually and include, but is not limited to the following:

a. List of the re-capture equipment available, including but not limited to darting equipment, nets, traps, and chemical immobilization drugs;

b. Description of humane lethal dispatch methods for various animals and a list of qualified personnel who are trained to carry out the methods;

c. List of medical supplies/first aid kits and where they are located;

d. Description of mobile transport cages and equipment on hand;

e. List of emergency telephone numbers that includes the local department regional office, 911, and animal control agencies; and

f. Written plan of action for emergencies.

2. Permittees are responsible for the capture, and for the costs incurred by the department related to capture or elimination of the threat, of an escaped animal or the use of humane lethal force required to capture an animal that escapes. If an escaped animal becomes a public safety threat, state, federal, or local law enforcement personnel have the authority to use appropriate lethal force required to end the threat.

3. Any incident involving an animal held under a restricted species permit that results in serious injury or death to a person shall be reported immediately to the department's regional office having jurisdiction over the area in which the serious injury and death has occurred. If the department determines that serious injury or death has occurred as a result of contact with an animal held under the authority of a restricted species permit, the authorizations and conditions of the permit may be reviewed and subject to change by the department. Additional conditions to the permit may be added at anytime to provide for human health and safety.

4. Permittees shall immediately report by telephone the intentional or unintentional escape or release of a wild animal to the department regional office and the nearest law enforcement agency of the city or county in which the wild animal was released or escaped.

(K) Unique Identification.

1. Every elephant, non-human primate, bear, wolf, gila monster, and animal in the Family Felidae that is possessed under a restricted species permit shall be identifiable by an approved unique identifying method and reported to the department for inclusion

in a registry. Approved methods include microchips, tattoos or any other alternative method that is approved by the department. The department may approve an alternative method if the permittee provides written verification from a veterinarian accredited by the USDA explaining why it would be detrimental to the health of the animal to microchip or tattoo the animal and what alternative method of unique identification would be suitable.

2. Every permittee who possesses an animal that requires unique identifiers shall conform to the provisions of this section and provide documentation of an animal's unique identifier or proposed alternative method to the department on or before July December 31, 2010. Each permittee must provide an animal's unique identification to the department within ~~ten~~ 10 business days of receipt or transfer of an animal, the birth or death of an animal, or change in unique identification for an animal.

3. The department shall continue to maintain a record of the unique identification for each animal until it is transferred out of state or upon the death of the animal.

(L) Bona fide scientific institutions shall submit the following with the initial application and for each additional new species:

1. At least one letter of recommendation from a bona fide, as recognized by the department, research institution with expertise with the species and in the field of the proposed project. The letter must contain specific reasons for the support and a statement verifying that the anticipated results are reasonably achievable using the species and techniques described.

2. A description of the proposed project stating the objectives, and if experimental or manipulative, a study plan based on the "Scientific Method".

3. The estimated completion date of the project.

4. The anticipated benefits of this research.

(M) Applicants for a research permit shall include proof that the applicant is part of a federal program or have a permit issued under, for example, the NIH guidelines administered by an IACUC.

(N) Every permittee shall provide written notice to the department's License and Revenue Branch at least 10 business days prior to receipt or transfer of an animal within or out of the state and within 10 business days after the death of an animal. The notice shall include the common name, scientific name, sex, and age of the animal, the date of the acquisition, transfer or death. The notice shall also contain the unique identification method for animals to be acquired or the unique identifier for animals being transferred or reported deceased and the name and address of where the animal is being acquired from or transferred to within or outside of the state if applicable. Research and AZA permittees shall provide notice only for the animals designated as detrimental and for which a permit is required.

(3) Term of Permit. Permits issued under the provisions of this Section 671.1 shall be valid for a term of one year from the date of ~~issue~~ issuance.

~~(4) Denial. The department may deny the issuance of a permit if the conditions of Section 671.1(b) are not met, or the failure to comply with terms and conditions of a permit or the provisions of sections 671-671.6. Any person denied a permit under these~~

regulations may request a hearing before the commission to show cause why their permit request should not be denied.

