

Staff Summary for May 15, 2024

3. Mitigating Risks for Cervid Importation and Movement (consent)**Today's Item**Information ☐Action ☒

Consider approving sufficiently-related changes to the regulations adopted by the Commission on October 11, 2023 for mitigating risks for cervid importation and movement.

Summary of Previous/Future Actions

- | | |
|--|---------------------|
| • Notice hearing | June 14-15, 2023 |
| • Discussion hearing | August 22-23, 2023 |
| • Adoption hearing | October 11-12, 2023 |
| • Notice of revised proposed regulatory language | April 29, 2024 |
| • Today's adoption hearing | May 15, 2024 |

Background

To prevent wildlife diseases like chronic wasting disease from entering California and becoming established in native cervids (deer, elk, moose, and caribou), the Department proposed new regulations to target known risk factors and mitigate the possibility of accidental importation of disease into the State. In addition to introducing -specific regulations to address chronic wasting disease, the proposed regulations would update disease testing requirements to align with current U.S. Department of Agriculture testing standards.

In October 2023, the Commission adopted proposed regulation changes to improve regulations regarding the importation of cervids into California and disease testing requirements. On February 1, 2024, Commission staff submitted the rulemaking to the Office of Administrative Law (OAL) for review and approval. In response to concerns identified by OAL related to clarity and consistency, on March 11, 2024 Commission staff withdrew the rulemaking file to address the identified concerns.

Commission staff developed sufficiently-related changes to regulatory language to address OAL's concerns, necessitating a 15-day notice. On April 29, 2024, Commission staff published a notice of revised proposed regulatory language for a 15-day public comment period (Exhibit 2). A list of specific edits to the proposed regulatory language (Exhibit 3) and the updated proposed regulatory language (Exhibit 4) were included with the notice.

The 15-day public comment period ended on May 14, 2024; at the time of this writing, no public comments have been received.

Significant Public Comments (N/A)**Recommendation**

Commission staff: Approve the proposed additional changes to the regulations as reflected in exhibits 3 and 4.

Staff Summary for May 15, 2024

Exhibits

1. [Staff summary from notice hearing on June 14-15, 2023, Item 12 \(for background purposes only\)](#)
2. [Notice of revised proposed regulatory language, dated April 29, 2024](#)
3. [Description of specific edits to the regulatory language](#)
4. [Revised proposed regulatory language](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the proposed changes to the adopted regulation language for sections 257.5, 475, 676, 681, 712, and 714 related to mitigating risks for cervid importation and movement.

STAFF SUMMARY FOR JUNE 14-15, 2023
For background purposes only

12. MITIGATING RISKS FOR CERVID IMPORTATION AND MOVEMENT

Today's Item

Information ☐

Action ☒

Consider authorizing publication of notice of intent to amend regulations concerning cervid importation and movement to mitigate risks for importing diseases like chronic wasting disease into California.

Summary of Previous/Future Actions

- | | |
|--|--------------------------|
| • Wildlife Resources Committee vetting | September 15, 2022; WRC |
| • Wildlife Resources Committee vetting | January 11-12, 2023; WRC |
| • Today's notice hearing | June 14-15, 2023 |
| • Discussion hearing | August 22-23, 2023 |
| • Adoption hearing | October 11-12, 2023 |

Background

Diseases can have significant long-term effects on native wildlife populations, especially novel diseases. Once a disease becomes established in a wild population, there are often very few management strategies available and successes are limited. Prevention is generally the most effective management practice for diseases affecting wildlife. Chronic wasting disease (CWD) is the most significant disease affecting cervids (deer, elk, moose, caribou) in North America, but it has never been detected in California.

CWD is caused by a misfolded, infectious protein called a prion. The prions are concentrated in the central nervous system of an infected animal, but can be found in most tissues, secretions and excreta, including muscles (meat), blood, glandular fluids, saliva, feces, and urine. The disease is always fatal, there is no vaccine or treatment, and all cervid species native to North America are susceptible. Despite efforts to manage and contain the disease, it has continued to spread due to prion ecology, limited management options, and human movement of infectious animals or materials. Prions are extremely stable in the environment, remain infective for years to decades, and are shed by infected animals long before they show any signs of disease; this can lead to seeding of the environment with infectious prions. CWD in California would result in changes to California's hunting regulations and traditions and would require significant Department resources to manage.

