

CLASSIFICATION OF EXOTIC WILDLIFE

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Exotic wildlife is classified into three categories.

Noncontrolled: Live, exotic wildlife species, subspecies, or hybrid of that species that may be possessed, sold, purchased or exchanged in the state without a permit but may not be released into the wild.

Controlled: Live, exotic wildlife species, subspecies, or hybrid of that species and requires a permit to possess, sell, purchase, breed or exchange.

Prohibited: Live, exotic wildlife species, subspecies, or hybrid of that species, including viable embryos or gametes, that may not be possessed, sold, purchased, exchanged, or transported in Montana. This also applies to any species that has not been classified.

Classification includes any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or the egg, sperm, embryo, or offspring of the wild animal. It does not include plants, insects or domestic animals.



87-5-705. Regulation of exotic wildlife. (1) A person may not import into the state, possess, or sell any exotic wildlife unless:

(a) the importation, possession, or sale of the exotic wildlife is allowed by law or commission rule; and
(b) the person has obtained authorization for importation from the department of livestock pursuant to Title 81, chapter 2, part 7.

(2) The department may issue a permit for authorizing the possession or sale of controlled exotic wildlife and make the permit available to persons who wish to import, possess, or sell controlled exotic wildlife, subject to rules of the commission and the department. The department may charge a reasonable fee, as determined by department rule, for the issuance of the authorization permit.

History: En. Sec. I, Ch. 536, L. 2003.



87-5-712. Authority for commission to control importation, possession, or sale of certain wildlife species and exotic wildlife. (1) The commission may, after public hearing and recommendation by the classification review committee in [87-5-708](#), list by administrative rule wildlife species or exotic wildlife that may not be imported, possessed, or sold as pets for captive breeding for research or commercial purposes, for the commercial pet trade, or for any other reason. A wildlife species or exotic wildlife may be placed on the list only after the commission finds that:

- (a) the exotic wildlife would not be readily subject to control by humans while in captivity;
- (b) if released from captivity, the exotic wildlife would pose a substantial threat to native wildlife and plants or agricultural production; or
- (c) the exotic wildlife would pose a risk to human health or safety, livestock, or native wildlife through disease transmission, hybridization, or ecological or environmental damage.

(2) The commission may make exceptions for wildlife species or exotic wildlife otherwise prohibited under this section if the wildlife species or exotic wildlife is controlled in an institution listed in [87-5-709](#)(1)(a) and under any conditions specified by the commission.

History: En. Sec. 7, Ch. 624, L. 1985; amd. Sec. 9, Ch. 536, L. 2003; amd. Sec. 4, Ch. 281, L. 2005.

87-5-709. Exceptions and exemptions to possession and sale of exotic wildlife. (1) Sections [87-5-705](#) through [87-5-708](#) and this section do not apply to:

(a) institutions that have established that their proposed facilities are adequate to provide secure confinement of wildlife, including:

(i) an accredited **zoological garden** chartered by the state as a nonprofit corporation;

(ii) a **roadside menagerie** permitted under [87-4-803](#) that was established for the purpose of exhibition or attracting trade;

(iii) a **research facility** for testing and science that employs individuals licensed under [37-34-301](#) or that submits evidence to the department that it meets animal testing standards as provided by the national institutes of health, the national science foundation, the centers for disease control and prevention, the United States department of agriculture, or another similar nationally recognized and approved testing standard; or

(b) domestic animals.

(2) Authorization for possession must be provided by the department for exotic wildlife possessed as of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize risks.

History: En. Sec. 5, Ch. 536, L. 2003; amd. Sec. 3, Ch. 281, L. 2005.

87-5-721. Penalty -- license and permit revocation and denial. (1) Except as provided in subsection (2), a person convicted of a violation of this part shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

(a) is guilty of an offense punishable by a fine of not less than \$2,000 or more than \$10,000 and imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in lieu of imprisonment. A sentencing court may not defer or suspend \$2,000 of the fine amount.

(b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The damages may be recovered on behalf of the public by the department or by the county attorney of the county in which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special revenue fund as provided in [87-1-601](#)(1).

(c) upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for not less than 5 years or more than 10 years from the date of conviction or forfeiture. If the time necessary to eliminate or mitigate the effects of the violation exceeds the imposed forfeiture period, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for an additional period of time. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for life.