~~(5) Revocation. Any permit issued pursuant to these regulations may be canceled or suspended at any time by the commission for failure to comply with the terms and conditions of the permit or for failure to comply with sections 671-671.6, after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.~~

~~(4) Denial. The department may deny the issuance of a permit or amend a permit upon failure to comply with terms and conditions of a permit or any provision of the Fish and Game Code or regulations adopted pursuant thereto.~~

(4) Denial.

(A) The department may deny the issuance of a permit or amendment of an existing permit if:

(i) the applicant or permittee has failed to comply with terms and conditions of a permit or any provision of the Fish and Game Code or regulations adopted pursuant thereto;

(ii) the applicant or permittee has failed to comply with any provision of any statute, regulation, rule or ordinance existing in any other state or in any city, county, or other local governing entity in any other state, that is related to the care and permitting of restricted species listed in Section 671, so long as the failure to comply would constitute a violation of the Fish and Game Code or regulations adopted pursuant thereto if it had occurred in this state or

(iii) the applicant or permittee has failed to comply with any provision of any federal statute, regulation, or rule that is related to the care and permitting of restricted species listed in Section 671, so long as the failure to comply would constitute a violation of the Fish and Game Code or regulations adopted pursuant thereto if it had occurred in this state; or

(iv) the department determines that the application or other documents submitted do not support the statement of purpose/use for the animal(s).

(B) The department shall deny the issuance of a permit or amendment of an existing permit if the applicant or permittee fails to demonstrate compliance with the conditions of subdivisions (b) and (c) of this section. Before denying an application for this reason, however, the department shall notify the applicant that it has not received sufficient materials or information pursuant to subdivisions (b) and (c) of this section. The applicant may amend or supplement an application with additional information or materials no later than 30 days after receipt (postmark) of the department's notification. New applications may be submitted at any time.

~~(5) Revocation. Any permit issued pursuant to these regulations may be canceled or suspended or revoked at any time by the department for failure to comply with the terms and conditions of the permit or for failure to comply with any provision of the Fish and Game Code or regulations adopted pursuant thereto. Unless the permittee has been convicted in a court of competent jurisdiction of violating one of these provisions, the suspension or revocation shall not take effect until the time to request an appeal pursuant to subparagraph (6) has expired. A timely request for an appeal will stay the department's suspension or revocation if the permittee was not convicted of violating~~

the Fish and Game Code or regulations adopted pursuant thereto, after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

~~(6) Appeal. Any applicant who is denied a permit, an amendment to an existing permit or has a permit revoked by the department pursuant to these regulations may appeal that denial or revocation to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked within 120 days of the department's denial.~~

(6) Appeal. Any applicant or permittee who is denied a permit, an amendment to an existing permit or has a permit suspended or revoked by the department pursuant to these regulations may appeal that denial, suspension, or revocation by filing a request for an appeal with the commission that is postmarked no later than 30 days after the postmarked date on the department's notice of denial, suspension, or revocation. The commission shall not consider a request for an appeal with a postmark later than 30 days after the postmarked date of the notice of denial, suspension, or revocation.

(A) No later than 30 days after filing an appeal, a person requesting an appeal (appellant) shall submit a written statement to the commission that specifically identifies the legal and factual grounds for challenging the department's action. Upon a showing of good cause, the commission may grant an appellant's request for an additional 30 days to submit appellant's written statement provided the appellant's request for additional time is received by the commission within 30 days of receipt of the request for appeal.

The appellant's written statement shall be signed by the appellant under penalty of perjury. Upon receipt, the commission shall forward to the department a copy of all appeal-related materials it receives from the appellant, including, a copy of the request for an appeal, any requests for additional time, and the appellant's written statement.

(B) No later than 30 days after receipt of the appellant's written statement, the department shall submit a response to the commission, with a copy sent to the appellant, along with any supporting documentary evidence and/or declarations under penalty of perjury.

(C) No later than 15 days after receipt of the department's response, the appellant may submit a reply to the commission signed by the appellant under penalty of perjury, with a copy sent to the department.

