

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

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

Address
2014^{rb} 8-14-13 **RULE CAPTION**
ESTABLISH 2013 SEASONS AND REGULATIONS FOR GAME MAMMALS; IMPLEMENT OREGON LANDOWNER DAMAGE PROGRAM

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

| Hearing Date | Time | Location | Hearings Officer |
|--------------|-----------|---|------------------------|
| 10-4-13 | 8:00 a.m. | Hallmark Resort, 744 SW Elizabeth St, Newport, OR 97365 | Oregon Fish & Wildlife |

RULEMAKING ACTION

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

ADOPT:

AMEND:

OAR Chapter 635, Divisions: 008, 010, 043, 045, 060, 065, 066, 067, 068, 069, 070, 071, 072, 073, 075, 078, 080

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:

ORS 496.012, 496.138, 496.146, 496.162 & HB 2027 (2013)

Other Authority:

Statutes Implemented:

ORS 496.012, 496.138, 496.146, 496.162 & HB 2027 (2013)

RULE SUMMARY

Establish 2014 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including, but not limited to, general hunting, and controlled hunt regulation. Adopt rules to implement HB 2027 (2013) which creates the Oregon Landowner Damage Program.

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.

10-04-2013 Close of Business Therese Kucera Teri.Kucera@state.or.us
 Last Day (m/d/yyyy) and Time Rules Coordinator Name Email Address
 for public comment

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| FILED 8-13-13 3:41 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 5:30pm on the preceding workday. ARC 923-2003

Secretary of State
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

2014 168-14-13

ESTABLISH 2013 SEASONS AND REGULATIONS FOR GAME MAMMALS; IMPLEMENT OREGON LANDOWNER DAMAGE PROGRAM

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 the Department of Fish and Wildlife 2014 hunting season dates and regulations

Statutory Authority:

ORS 496.012, 496.138, 496.146, 496.162 & HB 2027 (2013)

Other Authority:

Statutes Implemented:

ORS 496.012, 496.138, 496.146, 496.162 & HB 2027 (2013)

Need for the Rule(s):

These rules are necessary to establish 2014 hunting seasons and regulations for game mammals in a manner that will maintain their optimum levels and prevent their serious depletion and will provide optimum recreational and aesthetic benefits for present and future generations of citizens of this state, in accordance with ORS 496.012.

Documents Relied Upon, and where they are available:

Census data, 2012 hunting season results, species plans, staff analysis, written and oral presentations presented by experts and public.
Oregon Department of Fish and Wildlife
3406 Cherry Ave NE
Salem, OR 97303
On August 19, 2013 new address will be:
4034 Fairview Industrial Drive SE
Salem, OR 97302

Fiscal and Economic Impact:

See attached

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

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

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

See attached

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

See attached

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

In May of 2013, 26 public meetings were held throughout the state to review staff proposals concerning the 2013 controlled hunts and 2014 hunting seasons. Testimony and comments from interested individuals were collected at these meetings.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

If not, why?: The Draft administrative rules were developed without a committee of interested or affected persons. These rules are amended annually to administer an existing program; interested and affected persons are generally aware of this rulemaking schedule. Correspondence from interested and affected persons and testimony received at town hall meetings as well as the hearing are accepted into the record and considered as part of the rulemaking process.

Copies of the draft administrative rules may be obtained from the Department of Fish and Wildlife, 30406 Cherry Ave NE, Salem, OR 97303.

| | | |
|--|-----------------------|--------------------------------|
| <u>10-04-2013 Close of Business</u> | <u>Therese Kucera</u> | <u>Teri.Kucera@state.or.us</u> |
| Last Day (m/d/yyyy) and Time for public comment | Printed Name | Email Address |

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| FILED 8-13-13 3:41 PM ARCHIVES DIVISION SECRETARY OF STATE |
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Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2007

**Fiscal and Economic Impact Statement for the October 4, 2013 Hearing
in the Matter of Amendment of Rules Relating to the Year 2014 Bighorn Sheep, Black
Bear, Deer, Elk, Cougar, Pronghorn Antelope, Rocky Mountain Goat and Western
Gray Squirrel Hunting Seasons and Associated Regulations**

Fiscal and economic impact: Rule changes are being proposed to set the hunting regulations for 2014 for game mammals.

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 rules are the Oregon Department of Fish and Wildlife (wildlife management costs) and the Oregon State Police (enforcement costs). No major changes from the current levels of these agencies' operations or expenditures are expected as a result of adoption of these particular rules. There may be some additional revenue associated with the implementation of the Oregon Landowner Damage Program statewide, as discussed in the following paragraphs.

Passage of House Bill 2027 in the 2013 Legislative session extends sunset on landowner preference tags program (LOP) to January 2, 2020. The bill authorizes transfer of landowner preference tags for hunting deer or elk to person of landowner's choosing according to specified formula and amends definition of "immediate family" to include brothers-in-law and sisters-in-law for purposes of certain wildlife statutes. No fiscal/economic impacts are expected related to these provisions.

