

California AIS Regulations

Cal. Code of Regs Tit. 14, Division 1, Subdivision 3, 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-Duck, Geese, Swans

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

(2) Class Mammalia-Mammals

(A) Order Primates-Monkeys, Apes

All species (W), except humans in the Family Hominidae are not 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* are not restricted;

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

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

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

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

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

- a. *Acinonyx jubatus* (cheetahs)-(D).
 - b. Domestic cats and hybrids of domestic cats are not restricted.
2. Family Canidae-All species (W).
- a. Wolf hybrids *Canis familiaris* (domestic dog) x *Canis lupus* (wolf) are considered F1 generation wolf hybrids and are restricted (W).
 - i. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit.
 - b. Domesticated dogs are not restricted.
3. Family Viverridae-All species (D).
4. Family Procyonidae-All species-(D), except:
- a. *Ailuris fulgens* (Lesser panda)-(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. *GenusLutra* (River otters)-(W).
6. All other Families-(W).
- (L) Order Tubulidentata-Aardvarks
All species-(W).
- (M) Order Proboscidae-Elephants
All species-(W).
- (N) Order Hyracoidae-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*, *Taddiyella*, *Rooseveltiella*, and *Pygopristis* (Piranhas) (D).
 3. *Hoplias malabaricus* (Tiger fish) (D).
- (E) Family Salmonidae-Trouts
- Salmo salar* (Atlantic salmon)-Restricted in the Smith River watershed (D).
- (F) Family Lepisosteidae-Gars
- All species (D).
- (G) Family Amiidae-Bowfins
- All species (D).
- (H) Family Poeciliidae-Livebearers
- Belonesox belizanus* (Pike killifish) (D).
- (I) Family Channidae-Snakeheads
- All species (D).
- (J) Family Cyprinidae-Carps and Minnows
1. *Leuciscus idus* (ide)(D).
 2. *Ctenopharyngodon idella* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.
 3. *Hypophthalmichthys molitrix* (Silver carp) (D).
 4. *Aristichthys nobilis* (Bighead carp) (D).
 5. *Hypophthalmichthys harmandi* (Largescale Silver carp) (D).
 6. *Mylopharyngodon piceus* (Black carp) (D).
- (K) Family Trichomycteridae (*Pygidiidae*)-Parasitic Catfishes.
- All species (D).
- (L) Family Cetopsidae-Whalelike Catfishes.
- All species (D).
- (M) Family Clariidae-Labyrinth Catfishes
- All species of the genera *Clarias*, *Dinotopterus*, and *Heterobranchus* (D).
- (N) Family Heteropneustidae (*Saccobranchidae*)-Airsac Catfishes
- All species (D).
- (O) Family Cichlidae-Cichlids
1. *Tilapia sparrmani* (Banded Tilapia) (D).

2. *Tilapia zillii* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.
3. *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 known 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 Elasmobranchiomorphi-Cartilaginous Fishes

(A) Family Carcharhinidae-Requiem Sharks
All species of genus *Carcharhinus* (Freshwater sharks) (D).

(B) Family Potamotrygonidae-River stingrays
All species (D).

(7) Class Reptilia-Reptiles

(A) Order Crocodylia-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* (Boomslang) (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 corrugata* (Pink abalone), *Haliotis fulgens* (Green abalone), *Haliotis cracherodii* (Black abalone), *Haliotis kamtschatkana* (Pinto abalone), *Haliotis walallensis* (Flat abalone) and *Haliotis assimilis* (Threaded abalone) are not restricted.

1. Note: Unpermitted nonnative abalone are determined to be detrimental to native populations, therefore the exemptions provided in Fish and Game Code subsection 2271(b) and subsection 236(b) 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).

