



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Washington Department of Fish and Wildlife

Title of rule and other identifying information: (Describe Subject) WAC 232-12-017, Deleterious exotic wildlife; and WAC 232-12-064, Live wildlife.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING, AND THEY MUST BE SENT TO

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Agency: Washington Department of Fish and Wildlife

Address: 600 Capitol Way North, Olympia, WA 98501-1091

AND RECEIVED BY October 5, 2009

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this proposal is to correct the term for the American Zoological Association, to correct references to new rules of the Washington Department of Agriculture, and to make grammatical and punctuation corrections.

Reasons supporting proposal: Correcting inaccurate references and adding appropriate grammar and punctuation will make these rules easier for people to comply with.

Statutory authority for adoption: RCW 77.12.047 and RCW 77.04.020

Statute being implemented: RCW 77.12.047 and RCW 77.04.020

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:
CFR Title 50, Part 660, Subpart G.

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: August 05, 2009

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WSR 09-16-146

DATE
August 5, 2009

NAME (TYPE OR PRINT)
Lori Preuss

SIGNATURE

TITLE
Rules Coordinator

(COMPLETE REVERSE SIDE)

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

Private
 Public
 Governmental

Name of agency personnel responsible for:

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

AMENDATORY SECTION (Amending WSR 07-06-086, filed 3/7/07, effective 4/7/07)

WAC 232-12-017 Deleterious exotic wildlife. (1) The following animals are hereby designated as deleterious exotic wildlife:

(a) Birds:

In the family Anatidae, the mute swan (*Cygnus olor*).

(b) Mammals:

(i) In the family Viverridae, the mongoose (all members of the genus *Herpestes*).

(ii) In the family Suidae, the wild boar (*Sus scrofa* and all wild hybrids).

(iii) In the family Tayassuidae, the collared peccary (javelina) (*Tayassu tajacu*).

(iv) In the family Bovidae, all members and hybrids of the following genera: *Rupicapra* (Chamois); *Hemitragus* (Tahr); *Capra* (goats, ibexes except domestic goat *Capra hircus*); *Ammotragus* (Barbary sheep or Aoudad); *Ovis* (sheep), except domestic sheep *Ovis aries*; *Damaliscus* (Sassabies); *Alcelaphus buselaphus* (Hartebeest); and *Connochaetes* (Wildebeests).

(v) In the family Cervidae, the European red deer (*Cervus elaphus elaphus*), all nonnative subspecies of *Cervus elaphus*, and all hybrids with North American elk; Fallow deer (*Dama dama*), Axis deer (~~(*Axis*)~~) *Axis axis*, Rusa deer or Sambar deer (*Cervus unicolor*, *Cervus timorensis*, *Cervus mariannus* and *Cervus alfredi*), Sika deer (*Cervus nippon*), Reindeer (all members of the Genus *Rangifer* except *Rangifer tarandus caribou*), and Roedeer (all members of the Genus *Capreolus*).

(2) It is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of deleterious exotic wildlife, their gametes and/or embryo, except as provided under subsection (3), (4), (5), (6), or (7) (~~(below)~~) of this section, and as provided in WAC 232-12-01701.

(3) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, possess, and propagate live specimens of deleterious exotic wildlife for scientific research or for display by zoos or aquariums who are accredited institutional members of the American Zoological Association (~~(of Zoological Parks and Aquariums (AAZPA))~~) (AZA), provided:

(a) The specimens are confined to a secure facility(~~(τ)~~);

(b) The specimens will not be transferred to any other location within the state, except to other (~~(AAZPA)~~) AZA-accredited facilities with written director approval or as otherwise authorized in writing by the director(~~(τ)~~);

(c) The specimens will be euthanized and all parts incinerated

at the end of the project, except for federally listed endangered or threatened species, which may be retained or transferred where in compliance with federal law((~~7~~));

(d) The person will keep such records on the specimens and make such reports as the director may require((~~7~~)); and

(e) The person complies with other requirements of this section.