(3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of origin, or destroyed within a time set by the department, not to exceed 6 months. The person in possession of the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does not comply with this requirement, the department may confiscate and then house, transport, or destroy the unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the costs associated with the handling, housing, transporting, or destroying of the exotic wildlife.

87-5-708. Classification review committee -- composition, appointment, and duties. (1) The director shall appoint a classification review committee whose duty is to advise the commission regarding the importation, possession, and sale of exotic wildlife, including recommendations on animals to be placed on the noncontrolled, controlled, or prohibited exotic wildlife list.

(2) The classification review committee is composed of at least one representative from:

- (a) the department;
- (b) the department of public health and human services;
- (c) the department of livestock;
- (d) the department of agriculture;
- (e) a business that breeds or exhibits exotic wildlife; and
- (f) the general public who has an interest in fish or wildlife.

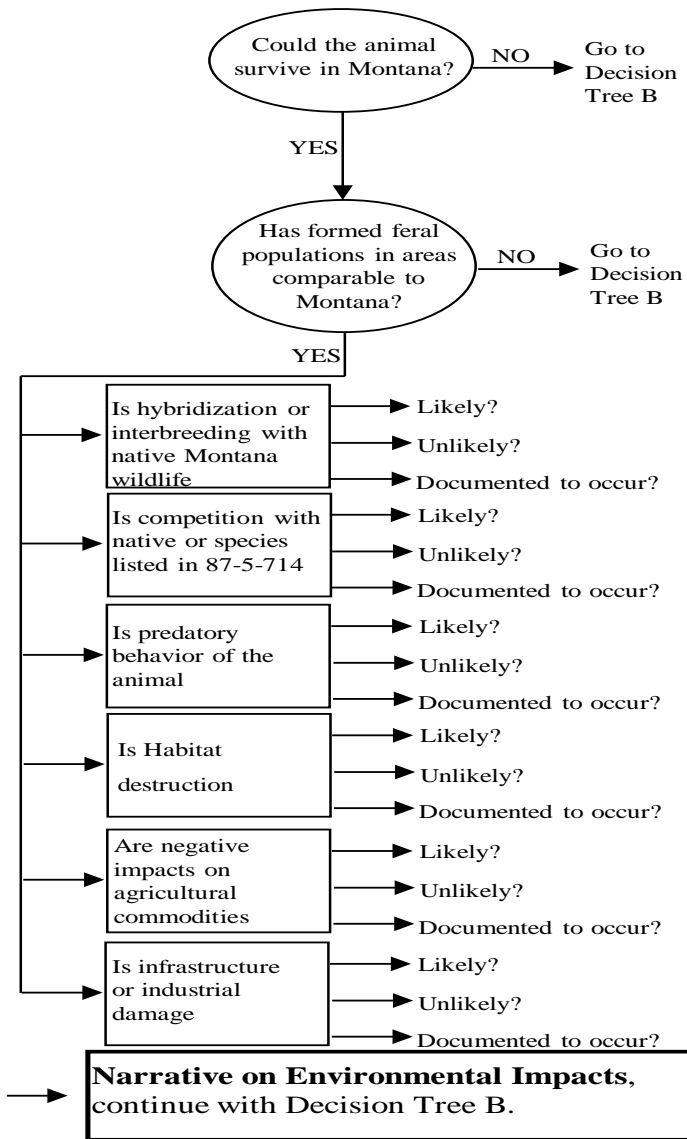
(3) Members of the classification review committee are not entitled to compensation or travel expenses as provided in [2-15-122](#).

History: En. Sec. 4, Ch. 536, L. 2003.