While CWD poses a significant risk to cervids, it is not the only disease of concern associated with the movement of captive cervids. Cervids are susceptible to bovine tuberculosis (bTB) and brucellosis, two important diseases that affect the livestock industry.

To prevent CWD and other diseases from being imported into California, the Department recommends new regulations be adopted to target known risk factors and mitigate the possibility of accidental importation. Additionally, to align with current U.S. Department of Agriculture testing standards, the proposed regulations would update disease testing requirements in addition to introducing CWD-specific regulations.

STAFF SUMMARY FOR JUNE 14-15, 2023
For background purposes only

Proposed Regulations

The proposed changes include:

- Section 257.5 would add cervid-derived biofluid to the list of substances that can be used to define a “baited area,” and make it unlawful to use any lures or similar materials that contain, or are labeled or advertised to contain, biological fluids from cervids to take game birds or mammals.
- Section 475 would make it unlawful to use lures or similar materials that contain, or are labeled or advertised as containing, any biological fluid derived from a cervid.
- Section 676 would remove the currently incorporated Fallow Deer Farming Importation Application Form and replace it with a new Cervidae Importation Application Form (DFW 1681), define requirements for a health certificate to accompany imported live cervids, and update testing requirements for bTB and brucellosis.
- Section 681 would add a new importation permit for any live cervids and outline the requirements for permit application.
- Section 712 would add a new definition of skull plate to clarify importation requirements.
- Section 714 would make it unlawful to import or possess any material that contains or is labeled or advertised as containing any biological fluid derived from a cervid.

Further details on the proposed changes are available in the initial statement of reasons (ISOR) and proposed regulatory language (exhibits 2 and 3).

Significant Public Comments (N/A)

Recommendation

Commission staff: Authorize publication of notice of intent to amend sections 257.5, 457, 676 and 712, and add sections 681 and 714, concerning cervid importation and movement to mitigate risks for importing diseases into California, as recommended by the Department and discussed today.

Committee: Consider the proposed regulation changes for sections 257.5, 457, 676 and 712 and the proposed addition of sections 681 and 714.

Department: Authorize publication of a notice of intent to amend sections 257.5, 457, 676 and 712, and add sections 681 and 714.

Exhibits

1. DFW memo transmitting ISOR, received May 19, 2023
2. Draft ISOR and informative digest
3. Proposed regulation text
4. Proposed form DFW 1681
5. Draft economic and fiscal impact statement (Std. 399) and addendum
6. DFW presentation (to be provided separately)

STAFF SUMMARY FOR JUNE 14-15, 2023

For background purposes only

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 257.5, et. al., and add sections 681 and 714, as discussed today.

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
McKinleyville
Eric Sklar, Member
Saint Helena
Darius W. Anderson, Member
Kenwood

STATE OF CALIFORNIA
Gavin Newsom, Governor

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

April 29, 2024

TO ALL INTERESTED AND AFFECTED PARTIES:

Pursuant to the requirements of California Government Code Section 11346.8, subdivision (c), and Section 44 of Title 1 of the California Code of Regulations, the California Fish and Game Commission is providing you with a notice of sufficiently related changes to the proposed regulations concerning Mitigating Risk of Cervid Importation and Movement, published in the California Regulatory Notice Register on August 4, 2023, Notice No. Z2023-0725-01, and adopted by the California Fish and Game Commission (Commission) on October 11, 2023.

This notice provides notice of revisions to the proposed amendments to regulatory language in sections 257.5, 475, 676, and 712 and proposed addition of regulatory language sections 681, and 714, Title 14, California Code of Regulations (CCR).