(4) Retention or disposal of existing specimens lawfully in captivity:

(a) Specimens lawfully in captivity prior to January 18, 1991: A person holding exotic wildlife specimens in captivity (~~which~~) that were classified by the fish and wildlife commission as deleterious exotic wildlife on or before January 18, 1991, may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to January 18, 1991, provided such person complies with subsections (4)(c) through (4)(h) hereunder and the other requirements of this section((~~7~~));

(b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity (~~which~~) that were classified by the fish and wildlife commission as deleterious exotic wildlife by operation of emergency rule filed June 19, 1992 (in the family Bovidae, Ssababies (all members of the Genus Damaliscus), Hartebeest (Alcelaphus buselaphus), Wildebeests (all members of the Genus Connochaetes), Markhor (Capra falconeri), and Marcopolo sheep (Ovis ammon); and in the family Cervidae, Fallow deer (Dama dama), Axis deer (Axis axis), Sika deer (Cervus Nippon), and Rusa deer or Sambar deer (Cervus unicolor, Cervus timorensis, Cervus mariannus and Cervus alfredi)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof, provided such person complies with subsection(~~s~~) (4)(c) through (~~(4)~~)(h) (~~hereunder~~) of this section and the other requirements of this section and except as provided under subsection (7)((~~7~~)) of this section;

(c) The person reported to the director, in writing, the species, number, and location of the specimens, as required((~~7~~));

(d) The specimens are confined to a secure facility at the location reported((~~7~~));

(e) Live specimens are not propagated, except at (~~AAZPA~~) AZA-accredited facilities with the written permission of the director or as otherwise authorized in writing by the director((~~7~~));

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at (~~AAZPA~~) AZA-accredited facilities with the written permission of the director((~~7~~));

(g) Live specimens are not released((~~7~~)); and

(h) Live specimens are not sold or transferred, except:

(i) Live specimens in lawful possession may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law((~~7~~));

(ii) Federally listed endangered or threatened species may be

transferred to (~~AAZPA~~) AZA-accredited facilities where in compliance with federal law(~~(7)~~);

(iii) Live specimens may be moved to the new primary residence of the possessor with the written approval of the director, provided that all other requirements are satisfied and the total number of locations where animals are held is not increased(~~(7)~~); and

(iv) (~~AAZPA~~) AZA facilities may sell and/or transfer live specimens within the state with the written permission of the director.

(5) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding exotic wildlife specimens in captivity (~~(which)~~) that are newly classified by the fish and wildlife commission as deleterious exotic wildlife by operation of this rule (Reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou), and Roedeer (all members of the Genus Capreolus)), may retain the specimens of such deleterious exotic wildlife such person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens(~~(7)~~); and

(b) The person complies with subsection(~~(5)~~) (4)(d) through (~~(4)~~) (h) (~~(herein)~~) of this section and the other requirements of this section.

(6) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes and/or embryo, where in compliance with federal law.

(7) Notwithstanding the provisions of subsection (2) of this section, Fallow deer (Dama dama) and reindeer (all members of the Genus Rangifer, except Rangifer tarandus caribou) may be imported into the state, held, possessed, propagated, offered for sale, sold, and/or transferred, provided:

(a) The person complies with subsection (4)(c) through (~~(4)~~) (g) (~~(hereunder)~~) of this section and the other requirements of this section, except for subsection(~~(5)~~) (4)(e), (~~(4)~~) (f), and (~~(4)~~) (h) (~~(7)~~) of this section; and

(b) The person complies with the department of agriculture WAC (~~(16-54-035)~~) 16-54-180 as now or hereafter amended, except:

(~~(i)~~) Animals (~~(which)~~) that have resided at any time east of a line drawn through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and the 100th Meridian where it passes through Texas, or that have had contact with or shared common ground with animals which have resided at any time east of such line, shall not be imported into the state of Washington(~~(7)~~) unless specifically authorized in writing by the director(~~(5)~~) of the department of agriculture and the department of fish and wildlife(~~(7)~~);

