

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, sell, 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, 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 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)~~(2) Change of Address or Name. The permittee must notify the department's License and Revenue Branch, in writing of any change of address or name related to the permit within five days of the change.

~~(4)~~(3) 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)~~(4) 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, the name and address of the consignee, the date of the shipment, and the number or poundage, sex (if available) 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)~~(5) Permits for Business. Any person (as defined in Fish and Game Code Section 67) can qualify for and be issued a permit, if the applicant or the applicant's full time employee possesses the qualifications for an applicant specified in subsections 671.1(c)(1), ~~671.1(c)(2)(C) and 671.1(c)(2)(E)(c)(3)(B) and (c)(3)(D)~~. Where a full time employee provides the qualifications, the applicant must continue to employ such qualified person as long as the animals are possessed in California. The applicant who owns the business shall submit annual proof of continued employment for a full time employee if the applicant continues not to meet the qualifications specified in subsection 671.1(c)(1).

~~(7)~~(6) 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 financial guarantee payable to the department, local government agency, or entity contracting for the animals.

~~(8)~~(7) 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)~~**(8)** 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 treated sewage systems are not considered waters of the state. The commission may grant an exception to this subsection ~~671.1 (a)(9)(A)~~ 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 to assure against unauthorized removal of animals.

(C) Movement of live transgenic aquatic animals from facilities is prohibited unless specifically permitted by the 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 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)(9) 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 (NIH) guidelines administered by an Institutional Animal Care and Use Committee (IACUC).

(H) The 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 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 commission during a regularly scheduled public meeting; and the 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.

~~(40)~~**(9)** 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. 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 for:

(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. Additional requirements are specified in subsection 671.1(c)(2)(3).

(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~~ sell only those species listed on the restricted species permit for aquaculture purposes. Additional requirements are specified in subsection 671.1(c)(2)(3) and 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. Additional requirements are specified in subsection 671.1(c)(2)(3).

(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)(3)(E). The permittee may import, transport, ~~and possesses,~~ and sell only those species specified on the department approved permit. Additional requirements are specified in subsection 671.1(c)(2)(3).

(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, but who does not have any other permit issued pursuant to this section for the animal being bought or sold. Additional requirements are specified in subsection 671.1(c)(2)(3).

(A) Special Restrictions.

1. Maximum 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. Additional requirements are specified in subsection 671.1(c)(2)(3).

(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. The department shall receive written documentation for each animal from a permitted California Wildlife Rehabilitation Facility's licensed veterinarian stating why the animal to be acquired is unsuitable for wildlife rehabilitation

and release, but suitable for education purposes (USDA certification of veterinarian is not required to determine non-releasable status). 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. Additional requirements are specified in subsection 671.1(c)(2)(3).

(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. Additional requirements are specified in subsection 671.1(c)(2)(3).

(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 department 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 department regional manager, or regional manager designee, 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 and meets the requirement as specified in subsection 671.1(c)(2)(M)(3)(N). The permittee may import, transport, breed, and possess only those species specified on the department approved permit. Only persons asking for department determination as a bona fide scientific institution are required to meet the requirements specified in subsection 671.1(c)(2)(L)(3)(K). Additional requirements are specified in subsection 671.1(c)(2)(3).

(10) Shelter. Issued to any 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. Additional requirements are specified in subsection 671.1(c)~~(2)~~(3).

(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 671.1(c)(1), and provides a breeding plan as specified in subsection 671.1(c)~~(2)(F)~~(3)(E) 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. Additional requirements are specified in subsection 671.1(c)~~(2)~~(3).

(12) Fish. Issued to any person who is a resident and is in the retail, 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 specified in subsection 671.1(c)~~(2)~~(3) and Section 671.7.

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

(1) Qualifications. Applicants or the applicant's full-time employee 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 facilities engaged in a similar or directly related activity to the permit requested. Applicants or the applicant's full-time employee shall have at least one year full-time hands-on professional experience working with 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 or the applicant's full-time employee was directly involved in and responsible for the animals while engaged in the activity requested on the permit and only when acquired within five years of the date of the initial permit application. Any person who applies for an Animal Care, Aquaculture, AZA, Broker/Dealer, Fish or Research permit is exempt from this experience requirement. Applicants must be residents of California, except that AZA, Exhibiting, Broker/Dealer and Nuisance Bird Abatement permits may be issued to nonresidents.

(2) Fees. The following application and inspection fees will be required and adjusted annually as specified in Section 703.

(A) Application. A nonrefundable application fee is required when applying for a new permit, amending an existing permit and renewing a permit.

