

**Chapter 220-640 WAC
INVASIVE/NONNATIVE SPECIES**

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 220-640-090 | Regulated Type C aquatic animal species. [Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-090, filed 2/22/18, effective 3/25/18.] Repealed by WSR 18-16-042 (Order 18-162), filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. |
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WAC 220-640-010 Aquatic invasive species—Provisions. The following provisions apply to all nonnative aquatic animal species except nonnative species in ballast water, which are provided for in chapter 220-650 WAC. The definitions of invasive species, prohibited species and regulated species as used in this section are the same as in RCW 77.135.010.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-010, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-010, filed 2/22/18, effective 3/25/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-640-010, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 04-01-096 (Order 03-312), § 232-12-016, filed 12/16/03, effective 1/16/04; WSR 02-19-007 (Order 02-223), § 232-12-016, filed 9/5/02, effective 10/6/02.]

WAC 220-640-011 Failure to stop at mandatory AIS check station—Infraction. Any person who fails to stop at a mandatory check station is guilty of a gross misdemeanor under RCW 77.15.809; however, if a person has never been previously issued either a citation or warning for this violation, the violation may be issued as an infraction under RCW 77.15.160.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 19-21-034 (Order 19-250), § 220-640-011, filed 10/8/19, effective 11/8/19.]

WAC 220-640-020 Aquatic invasive species classification. Prior to or at the time of classifying species by rule as prohibited or regulated, the department, in consultation with the invasive species council, must adopt rules establishing standards for determining invasive risk levels and criteria for determining beneficial use that take into consideration environmental impacts, and especially effects on the preservation of native species, salmon recovery, and threatened or endangered species.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-020, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-020, filed 2/22/18, effective 3/25/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-640-020, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.040. WSR 99-08-024 (Order 99-19), § 232-12-01701, filed 3/29/99, effective 4/29/99. Statutory Authority: RCW 77.12.020 and 77.12.040. WSR 96-15-096 (Order 96-80), § 232-12-01701, filed 7/19/96, effective 8/19/96.]

WAC 220-640-030 Prohibited level 1 species. The following species are classified as prohibited level 1 species:

- (1) Molluscs: Family Dreissenidae: Zebra and quagga mussels: *Dreissena polymorpha* and *Dreissena rostriformis bugensis*.
- (2) Crustaceans:
 - (a) Family Grapsidae: Mitten crabs: All members of the genus *Erochier*.
 - (b) Family Portunidae: European green crab, *Carcinus maenas*.
- (3) Fish:
 - (a) Family Channidae: China fish, snakeheads: All members of the genus *Channa*.
 - (b) Family Clariidae: All members of the walking catfish family.
 - (c) Family Cyprinidae:
 - (i) Carp, Bighead, *Hypophthalmichthys nobilis*.
 - (ii) Carp, Black, *Mylopharyngodon piceus*.
 - (iii) Carp, Silver, *Hypophthalmichthys molitrix*.
 - (iv) Carp, largescale silver, *Hypophthalmichthys harmandi*.
 - (d) Family Esocidae: Northern pike, *Esox Lucius*.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 19-21-034 (Order 19-250), § 220-640-030, filed 10/8/19, effective 11/8/19. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-030, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-030, filed 2/22/18, effective 3/25/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-640-030, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.020, 77.12.047, and 77.12.455. WSR 10-03-088 (Order 10-08), § 232-12-017, filed 1/19/10, effective 2/19/10. Statutory Authority: RCW 77.12.047, 77.04.020, and 34.05.353. WSR 07-06-086, § 232-12-017, filed 3/7/07, effective 4/7/07. Statutory Authority: RCW 77.12.047. WSR 02-19-007 (Order 02-223), § 232-12-017, filed 9/5/02, effective 10/6/02. Statutory Authority: RCW 77.12.040. WSR 99-08-024 (Order

99-19), § 232-12-017, filed 3/29/99, effective 4/29/99. Statutory Authority: RCW 77.12.020 and 77.12.040. WSR 93-04-039 (Order 582), § 232-12-017, filed 1/27/93, effective 2/13/93. Statutory Authority: RCW 77.12.020. WSR 91-03-082 (Order 482), § 232-12-017, filed 1/17/91, effective 1/18/91; WSR 90-10-067 (Order 434), § 232-12-017, filed 5/1/90, effective 6/1/90. Statutory Authority: RCW 77.12.040. WSR 85-09-014 (Order 247), § 232-12-017, filed 4/9/85; WSR 81-22-002 (Order 174), § 232-12-017, filed 10/22/81; WSR 81-12-029 (Order 165), § 232-12-017, filed 6/1/81.]