(c) No specimens affected with any infectious or communicable

disease shall be imported into the state unless in compliance with all applicable laws and regulations and unless written permission is obtained from the directors of the department of agriculture and the department of fish and wildlife(~~(7)~~);

(d) The specimens are confined to a secure facility(~~(7)~~); and

(e) Reindeer may not be imported into, held, or possessed in Ferry, Stevens, or Pend Oreille counties or that portion of Spokane County north of Spokane River.

(8) Escaped animals:

(a) Escaped deleterious exotic wildlife, including Fallow deer (*Dama dama*)(~~(7)~~) and Reindeer (all members of the Genus *Rangifer*, except *Rangifer tarandus caribou*) will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy deleterious exotic wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of deleterious exotic wildlife must be reported immediately to the department.

(c) The recapture or death of escaped deleterious exotic wildlife must be reported immediately to the department.

(9) Secure facility:

(a) All deleterious exotic wildlife will be held in a secure facility. For the purpose of this rule, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of deleterious exotic wildlife specimens or ingress of resident wildlife ungulates (hoofed animals). The adequacy of the facility shall be determined by the director or agents of the director.

(b) For deleterious exotic wildlife listed in subsection(~~(5)~~)

(1) (b) (iv) and (~~(1)-(b)~~) (v) of this section, the "secure facility" must comply with the fencing requirements in subsection (10) of this section, unless otherwise authorized by the director in writing.

(10) Fencing requirements:

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and deleterious exotic wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least 12-1/2 gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least 12-1/2 gauge woven wire, 14-1/2 gauge high-tensile woven wire, chain link, nonclimbable woven fence, or other fence approved by the director.

(~~(11)~~) If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences

only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of deleterious exotic wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level; and

(iv) Have corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent deleterious exotic wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing deleterious exotic wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993, and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(11) Marking requirements:

(a) All live specimens of deleterious exotic wildlife, except those listed in subsection((§)) (1)(a) and ((††))(b) of this section, shall be permanently and individually identified by methods approved by the director((‡)).

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) All specimens of deleterious exotic wildlife identified in subsection((§)) (1)(b)(iv) and ((††)(b))(v) of this section must be individually identified by the methods specified below((‡));

(i) All live specimens of such deleterious exotic wildlife shall be marked with USDA Official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order((‡)); and

(ii) All live specimens of such deleterious exotic wildlife shall be marked with a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(d) All lawful progeny of deleterious exotic wildlife must be tagged and tattooed by December 31 of the year of birth or upon leaving the holding facility, whichever is earlier.

(e) Where allowed, if an animal is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(f) Where allowed, live specimens of deleterious exotic wildlife shall be marked prior to importation.

(g) No unmarked deleterious exotic wildlife may be sold or otherwise transferred from the holding facility.

(12) Testing of specimens:

(a) Where allowed, prior to entry into the state of Washington, a person importing any member of the Genus Cervus, which is identified in subsection (1) (b) (v) of this section herein, must submit records of genetic tests ~~((7))~~ conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington). Such testing shall be at the possessor's expense. Animals ~~((which))~~ that are deemed by department of wildlife biologists upon examination to exhibit either: Behavioral (vocalization), morphological (size, rump patch, color), or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) The director may require a person currently possessing any member of the Genus Cervus ~~((which))~~ that are identified in subsection (1) (b) (v) ((herein)) of this section to submit records of genetic tests ~~((7))~~ conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington) ~~((7))~~ for each individual cervid to the department. Such testing shall be at the possessor's expense. The director may require that any animal identified as a red deer or having nonindigenous genetic influence be destroyed, removed from the state, or neutered.