(B) Inspection. The applicant shall pay for one inspection each year pursuant to the inspection procedures and requirements in Section 671.8 except for the Aquaculture and Fish permit.

(C) Aquaculture and Fish Permit Inspection. The applicant shall pay for two inspections each year. The required inspection fee may be waived under the following condition:

(1) 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, determines that the facility's housing meets the minimum applicable requirements in section 671.7 and no fish health issues have been identified in the past year.

~~(2)~~(3) Application. The applicant for a new permit, amendment to an existing permit, or permit renewal shall submit the completed application or document, as specified in Section 703, to the address listed on the application.

Persons who apply for an Aquaculture or Fish permit are exempt from the application requirements (B) 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, renewal, or upon change or expiration unless specified as exempt or as specifically required.

(A) An inventory of each animal requested including the common and scientific name, sex, and age of each animal. Any person who applies for an Aquaculture or Fish permit shall also provide the actual number of animals specified by either the weight, volume or count.

~~(B) Written certification from a veterinarian accredited by the USDA shall be required for inspections as specified in subsection 671.1(c)(7)(B) except if inspected by the department. The certification must be signed by the veterinarian and must include the veterinarian's printed name, address and license number.~~

~~(C)~~(B) A resume which provides the dates and description of an applicant or their full-time employee'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. Any person who applies for an Animal Care, AZA, Broker/Dealer or Research permit is exempt from this requirement.

~~(D)~~(C) A copy of current license or registration document required by the 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. Any person who applies for an Animal Care, Nuisance Bird Abatement or Shelter (non-exhibiting) permit is exempt from this requirement.

~~(E)~~(D) 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. Any person who applies for an Animal Care, AZA, Broker/Dealer or Research permit is exempt from this requirement.

~~(F)~~(E) Breeding Plan. Only persons who apply for a Breeding or Single Event Breeding for an Exhibitor permit are required to comply with these requirements. 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 description of how the progeny will be uniquely identified if required under subsection 671.1(c)(2)(K)(3)(J).

4. 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)~~(F) 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 using the Restricted Species Nonresident Exhibiting Permit Itinerary form specified in Section 703 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. Only persons who apply for a Nonresident Exhibiting permit are required to comply with this requirement.

~~(H)~~(G) A statement of purpose describing in detail the planned use for each animal. Applicants shall 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. Any person who applies for an Animal Care, AZA, Breeding, Research or Single Event Breeding For Exhibitor permit is exempt from this requirement.

~~(I)~~(H) 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. Any person who is required to possess a USFWS permit for the restricted species applied for or listed on a department-approved permit is required to comply with these requirements.

~~(J)~~(I) 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)~~(J) 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, 2011. 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 until the death of the animal.

~~(L)~~(K) Bona fide scientific research institutions, as identified in subsection 671.1(b)(9), shall submit the following with the initial application and for each additional new species (only required from persons who are not a university, college or governmental research agency and are asking for department determination as a bona fide scientific research institution):

1. At least one letter of recommendation from a university, college, governmental research agency or other bona fide scientific research institution, as recognized by the department, 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)~~(L) Applicants for a research permit shall include proof that the applicant is part of a federal program or have a permit meeting or exceeding Federal Requirements such as those under the NIH guidelines administered by an IACUC. Only persons who apply for a Research permit are required to comply with these requirements.

~~(N)~~(M) 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)~~(4) **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 issuance.

~~(4)~~(5) **Denial.**

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

1. 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;
2. 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
3. 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
4. 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 subsections 671.1 (b) and (c). 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 subsections 671.1 (b) and (c). The applicant may amend or supplement an application with additional information or materials, but these supplemental materials shall be postmarked no later than 30 days after the date of the proof of service accompanying the department's notification. New applications may be submitted at any time.

(C) All notifications, denials, or other correspondence sent from the department to an applicant or permittee under subsections 671.1 ~~(c)(4), (c)(5) and (c)(6)~~(c)(5), (c)(6) and (c)(7) shall include a proof of service that consists of a declaration of mailing, under penalty of perjury, indicating the date of mailing the department's notification, denial, or other correspondence.

~~(5)~~(6) **Revocation.** Any permit issued pursuant to these regulations may be 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 subsection 671.1(c)(6)(7) 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.

(6)(7) 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 date of the proof of service accompanying 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 date of the proof of service accompanying the notice of denial, suspension, or revocation.

