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STATE OF CALIFORNIA

Fish and Game Commission

March 8, 2010

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of a continuation notice of proposed regulatory action relative to sections 671, 671.1, 671.7 and 703, Title 14, California Code of Regulations, regarding New Restricted Species Permits and Requirements, which appeared in the California Regulatory Notice Register 2009, No. 24-Z and again in Notice Register 2010, No. 5-Z.

During the regulatory process to add or amend the sections noted above, changes were made to the originally proposed language, which is scheduled for adoption at the Commission's April 8, 2010 meeting in Monterey. The Commission proposed Option 5 has been added to the other four options to consider the lowest risk to native species as it has no live sales to unpermitted persons or businesses and only registered aquaculturists will be allowed to import, transport or possess restricted species for cultivation and sale as aquaculture product. The aquaculture industry is already subject to regulations for disease, importation, possession, and distribution which will ensure strong regulatory compliance. Subsection 671.1(c)(2) will be modified to clarify the application process and exempt Aquaculture and Wholesale/Importation permittees correcting subsection 671.1(c)(2) to read "(A) through (N)" instead of "(M)" which was noticed in error.

Because the modified proposed regulations are different from, yet sufficiently related to, the originally proposed regulations, the Administrative Procedure Act requires that these changes be made available to you for a 15-day written comment period.

Attached for your review is the modified proposed regulatory language for Option 5. You may submit written comments to the Commission office and/or attend the April 8, 2010 hearing in Monterey and offer testimony.

Mr. Scott Barrow, Fisheries Programs Branch, Department of Fish and Game, phone (916) 445-7600, has been designated to respond to questions on the substance of the proposed regulations. Documents relating to the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov> or may be obtained by writing to our office at the above address. Please note the dates and locations of related discussion hearings found on page 8 of the attached notice.

Sincerely,

Jon D. Snellstrom
Associate Government Program Analyst

Editorial Change for Clarification: Subsection 671.1(c)(2) will be modified to clarify the application process and exempt Aquaculture and Wholesale/Importation permittees from the application requirements listed in subsection 671.1(c)(2)(A) through (M) instead of (M) which was noticed in error.

Subsection 671.1(c)(2), Title 14, CCR, is amended to read:

(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 . . . are exempt from the application requirements (A) through (M)(N) and shall instead follow the requirements in Section 671.7.

Option 5 - The Commission proposed Option 5 has been added to the other four options to consider the lowest risk to native species as it has no live sales to unpermitted persons or businesses and only registered aquaculturists will be allowed to import, transport or possess restricted species for cultivation and sale as aquaculture product. The aquaculture industry is already subject to regulations for disease, importation, possession, and distribution which will ensure strong regulatory compliance.

All proposed changes in Option 1 are included in Option 5 except for the following subsections.

Subsection 671(c)(5)(U) is proposed to be modified as follows:

- 1) The proposed county restriction will be removed.
- 2) The proposed size criteria for live sales will be removed.

Subsection 671.1(b) is proposed to be modified as follows:

- 1) The Wholesale/Importation permit in subsection 671.1(b)(12) will be removed.

Subsection 671.1(c) is proposed to be modified as follows:

- 1) The Wholesale/Importation permit reference in subsection 671.1(c)(2) will be removed.

Subsection 671.7 is proposed to be modified as follows:

- 1) The two Wholesale/Importation permit reference in the title and first paragraph will be removed.
- 2) The definition for terminal market in subsection 671.7(a)(2) will be removed.
- 3) The two Wholesale/Importation permit references in subsection 671.7(b)(6) will be removed.
- 4) The Aquaculture permit reference in subsection 671.7(c)(2)(B)3. will be removed.
- 5) Subsection 671.7(f)(1) was modified to remove permitted fish business since Wholesale/Importation permit is removed from this option.
- 6) Subsection 671.7(f)(2) will be added to read "All restricted species sold to persons or businesses that are not permitted pursuant to subsection 671.1(b)(2) shall be killed before leaving the permitted aquaculture facilities."
- 7) Remove subsection 671.7(g) which specify the sales requirements for terminal markets.

Subsection 703(a) is proposed to be modified as follows:

- 1) The Wholesale/Importation permit in subsection 703(a)(1)(A)18. will be removed.

The New Restricted Species Permit Application form will be modified to remove the Wholesale/Importation permit.

Text for Option 5

(For the noticed Initial Statements of Reasons, and/or text for all proposed changes, including Options 1 – 4 please go to www.fgc.ca.gov, or contact the Fish and Game Commission staff at (916) 653-4899 or by emailing FGC@fgc.ca.gov.

All Proposed changes in Option 1 are included in Option 5 except for proposed amendments indicated by double underlined text in 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 under the following conditions:

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

Subsection 671.1(b), Title 14, CCR, is amended to read:

(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)(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 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.

(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.

(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.

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

(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.

(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)(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.

Subsection 671.1(c)(2), Title 14, CCR, is amended to read:

(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 permit are exempt from the application requirements (A) through ~~(M)~~(N) 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 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 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 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 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 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 December 31, 2010. Each permittee must provide an animal's unique identification to the department within 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.

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

671.7. Permit Requirements for Aquaculture 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 issued pursuant to subsection 671.1(b)(2) 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.

(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) Aquaculture 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 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 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 Aquaculture 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 the restricted species Aquaculture permit number of the intended receiver. A copy of the restricted species Aquaculture 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 Aquaculture 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 Aquaculture 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 if both parties hold a restricted species Aquaculture permit issued by the department for the species being sold.

(2) All restricted species sold to persons or businesses that are not permitted pursuant to subsection 671.1(b)(2) shall be killed before leaving the permitted aquaculture facilities.

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

(4) 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.

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

Section 703(a), 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) 2010 Restricted Species Permit Fees

<u>1. Restricted Species Permit Application (New)</u>	<u>[51.25-\$101.50]</u>
<u>2. Restricted Species Permit Application (Amended or Renewal)</u>	<u>\$ 51.25</u>
<u>3. Animal Care – Welfare Species</u>	<u>\$ 50.75</u>
<u>4. Animal Care - Detrimental Species</u>	<u>\$426.00</u>
<u>5. Aquaculture</u>	<u>\$426.00</u>
<u>6. AZA</u>	<u>\$426.00</u>
<u>7. Breeding</u>	<u>\$426.00</u>
<u>8. Resident Broker/Dealer</u>	<u>\$426.00</u>
<u>9. Nonresident Broker/Dealer</u>	<u>\$851.75</u>
<u>10. Resident Exhibiting</u>	<u>\$426.00</u>
<u>11. Nonresident Exhibiting</u>	<u>\$851.75</u>
<u>12. Native Species Exhibiting</u>	<u>\$426.00</u>
<u>13. Resident Nuisance Bird Abatement</u>	<u>\$426.00</u>
<u>14. Nonresident Nuisance Bird Abatement</u>	<u>\$851.75</u>
<u>15. Research – Detrimental Species</u>	<u>\$426.00</u>
<u>16. Shelter</u>	<u>\$50.75</u>
<u>17. Single Event Breeding for Exhibitors</u>	<u>\$50.75</u>
<u>18. Fee for two initial inspections</u>	<u>[170.50-\$3000.00]</u>
<u>19. Hourly fee for inspections longer than 2 hours</u>	<u>[\$42.50-\$100.00]</u>

(B) New Restricted Species Permit Application (FG 1312 (New 2/2010)), incorporated by reference herein.

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

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

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

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

(G) Restricted Species Permit Amendment form (FG 1313b (New 2/2010)), incorporated by reference herein.

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