WAC 220-640-040 Prohibited level 2 species. The following are classified as prohibited level 2 species: None.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-040, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-040, filed 2/22/18, effective 3/25/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-640-040, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.04.012 and 77.12.047. WSR 12-05-082 (Order 12-17), § 220-12-090, filed 2/16/12, effective 3/18/12. Statutory Authority: RCW 77.12.047. WSR 10-07-105 (Order 10-64), § 220-12-090, filed 3/19/10, effective 5/1/10; WSR 04-01-096 (Order 03-312), § 220-12-090, filed 12/16/03, effective 1/16/04; WSR 02-19-007 (Order 02-223), § 220-12-090, filed 9/5/02, effective 10/6/02.]

WAC 220-640-050 Prohibited level 3 species. The following species are classified as prohibited level 3 species:

(1) Amphibians:

(a) In the family Hylidae: Cricket frog, in the genus *Hyla* species in the group *Arborea* including: *Hyla annectans*, *Hyla arborea*, *Hyla chinensis*, *Hyla hallowellii*, *Hyla immaculata*, *Hyla japonica*, *Hyla meridionalis*, *Hyla sanchiangensis*, *Hyla simplex*, *Hyla suweonensis*, *Hyla tsinlingensis*, and *Hyla zhaopingensis*.

(b) In the family Pelobatidae, spadefoots, all species of the genus *Pelobates* including *P. cultripes*, *P. fuscus*, *P. syriacus*, and *P. varaldii*. All species of the genus *Scaphiopus* including: *S. couchii*, *S. holbrookii*, and *S. hurterii*. All species of the genus *Spea* including: *S. bombifrons*, *S. hammondii*, and *S. multiplicata* with the exception of the native species: *Spea intermontana* the great basin spadefoot.

(c) In the family Pipidae: African clawed frog, all members of the genera *Silurana*, and *Xenopus*.

(d) In the family Ranidae:

(i) American Bull frog, *Rana (Lithobates) catesbeiana*.

(ii) Holarctic brown frogs and Palearctic green frogs of the genus *Rana*, including the following: *Rana arvalis* group (*R. arvalis*, *R. chaochiaoensis*, *R. chevronta*); *Rana chensinensis* group (*R. altaica*, *R. chensinensis*, *R. dybowskii*, *R. kukunoris*, *R. kunyuensis*, *R. ornativentris*, *R. pirica*); *Rana graeca* group (*R. graeca*, *R. italica*); *Rana japonica* group (*R. amurensis*, *R. aragonensis*, *R. japonica*, *R. omeimontis*, *R. zhenhaiensis*); the subgenus *Rugosa* (*Rana rugosa*, *Rana emeljanovi*, *Rana tientaiensis*); *Rana tagoi* group (*R. sakuraii*, *R. tagoi*);

Rana temporaria group (*R. asiatica*, *R. dalmatina*, *R. honorate*, *R. huanrenensis*, *R. iberica*, *R. latastei*, *R. macrocnemis*, *R. okinavana*, *R. pyrenaica*, *R. tsushimensis*, *R. zhengi*); and in the *Rana* Pelophylax section, the subgenus Pelophylax (*R. bedriagae*, *R. bergeri*, *R. cerigensis*, *R. chosenica*, *R. cretensis*, *R. demarchii*, *R. epeirotica*, *R. fukienensis*, *R. grafti*, *R. hubeiensis*, *R. lateralis*, *R. lessonae*, *R. nigrolineata*, *R. nigromaculata*, *R. perezi*, *R. plancyi*, *R. porosa*, *R. ridibunda*, *R. saharica*, *R. shqipericica*, *R. shuchinae*, *R. terentievi*, *R. tenggerensis*); and the *Rana* *ridibunda*-*Rana lessonae* hybridogenetic complex species *R. esculenta* and *R. hispanica*.

(e) In the family Ambystomatidae: Mole salamanders. In the genus *Ambystomata*: *A. californiense*, *A. laterale*, *A. opacum*, *A. rosaceum*, *A. tigrinum*, except for the native species *A. tigrinum mavortium* Western tiger salamander, and *A. tigrinum melanostictum* Tiger salamander.

(f) In the family Amphiumidae one, two, and three toed salamanders or congo eels: All members of the genus *Amphiuma*.

(g) In the family Cryptobranchidae: Giant salamanders and hell-benders, all members of the genera *Andrias* and *Cryptobranchus*.