§ 672. Possession, Importation, and Transportation of Dreissenid Mussels

(a) Definitions. For the purposes of sections 672, 672.1 and 672.2 of these regulations, the following definitions apply:

- (1) “Control” is any activity intended to eradicate or prevent the movement of adult or veliger dreissenid mussels from a waterbody by any means.
- (2) “Control Plan” is a written document that describes the actions to be implemented to control dreissenid mussels.
- (3) “Conveyance” is any item that may contain or carry adult or veliger dreissenid mussels including, but not limited to, vehicles, watercraft, containers, and trailers. Conveyance does not include water supply systems, facilities and infrastructure.
- (4) “Detected” means:
 - (A) There has been an observed presence of one or more adult dreissenid mussels, or;
 - (B) There has been an observed presence of one or more veliger dreissenid mussels that has been verified by the best available laboratory methodologies.
- (5) “Dreissenid mussel” is collectively all species in the taxonomic family Dreissenidae, including quagga mussels (*Dreissena rostriformis bugensis*) and zebra mussels (*Dreissena polymorpha*).
- (6) “Introduction” means the intentional or unintentional placement of adult or veliger dreissenid mussels into a reservoir.
- (7) “Prevention Program” is a written document that describes the actions to be implemented at a reservoir to keep dreissenid mussels from being introduced and keep them from being moved from the reservoir should they be present.

- (8) “Quarantine” means to restrict the movement and/or use of a conveyance.
- (9) “Veliger” is the microscopic larva of dreissenid mussels.
- (10) “Waterbody” is any water of the state that includes, but is not limited to lakes, rivers, streams, canals, ponds, flooded areas, reservoirs, sloughs, and springs.
- (11) “Water Supply System” is any natural or man-made means for distributing or holding water, operated by a public or private agency.

(b) General Permit Provisions.

- (1) Any person, scientific or educational institution, federal, state, or local agency, private or public district or authority may apply for a Dreissenid Mussel Permit, which, according to its terms, may authorize that entity to possess, import, ship or transport dead dreissenid mussels.
- (2) Permits to possess dead dreissenid mussels will be issued only for the purpose(s) of outreach, education, species verification, training, or other purposes deemed by the department to be in the best interest of the State.
- (3) This permit does not authorize the collection of live or dead dreissenid mussels.
- (4) A permit issued pursuant to this section does not supersede any federal, state, or local law regulating or prohibiting possession or transportation of dreissenid mussels.
- (5) The department may enter any holding facility, vehicle, vessel, or other place where dreissenid mussels are permitted to be kept or may be kept to inspect mussels, facilities or equipment.

(c) Permit Application. An applicant for a new permit, renewal of an existing permit, or amendment to an existing permit, must submit a completed application on Dreissenid Mussel Permit Application, DFW 1014 (NEW 04/10/15), incorporated by reference herein. Application forms are available on the department’s website.

- (1) Review and Approval. After receiving a complete application, the department shall review the application within 30 business days. If approved, the department shall notify the applicant via an approval letter and signed permit. The permit shall be presented upon request by any individual in possession of dreissenid mussels, to any department employee or person with delegated authority under Fish and Game Code section 2301.
- (2) Denial. The department may deny the issuance, renewal or amendment of a permit if any of the following occurs:
 - (A) The department determines that the application or other documents submitted do not support the applicant's stated purpose or use for the dreissenid mussels.

- (B) The department determines that the possession, importation, shipment or transportation of dead dreissenid mussels as proposed is not in the best interest of the State.
- (C) The 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.
- (d) Revocation. The department may revoke at any time any permit issued pursuant to these regulations for failure to comply with the terms and conditions of the permit or failure to comply with any provision of the Fish and Game Code or regulations adopted pursuant thereto. In the event of a permit revocation, the permittee shall immediately surrender any dreissenid mussels in its possession to the department.
- (e) Request for reconsideration. Any applicant or permittee who is denied a permit or renewal or amendment to an existing permit, or whose permit is revoked by the department pursuant to these regulations, may request reconsideration of that denial or revocation by filing a written request with the Invasive Species Program, 1416 Ninth Street, Sacramento, California 95814, postmarked no later than 30 business days after the date of the notification letter from the department. The letter shall set forth the reason(s) for the reconsideration, including any new information or facts pertinent to the issue(s) raised by the request for reconsideration. The department shall notify the applicant or permittee, in writing, of its decision within 45 business days of its receipt of the request for reconsideration.

§ 672.1. Dreissenid Mussel Control and Prevention.

