

Exhibit H

**Supplemental
Public Correspondence received as of
March 17, 2016**

Roxann B Borisch

From: Curt Melcher
Sent: Thursday, March 03, 2016 11:23 AM
To: Roxann B Borisch
Subject: Fwd: Concerning pet skunks and ORS 635-044-0020 rules

Importance: High

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: SEN Thatcher <Sen.KimThatcher@state.or.us>
Date: 3/3/2016 11:15 AM (GMT-08:00)
To: MELCHER Curt <Curt.Melcher@state.or.us>
Subject: Concerning pet skunks and ORS 635-044-0020 rules

Curt,

We had a lady stop by our office concerned about new rules you will be considering for pet skunks. She was representing other owners, as well.

She has a pet skunk and it has been one of the best pets she has ever had, including dogs and cats. She has a very close relationship with her pet skunk and the skunk with her. They are not like the other animals being considered in the new rules you are going to discuss. Her skunk, Mirabella, follows her around the house, she's potty-trained, she has a personality that shows her deep devotion to her owner. She is a wonderful companion and friend. Her owner is the only mother she has known and to be required to put Mirabella in a cage is unthinkable.

Some of the other animals listed for the "new" rules are understandable. But certainly not pet skunks. There are other people who have pet skunks who feel the same. They are known to be great pets to have.

Senator Thatcher is standing on the side of the pet skunk owners and feels there is no reason to infringe on the rights of skunk owners to comply with what she believes to be unreasonable rules being considered by ODFW. Please reconsider the inclusion of pet skunks when you are discussing the new rules. They should not be included with the other wild animals on the list for new rules.

Linda Heimdahl

Chief of Staff
State Senator Kim Thatcher

900 Court Street NE
Salem, OR 97301
503.986.1713
www.leg.state.or.us/thatcher
sen.kimthatcher@state.or.us

Roxann B Borisch

Subject: FW: Herping

From: jamcdonald0 [<mailto:jamcdonald0@yahoo.com>]

Sent: Wednesday, March 02, 2016 10:06 AM

To: curt.melcher@state.or.us

Subject: Herping

Are you nuts! Anyone with enough knowledge to know where to look and how to "catch" any of this wildlife should possess the intelligence and concern to teach their children about nature and how precious life is. What are you going to find to create a law for next? How many bites of a carrot they can eat? The laws are coming very close to having the state raise our children. There are already laws of protection on the books. This one is not necessary.

Juanita McDonald

Sent via the Samsung GALAXY S@4, an AT&T 4G LTE smartphone

Roxann B Borisch

Subject: FW: Herping laws

----- Original message -----

From: Justin Brill <brilljrb@gmail.com>

Date: 3/1/2016 8:37 PM (GMT-08:00)

To: curt.melcher@state.or.us

Subject: Herping laws

<http://www.herpnation.com/2016/02/29/the-end-of-herping-in-oregon/>

I am a construction worker, a fisherman, a tax payer and a voter in Oregon and I agree completely with this article. What proof do you have people are collecting native species to the extent that they need to be protected? Any large scale raids where these species were recovered? When my children are old enough we will be out discovering the wonders of Oregon and the creatures that inhabit the lands. Putting restrictions on what I can teach and show my children about Oregon wildlife is absurd. My children will be taught respect for the environment.

Sincerely,
Justin Brill

Roxann B Borisch

Subject: FW: Herping in Oregon

-----Original Message-----

From: Sean Selliken [mailto:s_selliken@icloud.com]

Sent: Tuesday, March 01, 2016 10:12 AM

To: curt.melcher@state.or.us

Subject: Herping in Oregon

Mr. Melcher,

I am concerned about the new proposal that ODFW has made about wild reptiles.

I was born here in Milwaukie. I am raising my daughter her as well. A large part of my youth was spent looking for wild herps. I look forward to doing the same with my daughter as she get older. With this law in place, that dream of sharing my love and passion of reptiles with not be a reality. People like myself that are writing you and others about this law, are not the problem. I have never captured a reptile and brought it into my collection. I enjoy seeing them in nature. It taught me to take care of what we have in the Pacific Northwest. My grandfather who took me out Herping, taught me how important all the creatures are. If this law passed how are future generations going to learn about our beautiful wilderness if they get a \$264.00 fine for touching a reptile?

On a completely different side of the story. What documentation has been provided that shows without a doubt, this is a problem? What studies have been done? How many confirmed reptile owned have had wild local animals in there collection?

Bottom line, this law is wrong. It was written by someone who sits behind and desk and has no touch with our local reptile community. I beg you to be the first to stand up for the reptile community. Be a leader, not a follower. Stand out from the rest and demand "exotics" get the same treatment as a dog, cat, bird or small animal. Scaled animals are not harmful if the correct laws are in place. This is not the correct law for Oregon.