(D) The commission's president may appoint a commissioner, a former executive director of the commission, or a member of the state bar of California with at least 10 years experience in the active practice of law and determined qualified by the president, to serve as a hearing officer. Following the appellant's and the department's submittals on the appeal, the hearing officer may request additional information, including testimony under oath, from either party, and may permit either party to present additional information or rebuttal if the hearing officer determines such to be helpful in reaching a correct decision.

(E) In any appeal of the department's denial of an application for a permit or to amend an existing permit, if the hearing officer determines the appeal is based upon new evidence or factual information that was not included in the application or otherwise

submitted to the department prior to the department's denial, the hearing officer shall direct the applicant or permittee to file a new application or seek reconsideration by the department, and the request for appeal shall be closed.

(F) No later than 60 days after receipt of all submittals and any additional information or rebuttal permitted by the hearing officer under Subparagraph (6)(D), the hearing officer shall prepare and submit a proposed decision to the executive director of the commission. The decision shall contain proposed findings and reasons for the commission's action. Upon receipt, the executive director of the commission shall provide both parties a copy of the hearing officer's proposed decision. A cover letter accompanying the proposed decision shall indicate the date when the commission will consider the proposed decision and a deadline for the parties to comment on the proposed decision. Each party may submit written comments on the proposed decision to the commission, however, these comments shall not exceed two pages, and they shall not refer to or introduce any new factual information or evidence that was not previously submitted to the commission.

(G) At a meeting of the commission no later than 60 days after receipt of the hearing officer's proposed decision, the commission shall consider adoption of the proposed decision, unless good cause exists to delay consideration of the proposed decision. The commission may by order adopt, revise or reject the proposed decision. The commission shall serve both parties a copy of the commission's order and decision. The order is final.

(H) A party may request judicial review by filing a petition for writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure within 30 days from the date of service (postmark) of the order. The record of the proceedings as designated by the petitioner shall be prepared by the commission and delivered to petitioner's counsel or, if appearing pro se, the petitioner within 30 days after petitioner's request and upon payment of the fee specified in Section 69950 of the Government Code.

~~(6)~~**(7) Fees.** The following fees will be adjusted annually pursuant to Section 699, Title 14, CCR ~~as specified in Section 703.~~

(A) Application. A nonrefundable application fee, ~~or \$30~~ is required when applying for a new permit, amending ~~or renewing an~~ existing permit: ~~\$30~~ and renewing a permit.

(B) Inspection. The applicant shall pay ~~\$400.00~~ for two inspections each year. If an inspection requires more than two hours, or additional inspections are required to verify corrections of facilities or for compliance with these regulations an additional ~~\$25.00~~ per hour fee shall be charged. The application forms and inspection fees are specified in Section 703. The required inspection fee may be waived under the following conditions:

1. The inspection fee shall be waived if a ~~person~~ an applicant submits an annual statement from a veterinarian accredited by the USDA certifying that the animals have been inspected at least twice during the year, at six month intervals, and that the animals are being cared for and housed in accordance with applicable requirements in sections 671.2 through 671.4, Title 14, CCR.

2. In the case of animals to be acquired, the inspection fee shall be waived if a veterinarian accredited by the USDA will certify that the facilities meet the minimum

requirements of Section 671.2, Title 14, CCR, and that the animals will be inspected at least twice during the next year as required at six month intervals.

3. In the case of aquatic animals under an Aquaculture or Wholesale/Importation permit, the inspection fee may be waived if a fish pathologist as defined in subsection 245(b)(5) has inspected the applicant's facilities within the last six months and no fish health issues have been identified in the past year.

NOTE:

Authority cited: Sections 713, 1002, 2118, 2120, 2122, 2150 and 2150.2, Fish and Game Code. Reference: Sections 2416-2418, 2116, 2116.5, 2117, 2118, 2150, 2190 and 2271, Fish and Game Code, Section 1094.5, Code of Civil Procedure, Section 69950, Government Code.