- (a) Control Plan. If a public or private agency that operates a water supply system detects dreissenid mussels, the agency shall immediately begin developing a dreissenid mussel control plan and implement measures to prevent further spread.
 - (1) A control plan shall be submitted to the department either:
 - (A) Within 60 business days of the date the department requests a control plan from the operator of a water supply system that has previously reported dreissenid mussel detections; or,
 - (B) Within 60 business days of dreissenid mussels being detected; or,
 - (C) Within 60 business days of changes to the approved control plan.
 - (2) Control plans shall be revised within 60 business days of receipt of comments from the department.
 - (3) Control plans that have been approved prior to the effective date of these regulations are not required to be resubmitted for review by the department. The authorization contained in such control plans is deemed to be in effect as of the date it was approved.
 - (4) The department shall maintain a list of waterbodies where dreissenid mussels have been detected.

- (5) Control plans shall consist of a written document describing the status of the dreissenid mussel population at the time the plan is developed, control activities, and monitoring to determine changes in the population. A control plan may also include a description of maintenance activities to maintain functionality of the water supply facility.
 - (6) Monitoring activities associated with an approved control plan per Fish and Game Code section 2301 do not require a separate permit for collection, transport to laboratories, or analysis, unless activities are associated with scientific research.
 - (7) Plan implementation shall be demonstrated through submission of annual reports (January 1-December 31) to the department by March 31 of each year, that summarize changes in dreissenid mussel populations, control activities implemented, and monitoring results.
 - (8) Any public or private agency that violates this section by failing to submit a control plan, revision, or annual report is subject to a maximum penalty of \$1,000 that shall be imposed administratively by the department. The administrative penalty and appeal process are described in section 672.2.
- (b) Prevention Program. It is unlawful for any person, or federal, state, or local agency, district or authority that owns or manages a reservoir, as defined in section 6004.5 of the Water Code, where recreational, boating, or fishing activities are permitted, to operate without developing and implementing a dreissenid mussel prevention program that meets the requirements of this subsection.
- (1) Dreissenid mussel prevention programs shall include, at a minimum, a report summarizing the following:
 - (A) An assessment of the vulnerability of the reservoir for the introduction of both adult and veliger dreissenid mussels.
 - (B) A monitoring program to detect the presence of adult and/or veliger dreissenid mussels.
 - (C) Management of recreational activities to prevent the introduction of mussels and to keep them from being moved from the waterbody if present, that includes public education and outreach.
 - (2) Possession of dreissenid mussels as a result of early detection monitoring is not a violation of Fish and Game Code section 2301, subdivision (a) provided that monitoring is conducted under a prevention program being implemented consistent with Fish and Game Code section 2302.
 - (3) A written document describing the prevention program shall be submitted to the department within 90 business days of the date the department requests documentation of the prevention program.

- (4) Prevention programs shall be revised within 60 business days of receipt of comments from the department.
 - (5) Program implementation shall be demonstrated through submission of an annual report (January 1 - December 31) to the department by March 31 of each year that summarizes any changes in the reservoir's vulnerability, monitoring results, and management activities.
 - (6) Any person, or federal, state, or local agency, district or authority that violates this section by failing to submit a prevention program, revision, annual report, or fails to report a new discovery of dreissenid mussels as required by Fish and Game Code section 2301, subdivision (e) is subject to a maximum penalty of \$1,000 that shall be imposed administratively by the department. The administrative penalty and appeal process are described in section 672.2.
- (c) Inspection of Conveyances. It is unlawful for any person to fail to fully comply with any verbal or written order, or to resist, obstruct, delay or interfere with any department employee or any other state agency representative who has been delegated the authority to enforce Fish and Game Code section 2301. Full compliance with an order shall include, but is not limited to, the order being followed in the manner, time frame, and to the degree directed by an agency representative authorized to implement Fish and Game Code section 2301.
- (1) Any department employee or any other state agency representative, to whom the department has delegated the authority to implement Fish and Game Code section 2301, may impound or quarantine any conveyance known or suspected to contain dreissenid mussels for the period of time necessary to ensure the removal or death of any such mussels. Impounded or quarantined conveyances shall be stored at a location determined by the enforcing authority, and all costs associated with the impounding or quarantine are the responsibility of the owner of the conveyance or the person in possession of the conveyance. The department is not responsible for any costs that are in any way, whether directly or indirectly, related to or resulting from quarantine or storage.
 - (2) State agencies delegated authority to implement Fish and Game Code section 2301 are not obligated to impound or quarantine conveyances.
 - (3) Tags, stickers or other methods used to identify a conveyance as quarantined shall not be tampered with or destroyed prior to the conveyance being released from quarantine by the department.
 - (4) When a conveyance is quarantined by the department, the owner or person in possession of the conveyance will receive a copy of Quarantine Notice, DFW 1015 (NEW 09/25/14), incorporated by reference herein. If the owner is not present at time of the department-issued quarantine, the department shall provide a copy of the Quarantine Notice electronically or by mail to the owner. The conveyance will remain under quarantine until the department has re-inspected the conveyance, determined it has been properly treated to remove or kill all dreissenid mussels, and/or has released it from

