

Summary of Proposed Changes to Chapter 635, Division 044 Rules

Division 044		Protected Wildlife, Holding, and Propagating Rules
Section	Title	Notes (Shaded text is new since June 10, 2016 Commission meeting)
635-044-0400 (Revised) Previously 635-044-0000	Purpose	The purpose statement was re-written to reflect the proposed changes in the revised OAR Division 44 language; renumbered entire division beginning with 0400.
635-044-0410 (Revised) Previously 635-044-0002	Taxonomy	Taxonomical references for birds were updated
635-044-0420 (New section)	Definition of Terms	Section was added to define terms used in the holding and propagation of wildlife. "Hold" is defined as the possession or control of a live animal, gamete, or hybrid. This term is the focus of the Division 44 rule, referred to within the concept of holding and propagating live animals and differentiated from animals in possession by hunt, trap, pursue, kill, take, catch, angle for, as is used in other Division rule language. The term does not include the observation or casual temporary holding of wildlife for observation and photographic purposes in their natural habitat where the animal is not removed from its immediate location. Several new terms were added and defined including Animal Entertainment Industry, Educational animal, Educational facility, Exhibitor, Sanctuaries, Wildlife held as pets, ZAA, and Zoo or Aquarium with updated language to the terms AZA, Permittee, and Propagation.
635-044-0430 (Revised) Previously 635-044-0130	Protected Wildlife	Reworded from previous Nongame Wildlife Protected section to identify protected wildlife and exceptions defined by Oregon statutes and administrative rules; the species listed in this section are the same with several new amphibian and reptile species, and all the bat species are new. The red tree vole was added due to ORBIC status change since the June 9, 2016 commission meeting. We also included a reference to the Department's Letter of Authorization in subsection (1).
635-044-0440 (Revised) Previously 635-044-0015	Capture and Holding of Wildlife	Previously titled Wildlife Which Cannot Be Captured and Held ; re-written to specifically identify exceptions by rule for species and conditions allowing the legal capture and holding of Oregon wildlife species (e.g. Wildlife Holding Permit, Falconry License, Scientific Taking Permit, etc.). Wildlife Exhibitor/Animal Entertainment Industry, and Wildlife Sanctuary Permits were added to this section. In subsection (4), and throughout the rules, Wildlife Propagation was changed to Gamebird Propagation. As part of subsection (11), we specified a federal permit or exemption under the CFR.
635-044-0010 (Removed)	Numbers of Wildlife to Be Captured	This section is proposed to be removed from the current rule and specifics included in sections 635-044-0460 Holding of Live Black Bears (<i>Ursus americanus</i>), Cougars (<i>Puma concolor</i>), Bobcats (<i>Lynx rufus</i>), Wolves (<i>Canis lupus</i>), and Raccoons (<i>Procyon lotor</i>) and 635-044-0480 Holding of Nongame Wildlife.