Because these regulations are different from, yet sufficiently related to, the originally proposed regulations, the Administrative Procedure Act requires that we make these changes available to you for a fifteen-day written comment period. The proposed changes to the regulations are clearly indicated on the attached revised proposed regulatory language and DFW Form 1681 as follows: additions of newly proposed text are shown in double underline; originally proposed text that is now proposed for deletion is shown in ~~single underline double strikeout~~; originally proposed text not affected by the changes described in this notice is indicated in single underline.

Pursuant to APA requirements, we are providing you with the full text of all sections of the originally proposed regulatory language; however, there are no revisions to the originally proposed regulatory language in Section 712, or to DFW form 1681, Title 14, CCR.

Please refer to the attached description of the specific edits to the regulatory text and forms.

Written comments on the revisions to the proposed regulatory language that mailed or emailed to the Commission office, must be received between April 29, 2024 and May 14, 2024 at 5:00 p.m. and may be sent via email to fgc@fgc.ca.gov or mailed to Melissa Miller-Henson, Executive Director, California Fish and Game Commission, P.O. Box 944209, Sacramento, California 94244-2090. In addition, the Commission will accept oral and written comments on the revised proposed regulations and on the documents added to the rulemaking file at its May 15, 2024 meeting.

Written comments on the revisions to the proposed regulatory language, that are mailed or emailed to the Commission office, must be received between April 29, 2024 and May 14, 2024 at 5:00p.m. and may be sent via email to fgc@fgc.ca.gov or mailed to Melissa Miller-Henson, Executive Director, California Fish and Game Commission, P.O. Box 944209, Sacramento, California, 94244-2090.

NOTICE OF LOCATION OF HEARING

The Commission will consider approving the revised proposed regulations at its May 15, 2024, meeting. Any person interested may present statements, orally or in writing, relevant to this action from the locations listed below. Instruction for participating in the meeting via webinar/teleconference are posted on the Commission's website (www.fgc.ca.gov/Meetings/2024)

Trinidad Rancheria
Tribal Council Chambers
1 Cher-Ae Lane
Trinidad, CA 95570

Scripps Institution of Oceanography
Eckart Building
Fish Bowl Conference Room 120
8755 Biological Grade
La Jolla, CA 92037

Kenwood Investments
144 West Napa Street
Sonoma, CA 95476

California Natural Resources
Headquarters Building
Conference Room 2-301
715 P Street, 2nd Floor
Sacramento, California 95814

Please refer to the original notice (www.fgc.ca.gov/Regulations/2023-New-andProposed#257.5) for more information.

Sincerely,

Jenn Bacon
Regulatory Analyst

Attachments

Description of Specific Edits to Regulatory Language and Department of Fish and Wildlife Forms

Edits Made to Approved Regulatory Language

All Sections

The acronym “CWD” has been replaced by spelling out “chronic wasting disease” this change was necessary for consistency and clarity throughout the regulations.

Section 257.5

Subsection 257.5(a): Previously included the definition of “bait” and “baited area”. The definition of “baited area” has been moved to subsection (b). The language, “...or cervid derived biofluid” has also been added. This amendment was necessary to define “bait” and clarify the difference between “bait” and “baited area”.

Subsection 257.5(b): Previously part of subsection (a), The language “shelled, shucked or unshucked corn, wheat or other grains, salt, or other feed whatsoever, or cervid derived biofluid” has been replaced with “bait”. This amendment is necessary to clarify what needs to be present to constitute what is considered a “baited area”.

Section 475

Subsection (g): The language, “(a) of these regulations” has been removed. This amendment was necessary to make the regulatory language consistent.

Section 676

Subsection 676(e)(1): “obtain” was changed to “import”. This amendment is necessary to clarify that the permit is for importation of cervids into California. “This application and documentation identified below...” has been changed to “The application and documentation identified in subsections 676(e)(2) and (3) shall...”. This amendment was necessary to clarify where to find the requirements of the application documents.

Section 2355 Fish and Game Code has been added to the authority cited. This amendment is necessary to clarify the authority for the importation of deer into the state.

Section 681

Subsection 681(c)(6): New language added to clarify what the department will base the decision to deny, revoke, or reconsider a permit or permit application. This amendment is to clarify how the department will make decisions regarding the denial, revocation, and reconsiderations of permits for cervid importation.