quarantine. The owner of the conveyance is responsible for contacting the department for re-inspection of the conveyance.

- (5) In addition to any other penalty provided by law, any person who violates this section, section 2301 of the Fish and Game Code, or any verbal or written order issued pursuant to these sections, or who resists, delays, obstructs, or interferes with the implementation of these sections, is subject to a penalty of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000), that shall be imposed administratively by the department. Any such person shall be issued an Administrative Penalty Citation Form DFW 1016 (NEW 04/10/15), incorporated by reference herein. The owner of any conveyance involved in the violation or quarantine may be held responsible for the violation, impoundment, or quarantine. In determining the amount of the penalty, the department may consider the willfulness of the action or failure to act, the nature and gravity of the action or failure to act, including the potential impacts on public safety, recreation, or natural resources of the state, the history of past acts or failures to act, and any other relevant factors as justice may require. The administrative penalty and appeal process is described in section 672.2 of these regulations.

§ 672.2. Dreissenid Mussel Penalty and Appeal Procedures.

(a) Penalties. This section applies to violations of section 672.1 of these regulations.

- (1) The department will send a written notification of penalty assessment to persons against whom an administrative penalty has been imposed. The penalty amount shall be based on a review of all relevant circumstances. The department may provide notification together with its notice that a person or entity has violated section 672.1, or may provide the notification of penalty assessment by writing within 30 business days after a person has been issued a citation pursuant to subsection 672.1(c)(5). The department may provide written notification by mail or email. The notification will at a minimum include a brief description of the reason the administrative penalty has been imposed, the amount of the administrative penalty, and the time and method for providing payment. The notification shall also include a statement of a person's right to appeal an administrative penalty and directions explaining how to initiate an appeal.
- (2) Requests for an appeal must be postmarked no later than 30 calendar days after issuance of the notification of penalty assessment and shall include an advance deposit of the full amount of the administrative penalty. Any administrative penalty that has been deposited shall be refunded if it is determined, after an appeal hearing, that the penalty is reduced or excused. No request for an appeal to an administrative penalty shall be considered unless both a request for an appeal hearing and a deposit in the full amount of the penalty is received in a timely manner by the department.
- (3) Anyone who is issued a citation or notice of violation pursuant to section 672.1, but does not receive a notification of penalty assessment shall contact the department within 30 calendar days of being issued a citation or notice of violation and provide the department

with a current address to send the notification of penalty assessment. The department is to be reached by calling (866) 440-9530 or sending an email to invasives@wildlife.ca.gov.