<p>635-044-0450 (Revised) Previously 635-044-0005</p>	<p>Holding Permit requirements</p>	<p>Section was revised to define when a Wildlife Holding Permit is required (i.e. grandfathered species and defined listed species with conditions) and when no Wildlife Holding permit is required (< 2 animals/species in 635-044-0480, game birds, wildlife held under propagation or cervid farming, game fish under a transport permit, etc.). This section establishes 2 new permits: Wildlife Exhibitor/Animal Entertainment Industry and Wildlife Sanctuary Permits. AZA or ZAA accredited facilities can submit fees for their Wildlife Exhibitor/Animal Entertainment Industry permit at the same interval as their accreditation renewal (5 years).</p>
<p>635-044-0460 (New section)</p>	<p>Holding of Live Black Bears (<i>Ursus americanus</i>), Cougars (<i>Puma concolor</i>), Bobcats (<i>Lynx rufus</i>), Wolves (<i>Canis lupus</i>), Raccoons (<i>Procyon lotor</i>) and Domesticated Skunk (<i>Mephitis spp.</i>)</p>	<p>The WHAG felt that the holding of these mammalian species needed to be better regulated. With specific exceptions related to raccoons and skunks, these proposed rules limit the holding of animals by private individuals to those that are presently in captivity with no import, increase, or propagation of new animals. Exception is provided for animals held on Wildlife Exhibitor/Animal Entertainment Industry and Wildlife Sanctuary Permits or in Association of Zoos and Aquariums (AZA) accredited facilities. These 2 new permit references were added throughout the rules where appropriate to provide for their integration into the permitting of held wildlife. The Oregon Veterinary Medical Association provides online information to locate veterinarians throughout the state who will conduct spay/neuter procedures for wildlife and exotic pets (https://oregonvma.org/vetdirectory).</p> <p>The proposed rules limit the number of animals held on a permit, require marking and identification of individuals, and define animal care requirements, and enclosure and caging standards defined by AZA or ZAA accreditation or the Department.</p> <p>Under 635-044-0460 (3) (e)(A), Staff allowed for AZA to breed some wildlife identified under the AZA Species Survival Plan with approval by the Department.</p> <p>The current rule language in section 635-004-0051 Holding Pure Bred Gray Wolf or Wolves in Captivity was re-written into this proposed section. Wolves presently held in captivity will be held on a Sanctuary Permit. New pure bred captive born wolves may be held only at AZA accredited facilities unless approved by the Director. This section also requires that the burden of proof of the hybridity of a bobcat-cross or wolf-cross animal is the responsibility of the animal owner and if sufficient proof of hybridity cannot be determined by the department, the animal will be genetically classified as a bobcat or wolf requiring either a Wildlife Holding Permit or Wolf Holding Permit and regulated under the conditions of these rules.</p>
<p>635-044-0020 (Removed)</p>	<p>When a Permit is not Required to Hold Wildlife</p>	<p>The original section language was removed and redefined for specific species and conditions in 635-044-0440 Capture and Holding Wildlife and 635-044-0450 Permit Required to Hold Wildlife and 635-044-0480 Holding of Nongame Wildlife.</p>
<p>635-044-0470 (New section)</p>	<p>Grandfathering the Possession of Black Bear, Cougar, Bobcat, Wolves, Raccoon,</p>	<p>Individual animals of these defined species held by private individuals as pet wildlife and not held in AZA accredited facilities and species listed as protected under these proposed rules but held legally prior to the adoption of these rules, may be grandfathered to remain in the possession of the</p>

	Squirrel, and Other Legally Held Non-game Species	holder for the life of the individual animal provided the holder secures a Wildlife Holding Permit. Grandfathered wildlife may not be bred or reproduced. Grandfathered wildlife may be held as pets, or for exhibitor, educational, or animal entertainment industry or sanctuary purposes, or in AZA accredited facilities as defined in these rules.
635-044-0475	Wildlife Held by Exhibitor/Animal Entertainment Industry and Wildlife Sanctuaries	<p>This is a new section which defines the rules regulating wildlife held by Exhibitor/Animal Entertainment Industry and Wildlife Sanctuaries. Wildlife held on these permits may only be transferred to other similar permits or AZA accredited facilities. Permittees must provide extensive documentation with their application on animal inventory, employee qualifications, copy of other state or federal permits, letters of recommendation for new permittees, an emergency action plan, liability insurance, among other requirements.</p> <p>Wildlife Sanctuaries shall be accredited by the Global Federation of Animal Sanctuaries, and zoos and aquariums that are not already AZA accredited with be accredited by AZA or ZAA within 5 years.</p>
635-044-0480 (New section)	Holding of Nongame Wildlife	<p>The WHAG, felt nongame species held by the public should, at a minimum, be considered abundant and widely distributed based on the best known science. The 34 nongame species (7 amphibians, 11 reptiles, and 16 mammals) included in this list, were classified in the Oregon Biodiversity Information Center (ORBIC) 2016 as demonstrably widespread, abundant and secure; listed as S5 classification. No other classification of species was considered for inclusion in this list, including species listed as unknown or questionable, or S4 ranked as “not rare and apparently secure, but with cause for long-term concern”, or species with less abundant rankings. One member of the advisory group preferred not changing the current rules on noncontrolled, nonprotected wildlife to continue the ability for unrestricted, non-permitted take of a larger list of nongame species (reptiles and amphibians) for the purposes of collecting. The reason for this member’s proposal was that he felt most of the collecting was conducted by professional or experienced herpetologists and self-regulation would occur and that no over-harvest of the species previously allowed has been documented so the need for regulated collecting was not justified.</p> <p>The new proposed language specifies that held nongame wildlife may not be sold or propagated. To allow for the occasional capture and holding of several animals of species commonly encountered (snakes, frogs, salamanders) by curious young wildlife enthusiasts or for school classroom observation, the WHAG felt that a Wildlife Holding Permit should only be required for holding more than two animals per species per facility or household for nongame species listed in this section in order to regulate and document collection activities.</p> <p>The new proposed rules include a provision for collectors, scientists or other interested parties to petition for the inclusion or removal of species from the list of species allowable and held under a Wildlife Holding Permit with a written request and justification submitted to the Director. Also, wildlife captured from the wild and held on a Wildlife Holding Permit must remain in captivity for the life of the animal and may not be returned to the wild</p>

