

Agenda Item Summary

BACKGROUND

Wildlife damage control statutes were first designed to deal with agricultural and livestock damage in rural areas. The statutory authority granted to Oregon Department of Fish and Wildlife (Department) and to landowners was designed to protect agricultural and forest landowner while also protecting wildlife populations. Urban expansion has led to dramatic increases in wildlife/ human conflicts in recent years.

Senate Bill 832 was passed by the 2003 Legislative Assembly to create the Task Force on Wildlife Control Activities. Its purpose was to develop a system of licensing and regulation for businesses conducting nuisance, damage or public health risk wildlife control operations.

In 2004, a seven member Task Force on Wildlife Control Activities was appointed by the Department Director. The task force was composed of three County Commissioners, two Wildlife Control Operators, a representative from the Humane Society of the United States and representative from Audubon Society of Portland. The task force adopted 16 recommendations which were presented to an Interim Legislative Committee related to natural resources on September 30, 2004 and to the Oregon Fish and Wildlife Commission on January 7, 2005.

In April 2006, an 11 member Wildlife Control Operators Advisory Group was formed to address the recommendations from the task force and to develop rules and guidelines for the wildlife control industry. The Advisory group consisted of one County Commissioner, four representatives from the Wildlife Control Operators industry, a representative from the Humane Society of the United States, a representative from Audubon Society of Portland, a representative from the Oregon Chapter of the Wildlife Society and Portland Metro, a representative from local law enforcement and two staff biologists. The rules and guidelines developed by the Advisory Group were based on the Task Force recommendations with input from Department staff and Veterinarian, Oregon State Police and Oregon Department of Justice. In October 2006, Division 435 rules were adopted by the Commission

In 2014, a Wildlife Control Operators Advisory Group was formed to review and revise current Division 435 rules in regards to training and authorization requirements, wildlife handling, Wildlife Control Operator (WCO) permit fees, and to review and update the training manual and test. The Advisory group consisted of three Wildlife Control Operators, a representative from the forest product industry, three district staff members, three headquarters staff members and the Department's State Veterinarian. The Audubon Society of Portland and Oregon Humane Society were invited to participate but while declining the invitation agreed to review the proposed rule changes.

PUBLIC INVOLVEMENT

The Wildlife Control Operators Advisory Group met two times along with several electronic review requests. A final draft of the proposed revisions were sent to three representatives from that group before general distribution to all licensed WCO's. Suggested edits and comments were incorporated. The Notice of Proposed Rulemaking Hearing was posted October 15, 2015 with no formal comments received to date. Members of the public will be provided the opportunity to view the proposed changes on the ODFW website and via a press release issued prior to the Commission meeting to inform the public on pending modifications to these rules. The public will also have the opportunity to review the packet as part of the Commission meeting where revisions to the rules could be adopted.

ISSUE 1

ADOPTION OF REVISED OAR, DIVISION 435 PERTAINING TO WILDLIFE CONTROL OPERATORS

ANALYSIS

In 635-435-0000, Purpose

Clarification for where WCO activities would occur and the intent of these rules.

In 635-435-0005, Definitions

In this section the definitions for "Nongame wildlife nonprotected", "Nuisance", and "Possession" were removed. The definitions for "Agent", "Damage", "Department", "Furbearers", "Notification", "Possess", "Public Nuisance" and "Unprotected Mammals" were added.

In 635-435-0010, Permit Required to Capture, Hold, Transport or Relocate Wildlife

The title was changed to **Permit Required to Capture, Possess, or Transport Wildlife**. The advisory group believes that the relocation of wildlife should be removed from the title and rule because relocation is not a viable option due to the high risk of disease transmission to healthy wildlife populations, it places animals with strong homing instinct at risk when they try to return to their home area or at risk when they attempt to establish a new territory but continue their nuisance behavior in that area.

In 635-435-0015, Passing a Test Required to Obtain a Wildlife Control Operator Permit

The title was changed to **Requirements for Wildlife Control Operator Permit** to more accurately reflect this section of the rules.

The major changes are:

(1) All individuals conducting wildlife control activities are now required to take and pass the WCO test with a $\geq 80\%$ score to show competence and knowledge. Previously, only the WCO who held the WCO permit had to take and pass the test and their employee(s) were required to sign a statement that they had read the WCO manual. Individuals under 18

years of age are not required to take test or obtain a WCO permit but must be directly associated with a business that has at least one employee that has passed the WCO test and is mentoring the young individual.

(2) A fee of \$25 is charged each time a person takes the WCO test. Previously there was no charge for taking the test and you could take it as many times as needed to pass. The \$25 fee would help offset the cost of administrating the program and to offer some incentive to study the information before attempting to take the WCO test.

(3) Information that must be provided by the business to the Department.

(4) Extends validation of the permit to two years, from the current one year.

(5) Adds an application and renewal fee of \$60 for an individual or business.

(6) Requires renewal of permit by one of two options, completing continuing education coursework or retaking the WCO test.

(7) Clarifies the application requirement for permit renewal.

635-435-0020, Wildlife Control Operator Permit Required to be in Possession

In this section staff added “copy” of the permit as an option for having a WCO permit in possession when conducting WCO activities.

635-435-0025, Ownership and Holding of Wildlife Held Under Wildlife Control Operator Permit

In this section staff combined former 635-435-0025, 0030 and 0035 into one section and changed the title to “**Disposition of Wildlife**” to reflect the content of this section.

Major changes to this section:

(1) Trap check time requirement based on what type of trap the WCO is using. Cage and restraining traps which are intended to capture animals alive would now require a WCO to check the trap within 48 hours, compared to the previous 72 hours requirements. Notification from the client would meet the requirements of the trap check time. Part of the responsibility of a professional WCO is to determine in a timely manner whether they have captured a non-target species or the targeted species, to reduce capture stress on the animal, and that the animal is treated humanely.

The Department acknowledges that there are circumstances that are beyond the control of the WCO which may prevent a WCO from meeting the trap check requirements prescribed in this proposed rule. The proposed rules would allow the local Department District Biologist to extend the trap check requirements beyond 48 hours on a case by case basis.

(2) There is no relocation of animals permitted except for the species listed in 635-435-0010 or if the WCO has prior approval from the Department on a case by case basis. This is due to the high risk of disease transmission to healthy wildlife populations and putting animals with strong homing instinct at risk when they try to return their home area or when they attempt to establish a new territory and continue their nuisance behavior.

635-435-0055 - Record Keeping and Reporting Requirements

Staff is proposing that all WCO's have a written contract with their clients. Besides being a good business practice it also verifies that the animal(s) are meeting the conditions as defined in ORS 498.012(1).

OPTIONS

1. Approve staff proposals
2. Amend Staff proposals
3. Reject staff proposals

**STAFF
RECOMMENDATION**

Option 1

DRAFT MOTION	I move to adopt staff recommendations to amend Division 435 rules as shown in Attachment 3.
EFFECTIVE DATE	Upon filing.