

**THE NATURAL RESOURCES AGENCY OF CALIFORNIA
Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814**

**MARINE REGION - INFORMATION LEAFLET¹ REGULATIONS GOVERNING
LEASING OF STATE WATER BOTTOMS FOR AQUACULTURE**

Regulations

State law authorizes the California Fish and Game Commission (Commission) to lease State water bottoms or the water column to any person for aquaculture, i.e., "the cultivation of aquatic plants and animals," if such a lease is in the public interest. State law provides authority to the Commission to adopt regulations governing terms of the leases. Specific State laws and regulations pertaining to aquaculture leases and their administration are found in Chapters 1 through 8 of Division 12 of the Fish and Game Code (commencing with section 15000) and the provisions of Chapter 9 of Division 1 of Title 14, California Code of Regulations (commencing with section 235) (see attached). No state leases shall be issued, unless the Commission determines that the lease is in the public interest in a public hearing conducted in a fair and transparent manner, with notice and comment, in accordance with Commission procedures.

A lease shall not unreasonably interfere with fishing or other uses or public trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably harm the ability of the marine environment to support ecologically significant flora and fauna. A lease shall not have significant adverse cumulative impacts.

This leaflet was prepared to assist the public in the aquaculture lease and aquaculture agreement application process and provide some information on the regulatory authority of other state, federal, and local agencies that have oversight responsibilities of aquaculture activities in state waters.

Application Process

Applications for an aquaculture lease for state water bottoms or an aquaculture agreement can be made to the Commission on Form "A" attached to the back of this leaflet. An aquaculture agreement is an agreement for the establishment of an aquaculture area on private water bottoms contiguous to state water bottoms which may include a permit for relaying or depuration of shellfish. No aquaculture agreement will be valid until the State Lands Commission has certified to the department that the area applied for is unencumbered or the private ownership is properly described, so as not to preclude its use for the proposed culture.

Applications shall be accompanied by proof of ownership, a description of the area involved, an estimate of the acreage to be leased, and a reference map clearly showing the exterior boundaries of the area. The description must be tied to monuments of

¹ Prepared by Kirsten Ramey December 2010, updated November 2014, updated June 2016

record and maps must be in a form acceptable for recording in the county in which the aquaculture area is located. An aquaculture lease or agreement is subject to repeal if a map of the area is not filed by the holder of such lease or agreement in the appropriate county (ies) within 30 days of approval by the Commission.

An explanation of the type of operation including the aquaculture practices/culture techniques, description of the organisms to be grown, and the relay or depuration activities to be employed shall also be included in your application for an aquaculture lease or agreement. All aquaculture leases contain minimum planting and harvesting requirements for the species to be cultivated to insure that water bottoms so encumbered will be used for the purpose intended. A 5-year business plan detailing the steps in reaching the minimum planting and harvesting requirements shall be included in your application.

In addition, the applicant must present evidence that the applied for aquaculture area has been registered in compliance with Fish and Game Code Section 15101 before an aquaculture lease or agreement will be issued. A person desiring to propagate and rear marine life should make application on Form FG 750, found at <http://www.dfg.ca.gov/licensing/forms/forms.html> under the Special Permits tab. You can find the current application fee at the following California Fish and Wildlife, License and Revenue Branch web site www.dfg.ca.gov/licensing/statistics/statistics.html under the Special Licenses and Permits Heading and on the application. An application, together with the required fee, should be transmitted to the Department of Fish and Wildlife, License and Revenue.

California Department of Fish and Wildlife
License and Revenue Branch
1740 North Market Blvd.
Sacramento, California 95834

The application for an aquaculture lease or agreement shall also include information as to whether the area involved in the aquaculture relay or depuration operation has been classified by the Department of Health Services as approved, conditionally approved, prohibited, restricted, or unclassified. The procedures for certification of shellfish growing areas in California are described on page 4 of this leaflet.

If the Commission finds that the area applied for is available for lease and that the lease would be in the public interest, it shall publish a notice that the area is being considered for leasing. No aquaculture lease or agreement will be approved until the Commission has held a public hearing at least 90 or 30 days, respectively, after notice thereof has been published in a newspaper of general circulation within the county involved.

The application, together with a nonrefundable filing fee of \$500, shall be transmitted to the Fish and Game Commission, Executive Director.

Fish and Game Commission
Executive Director
1416 Ninth Street, 13th Floor
Sacramento, CA 95814
Telephone: (916) 653-4899
Facsimile: (916) 653-5040

Other Regulatory Requirements

While the California Department of Fish and Wildlife (Department) is responsible for many of the approvals required to establish and operate an aquaculture facility, there are other state, federal, and local agencies that have oversight responsibilities of aquaculture activities in state waters. Depending upon the location and the nature of your activity, regulatory approvals may be required from these agencies prior to you applying for an aquaculture lease or agreement from the Commission.

California Environmental Quality Act

California requires state and local agencies to perform environmental impact analyses when granting permits. Potential environmental impacts are addressed primarily through the California Environmental Quality Act (CEQA) review of the proposed facility. Although not a permit, CEQA compliance is mandatory for state, local, and other agencies subject to the jurisdiction of California to evaluate the environmental implications of their actions. The Department may play various roles under the CEQA process. The Department is always a Trustee Agency, but under certain circumstances it may also be a Lead Agency or a Responsible Agency. The lead agency determines whether a negative declaration or environmental impact report (EIR) will be prepared (CEQA Statutes, Sections 21080.3 and 21104.2; Guidelines, Sections 15050 and 15367). When the Department prepares and processes an EIR, an initial fee shall be levied and collected from the project proponent before undertaking the preparation of the EIR.

In addition, pursuant to Fish and Game Code Section 711.4, the Department shall impose and collect a filing fee for all projects subject to CEQA. These filing fees are collected to defray the costs of managing and protecting fish and wildlife resources including, but not limited to, consulting with public agencies, reviewing environmental documents, recommending mitigation measures, and developing monitoring programs. Project applicants need not pay a filing fee in cases where a project will have no effect on fish and wildlife, as determined by the Department, or where their project is statutorily or categorically exempt from CEQA.

California Department of Public Health

The California Department of Health Services (DHS) has regulatory authority over all health and sanitation aspects of the shellfish industry, including growing waters,

harvesting, processing, and shipping of products (Health and Safety Code Section 112150 *et seq.*).

The Preharvest Shellfish Protection and Marine Biotoxin Monitoring Program conducts, surveys, classifies and monitors commercial shellfish growing areas in conformance with the National Shellfish Sanitation Program. The purpose of the preharvest shellfish activities is to establish sanitary requirements for shellfish growing waters and to regulate the commercial growing and harvesting of shellfish to assure that shellfish are safe for human consumption. These requirements set maximum allowable levels for bacteria in the water, as well as for other contaminants such as pesticides, toxic organic compounds, and heavy metals. During the evaluation of a shellfish-growing area, prior to issuance or denial of a growing water certificate, considerable weight is placed on bacterial data reflecting "total" and "fecal" coliform levels. The watershed or source of water is considered, and an attempt is made to determine the hazards associated with all actual and potential sources of pollution which might impinge on the growing area. This includes such things as sewage treatment plants, areas of urban run-off, industrial plants, and agricultural operations.

The procedures for how to apply for a Shellfish Growing Area Certificate in California are attached to the back of this leaflet.

The DHS', Food and Drug Branch (FDB) regulates the handling, processing, and distribution of shellfish after they are harvested, including inspection of shellfish plants and issuance of the Shellfish Handling and Marketing Certificate. FDB also enforces meat quality standards, and sets requirements for proper packaging and labeling of all fish and shellfish moved in commerce.

To obtain applications forms and information concerning the procedures followed by the California Department of Health Services in permitting commercial aquaculture operations, please contact:

For Shellfish Growing Area Certification

Mr. Gregg Langlois, Chief
Preharvest Shellfish Unit
850 Marina Bay Parkway, # G165
Richmond, CA 94804
Tel. (510) 412-4635
Gregg.Langlois@cdph.ca.gov

For Shellfish Handling & Marketing Certification

Mr. Patrick Kennelly, Chief
Food and Drug Branch - MS-7602
1500 Capitol Avenue, PO Box 997413
Sacramento, California 95899-7413
Tel. (916) 650-6598
Patrick.Kennelly@cdph.ca.gov

Regional Water Quality Control Board

The State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards (RWQCB) establish water quality standards pursuant to the requirements of the state Porter-Cologne Water Quality Control Act (Porter-Cologne Act) and the federal Clean Water Act (CWA) for the state of California. Aquaculture activities may require both a Water Quality Certification and a National Pollutant

Discharge Elimination System Permit per Sections 401 and 402 of the CWA, respectively. Aquaculture activities that involve discharges must also obtain Waste Discharge Requirements, per the Porter-Cologne Act. In addition, the SWRCB is responsible for adopting the Ocean Plan, which prohibits waste discharges to Areas of Special Biological Significance, unless an exception is granted.

Before issuance of a lease for marine fin fish aquaculture, the applicant shall provide baseline benthic habitat and community assessments of the proposed lease site to the applicable RWQCB or SWRCB, and shall monitor the benthic habitat and community during the operation of the lease in a manner determined by the RWQCB or the SWRCB. The RWQCB and the SWRCB may establish and impose reasonable permit fees to pay for the costs of administering and conducting the assessment and monitoring program. For more information, contact the RWQCB within the particular location of the proposed lease area.

California Coastal Commission

The California Coastal Commission (Coastal Commission), in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone. Development activities and activities that change the intensity of use of land or public access to coastal waters generally require a coastal permit from either the Coastal Commission or the local government. Development within the coastal zone may not commence until a coastal development permit has been issued by either the Coastal Commission or a local government that has a Coastal Commission-certified local coastal program. For information on how to apply for a Coastal Development Permit contact, Mr. Cassidy Teufel, Energy, Ocean Resources and Federal Consistency Division, 45 Fremont St., Suite 2000, San Francisco, CA 94105 Tel. (415) 904-5502 FAX (415) 904-5400.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (Corps) regulates wetlands and other waters of the United States per the Clean Water Act (CWA). The CWA is the major federal law that regulates water resources. Several sections of the CWA apply to aquaculture activities, including Section 401 (Water Quality Certification), Section 402 (National Pollution Discharge Elimination System), Section 403 (Ocean Discharge Criteria), and Section 404 (Discharges of Dredge or Fill Material). Section 10 of the Rivers and Harbors Act of 1899 (Ch 425, 30 Stat. 1121) requires a permit for activities in or affecting the navigable waters of the United States, including installations or other devices permanently or temporarily attached to the seabed. For more information contact, Mr. Bryan Matsumoto, Regulatory Division, 1455 Market St., 16th Floor, San Francisco, CA 94103 Tel. (415) 503-6786 FAX (415) 503-6690.

U.S. Coast Guard

The Department of Homeland Security U.S. Coast Guard is the primary maritime law enforcement agency. It requires that aquaculture-related structures located in navigable

waters be marked with lights and signals to ensure navigational safety. All aquaculture leases shall be clearly marked with a minimum of one buoy anchored on each of the four corners and one buoy, possessing radar reflecting capabilities, anchored in the center of each aquaculture lease. All buoys used to define the boundaries of an aquaculture lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage system regulations (33 CFR Section 62.33 and 66.01-10). If aquaculture leases are located in areas too shallow to effectively maintain buoys, the four corners of the lease may be defined by stakes extending no less than three feet above the surface of the water at mean higher high water.

Each aquaculture lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and markings to be established on aquaculture leases.

National Marine Fisheries Service

The National Marine Fisheries Service (NMFS) administers the Endangered Species Act (ESA) for marine and anadromous fish. Under the ESA, agencies must consult with NMFS regarding any actions that could potentially result in take of threatened and endangered species. In addition, all federal agencies are required to consult with NMFS on all actions or proposed actions that may adversely affect essential fish habitat (EFH). Waters potentially affected by marine aquaculture include EFH for Pacific salmon, groundfish, pelagics, and highly migratory species. For more information contact, Northwest Regional Office, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

Local County Offices

Local county offices administer and enforce zoning and subdivision regulations in accordance with County Plans and applicable state laws. Local county offices are responsible for processing applications for development permits and providing public information on general plan, zoning, and subdivision matters. To determine whether mariculture is zoned a permitted or conditional use in your location; contact the local county office within the county in which the aquaculture area is located.

CALIFORNIA GOVERNMENT CODE SECTIONS REGULATING MARINE AQUACULTURE
Note: Section headings are those used by LawTech editorial staff- Title, Division, Part, Chapter, and Article headings are included as enacted.

Note: Section headings are those used by LawTech editorial staff- Title, Division, Part, Chapter, and Article headings are included as enacted.....7

FISH AND GAME CODE9

 DIVISION 0.5 GENERAL PROVISIONS AND DEFINITIONS9

 CHAPTER 1. GENERAL DEFINITIONS9

 14. Anadromous Fish9

 17. Aquaculture9

 61. Ocean Ranching9

 DIVISION 2. DEPARTMENT OF FISH AND GAME9

 CHAPTER 1. ORGANIZATION AND GENERAL FUNCTIONS9

 713. License Fees – How and When to Determine9

 CHAPTER 3. OTHER POWERS AND DUTIES 10

 1050. Preparation, Issuance, Displaying and Establishment of Fees..... 10

 DIVISION 12. AQUACULTURE 10

 CHAPTER 1. GENERAL PROVISIONS 10

 15000. Aquaculture Business; Governance; Exemptions; Exceptions 10

 15001. Ownership of Cultured Progenies 11

 15002. Take Aquaculture Products Without Lawful Entitlement 11

 15003. Fees on Products Grown on Public Lands and Waters 11

 15004. Adequate Funding of Aquaculture Program; Inspection Costs 11

 15005. Regulation of Specific Products; I.D. of Certain Products 11

 15006. Division Not Applicable to Animals and Plants for Pet and Hobby Purposes 12

 15008. Programmatic environmental impact report; Preparation 12

 CHAPTER 2. AQUACULTURE DEVELOPMENT SECTION 12

 15100. Duties of Aquaculture Coordinator 12

 15101. Registration; Requirements; Fees 13

 15103. Aquaculture Facility Additional Surcharge 13

 15104. Delinquent Fees; Penalty 13

 15105. Moneys Collected; Disposition 13

 CHAPTER 3. STOCKING AQUATIC ORGANISMS 14

 15200. Placing Plants and Animals; Move Live Fish Between Aquaculturists 14

 15201. Place Fish Above Fish Hatchery; Permit Required 14

 15202. Placing of Species; Prohibitions 14

 CHAPTER 4. BROOD STOCK ACQUISITION 14

 15300. Brood Stock Sources 14

 15301. Sale of Wild Species by Department; Collection of Wild Species by Aquaculturists 14

 CHAPTER 5. LEASING OF STATE WATER BOTTOMS 14

 15400. Leasing of State Water Bottoms 14

 15401. Public Clam Digging Area Not for Lease 16

 15402. Lessee Owns Organisms Described in Lease Application; Exclusive Cultivation Rights 16

 15403. Lease Application' Fee; Contents 16

 15404. Lease Consideration; Public Notice 16

 15405. Lease Term not to Exceed 25 Years 16

 15406. Renewal of Lease 16

 15406.5. Minimum Acceptable Annual Rent 17

 15406.7. Oyster Lease Privilege Tax 17

 15407. Rent Payment Schedule 17

 15408. Termination of Lease; Commission to Establish Regulations 17

 15409. Removal of Structures When Lease Terminated 17

 15410. Leases Subject to Legislative Powers to Adjust Rates 18

 15411. Public Access to Leased Area; Recreational Activity 18

15412. Assignment of Lease.....	18
15413. Enter Area; Destroy Aquatic Life or Boundary Markers.....	18
15414. Water Bottom Leases; Periodic Reports.....	18
CHAPTER 6. DISEASE CONTROL.....	18
15500. Commission Shall Compile List of Diseases, etc., and Species Affected.....	18
15501. Entry for Disease or Parasite Inspection.....	18
15502. Aquaculture Disease Committee; Membership, etc.....	18
15503. Disease Committee May Recommend Regulations.....	18
15504. Content of Recommended Regulations.....	19
15505. Discovery of Disease or Parasite – Possible Actions.....	19
15506. Quarantine, etc., Only if Outbreak Determined to be Threat.....	19
15507. Infections in Government and Private Facilities.....	19
15508. Reports of Diseases, etc., to the Director of Disease Committee – Expedite.....	20
15509. Movement of Species Quarantined; Permit Required.....	20
15510. Importation of Foreign, Infected Organisms.....	20
15512. Destruction of Aquatic Plants or Animals Pursuant to Section 15505 (e); Repayment.....	20
15513. Submission of Claims Against the Department.....	20
15514. Payment of Claims.....	20
15516. Owner's Responsibility to Pursue Eradication of Disease.....	21
CHAPTER 7. IMPORTATION OF AQUATIC PLANTS AND ANIMALS.....	21
15600. Importation of Live Organisms; Requirements and Restrictions.....	21
15601. Approval of Written Application.....	21
15604. Smith River Hatcheries not Exempt from California Environmental Quality Act.....	21
15605. Atlantic Salmon Importation or Possession in the Smith River Watershed.....	21
CHAPTER 8. AQUACULTURE DEVELOPMENT COMMITTEE.....	21
15700. Appointment of Members.....	21
15701. Term of Membership and Compensation.....	21
15702. Duty of Committee.....	22
15703. Committee Meetings – Frequency.....	22
FISH AND GAME COMMISSION REGULATIONS TITLE 14 CALIFORNIA CODE OF REGULATIONS.....	22
DIVISION 1. FISH AND GAME COMMISSION DEPARTMENT OF FISH AND GAME.....	22
SUBDIVISION 1. FISH, AMPHIBIANS & REPTILES.....	22
CHAPTER 9. AQUACULTURE.....	22
235. Aquaculture Registration.....	22
235.1 Screening Requirements for Aquaculture Facilities.....	23
236. Importation of Live Aquatic Plants and Animals.....	23
237. Leasing of State Water Bottoms for Aquaculture.....	24
238. Sale and Transportation of Aquatic Plants and Animals.....	28
238.5. Stocking of Aquaculture Products.....	29
243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs From the Wild for Use as Broodstock for Aquaculture Purposes.....	30
245. Aquaculture Disease Control Regulations.....	32
SUBDIVISION 3. GENERAL REGULATIONS.....	36
CHAPTER 3. MISCELLANEOUS.....	36
671. Importation, Transportation, and Possession of Live Restricted Animals.....	36
671.1. Permits for Restricted Species.....	40
671.7. Permits Requirements for Aquaculture and Fish.....	49
699. Fees.....	51

FISH AND GAME CODE

DIVISION 0.5 GENERAL PROVISIONS AND DEFINITIONS

CHAPTER 1. GENERAL DEFINITIONS

14. Anadromous Fish

"Anadromous fish" means fish which spawn in fresh water and spend a portion of their lives in the ocean.