Section 671.7, Title 14, CCR, is amended to read:

671.7. Permit Requirements for Aquaculture, Wholesale, or Importation Purposes.

The Department of Fish and Game may issue permits for All importation, possession, and transportation, and sale of aquatic species listed in Section 671 for aquaculture purposes authorized under an Aquaculture permit (subsection 671.1(b)(2)) or a Wholesale/Importation permit (subsection 671.1(b)(12)) are subject to the following requirements and conditions. Aquatic species importations operating under these permits do not require the importation permit specified in Section 236.

(a) Definitions

(1) For purposes of this section, closed-water system are defined as a closed system or systems that treats holding water and sediments sufficiently to ensure against the release of live organisms, including parasites, pathogens and viruses, into the waters of the state. For purposes of this section, municipal treated sewage systems are not considered waters of the state.

(2) For purposes of this section, terminal markets are defined as those retail sale locations holding live restricted species aquaculture product for human consumption that was purchased from an Aquaculture or Wholesale/Importation permittee following the sales requirements of subsection 671.7(g).

(b) General Requirements.

(1) All live restricted species shall be held, raised, and transported in closed-water systems. The department may inspect these systems at any time to determine if they are adequate for the specific restricted species being held.

(2) Facilities and transport systems must be designed so that biosecurity is maintained in the case of failure of the primary containment system.

(3) Access to facilities and transport systems containing restricted animals shall be restricted through means determined to be adequate by the department to assure against unauthorized removal of animals.

(4) Co-mingling or hybridization of restricted and non-restricted species is prohibited unless authorized by the department. If restricted species are co-mingled or hybridized with non-restricted animals, all such animals shall be considered restricted species for

the purpose of these regulations. Such co-mingled restricted species that can be individually identified as non-restricted and that can be separated from the restricted species may be exempt from this provision with prior department approval.

(5) Every restricted species permittee shall have a written Emergency Action Plan readily available and posted in a conspicuous place in the event of an escape or a containment failure involving a restricted species.

(A) The Emergency Action Plan shall be titled, with a revision date, updated annually and include, but is not limited to the following:

1. Written plan of action for emergencies including a description of emergency measures in the event of a containment failure.

2. List of the re-capture and mobile transport equipment available and where they are located, including but not limited to nets and temporary containers;

3. List of emergency telephone numbers that includes the local department regional office and other contacts as specified on the permit.

(B) Permittees are responsible for the capture and for the costs incurred by the department related to capture of escaped animals or a containment failure.

~~(6) In the event of adverse impacts arising from the permitted restricted species, or of violation of the articles in this section, the department is authorized to take appropriate and reasonable actions to remedy the situation, including but not limited to denial, suspension or revocation of the permit.~~

(6) Aquaculture and Wholesale/Importation permits are subject to the department's authority to deny, suspend, or revoke a permit pursuant to subdivision (c) of section 671.1, but the department may also suspend or amend any Aquaculture or Wholesale/Importation permit if the department determines that additional permit conditions are necessary to mitigate or avoid unexpected adverse impacts to natural resources arising from the permitted activities.

(c) Permit Application Requirements. The following information shall accompany an application for each new restricted species permit, amendment of an existing permit, or renewal:

(1) New Applicants and Permittees Requesting Amendments.

(A) An inventory of all restricted species requested including the common and scientific name of the each species, and the weight, volume, or count of each species.

(B) A written statement detailing the type of business that will be conducted with the restricted aquaculture animals requested.

(C) A copy of the applicant's current aquaculture registration issued by the department, if a restricted species aquaculture permit is being requested.

(D) A copy of their Emergency Action Plan.

(2) Renewals.

(A) An inventory of all restricted species presently held at their aquaculture facility including the common and scientific name of the each species, and the weight, volume, or count of each species.

(B) The permittee shall provide the following informational report to the department:

1. the weight, volume or count of all restricted species imported under their restricted species permit in the past year;

2. the weight, volume or count of all restricted species sold and/or shipped under their restricted species permit in the past year;

3. the weight, volume or count of all restricted species produced under their restricted species permit in the past year (for Aquaculture permits) and;

4. Any other information as specified in the permit.

(C) A written statement detailing the type of business that will be conducted with the restricted aquaculture animals requested.