(A) No later than 30 days after filing an appeal (as indicated by the postmark on the request for 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 no later than 30 days after the postmarked date 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 subsection 671.1(c)(6)(7)(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. Copies of the proposed decision shall include a proof of service indicating the date the proposed decision is mailed to the parties. 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.

~~(7) Application Fees. The following application and inspection fees will be required and adjusted annually as specified in Section 703.~~

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

~~(B) Inspection. The applicant shall pay 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 per hour fee shall be charged. The required inspection fee may be waived under the following conditions:~~

~~1. The inspection fee shall be waived if an applicant renewing a permit submits an annual statement from a veterinarian accredited by the USDA certifying that the animals and their housing 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 subsections 671.1(a)(9)(A)-(F), and sections 671.2 through 671.4.~~

~~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 applicable requirements in subsections 671.1(a)(9)(A)-(F) and sections 671.3 through 671.4 for the animals to be acquired and if the applicant certifies that the animals and their housing will be inspected at least once more, six months from the first inspection.~~

~~3. In the case of nonresident applicants for a new permit, the inspection fee shall be waived if a veterinarian accredited by the USDA will certify that the animals and their housing have been inspected and that the animals are being cared for and housed in accordance with applicable requirements in subsections 671.1(a)(9)(A)-(F) and sections 671.2 through 671.4 and if the applicant certifies that the animals and their housing will be inspected at least once more, six months from the first inspection.~~

~~4. In the case of aquatic animals under an Aquaculture or Fish 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, determines that the facility's housing meets the minimum applicable requirements in section 671.7 and no fish health issues have been identified in the past year.~~

Section 671.8. Inspection of Facilities is added as follows:

§ 671.8. Inspection of Facilities.

(a) The department may make a determination that an applicant meets the qualifications to obtain a permit before the applicant's facility(ies) is built and inspected and the department makes a determination that the facility(ies) meets the minimum applicable standards. The department shall not issue a permit until the applicant's facility(ies) have been inspected by the department or a person designated by the department and the department determines that the applicant's facility(ies) meets the minimum applicable standards.

(b) The applicant for a restricted species permit shall submit the annual inspection fee to the department, as specified in Section 703, which entitles the applicant to an annual inspection, up to two hours in duration, of the applicant's caging or holding facility(ies) and animal(s) each permit year.

(c) If an inspection exceeds two hours, or additional inspection time is required to verify compliance with these regulations, including verifying whether a non-compliant facility(ies) has been made compliant, the applicant shall pay the department an additional per hour fee, including travel time to the facility, as specified in Section 703. The department may refund inspection fees only if scheduled travel for the inspection has not taken place. The applicant shall submit payment for additional hourly fees accrued in excess of the two hours to the License and Revenue Branch within 5 business days of the inspection. The department shall not issue a permit or an amendment until the applicant pays the additional inspection fees.

(d) Types of Inspections.

(1) Initial. Before the department issues a new permit to a resident applicant, the applicant must provide for an initial inspection of an applicant's caging or holding facility(ies) as described in paragraphs (b) and (c), and provide for another inspection after the animal(s) arrive. Before the department issues a new permit to a nonresident applicant, the applicant must arrange for an inspection of the facility(ies) prior to the entry of the listed animal(s) into the state.

(2) Renewal. Before the department renews a permit, the applicant must provide for an annual renewal inspection, based on the permit year, as described in paragraphs (b) and (c).

(3) Amendment. Before the department amends a permit, an inspection is required to amend an existing permit, and shall consist of inspections both prior to and after the arrival of the animal(s) and when permanently moving existing caging or a holding container to a different facility location.

(e) If the department identifies a non-compliant item or violation during an inspection, the department may require that the applicant provide for one or more additional inspections within a specified time period at the permittee's expense prior to issuing a permit or permit amendment.

(f) The department shall issue a permit upon the department's determination that an applicant meets the qualifications to obtain a permit and the department determines that the applicant's facility(ies) meets the minimum applicable standards.

(g) The department's law enforcement staff may enter any place including but not limited to any holding facility, vehicle or vessel, where restricted species are kept or may be kept, to: inspect animals, facilities or animal equipment; inspect, audit, or copy any permit, book or record required to be kept for such species or to otherwise monitor or enforce compliance with state and federal statutes, and regulations adopted pursuant to state and federal statutes, related to restricted species. Inspections may be made at any time with or without prior notification.

NOTE:

Authority cited: Sections 713, 1002, 2118, 2120, 2122, 2150, 2150.2, 2157 and 2193, Fish and Game Code. Reference: Sections 2116, 2116.5, 2117, 2118, 2120, 2150, 2150.2, 2151, 2157, 2190, 2193 and 2271, Fish and Game Code; Section 1094.5, Code of Civil Procedure; and Section 69950, Government Code.