Thank you for your time and listening to my concern. Best wishes in 2016.

Sean J Selliken

Sent from my iPhone

Roxann B Borisch

From: Deb's Travel Mac <theparrotlady@earthlink.net>
Sent: Thursday, March 03, 2016 11:30 PM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us; ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: Please reconsider proposed changes to Title 44, remove the term Federal Endangered Species.

Dear Oregon Department of Fish and Wildlife,

It has come to my attention that a new regulation is being added to division 44 to be renamed "Protected Wildlife, Holding and Propagating Rules". The changes in the regulations being proposed include terminology making it illegal to possess parrots that people have in sanctuaries, in homes, in businesses that have had them now for 50 years or more legally.

DIVISION 44

NEW DIVISION TITLE:

PROTECTED WILDLIFE, HOLDING, AND PROPAGATING RULES

635-044-0005 [0130]

Protected Wildlife [Nongame Wildlife Protected]

(1) Except as provided by ORS and OAR 635-044-0010, 635-044-0020, 635-044-0030, 635-062, 635-050, 635-056, 635-200-0040; it is unlawful for any person to [hunt, trap, pursue, kill] take, [catch, angle for] capture, hold, or have in possession, either dead or alive, whole or in part, any wildlife listed in this section:

(a) Threatened or Endangered animals as provided for in 635-100-0125 and species listed by ORBIC as "rare, threatened or endangered" or federal threatened and endangered listed species; or...

Many parrot species are listed on the Endangered Species Act (ESA). They should not be listed on the ESA due to other regulations already establishing the prevention of exotic birds coming into the United States. It is called the Wild Bird Conservation Act of 1992.

If propagation and education about the species of birds is halted, the entire process of keeping poachers out of business will put more poachers into business as demand will remain high for the animal. As we all know with illegal trafficking, people will get that animal no matter what means necessary. Illegality only makes it worse for the animal vs. legality which opens pathways of communication from our jurisdiction to the jurisdiction of the country of the animal's origin.

Further need of protection that you are proposing including ESA vernacular is unfortunate because the ESA already has too limited a budget for enforcement. The ESA should stop working on exotic species in its entirety and instead focus on species we do have jurisdiction on—those endemic to the United States. Having the ESA be the means by which to regulate or enforce exotic species change and conservation is not productive and does not produce tangible results in actual wildlife protection due to lack of jurisdiction.

Further restrictions on possession or breeding of these exotic birds within the State of Oregon, or any other state within the US proposing a similar restriction, will be the genetic doom for the animal as most of the current pressure and losses of species is due to habitat destruction. We supply a large demand by breeding in captivity. We eliminate the breeding, we increase pressure for poaching. Oregon will lead the way of this happening because they proposed a rule making it illegal to possess parrots that are on the ESA much less breed them. Actual scientific results have shown of over 40% reduced poaching in S. America alone (see Charles A Munn). Mostly this came into being to reduce the demand for the wild birds by replacing them with domestically bred ones.

The removal of having parrots also removes key educational components to help people become better stewards and help people realise that if we save parrots, we actually save ourselves. After all, parrots have only been found in key areas where people need in order to survive. We had two endemic species of parrots in the United States. We elected not to breed them as pets and now they are extinct—the Carolina Conure and the Thick Billed Parrot.

It is critical we work as a team to protect endangered species versus allowing animal rights groups claim that the ESA actually helps exotic animals, especially parrots. I have yet to see the direct evidence of that.

Please remove the terminology of “Federal Threatened and Endangered Species” or at least allow all of us who have high stakes in the matter of Endangered Species be able to discuss all aspects about your proposed ruling before it passes without proper education and insight.

I have a stake in the matter as I own species listed on the ESA and perform with them in your state. Taking away an animal from someone they’ve had for decades as their family mentor and more by your legislation will have devastating affects on the owners mental state as well. You can ask Christopher Driggins, based in your state, who works with Parrots for Veterans and how they help people cope with PTSD. Parrots live far longer than a dog for those people and can help them longer term. If he possess an Umbrella Cockatoo, which is on the ESA, the veteran will no longer be able to have that animal as a lifelong therapy animal.

You take away far more than what you give in helping animals, if that is your goal. Please consider removing anything that states any form of the Federal Endangered Species Act in your vernacular.