Subsection 681(c)(7): Denial of Application. Previously subsection 681(c)(6). After the title “Denial of Application” the remaining language from this section has been moved into a new subsection, 681(c)(7)(A). The last sentence “Past behavior will be taken into consideration...” has been removed. This sentence is no longer necessary as the new subsection 681(c)(6) clarifies how the Department will make decisions regarding denial, revocation, and reconsideration.

Subsection 681(c)(8): Previously subsection 681(c)(7). There are no corrections to the adopted regulatory language of this subsection.

Subsection 681(c)(9): Reconsideration. New language added regarding reconsideration of denied or revoked applications. This amendment is necessary to provide instructions for having applications and revocations reconsidered by the Department.

Subsection 681(c)(10): New subsection has been added regarding written notices about the Department's determinations of reconsiderations. This amendment is necessary to clarify how applicants will be notified by the Department.

Subsection 681(e): Title of the subsection was changed from "Inspection and Retention of Health Records" to "Retention of Health Records." This amendment is necessary to clarify the context of the subsection.

Subsection 681(e)(1): This subsection has been deleted. The language from this subsection has been added to subsection 681(e). This amendment is necessary for consistency of the numbering in the regulation.

Subsection 681(f): Previously subsection 681(e)(2). This has been changed to subsection 681(f) as it did not pertain only to the retention of health records. The title "Inspection" has been added to clarify the context of the subsection.

Subsection 681(g): Previously subsection 681(e)(3). This amendment as the language does not only pertain to subsection 681(e) and is necessary for consistency of the numbering in the regulation.

Section 2355 Fish and Game Code has been added to the authority cited. This amendment is necessary to clarify the authority for the importation of deer into the state.

Section 712

No changes

Section 714

Subsection 714(a): The language, "but is not limited to" has been added to the description of biofluid. This amendment is necessary to make the language in the regulations consistent with sections 257.5 and 475.

Section 2355 Fish and Game Code has been added to the authority and references cited. This amendment is necessary to clarify the authority and reference for the importation of deer into the state.

Edits Made to Adopted Department Forms

No changes to DFW form 1681

April 29, 2024

The proposed amendments to the adopted regulatory language, and forms as follows:

Original Adopted (10-11-2023) Regulatory Language:

- Verbatim language of sections 257.5, 475, 676, and 712 that was unchanged is not highlighted.
- Verbatim language of sections 257.5, 475, 676, and 712 that was ~~deleted is shown with a single strikethrough.~~
- New language that was added to verbatim language of sections 257.5, 475, 676, and 712, and new sections 681 and 714, text is shown with a single underline.

New Amendments to the Adopted Regulatory Language:

- Additions to verbatim language of newly proposed text are shown in double underline;
- Deletions to verbatim language ~~are shown with a double strikethrough;~~
- Deletion of ~~adopted language is shown in single underline and double strikethrough.~~
- Adopted language that was deleted but now added back in is shown with a single strikethrough and double underline.

Proposed Regulatory Language

Section 257.5, Title 14, CCR, is amended to read:

§ 257.5. Prohibition Against Taking Resident Game Birds and Mammals by the Aid of Bait.

~~Except as otherwise provided in these regulations, this section or in the Fish and Game Code, resident game birds and mammals may not be taken within 400 yards of any baited area.~~

(a) Bait. As used in this section, "bait" shall mean any shelled, shucked or unshucked corn, wheat or other grains, salt or any other feed, or cervid-derived biofluid, capable of luring attracting, or enticing resident game birds or mammals.

(b) Definition of Baited Area. As used in this regulation section, "baited area" shall mean any area where ~~bait~~ shelled, shucked or unshucked corn, wheat or other grains, salt, or other food whatsoever, or cervid-derived biofluid capable of luring, attracting, or enticing such birds or mammals is directly or indirectly placed, exposed, deposited, distributed, or scattered, and such area shall remain a baited area for ten days following complete removal of all ~~bait~~ such corn, wheat or other grains, salt, or other food.