(h) In the family Dicamptodontidae, American giant salamanders, all members of the genus *Dicamptodon*, except for the native species: *Dicamptodon tenebrosus*, Pacific giant salamander, and *Dicamptodon copei*, Cope's giant salamander.

(i) In the family Hynobiidae: Mountain salamanders, all members of the genera *Batrachuperus*, *Hynobius*, *Liua*, *Onychodactylus*, *Pachyhynobius*, *Pseudohynobius*, *Ranodon*, and *Salamandrella*.

(j) In the family Plethodontidae, subfamily Desmognathinae: All members of the genus *Desmognathus*, dusky salamander.

(k) In the family Plethodontidae, subfamily Plethodontinae: All members of the genera *Eurycea* (American brook salamanders); *Gyrinophilus* (cave salamanders); *Hemidactylum* (four-toed salamanders); *Hydromantes* and *Pseudotriton* (mud or red salamanders).

(l) In the family Proteidae, mudpuppies, all members of the genus *Necturus* and *Proteus*.

(m) In the family Salamandridae: Newts, all members of the genera *Chioglossa*; *Eichinotriton* (mountain newts); *Euproctus* (European mt. salamander); *Neurergus* (Kurdistan newts); *Notophthalmus* (red-spotted newts); *Pachytriton* (Chinese newts); *Paramesotriton* (warty newts); *Salamandrina* (speckled salamander); *Taricha* except for the native species *Taricha granulosa granulosa* the Northern rough-skin newt, and *Ichthyosaura* and *Triturus* (alpine newts).

(n) In the family Sirenidae, sirens, all species of the genera *Pseudobranchus* and *Siren*.

(2) Reptiles:

(a) In the family Chelydridae, snapping turtles, all species.

(b) In the family Emydidae:

(i) Chinese pond turtles, all members of the genus *Chinemys*.

(ii) Pond turtles, all members of the genus *Clemmys*.

(iii) European pond turtle, *Emys orbicularis*.

(iv) Asian pond turtle, all members of the genus *Mauremys*.

(c) In the family Trionychidae, American soft shell turtles, all members of the genus *Apalone*.

(3) Crustaceans:

(a) Family Cercopagidae:

(i) Fish hook water flea, *Cercopagis pengoi*.

(ii) Spiny water flea, *Bythotrephes cederstroemi*.

(b) Family Cambaridae: Crayfish: All genera.

(c) Family Parastacidae: Crayfish: All genera except Engaeos, and except the species *Cherax quadricarinatus*, *Cherax papuanus*, and *Cherax tenuimanus*.

(d) Family Spheromatidae: Burrowing isopod, *Sphaeroma quoyanum*.

(4) Fish:

(a) Family Amiidae: Bowfin, grinnel, or mudfish, *Amia calva*.

(b) Family Characidae: Piranha or caribe: All members of the genera *Pygocentrus*, *Rooseveltiella*, and *Serrasalmus*.

(c) Family Cyprinidae:

(i) Fathead minnow, *Pimephales promelas*.

(ii) Carp, Grass (in the diploid form), *Ctenopharyngodon idella*.

(iii) Ide, silver orfe or golden orfe, *Leuciscus idus*.

(iv) Rudd, *Scardinius erythrophthalmus*.

(d) Family Gobiidae: Round goby, *Neogobius melanostomus*.

(e) Family Lepisosteidae: Gar-pikes: All members of the family.

(5) Mammals: Family Myocastoridae: Nutria, *Myocastor coypu*.

(6) Molluscs:

(a) Family Dreissenidae: All members of the genus Dreissenid except the species zebra mussel, *Dreissena polymorpha*, and the quagga mussel, *Dreissena rostriformis bugensis*.

(b) Family Gastropoda: New Zealand mud snail, *Potamopyrgus anti-podarum*.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 19-21-034 (Order 19-250), § 220-640-050, filed 10/8/19, effective 11/8/19. Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-050, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-050, filed 2/22/18, effective 3/25/18. Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), amended and recodified as § 220-640-050, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 02-19-007 (Order 02-223), § 220-12-005, filed 9/5/02, effective 10/6/02.]

WAC 220-640-051 Lawful possession of dead prohibited level 3 species for personal or commercial use—Allowable forms—Records required.

(1) It is lawful to possess dead prohibited level 3 species for human or animal consumption use. For purpose of this rule, "dead" is defined as the following forms:

(a) Fully cooked;

(b) Frozen solid;

(c) Canned or otherwise vacuum-sealed in a container;

(d) Preserved by drying, salting, or pickling; or

(e) Raw/fresh if the head has been removed and/or all the internal organs have been removed.