(D) A copy of the applicant's current aquaculture registration issued by the department, if a restricted species aquaculture permit is being requested.

(E) A copy of their Emergency Action Plan.

(d) Importation of Live Restricted Species.

With the exception of those importations described in subsections 236(a), (b) and (c) of these regulations, restricted species listed in subsection 671(c) may be imported into the state only in accordance with the following terms and conditions:

(1) No shipment of restricted species into the state may be made prior to the issuance of a restricted species permit.

(2) All importations of restricted species shall be accompanied by an invoice or bill of lading, showing the name and address of the producer, date of shipment, the common and scientific names of the species being transported, the weight, volume, or count of each species in the shipment, the name, address, and restricted species permit number of the intended receiver. A copy of the restricted species permit shall accompany each shipment.

(3) Source of restricted species is an authorized seller who has a good record of husbandry and health management, as determined by the department.

(4) Notification of each restricted species importation(s) shall reach the department regional office or other specified office by letter, fax, or telephone at least five days in advance of the importation date. Under special circumstances, the department may waive this five day notice requirement.

(5) All restricted species imported into California under these regulations may be inspected by the department at either the place of entry into the state or at another location as specified by the department. The person importing restricted species may be required to provide facilities for inspection and sorting and shall be required to pay the department inspection costs including salary and travel expenses of the inspector.

(e) Transportation of Live Restricted Species within the State.

(1) Restricted species cannot be moved alive from an aquaculture or any holding facility unless specifically authorized in the restricted species permit issued by the department.

(2) All shipments of live restricted species by a permittee shall be accompanied by an invoice or bill of lading, showing the name and address of the permittee, date of shipment, the common and scientific name of the species being transported, the weight, volume, or count of each species in the shipment, the name, address, and restricted species permit number of the intended receiver. A copy of the shipper's restricted species permit shall accompany each shipment. The contents of the shipment and all applicable documentation shall be immediately made available to the department upon request.

(3) Notification of restricted species shipment(s) shall reach the department regional office or other specified office by letter, fax, or telephone at least 48 hours in advance of the shipment date.

(4) Both the seller and consignee restricted species permittees shall retain a copy of the invoice, bill of lading or similar accountable document for three years and make it available to the department upon request.

(f) Sales by Restricted Species Permittees.

(1) Restricted species may be sold alive by permitted aquaculture facilities to other permitted aquaculture facilities or permitted fish businesses if both parties hold a restricted species permit issued by the department for the species being sold.

(2) All shipping containers of restricted species shall be labeled as restricted aquaculture product unless specifically authorized in the restricted species permit issued by the department.

(3) All restricted species sold shall be accompanied by a sales invoice, showing the name and address of the permittee, the permittee's restricted species permit number, date of sale, the common and scientific name of the species, and the weight, volume, or count of each species sold. The restricted species and all applicable documents shall be immediately made available to the department upon request.

(4) No live restricted species animals shall be stocked in private, public or fish-for-fee facilities or released in the waters of the state.

(g) Terminal Market Sales.

~~(1) Terminal markets who purchase live restricted species from an Aquaculture or Wholesale/Importation permittee are not required to hold a Section 671.1 permit provided the live restricted species product is maintained in a closed water system.~~

(2)(1) All restricted species sold or leaving the premises of a terminal market shall be dead 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 subsection 240(c) of these regulations.

~~(3) No live restricted species shall be allowed to leave a terminal market or released in the waters of the state.~~

(2) It is unlawful for any person to allow any live restricted species to leave a terminal market or be released in the waters of the state.

NOTE:

Authority cited: Sections 1050, 2118, 2120, 7701, 7708, 15005, 15102, 15200, 15202 and 15600, Fish and Game Code. Reference: Sections 1050, 2116-2118, 2118.5-2123, 2116, 2116.5, 2117, 2118, 2118.5, 2119, 2120, 2121, 2122, 2123, 2125, 2450-2490, 45200-45202, 2150, 2150.1, 2150.2, 2150.3, 2150.4, 2150.5, 2151, 2152, 2153, 2155, 2156, 2157, 2185, 2186, 2187, 2188, 2189, 2190, 7700, 7701, 7702, 7702.1, 7703, 8371, 8431, 15200, 15201, 15202, 15400 15505, and 15600, Fish and Game Code. Section 703 is added to Title 14, CCR as follows:

Section 703, Title 14, CCR, is to be added as follows:

703 Miscellaneous Applications, Tags, Seals, Licenses, Permits, and Fees

(a) Applications, Forms and Fees for January 1 through December 31 (Calendar Year).

