

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, 4034 Fairview Industrial Dr. SE, Salem, OR 97302	
Address	

RULE CAPTIONAllow permitless take of wolves caught in the act of depredating livestock or working dogs

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

Hearing Date	Time	Location	Hearings Officer
1-10-14	8:00 a.m.	Oregon Department of Fish and Wildlife, 4034 Fairview Industrial Dr SE,	Oregon Fish and Wildlife

RULEMAKING ACTION

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

ADOPT:**AMEND:**

635-110-0000, 0010, 0020 and 0030

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 & 498.012

Other Authority:**Statutes Implemented:**

ORS 496.171-496.192, 498.002, 498.006 & 498.012

RULE SUMMARY

These rules implement 2013 Oregon Laws Ch. 626 (HB 3452), which amended ORS 498.012 and authorized in certain circumstances take of a wolf or wolves caught in the act of biting, wounding, killing or chasing livestock or working dogs without a permit.

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.

01-10-2014 8:00 a.m.	Therese Kucera	Teri.Kucera@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

FILED
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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.

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

Allow permitless take of wolves caught in the act of depreddating livestock or working dogs

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 OAR Chapter 635, Division 110, Oregon Wolf Conservation and Management Plan

Statutory Authority:

ORS 496.012, 496.138, 496.146, 496.162 & 498.012

Other Authority:

Statutes Implemented:

ORS 496.171-496.192, 498.002, 498.006 & 498.012

Need for the Rule(s):

The 2013 Legislative Assembly adopted HB 3452, which amended ORS 498.012 and authorized in certain circumstances take of a wolf or wolves caught in the act of biting, wounding, killing or chasing livestock or working dogs without a permit. Previously, take of wolves caught in the act of attacking livestock required a permit. These rule amendments are needed to implement HB 3452 (2013).

Documents Relied Upon, and where they are available:

N/A

Fiscal and Economic Impact:

Rule changes are being proposed to amend the Wolf Conservation and Management Plan with regard to the lethal take of wolves. The 2013 Legislative Assembly adopted HB 3452, which amended ORS 498.012 and authorized in certain circumstances take of a wolf or wolves caught in the act of biting, wounding, killing or chasing livestock or working dogs without a permit. Previously, the take of wolves caught in the act of attacking livestock required a permit. These rule amendments are needed to implement HB 3452 (2013).

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, the rule amendments would not be expected to result in any significant change in workload or expenditures.

ODFW will be affected by the rule amendments. Permits for wolf take will no longer be issued. Thirty-two and twenty-seven permits were issued in 2011 and 2012, respectively. Staff time previously used to write, file, track, compile the permits, as well as to complete public records requests related to the permits, can be reallocated to other work. This may save approximate one week of staff time per year. It is possible that there could be an increase in the number of wolf takes that would need to be investigated by ODFW; however, given the required criteria in the rules and the fact that many landowners have had permits without taking a wolf, neither an increase in wolf takes nor in staff workload related to their investigation would be expected. Overall, no significant changes from the current levels of ODFW's operations or expenditures are anticipated as a result of the adoption of these rules.

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. Private landowners, or their designated agents, may lethally take a wolf on their land, under certain circumstances without a permit. This is unlikely to result in increased take of wolves or in less overall depreddation of livestock since landowners had the option to obtain a permit to take a wolf under the previous rules.

As discussed in the Fiscal and Economic Impact Statement concerning other rules changes related to HB 3452 (July 12, 2013 Commission meeting), 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

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:

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 the number of related small business that would be impacted cannot be determined.

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.

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

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

Administrative Rule Advisory Committee consulted?: No

If not, why?:

This rule implements HB 3452 which limits the agency's discretion over the rule contents. Where the agency does have discretion, the public policy issues have been thoroughly vetted by interested parties in previous rulemaking actions involving wolves and particularly by the parties to the Cascadia Wildlands v. ODFW lawsuit and the recent settlement of that lawsuit.

<u>01-10-2014 8:00 a.m.</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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