(c) It shall be unlawful to use lures or similar materials that contain or are labeled or advertised as containing any chronic wasting disease (CWD)-sensitive cervid biofluid as defined in Section 714(a) of these regulations, including but not limited to urine, feces, saliva, and scent gland secretions, to take any game bird or game mammal.

(d) Resident game birds and mammals may not be taken within 400 yards of any baited area, except for Exceptions:

- (1) The taking of domestically reared and released game birds on licensed pheasant clubs and other licensed game bird clubs;
- (2) The taking of resident game birds and mammals on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;
- (3) The taking of resident game birds and mammals on or over any lands where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed have been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

NOTE: Authority cited: Sections 200, 203 and 265, Fish and Game Code.

Reference: Sections 110, 200, 201, 203, 203.1, 260, 265, 270, 275, 3800 and 3950, Fish and Game Code.

Section 475, Title 14, CCR, is amended to read:

§ 475. Methods of Take for Nongame Birds and Nongame Mammals.

Nongame birds and nongame mammals may be taken in any manner except as follows:

- (a) Poison may not be used.
- (b) Recorded or electrically amplified bird or mammal calls or sounds or recorded or electrically amplified imitations of bird or mammal calls or sounds may not be used to take any nongame bird or nongame mammal except coyotes, bobcats, American crows and starlings.
- (c) Fallow deer, sambar deer, axis deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only with the equipment and ammunition specified in Section 353 of these regulations.
- (d) Traps may be used to take nongame birds and nongame mammal only in accordance with the provisions of Section 465.5 of these regulations and sections 3003.1 and 4004 of the Fish and Game Code.
- (e) No feed, bait or other material capable of attracting a nongame mammal may be placed or used in conjunction with dogs for the purpose of taking any nongame mammals. Nothing in this section shall prohibit an individual operating in accordance with the provisions of Section 465.5 from using a dog to follow a trap drag and taking the nongame mammal caught in that trap.
- (f) The take or attempted take of any nongame bird or nongame mammal with a firearm shall be in accordance with the use of nonlead projectiles and ammunition pursuant to Section 250.1 of these regulations.
- (g) It shall be unlawful to use lures or similar materials that contain or are labeled or advertised as containing any chronic wasting disease (CWD)-sensitive cervid biofluid as defined in Section 714(a) of these regulations, including but not limited to urine, feces, saliva, and scent gland secretions, to take any nongame bird or nongame mammal.

NOTE: Authority cited: Sections 200, 203, 265, 355, 3003.1, 3800 and 4150, Fish and Game Code.

Reference: Sections 110, ~~202~~, 203, 203.1, 265, 355, 356, 2055, 3003.1, 3004.5, 3800 and 4150, Fish and Game Code.

Section 676, Title 14, CCR, is amended to read:

§ 676. Fallow Deer Farming.

[No changes proposed to subsections 676(a) through (d)]

(e) Importation of Fallow Deer for Farming. Fallow deer shall not be imported into California for the purposes of farming, except as provided by this section~~these regulations~~.

(1) ~~Importation Application Requirement. A Fallow Deer Farming Importation Application, LRB 1676A (3/97), which is incorporated by reference herein, A Cervidae Importation Application as described in S~~subsection 681(c)~~of these regulations~~ shall be completed in its entirety by permittees wishing to ~~import~~obtain fallow deer stock from outside California. ~~The~~This application and documentation identified in subsections 676(e)(2) and (3) below shall be submitted to the Department of Fish and Game~~Wildlife, Wildlife Investigations~~Health Laboratory, 1701 Nimbus Road, Suite D, Rancho Cordova, California 95670, or emailed to WHLab@wildlife.ca.gov. Application forms are available upon request at WHLab@wildlife.ca.gov~~this email address~~. The approved ~~Fallow Deer Farming Cervidae~~ Importation Application form must accompany the imported fallow deer stock.