(1) Permits for Restricted Species

(A) ~~2009~~2010 Restricted Species Permit Fees

<u>1. Restricted Species Permit Application (New)</u>	<u>[\$ 50.7551.25-\$101.50]</u>
<u>2. Restricted Species Permit Application (Amended or Renewal)</u>	<u>\$ 50.7551.25</u>
<u>3. Animal Care – Welfare Species</u>	<u>\$ 50.2550.75</u>
<u>4. Animal Care - Detrimental Species</u>	<u>\$422.25426.00</u>
<u>5. Aquaculture</u>	<u>\$422.25426.00</u>
<u>6. AZA</u>	<u>\$422.25426.00</u>
<u>7. Breeding</u>	<u>\$422.25426.00</u>
<u>8. Resident Broker/Dealer</u>	<u>\$422.25426.00</u>
<u>9. Nonresident Broker/Dealer</u>	<u>\$844.50851.75</u>
<u>10. Resident Exhibiting</u>	<u>\$422.25426.00</u>
<u>11. Nonresident Exhibiting</u>	<u>\$844.50851.75</u>
<u>12. Native Species Exhibiting</u>	<u>\$422.25426.00</u>
<u>13. Resident Nuisance Bird Abatement</u>	<u>\$422.25426.00</u>
<u>14. Nonresident Nuisance Bird Abatement</u>	<u>\$844.50851.75</u>
<u>15. Research – Detrimental Species</u>	<u>\$422.25426.00</u>
<u>16. Shelter</u>	<u>\$ 50.2550.75</u>
<u>17. Single Event Breeding for Exhibitors</u>	<u>\$ 50.2550.75</u>
<u>18. Wholesale/Importation</u>	<u>\$422.25426.00</u>
<u>19. Fee for two initial inspections</u>	<u>[\$169.00170.50-\$3000.00]</u>
<u>20. Hourly fee for inspections longer than 2 hours</u>	<u>[\$ 42.2542.50-\$100.00]</u>

(B) New Restricted Species Permit Application (FG 1312 (New ~~4/2009~~10/2009)), incorporated by reference herein.

(C) Native Species Exhibiting Permit Amendment form (FG 1312a (New ~~4/2009~~10/2009)), incorporated by reference herein.

(D) New Native Species Exhibiting Permit Application (FG 1312b (New ~~4/2009~~10/2009)), incorporated by reference herein.

(E) Restricted Species Permit Inventory of Animals form (FG 1313 (New ~~4/2009~~10/2009)), incorporated by reference herein.

(F) Native Species Exhibiting Permit Inventory of Animals form (FG 1313a (New ~~4/2009~~10/2009)), incorporated by reference herein.

(G) Restricted Species Permit Amendment form (FG 1313b (New ~~4/2009~~10/2009)), incorporated by reference herein.

(H) Restricted Species Nonresident Exhibiting Itinerary form (FG 1316 (New ~~4/2009~~10/2009)), incorporated by reference herein.

(b) Pursuant to the provisions of Section 699, Title 14, the department shall annually adjust the fees of all licenses, stamps, permits, tags, or other entitlements require by regulations set forth in this section.

NOTE:

Authority cited: Sections 200, 202, 205, 220, 713, 1002, 1050, 1053, 2118, 2120, 2122, 2150 and 2150.2, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 220, 713, 1050, 1053, 1055, 2116, 2116.5, 2117, 2118, 2190 and 2271, Fish and Game Code.

Option 2

No geographic restriction and all importers, producers and sellers must be permitted.

All Proposed changes in Option 1 are included in Option 2 except for the following subsection.