HB 2027 also directs ODFW to implement an Oregon Landowner Damage Program (Landowner Damage Program) statewide to address damage caused by elk on privately owned lands in Oregon. The use of Landowner Damage Program tags is limited to antlerless elk. This program sunsets on January 2, 2020. The sunset date of the Southwest Oregon Landowner Preference Pilot Program has been changed to December 31, 2013. There will be some initial increased effort by existing staff (outside of the Department's Southwest Region) for implementation because the 2:1 split/tag exchange will be replaced by the Damage Program approach. After the transition to the Landowner Damage Program approximately the same amount of work dealing with elk damage is expected to be done, just using a somewhat different process. Existing staff will absorb the work by reprioritizing workload and no changes in expenditures are expected to result from the statewide application of the new program.

The Landowner Damage Program removes the acreage minimum for landowners to participate in it, whereas those landowners could not participate under the 2:1 split/tag exchange approach. There may be some additional participants in the LOP program due to this. It costs \$30 for a landowner to enroll. Data from the SW Pilot Landowner Damage Program from 2004-2012 indicate that there were about 24 new landowners per biennium, on average, due to the damage program. Southwest has 12% of LOP landowners in the state. If we assume the proportion of landowners who couldn't participate previously is the same in the remainder of the state it would mean an estimate of 200 new landowners per biennium. At \$30 per new participant, that comes to an estimated \$6,012 per biennium in fee revenues. Based on the Southwest Pilot program, it is estimated that each new landowner would request about 3 to 5 elk tags. Using four elk tags as the average and \$42.50 for value for a resident elk tag, we estimate additional revenues of

\$34,000 from elk tag sales ($4 \times 200 \times \$42.50$). The actual number will depend greatly on weather, elk populations, and other variables in different parts of the state.

The statewide change in approach for issuing elk damage tags to private landowners could result in net change to overall elk tags sold. Southwest has about 12% of all landowners enrolled in the Landowner Preference program. In 2011-12, the Southwest Pilot program issued 163 additional elk tags for damage whereas there were 690 issued in the rest of the state related to the 2:1 split/tag exchange. If tags were issued at the same rate to other 88% of LOP landowners in the state as for the Southwest in 2011-12 (this is a strong assumption given the wide variation in elk herds, property types and use, and climate throughout the state), then there would be 671 net gain in tags issued (1361 minus 690). This would mean additional tag revenue of \$28,515 ($671 \times \42.50) per year, or \$57,031 per biennium. Also, the use of unused General elk tags in the statewide damage program (previously not permitted under the 2:1 split approach) would likely dampen the amount of new tags issued, meaning that the 671 number may be an overestimate, though the effect cannot be determined with the limited data available.

b. No units of local government are expected to be significantly affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the establishment of these hunting seasons and regulations.

c. The public is affected by the rules relating to the hunting seasons. Some landowners, who could not enroll in LOP previously due to minimum acreage criteria, may benefit from being able to participate in the Landowner Damage Program. The main benefits would be related to the potential reduction of damages due to elk on private land. The average level of benefits gained by landowners and the overall magnitude of benefits statewide cannot be estimated given the wide variation in economic losses associated with elk damage across private lands and given that the extent of additional participation in LOP is unknown.

Various sectors of the public economy (hunters, suppliers of hunters, and the general economy) will experience different impacts. The economic impact of changes in hunting rules depends primarily on the changes in hunting opportunities associated with the rule changes and related effects on direct expenditures by hunters. These effects are best measured by estimating the magnitude of changes in the number of hunter days and estimating the resulting changes in expenditures made by hunters, and the associated effects on personal income.

In general, no significant changes in hunter activity levels are anticipated in 2014 compared to 2013, assuming adverse weather and environmental conditions are not experienced between now and the time that tag levels are finally set. Some controlled hunts have been removed (or tag numbers reduced), while others controlled hunts have been added (or tag numbers increased) to manage animal populations and/or damage caused by wildlife.

The total (direct, indirect and induced) effects on personal income in the areas surrounding the associated hunting areas and statewide are the result of the direct expenditures on goods and services made by sport participants during their hunting trips. Through the "multiplier process", there is a resulting increase in economic activity and personal income in the general economy of the area and the entire state.

Survey data from 1989 - 1991 from Starkey Experimental Forest hunts in Eastern Oregon indicate average overall trip expenditure by elk and deer hunters of about \$285, with nearly \$150 of the total made in Eastern Oregon. This is equivalent to an average expenditure of \$52.36 per hunter day, of which an average of \$27.52 per hunter day was made in Eastern Oregon. In inflation adjusted 2011 dollars, the average expenditure per hunter day would amount to about \$86 per hunter day, of which an average of \$45 would be spent in Eastern Oregon.