(2) ~~Health Certificate Requirement. A health certificate issued by a U.S. Department of Agriculture accredited veterinarian or other person who has obtained a degree in veterinary medicine from a college or university accredited by the American Veterinary Medical Association in the state from which the fallow deer stock is being shipped shall accompany the imported fallow deer stock. This health certificate shall contain the methods used for testing, the results of the testing and be correlated to identifying markings on fallow deer tested. Health Certificate/Certificate of Veterinary Inspection. Pursuant to Section 681 of these regulations, Cervidae Importation Applications shall be submitted with a Certificate of Veterinary Inspection issued by a United States Department of Agriculture (USDA) accredited category II veterinarian licensed in the state the fallow deer is to be imported from. The Certificate of Veterinary Inspection shall accompany the imported fallow deer and shall include any disease test(s), the results of that testing, and individually identifying tags or markings on the tested fallow deer.~~

(3) ~~Copy of Official Test Results Required. A copy of the official results from tests conducted in the state of origin shall be submitted with the Fallow Deer Farming Importation Application form~~Cervidae Importation Application as defined in subsection 681(c)(1) of these regulations, obtainable by contacting the department's Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Information on the test tests ~~methods~~ used and the results for each fallow deer tested shall be included.

(4) Disease Tests Required.

(A) ~~Bovine Tuberculosis Testing. The herd of origin shall have undergone official testing for bovine tuberculosis within 24 months of importation of fallow deer, using a Single Cervical Tuberculin (SCT) Test or a Blood Tuberculosis (BTB) Test. All fallow deer six months of age or older shall be tested for tuberculosis within 120 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. Bovine tuberculosis (bTB) testing. The herd of origin must have~~

undergone official testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. However, cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation.).

~~(B) Brucellosis. The veterinarian issuing the health certificate shall attest that the fallow deer to be imported into California are not known to be infected with brucellosis and that the animals have not been in contact with animals of unknown brucellosis status. Fallow deer six months of age or older shall be tested for brucellosis within 30 days of entry into California.~~ Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are not known to be infected with brucellosis and have not been in contact with animals of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.

(C) Other Disease Testing. The department shall reserve the right to require additional testing prior to importation when there is reason to believe other diseases, parasites or other health risks are present. The department shall provide written notification if such testing is required.

[No changes proposed to subsections 676(f) through (h)]

NOTE: Authority cited: Sections 1002, 2120, 2150, ~~and 2150.2,~~ and 2355, Fish and Game Code.

Reference: Sections 2116.5, 2120, 2124, 2150, 2150.2, 2150.4, 2150.5, 2151, 2185, 2186, 2187, 2189, 2190, 2350 and 2355, Fish and Game Code.

Section 681, Title 14, CCR, is added to read:

§ 681. Importation of Live Cervids.

(a) Definitions. For purposes of this section, ~~c~~Cervid, is defined as aAny live mammal, embryo, or gamete in the taxonomic family Cervidae. Cervids include but are not limited to sika deer, fallow deer, axis deer, white-tailed deer, mule deer, moose, caribou, reindeer, and elk.

(b) Prohibitions.

(1) It shall be unlawful to import into this state any species of cervid except as authorized and permitted by the department pursuant to this section.

(2) It shall be unlawful to import into this state any live species of cervid from any state where chronic wasting disease (CWD) has been detected, according to credible science as defined in Fish and Game Code Section 33, unless otherwise authorized by the department under this section.

(c) Permit Applications and Requirements.

(1) Permit Application. Application for a cervid importation permit shall be made pursuant to the Cervidae Importation Application, DFW 1681 (NEW 04/23), which is incorporated by reference herein. Applications can be obtained by contacting the department's Wildlife Health Lab at WHLab@wildlife.ca.gov or (916) 358-2790. Issuance of a permit pursuant to this section does not obviate the need to obtain other applicable permits and approvals, including but not limited to restricted species permit(s) and/or a fallow deer farming permit.

(2) Requirements. Cervidae importation permit applicants shall comply with the following when submitting a cervid importation permit. Cervid gametes from a United States Department of Agriculture (USDA) bTB and Brucellosis-Free herd are not subject to the subsequent requirements in subsection (c)(2) and (c)(5).