Subsection 671(c)(5)(U), Title 14, CCR, is amended to read:

(U) Family Latidea -Lates perches

Lates calcarifer (Barramundi also know as Barramundi perch or Silver barramundi) (D), except permits may be issued to a person or organization for importation, transportation, possession, or sales of barramundi. Live sales for direct human consumption of barramundi that range from one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length is allowed in all counties except for San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial, under conditions set forth in Section 671.7. under the following conditions:

1. All live importation, possession, transportation and sales must also adhere to the conditions set forth in Section 671.7.

2. Live retail sales for human consumption are allowed for barramundi that range from one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length.

Option 3

Live sales of restricted aquaculture product to the public to be restricted to Northern California areas and terminal markets that purchase from a permitted source and only sell restricted aquaculture product to the public are not required to be permitted.

All Proposed changes in Option 1 are included in Option 3 except for the following subsections.

Subsection 671.7(a), Title 14, CCR, is amended to read:

(a) Definitions

(1) For purposes of this section, closed-water system are defined as a closed system or systems that treats holding water and sediments sufficiently to ensure against the release of live organisms, including parasites, pathogens and viruses, into the waters of the state. For purposes of this section, municipal treated sewage systems are not considered waters of the state.

(2) For purposes of this section, terminal markets are defined as those retail sale locations holding live restricted species aquaculture product for human consumption that was purchased from an Aquaculture or Wholesale/Importation permittee following the sales requirements of subsection 671.7(g).

Subsection 671.7(g), Title 14, CCR, is amended to read:

(g) Terminal Market Sales.

(1) Terminal markets who purchase live restricted species from an Aquaculture or Wholesale/Importation permittee are not required to hold a Section 671.1 permit provided the live restricted species product is maintained in a closed-water system.

(2) All restricted species sold or leaving the premises of a terminal market shall be dead 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 subsection 240(c) of these regulations.

~~(3) No live restricted species shall be allowed to leave a terminal market or released in the waters of the state.~~

(3) It is unlawful for any person to allow any live restricted species to leave a terminal market or be released in the waters of the state.

Option 4

No geographic restriction and terminal markets that purchase from a permitted source and only sell restricted aquaculture product to the public are not required to be permitted.

All Proposed changes in Option 1 are included in Option 4 except for the following subsections.

Subsection 671(c)(5)(U), Title 14, CCR, is amended to read:

(U) Family Latidea -Lates perches

Lates calcarifer (Barramundi also know as Barramundi perch or Silver barramundi) (D), except permits may be issued to a person or organization for importation, transportation, possession, or sales of barramundi. ~~Live sales for direct human consumption of barramundi that range from one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length is allowed in all counties except for~~

~~San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial, under conditions set forth in Section 671.7.~~ under the following conditions:

1. All live importation, possession, transportation and sales must also adhere to the conditions set forth in Section 671.7.

2. Live retail sales for human consumption are allowed for barramundi that range from one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length.

Subsection 671.7(a), Title 14, CCR, is amended to read:

(a) Definitions

(1) For purposes of this section, closed-water system are defined as a closed system or systems that treats holding water and sediments sufficiently to ensure against the release of live organisms, including parasites, pathogens and viruses, into the waters of the state. For purposes of this section, municipal treated sewage systems are not considered waters of the state.

(2) For purposes of this section, terminal markets are defined as those retail sale locations holding live restricted species aquaculture product for human consumption that was purchased from an Aquaculture or Wholesale/Importation permittee following the sales requirements of subsection 671.7(g).

Subsection 671.7(g), Title 14, CCR, is amended to read:

(g) Terminal Market Sales.

(1) Terminal markets who purchase live restricted species from an Aquaculture or Wholesale/Importation permittee are not required to hold a Section 671.1 permit provided the live restricted species product is maintained in a closed-water system.

(2) All restricted species sold or leaving the premises of a terminal market shall be dead 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 subsection 240(c) of these regulations.

~~(3) No live restricted species shall be allowed to leave a terminal market or released in the waters of the state.~~

(3) It is unlawful for any person to allow any live restricted species to leave a terminal market or be released in the waters of the state.