Sincerely,
Debbie Goodrich
Certified Parrot Behavior Consultant, IAABC
BA Psychobiology
President, Flight Club Foundation
www.flight-club-foundation.org
Creator/Director Seattle Parrot Expo
www.seattleparrotexpo.com
Owner, Parrot Ambassadors
www.parrotambassadors.com

Roxann B Borisch

From: Patty Benson <patmohogan@gmail.com>
Sent: Thursday, March 03, 2016 10:08 AM
To: odfw.commission@state.or.us; odfw.comments@state.or.us

SUBJECT: Objection to proposed Division 44 rule changes

Dear Oregon Department of Fish and Wildlife,

As an Oregon citizen experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered "taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely,

Patricia M. Benson

PO Box 353

Newport, OR 97365

Lincoln County Resident

Roxann B Borisch

From: Sue Marshall <sdmarshall@earthlink.net>
Sent: Thursday, March 03, 2016 11:52 AM
To: odfw.commission@state.or.us
Subject: Division 44 rule changes

SUBJECT: Objection to proposed Division 44 rule changes

Dear Oregon Department of Fish and Wildlife,

As a person experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

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I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely

Sue Marshall

PO Box 2640
Poulsbo WA 98370

ODFW WildlifeInfo

From: Katy Eymann <katycoach@mac.com>
Sent: Thursday, March 03, 2016 10:19 AM
To: odfw.wildlifeinfo@state.or.us
Subject: Skunks are pets

The proposed rules to ensure keeping wild animals in captivity become certified as a zoo should not apply to domesticated skunks. Some skunks have been domesticated for as many as 60 years. Requiring their owners to be certified as a zoo is unnecessary in the case of domestic skunks.

My sister has a pet skunk named Tux. He and his ancestors could not survive in the wild. The requirement that my sister become regulated like a zoo is onerous. Admittedly, seeing a skunk in a home is surprising, yet Tux is sweet and loves his home. Please do not disrupt his happy life by making it very hard for him to live where he currently lives.

Katy Eymann
1256 Newport Ave. SW
Bandon, OR 97411
katycoach@mac.com

ODFW WildlifeInfo

From: bandpjordan <bandpjordan@epud.net>
Sent: Thursday, March 03, 2016 1:03 PM
To: odfw.wildlifeinfo@state.or.us
Subject: Division 44 and skunks

Just in case you could not open the attachment to the last email, here it is again.

To the ODFW Commission:

I am writing in regards to your upcoming decisions about Protected Wildlife, Holding, and Propagating Rules. I understand that you want to make sure wildlife in Oregon are protected and receive the best care, but as the proud owner of a domestic skunk, I hope that you will exclude domestic skunks from your list of animals that may need their owner to have special accreditation.

Skunks have been domesticated for over eighty years and are known for being loving and docile. Domesticated skunks have a longer life span than those in the wild: 10 years vs. 6 years. There is a myth that skunks have a disproportionately high rate of rabies, but domestic dogs and cats have a higher risk of getting rabies because all animals including rabid animals avoid skunks because of their stinky spray. Our very large livestock guard dogs avoid Tux, and walk way around him. Skunks are already legal in 17 states. There are plenty of other animals that are legal in Oregon that are both wild and domestic: ferrets, house mice, rabbits, rats, hedgehogs, bison, diamond doves, mallard ducks, and tarantulas just to name a few from a long list. Why are ALL skunks on your list of animals that need tighter rules? The other animals on that list are all wild with no domestic counterparts. Skunks are different. There are domestic skunks. Please exclude domestic skunks from your list.

If you have never had the opportunity to see and hold a domestic skunk, you are missing out. My daughter was the one who did all the research before we got our skunk, Tux. Anyone who decides to have a pet should do research about that pet before they get it, but since domestic skunks are unusual pets, people will do more research to make sure a skunk is for them. We were fully aware of Tux's needs before he came to us. He is absolutely one of the best pets we have ever had. We live on a farm so we have had plenty of pets. Now that he has been with us for a while, we realize it is really easy to care for him. He brings such joy to our lives. He is playful, cuddly, smart, and he makes everyone he meets happy. He is not wild at all. He seeks us out to play with him, he seeks us out to sleep in our laps, and he has never aggressively bitten us. We take him for walks with a leash. We let him lead and we follow. The internet is full of information about how much domestic skunk owners love their skunks. Proof.nationalgeographic.com Skunk Lovers Unite is one such site.

We were required to get a permit from ODFW to have our skunk brought into Oregon. Requiring a permit lets ODFW know who has a domestic skunk. This permit allows ODFW differentiate between someone who has a domestic skunk versus a wild skunk. Another way to identify a difference is to look at their colors. Almost all domestic skunks are colored differently than wild ones. They come in different colors and patterns. While I wish domestic skunks were completely legal, obtaining a permit is reasonable middle ground. Please do not treat domestic skunk owners the same as wild skunk owners. We did not haphazardly take or "rescue" a wild skunk. We made a conscious decision to have Tux. AND WE ARE SO GLAD WE DID. If you have any questions, please feel free to contact me. 541-933-2867

Sincerely,

Penny Jordan

Skunksaspets.com The World is a Stage.

Animaldiversity.org Mephitis mephitis

pbs.org Do skunks make good pets?

Pbs.org Do skunks make good pets?

en.m.wikipedia.org List of domesticated animals

P.S. Would attending the March 18th meeting, help my position?