17. Aquaculture

"Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes, however, these species continue to be regulated under Chapter 2 (commencing with Section 2116) of Division 3.

61. Ocean Ranching

"Ocean ranching" means aquaculture where juvenile anadromous fish are reared and released into state waters to grow and return to an aquaculture facility to be harvested commercially.

DIVISION 2. DEPARTMENT OF FISH AND GAME

CHAPTER 1. ORGANIZATION AND GENERAL FUNCTIONS

713. License Fees – How and When to Determine

(a) The changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, shall be used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, tags, or other entitlements issued by the department.

(b) (1) The department shall determine the change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, for the quarter ending March 31 of the current year compared to the quarter ending March 31 of the previous year. The relative amount of the change shall be multiplied by the current fee for each license, stamp, permit, tag, or other entitlement issued by the department.

(2) The product shall be rounded to the nearest twenty-five cents (\$0.25), and the resulting amount shall be added to the fee for the current year. The resulting amount shall be the fee for the license year beginning on or after January 1 of the next succeeding calendar year for the license, stamp, permit, tag, or other entitlement that is adjusted under this section.

(c) Notwithstanding any other provision of law, the department may recalculate the current fees charged for each license, stamp, permit, tag, or other entitlement issued by the department, to determine that all appropriate indexing has been included in the current fees. This section shall apply to all licenses, stamps, permits, tags, or other entitlements, that have not been increased each year since the base year of the 1985–86 fiscal year.

(d) The commission, with respect to any license, stamp, permit, tag, or other entitlement issued by the commission shall comply with subdivisions (a) to (c), inclusive.

(e) The calculations provided for in this section shall be reported to the Legislature with the Governor's Budget Bill.

(f) The Legislature finds that all revenues generated by fees for licenses, stamps, permits, tags, and other entitlements, computed under this section and used for the purposes for which they were imposed, are not subject to Article XIII B of the California Constitution.

(g) The department and the commission, at least every five years, shall analyze all fees for licenses, stamps, permits, tags, and other entitlements issued by it to ensure the appropriate fee amount is charged. Where appropriate, the department shall recommend to the Legislature or the commission that

fees established by the commission or the Legislature be adjusted to ensure that those fees are appropriate.

CHAPTER 3. OTHER POWERS AND DUTIES

1050. Preparation, Issuance, Displaying and Establishment of Fees

(a) All licenses, permits, tags, reservations, and other entitlements authorized by this code shall be prepared and issued by the department.

(b) The commission shall determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses, and may require and prescribe the form of applications therefor and the form of any contrivance to be used in connection therewith, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority.

(c) Whenever this code provides for a permit, license, tag, reservation, application, or other entitlement, the commission, in accordance with the provision, shall prescribe the terms and conditions under which the permit, license, tag, reservation, application, or other entitlement shall be issued, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority. The department shall issue the permit, license, tag, reservation, application, or other entitlement in accordance therewith and with the applicable provisions of law.

(d) Except for fees set by the department pursuant to subdivision (e), whenever this code does not specify whether a fee is to be collected, or does not specify the amount of a fee to be collected, or does not expressly prohibit the adjustment of statutorily imposed fees by the commission by reference to this section for the issuance of any license, tag, permit, application, reservation, or other entitlement, the commission may establish a fee or the amount thereof by regulation. The commission may also provide for the change in the amount of the fee in accordance with Section 713. Fees established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program with regard to which the fee is paid. The commission may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department and commission, provided that full cost recovery is achieved within five years of the establishment of the fee.

(e) The department may establish fees and may adjust statutorily imposed fees by regulation for the filings, permits, determinations, or other department actions described in Section 711.4, 1002, or 1609. The department also may provide for the change in the amount of the fee in accordance with Section 713. Fees established by the department shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department relating to the program with regard to which the fee is paid. The department may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department, provided that full cost recovery is achieved within five years of the establishment of the fee.

(f) Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the commission or department, as applicable, may establish a nonrefundable application fee, not to exceed seven dollars and fifty cents (\$7.50) sufficient to pay the department's costs for issuing the license, tag, permit, reservation, or other entitlement and may adjust the application fee in accordance with Section 713.

DIVISION 12. AQUACULTURE

CHAPTER 1. GENERAL PROVISIONS

15000. Aquaculture Business; Governance; Exemptions; Exceptions

(a) The business of aquaculture is governed by this division and is exempt from Part 3 (commencing with Section 7600) of Division 6 and any other provision of this code relating to commercial fishing, harvesting, processing, and marketing.

(b) Except as provided in Sections 15005, 15200, 15201, and 15202, the business of aquaculture processing, distribution, and marketing is administered by the Secretary of Food and Agriculture.

(c) The director may enter into an agreement with the Secretary of Food and Agriculture for the resolution of any conflict that arises under subdivision (b).

(d) Any costs incurred by the department in implementing Sections 15005, 15200, 15201, and 15202 shall be recovered pursuant to this division.

15001. Ownership of Cultured Progenies

The cultured progeny of wild plants and animals lawfully obtained under Section 15300 are the exclusive property of that person who cultured them or that person's successor in interest.

15002. Take Aquaculture Products Without Lawful Entitlement

Any person who takes aquaculture products without lawful entitlement is subject to prosecution for theft.

15003. Fees on Products Grown on Public Lands and Waters

(a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees if any, may not exceed the tax rates as provided in Section 8051.

(b) The price per pound for these taxation purposes shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The privilege tax imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

15004. Adequate Funding of Aquaculture Program; Inspection Costs

(a) Commencing in 1992, the department shall, at least once every five years, analyze the fees and taxes authorized by this division to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

(c) Aquaculturists operating under this division shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this division, or by regulations adopted pursuant to this division, when requested by the aquaculturists.

15005. Regulation of Specific Products; I.D. of Certain Products

(a) When necessary for the protection of native wildlife, the commission may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The commission may determine that aquaculture products shall be accompanied by a document containing any of the following information:

- (1) The name, address, and registration number of the aquaculture producer.
- (2) The species.
- (3) The weight, volume or count within the container.
- (4) The date of the shipment.
- (5) The name and address of the intended receiver.

(c) The commission may require that certain aquaculture products shall be additionally identified as being aquaculture produced, except for the following:

- (1) Trout.
- (2) Catfish.
- (3) Kelp and aquatic plants.
- (4) Frogs and amphibia.
- (5) All bivalve mollusks (except little neck clams).
- (6) All members of the family Centrarchidae.
- (7) Crayfish.
- (8) Sea urchins.
- (9) Shrimp and fresh water prawns.
- (10) Crab.

15006. Division Not Applicable to Animals and Plants for Pet and Hobby Purposes

Nothing in this division applies to authorized species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.

15007. Ocean Ranching Not Permitted by this Division; Exception

(a) In the waters of the Pacific Ocean that are regulated by this state, it is unlawful to spawn, incubate, or cultivate any species of finfish belonging to the family Salmonidae, transgenic fish species, or any exotic species of finfish. This section does not apply to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

(1) Research conducted by, or on behalf of, the department; or

(2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California's native salmon and steelhead trout populations pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(b) Nothing in this section authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

(c) As used in this section, "transgenic" has the same meaning as in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

(d) As used in this section, "exotic species" means a fish that is not native to California waters and that does not currently exist as a viable population in a wild condition in the state.

15008. Programmatic environmental impact report; Preparation

(a) The department shall, in consultation with the Aquaculture Development Committee, prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the state if both of the following conditions are met:

(1) Funds are appropriated to the department for this purpose.

(2) Matching funds are provided by the aquaculture industry. For the purpose of this section, "matching funds" include, but are not limited to, any funds expended by the aquaculture industry before January 1, 2006, for the preparation of a programmatic environmental impact report.

(b) If the final programmatic environmental impact report is prepared pursuant to subdivision (a) for coastal marine finfish aquaculture projects and approved by the commission under the California Environmental Quality Act set forth in Division 13 (commencing with Section 21000) of the Public Resources Code, the report shall provide a framework for managing marine finfish aquaculture in an environmentally sustainable manner that, at a minimum, adequately considers all of the following factors:

(1) Appropriate areas for siting marine finfish aquaculture operations to avoid adverse impacts, and minimize any unavoidable impacts, on user groups, public trust values, and the marine environment.

(2) The effects on sensitive ocean and coastal habitats.

(3) The effects on marine ecosystems, commercial and recreational fishing, and other important ocean uses.

(4) The effects on other plant and animal species, especially species protected or recovering under state and federal law.

(5) The effects of the use of chemical and biological products and pollutants and nutrient wastes on human health and the marine environment.

(6) The effects of interactions with marine mammals and birds.

(7) The cumulative effects of a number of similar finfish aquaculture projects on the ability of the marine environment to support ecologically significant flora and fauna.

(8) The effects of feed, fish meal, and fish oil on marine ecosystems.

(9) The effects of escaped fish on wild fish stocks and the marine environment.

(10) The design of facilities and farming practices so as to avoid adverse environmental impacts, and to minimize any unavoidable impacts.

CHAPTER 2. AQUACULTURE DEVELOPMENT SECTION

15100. Duties of Aquaculture Coordinator

There is within the department an aquaculture coordinator who shall perform all of the following duties:

(a) Promote understanding of aquaculture among public agencies and the general public.

(b) Propose methods of reducing the negative impact of public regulation at all levels of government on the aquaculture industry.

(c) Provide information on all aspects of regulatory compliance to the various sectors of the aquaculture industry.

(d) Provide such advice to aquaculturists on project siting and facility design that may be needed to comply with regulatory requirements.

15101. Registration; Requirements; Fees

(a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

(1) The owner's name.

(2) The species grown.

(3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of five hundred forty-nine dollars (\$549) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars (\$275). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (b) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

15102. Detrimental Operations May Be Prohibited

The department may prohibit an aquaculture operation or the culturing of any species at any location where it is determined it would be detrimental to adjacent native wildlife.

15103. Aquaculture Facility Additional Surcharge

(a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each registered aquaculturist shall maintain sales and production records which shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

15104. Delinquent Fees; Penalty

(a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars (\$50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 713.

15105. Moneys Collected; Disposition

(a) Notwithstanding Section 13001 or 13002, all moneys collected by the department pursuant to this division shall be deposited in the Fish and Game Preservation Fund and shall be expended solely on the department's aquaculture program pursuant to this division.

(b) Notwithstanding Section 13004, these moneys are available for appropriation by the Legislature in the annual Budget Act for purposes of this division.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

CHAPTER 3. STOCKING AQUATIC ORGANISMS

15200. Placing Plants and Animals; Move Live Fish Between Aquaculturists

The commission may regulate the placing of aquatic plants and animals in waters of the state. Movement of live fish between two registered aquaculturists who are registered for those species does not require a permit.

15201. Place Fish Above Fish Hatchery; Permit Required

A permit is required to place fish on public or private land or water in any watershed above an established public or private fish hatchery. The department shall deny the permit if there is evidence that water quality and potential disease transfers will be adverse to the established hatchery.

15202. Placing of Species; Prohibitions

The commission may prohibit the placement of specific species of aquatic plants or animals in designated waters of the state. The prohibition may not include species that are found to be native or that are stocked by the state in a location where prohibition is contemplated.

CHAPTER 4. BROOD STOCK ACQUISITION

15300. Brood Stock Sources

Aquatic plants or animals may be legally obtained for use as brood stock from all of the following sources:

- (a) A holder of a commercial fishing license.
- (b) A registered aquaculturist.
- (c) The department.
- (d) Imported sources authorized by Chapter 7 (commencing with Section 15600).

15301. Sale of Wild Species by Department; Collection of Wild Species by Aquaculturists

(a) The department may sell wild aquatic plants or animals, except rare, endangered, or fully protected species, for aquaculture use at a price approximating the administrative cost to the department for the collection or sale of the plants or animals. The commission shall set this price.

(b) Aquatic plants and animals may be collected by a registered aquaculturist only with the written approval of the department. The department may specify the time, place, and manner of collection and may collect a fee from the aquaculturist in an amount sufficient to cover the cost of processing the approval.

(c) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped bass broodstock shall be five hundred dollars (\$500).

CHAPTER 5. LEASING OF STATE WATER BOTTOMS

15400. Leasing of State Water Bottoms

(a) Except as prohibited by Section 15007, the commission may lease state water bottoms or the water column to any person for aquaculture, including, but not limited to, marine finfish aquaculture. Upon appropriation of funds for that purpose, or if funds are otherwise available, the commission shall adopt regulations governing the terms of the leases, after consulting with affected stakeholder in a public process. No state leases shall be issued, unless the commission determines that the lease is in the public interest in a public hearing conducted in a fair and transparent manner, with notice and comment, in accordance with commission procedures. Leases issued, and regulations adopted, pursuant to this section shall not be construed to be fishery management plans.

(b) A person shall not engage in marine finfish aquaculture in ocean waters within the jurisdiction of the state without a lease from the commission. Leases and regulations adopted by the commission for marine finfish aquaculture shall meet, but are not limited to, all of the following standards:

(1) The lease site is considered appropriate for marine finfish aquaculture in the programmatic environmental impact report if prepared and approved by the commission pursuant to Section 15008.

(2) A lease shall not unreasonably interfere with fishing or other uses or public trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably harm the ability of the marine environment to support ecologically significant flora and fauna. A lease shall not have significant adverse cumulative impacts.

(3) To reduce adverse effects on global ocean ecosystems, the use of fish meal and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be utilized, taking into account factors that include, but need not be limited to, the nutritional needs of the fish being raised and the availability of alternative ingredients.

(4) Lessees shall establish best management practices, approved by the commission, for each lease site. Approved best management practices shall include a regular monitoring, reporting, and site inspection program that requires at least annual monitoring of lease sites to ensure that the operations are in compliance with best management practices related to fish disease, escapement, and environmental stewardship, and that operations are meeting the requirements of this section. The commission may remove fish stocks, close facilities, or terminate the lease if it finds that the lessee is not in compliance with best management practices, that the lessee's activities have damaged or are damaging the marine environment, or that the lessee is not in compliance with this section. The commission shall take immediate remedial action to avoid or eliminate significant damage, or the threat of significant damage, to the marine environment.

(5) Before issuance of the lease, the lessee shall provide baseline benthic habitat and community assessments of the proposed lease site to the applicable regional water quality control board or the State Water Resources Control Board, and shall monitor the benthic habitat and community during the operation of the lease in a manner determined by the regional board or the State Water Resource Control Board. The regional board and the State Water Resources Control Board may establish and impose reasonable permit fees to pay for the costs of administering and conducting the assessment and monitoring program.