(c) The director may require that all specimens of deleterious exotic wildlife lawfully in captivity be tested for brucellosis (brucella abortus), tuberculosis (mycobacterium bovis and mycobacterium tuberculosis), meningeal worm (Paralophostrongylus tenuis), and muscle worm (Elaphostrongylus cervis) in accordance with the procedures specified in department of agriculture WAC ~~((16-54-035))~~ 16-54-180 as now or hereafter amended and/or for other disease or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(13) Reporting:

(a) A person holding deleterious exotic wildlife in captivity shall submit a completed report no later than March 30, 1993, and then no later than January 31 of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing deleterious exotic wildlife must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(14) Inspection:

(a) All holding facilities for deleterious exotic wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections (~~may take place without warrant or prior notice but~~) shall be conducted at reasonable times (~~and locations~~).

(15) Notification and disposition of diseased animals(~~(-)~~):

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this rule have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that deleterious exotic wildlife held pursuant to this rule have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of animals, quarantine, or disinfection is required at any facility holding deleterious exotic wildlife, pursuant to this rule. If the director determines that destruction, quarantine, or disinfection is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(16) Quarantine area:

(a) Any facility holding deleterious exotic wildlife must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington.

(i) An approved quarantine facility is one that meets criteria set by the Washington state department of agriculture.

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary, the possessor must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport the animals to the approved quarantine facility named in the quarantine action plan.

(17) Seizure:

(a) The department of wildlife may seize any unlawfully possessed deleterious exotic wildlife.

(b) The cost of any seizure and/or holding of deleterious exotic wildlife may be charged to the possessor of such animals.

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-12-064 Live wildlife. Taking from the wild, importation, possession, transfer, holding in captivity.

(1) It is unlawful to take live wildlife (except unclassified marine invertebrates and fish), wild birds (except starlings, house sparrows and rock doves by falconers, and rock doves by bird dog trainers), or game fish from the wild without a permit provided for by rule of the commission and issued by the director.

(2) Notwithstanding the provisions of WAC 232-12-027(1), 232-12-067, and subsections (3) and (4) (~~herein~~) of this section, it is unlawful to import into the state, hold, possess, propagate, offer for sale, sell, transfer, or release live specimens of wildlife listed in this subsection, or their gametes and/or embryos, except as provided under subsection ~~(5)~~ (7), (8), (9) or (10) (~~below~~) of this section:

In the family Cervidae, all of the following species:

Roosevelt and Rocky Mountain elk	Cervus elaphus
Mule deer and Black-tailed deer	Odocoileus hemionus
White-tailed deer	Odocoileus virginianus
Moose	Alces alces
Caribou	Rangifer tarandus caribou

(3) It is unlawful to import into the state or to hold live wildlife which were taken, held, possessed, or transported contrary to federal or state law, local ordinance, or department rule. Live wild animals, wild birds, or game fish shall not be imported without first presenting to the department the health certificate required by the Washington (~~state~~) department of agriculture under WAC (~~16-54-030~~) 16-54-180. Notwithstanding the provisions of this subsection, raptors used for falconry or propagation may be imported if the health certificate is in the possession of the importer. Proof of lawful importation must be produced for inspection on request of a department employee.

(4) It is unlawful to possess or hold in captivity live wild animals, wild birds, or game fish unless lawfully acquired and possessed. Proof of lawful acquisition and possession must be produced for inspection on request of a department employee. Such proof shall contain:

- ~~((1))~~ (a) Species;
- ~~((2))~~ (b) Age and sex of animal;
- ~~((3))~~ (c) Origin of animal;
- ~~((4))~~ (d) Name of receiving party;
- ~~((5))~~ (e) Source-name and address;
- ~~((6))~~ (f) Invoice/statement date; and
- ~~((7))~~ (g) Documentation of prior transfers.

(5) Live wild animals, wild birds, or game fish held in captivity, or their progeny or parts thereof, may not be sold or otherwise (~~commercialized on~~) used commercially except as provided by rule of the commission.