Section 703, Title 14, CCR, is amended to read:

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) 2011 Restricted Species Permit Fees

1. Restricted Species Permit Application (New)	\$101.50
2. Restricted Species Permit Application (Amended or Renewal)	\$ 52.00
3. Animal Care – Welfare Species	\$ 51.50
4. Animal Care - Detrimental Species	\$433.25
5. Aquaculture	\$433.25
6. AZA – Detrimental Species	\$433.25
7. Breeding	\$433.25
8. Resident Broker/Dealer	\$433.25
9. Nonresident Broker/Dealer	\$866.00
10. Resident Exhibiting	\$433.25
11. Nonresident Exhibiting	\$866.00
12. Native Species Exhibiting	\$433.25
13. Resident Nuisance Bird Abatement	\$433.25
14. Nonresident Nuisance Bird Abatement	\$866.00
15. Research – Detrimental Species	\$433.25
16. Shelter	\$ 51.50
17. Single Event Breeding for Exhibitors	\$ 51.50
18. Fish	\$433.25
19. Fee for two bi-annual inspections <u>annual inspection</u> (All permits except Aquaculture and Fish)	\$173.25 <u>670.00</u>
20. Fee for two bi-annual inspections (Aquaculture and Fish)	\$ 3,000.00
21. Hourly fee for inspections longer than 2 hours	\$ 55.00 <u>72.00</u>

(B) New Restricted Species Permit Application (FG 1312 (~~New 11/10~~Rev. 5/11)), incorporated by reference herein.

1. Any person applying for all permits specified in subsections 671.1(b)(1)-(12), except for the permit specified in subsection 671.1(b)(7) (Native Species Exhibiting Permit), shall submit this application when applying for a new permit.

(C) Native Species Exhibiting Permit Amendment Request form (FG 1312a (~~New 11/10~~Rev. 5/11)), incorporated by reference herein.

1. Any person with a valid Native Species Exhibiting Permit specified in subsection 671.1(b)(7) and requests to add species, change authorizations and conditions or change the facility's name and/or address shall submit this form.

(D) New Native Species Exhibiting Permit Application (FG 1312b (~~New 11/10~~Rev. 5/11)), incorporated by reference herein.

1. Any person applying for the Native Species Exhibiting Permit specified in subsection 671.1(b)(7) shall submit this application when applying for a new permit.

(E) Restricted Species Permit Inventory of Animals form (FG 1313 (~~New 11/10~~Rev. 5/11)), incorporated by reference herein.

1. Any person applying for any permits specified in subsections 671.1(b)(1) – (12), except for the permit specified in subsection 671.1(b)(7) (Native Species Exhibiting Permit), shall submit this form when applying for a new permit.

(F) Native Species Exhibiting Permit Inventory of Animals form (FG 1313a (~~New 11/10~~Rev. 5/11)), incorporated by reference herein.

1. Any person applying for the Native Species Exhibiting Permit specified in subsection 671.1(b)(7) shall submit this form when applying for a new permit.

(G) Restricted Species Permit Amendment Request form (FG 1313b (~~New 11/10~~Rev. 5/12)), incorporated by reference herein.

1. Any person with a valid permit specified in subsections 671.1(b)(1) – (12), except for the permit specified in subsection 671.1(b)(7) (Native Species Exhibiting Permit), and requests to add species, change authorizations and conditions or change the facility's name and/or address shall submit this form.

(H) Restricted Species Nonresident Exhibiting Permit Itinerary form (FG 1316 (New 11/10)), incorporated by reference herein.

1. Any person applying for a Nonresident Exhibiting Permit specified in subsection 671.1(b)(6) or amending an existing itinerary on file with the department shall submit this form as required in subsection 671.1(c)~~(2)(G)~~(3)(F).

(I) Any person renewing an existing restricted species permit specified in Section 671.1(b), shall submit their request using an annual report generated and provided by the department.

(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 required by regulations set forth in this section.

NOTE:

Authority cited: Sections 713, 1002, 1050, 1053, 2118, 2120, 2122, 2150, 2150.2, and 2157, Fish and Game Code. Reference: Sections 713, 1050, 1053, 2116, 2116.5, 2117, 2118, 2120, 2125, 2150, 2150.2, 2151, 2157, 2190, 2193, 2271, 12000, and 12002, Fish and Game Code.