

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
 A Statement of Need and Fiscal Impact accompanies this form

Department of Fish and Wildlife Agency and Division	635 Administrative Rules Chapter Number
Therese Kucera Rules Coordinator	(503) 947-6033 Telephone
Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303 Address	

**RULE CAPTION**

**AMEND RULES RELATING TO OREGON WOLF CONSERVATION AND MANAGEMENT PLAN**

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
7-12-13	8:00 a.m.	3406 Cherry Ave NE, Salem, OR 97303	Oregon Fish & Wildlife

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

OAR CHAPTER 635, DIVISION 110

**REPEAL:**

**RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**Statutory Authority:**

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

**Other Authority:**

**Statutes Implemented:**

Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026

**RULE SUMMARY**

Amend rules to change process and thresholds for use of lethal force to respond to chronic wolf depredation.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

07-12-2013 Close of Hearing Last Day (m/d/yyyy) and Time for public comment	Therese Kucera Rules Coordinator Name	Teri.Kucera@state.or.us Email Address
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<b>FILED</b> 5-15-13 5:12 PM ARCHIVES DIVISION SECRETARY OF STATE
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\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday. ARC 923-2003

# STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing accompanies this form.

Department of Fish and Wildlife

635

Agency and Division

Administrative Rules Chapter Number

## AMEND RULES RELATING TO OREGON WOLF CONSERVATION AND MANAGEMENT PLAN

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment of rules relating to Division 110, Oregon Wolf Conservation and Management Plan

### Statutory Authority:

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

### Other Authority:

### Statutes Implemented:

Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026

### Need for the Rule(s):

Result of mediation and settlement of lawsuit for the Department to have lethal take authority for wolves that have been confirmed in killing livestock.

### Documents Relied Upon, and where they are available:

Oregon Department of Fish and Wildlife, 3406 Cherry Avenue NE, Salem, OR 97303

### Fiscal and Economic Impact:

SEE ATTACHED FILE

#### Statement of Cost of Compliance:

##### 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

SEE ATTACHED FILE

##### 2. Cost of compliance effect on small business (ORS 183.336):

###### a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

SEE ATTACHED FILE

###### b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

SEE ATTACHED FILE

###### c. Equipment, supplies, labor and increased administration required for compliance:

SEE ATTACHED FILE

#### How were small businesses involved in the development of this rule?

SEE ATTACHED FILE

#### Administrative Rule Advisory Committee consulted?: No

##### If not, why?:

Court supervised mediation between ODFW, Oregon Cattleman's Association, Oregon Wild, Center for Biological Diversity and Cascadia Wildlands

07-12-2013 Close of Hearing

Therese Kucera

Teri.Kucera@state.or.us

Last Day (m/d/yyyy) and Time  
for public comment

Printed Name

Email Address

**FILED**

5-15-13 5:12 PM

ARCHIVES DIVISION  
SECRETARY OF STATE

**Fiscal and Economic Impact Statement for the July 12, 2013  
Hearing in the Matter of Rules Relating to Amendments to the  
Oregon Wolf Conservation and Management Plan**

Rule changes are being proposed to amend the Wolf Conservation and Management Plan and to more formally address issues surrounding the lethal take of wolves to address chronic depredation.

**Statement of Cost of Compliance**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. State agencies that could be affected by these rule amendments are the Oregon Department of Fish and Wildlife (ODFW) and Oregon Department of Agriculture (DOA). For DOA, it may receive an increased number of requests from counties with known wolf activity for compensation grants, which provide funds to conduct non-lethal deterrent measures or compensate for predated livestock. This would not be expected to result in significant change in workload or expenditures to DOA.

ODFW will be affected by the rule amendments. In many cases, the rules codify what is already current department practice, but with greater documentation requirements. Staff will need to develop a suite of templates to facilitate efficient documentation of depredation incidents, conflict deterrence plans, and other issues. Concurrent with the designation of an Area of Depredating Wolves, the rules require coordination with affected landowners, livestock producers and other relevant interests. Currently the department coordinates with the first two groups. Coordination with the other interests, e.g., environmental NGOs, will increase workload for staff. The documentation of depredation incidents, investigation reports, maps of areas of depredating wolves, and specific conflict deterrence plans need to be made publicly available on the agency website in a timely fashion (prior to using lethal force) and this will require additional coordination between field and headquarters staff. Tight timelines associated with reporting of depredation incidents will impact staff schedules and require staff to frequently reprioritize overall workload. Overall, staff will accommodate the additional work associated with these rules by reprioritizing workload. No significant increases in staffing or expenditures are expected.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are anticipated as a result of the adoption of these rules.