- (4) The department shall deposit administrative penalties into the Fish and Game Preservation Fund.
 - (5) In the event a person fails to pay the administrative penalty when due, the department may take any actions permitted by law to collect the unpaid penalty, which shall accrue interest at a rate of ten percent per year, commencing 30 calendar days after the administrative penalty becomes due and continuing until paid. In the event a civil action is commenced to collect the administrative penalty, the department shall be entitled to recover all costs associated with the enforcement, investigation, establishment and collection of the penalty. Costs include, but are not limited to, staff time and costs incurred in the investigation, establishment and the collection or processing of the penalty. The penalty and any late payment charges and costs shall be deposited into the Fish and Game Preservation Fund.
- (b) Appeal Procedure. This subsection shall govern appeals when a person requests an appeal of the imposition of administrative penalties.
- (1) A person wishing to appeal a decision of the department shall file a written request for an appeal with the department's Office of the General Counsel and the request shall be postmarked no later than 30 calendar days after the department's issuance of the notification of penalty assessment. The time limit for filing a request for an appeal shall be deemed jurisdictional and may not be waived. A request for an appeal shall specifically set forth the decision being appealed and the legal and factual grounds for the appeal. The request for an appeal may include a request for an oral hearing. The request for an appeal and any subsequent written submittals shall be signed by the appellant under penalty of perjury.
 - (2) Administrative penalties imposed by the department shall be presumed to be correct, and the appellant shall have the burden of proof.
 - (3) Appeals shall be considered by an unbiased hearing officer designated by the director, who has not served as an investigator, prosecutor or advocate regarding the department decision. The hearing officer shall control the nature and order of the proceedings. Appeals may be informal and may, at the hearing officer's discretion, be based on written submittals only.
 - (4) The hearing officer shall notify the appellant if the appeal will be limited to written submittals and shall notify the appellant of the date by which the appellant must provide any additional submittals or documentary evidence to the department. No later than 30 business days after receipt of the appellant's additional submittals or evidence, the department may submit a response to the hearing officer, with a copy sent to the appellant, along with any supporting documentary evidence and/or declarations under penalty of perjury. No later than 15 business days after receipt of the department's

response, the appellant may submit a reply to the hearing officer, 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.

- (5) The hearing officer shall only consider evidence that is relevant to whether the action or failure to act identified in the notification of penalty assessment in fact occurred and whether the recipient of the administrative penalty has caused or allowed the action or failure to act to occur.
- (6) If determined necessary by the hearing officer, oral hearings shall be held at such times and locations as determined by the hearing officer. The hearing officer may engage in ex parte communications with the parties for the purpose of settling a time and place of hearing. The parties shall be notified of the time and place set for hearing at least 10 calendar days prior to the date of the hearing. The hearing officer may continue the hearing as he deems necessary.
- (7) The failure of an appellant who has requested an oral hearing to appear at the hearing, after receiving notice of the hearing, shall constitute abandonment of the appeal unless the appellant has submitted a written request for a continuance at least two days prior to the oral hearing.
- (8) Any appeal conducted pursuant to this section need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. However, the hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will cause undue consumption of time. The hearing officer may examine any party or witness.
- (9) Within 45 calendar days of the conclusion of any oral hearing, or the day by which the department receives all written submittals if the appeal is based on written submittals only, the hearing officer shall provide the parties with a written decision containing the hearing officer's findings of fact and conclusions. The decision of the hearing officer shall be the final administrative decision of the department.

Cal. Code of Regs. Tit. 14, Division 4, Ch.1, Article 1.5 (Quagga and Zebra Mussel Infestation Prevention Fee Regulations)

§ 5200. Short Title.

This article shall be known and may be cited as the Quagga and Zebra Mussel Infestation Prevention Fee Regulations under which the Department of Motor Vehicles may collect and the Department of Parks and Recreation, Division of Boating and Waterways may administer the Quagga and Zebra Mussel Infestation and Prevention Fee, hereafter referred to as "mussel fee,"

in accordance with the provisions of Section 675 of the Harbors and Navigation Code. References to “department” shall refer to Department of Parks and Recreation, Division of Boating and Waterways.

§ 5200.5. Definitions.

The following definitions shall be used in article 1.5 and 1.6:

- (a) “Dreissenid” are a family of small fresh water mussels specifically the non-native quagga and zebra mussel for the purpose of this article.
- (b) “Mussel Fee Exemption” means no fee is due for the Quagga and Zebra Mussel Infestation Prevention Fee.
- (c) “Mussel Fee” is the Quagga and Zebra Mussel Infestation Prevention Fee.
- (d) “Prevention Plan” is an organized approach to prevent the spread of dreissenid mussels into a defined reservoir and shall include public education, monitoring and inspecting for infestation.
- (e) “Quagga Mussel” (*Dreissena rostriformis bugensis*) is a non-native dreissenid mussel.
- (f) “Regional-Scale Dreissenid Mussel Prevention Plan” This plan shall include the impact such as an economic, ecological, recreational and/or other regional impact from a dreissenid mussel infestation in a regional area which involves multiple agencies within that region.
- (g) “Reservoir” means a body of water which contains or will contain the water impounded by a dam as defined in Section 6004.5 of the Water Code.
- (h) “Mussel Fee Sticker” is an indication of a paid mussel fee and is issued by the Department of Motor Vehicles to be displayed on a registered vessel.
- (i) “Zebra Mussel” (*Dreissena polymorpha*) is a non-native dreissenid mussel.