(2) The person or commercial entity must possess the following records upon receiving and while in possession of a prohibited level 3 species in a dead form:

(a) The records must be in accordance with RCW 77.15.568; and

(b) The records must identify:

(i) Taxonomic species name or subspecies name to distinguish the subspecies from another prohibited species or a regulated type A species; and

(ii) The dead form in which the species was received as listed under subsection (1) of this section.

(3) It is unlawful for any person or commercial entity to receive or possess any live prohibited level 3 species or that does not meet the requirements of subsection (1) of this section.

(4) Any person or commercial entity in possession of a prohibited level 3 species violating this regulation shall be guilty of unlawful use of invasive species in the second degree under RCW 77.15.809.

[Statutory Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, and 77.12.047. WSR 19-21-034 (Order 19-250), § 220-640-051, filed 10/8/19, effective 11/8/19.]

WAC 220-640-060 Regulated Type A species. The following species are classified regulated Type A species:

(1) Fish:

(a) All nonnative fish classified as food fish under WAC 220-300-370 and game fish under WAC 220-300-380.

(b) Family Cichlidae: Tilapia: All members of the genera Tilapia, *Oreochromis*, and *Sartheradon*.

(c) Family Clupeidae: Alewife, *Alosa pseudoharengus*.

(d) Family Cyprinidae:

(i) Common carp, koi, *Cyprinus carpio*.

(ii) Goldfish, *Carassius auratus*.

(iii) Tench, *Tinca tinca*.

(iv) Grass carp (in the triploid form), *Ctenopharyngodon idella*.

(e) Family Poeciliidae: Mosquito fish, *Gambusia affinis*.

(2) Shellfish: All nonnative shellfish classified under WAC 220-320-010.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-060, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-060, filed 2/22/18, effective 3/25/18.]

WAC 220-640-070 Regulated Type B species. The following species are automatically classified as regulated Type B species and do not require listing by rule:

(1) A nonnative aquatic animal species not listed under WAC 220-640-030 Prohibited level 1 species, WAC 220-640-040 Prohibited level 2 species, WAC 220-640-050 Prohibited level 3 species, or WAC 220-640-060 Regulated Type A species; and

(2) A nonnative aquatic animal species possessed for personal or commercial purposes, such as for aquariums, live food markets, or as nondomesticated pets.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-070, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-070, filed 2/22/18, effective 3/25/18.]

WAC 220-640-080 Regulated Type C species. The following species are classified as regulated Type C species and do not require listing by rule:

(1) A nonnative aquatic animal species not listed under WAC 220-640-030 Prohibited level 1 species, WAC 220-640-040 Prohibited level 2 species, WAC 220-640-050 Prohibited level 3 species, or WAC 220-640-060 Regulated Type A species; and

(2) All other nonnative aquatic animal species that do not meet the criteria for automatic classification as a regulated Type B species.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-080, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-080, filed 2/22/18, effective 3/25/18.]

WAC 220-640-100 Scientific research/display permits and monitoring and control programs—Requirements for possession of prohibited species. It is unlawful to introduce into the state or possess a prohibited level 1, level 2, or level 3 species except as provided in this section.

(1) Scientific research or display permit: The director may authorize, by prior written permit, a person to possess prohibited level 1, prohibited level 2, or prohibited level 3 species specimens for scientific research or display, provided that:

(a) Specimens are confined to a secure facility, defined as an enclosure that will prevent the escape or release of the prohibited species to include all stages of species development and body parts;

(b) Facility is not a natural watercourse, and is also inaccessible to wildlife or other animals that could transport prohibited species to include all stages of species development and body parts;

(c) Specimens are not transferred to any other facility without written approval by the director or designee;

(d) All zebra and quagga mussels are incinerated or chemically preserved at the conclusion of the project, and the enclosure, holding waters and all equipment are decontaminated. All other prohibited species must be killed at the conclusion of the project and either chemically preserved or disposed of in a landfill; and

(e) The permittee must provide an annual report to the department, no later than January 31st of the following year, on a form provided by the department, describing the number, size, and location of prohibited species enclosures and general nature of the research.

(2) Monitoring and control programs: The director may authorize persons working within the scope and supervision of a department-sponsored monitoring and control program to capture, possess and destroy prohibited level 1, prohibited level 2, or prohibited level 3 species specimens provided that:

(a) The persons have completed a mandatory training program and are certified by the department;

(b) The persons have a permit authorized by the director or designee in possession;

(c) All prohibited species are disposed of in accordance with the monitoring and control program; and

(d) Participants must submit a report to the department within thirty days of any monitoring or control activity in accordance with the specifications outlined in the monitoring and control program.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-100, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-100, filed 2/22/18, effective 3/25/18.]