		<p>without prior approval by the Director. This provision is currently standard on many other permits and is designed to prevent the introduction of disease from captive to wild populations.</p> <p>Staff included language allowing for the grandfathering or holding of species whose ORBIC status changes from S5 to a less secure status.</p>
<p>635-044-0490 (Revised) Previously 635-004-0030</p>	<p>Cost and Expiration Date, and Changes to a Wildlife Holding Permit</p>	<p>This section was updated to increase the cost of a Wildlife Holding Permit from \$5 to \$25 per species held per year. The previous fee was based on the holder/facility versus per species. The cost of a Wildlife Exhibitor/Animal Entertainment Permit or a Wildlife Sanctuary Permit is \$100. The permits are for a calendar year and any changes to the permit, addition of animals or species, or a change of address requires the permittee to secure a new permit listing the new information. The Department may revoke or decline to renew a Wildlife Holding, a Wildlife Exhibitor/Animal Entertainment or a Wildlife Sanctuary Permit if the permittee is in violation of any wildlife law or any rule within the previous five years of the date of application. The Department will confiscate any birds, mammals, amphibians and reptiles held upon revocation or non-renewal of a permit.</p>
<p>635-044-0500 (Revised) previously 635-044-0035</p>	<p>Requirements for Care of Wildlife Held in Captivity</p>	<p>The WHAG updated this section with adaptations of the Oregon Humane laws to provide a standard of care for wildlife held under these administrative rules. Specific language was added to include protection of held wildlife making it unlawful for any person possessing wildlife in their care to cause or allow such wildlife to be chased, injured, harmed, harassed, or neglected, except wildlife taken under a Scientific Taking Permit.</p> <p>Under the proposed language, facilities housing wildlife must also meet the department's minimum standards as defined in the ODFW Enclosure and Caging Standards for Holding Wildlife (Exhibit 1). This exhibit policy document will be available on the ODFW website and accompany all Wildlife Holding and Wolf Holding Permits.</p> <p>Wildlife held on a Wildlife Holding Permit may not be harvested as a game species, used in hunting, fur trapping, or pursuit seasons, however, captive bred raccoons and other wildlife held as pets on a Wildlife Holding Permit would be allowed for use in competitive hunting dog trials or training of hunting dogs.</p> <p>Also, wildlife listed in this section and captured from the wild and held for more than 48 hours in captivity or held on a Wildlife Holding Permit must remain in captivity for the life of the animal and may not be returned to the wild following capture without prior approval by the Department.</p>
<p>635-044-0510 (Revised) Previously 635-044-0040</p>	<p>Inspection of Facilities</p>	<p>A proposed addition to this section includes an inspection fee involving approval of new or modified facilities involving Exhibitor/Animal Entertainment, and Sanctuary facilities. A fee may be assessed for Wildlife Holding Permit facilities depending on species and number of wildlife held.</p>
<p>635-044-0520 (Revised) Previously 635-044-0025</p>	<p>Ownership of Captured Wildlife Held in Captivity</p>	<p>Oregon Administrative rules define that native wildlife, or the progeny thereof, captured from the wild in Oregon and held remains the property of the State of Oregon. The addition to this section better defines that wildlife native to Oregon and acquired legally from an out-of-state propagator and held under these rules, requires a Wildlife Holding Permit and is regulated</p>