§ 5201. Mussel Fee Amount.

The mussel fee amount shall be \$8 when first paid during an even-numbered calendar year and \$16 when first paid during an odd-numbered calendar year. The mussel fee amount shall be \$16 thereafter and shall be valid for a period of two calendar years. The mussel fee sticker shall be valid through December 31 of every odd-numbered year.

§ 5202. Mussel Fee Payment.

Payment of mussel fees to the Department of Motor Vehicles must be made prior to issuance of a mussel fee sticker. Payment of the mussel fee may be made:

- (a) Upon application for a new vessel number;
- (b) Upon renewal of any California vessel registration;
- (c) Upon requesting issuance of a mussel fee sticker;
- (d) Upon registering a newly acquired vessel with an existing vessel number;
- (e) When a marine water exemption, as defined in this article, no longer applies; or
- (f) When requesting substitute mussel fee stickers.

§ 5203. Late Payment of Mussel Fee. [Repealed]

§ 5204. Adjustment of Mussel Fee.

There shall be no adjustment or pro-ration of the mussel fee.

§ 5205. Refund of Mussel Fee.

A refund of the paid mussel fee shall be subject to established Department of Motor Vehicle business rules and processing procedures after an application for refund is made to that department.

§ 5206. Evidence of Payment of Mussel Fee.

- (a) Upon payment of the mussel fee, the Department of Motor Vehicles shall provide the vessel owner with two stickers indicating “Mussel Fee Paid” and the year through which the stickers are valid.
- (b) The color of the “Mussel Fee Paid” stickers shall be the same as the color of the vessel registration stickers for the same biennial period.
- (c) The stickers shall be placed on the sides of the vessel, next to, and in line with the CF number and vessel registration stickers for purposes of law enforcement identification.
- (d) Proper display of the “Mussel Fee Paid” sticker shall be evidence of payment and subject to verification and enforcement by a peace officer.
 - (1) Marine law enforcement shall utilize a wide variety of enforcement strategies that include education, warning, and citations for violation of this regulation.
- (e) The “Mussel Fee Paid” sticker is required for all vessels registered in California unless an exemption applies.

§ 5207. Marine Water Exemption.

- (a) For purposes of this section, marine water (salt water) is defined as California coastal and bay waters, which includes Suisun Bay up to and west of Chipps Island. Marine waters shall not include inland waterways, rivers, lakes, reservoirs, wetlands or the Sacramento-San Joaquin Delta.

- (b) Vessels used exclusively in marine waters shall be exempt from payment of the mussel fee.
- (c) The DMV shall include in a quarterly report to the department the number of vessels registered and the number of vessels receiving a mussel sticker.

§ 5208. Substitute Mussel Fee Paid Sticker.

In the event that the “Mussel Fee Paid” sticker is either lost or stolen, a \$16 fee for a substitute “Mussel Fee Paid” sticker shall be imposed and generated by the Department of Motor Vehicles when the owner of a currently registered vessel requests a substitute sticker.

§ 5209. Payment of Mussel Fee with Marine Water Exemption Status Change. [Repealed]

§ 5210. Deposit of Revenues.

All revenues from mussel fees collected by the Department of Motor Vehicles pursuant to this article shall be deposited into the Harbors and Watercraft Revolving Fund.

§ 5211. Fee Exempt Vessels.

Vessels exempt from payment of the mussel fee imposed under this article shall be limited to the following:

- (a) Vessels used exclusively in marine waters as defined by Section 5207 (a) of this article.
- (b) As defined in Title 13, California Code of Regulations, Section 190.16 a vessel shall be exempt from payment of a registration fee, irrespective of whether the vessel is operated in fresh or marine waters.

§ 5212. Nonpayment of Mussel Fee.

Failure to pay required mussel fees per the Quagga and Zebra Mussel Infestation Prevention Fee Regulations shall not prohibit the issuance of valid vessel registration by the Department of Motor Vehicles, if all required vessel registration fees are paid.