(6) No wildlife shall be released from captivity except as

provided in WAC 232-12-271, except that it is lawful to return to the waters from which caught, game fish caught and subsequently kept alive on stringers, in live wells, or in other containers while fishing. The release of fish into any waters of the state, including private, natural, or man-made ponds, requires a fish planting permit.

(7) Scientific research or display: The director may authorize, by written approval, a person to import into the state, hold, possess and propagate live specimens of wildlife listed in subsection (2) of this section, for scientific research or for display by zoos or aquariums who are accredited institutional members of the American Zoological Association (~~of Zoological Parks and Aquariums (AAZPA)~~) (AZA), provided:

(a) The specimens are confined to a secure facility ~~((τ))~~;

(b) The specimens will not be transferred to any other location within the state, except to other ~~((AAZPA))~~ AZA-accredited facilities, and transported by ~~((AAZPA))~~ AZA-accredited institutional members or their authorized agents with written approval of the director or as otherwise authorized in writing by the director ~~((τ))~~;

(c) The specimens will not be sold or otherwise disposed of within the state without written approval of the director ~~((τ))~~;

(d) The person will keep such records on the specimens and make such reports as the director may require ~~((τ))~~; and

(e) The person complies with the other requirements of this section.

(8) Retention or disposal of existing specimens lawfully in captivity prior to June 20, 1992: A person holding live Roosevelt and Rocky Mountain elk, Mule Deer and Black-tailed deer, White-tailed deer, and Moose may retain the specimens of such wildlife such person lawfully possessed prior to June 20, 1992, and the lawful progeny thereof, provided such person complies with (a) through (f) of this subsection and the other requirements of this section ~~((τ))~~;

(a) The person reported to the director, in writing, the species, number, and location of the specimens as required ~~((τ))~~;

(b) The specimens are confined to a secure facility at the location reported ~~((τ))~~;

(c) Live specimens are not propagated except at ~~((AAZPA))~~ AZA-accredited facilities with the written permission of the director or as otherwise authorized in writing by the director;

(d) Live specimens are not released, except with written permission of the director ~~((τ))~~;

(e) Live specimens are not sold or transferred, except:

(i) Live specimens in lawful possession prior to June 20, 1992, and their lawful progeny may be permanently removed from the state of Washington or transported directly to slaughter where in accordance with other applicable law ~~((τ))~~;

(ii) Federally listed endangered or threatened species may be transferred to ~~((AAZPA))~~ AZA-accredited facilities where in compliance with federal law ~~((τ))~~;

(iii) Live specimens may be moved to the new primary residence

of the possessor with the written approval of the director, provided all other requirements of this section are satisfied and the total number of locations where animals are held is not increased; and

(iv) (~~AAZPA~~) AZA-accredited facilities may sell and/or transfer live specimens within the state with the written permission of the director(~~(7)~~);

(f) Live specimens shall be neutered, physically separated by sex, and/or rendered infertile by means of contraception, except at (~~AAZPA~~) AZA-accredited facilities with the written permission of the director.

(9) Retention or disposal of existing specimens lawfully in captivity prior to February 13, 1993: A person holding live specimens of wildlife newly listed in subsection (2) of this section by operation of this rule (~~(f)~~) (Caribou (Rangifer tarandus caribou)(7)), may retain the specimens of such wildlife the person lawfully possessed prior to February 13, 1993, provided:

(a) The person reports to the director in writing by March 31, 1993, and reports annually thereafter, or as otherwise required by the director, the species, number, and location of such specimens(~~(7)~~); and

(b) The person complies with subsection(~~(5)~~) (8)(b) through (~~(7)~~) (f) (~~herein~~) of this section and the other requirements of this section.

(10) The provisions of this section shall not prohibit the importation, possession, propagation, sale, transfer, or release of live specimens of federally listed threatened or endangered species, their gametes (~~and/~~) or embryos, where in compliance with federal law.