Roxann B Borisch

From: Laurella Desborough <laurella.desborough@gmail.com>
Sent: Friday, March 04, 2016 6:55 AM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us;
ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: RE: Division 44 Chapter 635 changes

Dear Sirs,

While it is admirable to seek to protect wildlife, there are several aspects to this proposed change in regulations that can actually be damaging to wildlife and provide little in terms of protection or conservation.

For instance, any herp, animal or bird that is not native to the US and has been kept and bred in the US for years should not be on this list. Placing these species on such a list will do nothing to protect them in their native country as this regulation has zero effect on another country's laws or the effective enforcement of their laws. But placing these now-captive species on the list ensures that they will become illegal, possibly destroyed, and certainly not continued to be bred and kept, thus assuring the potential loss of a species in the wild.

Basically, placing non-native species on these lists making ownership illegal will have zero effect on what happens in their country of origin. The main effect will be the loss or destruction of the species in the US. What is the point of that? What is accomplished? Basically loss of life and potential loss of species.

When it comes to native species, such as small wildlife species, which have been used by biology teachers to instruct youngsters about nature, this would become an illegal act! What is to be gained by that? Certainly educators using small species to educate kids are not going to be teaching them to harm these creatures but to gain an understanding and appreciation for them. Thus, making this activity illegal does very little to protect wildlife but actually may end up harming wildlife. We need an educated citizenry with an appreciation for nature and wildlife. As an educator, it simply makes sense to provide kids with an opportunity to learn about wildlife and to gain an appreciation for the protection and conservation of wildlife.

Sometimes what looks good on the design board may have unintended consequences and actually produce harm.

Sincerely,

Laurella Desborough
P O Box 1606
Claremore, OK 74017

Roxann B Borisch

From: jose palafox <josechuypalafox@live.com>
Sent: Friday, March 04, 2016 10:21 PM
To: odfw.commission@state.or.us
Subject: Opposition to 44 rule changes

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Forwarded to Wildlife

Dear Oregon Department of Fish and Wildlife,

As an Oregon citizen experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered "taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely,

Jose Palafox
Beaverton or 97005

Sent from my iPod

Roxann B Borisch

From: Melinda Surrency <surrency.melinda@gmail.com>
Sent: Friday, March 04, 2016 12:00 PM
To: odfw.comments@state.or.us
Subject: Division 44 considerations
Attachments: ODF&W division 44 letter.docx

Hello,

Please find attached a letter concerning the proposed revisions for Division 44 as it pertains to domestic pet skunks.

Do not hesitate to call me with questions or concerns.

My cell phone number is (503) 329-7446 and my work phone number is (503) 648-4117.

Sincerely,

Melinda Surrency, DVM

Melinda Surrency



[Street Address, City, ST ZIP Code]

[Telephone]

[Email]

3/3/2016

Dear Oregon Department of Fish and Wildlife,

I am writing to you regarding the proposed Division 44 rule changes to identify species of wildlife that are protected and regulated. As a representative and voice for my clients who own domestic pet skunks, as a veterinarian and as a domestic skunk owner, I have several concerns regarding this proposal.

I am a veterinarian at Hillsboro Veterinary Clinic where I see exotic pets as well as cats and dogs. Currently I am seeking board certification in the American Board of Veterinary Practitioners exotic small mammals. Previously, I worked at Southwest Animal Hospital for 7 years which is an exotics exclusive veterinary practice. I have also done numerous internships and preceptorships at the Oregon Zoo and Wildlife Safari over the years. In the past, I have been a licensed wildlife rehabilitator working closely with Audubon of Portland Wildlife Care Center and ODF&W. I support protecting our native wildlife and do not feel that private individuals should remove them from the wild to make them pets. Personally and professionally, I do not believe that animals such as black bear, cougar, bobcats, wolves or wolf hybrids have any business being pets. However, I do have concerns about including pet skunks on the ban list for many reasons as follows:

- 1) There has been enough time and genetic separation between wild skunks and domestic pet skunks raised on farms to consider domestic skunks significantly different from wild skunks



- 2) several rule revisions in Division 44, if passed into law, will cause detrimental effects to the health and emotional welfare of domestic pet skunks specifically:
 - a) 635-044-0020 cage standards,
 - b) 635-044-0020 implanted RIFD,
 - c) 635-044-0020 holding at accredited facilities or as "approved" by the director,
 - d) 635-044-0025 signed and notarized affidavit,
 - e) 635-044-0040 requirements for care of wildlife in captivity,
 - f) 635-044-0080 denial of license or expiration of permit will result in euthanizing of said animal, holding in a facility or exportation out of state and
 - g) 635-044-0085 control of disease outbreaks in wildlife.
- 3) Passage of these rules may cause skunk owners to avoid recommended veterinary care for fear of being reported.
- 4) Additionally, I would like to offer up some suggestions for how to manage the grandfathering in of domestic pet skunks already living here in Oregon and possible avenues for responsible individuals to continue to obtain domestic skunks from USDA approved rabies free breeding facilities.