Vessel operators may be cited for operating a recreational vessel in non-marine waters without a valid mussel fee sticker, unless exempt per Section 5211 of this Article.

Cal. Code of Regs Tit. 14, Division 4, Ch.1, Article 1.6 (Quagga and Zebra Mussel Infestation Prevention Grant Regulations)

§ 5300. Short Title.

This article shall be known and may be cited as the Quagga and Zebra Mussel Infestation Prevention Grant Regulations under which the Department of Parks and Recreation, Division of

Boating and Waterways may make grants to eligible applicants in accordance with the provisions of Section 676 of the Harbors and Navigation Code. References to department shall refer to Department of Parks and Recreation, Division of Boating and Waterways.

§ 5301. Purpose.

The purpose of the Quagga and Zebra Mussel Infestation Prevention Grant Program is to provide for reasonable regulatory costs incident to the implementation of a dreissenid mussel infestation prevention plan to entities subject to Section 2302 of the Fish and Game Code for the purposes of:

- (a) Assessing the vulnerability of a reservoir to the introduction of nonnative dreissenid mussel species.
- (b) Developing and implementing a program designed to prevent the introduction of nonnative dreissenid mussel species that includes, at a minimum, all of the following:
 - (1) Public education.
 - (2) Monitoring water bodies and/or vessels for quagga or zebra mussel infestation.
 - (3) Management of those recreational, boating, or fishing activities that are permitted.

§ 5302. Eligibility.

Applicants for a Quagga and Zebra Mussel Infestation Prevention Grant are eligible if they are subject to Section 2302 of the Fish and Game Code, and provided that the following conditions are also satisfied:

- (a) The applicant attaches to the application an official copy of a Resolution or Order from the governing board or a Letter of Approval from an executive officer of the local entity authorizing the application for a grant.
 - (1) In the case of a local government agency within a county, an official copy of the Resolution or Order shall accompany the application for a grant from that local government entity, as well as an official copy of the Resolution or Order from its county board of supervisors, authorizing the local government agency to participate in the program.
 - (2) In the case of a local government agency without a governing board, a Letter of Approval from an executive officer shall accompany the application for a grant.
 - (3) The Resolution or Order referred to in subdivision (a)(1) shall authorize the designated representative(s) to sign the application, contract, and any claims for payment or reimbursement. The Letter of Approval referred to in subsection (a)(2) shall authorize the designated representative(s) to sign the application, contract, and any claims for payment or reimbursement.

(4) The department may deny the application if an applicant agency fails to provide the required Resolution(s), Order(s), or Letter of Approval with its grant application.

(b) An applicant agency submits a completed application that complies with the requirements of Section 5303.

§ 5303. Grant Application.

(a) An application for a grant award under this article shall be submitted on the Quagga and Zebra Mussel Infestation Prevention Grant Program 2014 Application for Grant Funding, dated 8/7/14, hereby incorporated by reference and shall comply with 2014/15 Quagga and Zebra Mussel Infestation Prevention Fee Grant Application Guidelines, dated 8/15/2014, hereby incorporated by reference.

(b) Applications for grants shall conform to procedures established within this article, which include a prevention plan and a measurable performance goal report consistent with Section 2302 of the Fish and Game Code. If the applicant is applying for vulnerability assessment to initiate the development of the Prevention Plan, submission of the Prevention Plan is not required with the application

(c) If an application is incomplete, it shall be returned to the applicant to be completed. The applicant shall have until the filing deadline to resubmit a completed application. If an application is still not complete the application will be rejected.

(d) Applications for grants shall not be considered for funding if submitted after the filing deadline set by the department.

(e) Applications will not be accepted for reservoirs in which nonnative dreissenid mussels have been detected.

§ 5304. Grant Award Factors.

When awarding grants, the department shall:

(a) Give priority to applicants whose program provides a dreissenid mussel infestation prevention plan that is consistent with Section 2302 of the Fish and Game Code and that also includes visual and manual inspection standards and other infestation prevention procedures consistent with either the Department of Fish and Game's Invasive Mussel Guidebook for Recreational Water Managers and Users, dated September 2010, or the Natural Resources Agency's Aquatic Invasive Species Management Plan , dated January 2008, or subsequently adopted updated version of the Guidebook or Management Plan.