(6) Finfish numbers and density shall be limited to what can be safely raised while protecting the marine environment, as specified by the terms of the lease, subject to review and amendment by the commission.

(7) The use of all drugs, chemicals, and antibiotics, and amounts used and applied, shall be minimized. All drugs, therapeutic substances, and antibiotics shall be used and applied only as approved by the United States Food and Drug Administration for marine finfish aquaculture. The lessee shall report that use and application to the commission on a regular schedule, as determined by the commission, but no less than annually, that shall be included in the terms of the lease. The commission shall review those reports on a regular basis and at least annually.

(8) The commission shall require all farmed fish to be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the commission, unless the commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses.

(9) All facilities and operations shall be designed to prevent the escape of farmed fish into the marine environment and to withstand severe weather conditions and marine accidents. The lessee shall maintain records on all escapes in a manner determined by the commission. In the event of more than de minimis escapement, the number of escaped fish and the circumstances surrounding the incident shall be reported immediately to the commission, and the lessee shall be responsible for damages to the marine environment caused by those escaped fish, as determined by the commission.

(10) The lessee shall, at a minimum, meet all applicable requirements imposed by the State Water Resources Control Board and the regional water quality control boards, and shall prevent discharges to the maximum extent possible. Monitoring and testing of water quality shall be required on a regular basis as deemed appropriate by the State Water Resources Control Board or the regional water quality control boards. All inspection and monitoring reports and other records, and all data on the discharge of chemical and biological pollutants shall be kept on file and available for public review.

(c) If a restoration or enhancement plan is submitted to, and approved by, the commission, and that plan, among other things, provides for monitoring and protecting the benthic habitat, the prevention of pollution, and the prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations, subdivision (b) shall not apply to any of the following:

(1) Artificial propagation, rearing, and stocking projects for the purpose of recovery, restoration, or enhancement of native fish stocks carried out under either of the following:

(A) A scientific collecting or research permit issued by the department.

(B) The California Ocean Resources Enhancement and Hatchery Program, as set forth in Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6, for the enhancement of white sea bass.

(2) Nonprofit hatcheries and nonprofit artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishermen and fisherwomen for the purpose of recovery, restoration, or enhancement of California's native marine fish populations, pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(d) Nothing in this section shall be construed to limit or expand the application of any other state law or regulation pertaining to marine finfish aquaculture conducted within the ocean waters under the jurisdiction of this state.

15401. Public Clam Digging Area Not for Lease

Areas used by the public for digging clams shall not be leased. The department shall designate those areas.

15402. Lessee Owns Organisms Described in Lease Application; Exclusive Cultivation Rights

A lessee of a state water bottom owns all lawfully cultivated organisms that are described in the application for the lease and produced in the area leased. The lessee has the exclusive right to cultivate and harvest the aquatic organisms in the area leased.

15403. Lease Application' Fee; Contents

Persons wishing to lease a state water bottom shall make a written application to the commission. An application shall contain all of the following information:

(a) A map showing the area to be leased, its general vicinity, and all ownership and boundary lines in the vicinity.

(b) A description of the organisms to be grown and the culture techniques to be used.

(c) An estimate of the acreage to be leased.

(d) A nonrefundable filing fee of five hundred dollars (\$500).

The lessee shall assume responsibility for any infringement on privately owned water bottoms, or water bottoms owned by, or under the jurisdiction of any city, county, or district.

15404. Lease Consideration; Public Notice

(a) If the commission finds that the area applied for is available for lease and that the lease would be in the public interest, it shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the water bottom, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. The publication shall comply with Sections 6060 and 6066 of the Government Code.

15405. Lease Term not to Exceed 25 Years

(a) Except as specified in subdivision (b), no initial term of a state water bottom lease shall exceed 25 years.

(b) The initial term of a state water bottom lease for marine finfish aquaculture shall not exceed 10 years.

15406. Renewal of Lease

(a) Each state water bottom lease shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If during this period the lessee is still actively engaged in aquaculture, as determined by the commission, the lessee shall have a prior right to renew the lease on terms agreed

upon between the commission and the lessee. If terms are not agreed upon, the commission shall advertise for bids on the lease. If a request for renewal is not made by the lessee, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(b) Notwithstanding subdivision (a), with respect to any lease of state water bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew the lease. If the lessee does not renew the lease, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(c) Except as specified in subdivision (d), a lease may be renewed for additional periods not to exceed 25 years each.

(d) A lease for marine finfish aquaculture may be renewed for additional periods not to exceed five years each.

15406.5. Minimum Acceptable Annual Rent

(a) Except as specified in subdivision (b), the commission shall award water bottom leases to the highest responsible bidder, if the bid meets or exceeds the minimum annual rent established by the commission, which shall not be less than two dollars (\$2) per acre, for all species cultivated, unless the acreage applied for is 10 acres or less, in which case the minimum acceptable rent shall be ten dollars (\$10) per acre. The annual rent for any lease in effect on January 1, 1983, for the cultivation of oysters shall be one dollar (\$1) per acre until the expiration thereof. The commission may reject any or all bids for the lease of state water bottoms if it deems the rejection to be in the public interest.

(b) Fees for marine finfish aquaculture leases shall, at a minimum, be sufficient to pay for the costs of administering the marine finfish leasing program, and for monitoring and enforcing the terms of the leases.

15406.7. Oyster Lease Privilege Tax

(a) In addition to the rent provided in Section 15406.5, every person operating under an oyster lease shall pay a privilege tax of four cents (\$0.04) per packed gallon, or fraction thereof, of shucked oysters harvested by the lessee.

(b) If the oysters are marketed in the shell, the tax shall be based on the equivalent yield of shucked oyster meat. In determining the yield of oysters, it shall be deemed that 100 oysters are equivalent to one packed gallon of shucked oyster meat.

(c) The tax imposed by this section is the exclusive privilege tax that shall be imposed on lessees of state water bottoms for oyster cultivation, notwithstanding subdivision (a) of Section 15003.

15407. Rent Payment Schedule

The annual rent shall be paid to the department within 30 days of the commencement of the lease and within 30 days of the anniversary thereof. The commission may establish penalty fees for late payment and may cancel the lease if rent is not paid within 90 days of the commencement of the lease or within 90 days of any anniversary thereof.

15408. Termination of Lease; Commission to Establish Regulations

The commission shall promulgate regulations governing the termination of leases due to failure to pay rent or improper use of the leasehold.

15409. Removal of Structures When Lease Terminated

(a) Upon termination of a lease, for any reason, all structures shall be removed at the lessee's expense from the leasehold, and the area shall be restored to its original condition. If the lessee fails to remove the structures, the state may remove them and the lessee shall pay the removal costs incurred.

(b) The commission shall require financial assurances of each marine finfish aquaculture lessee to ensure that restoration is performed to the satisfaction of the commission. Financial assurances may take the form of surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the commission, as it determines are available and adequate to ensure the lease site is restored pursuant to this section.

(c) Marine finfish aquaculture lessees shall be responsible for any damages caused by their operations, as determined by the commission, including, but not limited to, reimbursement for any costs for natural resource damage assessment.

(d) Nothing in this section limits the state in pursuing additional remedies authorized by law.

15410. Leases Subject to Legislative Powers to Adjust Rates

All leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

15411. Public Access to Leased Area; Recreational Activity

Lessees under a state water bottom lease may not unreasonably impede public access to state waters for purpose of fishing, navigation, commerce, or recreation. The lessee may, however, limit public access to the extent necessary to avoid damage to the leasehold and the aquatic life culture therein.

The commission may prohibit any recreational activity in any aquaculture area subject to a state water bottom lease if it determines that the activity is detrimental to the enhancement of the resource.

15412. Assignment of Lease

No water bottom lease may be assigned without the prior approval of the commission. Application for approval of a lease assignment shall comply with all of the requirements for an original lease.

15413. Enter Area; Destroy Aquatic Life or Boundary Markers

No person may enter upon any area subject to a water bottom lease in which aquatic life is cultivated, or remove the aquatic life therefrom without the consent of the lessee, or willfully destroy the cultivated aquatic life or any markers intended to designate the boundaries and limits of the leased area.

15414. Water Bottom Leases; Periodic Reports

A water bottom lease may require periodic reports that the commission deems necessary for the proper administration of the state's water bottoms.

CHAPTER 6. DISEASE CONTROL

15500. Commission Shall Compile List of Diseases, etc., and Species Affected

Upon the recommendation of the department and after consultation with the Aquaculture Disease Committee created pursuant to this chapter, the commission shall compile a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. All government activities relating to aquaculture disease detection, control, and eradication that do not affect human health and safety are the responsibility of the department.

15501. Entry for Disease or Parasite Inspection

The department may enter, under an inspection warrant issued pursuant to Title 5 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, at any time, any car, warehouse, depot, ship, or growing area where any aquatic plants or animals are held or stored, for the purpose of making an examination to ascertain whether the aquatic plants or animals are infected, diseased, or parasitized.

15502. Aquaculture Disease Committee; Membership, etc.

The director, in consultation with the Aquaculture Industry Advisory Committee and the Interagency Committee for Aquaculture Development, shall appoint an 11-member Aquaculture Disease Committee consisting of at least six industry producers selected to represent geographic, specie, and other diverse aspects of the industry; two to represent the department; one to represent the Department of Food and Agriculture; an academic scientist who is an expert in aquatic Diseases; and one representative of the University of California Cooperative Extension. Members of the committee shall serve without compensation, but shall be paid their necessary expenses.

15503. Disease Committee May Recommend Regulations

The Aquaculture Disease Committee may recommend regulations to the commission designed to safeguard wild and cultured organisms from the list of harmful organisms compiled pursuant to Section 15500.

15504. Content of Recommended Regulations

Regulations recommended under Section 15503 and adopted by the commission may include all of the following:

- (a) Routine monitoring procedures.
- (b) Standardized diagnostic procedures.
- (c) A requirement for the confirmation of the diagnosis by the state through at least one other independent and qualified laboratory.
- (d) Criteria for ordering quarantine, condemnation, or destruction.
- (e) A stated maximum time period between diagnosis and destruction.
- (f) Methods to be employed in animal destruction and facility cleanup.
- (g) Procedures for determining fair and rapid compensation.
- (h) Any other related procedures that the commission may determine are necessary.

15505. Discovery of Disease or Parasite – Possible Actions

If any of the diseases or parasites listed pursuant to Section 15500 is found to exist which the director, in consultation with the Aquaculture Disease Committee and consistent with the regulations adopted under Section 15504, deems to be detrimental to the aquaculture industry or to wild stocks of aquatic plants and animals, the director may do any of the following:

- (a) Establish the area to be quarantined and list the aquatic plants and animals affected by it.
- (b) Post notices describing, as nearly as possible, the boundaries of an area within which specific disease or parasite infestations are found. Notices posted pursuant to this subdivision shall be published once a week for four successive weeks in a newspaper of general circulation in the county in which the infected area is located. If there is no newspaper of general circulation in that county, then the notice shall be published in a newspaper of general circulation published in an adjoining county.
- (c) Hold and impound diseased or parasitized plants and animals.
- (d) Forbid, prevent, or restrict the movement of all plants and animals subject to the disease or parasite from or into the area, or from place to place within it, during the existence of the quarantine.
- (e) Order the destruction and disposal of diseased or parasitized plants and animals consistent with Section 15504.

15506. Quarantine, etc., Only if Outbreak Determined to be Threat

Except for those diseases in the list compiled pursuant to Section 15500, infected plants or animals shall not be quarantined or destroyed, unless the director, in consultation with the Aquaculture Disease Committee, finds that an outbreak of aquatic disease among privately cultured plants or animals presents a threat to the aquaculture industry or to fish life or plant life.

15507. Infections in Government and Private Facilities

If the director, in consultation with the Aquaculture Disease Committee, finds that a disease is present in a nearby government operated facility or in nearby wild stocks, infected plants or animals in a private aquaculture facility shall not be quarantined or destroyed unless similar action is taken with respect to the government facility and wild stocks.

15508. Reports of Diseases, etc., to the Director of Disease Committee – Expedite

Reports of those diseases and parasites compiled pursuant to Section 15500 shall be immediately forwarded by the director to the Aquaculture Disease Committee and shall be promptly investigated by the department.

15509. Movement of Species Quarantined; Permit Required

No person may move, or allow to be moved, any of the aquatic plants or animals which are subject to a quarantine established pursuant to Section 15505 across the quarantine line which is established, unless the person has first obtained a permit from the director authorizing the movement.

The director may issue a permit after inspection, if the aquatic plants or animals, premises, transportation vehicles, and equipment which are subject to the quarantine established pursuant to Section 15505 are properly cleaned and disinfected.

15510. Importation of Foreign, Infected Organisms

If the director determines that any disease designated pursuant to Section 15500 exists among domestic aquatic plants and animals, or that aquatic plants and animals have been exposed, or may have been exposed, to the disease, or to the vectors of the disease, in any other state or territory in the United States or in any foreign country, and the importation of aquatic plants or animals from the state, territory, or foreign country may transmit, carry, or disseminate the disease to domestic plants and animals within this state, the director shall notify the commission which may, after consulting the State Department of Health Services and the Department of Food and Agriculture, issue a regulation restricting or prohibiting the importation of the diseased or infected aquatic plants or animals into this state from any other state, territory, or foreign country.

15512. Destruction of Aquatic Plants or Animals Pursuant to Section 15505 (e); Repayment

(a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department under subdivision (b) if the claim is submitted pursuant to Section 15513. If the replacement value is not settled between the owner and the department, the replacement value shall be determined by an appraiser appointed by the director and an appraiser appointed by the owner. Appraiser's fees shall be paid by the appointing party. Disputes between these two appraisers shall be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) If the department provides replacement stock to an aquaculturist whose plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount to be paid to the aquaculturist pursuant to this section shall be reduced by the value of the replacement stock, as determined by the department.

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the California Victim Compensation and Government Claims Board pursuant to Section 15513.

15513. Submission of Claims Against the Department

Claims against the department arising under this chapter may be submitted pursuant to Section 905.2 of the Government Code.

15514. Payment of Claims

No claim arising under this chapter shall be paid where the director, in consultation with the Aquaculture Disease Committee, finds that the claimant's management practices were negligent or in violation of law, and that the negligence or violation was the proximate cause of the disease or infection prompting the order of destruction or finds the claimant willfully violated any provision of Section 15505.

15516. Owner's Responsibility to Pursue Eradication of Disease

The owner of an aquaculture product who does not diligently pursue the eradication of a disease from its facility when ordered to do so by the director shall be responsible for paying to the director the full costs of the department for all disease eradication efforts conducted by the department to eradicate the disease. Payment of the costs under this section shall not excuse compliance with the provisions of law, regulations of the commission, and orders of the director, nor be a defense in any criminal or civil proceedings.

CHAPTER 7. IMPORTATION OF AQUATIC PLANTS AND ANIMALS

15600. Importation of Live Organisms; Requirements and Restrictions

(a) No live aquatic plant or animal may be imported into this state by a registered aquaculturist without the prior written approval of the department pursuant to the regulations adopted by the commission.

(b) The department shall not approve the importation of, or renew a permit to import, any anadromous fish or roe thereof listed in Section 2118 or the regulations adopted under Section 2118 into the Smith River watershed by a person unless that person had a permit or authorization approved before February 22, 1988. However, the department may issue or renew a permit for the importation of any anadromous fish or roe thereof specifically for research purposes conducted at any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

15601. Approval of Written Application

A written application for the importation submitted in conformance with the procedural requirements established by the commission is deemed to be approved where it has not been denied within 60 days.

15604. Smith River Hatcheries not Exempt from California Environmental Quality Act

No facility constructed for the purpose of spawning, incubating, or raising of anadromous fish listed in Section 2118 in the Smith River watershed is exempt from any provision of the California Environmental Quality Act.

15605. Atlantic Salmon Importation or Possession in the Smith River Watershed

(a) Nothing in this chapter prohibits the importation of Atlantic Salmon or the roe thereof, or the continued possession of Atlantic salmon or the roe therefrom which were lawfully imported or possessed on or before February 22, 1988, in the Smith River watershed under a written approval of the department issued pursuant to Section 15600.

(b) Nothing in this chapter applies to the importation or possession of dead Atlantic salmon or nonviable roe therefrom imported for human consumption if the importer has the appropriate licenses issued by the department.

CHAPTER 8. AQUACULTURE DEVELOPMENT COMMITTEE

15700. Appointment of Members

The director shall appoint an Aquaculture Development Committee consisting of the following persons:

(a) At least 12 members representing all sectors of the fresh and salt water aquaculture industry.