WAC 220-640-110 Importation of live aquatic organisms—Required certification of "zebra/quagga mussel free." (1) It is unlawful to import live aquatic organisms, including plants, for release into state waters from any state or Canadian province east of the Continental Divide without each importation being accompanied by a zebra mussel (*Dreissena polymorpha*)/Quagga mussel (*Dreissena rostriformis bugensis*)-free certificate issued by the department and signed by the supplier of the aquatic organisms.

(2) The original receiver in the state of Washington of the shipment of aquatic organisms is required to retain the zebra and quagga mussel-free certificate for two years.

(3) Secondary receivers, while in possession of live aquatic organisms, are required to retain invoices or other records showing who the original receiver was.

[Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-110, filed 2/22/18, effective 3/25/18.]

WAC 220-640-120 Capture of prohibited in Washington waters—Requirements.

(1) Capture of prohibited species in state waters: Any Prohibited level 1, level 2, or level 3 species that are captured in state waters must be:

(a) Immediately killed and removed from within the riparian perimeter of the body of water; or

(b) Immediately returned to the water from which the species was captured.

(2) The riparian perimeter includes all boat launch, park, private residences, or commercial businesses within a quarter-mile from the edge of the state water.

(3) It is lawful to possess dead prohibited species taken from state waters and it is lawful to possess chemically preserved nonvertebrate prohibited species from any source.

(4) It is unlawful to use live or dead prohibited species as bait.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-120, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-120, filed 2/22/18, effective 3/25/18.]

WAC 220-640-130 Allowable possession of prohibited species if acquired prior to classification—Requirement of documentation. A person who possessed a prohibited level 1, level 2, or level 3 species prior to the time the species was classified as prohibited may continue to hold the animal or animals for the life of the animals, provided that:

(1) The person must maintain proof of possession prior to the classification.

(2) The animals may not be transferred to another owner within the state.

(3) The person must comply with all provisions of this section.

(4) The animals must be prevented from reproducing, or if prevention is impracticable, the progeny must be destroyed.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520. WSR 18-16-042 (Order 18-162), § 220-640-130, filed 7/25/18, effective 8/25/18. Statutory Authority: RCW 77.04.090 and 77.04.130. WSR 18-06-006, § 220-640-130, filed 2/22/18, effective 3/25/18.]

WAC 220-640-200 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*), 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) of this section, and as provided in WAC 220-640-020.

(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 association of zoos and aquariums (AZA), provided:

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

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

(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;

(d) The person will keep such records on the specimens and make such reports as the director may require; 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 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 (c) through (h) of this subsection hereunder and the other requirements of this section;

(b) Specimens lawfully in captivity prior to June 20, 1992: A person holding the following deleterious exotic wildlife specimens in captivity 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, Sassafras (all members of the genus *Damaliscus*), Hartebeest (*Alcelaphus buselaphus*), Wildebeests (all members of the genus *Connochaetes*), Markhor (*Capra falconeri*), and Marco polo 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 (c) through (h) of this subsection and the other requirements of this section and except as provided under subsection (7) of this section;

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

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

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

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

(g) Live specimens are not released; 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;

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

(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; and

(iv) 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 that are newly classified by the fish and wildlife commission as deleterious exotic wildlife by operation of this section (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; and

(b) The person complies with subsection (4)(d) through (h) 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 (g) of this section and the other requirements of this section, except for subsection (4)(e), (f), and (h) of this section; and

(b) The person complies with the department of agriculture per WAC 16-54-180 as now or hereafter amended, except: Animals 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 unless specifically authorized in writing by the director of the department of agriculture and the department of fish and wildlife;

(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;

(d) The specimens are confined to a secure facility; 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*) 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 section, 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 (1)(b)(iv) and (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 twelve and one-half 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 twelve and one-half gauge woven wire, fourteen and one-half gauge high-tensile woven wire, chain link, 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 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 (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 31st 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, must submit records of genetic tests 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 that are deemed by the 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* that are identified in subsection (1)(b)(v) of this section to submit records of genetic tests 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) 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 the department of agriculture per WAC 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 31st 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 shall be conducted at reasonable times.

(15) Notification and disposition of diseased animals:

(a) Any person who has reason to believe that deleterious exotic wildlife being held pursuant to this section 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 section 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 section. 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.

[Statutory Authority: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, and 77.65.520. WSR 18-19-103 (Order 18-252), § 220-640-200, filed 9/19/18, effective 10/20/18.]