Responses to Proposed Rule Revisions:

- 1) **There has been enough time and genetic separation between wild skunks and domestic pet skunks raised on farms to consider domestic skunks significantly different from wild skunks**

As early as June 1923, the U.S. Department of Agriculture Farmers Bulletin No. 587 stated that skunks are considered a viably effective domesticated species: "If, as is believed, [skunks] can be domesticated or successfully reared in captivity, their breeding may become a means of profit in most parts of the United States. The skunk, especially, presents possibilities of widely extended usefulness in domestication."



Many of the USDA rabies free breeding facilities are in the Midwest. These include farms such as Ruby's Fur Farms who have been in existence for over 65 years. These skunks come in a variety of colors such as apricot, albino, classic black, black swirl, brown, smoke, dark smoke, falling star, champagne smoke, tan, lavender and mahogany to name a few. In contrast, the wild *Mephitis mephitis* only come in a black and white striped variety. Other color variations are not observed. At these farms, skunks are descented and some are even spayed and neutered before being picked up or sent to their new owners.

- 2) **There are several rule revisions in Division 44 that if passed into law will cause detrimental effects to the health and emotional welfare of domestic pet skunks specifically:**
 - a. **635-044-0020 cage standards**

I vehemently oppose caging pet skunks. Our pet skunks are accustomed to free roaming our homes and interacting with the family. **Caging pet skunks, even if they are allowed to be caged inside the home would result in physical harm which could include but is not limited to broken teeth, broken toenails, self-mutilation, hair loss, metabolic bone disease due to lack of sunlight, broken bones resulting from cage entrapment and metabolic bone disease, muscle wasting, severe obesity, congestive heart failure and stereotypic behavior.** The inability to exercise by being caged promotes obesity which is already a struggle for our pet skunks. Obesity leads to disease conditions such as diabetes mellitus, cardiac disease, hypertension, osteoarthritis, degenerative joint disease, pancreatitis and hepatic lipidosis. In the wild, *Mephitis mephitis* forages for 7-8 miles daily to find enough food. In our homes, pet skunks usually do not forage for their food, but many owners will stash food in various places around the house so skunks can search for their food which helps provide more exercise and mental stimulation.

Caging these animals would also result in emotional distress from isolation and lack of human interaction. Studies have shown that long



term confinement is extremely detrimental. Animals caged for extended periods of time can develop many different disorders including aggression, withdrawal, hyperactivity, depression, eating disorders, obsessive licking, separation anxiety and inability to bond with humans.

If holding our pet skunks outside in a cage is required, they will be exposed to such viral diseases including but not limited to distemper, rabies and West Nile virus. Additionally other vector borne diseases may become a problem such as heartworm, tapeworms, fleas, ticks and mites. Many of these viral diseases pose a zoonotic hazard. The American Veterinary Medical Association clearly state the “We don’t recommend keeping any pet outside for long periods of time.” The temperature outside cannot be well-regulated. Skunks are very heat intolerant and would run the risk of dehydration, heat exhaustion, heat stroke and possible death. Cold temperatures would also pose risk since building burrows or providing a sizable enough shelter in a cage is very difficult. The colder temperatures also stress the immune system causing more susceptibility to disease. Skunks housed outdoors would also be visible to the public and there would be no easy way to prevent an individual or small child from trying to interact with the skunk. As owners, we become liable for any perceived negative interaction that occurs or may result from unsolicited visits or trespassing by the public.

Another concern is that fecal material and unconsumed food left in the cage will attract rats, mice, ants, flies and other insects. In this scenario, vector borne diseases become a higher risk. Skunks who are not able to sufficiently clean themselves will be prone to flystrike and potentially be covered with maggots. Real concern exists for the mice population in the Portland area. It is well documented that mice in the Portland area frequently carry Hantavirus which is a potentially lethal zoonotic disease which endangers our skunks and ourselves.

I do not understand how caging requirements will help the health and emotional welfare of pet skunks. In summary, caging poses very



significant physical and emotional health risks to the animals, the owners and the public.

b. 635-044-0020 implanted RIFD,

In a review of oncology and toxicology literature between 1990 - 2006, with eleven articles reviewed in total, the occurrence of microchip-induced malignant sarcomas and other cancers were found to form around or adjacent to implanted microchips in eight of the eleven studies. The tumors developed in both the experimental and control animals and in two household pets. Animals included in these studies included dogs, rats and mice. At this time there is no definitive, universally accepted hypothesis as to why these malignant tumors form. Possibilities include: 1) foreign-body tumorigenesis 2) post-injection sarcoma 3) possible genotoxic properties of the implant 4) radio-frequency energy emissions from the transponder or reader.