(A) Health Certificate/Certificate of Veterinary Inspection. Cervidae Importation Applications shall be submitted with a Certificate of Veterinary Inspection issued by a USDA-accredited category II veterinarian licensed in the state the cervid is to be imported from. The Certificate of Veterinary Inspection shall accompany the imported cervid and shall include the disease test(s), the result(s) of that testing, and individually identifying tags or markings on the tested cervid.

(B) Bovine tuberculosis (bTB) testing. The herd of origin must have undergone official testing for bovine tuberculosis within 24 months of importation of cervid(s), using a single cervical tuberculin (SCT) test or other USDA-approved bTB screening test for cervids. All cervids six months of age or older shall be tested for tuberculosis within 90 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. However, cervids originating from a USDA bTB Accredited herd do not require testing for importation. (Note: It is recommended that cervids be tested 90-120 days after importation).

(C) Brucellosis testing. The USDA-accredited veterinarian issuing the Certificate of Veterinary Inspection shall attest that the cervid(s) being imported into California are

not known to be infected with brucellosis and have not been in contact with animals of unknown brucellosis status. Sexually intact cervids six months of age or older shall be tested for brucellosis within 30 days prior to entry into California utilizing an official brucellosis laboratory test for Cervidae as determined by USDA. However, cervids originating from Certified Brucellosis-Free cervid herds do not require testing for importation.

(3) Disease Prevention and Control.

(A) Exposure to chronic wasting diseaseCWD. The department is authorized to deny a cervid importation permit application for any cervid that the department determines, based on the most recent disease reports and credible science as defined in Fish and Game Code Section 33, may have been exposed to chronic wasting diseaseCWD. The department shall notify the permittee in writing of such a determination, which shall include the rationale for its determination.

(B) Other Disease Testing. The department shall require as a condition on any cervid importation permit that additional testing be conducted if a state-licensed and USDA-accredited veterinarian determines that other diseases, parasites, or other health risks are present based on emerging disease threats. Disease testing requirements may be adjusted on a case-by-case basis based on animal welfare considerations and relative risk as established by credible science as defined in Fish and Game Code Section 33. The department shall notify the permittee in writing if such testing is required.

(4) Permit Term. Cervid importation permits issued under the provisions of this section shall be valid for a term of 30 days.

(5) Identifying Markings. Every cervid that is imported under a cervid importation permit shall be marked, so as to be individually identifiable, by an approved unique identifying method and reported to the department. Approved methods include electronic implants, tattoos, tamper resistant ear tags or a USDA-approved device that adheres to official identification numbering. The department may approve an alternative method if the permittee provides written justification from a state-licensed and USDA-accredited category II veterinarian, explaining the alternative method of unique identification and why other methods would be detrimental to the health or welfare of the animal(s).

(6) In making the determinations in subsections (c)(7) through (9) the department shall consider four factors:

(A) The applicant/permittee's history of violations;

(B) The willfulness of the violation;

(C) The nature, scope, and gravity of the violation; and

(D) The extent to which the permittee cooperated with the department to ensure compliance with the Fish and Game Code and regulations adopted pursuant thereto.

(67) Denial of Application. The department may deny a cervid importation permit for failure to comply with the Fish and Game Code or any regulations adopted pursuant thereto to promote compliance with the law and applicable regulations and ensure that applicants can be trusted to comply with the requirements for cervid importation. ~~Per~~

~~behavior will be taken into consideration when determining whether an application will be approved.~~

~~(78) Revocation. The department is authorized to~~ may revoke a cervid importation permit issued pursuant to this section at any time for failure to comply with the terms and conditions of a cervid importation permit, the Fish and Game Code, or this section.

(9) Reconsideration.

(A) An applicant who receives a notice of denial from the department of a permit application under subsection (c)(7) or a revocation of a permit under subsection (c)(8) may submit a written request sent to Wildlife Health Lab at WHLab@wildlife.ca.gov for reconsideration to the department no later than 30 calendar days following the date of the notification, and shall state the reasons for the requested reconsideration.