(b) One member representing the department, two members from and chosen by the University of California, one with expertise in aquaculture science and one with expertise in outreach to the fisheries community, and one member each from and chosen by the Department of Food and Agriculture, the California Coastal Commission, the State Lands Commission, the State Water Resources Control Board, the State Department of Health Services, and the Joint Legislative Committee on Fisheries and Aquaculture. The member of the committee appointed by the Joint Legislative Committee on Fisheries and Aquaculture shall meet and, except as otherwise provided by the California Constitution, advise the committee to the extent that this advisory participation is not incompatible with his or her position as a Member of the Legislature.

15701. Term of Membership and Compensation

(a) The term of membership for members other than representatives of public agencies shall be three years. The representatives of public agencies shall serve at the pleasure of the agency that the member represents.

(b) Members of the committee shall serve without compensation.

15702. Duty of Committee

(a) The committee shall be advisory to the director on all matters pertaining to aquaculture and shall coordinate activities among public entities.

(b) The committee shall assist the director in developing and implementing a state aquaculture plan, identify the opportunities for regulatory relief, assist in development of research and development priorities, assist in the development of criteria to assure that publicly financed pilot programs are compatible with industry needs, and identify other opportunities for industrial development.

15703. Committee Meetings – Frequency

The committee shall meet on the call of the director, but not less than twice each year.

FISH AND GAME COMMISSION REGULATIONS TITLE 14 CALIFORNIA CODE OF REGULATIONS

DIVISION 1. FISH AND GAME COMMISSION DEPARTMENT OF FISH AND GAME

SUBDIVISION 1. FISH, AMPHIBIANS & REPTILES

CHAPTER 9. AQUACULTURE

235. Aquaculture Registration

(a) Registration Required. Pursuant to the provisions of Section 15101 of the Fish and Game Code, all aquaculture facilities must be registered with the department each year. For purposes of Chapter 9, Part 1, Division 1, Title 14, California Code of Regulations, an aquaculture facility is one that is devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish or fresh water. This registration does not apply to: the maintenance of koi and goldfish in closed systems for personal, pet or hobby purposes; the sale or cultivation of brine shrimp; and the sale or cultivation of tropical species of ornamental marine or fresh water plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems for personal, pet industry or hobby purposes.

(1) Who Shall Register. The owner of each aquaculture facility shall register each year on forms provided by the department. Individual forms must be completed for each aquaculture facility location. Application forms and a list of laws and regulations governing aquaculture are available from the department's Aquaculture Development Section, 1416 Ninth Street, Sacramento 95814, and from the department's regional offices in Redding, Yountville, Rancho Cordova, Fresno, Long Beach and Menlo Park, on request.

(2) Cost of Registration. The registration fee for each new registered owner or operator shall be the fee specified in Section 15101(b) of the Fish and Game Code.

(3) Where to Submit Applications. Application forms together with the registration fee shall be submitted to one of the department's regional offices listed in subsection (1) above. Applications will be processed within five working days after approval. Applications shall be made on a form (Application for Aquaculture Registration, FG 750 (2/91), which is incorporated by reference herein) supplied by the department.

(b) Registration Limitation. The applicant must certify that he/she has read, understands and agrees to be bound by the regulations of the commission and the Fish and Game Code sections governing aquaculture and its products.

(c) Duration of Registration. The annual term of registration shall be January 1 to December 31, or if issued after the beginning of such term, for the remainder of that calendar year. Aquaculturists must reregister their facilities by March 1 of each year. Reregistration (renewal) fees shall be the amount specified in Section 15101(b) of the Fish and Game Code. An additional surcharge, specified in Section 15103 of the Fish and Game Code, shall be paid at the time of renewal if the proceeds from sale of aquaculture products of the facility in the preceding year exceed \$25,000. Penalties for late renewal will

be assessed in accordance with Section 15104 of the Fish and Game Code. Anyone failing to register or reregister under this section shall be operating unlawfully.

(d) All permits specified in this chapter, in addition to the aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code, shall be issued under the following conditions:

(1) Where Issued. Requests for permits required in Chapter 9, unless specifically directed otherwise, shall be submitted to the Department of Fish and Wildlife, Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814.

(2) Cost of Permit. Except as otherwise provided, see Section 15101 of the Fish and Game Code.

(3) Duration of Permits. Except as otherwise provided, permits will be issued on a calendar year basis, or if issued after January 1, for the remainder thereof.

235.1 Screening Requirements for Aquaculture Facilities

All bodies of water or private hatcheries registered for aquaculture purposes shall be entirely within the exterior boundaries of the land owned or leased by the owner of the facility. No aquaculture facility shall be built or operated on a natural water course or lake without the prior written approval of the department. Prior written approval is not required for aquaculture facilities constructed below a spring rising on private property.

For purposes of this section, waters existing seasonally or intermittently and not serving as a passageway or nursery area for anadromous fish are not required to be screened.

Except for those facilities using marine water, all artificial inlets and outlets of such bodies of water or private hatcheries used for aquaculture purposes shall be screened to prevent the ingress or egress of aquatic plants or animals. The department may exempt anadromous fish facilities operating under conditions imposed by Section 235.2(i) from all or any portion of this section.

236. Importation of Live Aquatic Plants and Animals

The Provisions of this section shall apply to the importation of all live aquatic plants and animals.

(a) No person shall import into this state any prohibited species of live aquatic plant or animal listed pursuant to Section 2118 of the Fish and Game Code, or Section 671 of these regulations unless specifically authorized by the commission.

(b) Unless specifically prohibited by these regulations, plants and animals within the following groups may be imported without an importation permit from the department:

(1) Mollusks and crustaceans intended to go directly into the seafood market and which will not be placed into the waters of the state nor placed in waters which are discharged to waters of the state.

(2) Live ornamental tropical marine or freshwater plants or animals that are not utilized for human consumption or bait purposes, are maintained in closed systems for personal, pet industry or hobby purposes, and which will not be placed in waters of the state.

(3) Brine shrimp.

(c) With the exception of those importations described in Section 236(a) and (b), live aquatic plants and animals may be imported into this state only in accordance with the following terms and conditions:

(1) A standard importation permit signed by the director or his agent is required, and no shipment into the state may be made prior to the issuance of the permit authorizing the shipment or shipments. The department shall charge a fee for issuing each permit. See subsection 699(b) of these regulations for the fee for this permit. Fees charged for inspections shall be independent of the fees charged for issuing permits.

(2) With the exceptions of the live aquatic animals listed in subsection 236(c)(6), a permit is required for each lot or load, and each shipment must be accompanied by the original copy of the importation permit. Unless otherwise authorized, the person who is to receive any shipments of aquatic plants and animals shall apply to the department for this importation permit.

(3) Application for a standard importation permit shall be made on a form (Application for Standard Importation Permit, FG 789 (2/91), which is incorporated by reference herein) supplied by the department, as directed in Section 235(d) and shall reach the department's headquarters office at least 10 working days in advance of the probable arrival date of the shipment. A copy of the permit authorized by the director or his agent must accompany each load. If a change in date of shipment becomes necessary after a permit has been issued, the permittee shall notify the Aquaculture Development Section at least 5 days before the new date of shipment. Under special circumstances, the department may waive this 5-day notice requirement.

(4) All live aquatic plants and animals imported into California may be inspected by the department, either at the place of entry into the state or at other locations suitable to the department. The person importing the aquatic plants or animals may be required to provide facilities for inspecting and sorting them, and may be required to pay inspection costs, including salary and travel expenses of the inspector.

(5) Any lot or load of aquatic plants and animals found by the inspector to be diseased, parasitized or to contain species not authorized by the importation permit must be immediately destroyed or transported out of California within a period of time specified by the department. In such cases, the importation permit is automatically revoked.

(6) In lieu of the permits specified in Section 236(c)(1), long-term permits for the following aquatic animals may be issued by the department for periods of up to one year. Application shall be made on a form (Application for Long-term Permit to Import Animals into California, FG 786 (2/91), which is incorporated by reference herein) supplied by the department. The department shall charge a fee for issuing each permit. See Section 699(b) of these regulations for the fee for this permit.

(A) Oyster, oyster larvae and oyster seed.

(B) Ghost shrimps (*Callinassa* Spp).

(C) Mud shrimps (*Upogebia* Spp).

(D) Longjaw mudsuckers (*Gillichthys mirabilis*).

(E) Red swamp crayfish (*Procambarus clarkii*).

(F) *Orconectes virilis*.

(G) Marine Annelid worms (Phylum Annelida).

(H) Sacramento blackfish (*Orthodon microlepidotus*).

(I) Other species under conditions which the department determines represent no significant risk to the fish and wildlife resources of the state.

(7) Importation of Salmonid Eggs. Applications to import eggs of fishes of the family salmonidae (trout, salmon and char) shall be accompanied by a health certificate signed by a person competent in the diagnosis of fish diseases stating that the hatchery or other sources of the eggs to be imported and the eggs themselves are free of the following diseases: infectious pancreatic necrosis (IPN); bacterial kidney disease (BKD); infectious hematopoietic necrosis (IHN); and viral hemorrhagic septicemia (Egtved). In questionable cases, the director of the department shall determine whether or not the person making the certification is technically qualified to do so.

(8) Only those aquatic plants and animals lawfully obtained in another state or country may be imported.

237. Leasing of State Water Bottoms for Aquaculture

(a) Definitions. The following definitions are established for terms used in this section:

(1) "Aquaculture Area" means any public waters or private waters contiguous to public waters set aside for the purpose of cultivating, harvesting or relaying of any aquatic plant or animal life.

(2) "Aquaculture Agreement" means an agreement for the establishment of an aquaculture area on private water bottoms contiguous to state water bottoms which may include a permit for relaying or depuration of shell fish under authority of Fish and Game Code Division 12. Permits may include use of state or private lands for aquaculture purposes.

(3) "Aquaculture Lease" means a lease of state water bottoms for the cultivation of aquatic plants and animals.

(4) "Depuration" means the process by which shellfish cleanse themselves of contaminants in a controlled process water environment.

(5) "Depuration Facility" means the physical structure, enclosure or device in which depuration is accomplished, including all appurtenances.

(6) "Growing Area" means any offshore ocean, coastal estuarine or freshwater area suitable for natural shellfish growth or artificial shellfish propagation and shall include open seawater systems.

(7) "Relaying" means the moving of shellfish from one water to another.

(8) "Shellfish" in this section means native or nonnative bivalve mollusks.

(9) "Classified Areas" include those waters that may be classified by the State Department of Health according to the following:

(A) "Approved Area": a shellfish-growing area not adversely affected by sewage or other wastes.

(B) "Conditionally Approved Area": a shellfish-growing area that may be occasionally affected by sewage or other toxic substances.

(C) "Prohibited Area": a shellfish-growing area not certified because of its proximity to a known waste discharge or because the area is influenced by other detrimental environmental factors.

(D) "Restricted Area": a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(10) "Lot" is a designated quantity of shellfish that is identifiable and may consist of one or more batches.

(11) "Batch" is a measurable, identifiable unit such as bushel, and one or more batches will comprise a lot.

(12) "Tidal Area" means the intertidal area between the high tide mark and 1,000 feet offshore. Commercial harvesting of native invertebrates in this area is subject to special permit requirements under Section 8500 of the Fish and Game Code.

(b) Applications.

(1) Applications for a lease of state water bottoms for aquaculture or for an aquaculture agreement or for a permit to relay or depurate shellfish shall be made to the commission.

(2) Applications shall be accompanied by proof of ownership of, or a valid lease on the lands on which the operations are to occur, or description of the state lands which the applicant has leased or intends to lease and on which the operations are to occur.

(3) Applications also shall be accompanied by a description of the area involved and a reference map clearly showing the exterior boundaries of the area. The description must be tied to monuments of record and maps must be in a form acceptable for recording in the county(ies) in which the aquaculture area is located. A copy of all maps shall be submitted by the commission to the State Lands Commission. No aquaculture agreement will be valid until the State Lands Commission has certified to the department that the area applied for is unencumbered or the private ownership is properly described, so as not to preclude its use for the proposed culture.

(4) No aquaculture lease for state water bottoms will be approved until the commission has held a public hearing at least 90 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture lease or aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such lease or agreement in the appropriate county(ies) within 30 days of approval by the commission.

(5) No aquaculture agreement for private water bottoms will be approved until the commission has held a public hearing at least 30 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such aquaculture agreement in the appropriate county(ies) within 30 days of approval by the commission.

(6) An explanation of the type of operation including the aquaculture practices, relay or depuration activities to be employed, shall be included in all applications for aquaculture leases or agreements.

(7) The change of any authorized cultural practices as specified in the aquaculture lease or agreement must have approval of the commission before the change is put into effect.

(8) The application shall include information as to whether each of the areas involved in the aquaculture relay or depuration operation has been classified by the Department of Health Services as approved, conditionally approved, prohibited, restricted or unclassified.

(c) Aquaculture Leases and Agreements.

(1) Aquaculture leases or agreements shall not be modified, amended, transferred, assigned or hypothecated without the approval of the commission.

(2) The holder of the aquaculture lease or agreement shall comply with the provisions of the Fish and Game Code and the rules and regulations of the commission and any special provisions set forth in the lease or agreement by the commission.

(3) Before an aquaculture lease or agreement is issued by the department, the applicant must present evidence that the applied for aquaculture area has been registered in compliance with Fish and Game Code Section 15101.

(4) The department may inspect the depuration facilities, culture or relay areas of a holder of an aquaculture lease or agreement at any time.

(5) Vessels used by holders of an aquaculture lease or agreement may be required to maintain clearly visible identifying numbers.

(6) The holder of an aquaculture lease or agreement shall record the size, numbers or pounds of shellfish or other marine life planted, relayed or taken in or from waters of the state on forms as designated by the department.

(7) Marking of leases. All aquaculture leases shall be clearly marked. Minimum marking requirements shall include:

(A) One buoy anchored on each of the four corners and one buoy, possessing radar-reflecting capabilities, anchored in the center of each aquaculture lease. All buoys used to define the boundaries of an aquaculture lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage system regulations (33 CFR Section 62.33 and 66.01-10).

(B) All buoys shall bear the Aquaculture Lease No. M- (followed by the appropriate number).

(C) Buoys marking the boundaries of an aquaculture lease shall be maintained at all times. If buoys are lost, displaced or are otherwise removed from an aquaculture lease, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to termination.

(D) If aquaculture leases are located in areas too shallow to effectively maintain buoys, the four corners (boundaries) of a lease may be defined by stakes extending no less than three feet above the surface of the water at mean higher high water supporting the markings prescribed in subsection (A). Stakes used to define the limits of an aquaculture lease shall be marked and maintained in the same manner as buoys in the preceding subsections.

(E) Each aquaculture lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and markings to be established on aquaculture leases.

(d) In addition to other requirements, a permit to relay or depurate shellfish shall contain the following conditions:

(1) An operation conducted under an aquaculture agreement or a relay or depuration permit that receives shellfish from the licensee's or permittee's own lands or lands leased by it, is not required to be licensed as a wholesale fish dealer and preserver, but shall maintain such records as are required by the department to monitor such operations, including but not limited to: data with respect to each batch of shellfish depurated or relayed that will show: its origin and quantity; date of reception by the depuration facility or relay bed and the length of time held in the facility or bed; and their final disposition. All depurated or relayed shellfish shall be identified by a tag or label securely fastened to the shipping container and bearing the certificate number of the shipper, his name and address, the name and address of the consignee, and the kind and quantity of shellfish in the container and the batch or lot number.

(2) The operator of a depurating facility receiving shellfish from other than the operator's owned or leased areas shall obtain a wholesale fish dealer's and preserver's license prior to the department's issuance of a permit and the permittee will maintain such records as required by the department.

(3) A relay or depuration permittee, moving shellfish for the purpose of cleansing, shall satisfactorily identify each lot of shellfish harvested and maintain its identity separate from other shellfish throughout its relaying or depuration process until certification by the Department of Health Services that edible shellfish standards have been met.

(4) Persons holding an aquaculture lease or agreement who relay shellfish from one area of the state to another, whether from private or public water bottoms, shall give the department notice two working days prior to the relay. Such notification shall be given to the department's office specified in the agreement.

(5) No shellfish shall be relayed without obtaining written permission from the department.

(6) Shellfish harvested from a conditionally approved or restricted area for relaying or depuration, shall be identified by a lot number. Shellfish so identified must be kept separate throughout the relaying or depuration process.

(7) Oysters, clams and mussels harvested for human consumption from the waters of Districts 12 and 13 by commercial fishermen, shall be taken only for the purposes of relaying or depuration.

(8) Shellfish produced by a registered aquaculture facility within the state may be relayed at any time. Such shellfish shall be free of disease and parasites so as to pose no threat to the environment. Hatcheries producing shellfish to be planted in state waters shall be inspected by the department for the presence of disease organisms at least once a year and, following such inspection, a permit authorizing planting of specified species for the ensuing year may be issued.