In light of the possibility that microchips may cause malignant tumors in certain species, it would seem prudent to avoid the unnecessary or elective exposure to microchips. It is estimated that people and animals are exposed to 75,000 artificial chemicals daily. Since a "multi-hit/multi-exposure" hypothesis has been proposed for the development and progression of various tumors, I cannot endorse mandatory implanted RIFD's without more study.

c. 635-044-0020 holding at AZA accredited facilities or as "approved" by the director,

Holding of skunks at AZA accredited facilities would indicate that only zoos and aquariums meeting this certification would be allowed to house skunks. Does this proposal mean that our pet skunks will be confiscated and removed to one of these facilities if we do not comply? Are there



facilities who would want or need a domestic skunk? This seems unrealistic to me. I would like clarification of who the director is, what time frame is to be expected for approval and what guidelines must be fulfilled in order to keep or acquire pet skunks in the future.

d. 635-044-0025 signed and notarized affidavit,

For those animals grandfathered in, and for all new pet skunks acquired, I understand that appropriate documentation should be required. For those individuals who adopted their skunks from individuals who were not able to keep them, but are confident that the skunks came from a legal USDA Rabies-free breeding facility, documentation may be lacking. Knowledge of this may come from the skunk's coloration or mannerisms. I would like to see the ODF&W director review each situation in a case by case manner. I do not see how a signed and notarized affidavit is necessary.

e. 635-044-0040 requirements for care of wildlife in captivity,

I am in agreement with the recommendations provided by 635-044-0040; however, I believe that the facilities housing wildlife requirement is met by a responsible skunk owner's home. A home provides appropriate shelter and protection from adverse elements, predators and injury.

Additionally, pet skunks do not try to escape. Most are content sleeping behind the couch or falling asleep on their owner's lap. In the unlikely event that a pet skunk should escape, he/she poses no risk to wildlife, domestic pets, livestock or people as the skunk is descended and has no means of defense. What is more likely is that the pet skunk will starve and



die if escape should occur. A pet skunk would not know how to forage for food and would lack survival skills sufficient to find adequate shelter, avoid motorized vehicles or other predators. Also, most pet skunks are spayed and neutered at 5-6 months of age by licensed veterinarians or come altered by the farm from which they were purchased. In most cases, there is no chance of intermingling with the wild *Mephitis mephitis*.

f. 635-044-0080 denial of license or expiration of permit will result in euthanizing of said animal, holding in a facility or exportation out of state and

Confiscating a pet skunk for euthanasia, transfer to a holding facility or exportation out of the state is cruel and unusual. If an individual has a human-animal bond with their pet skunk and is providing adequate husbandry and medical care, an exception should be made for the pet skunk to live out its life with the owner as long as reasonable housing requirements are being made, the animal is altered and all attempts are being made to comply with existing codes.

g. 635-044-0085 control of disease outbreaks in wildlife.

I believe that a pet owner is responsible for maintaining the upmost health and welfare for their pet. This includes keeping animals vaccinated and safe from wildlife. This can be best accomplished by keeping our pet skunks housed indoors. In this way they can be protected from vector-borne disease and wildlife. As mentioned in my response to 635-044-0020, housing a pet skunk outdoors poses greater risk to the skunk, wildlife, the owner and the public.



3. **As a veterinarian who sees skunks, I am concerned that many skunk owners will be afraid to bring their skunks in for medical care if the Division 44 rules are enacted as written for fear of being reported and their beloved pet skunks confiscated and euthanized.** Already there is a distrust of ODF&W which is unfortunate. Better lines of communication between your agency and pet skunk owners will improve compliance and promote better stewardship of our native wildlife through education of how our native species of wildlife are separate and important. As a pet skunk owner, I have a larger appreciation and feel a greater responsibility for the wild skunks in our state because I can relate to their biology, physiology, behavior and environmental niche through interacting with my pet skunk.
4. **Suggestions for how to grandfather in existing pet skunks and suggestions for acquiring new pet skunks:**
- a) Create licensing fees that are to be renewed annually which will help the economy
 - b) Allow pet skunks to remain in the home if owners are complying with basic care requirements as set forth by 635-044-0040.
 - c) Require that pet skunks be vaccinated for Distemper and once there is an approved Rabies vaccine, require that pet skunks receive annual Rabies vaccinations.
 - d) Only allow pet skunks with easily distinguishable color morphs to be purchased from USDA rabies-free breeding facilities such as apricot, albino, black swirl, brown, smoke, dark smoke, falling star, champagne smoke, tan, lavender and mahogany.
 - e) Consider requiring USDA rabies-free breeding facilities to tattoo domestic, farm-bred skunks with safe tattoos similar to the tattoos used in domestic pet ferrets prior to sale.
 - f) Require that licensed, pet skunks be used in one educational activity per year as deemed safe and acceptable by the owner, to help educate and inform the public about their role as a protected, native species and their important niche in the environment.