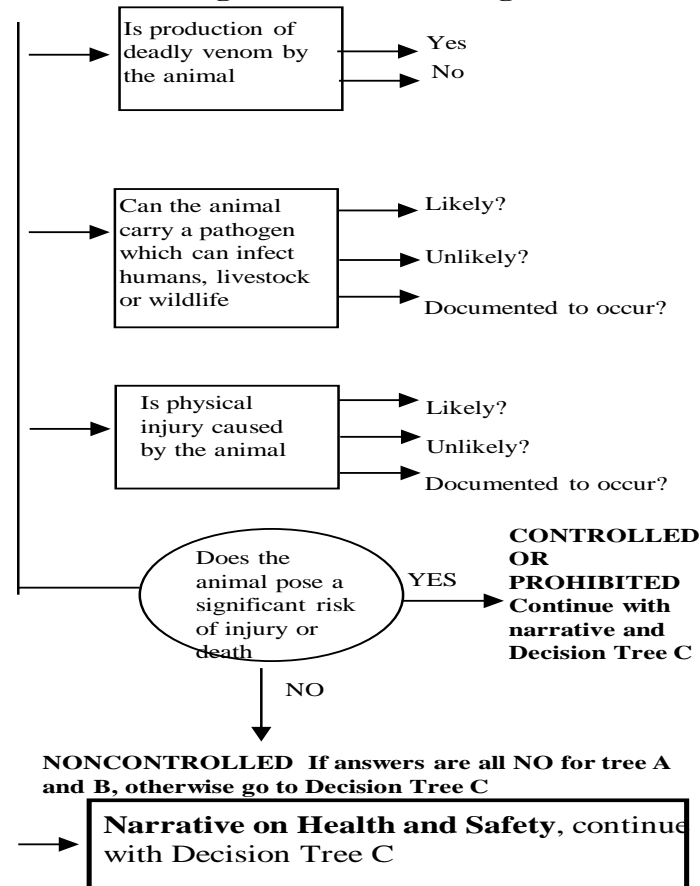
Classification Review Committee Process

1. Receives and reviews petitions for classification received from members of the public or other government agencies.
2. Assign petition to appropriate member(s) of the Classification Review Committee to research the proposed species and adds additional information of potential impacts the species would have.
3. Classification Review Committee meets and takes the proposed species through a structured decision making process to arrive at the appropriate level of classification and votes on that decision.
4. Classification Review Committee the recommendation for classification to the Fish and Wildlife Commission for tentative inclusion in the Administrative Rule listing for noncontrolled, controlled or prohibited exotic species.
5. Public comment is taken for 30 days regarding the tentative rule change.
6. Classification Review Committee reviews public comment and brings recommendations or changes to the tentative to the Fish and Wildlife Commission for the final rule change.
7. Rule change is then certified by the Secretary of State and species is listed as classified.

Decision Tree A: Environmental impacts caused by the animal if released or escapes from captivity, including ecological and economic impacts.



Decision Tree B: Does the exotic species pose a risk to health or safety of the public, wildlife or agriculture (including livestock).



Last revision 11/20/09

Decision Tree C: Can the animal be readily controlled

1. Does the animal require control measures to prevent negative impacts from occurring?
 YES: animal should be classified as CONTROLLED or PROHIBITED, continue to discern if control is possible/reasonable
 NO: classify species as UNCONTROLLED
2. Can the animal be easily controlled using control measures which are readily available?
 YES: define necessary control measures, go to 3.
 NO: consider classifying as PROHIBITED
3. Are specialized control measures (penning, caging) necessary to ensure the animal poses no threat?
 YES: define control measures, go to 4.
 NO: go to 4.
4. Are medical procedures necessary/available to ensure the animal poses no threat?
 YES: define procedures, go to 4a.
 NO: go to 5.
- 4a. Are the procedures permanent?
 YES: go to 5.
 NO: consider classifying as PROHIBITED
5. Is the regular monitoring of control measures necessary by enforcement officials?
 YES: permit required, go to 6.
 NO: no permit required, go to 6.
6. Is the expense incurred by the State to monitor necessary controls and respond reasonable?
 YES: go to 7.
 NO: consider classifying as PROHIBITED
7. Is specialized training necessary for the proper and safe handling of the animal?
 YES: define necessary training in permit, go to 8
 NO: go to 8.
8. Does the animal pose a threat to emergency or first responders?
 YES: define necessary mitigation in permit, go to 9
 NO: go to 9.
9. If released or escaped can the animal be easily distinguished and/or recaptured?
 YES: go to 10
 NO: consider classifying as PROHIBITED
10. If the animal escapes or is released is the cost of recovery which would be incurred by the State reasonable?
 YES: define control measures and classify as CONTROLLED
 NO: consider classifying as PROHIBITED

Narrative on Controls necessary, classify and define controls as necessary

Classification listings of exotic wildlife can be found at:

<http://fwp.mt.gov/fishAndWildlife/species/exotics/>

Questions?

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