In lieu of the hatchery inspection, at the option of the registrant, inspection of each lot from the hatchery that is to be planted in state waters shall be requested. Request for inspecting each lot shall be made by

the registrant at least two working days prior to the transfer. A written permit authorizing the planting shall be obtained before planting the shellfish.

(9) Subsection (d)(8) does not preclude inspections under Section 1006 of the Fish and Game Code.

(e) Shellfish relayed from Districts 12 and 13.

(1) Native shellfish taken from Districts 12 and 13 under an aquaculture lease or agreement for purposes of purification, whether from public or private lands, are subject to a royalty of 0.0125H per pound after taking the shellfish from the relaying or depurating sit. For the purpose of computing the royalty, the charge shall be based on the weight (including shell) of the shellfish after completion of the cleansing process. The royalty is payable within 30 days after close of the calendar month in which it became due. If not paid within 60 days after the close of the month for which it became due, a penalty equal to 10% of the royalty shall be added to it.

(2) Nonnative shellfish relayed from Districts 12 and 13 and relayed for the purposes of purification, are subject to a 0.02H per pound fee after taking them from the relaying or depuration site. The fee is charged to cover administrative costs and is subject to adjustment and penalty as described in subsection (e)(1).

(f) Persons holding an aquaculture lease or agreement and using state water bottoms shall, in addition to the acreage rental fee for use of state water bottoms, be assessed a fee on all shellfish harvested not to exceed the privilege tag as provided in Fish and Game Code Section 15003. The fees shall be subject to the penalty and adjustment as described in subsection (e)(1). These fees shall not apply to the harvesting of shellfish from state or private water bottoms in Districts 12 and 13 for the purposes of cleansing. When water quality in Districts 12 and 13 permits direct use of the shellfish from state water bottoms or native shellfish from private water bottoms, the fee established by Fish and Game Code Section 15003 shall apply.

(g) Agar-bearing plants taken from state waters are subject to the fees of Section 165(a)(2)(E) of this title.

(h) Oysters, clams and mussels harvested from Districts 12 and 13 for commercial purposes must be taken by licensed commercial fishermen. In addition to a commercial fishing license, every fisherman when harvesting shellfish, must have in his possession a current permit issued pursuant to Section 123 of this title. Only those species listed on the permit for harvest from Districts 12 and 13 may be taken.

(i) Improvements of aquaculture leases.

(1) Oyster Cultivation.

(A) Bottom culture: leases must be improved at an average rate of at least two cases of seed-bearing shell (160 pounds of seed-bearing shell) or 30 bushels of shellfish one or more years of age per acre over the allotted acreage per year. Improvements by unattached, single seed (less than one year old) shall consist of planting an average rate of 10,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(B) Off-bottom culture: leases must be improved at an average rate of at least one case of seed-bearing shell (80 pounds of seed-bearing shell), or 15 bushels of oysters one or more years of age per acre over the allotted acreage per year. Improvement by unattached single seed (less than one year old) shall consist of planting an average rate of 5,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(C) Production requirements: the annual harvest rate shall be an average of 2,000 oysters per acre (over one year of age) over the allotted acreage effective three years after the effective date of the lease. Harvest reports shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(2) Miscellaneous Aquatic Species.

(A) A lease of state water bottoms for the cultivation of species other than oysters will include minimum planting and harvesting requirements for the species to be cultivated to insure that water bottoms so encumbered will be used for the purpose intended.

(B) Harvest amounts shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(j) As proof of use, holders of aquaculture leases shall submit to the department office designated in the lease agreement, a written declaration under penalty of perjury showing the date, quantity of species and acreage in each planting, also including a map showing acres, amounts and dates planted.

238. Sale and Transportation of Aquatic Plants and Animals

Importation of live aquatic plants and animals is governed by Section 236 of these regulations. Except as provided for by Section 236, aquaculture products may be sold or transported in this state only in accordance with the following general terms and conditions:

(a) All aquaculture products sold or transported under the provisions of this section must have been legally reared or imported by an aquaculturist registered in this state.

(b) The following provisions apply to transactions of aquaculturists involving aquaculture products:

(1) A registered aquaculturist may sell and transport live aquaculture products authorized by that registration to any other aquaculturist authorized to possess the same species.

(2) All shipments of authorized aquaculture products shall be accompanied by a duplicate of a sales invoice or waybill showing the name of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume or count of each species in the shipment, and the name and address of the consignee.

(3) Duplicates of the required sale or shipping documents shall be retained by the producer, and by the shipper, if different from the producer, for a period of one year from the date of sale. The records shall be shown upon written demand by the director of the department. The information contained in these documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(c) A registered aquaculturist may sell and transport live those aquaculture products authorized by that registration to any of the following whose licenses or permits authorize the possession of the same live plants and animals for commercial purposes. Documents as described in Section 238(b)(2) shall accompany each shipment. Aquaculture products may not be stocked in any water of the state, except as provided for in Section 238.5 of these regulations.

(1) Scientific or educational establishments;

(2) Aquarium Dealer Permittees (See Section 227 of these regulations);

(3) Live Freshwater Bait Fish Licensees (See Sections 200 through 200.31 of these regulations);

(4) To any other legal purchaser or possessor for whom possession is legal.

(d) The following provisions apply to the operator of any commercial establishment where aquaculture products are maintained alive for human consumption:

(1) Under no condition shall these aquaculture products be stocked in any waters of this state.

(2) The operator may transport live aquaculture products between aquaculture facilities, retail sales stores, and/or wholesale distribution points. Documents as described in Section 238(b)(2) shall accompany each shipment.

(3) The operator shall retain copies of all sales invoices or waybills received with the products. Such invoices or waybills shall be retained by the operator for a period of at least one year following receipt of the aquaculture products listed thereon, and such invoices or waybills shall be produced upon request of an official of the department.

(4) All aquaculture products, except live shellfish, sold and leaving the premises of the operator shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with Section 240 of these regulations.

(e) Marking and Tagging Requirements.

(1) Abalone.

(A) All abalone produced by an aquaculturist registered pursuant to Section 15101 of the Fish and Game Code may be possessed, harvested, sold and transported, provided the abalone are identifiable as being cultivated or are packaged in sealed containers as provided for in Section 240 of these regulations.

Such abalone are exempt from the size limits established by Section 8304 of the Fish and Game Code.

(B) Abalone which spend part of their life in marine waters of the state, other than while in an aquaculture facility, must have an identifying mark or tag approved by the Department, or be otherwise identified as a product of aquaculture by a method approved by the Commission. Such identifying mark or method must be approved, or a tag attached, prior to the abalone being placed in waters outside the

aquaculture facility. For purposes of this section, the term "aquaculture facility" includes a hatchery, rearing facility, pen, cage or any similar structure or device.

(C) Any person other than a registered aquaculturist processing cultured abalone at the wholesale level must possess a revocable processing permit for cultured abalone, as issued by the department.

(f) Retail Sales of Aquaculture Products at an Aquaculture Facility. All aquaculture products sold at an aquaculture facility shall be dead at the time of sale except for:

(1) Aquaculture products sold under the provisions of Sections 238(c), 238(d)(2), or 238.5 of these regulations. Aquaculture products sold under provisions of Section 238.5 of these regulations may be transported live and stocked as provided for by Section 238.5 of these regulations by retail customers. Documents as described in Section 238(b)(2) shall accompany each shipment, and records as described in Section 238(b)(3) shall be maintained by the aquaculturist and the retail customer.

(2) Striped bass, hybrid striped bass, abalone, steelhead trout and sturgeon sold pursuant to the provisions of Section 240 of these regulations.

(3) Aquaculture produced shellfish purchased at retail and taken from the aquaculture facility by the purchaser need only be accompanied by a sales receipt showing the name and aquaculture registration number of the producer, the item(s) and quantity purchased and the date of purchase. All other shipments of aquaculture products shall be accompanied by a sales invoice or waybill as provided in Section 238(b)(2) of these regulations.

(4) Those freshwater bait fishes that would be legal for sale as live bait by a licensed Live Freshwater Bait Fish Dealer in the same sport fishing district or portion of sport fishing district in which the aquaculture facility is located (see Sections 4.10 through 4.30 and Sections 200.13 through 200.31 for legal live bait fishes).

238.5. Stocking of Aquaculture Products

Upon stocking, aquaculture products are wild and therefore "fish" as defined by Section 45 of the Fish and Game Code, except when stocked into a registered aquaculture facility. No person shall stock aquaculture products in this state except in accordance with the following general terms and conditions:

(a) All aquaculture products stocked under these provisions must be legally reared or possessed by an aquaculturist registered in this state. No person shall stock aquaculture products which are parasitized, diseased or of an unauthorized species.

(b) Live aquaculture products shipped to Inyo or Mono counties must be certified by the department as disease and parasite-free before being stocked in waters in those counties.

(c) A registered aquaculturist producing or possessing rainbow trout (*Oncorhynchus mykiss*), largemouth bass (*Micropterus salmoides*), bluegill (*Lepomis macrochirus*), redear sunfish (*Lepomis microlophus*), Sacramento perch (*Archoplites interruptus*), channel catfish (*Ictalurus punctatus*), blue catfish (*Ictalurus furcatus*) and white catfish (*Ictalurus catus*), may stock these species under the following terms and conditions.

Only publicly owned lakes covered by a cooperative agreement between the department and the lake operator and privately owned reservoirs, lakes and ponds in the following counties or portions thereof may be stocked without a stocking permit: Alameda, Butte, Colusa, Contra Costa, Glenn, Imperial, Kern, except in the Kern River drainage above Democrat Dam; Kings, Lake except in the Eel River drainage; Los Angeles, Merced, Napa, Orange, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Ventura, Yolo, Yuba; those portions of Amador, Calaveras, El Dorado, Mariposa, Nevada, Placer and Tuolumne west of Highway 49; Fresno west of the Sierra and Sequoia National Forest boundaries; Madera west of the Sierra National Forest boundary; and Tulare west of the Sequoia National Forest and Sequoia National Park boundaries.

(d) Except for those species listed in Section 238.5(c) when planted into those specific areas and waters covered in Section 238.5(c), no person shall stock aquatic plants and animals except as follows:

(1) Each stocking of fish shall require a separate Private Stocking Permit (FG 749 (Rev. 5/93), which is incorporated by reference herein) issued by the department. A copy of this permit shall accompany all shipments. However, a copy of the same permit (FG 749 (Rev. 5/93)) may be used for additional consignments of the same species when stocked in the same water or waters, until cancelled by the department. See subsection 699(b) of these regulations for the fee for this permit.

(2) Application for the private stocking permit shall be made to the regional manager of the Fish and Wildlife region in which the fish are to be stocked. An application will be supplied to each applicant upon request.

(3) No person shall stock any species of fish in any water in which the stocking of such fish is contrary to the fisheries management programs of the department for that water or drainage, or in any water from which such fish might escape to other waters where such fish are not already present. All applicants will be advised upon request of the said departmental fisheries management programs.

(4) Permittee shall notify the regional office of the department not less than 10 days in advance of stocking in order to make arrangements for inspection. Such inspection may be waived at the discretion of the department. If, upon inspection, diseased or parasitized fish or fish of unauthorized species are found by the department to be present, they shall be disposed of by the permittee as directed by the department. The department may require that the expense of any inspection made necessary by the provisions of these regulations be borne by the permittee.

(5) A stocking permit may be cancelled or suspended by the department upon conviction of a violation of these regulations by a court of competent jurisdiction. Cancellation or suspension may be appealed to the commission.

(6) A stocking permit is valid only when signed by the applicant.

(e) A registered aquaculturist selling and transporting aquatic plants and animals for the purpose of stocking in this state shall retain copies of documents required by Section 15005(b) of the Fish and Game Code for a period of three years following stocking of the fish. The documents shall be shown upon written demand by the director of the department. The information contained in the documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(f) Except for Inyo, Mono, San Bernardino, Riverside and Imperial counties, mosquitofish (*Gambusia affinis*) may be planted for purposes of mosquito control without obtaining a permit otherwise required by these regulations. In Inyo and Mono counties and in public waters of San Bernardino, Riverside and Imperial counties, mosquitofish may not be planted without the written concurrence of the department.

243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs From the Wild for Use as Broodstock for Aquaculture Purposes

Pursuant to sections 5503 and 15300, Fish and Game Code, aquatic plants, invertebrates, fishes and bullfrogs (*Rana catesbeiana*) may be taken from the wild for aquaculture purposes only in accordance with the following regulations:

(a) Exceptions. This section does not apply to the following:

(1) The take of live freshwater fish for sale as bait (See Section 8460, Fish and Game Code and Section 200, Title 14, CCR).

(2) The take of aquatic animals by commercial fishermen (See Section 226.7, Title 14, CCR).

(b) Permits. The department may issue a revocable, nontransferable permit to collect aquatic plants, invertebrates, fishes and bullfrogs from the wild for use in developing a domesticated broodstock for aquaculture purposes. Permits shall not be issued for striped bass or white sturgeon except by specific commission authorization. The permit shall be valid for one year from the issue date listed on the permit unless the expiration date on the permit specifies a shorter time period. No permits shall be issued for golden trout, steelhead trout, chinook salmon or coho salmon, or for those animals listed by the state or federal government as endangered, threatened or fully protected. Permits shall state the name, mailing and business addresses and phone of permittee, permittee's aquaculture registration number, name of the collector(s) if different from permittee, collector(s) phone number, collector(s) driver's license, or DMV identification number, name of assistant(s), assistant(s) phone number, assistant(s) driver's license, or DMV identification number, species to be collected, number or total weight to be collected, collection locations and methods, and collection dates. Any special notifications, requirements and conditions shall attached to the permit on a separate page.

(1) Who May Obtain Permits. Permits shall be issued only to the owner or operator of an aquaculture facility currently registered pursuant to Section 15101, Fish and Game Code and Section 235, Title 14, CCR. The aquaculturist must be authorized by said registration to possess the species to be taken. The aquaculturist may designate, on the permit application, a person to collect for him.

(2) Cost of the Permit. An administrative fee of \$500 shall be charged for processing the permit and initial site inspection. The department shall assess an additional fee, equal to the actual costs to the department in salaries, travel expenses and equipment use, if any department personnel are required to assist in the collection or inspection of the wild broodstock.

(3) How to Apply for the Permit. The permit application, FG 794 (Rev. 07/08), is available on request from the Aquaculture Coordinator at the address provided on the application. Completed and signed application forms and the \$25 nonrefundable application fee shall be submitted to the Aquaculture Coordinator.

(c) Who May Collect Wild Broodstock. Wild broodstock shall be collected only by the permittee or those persons listed as collectors on the permit. The permittee or one of the collectors designated by the permit shall be present when animals are collected. Collectors shall have the collection permit in their possession while engaged in collection activities and while transporting species collected to the permittee's registered facility. Any person listed on the permit as a collector and who is attempting to take broodstock, shall have a commercial fishing license in their possession. All collectors and assistants must have a driver's license or DMV identification in their possession.

Persons assisting the collector, and under their direct supervision, need not have a broodstock collection permit, but they shall be listed as assistants on the permit. The assistant may only assist in the landing of the broodstock or assist with equipment such as boat operation. The assistant is not allowed to take or collect broodstock independently.

The department may require that an employee of the department be present to monitor collection operations, or that the broodstock be collected by department personnel. All costs to the department for monitoring or collecting shall be borne by the permittee. Any special conditions applied to the collection of wild broodstock shall be stated on the permit or attached page(s).

(d) Collection Methods and Gear. All aquatic plants and animals authorized to be taken by the permit shall be captured only in those waters and only with those types of gear specified in the permit. All species other than those specified in the permit shall be returned immediately in good condition to the water of origin.

The permittee shall comply with department requirements concerning construction and deployment of collection gear. Locations and times of collecting and the amount taken may be restricted by the department to protect the wild populations of authorized species or other species found in the collecting area, or to reduce interference with angling.

No recreational take of any kind may be done by the person(s) listed on the permit while taking the wild plants and animals authorized under the permit.

(e) Notification of Department. Before making any collection, the permittee and/or the other persons listed on the permit shall notify the department's regional office having responsibility for the area where the permittee wishes to collect or any other department office specified in the permit. Unless otherwise specified in the permit, the notification shall reach the regional office or other specified office by letter, telephone or personal contact at least 48 hours in advance of the collection date(s) and shall include the locality, dates and time(s) during which collecting is to be done.

(f) Written Reports and Logbooks.

(1) Permittee shall submit a written report to the Aquaculture Coordinator and the department office specified on the permit within six months of the permit's expiration date or prior to application for any additional broodstock collection permits, whichever is earlier. The report shall state the number of plants or animals collected, the location and condition of the wild broodstock and the number or amount of progeny cultured and provide other information as specified in the permit.