C. The public will be affected by the adoption of these rules. Livestock producers may experience increased costs related to the requirement that they implement at least two non-lethal deterrent measures (or three in some cases), including the removal of unnatural attractants (e.g., bone or carcass piles). Table 1 lists costs for common non-lethal measures, drawn from actual payouts for preventative measures in eastern Oregon counties in 2012. The additional costs borne by livestock producers will vary from producer to producer because each situation will be somewhat different. For example, different ranches will require different quantities of fencing or fladry to create the deterrent. Also, it is unknown to what extent livestock producers have

already implemented 1 or 2 or more measures and would not need to spend additional time and money to comply with the rules. Therefore, the specific costs for each producer cannot be determined and there is not sufficient data available to estimate an average cost per producer or aggregate costs across all producers.

Table 1. Preventative Non-lethal Measure Costs (Source: actual 2012 preventative payouts in eastern Oregon counties)

Range Rider and fuel costs (5+ months)	\$13,709
Communications (radios/antennas)	\$2,473
Fladry (per mile)	\$2,833
2 Radio-activated Guard (RAG) Boxes and Relay	\$3,500
Fencing supplies and electric chargers	\$2,535
Bone pile removal	\$265

In addition, the rules would change the number of qualifying incidents of depredation of livestock from two to four within the previous six months by the same wolf or wolves. Livestock producers may have increased costs for livestock killed or injured by wolves. Table 2 presents examples of compensation for dead or injured cattle paid out by Wallowa County in 2011 and 2012 for probable or confirmed wolf action. Livestock producers may also be compensated for losses of sheep, horses, or working dogs. It is not possible to determine the potential losses borne by individual livestock producers given the random nature of wolf depredations and the diverse operations across producers.

Table 2. Compensation for cattle killed or injured by wolves (Source: Wallowa County)

Date	Description	Comp. Value
9/7/11	Dead 4 yr. old cow	\$1,300.00
9/22/11	Dead calf	\$840.00
10/08/11	Dead calf	\$840.00
10/25/11	Injured-Euthanized 12 yr. old cow	\$1050.00
11/26/11	Dead 3 yr. old cow	\$1,300.00
11/26/11	Dead non-bred heifer	\$1,000.00
12/11/11	Dead 3 yr. old cow	\$1,300.00
12/14/11	Dead replacement heifer	\$1,300.00
01/07/12	Dead replacement heifer	\$1,300.00
01/13/12	12 yr. old Mule	\$1,500.00
03/08/12	1 dead cow, 2 injured cows	\$1,150 \$175 x 2

Businesses that sell goods and services to those livestock producers would be impacted by the rules in so much as producer spending could change due to the rules. Producers in aggregate could end up spending more money on non-lethal deterrent measures than they do currently, though they might maintain smaller herds due to wolf presence and spend less on feed, medication, and other supplies. Given the limited information, it cannot be determined what the overall effect of these rules will be on livestock producer spending and thus on businesses catering to those producers.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:**

Livestock producers, businesses selling goods and services to livestock producers, ecotourism companies, and accommodation businesses and restaurants catering to the ecotourists could be impacted by the rule.

The number of livestock producers affected is not known as there are no records of all active livestock producers to source. The scale of wolf-related ecotourism is not known, so it cannot be determined the number of related small businesses that would be impacted.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

Under these rules, livestock producers would be required to document and keep records of the non-lethal measures that they implement. This requirement should involve only marginal costs.

**c. Equipment, supplies, labor and increased administration required for compliance:**

Some livestock producers may have increased costs related to equipment. Examples of these costs are in Table 1. Costs per producer and aggregate costs cannot be determined.

**How were small businesses involved in the development of this rule?**

Oregon Cattlemen Association (OCA) was directly involved in the drafting of these rules. The OCA represents livestock producers in Oregon.

The rules are believed to be fully compatible with legislative direction on the goals of fish and wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.