(B) The department shall evaluate any information submitted with the request and determine if a reversal of the department's decision is warranted based on all available information and the factors set forth in subsection (c)(6).

(10) Written notice of the department's determination of reconsideration shall:

(A) Explain in writing the basis for the department's determination and the effective date of the denial, or the effective date of the revocation, or the determination of a request for reconsideration according to (c)(9); and

(B) Be sent by email and certified mail using the email and mailing addresses included in the form DFW 1681 submitted by the applicant.

(d) Fees. There is no Cervidae Importation Application fee or importation permit fee associated with cervid importation under this section.

(e) ~~Inspection and~~ Retention of Health Records. The permittee shall maintain all health records of individual cervids for a minimum of three years. Any person holding a cervid importation permit issued pursuant to this section shall exhibit any records required to be maintained by these regulations upon the request of any department employee.

~~(1) Availability of Records and Inspection by the Department. Any person holding a cervid importation permit issued pursuant to this section shall exhibit any records required to be maintained by these regulations upon the request of any department employee.~~

(2f) Inspection. Live cervids imported into California shall be inspected by the department or its designee after notice is provided, either at the place of entry into the state or at other locations within the state, if the department determines that inspection is necessary to ensure compliance or mitigate disease risk.

(3g) Any live cervid imported in violation of this section shall be seized or denied entry into this state by the department. An animal that is seized may be taken to another location by the department or seized in place.

NOTE: Authority cited: Sections 1002, 1050, 2120, 2122, 2150, 2150.2, 2355 and 3005.5, Fish and Game Code.

Reference: Sections 13.5, 33, 80, 200, 1001, 1008, 2118, 2118.2, 2118.4, 2120, 2121, 2122, 2193, 2350, 2353, 2355, 3219, 4011 and 4150, Fish and Game Code.

Section 712, Title 14, CCR, is amended to read:

§ 712. Restriction of Importation of Hunter-Harvested Deer and Elk Carcasses.

It is unlawful to import, or possess any hunter harvested ~~deer or elk (cervid)~~ cervid carcass or parts of any cervid carcass imported into the State, such as deer, elk, moose, caribou, reindeer, and other species of the Family Cervidae, except for the following ~~body parts~~:

- (a) portions of meat with no part of the spinal column, brain or head attached (other bones, such as legs and shoulders, may be attached).
- (b) hides and capes (no spinal column, brain tissue or head may be attached).
- (c) clean skull plates (no brain tissue may be present, pursuant to Section 714 of these regulations) with antlers attached, if present. For the purpose of this section, the skull plate is defined as the paired bones (frontal, parietal, and temporal bones) that make up the top portion of the skull surrounding the brain and, in antlered animals, from which the paired antlers extend.
- (d) antlers with no meat or tissue attached, except legally harvested and possessed antlers in the velvet stage are allowed, if no meat, brain or other tissue is attached.
- (e) finished taxidermy mounts with no meat or tissue attached (antlers in the velvet stage are allowed if no meat, brain or other tissue is attached).
- (f) upper canine teeth (buglers, whistlers, ivories).

NOTE: Authority cited: Sections 200, 203, ~~240~~ and 2355, Fish and Game Code.
Reference: Sections 200, 203 and 2355, Fish and Game Code.

Section 714, Title 14, CCR, is added to read:

§ 714. Prohibition Against Possession of Cervid Biofluid.

(a) For the purposes of this section, chronic wasting disease ~~(CWD)~~-sensitive cervid biofluid refers to, but is not limited to, urine, feces, saliva, and scent gland secretions derived from a cervid.

(b) It is unlawful to import, use, or possess any product that is derived from, contains, or is labeled or advertised as containing any chronic wasting disease ~~CWD~~-sensitive cervid biofluid.

(c) The prohibitions set forth in ~~subdivision~~ subsection (b) do not apply to parts retained on a field-dressed cervid legally harvested in California.

NOTE: Authority cited: Sections 200, ~~and 203~~, and 2355, Fish and Game Code.
Reference: Sections 80, 200, ~~and 203~~ and 2355, Fish and Game Code.