(2) When the logbooks are required to be filled out as a condition on the permit, the logbooks shall be in the immediate possession of the permittee and/or the collector working under the authority of the permit. The logbook shall be accurate and complete at all times and shall contain the require information as prescribed by the department.

(g) Disposition of Wild Broodstock and Their Cultured Progeny. Wild plants and animals taken under the authority of this permit remain the property of the state and shall not be sold, bartered or traded without written permission of the department. Wild broodstock shall be held only at an aquaculture facility registered by the permittee and may be required to be held separate from non-wild broodstock. The department will determine the final disposition of all wild broodstock. Any wild broodstock taken and possessed shall be marked in a manner specified in the permit. The cultured progeny of plants and animals lawfully obtained under the authority of a broodstock collection permit are the exclusive property of that person who cultured them, or that person's successor in interest.

(h) Inspections. Permittees shall allow authorized department employees to inspect any and all wild broodstock authorized by this permit and their holding facilities, vehicles, vessels or other places that the broodstock may be held. Inspections may be made at any time with or without prior notification.

- (i) Permit Denial or Revocation. The department may deny or revoke a permit to take wild plants and animals for use in developing a domesticated broodstock for any of the following reasons:
 - (1) To protect an aquatic resource.
 - (2) To protect public safety.
 - (3) A commercial source is available.
 - (4) The applicant does not have facilities or experience necessary to develop a domesticated broodstock from wild plants or animals.
 - (5) The applicant or permittee has demonstrated repeated failure to develop a domesticated broodstock from wild plants or animals.
 - (6) The applicant or permittee, his designated collector or an employee or assistant has violated the terms of a wild broodstock collection permit issued pursuant to this section, or has been convicted by a court of competent jurisdiction of any violation of the Fish and Game Code or commission regulations as determined by the department.
 - (7) Any person who currently has a permit under revocation or suspension by the department or commission.
- (j) Violations. All permit requirements and conditions shall be followed. Any violation of any provision of the permit is a violation of this section and may lead to immediate permit revocation or suspension.
- (k) Appeal. Any denial, suspension or revocation may be appealed to the commission

245. Aquaculture Disease Control Regulations

- (a) General Conditions.
 - (1) All fish inspections and examinations for diseases/pathogens shall be conducted in accordance with the most recent edition of "Procedures for Detection and Identification of Certain Fish Pathogens" published by the Fish Health Section of the American Fisheries Society (FHS Blue Book). All such inspections and examinations shall be conducted by a fish pathologist.
 - (2) When diseases/pathogens are identified by a fish pathologist in aquatic plants or animals in an aquaculture facility, or in transit to or from such a facility, or in animals intended to be imported into the state, pursuant to Section 236 of these regulations, which require restrictive action by the department, the owner or consignee involved shall be notified by the department immediately. The owner or consignee may accept the original identification or may request that the department seek confirmation of the identification by another fish pathologist.
 - (3) Upon confirmation, if requested, or acceptance of the identification of any listed disease/pathogen which requires restrictive action by the department as set forth in subsection (c), a compliance agreement describing the action to be taken may be drawn up between the owner and the director. The department shall commence negotiation of the terms of the compliance agreement within 48 hours after acceptance or confirmation as defined in subsection (b). The agreement must be signed by the owner and the director within 30 days of acceptance or confirmation. If the compliance agreement is not signed within 30 days, a quarantine as specified in Fish and Game Code Section 15505 may be imposed while the owner appeals to the commission. The agreement shall be designed in consultation with the Aquaculture Disease Committee to bring the least amount of economic hardship possible to the affected party while affording maximum protection to other growers and the fishery resources of the State.
 - (4) If at any time a fish pathologist identifies one or more pathogens listed in this section anywhere within the State of California, he must immediately report the identification to the director of the department.
 - (5) Methods for disposal of aquatic plants and animals and for disinfection of aquaculture equipment and facilities shall be specified in the compliance agreement in accordance with the disease category and the threat to other aquatic plant or animal life or aquaculture facilities.
 - (6) Any live aquatic plants, animals or eggs originating outside California shall be certified by a fish pathologist as free of subsection (c) listed diseases/pathogens before a permit for importation is issued.
 - (7) Anyone interested in conducting research on those diseases/pathogens designated as catastrophic must submit a written research proposal to the director of the department and obtain written approval from the director before the pathogen is brought to their facility. Anyone denied approval pursuant to this subsection may appeal such denial to the commission.
 - (8) Upon identification of a disease/pathogen which presents a threat to the aquaculture industry or aquatic animal or plant life, but which is not listed in this section, the director of the department shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee, impose an

immediate holding action and develop a plan of action, which may include prohibiting an intended importation of aquatic plants or animals infected by the disease.

(b) Definitions.

(1) Compliance Agreement. A written agreement between the director of the department and the owner or consignee of the diseased or infected aquaculture product which outlines the steps for disposal of the infected aquatic plants or animals and the procedures, both chemical and mechanical, for clean up of the facility.

(2) Confirmation. The second identification of a disease agent from the original sample or source by another fish pathologist.

(3) Disposal. The destruction or marketing of animals by methods prescribed in a compliance agreement.

(4) Eradication. The elimination of disease agents.

(5) Fish Pathologist. A department veterinarian or fish pathologist, or a fish pathologist certified by the Board of Certification of the Fish Health Section of the American Fisheries Society pursuant to their guidelines adopted effective January 1, 1982 or a fish health specialist recognized by a state or federal governmental authority and approved by the department.

(6) Immediate Holding Action. A prohibition of moving any plant or animal from an aquaculture facility for up to 30 days.

(7) Other Holding Action. Restrictions outlined in the compliance agreement on plant or animal movement to specific markets, watersheds or geographic areas deemed necessary by the department to protect other aquaculture facilities and the aquatic plants and animals of the State.

(8) Q Diseases. Diseases for which there is so little information they cannot be given a permanent classification.

(9) Disease. An abnormal condition of an organism as a consequence of infection by a pathogen, that impairs normal physiological function.

(10) Pathogen. A biological agent that has the potential to cause disease.

(11) Infection. Invasion of an organism by a pathogenic biological agent.

(c) Disease Categories. The diseases/pathogens of concern are grouped in four categories as to their seriousness and the specific action to be taken when diagnosed.

(1) Significant Diseases/Pathogens. On identification by a fish pathologist and confirmation, if requested, of any of these diseases/pathogens, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action, other holding action or no restrictions as the director in consultation with the Aquaculture Disease Committee may deem necessary.

(A) Viruses

1. White Sturgeon Iridiovirus (WSIV).

(B) Bacteria

1. Enteric Redmouth (ERM) *Yersinia ruckeri*.

2. Furunculosis *Aeromonas salmonicida*.

3. Vibriosis in finfish raised in freshwater *Vibrio* spp.

(C) Parasites

1. Copepod *Lernaea* spp., *Salmincola* spp., and *Ergasilus* spp.

2. Oyster Disease (MSX) *Haplosporidium nelsoni*.

3. Sabellid Polychaete Fan Worm *Terebrasabella heterouncinata*.

(D) Fungi

1. Ichthyophonus *Ichthyophonus hoferi*.

(E) Dinoflagellate Algae

1. Oyster Perkinsosis *Perkinsus marinus*.

(2) Serious Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then the action will be disposal or other holding action the director in consultation with the Aquaculture Disease Committee may deem necessary, as specified in the compliance agreement.

(A) Viruses

1. Koi Herpes Virus (KHV).

2. Largemouth Bass Virus (LMBV).

(B) Bacteria

1. Bacterial Kidney Disease (BKD) *Renibacterium salmoninarum*.

(C) Parasites

1. Bonamiasis of Oysters *Bonamia* spp.
2. Ceratomyxosis *Ceratomyxa shasta*.
3. Microsporiasis *Pleistophora ovariae*.
4. Proliferative Kidney Disease (PKD) *Tetracapsuloides bryosalmonae*
5. Seaside Disease *Haplosporidium costale*.
6. Whirling Disease *Myxobolus cerebralis*.

(3) Catastrophic Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then other holding action, disposal and eradication shall be required, as specified in the compliance agreement.

(A) Viruses

1. Abalone Herpesvirus.
2. Channel Catfish Virus (CCV).
3. Infectious Hematopoietic Necrosis Virus (IHNV).
4. Infectious Pancreatic Necrosis Virus (IPNV).
5. Infectious Salmon Anemia Virus (ISAV).
6. Spring Viremia of Carp Virus (SVCV) *Rhabdovirus carpio*.
7. Viral Hemorrhagic Septicemia Virus (VHSV).

(B) Bacteria

1. Salmon Rickettsiosis *Piscirickettsia salmonis*.

(C) Parasites

1. *Marteilioides chungmuensis*.

(4) Q Diseases. On identification by a fish pathologist and confirmation, if requested, of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action pending determination of a course of action for diseases in this classification.

(A) Viruses

1. Herpesvirus salmonis (HPV).
2. Viral Erythrocytic Necrosis Virus (VENV).

(B) Bacteria

1. *Edwardsiella ictaluri*.

(C) Parasites

1. Denman Island Disease of Oysters *Mikrocytos mackini*.

(d) Aquatic Diseases and Host Organisms. Pursuant to Section 15500 of the Fish and Game Code, the commission has compiled a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. Infected plants or animals are considered detrimental to the aquaculture industry and to wild stocks of aquatic plants and animals.

<i>Disease/Pathogen</i>	<i>Host</i>
(1) Viruses	
(A) Abalone Herpesvirus	Abalone
(B) Channel Catfish Virus (CCV)	Channel catfish
(C) Herpesvirus salmonis (HPV)	Rainbow trout
(D) Infectious Hematopoietic Necrosis Virus (IHNV)	Salmonids
(E) Infectious Pancreatic Necrosis Virus (IPNV)	Salmonids
(F) Infectious Salmon Anemia Virus (ISAV)	Salmonids
(G) Koi Herpes Virus (KHV)	Common Carp
(H) Largemouth Bass Virus (LMBV)	Centrarchids
(I) Spring Viremia of Carp Virus (SVCV) <i>Rhabdovirus carpio</i>	Carp
(J) Viral Erythrocytic Necrosis Virus (VENV)	Marine and anadromous finfish
(K) Viral Hemorrhagic Septicemia Virus (VHSV)	Marine/freshwater finfish
(L) White Sturgeon Iridovirus (WSIV)	Sturgeon
(2) Bacteria	
(A) Bacterial Kidney Disease (BKD) <i>Renibacterium salmoninarum</i>	Salmonids
(B) Enteric Redmouth (ERM) <i>Yersinia ruckeri</i>	Finfish
(C) <i>Edwardsiella ictaluri</i>	Channel catfish
(D) Furunculosis <i>Aeromonas salmonicida</i>	All finfish
(E) Salmon Rickettsiosis <i>Piscirickettsia salmonis</i>	Salmonids
(F) Vibriosis in finfish raised in freshwater <i>Vibrio</i> spp.	Finfish
(3) Parasites	
(A) Bonamiasis of Oysters <i>Bonamia</i> spp.	Oyster
(B) Ceratomyxosis <i>Ceratomyxa Shasta</i>	Salmonids, polychaetes
(C) Copepod <i>Lernaea</i> spp., <i>Salmincola</i> spp., and <i>Ergasilus</i> spp.	Freshwater finfish
(D) Denman Island Disease <i>Mikrocytos mackini</i>	Oysters
(E) <i>Marteilioides chungmuensis</i>	Oysters
(F) Microsporiasis <i>Pleistophora ovariae</i>	Golden shiner, fathead minnow
(G) Oyster Disease (MSX) <i>Haplosporidium nelsoni</i>	Oysters
(H) Proliferative Kidney Disease (PKD) <i>Tetracapsuloides bryosalmonae</i>	Salmonids
(I) Sabellid Polychaete Fan Worm <i>Terebrasabella heterouncinata</i>	Gastropod Molluscs
(J) Seaside Disease <i>Haplosporidium costale</i>	Oyster
(K) Whirling Disease <i>Myxobolus cerebralis</i>	Salmonids, tubifex
(4) Fungi	
(A) Ichthyophonus <i>Ichthyophonus hoferi</i>	Finfish
(5) Dinoflagellate Algae	
(A) Oyster Perkinsosis <i>Perkinsus marinus</i>	Oysters

SUBDIVISION 3. GENERAL REGULATIONS

CHAPTER 3. MISCELLANEOUS

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

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

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

(c) Restricted species include:

(1) Class Aves -Birds

(A) Family Alaudidae -Larks

Alauda arvensis (Skylark) (D).

(B) Family Cuculidae -Cuckoos

All species (D).

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

All species (D).

(D) Family Turdidae -Thrushes, Blackbirds, Fieldfare

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

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

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

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

(E) Family Sturnidae -Starlings, Mynahs

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

(F) Family Ploceidae -Sparrows, Weavers, Queleas

1. Genus *Passer* (Sparrow)

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

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

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

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

(G) Family Estrildidae -Waxbills, Munias, Ricebirds

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

(H) Family Emberizidae -Yellowhammer

Emberiza citrinella (Yellowhammer) (D).

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

All species (D)

(J) Order Strigiformes -Owls

All species (D)

(K) Family Pyconotidae -Bulbuls or Fruit Thrushes

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

(L) Family Zosteropidae -Whiteeyes

Genus *Zosterops* (Whiteeyes) (D).

(M) Family Psittacidae -Parrots, Parakeets

- Myiopsitta monachus* (Monk or Quaker parakeet) (D).
- (N) Family Anatidae (ducks, geese, and swans)
1. *Cygnus olor* (Mute Swan) (D)
 - (2) Class Mammalia -Mammals
 - (A) Order Primates -Monkeys, Apes
- All species (W), except humans in the Family Hominidae are not restricted.
- (B) Order Xenarthra - Sloths, Anteaters, Armadillos, etc.
- All species:
1. Family Dasypodidae -Armadillos -All Species (D).
 2. Family Bradypodidae -Sloths - (W).
 3. Family Myrmecophagidae -Anteaters - (W).
- (C) Order Marsupialia -Marsupials or Pouched Animals
- All species (W).
- (D) Order Insectivora -Shrews, Moles, Hedgehogs, etc.
- All species (D).
- (E) Order Dermoptera -Gliding Lemurs
- All species (D).
- (F) Order Chiroptera -Bats
- All species (D).
- (G) Order Monotremata -Spiny Anteaters, Platypuses
- All Species (W).
- (H) Order Pholidota -Pangolins or Scaly Anteaters
- All species (W).
- (I) Order Lagomorpha -Pikas, Rabbits, and Hares
- All species, (D), except domesticated races of rabbits and hares of the Family Leporidae are not restricted.
- (J) Order Rodentia -Hamsters, Field Mice, Voles, Muskrats, Gerbils, Squirrels, Chipmunks, Woodchucks, and Prairie Dogs
1. All species (D), except:
 - a. *Ondatra zibethica* (Muskrats) are not restricted under conditions set forth in Fish and Game Code Section 2250;
 - b. Domesticated races of golden hamsters of the species *Mesocricetus auratus* and domesticated races of dwarf hamsters of the Genus *Phodopus* not not restricted;
 - c. Domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared) are not restricted;
 - d. Domesticated races of guinea pigs of the species *Cavia porcellus* are not restricted; and
 - e. Domesticated races of chinchillas of the species *Chinchilla laniger* are not restricted.
 - (K) Order Carnivora - Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.
 1. Family Felidae - All species (W) except:
 - a. *Acinonyx jubatus* (cheetahs) -(D).
 - b. Domestic cats and hybrids of domestic cats are not restricted.
 2. Family Canidae -All species (W).
 - a. Wolf hybrids *Canis familiaris* (domestic dog) x *Canis lupus* (wolf) are considered F1 generation wolf hybrids and are restricted (W).
 - i. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit. .
 - b. Domesticated dogs are not restricted.
 3. Family Viverridae - All species (D).
 4. Family Procyonidae - All species - (D), except:
 - a. *Ailurus fulgens* (Lesser Panda) - (W).
 - b. *Ailuropoda melanoleuca* (Giant panda) - (W).
 - c. *Bassariscus astutus* (Ringtail or Ringtailed cat) - (W).
 - d. *Jentinkia sumichrasti* (Mexican and Central American Cacomistle) - (W).
 5. Family Mustelidae -All species (D), except:

- a. *Ambloynx cinerea* (Oriental small-clawed otter) - (W).
- b. *Aonyx capensis* (African clawless otter) - (W).
- c. *Pteronura brasiliensis* (Giant otter) - (W).
- d. Genus *Lutra* (River otters) - (W).
- 6. All others Families- (W).
- (L) Order Tubulidentata -Aardvarks
All species - (W).
- (M) Order Proboscidae -Elephants
All species - (W).
- (N) Order Hyracoidea -Hyraxes
All species - (W).
- (O) Order Sirenia -Dugongs, Manatees
All species - (W).
- (P) Order Perissodactyla -Horses, Zebras, Tapirs, Rhinoceroses, etc.
All species (W), except Family Equidae are not restricted.
- (Q) Order Artiodactyla -Swine, Peccaries, Camels, Deer, Elk, Moose, Antelopes, Cattle, Goats, Sheep, etc.
All species (D) except:
 1. *Bos taurus* and *Bos indicus* (Domestic cattle); *Bos grunniens* (Yak); *Bubalus bulalis* (Asian water buffalo); *Ovis aries* (Domestic sheep); *Capra hircus* (Domestic goat); *Sus scrofa domestica* (Domestic swine); *Llama glama* (Llama); *Llama pacos* (Alpaca); *Llama guanicoe* (Guanaco); Hybrids of llama, alpaca and guanacos; *Camelus bactrianus* and *Camelus dromedarius* (Camels); and *Bison bison* (American bison), are not restricted.
 2. Permits may be issued for species of Elk (Genus *Cervus*) which are already maintained within California; and
 3. Permits may be issued pursuant to Section 676, for importing, breeding, slaughter and sale of the meat and other parts of fallow deer (*Dama dama*) for commercial purposes.
- (3) Class Amphibia -Frogs, Toads, Salamanders
 - (A) Family Bufonidae -Toads
Bufo marinus, *Bufo paracnemis*, *Bufo horribilis* (Giant toad or marine toad group) and all other large toads from Mexico and Central and South America-(D).
 - (B) Family Pipidae -Tongueless Toads
 1. Genus *Xenopus* (Clawed frog) - (D).
 - (C) Family Ambystomatidae - Mole Salamanders
 1. Genus *Ambystoma* (tiger salamanders) – (D)
 - (D) Family Leptodactylidae - Neotropical Frogs
 1. *Eleutherodactylus coqui* -Common Coqui or Coqui frog (D).
- (4) Class Agnatha - Jawless Fishes
 - (A) Family Petromyzontidae - Lampreys
All nonnative species (D).
 - (5) Class Osteichthyes - Bony Fishes
 - (A) Family Percichthyidae -Temperate Basses
 1. *Morone americana* (White perch) (D).
 2. *Morone chrysops* (White bass) (D).
 - (B) Family Clupeidae -Herrings
Dorosoma cepedianum (Gizzard shad) (D).
 - (C) Family Sciaenidae - Drums
Aplodinotus grunniens (freshwater drum) (D).
 - (D) Family Characidae - Characins
 1. *Astyanax fasciatus* (Banded tetra) (D).
 2. All species of the genera *Serrasalmus*, *Serrasalmo*, *Pygocentrus*, *Taddeiella*, *Roseveltella*, and *Pygopristis* (Piranhas) (D).
 3. *Hoplias malabaricus* (Tiger fish) (D).
 - (E) Family Salmonidae - Trouts
Salmo salar (Atlantic salmon) - Restricted in the Smith River watershed (D).
 - (F) Family Lepisosteidae - Gars

- All species (D).
- (G) Family Amiidae - Bowfins
All species (D).
- (H) Family Poeciliidae - Livebearers
Belonesox belizanus (Pike killifish) (D).
- (I) Family Channidae - Snakeheads
All species (D).
- (J) Family Cyprinidae - Carps and Minnows
1. *Leuciscus idus* (ide) (D).
 2. *Ctenopharyngodon idellus* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.
 3. *Hypophthalmichthys molitrix* (Silver carp) (D).
 4. *Aristichthys nobilis* (Bighead carp) (D).
 5. *Hypophthalmichthys harmandi* (Largescale Silver carp) (D).
 6. *Mylopharyngodon piceus* (Black carp) (D).
- (K) Family Trichomycteridae (Pygidiidae) - Parasitic Catfishes.
All species (D).
- (L) Family Cetopsidae - Whalelike Catfishes.
All species (D).
- (M) Family Clariidae - Labyrinth Catfishes
All species of the genera *Clarias*, *Dinotopterus*, and *Heterobranchus* (D).
- (N) Family Heteropneustidae (Saccobanchidae) - Airsac Catfishes
All species (D).
- (O) Family Cichlidae - Cichlids
1. *Tilapia sparrmani* (Banded Tilapia) (D).
 2. *Tilapia zilli* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.
 3. *Oreochromis aureus* (Blue tilapia) (D).
 4. *Oreochromis niloticus* (Nile tilapia) (D).
- (P) Family Anguillidae - Freshwater Eels.
All species of genus *Anguilla* (D).
- (Q) Family Esocidae - Pikes all species (D).
- (R) Family Percidae - Perches
1. *Perca flavescens* (Yellow perch) (D).
 2. *Sander vitreus* (Walleye) (D).
- (S) Family Catostomidae - Suckers
All members of the genus *Ictiobus* (Buffalos) (D).
- (T) Family Cyprinodontidae- Killifishes
Cyprinodon variegatus (Sheepshead minnow) (D).
- (U) Family Latidae - Lates perches
Lates calcarifer (Barramundi also know as Barramundi perch or Silver barramundi) (D), except permits may be issued to a person or organization for importation, transportation, possession, or sales of barramundi under the following conditions:
1. All live importation, possession, transportation and sales must also adhere to the conditions set forth in Section 671.7.
 2. Live retail sales for human consumption are allowed for barramundi that range from one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length.
- (6) Class Elasmobranchiomorpha - Cartilaginous Fishes
- (A) Family Carcharhinidae - Requiem Sharks
All species of genus *Carcharhinus* (Freshwater sharks) (D).
- (B) Family Potamotrygonidae - River stingrays
All species (D).
- (7) Class Reptilia - Reptiles
- (A) Order Crocodylia - Crocodiles, Caimans, Alligators and Gavials

- All species (D).
- (B) Family Chelyridae - Snapping Turtles
- All species (D).
- (C) Family Elapidae - Cobras, Coral Snakes, Mambas, Kraits, etc.
- All species (D).
- (D) Family Viperidae - Adders and Vipers
- All species (D).
- (E) Family Crotalidae - Pit Vipers
- All species (D), except *Crotalus viridis* (Western rattlesnake), *Crotalus atrox* (Western diamondback rattlesnake), *Crotalus ruber* (red diamondback rattlesnake), *Crotalus scutulatus* (Mojave rattlesnake), *Crotalus mitchelli* (speckled rattlesnake) and *Crotalus cerastes* (Sidewinder) not restricted.
- (F) Family Colubridae - Colubrids
1. *Dispholidus typus* (Boomsnake) (D).
 2. *Theoltornis kitlandii* (Bird or vine snake) (D).
 3. All species of genus *Nerodia* (watersnakes) (D).
- (G) Family Helodermatidae
1. *Heloderma suspectum suspectum* (reticulate Gila monster) (D).
- (8) Class Crustacea - Crustaceans
- (A) All species of Family Cambaridae - Crayfish, etc. (D), except *Procambarus clarkii* and *Orconectes virilis* not restricted.
- (B) All species of genus *Eriocheir* (D).
- (9) Class Gastropoda - Slugs, Snails
- (A) *Potamopyrgus antipodarum* (New Zealand mudsnail) (D)
- (B) All nonnative species of slugs and land snails (D), except:
1. *Rumina decollata* (decollate snail) in the counties of San Bernardino, Riverside, Imperial, Orange, San Diego, Los Angeles, Ventura, Kern, Fresno, Madera, Tulare and Santa Barbara not restricted with the concurrence of the appropriate county agricultural commissioners.
 2. *Helix aspersa* (brown garden snail) not prohibited.
- (C) *Pomacea canaliculata* (Channel Apple Snail) (D).
- (D) All species of genus *Haliotis* (Abalone) (D), except *Haliotis rufescens* (Red abalone), *Haliotis sorenseni* (White abalone), *Haliotis corrugate* (Pink abalone), *Haliotis fulgens* (Green abalone), *Haliotis cracherodii* (Black abalone), *Haliotis kamtschatkana* (Pinto abalone), *Haliotis walallensis* (Flat abalone) and *Haliotis assimilis* (Threaded abalone) are not restricted.
1. Note: Unpermitted nonnative abalone are determined to be detrimental to native populations, therefore the exemptions provided in Fish and Game Code subsection 2271(b) and subsection 236(b) of these regulations are not applicable.
- (10) Class Bivalvia - Bivalves
- All members of the genus *Dreissena* (zebra and quagga mussels) -(D).
- (11) Transgenic Aquatic Animals.
- Includes freshwater and marine fishes, invertebrates, amphibians and reptiles (D)
- Note: Unpermitted transgenic aquatic animals are detrimental to native wildlife, therefore the exemption provided for in Fish and Game Code Section 2150€ is not applicable.

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) Change of Address or Name. The permittee shall 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.

(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.

(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.

(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), (c)(3)(B) and (c)(3)(D). Where a full time employee provides the qualifications, the applicant shall 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).

(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 shall be in the form of a department approved financial guarantee payable to the department, local government agency, or entity contracting for the animals.

(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.

(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 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 shall 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.

(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 specified in Section 703 that shall be adjusted annually. 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)(3).

(2) Aquaculture. Issued to any person who is a registered aquaculturist, pursuant to Section 235. The permittee may import, transport, possess and sell only those species listed on the restricted species permit for aquaculture purposes. Additional requirements are specified in subsection 671.1(c)(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)(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)(3)(E). The permittee may import, transport, possess, and sell only those species specified on the department approved permit. Additional requirements are specified in subsection 671.1(c)(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 purchased or sold. Additional requirements are specified in subsection 671.1(c)(3).

(A) Special Restrictions.

1. Maximum Caging Period. Animals may be kept in transport caging for a period not to exceed 48 hours. One additional 48 hour extension may be approved by an enforcing officer in writing and attached to the transportation invoice and only after a United States Department of Agriculture (USDA) accredited veterinarian certifies in writing that the extension will not be detrimental to the health or welfare of the animals.

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)(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)(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)(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 shall 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 department regional manager where abatement activities are to occur at least five days prior to the 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 shall 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)(3)(L). 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)(3)(K). Additional requirements are specified in subsection 671.1(c)(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 he/she determines 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)(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)(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)(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 products. 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)(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 shall 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 specified in Section 703 are required and shall be adjusted annually.

(A) Application. The applicant shall pay a nonrefundable application fee when submitting an application for a new permit, amending an existing permit, or renewing a permit.

(B) Inspection. The applicant shall pay an inspection fee for the type of inspection as required in Section 671.8. Applicants for Aquaculture permits may have the inspection fee 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. If not waived, the applicant for an Aquaculture permit shall pay an aquaculture inspection fee.

(3) Application. The applicant for a new permit, amendment to an existing permit, or permit renewal shall submit the completed application or document, and fee, 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) 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) 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 initial 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.

(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.

(D) A letter of recommendation, written in the previous five years, on letterhead stationary with an original signature signed in ink by the owner or operator of a facility where the applicant or their employee gained his/her experience. The letter shall 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.

(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 shall contain the printed name and original signature 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)(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.

(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 into California. 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.

(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.

(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.

(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 any time 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.

(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.

(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 shall 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.

(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.

(M) Each permittee shall keep accurate written records at the facility of all acquisitions, births, transfers and deaths of restricted species that are covered by their permit. Permittees shall retain all such records for a minimum of three years from the date of the acquisition, birth, transfer or death and make such records available to the department for inspection at all times.

(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.

(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; or

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. If the 30 day deadline falls on a weekend or holiday, the submission of additional information or materials will be accepted until the close of business on the first state business day following the deadline to submit additional information or materials. 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)(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.

(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)(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.

(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 written request for an appeal with the commission. The request for an appeal shall either be postmarked, if sent by the United States mail or overnight carrier, or received by the commission, if sent by electronic mail, or facsimile 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 accept a request for an appeal that is submitted after the 30 day deadline to request an appeal. If the 30 day deadline falls on a weekend or holiday, the request for appeal will be accepted until the close of business on the first state business day following the deadline to submit a request for appeal.

(A) The commission's president may appoint a commissioner, a current or former executive director of the commission, a current employee of the commission, or a member of the state bar of California in the active practice of law to serve as a hearing officer.

(B) No later than 30 days after filing an appeal request, 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. 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, and the appellant's written statement. The appellant may receive an additional 30 days to submit a written statement if no later than 30 days after filing a request for an appeal the appellant either: (i.) receives a written stipulation from the department agreeing to an additional 30 days to submit a written statement and submits a copy of the stipulation to the commission, or (ii.) submits a written request to the hearing officer for a determination that good cause exists to grant an additional 30 days to submit a written statement. The hearing officer shall provide the department with a copy of the request for additional time and an opportunity to submit a written objection to the request.

(C) No later than 30 days after receipt of the appellant's written statement, the department may 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.

(D) 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 that addresses arguments and evidence raised in the department's response. The appellant's reply shall not contain any new evidence or new factual or legal grounds for challenging the department's action.

(E) 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.

(F) 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.

(G) 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)(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.

(H) 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.

(I) 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.

671.7. Permits Requirements for Aquaculture and Fish

All persons who apply for or have an Aquaculture permit (subsection 671.1(b)(2)) or a Fish permit (subsection 671.1(b)(12)) are subject to the following requirements and conditions. Aquatic species importations operating under these permits do not require the importation permit specified in Section 236.

(a) Definitions

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

(2) "Terminal market" is defined as a retail sale location holding live restricted species aquaculture product for human consumption following the sales requirements of subsection 671.7(g).

(b) General Requirements.

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

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

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

(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 species, 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 and Fish permits are subject to the department's authority to deny, suspend, or revoke a permit pursuant to subsection 671.1(c), but the department may also suspend or amend any Aquaculture or Fish 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 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 species 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 facility including the common and scientific name of the each species, and the weight, volume, or count of each species.

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

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

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

3. the weight, volume or count of all restricted species produced under their restricted species permit in the past year (for Aquaculture permits only) 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 species 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 Aquatic 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 importations of restricted species into the state may be made prior to the issuance of the importer's restricted species permit.

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

shipment, the name, address, and restricted species permit number of the intended receiver. A copy of the importer's restricted species permit shall accompany each shipment.

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

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

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

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

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

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

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

(4) Both the seller and intended receiver 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) Live restricted species may be sold by Aquaculture or Fish permittees if both the seller and buyer hold a restricted species permit issued by the department for the species being sold and only if the permit(s) specifically authorize live sales.

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

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

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

(g) Terminal Market Sales.

(1) All restricted species sold or leaving the premises of a terminal market shall be dead and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with subsection 240(c) of these regulations.

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

699. Fees

Pursuant to the provisions of section 1050 of the Fish and Game Code, and in compliance with the provisions of section 713 of said Code, the Department shall annually adjust the fees of all licenses, certificates, permits and license tags, or other entitlement required by regulations set forth in this title 14.

(a) Base Year. Unless otherwise specified by the Fish and Game Code, or regulations adopted pursuant thereto, the base year for establishment of fees shall be 1991, or the year in which the license, certificate, permit or license tag was established after 1991.

(b) Permit Fees: Unless otherwise provided in this title 14 or in the Fish and Game Code, the Department shall charge a fee of thirty dollars (\$30.00) for any permit issued pursuant to these regulations.

FORM A (Optional)
**State Of California Fish and Game Commission Application for Lease of
State Water Bottoms for Aquaculture**

Applicant Name: _____ Phone No. () _____
Address: _____
Aquaculture Registration No _____ Expiration Date _____
Species of plant or animals to be cultured:

Application is hereby made to the Fish and Game Commission of the State of California for a lease of State water bottoms in the area described in the attached exhibit entitled "Exhibit A-Legal Description", and as shown on the map attached hereto marked "Exhibit B". Each exhibit bears the name of this applicant. Such lease will be for the purpose of aquaculture involving the species designated above. In support of this application, the applicant hereby submits the following explanation of the type of operation and cultural practices to be employed:

- A. Purpose of operation - research and development or production
- B. Plan of development and proposed production schedule – 5 year plan
- C. Type of cultural method(s) to be employed: bottom, long line, buoyed habitats, etc.
- D. Department of Health Services growing water classification: approved, conditionally approved, prohibited, restricted or unclassified

(Attach additional sheets for detailed explanation)

Date: _____ Signed: _____

Print Name: _____

(See instructions on the back)

Instructions:

1. Prepare application form in duplicate and send to Fish and Game Commission, 1416 Ninth Street, Sacramento, California 95814.
2. Attach a legal description marked "Exhibit A" and a map in duplicate marked "Exhibit B" to the application. The name of the applicant should be clearly shown on both the legal description and the map. The map must reflect the legal description of the lease area in the application, must show the acreage (or square footage if less than one acre) and be in a form acceptable for recording in the county(ies) in which the requested lease is located. Ties to monuments of record, the scale of the drawing, and where available, high and low tide lines should be shown. The nearest public access should be shown or the route of proposed access to the lease area from the nearest public access to the lease area described.
3. The application must show the name of the applicant and indicate whether a single ownership, a partnership, or a corporation.
4. The application must be dated and signed below the name indicated. The title of the person(s) signing the application should be shown. If a single ownership, the title "Owner" should be shown. If a partnership, all the partners' names should be shown, and the application should be signed by at least one "general partner". If a corporation, the duly authorized "Corporation Officer(s)" must sign their title(s) shown.
5. Appropriate fee must accompany the application. The present law requires that \$500.00 be remitted with the application. Payment may be made by check or money order. Do not send cash in mailing the application to the State.
6. Assistance in completing and filing this application may be obtained from the Department of Fish and Game's Marine Region Marine Aquaculture Coordinator, 619 Second Street, Eureka, California 95501, or from Marine Resources region offices at 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940, or 4665 Lampson Avenue, Suite C, Los Alamitos, California 90720.