(11) Escaped wildlife:

(a) Escaped wildlife will be considered a public nuisance. The department or any peace officer may seize, capture, or destroy wildlife that have escaped the possessor's control. The former possessor shall be responsible for costs incurred by the department in recovering, maintaining, or disposing of such animals, as well as any damage to the state's wildlife or habitat.

(b) Escapes of wildlife must be reported immediately to the department,

(c) The recapture or death of escaped wildlife must be reported immediately to the department.

(12) Secure facility:

(a) All captive wildlife will be held in a secure facility. For the purposes of this rule, a secure facility is an enclosure so constructed as to prevent danger to the environment or wildlife of the state, including escape of live wildlife specimens in captivity or ingress of resident wildlife ungulates (hoofed animals).

(b) For wildlife listed in subsection (2) of this section, the secure facility must comply with the fencing requirements in subsection (13) (~~herein~~) of this section.

(13) Fencing requirements:

(a) Perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be

mesh of sufficient size to prevent resident wildlife ungulates (hoofed animals) from entering and captive wildlife from escaping. Supplemental wire required to attain a height of eight feet may be smooth, barbed, or woven wire (at least 12-1/2 gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or stay at minimum intervals of eight feet.

(c) Perimeter fences must be at least 12-1/2 gauge woven wire, 14-1/2 gauge high-tensile woven wire, chain link, (~~(non-climbable)~~) nonclimbable woven fence, or other fence approved by the director.

If the wire used is not a full eight feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fences must be self-closing, equipped with two locking devices, and installed only in locations that have been approved by the director. Double gates may be required at points in the perimeter fences subject to frequent vehicle traffic that is not related to activities involving the holding of captive wildlife.

(f) Posts used in the perimeter fences must be:

(i) Wood (pressure treated), five-inch minimum diameter or an equivalent as approved by the director;

(ii) Spaced no more than twenty-four feet apart with stays or supports at eight foot intervals between the posts;

(iii) Extended at least eight feet above ground level; and

(iv) Have corners braced with wood or with an equivalent material as approved by the director.

(g) Fences must be maintained at all times to prevent captive wildlife from escaping or resident wildlife ungulates (hoofed animals) from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the person possessing wildlife must immediately supplement the fence to prevent continued passage.

(h) For any fence existing prior to February 13, 1993, a person may petition the director in writing for a variance from the above fencing requirements. Any such petition must be filed no later than May 31, 1993, and must identify all aspects in which the existing fence does not meet the fencing requirements contained herein. On approval of the director, such person may maintain such existing fence with normal repair. However, any extension or relocation of existing fence must meet the fencing requirements contained herein.

(14) Marking requirements:

(a) All live specimens of wildlife identified in subsection (2) of this section must be individually identified by the methods specified below:

(i) All live specimens of such wildlife shall be marked with USDA official ear tags or with ear tags supplied or approved by the department. Tags shall be applied in sequential order((~~7~~)); and

(ii) All live specimens of such wildlife shall be marked with

a tattoo with an identifying number that has been recorded with the director. The tattoo must be placed on the left ear of the animal.

(b) Identification assigned to an individual animal may not be transferred to any other animal.

(c) Where allowed, all lawful progeny of wildlife identified in subsection (2) of this section must be tagged and tattooed by December 31 of the year of birth or upon leaving the holding facility, whichever is earlier.

(d) Where allowed, if wildlife identified in subsection (2) of this section is sold or transferred within the state, the tag and tattoo must accompany the animal. The new owner or possessor shall not renumber the animal.

(e) Where allowed, live specimens of wildlife identified in subsection (2) of this section shall be marked prior to importation.

(f) No unmarked wildlife identified in subsection (2) of this section may be sold or otherwise transferred from the holding facility.