The relationship between direct, indirect and induced personal income from the direct trip expenditures per hunter day can be estimated based on response coefficients developed from an

economic input-output model. Using the 1989 - 1991 Starkey Experimental Forest data and information on the relationship between expenditures and the personal income associated with the spending, the state-level personal income impact per hunter day for Eastern Oregon deer and elk was about \$39; the personal income impact in Eastern Oregon was about \$13 per hunter activity day. Adjusting for inflation since 1991, the personal income impacts in 2011 dollars would be about \$64 per hunter day at the state level, and about \$21 per hunter day in Eastern Oregon.

A more recent survey conducted for ODFW and Travel Oregon by Dean Runyan Associates found that hunting-related direct expenditures were \$517.94 Million in 2008 for all of Oregon. This includes trip costs, such as food, lodging/camping, gasoline, guide fees, and equipment expenditures. The latter category represents the majority (about 62%) of those expenditures.

According to data from the 2006 National Survey of Fishing, Hunting and Wildlife-Associated Recreation (2008), total hunter expenditures in Oregon were about \$373.6 million in 2006. The impact on state level personal income was slightly over \$259 million, and the effect on gross output was \$827.4 million in 2006.

An economic survey of 1991 Oregon bighorn sheep hunters was conducted after the 1991 season. Analysis of questionnaires returned by 48 of 60 Oregon bighorn sheep hunters indicated a substantially higher level of expenditure for these highly rationed hunts. The estimated average variable expenditure per bighorn sheep hunting trip was \$1,164 per hunter for various trip related needs, excluding purchases of durable equipment and license and tag fees. Durable equipment expenditures averaged \$511 per hunter. Of the \$1,164 of average trip expenditures, an estimated 58 percent, or nearly \$679 per hunter was made in Eastern Oregon. Average variable trip expenditures on a per day basis for hunting were \$304. Measured in terms of the personal income (direct, indirect and induced) associated with the expenditures, the \$1,164 of trip expenditures produced an estimated \$1,041 in personal income at the state level. The personal income impact of the \$679 per trip expenditure in Eastern Oregon was about \$469. Adjusted to 2011 dollars, these personal income impact estimates would amount to about \$1,667 per hunter at the state level and \$751 per hunter in Eastern Oregon.

The estimates above will be reasonably good measures of the impact on total personal income per hunter day to the extent that the dollars spent for the hunting trips would not have been spent on other activities or commodities in Oregon had there been no hunting seasons. The economic impacts of hunters' expenditures on durable equipment associated with hunting are not included in the estimates above. These equipment expenditures are not necessarily related to hunter use in a simple linear fashion, and hence, may not be significantly affected by marginal changes in seasons. However, there is probably a positive relationship between hunting opportunities and equipment expenditures, particularly in the long run.

The effect of changes in numbers of hunters and hunter activity on personal income in the regions and at the state level can be estimated using the personal income impact per day estimates. However, the aggregate impact depends on the magnitude of the changes in the number of hunters and hunter days. As indicated above, no major changes in the game mammal regulations are expected for 2014 compared to 2013. However, depending on the weather this winter and other environmental factors affecting survival, there may be changes in the numbers of controlled hunt tags available in 2014, especially deer hunts. Obviously, the magnitude of these changes can't be predicted, but should a hard winter occur, the effects on tag availability would probably be greater than the effects of any changes in these proposed regulations.

The current restrictions in some of the hunting seasons for game mammals can be viewed as restricting opportunities and reducing positive economic impacts in the short run. However, conservation through adjustment of these and other game mammal hunting seasons is intended to perpetuate the resources at optimum levels over the long run. Failure to restrict harvests of game animals to allow escapement for reproduction would result in reduced hunting opportunities in the future. The proposed regulations strike a balance that will sustain game mammal population levels and maintain future benefits.

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:

The types of business subject to the rule are primarily those that supply goods or services to hunters. These may include taxidermy services, hunting guides, private hunting preserve operators, food and beverage stores, gasoline stations, sporting goods stores, general merchandise stores, accommodation businesses, food services and drinking places. Big game hunting occurs in myriad locations throughout the state and thus the number of small businesses subject to the rule cannot be estimated.

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

None expected.

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

None expected.

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.

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

References

Dean Runyan Associates, Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008. Prepared for the Oregon Department of Fish and Wildlife, May 2009.

Oregon Department of Fish and Wildlife. Unpublished Analysis of Hunter Expenditure Data Collected from Hunters on the Starkey Experimental Forest, 1989 - 1991.

Oregon Department of Fish and Wildlife. Unpublished Analysis of Hunter Expenditure Data Collected from 1991 Oregon Bighorn Sheep Hunters.

U.S. Fish and Wildlife Service. 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation - Oregon. 1998.

U.S. Fish and Wildlife Service and U.S. Census Bureau. 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation - Oregon. 2008.