		under the same wildlife rules as native wildlife, but are not considered the property of the state of Oregon. However, wildlife legally held in Oregon cannot be sold, exchanged, bartered, transferred or released except as authorized by the Director.
635-044-0051 (Removed)	Holding Pure-Bred Gray Wolf or Wolves in Captivity	The language in the current rule in this section was removed and rule language redefined in 635-044-0460 Holding of Live Black Bears (<i>Ursus americanus</i>), Cougars (<i>Puma concolor</i>), Bobcats (<i>Lynx rufus</i>), Wolves (<i>Canis lupus</i>), and Raccoons (<i>Procyon lotor</i>) and OAR 635-044-0470 Grandfathering the Possession of Black Bear, Cougar, Bobcat, Wolves, Raccoon, Squirrel, and Other Legally Held Non-game Species.
635-044-0530 (Revised) Previously 635-044-0050	Possession of Coyote Prohibited Without Permit	Language added to this section refers to the ORS defining special restrictions on holding coyotes in Oregon and removed the language referring to public parks and zoos.
Gamebird Propagation		
635-044-0540 (Revised) Previously 635-044-0060	License Required to Propagate Wildlife	The proposed rule language provides that only select bird species of the families Columbidae (specifically band-tailed pigeons and mourning doves), Anatidae (waterfowl), Tetraonidae (grouse), Phasianidae (pheasants) and Odontophoridae (quail) may be propagated. The reference to Cervidae propagation was removed from this language because Division 49 Private Holding or Propagating of Cervid Species specifically regulates the propagation of captive and farmed cervids in Oregon. For clarification - Fox and mink propagated as part of a commercial fur farm in Oregon are regulated under rules administered by the Oregon Department of Agriculture.
635-044-0550 (Revised) Previously 635-044-0080	Shipping Requirements	Additional language was added to this section to define the requirements for import of wildlife to Oregon or export from the state which included a Certificate of Veterinary Inspection from a federally accredited veterinarian. Imported wildlife must be accompanied by an Oregon Department of Agriculture import permit with exceptions listed in OAR 603-011-0255 of the ODA rules.
635-044-0560 (Revised) Previously 635-044-0120	Record Keeping and Reporting Requirements	Similar to other industries and administrative rules, wildlife holding and propagation records must be current to date and available at the facility listed on the permit. Records for the current calendar year must be made available for inspection by Oregon State Police or Oregon Department of Fish and Wildlife. This section was updated to include required information (number of animals by species purchased or acquired, all sales or transfers by species, including eggs, births and deaths within the previous calendar year). Wildlife held under a propagation license must have a certificate of veterinary inspection and any import permit or license required by the receiving state prior to transport. We updated the due date for permits issued under Division 44 from January 15th to before the date of permit expiration.
635-044-0570 (Revised)	Cancellation and Non-Renewal of Wildlife	As an addition to this section, upon cancellation and non-renewal of a Wildlife Holding and Propagation permit, a person may appeal cancellation

<p>Previously 635-044-0045 and -0125</p>	<p>Propagation License or Wildlife Holding Permit</p>	<p>or denial of a license or permit through a contested case hearing. This language defines when a request for a contested case hearing must be received by the Department (21 days after service of notice or 90 days for emergency revocations). The request for hearing on a proposed non-renewal must be received by the Department within 60 days of notice. Final Orders in these case hearings are issued by the Director.</p>
<p>635-044-0580 (New section)</p>	<p>Disposition of wildlife upon license suspension, revocation, nonrenewal or denial</p>	<p>Proposed language was added to the rules defining the conditions, time period, and acceptable disposition methods by the permittee. The proposed language also allows the Department to intervene if the holder fails to dispose of any previously permitted wildlife and the methods by which the Department may dispose of the animals. Department expenses incurred due to these actions may require compensation to the state of Oregon. This language was adapted from Division 49 Private Holding or Propagating of Cervid Species</p>
<p>635-044-0590 (New section)</p>	<p>Control of Disease Outbreaks in Captive Wildlife</p>	<p>Rule language on the control of disease outbreaks in captive wildlife was added to this section and adapted from Division 49 Private Holding or Propagating of Cervid Species. When an outbreak of communicable disease among captive wildlife is determined to be an imminent danger to public, wildlife, or domestic animal or livestock health, the Department may require the holder to euthanize, confine or transfer, by a specified deadline, any or all wildlife they hold. Failure of the holder of diseased wildlife to take directed action may result in the Department or its agents entering the holder's facility to confine, euthanize, or transfer diseased wildlife. The Department bears no liability for such actions and Department expenses incurred due to these actions may require compensation from the holder to the state of Oregon</p>
<p>635-044-0130 (Removed)</p>	<p>Nongame Wildlife Protected</p>	<p>This section is now part of the 635-044-0430 Protected Wildlife section.</p>
<p>635-044-0132 (Removed)</p>	<p>Nongame Wildlife Nonprotected</p>	<p>This section was removed and redefined in the sections defining 635-044-0440 Capture and Holding Wildlife and 635-044-0430 Protected Wildlife.</p>