(15) Testing of specimens(~~(7)~~):

(a) Where allowed, prior to entry into the state of Washington, persons importing any member of the Genus Cervus, which is identified in subsection (2) (~~herein~~) of this section, must submit records of genetic tests(~~(7)~~) conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington). Such testing shall be at the possessor's expense. Animals which are deemed by department of fish and wildlife biologists upon examination to exhibit either(~~(7)~~) behavioral (vocalization), morphological (size, rump patch, color), or biochemical indications of such influence (hemoglobin, superoxide dismutase, transferrin and post-transferrin, or others to be developed) may not be imported.

(b) A person currently holding any member of the genus Cervus elaphus identified in subsection (2) (~~herein~~) of this section must submit records of genetic tests(~~(7)~~) conducted by a professionally recognized laboratory to identify red deer genetic influence (genetic material from any member of any subspecies, race, or species of the elk-red deer-wapiti complex Cervus elaphus not indigenous to the state of Washington) (~~(7)~~) for each individual cervid to the director within (~~(90)~~) ninety days of passage of this rule. Such testing shall be at the possessor's expense. Any animals identified as red deer or having nonindigenous genetic influence must be destroyed, removed from the state, or neutered within (~~(180)~~) one hundred eighty days of passage of this rule.

(c) The director may require that specimens listed in subsection (2) of this section lawfully in captivity be tested for brucellosis (brucella abortus), tuberculosis (mycobacterium bovis and mycobacterium tuberculosis), meningeal worm (Paralophostrongylus tenuis), and muscle worm (Elaphostrongylus cervis) in accordance with the procedures specified in department of agriculture WAC (~~(16-54-035)~~) 16-54-180 as now or hereafter

amended, and/or for other diseases or parasites determined to pose a risk to wildlife. The results of such tests shall be filed with the director as required.

(16) Reporting:

(a) A person holding wildlife listed in subsection (2) of this section in captivity shall submit a completed report no later than March 30, 1993, and then no later than January 31 of each year, or as otherwise required by the director, on a form provided by the department.

(b) Persons possessing wildlife listed in subsection (2) of this section must notify the director within ten days of any change of such persons' address and/or location of the holding facility.

(17) Inspection:

(a) All holding facilities for captive wildlife located in the state are subject to inspection for compliance with the provisions of this section.

(b) Such inspections (~~may take place without warrant or prior notice but~~) shall be conducted at reasonable times (~~and locations~~).

(18) Notification and disposition of diseased animals(~~(-)~~):

(a) Any person who has reason to believe that wildlife being held pursuant to this rule have or have been exposed to a dangerous or communicable disease or parasite shall notify the department immediately.

(b) Upon having reason to believe that wildlife held pursuant to this rule have been exposed to or contracted a dangerous or contagious disease or parasite, the director may order inspection of such animals by a licensed, accredited veterinarian, certified fish pathologist, or inspection agent. Inspection shall be at the expense of the possessor.

(c) The director shall determine when destruction of wildlife, quarantine, disinfection, or sterilization of facilities is required at any facility holding wildlife pursuant to this rule. If the director determines that destruction of wildlife, quarantine, disinfection, or sterilization of facilities is required, a written order shall be issued to the possessor describing the procedure to be followed and the time period for carrying out such actions. Such activities shall be at the expense of the possessor.

(19) Quarantine area:

(a) Any facility holding wildlife listed in subsection (2) of this section must have an approved quarantine facility within its exterior boundary or submit an action plan to the director that guarantees access to an approved quarantine facility within the state of Washington.

(i) An approved quarantine facility is one that meets criteria set by the Washington (~~state~~) department of agriculture.

(ii) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(b) Should the imposition of a quarantine become necessary,

the possessor of any wildlife must provide an on-site quarantine facility or make arrangements at such possessor's expense to transport such wildlife to an approved quarantine facility.

(20) Seizure:

(a) The department of fish and wildlife may seize any unlawfully possessed wildlife.

(b) The cost of any seizure and/or holding of wildlife may be charged to the possessor of such animals.