(b) Give preference to regional-scale dreissenid mussel infestation prevention plans.

(c) Take into consideration the unique economic, ecological, and recreational impacts to rural and urban reservoirs by dreissenid mussel infestation.

§ 5304.5. Grant Agreement.

Upon awarding of a grant to an applicant the applicant shall entered into a grant agreement with the state, the terms and conditions of which shall be determined by the department.

§ 5305. Allowable and Non-Allowable Costs.

Grant funds awarded pursuant to this article may be used only for reasonable regulatory costs that include:

(a) Costs directly connected with the implementation of a local or regional dreissenid mussel infestation prevention plan that meets the requirements of Section 2302 of the Fish and Game Code.

(b) Costs directly connected with the investigation and inspection of a conveyance for the presence of dreissenid mussels prior to contact with a reservoir, as defined in Section 6004.5 of the Water Code.

(1) For the purposes of this Section, conveyances includes vessels and other watercraft, and associated vehicles, containers, and trailers that may also carry or contain adult or larval dreissenid mussels.

§ 5306. Grant Reporting and Reimbursement.

(a) As a condition of receiving a Quagga and Zebra Mussel Infestation Prevention grant pursuant to this Section, the grantee shall report the following data on a quarterly basis to the department regarding dreissenid mussel prevention and inspection programs implemented with the grant:

(1) The grantee shall report measurable performance and goals during the grant term as stated in its dreissenid mussel infestation prevention plan and inspection program.

(b) The grantee shall receive state reimbursement under this grant program only when invoices for expenditures for the grantee's dreissenid mussel prevention and inspection program activities have been approved by the department and submitted according to the grant terms and conditions. Reimbursement claims shall be submitted on a quarterly basis. All final claims for reimbursement shall be received by the department no later than 30 days after the grant end date. All reimbursements shall be submitted on the Reimbursement Claim Form, dated September 15, 2014, which is hereby incorporated by reference.

(c) The department shall not reimburse expenses not contained in the approved budget unless the grantee notifies the department in advance of the changes and provides justification of the changes and resulting budget revisions within the total grant award. Reimbursements shall not be made on unapproved changes or costs above the grant award.

§ 5307. Audits and Appeals.

(a) The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of the Quagga and Zebra Mussel Infestation Prevention Grant program funds. The department or its delegated representatives may conduct periodic audits of a grantee to determine whether a grantee is in compliance with state and federal law, and whether the requests for reimbursement submitted by a grantee accurately represent the amount due to the grantee.

(b) The department shall notify a grantee in writing at least one week in advance of all scheduled audits.

(c) A grantee shall make all records available for review to the department or its designated representatives. A grantee shall maintain records in accordance with the requirements specified in the grant terms and conditions developed by the department. Such records shall include, but not be limited to, all receipts and invoices for expenditures made using grant funds.

(d) If the department or its representatives conduct an audit of a grantee, the department shall issue an audit report to the grantee. The audit report shall include a description of how the audit was performed and a listing of findings, including any reimbursement to which the grantee was not entitled.

(e) When an audit report indicates that a grantee has requested and received payments from the department under this grant program to which it is not entitled, the grantee shall refund to the department that portion of the reimbursement to which it was not entitled, according to the audit report, within 90 days of notification by the department of such finding unless the grantee submits an appeal pursuant to subdivision (g) of this section.

(f) When it is established that a grantee improperly requested and received payments under this program, the grantee shall refund to the department all reimbursements requested from the department under this program within 90 days of notification by the department of such findings, unless the grantee submits an appeal pursuant to subdivision (g) of this section.

(g) A grantee has the right to appeal the findings of any audit of its reimbursements to the Deputy Director of the Department of Parks and Recreation, Division of Boating and Waterways within 90 days of notification by the department of the audit findings. The appeal shall be in writing, and the grantee shall include in the written appeal a complete description of the issues in question, the grantee's reason for the appeal, and all written evidence supporting grantee's appeal. The appeal process shall commence with a conference between a representative of the department and the grantee to review the issues and evidence. If the appeal is not resolved to the grantee's satisfaction at this level of review, the grantee may request that the matter be reviewed through a formal hearing conducted in accordance with Government Code Section 11500 et seq.