EXAMPLE "1"

EXHIBIT A

Legal description of the proposed water bottom lease for cultivation of bay mussel (*Mytilus* sp.) and Pacific oysters (*Crassostrea gigas*) by Bounding Main Sea Farms, Inc.

LOCATION

In Tomales Bay, Marin County, State of California, starting from Bench Mark 9, located at approximately 38°08'45" North latitude, 122°42'45" West longitude on the Tomales Bay Quadrangle, Marin County, California, U.S. Department of the Interior Geological Survey 7.5 minute series topographic map; thence South 49° East 1,200 feet to the true point of beginning; thence South 45° East 500 feet; thence North 49° West 500 feet; thence South 49° West 440 feet to the beginning point.

Area: 5 acres, more or less.

EXAMPLE "2"

EXHIBIT A

Legal description of the proposed water bottom lease for cultivation of red abalone (*Haliotis rufescens*) by Tippicanos Abalone Farm, Inc.

LOCATION

All that area lying offshore of Santa Rosa Island, Santa Barbara County, State of California, starting at the South Point Light located at the most southerly point of Santa Rosa Island, at coordinates approximately 53°50'20" North latitude, and 120°07'07" West longitude on U.S. Department of Commerce National Ocean Survey Chart No. 18727, thence on a bearing of 193° magnetic, 850 yards to the point of beginning; thence northwesterly 283° magnetic to 210 feet; thence southwesterly 193° magnetic 210 feet; thence southeasterly 103° magnetic 210 feet; thence northeasterly 13° magnetic 210 feet to the point of beginning.

AREA: 1 acre, more or less.



PROCEDURES FOR CERTIFICATION OF SHELLFISH GROWING AREAS IN CALIFORNIA

SHELLFISH DEFINED

For the purposes of this document, "shellfish" means any edible bivalve molluscan shellfish, including oysters, mussels, clams, and scallops.

THE CALIFORNIA SHELLFISH SANITATION PROGRAM

The growing, harvesting, processing, and marketing of shellfish intended for sale for human consumption is regulated in California by the State Department of Public Health (CDPH). Within CDPH, the shellfish sanitation program is divided into two main components:

1. Preharvest -- regulates growing and harvest areas in California, including sanitary surveys, classification, certification (the **Shellfish Growing Area Certificate**), monitoring for water quality and marine biotoxins, and harvest closures. This program segment is conducted by staff of the Preharvest Shellfish Unit within the Environmental Management Branch (EMB). For questions or assistance, contact:

Vanessa Zubkousky-White, Chief
Preharvest Shellfish Unit
850 Marina Bay Parkway, #G165
Richmond, CA 94804
Business Phone: (510) 412-4635
Vanessa.Zubkousky@cdph.ca.gov

2. Postharvest -- regulates the handling, processing, and distribution of shellfish after they are harvested, including inspection of shellfish plants and issuance of the **Shellfish Handling and Marketing Certificate**. This program segment is conducted by staff of the Food and Drug Branch (FDB). For questions or assistance, contact:

Christina Grant
Shellfish Specialist
Food and Drug Branch
605 West Santa Ana Blvd, Bldg. 28 Room 539
Santa Ana, CA 92701
Business Phone: 714-558-4241
Christina.Grant@cdph.ca.gov

Any person planning to harvest and sell bivalve shellfish in California for human consumption should contact FDB for information about the Shellfish Handling and Marketing Certificate. The remainder of this document concerns how to apply for a Shellfish Growing Area Certificate from EMB.



LAWS, REGULATIONS, STANDARDS, AND GUIDELINES

The National Shellfish Sanitation Program (NSSP) is the federal/state cooperative program recognized by the U. S. Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. The purpose of the NSSP is to promote and improve the sanitation of shellfish (oysters, clams, mussels and scallops) moving in interstate commerce through federal/state cooperation and uniformity of State shellfish programs. Participants in the NSSP include agencies from shellfish producing and non-producing States, FDA, EPA, NOAA, and the shellfish industry. The NSSP Guide for the Control of Molluscan Shellfish (Model Ordinance) can be downloaded from the following link:

<http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2006754.htm>

The California shellfish sanitation program is conducted in accordance with laws in Sections 112150-112280 of the Health and Safety Code and with regulations in Sections 7706-7762 of the California Code of Regulations, Title 17. In addition, CDPH follows the standards and guidelines of the National Shellfish Sanitation Program (NSSP) Model Ordinance, and various other guidelines of the U.S. Food and Drug Administration.

For more information on the NSSP contact:

U.S. Food and Drug Administration
Office of Food Safety
Division of Food Safety, HFS-325
5100 Paint Branch Parkway
College Park, MD 20740-3835
(240) 402-1410

The Interstate Shellfish Sanitation Conference (ISSC) is the primary voluntary national organization of State shellfish regulatory officials that provide guidance and counsel on matters for the sanitary control of shellfish. The purpose of the ISSC is to provide a formal structure for State regulatory authorities to participate in establishing updated regulatory guidelines and procedures for uniform state application of the Program. The ISSC has adopted formal procedures for state representatives to review shellfish sanitation issues and develop regulatory guidelines. Following FDA concurrence, these guidelines are published in revisions of the NSSP Model Ordinance.

For information on the Interstate Shellfish Sanitation Conference (ISSC) contact:

ISSC
Attn: Executive Director
209-2 Dawson Road
Columbia, S.C. 29223
(803) 788-7559
Email: issc@issc.org



THE SHELLFISH GROWING AREA CERTIFICATE

It is unlawful in California to sell, offer, or hold for sale for human consumption any bivalve shellfish unless the harvest area is certified by CDPH. A harvest area may be any water body that meets certain standards of cleanliness, as well as an on-shore aquaculture system. A Shellfish Growing Area Certificate is issued to the commercial shellfish grower/harvester when all of the requirements listed below are met. The certificate expires annually on February 15, and must be renewed by submitting an updated application.

HOW TO OBTAIN A SHELLFISH GROWING AREA CERTIFICATE

1. Make a Preliminary Inquiry.

Before doing any of the following steps, contact the CDPH/EMB Preharvest Shellfish Unit (see above) for a preliminary evaluation of the feasibility of certifying the proposed shellfish growing area. An area may automatically be classified as *Prohibited* if it is too close to a sewage treatment plant outfall, a marina, or some other pollution source. This is a good time to discuss the proposal informally and to request application forms if appropriate.

2. Define and Secure the Growing Area.

The applicant must be legally authorized to conduct commercial shellfish growing and harvesting operations in an area, and must be able to submit written proof of that authorization and a detailed map or legal description that defines the location and boundaries of the growing area. Most commercial shellfish growers in California operate on State aquaculture leases issued by the California Department of Fish and Game upon approval of the Fish and Game Commission. For questions or assistance regarding State aquaculture leases, contact:

California Department of Fish and Wildlife
Aquaculture and Bay Management Project
619 Second Street
Eureka, CA 95501
Tel. (707) 445-5365
FAX (707) 445-7883

In some cases, a growing area may be leased from a local agency, such as a city or harbor district. In rare cases, the grower may actually own a tidelands area, in which case a copy of the deed and a use permit from the city or county should be submitted.

3. Identify a Law Enforcement Agency for Patrol Support.

The NSSP requires that patrol be conducted in harvest areas classified as *Restricted*, *Conditionally Restricted*, *Prohibited*, *Conditionally Approved* and *Approved* when in the closed status at sufficient intervals to deter illegal harvesting. Patrol must be conducted by law enforcement personnel from any State or local enforcement authority. If patrol activities



are conducted by an agency other than CDPH, a Memorandum of Agreement must be developed with the delegated agency to assure that patrol requirements are met. The delegated agency must agree to maintain and file records of its patrol activities with CDPH. Staff from CDPH will work with the applicant to determine if a patrol agency is available and willing to provide the required oversight as per NSSP requirements.

4. File an Application.

Upon successful completion of items 2 and 3 above, complete and submit Form SSP-11, "Application for Shellfish Growing Area Certificate". Carefully follow all instructions on the form. The application will be returned to you if it is incomplete.

A shellfish growing area cannot be classified and certified until a sanitary survey has been completed, which usually requires evaluation of pollution impacts during all seasons of the year.

5. Develop a Sampling Plan.

If your application is accepted, CDPH staff will confer with you to develop a sampling plan, by which the applicant will agree to (1) be responsible for the collection, transportation, and analysis of all samples necessary for a sanitary survey, including payment of all costs; (2) establish an account at a certified shellfish laboratory where samples will be analyzed and which will transmit the data directly to CDPH; (3) provide all materials and equipment needed for sample collection, preservation, and transportation; and (4) conduct sampling in accordance with a prescribed sampling protocol. Failure of the applicant to comply with the approved sampling plan may result in denial of a certificate. CDPH will provide training and coordination, monitor sampling, perform a pollution source survey, and complete a sanitary survey report.

6. Participate in a Sanitary Survey.

With your participation on a cost-sharing basis, as agreed in the sampling plan, CDPH will conduct a sanitary survey of the proposed growing area and its watershed in accordance with the NSSP Model Ordinance. The sanitary survey evaluates the watershed or source of water as a whole, and attempts to determine the hazards associated with all actual and potential sources of pollution that might adversely affect the growing waters (the pollution source, or "shoreline survey"). This includes such things as sewage treatment plants, urban runoff, industrial plants, agricultural operations, and the like.

The amount of sampling required depends on the location of harvest sites and how they may be affected by pollution. In the case of an area not previously surveyed and classified, the NSSP Model Ordinance requires that at least 30 water samples be collected for bacteriological analysis from each sample station, and that the samples be collected under various environmental conditions, so as to permit determination of "adverse pollution conditions". This generally requires taking samples over the course of at least one year.



Additional time may be required to collect sufficient data to determine parameters for conditional closures (e.g., rainfall thresholds and closure durations).

Standards in the NSSP Model Ordinance set maximum allowable levels for fecal coliform bacteria, as well as for other contaminants such as pesticides, toxic organic compounds, and heavy metals.

Upon analysis of the required sampling data, and of other information that is collected, CDPH will complete a written sanitary survey report with a recommendation for the appropriate growing area classification.

CLASSIFICATION AND MANAGEMENT REQUIREMENTS

After completion of the sanitary survey, and any other plans or studies that may be required as explained below, CDPH will classify the growing area (and certify it, if appropriate) in accordance with the NSSP Model Ordinance, using one of the following classifications:

a. **Approved.** Shellfish may be harvested for direct marketing (no purification process required). Water samples must be collected for bacteriological monitoring at least five times annually under adverse conditions. An *Approved* area classification is reevaluated every year.

b. **Conditionally Approved.** A "Conditional Area Management Plan" (CAMP) must be developed for growing areas classified as *Conditionally Approved* prior to certification of the grower. Under this classification, shellfish may be harvested for direct marketing when the area is open for harvest, but the area is subject to closure when certain criteria in the CAMP are not met. Impacts to water quality must be predictable and manageable in order for an area to be classified as *Conditionally Approved*. Water monitoring samples must be collected at least monthly under adverse conditions during open periods.

Use of the *Conditionally Approved* classification is optional and at the discretion of the Department. The *Conditionally Approved* classification is used only if CDPH determines the area is manageable through the use of harvest closures and that it has the resources necessary to manage the area.

If the growing area is classified as *Conditionally Approved*, CDPH will develop a written CAMP. The NSSP Model Ordinance, Chapter IV (2009) section @.03 C.4(a), requires that "The management plan shall be developed by the authority in coordination with, the local shellfish industry, the individuals responsible for the operation of any wastewater treatment plants involved and any local or State agencies." In addition, NSSP Model Ordinance, Chapter IV (2009) section @.03 C.4(b) states "Failure of any one party to agree shall constitute sufficient justification to deny creation of a *Conditionally Approved* area." The shellfish grower(s) in the area will be required to



comply with the CAMP as a condition of their certificate(s); all other participants in the plan must agree in writing to comply with the notification requirements in the plan.

A *Conditionally Approved* area classification is reevaluated annually.

c. **Restricted.** Shellfish must be purified by relaying or depuration before marketing. Water quality monitoring samples must be collected from the growing area at least five times annually. Additional sampling is required by FDB for any depuration system.

The NSSP Model Ordinance requires that, before CDPH can classify a growing area as *Restricted*, the applicant must satisfactorily complete a purification effectiveness study and, if relaying is selected as the purification method, the applicant must develop and obtain CDPH approval of a written relay operations plan. If depuration is selected, the depuration system must be certified by FDB. CDPH must also determine that it has the resources necessary to manage the area.

A *Restricted* area classification is reevaluated every year.

d. **Conditionally Restricted.** A "Conditional Area Management Plan" (CAMP) must be developed for growing areas classified as *Conditionally Restricted* prior to certification of the grower. Under this classification, shellfish must be purified by relaying or depuration before marketing when the area is open for harvest, but the area is subject to closure when certain criteria in the CAMP are not met. Impacts to water quality must be predictable and manageable in order for an area to be classified as *Conditionally Restricted*. Water quality monitoring samples must be collected from the growing area at least five times annually. Additional sampling is required by FDB for any depuration system.

The NSSP Model Ordinance requires that, before CDPH can classify a growing area as *Conditionally Restricted*, the applicant must satisfactorily complete a purification effectiveness study and, if relaying is selected as the purification method, the applicant must develop and obtain CDPH approval of a written relay operations plan. If depuration is selected, the depuration system must be certified by FDB. CDPH must also determine that it has the resources necessary to manage the area.

Use of the *Conditionally Restricted* classification is optional and at the discretion of the Department. The *Conditionally Restricted* classification is used only if CDPH determines the area is manageable through the use of harvest closures and that it has the resources necessary to manage the area.

If the growing area is classified as *Conditionally Restricted*, CDPH will develop a written CAMP. The NSSP Model Ordinance, Chapter IV (2009) section @.03 C.4(a), requires that "The management plan shall be developed by the authority in coordination with, the local shellfish industry, the individuals responsible for the operation of any wastewater treatment plants involved and any local or State



agencies." In addition, NSSP Model Ordinance, Chapter IV (2009) section @.03 C.4(b) states "Failure of any one party to agree shall constitute sufficient justification to deny creation of a Conditionally Restricted area." The shellfish grower(s) in the area will be required to comply with the CAMP as a condition of their certificate(s); all other participants in the plan must agree in writing to comply with the notification requirements in the plan.

A *Conditionally Restricted* area classification is reevaluated every year.

e. **Prohibited.** Areas having this classification are not certified. Shellfish can not be harvested for sale for human consumption. All waters not classified by CDPH as *Approved, Conditionally Approved, Restricted, or Conditionally Restricted* are automatically considered to be *Prohibited* areas.

Once a growing area is classified and certified, the shellfish grower will continue to be responsible for collection and analysis of required bacteriological monitoring samples and other analyses as determined necessary. The grower also will be required to submit shellfish samples for marine biotoxin monitoring. Failure to comply with any conditions of the certificate may result in suspension or revocation of the certificate and other actions pursuant to the California Health and Safety Code and the California Code of Regulations. CDPH will update the sanitary survey report at least annually to reflect monitoring results and any changes in pollution sources.

REFERENCES

1. California Health and Safety Code, Sections 112150-112280.
2. California Code of Regulations, Title 17, Sections 7706-7762.
3. National Shellfish Sanitation Program Model Ordinance. 2015. U.S. Food and Drug Administration, Office of Seafood, Program and Enforcement Branch, Washington, DC.
4. Evaluation of Marinas by State Shellfish Sanitation Control Officials. FDA Guideline 1.0. U.S. Food and Drug Administration, Office of Seafood, Program and Enforcement Branch, Washington, DC. June 1989.