In conclusion, as a veterinarian, biologist and pet skunk owner I understand that one of ODF&W's goals is to protect native wildlife. I feel that many arguments can be made to support that domestic pet skunks are significantly different from wild skunks. I do not believe that they should fall under the requirements of Division 44. Forcing them to live in cages, regardless of whether or not they are caged indoors, is inhumane and will lead to physical, emotional and psychological disorders. Use of an RFID is controversial as no studies have been conducted to determine their safety in pet skunks. I would also argue that domestic skunks make good pets and they are safest in the home. Pet skunks are very energetic when they are young. They play much like a puppy or kitten and enjoy interacting with their owners. I have had my pet skunk tackle and chase after a hand puppet, run after tennis balls, play hide and seek with me, crawl into an empty Cinnamon Toast Crunch cereal box to check for left overs and speed dial my mother at 2:00 AM. In that same day, I have had her snuggle on my lap and fall asleep gripping my hand. As adults, pet skunks transition to a more sedentary life. They sleep most of the day and will wander the house when meal time approaches but are most often content to snuggle with their owners or animal friends. Pet skunks use litter boxes much like cats but cause far less damage to furniture, curtains, blinds and carpet. They also tend to get along very well with cats, dogs and other pets in the home.

Please consider revisions to Division 44 carefully. Domestic skunks have intrinsic value not only because they are animals but also because they have bridged the human-animal bond and have found invaluable worth as pets in our homes.

Please feel free to contact me with questions or concerns.

Respectfully yours,
Melinda Surrency, DVM



Roxann B Borisch

From: Lori Bryant <bryantlori@yahoo.com>
Sent: Friday, March 04, 2016 4:21 PM
To: odfw.commission@state.or.us
Subject: Division 44 rule changes

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Forwarded to Wildlife

I will leave state if this is past.

We need LESS policing and more support for those of us who are responsible owners.

As is, my grand kids will not be able to go to Africa and see the wild animals when they are old enough.

They will be lost to us all.

As stated above I will be watching for this and leaving state if past. I will not support a state that thinks this is appropriate.

SUBJECT: Objection to proposed Division 44 rule changes

Dear Oregon Department of Fish and Wildlife,

As an Oregon citizen experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these

species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered "taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely Lori Bryant
541-276-0274
1910 sw 44th st.
Pendleton Oregon 97801

Roxann B Borisch

From: Ocotillo Herps & Inverts <sales@ohi2007.com>
Sent: Friday, March 04, 2016 2:57 PM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us; ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: Division 44, Chapter 635, formerly known as HOLDING, PROPAGATING, REHABILITATING, AND PROTECTED WILDLIFE.

Hello Sirs,

I do not support ANY of the changes being proposed. Oregonians should be able to keep ANY animal they desire. All animals should be considered personal property of the owner and thus can be bought, sold, traded and gifted. This is an over reach by Oregon Fish and Game. It seems to be a combination of Animal Rights and academic banning agenda. Do not let these extremist views permeate Oregon law and take away the rights of Oregonians. How would you like it if some group tried to take away your rights, happiness, hobby or business? I would take a serious look at Oregon Fish and Game leadership and clean house. These extremist views have no place in the United States of America. The keeping and breeding of native animals is a conservation safety net. Are you seriously doing anything about human population growth, habitat destruction, fragmentation and modification, pollution, the impacts of roads on wildlife or climate change? I know for a fact that nothing serious is being done. Sustainable harvest of native wildlife should be encouraged not curtailed. Only control freak extremists would support the provisions in this bill. Captive breeding is conservation. Oregon Fish and Game is not doing anything REAL to promote conservation. Private citizens who keep and breed native wildlife are spending THEIR OWN money to keep and breed these native species. It is costing the TAX PAYERS zero dollars to conserve Oregon wildlife. These private breeders need to be able to sell sustainably harvested and captive born Oregon native wildlife. They have expenses and have to make a living just like everyone else. I was appalled that all these new rules were coming from a game and fish agency. Serious attention needs to be paid to the folks who are pushing this agenda.

FYI: I do business with Oregonians. I am the former head of the Reptile Department at the Central Florida Zoo. I hold an Associates, Bachelors and Masters in Zoo, Wildlife and Environmental fields respectively. I have worked for the USDA Forest Service, The University of Florida, The University of Alabama and many other institutions. I have over 25 years' experience in the wildlife and herpetology fields.

1. I oppose the addition of non-native species that are federal-listed as threatened or endangered to the list of animals that are illegal to keep in Oregon. This action would harm decades of conservation work accomplished within the state. Many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.
2. The Endangered Species Act already regulates animals that are threatened/endangered. The proposed regulation changes for Oregon are far over-reaching and much more prohibitive than the federal law.
3. These proposed rule changes would lead to added stress and certainly the loss of life for many of these animals by requiring procedures that are not common veterinary practices (i.e. sterilization of reptiles and amphibians).
4. There is not a threat of non-native, ESA-listed species of reptiles and amphibians establishing themselves in Oregon. These exotic herps have been kept here as pets for several decades without consequence.
5. By allowing the propagation and sale of offspring from native species, the pressure upon native populations is reduced. People who are able to purchase captive-bred reptiles and amphibians choose to do so rather than buying or collecting wild-caught animals. Captive-bred animals make better pets and are acclimated to captive husbandry.
6. Very few to almost no residents were aware of these proposals. These proposed rules are not even listed the ODFW "News Releases" web page.

7. The inclusion of federally-listed non-native threatened/endangered species will have a negative impact on captive breeding programs for these species. Many Oregon residents have spent tens of thousands of dollars to ensure captive breeding populations of species struggling or nearly extinct in the wild.
8. By prohibiting propagation of federal-listed threatened/endangered species, the Department is inhibiting the survival of endangered species. This will occur if the Department adds federally-listed threatened/endangered species to their list of species illegal to keep and amends the rule to also end breeding activity and require sterilization of animals.
9. Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.
10. Arizona proposed similar changes in 2014 but removed the proposed rules after being educated from stakeholders and professionals.
11. The state of Virginia removed their regulations over non-native ESA-listed species in 2014 through Senate Bill 50, making listed species legal to keep, breed, buy and sell.

Thanks,

Mike Welker
Ocotillo Herpetofauna & Invertebrates
14600 Jim Bridger Rd
El Paso, TX 79938
915-309-5300
sales@ohi2007.com
www.facebook.com/OHI2007/

This email has been sent from a virus-free computer protected by Avast.
www.avast.com

Roxann B Borisch

From: Charles Hawkes <chuckhawkes@ymail.com>
Sent: Friday, March 04, 2016 4:47 PM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us;
ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: Subject: Objection to proposed Division 44 rule change

Dear Oregon Department of Fish and Wildlife,

As a Oregon citizen that has raised animals all my life and who will be affected by the proposed regulations . I oppose some of the proposed rule changes to Division 44, chapter 635 regarding wildlife. I am responsible animal keeper and find the proposed rule changes to be over reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the Endangered Species Act (ESA). The implement of this law would have a negative effect on the Endangered Species Act since the private sector has been successful in breeding these species and bringing their numbers back up from low numbers, zoos do not have the capability to hold very many species or very many numbers of these species and since their habitat is shrinking from human encroachment from expanding populations of humans so in reality these species may only exist in captivity until some habitat can be restored or introduced predators exterminated such is the case in Hawaii, if there wildlife had been able to be held in captivity by the private sector there would still be representatives of the now extinct species such as the Ou and many more species and maybe a vaccination that prevents the spread of viruses. Number brought back from the brink on native species Nene, Laysan Teal, Hawaiian Duck also various other non native birds like Spix Macaw, Blue Throated Macaw, various pheasants some which have no habitat to go back to. I could list more just like Puerto Rican Amazon what resulted with better production of population with the input of the private sector in their breeding program now there are 2 populations that fly free there now.

Since most species list on the ESA are not native and put there by recommendations of so called animal rights people that sue the federal Fish and Wildlife and receive jacked up money from court awards that is taken from the budget of the ESA that could have gone for helping species recover instead of making agencies more richer off the lives of endangered species.

The federal Endangered Species Act is enough for citizens of the US and of Oregon and when you add the Wild Bird Conservation Act it is further compounded not to mention CITIES. So the addition of new laws for Oregon considering for endangered species of non native Oregon species and exotic is something we do not need we need help of breeders to boost numbers in the private sector so there will be more genetic diversity for when the time comes to introduce them into the wild these types of laws hamper the abilities to produce the numbers needed for reintroduction.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered

"taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely,

Charles Hawkes

Portland Oregon

Roxann B Borisch

From: Wendy Henderson <wendhend@gmail.com>
Sent: Friday, March 04, 2016 5:26 PM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us;
ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: Opposition to Division 44 Protected Wildlife Holding and Propagating Rule Changes

To Whom it May Concern:

As a life-long reptile enthusiast Oregonian, I am writing to voice my opposition to the ODFW Division 44 proposed rule changes regarding the holding and propagating of a number of animals. I believe this to be government overreach, likely based on groupthink and pressure by radical animal rights groups, and it is being pushed without sufficient justification. My understanding of these rule changes is that there would be limits set on citizens' rights to handle these listed animals in their habitat, keep them as pets, rehabilitate them when injured and breed them in captivity. When many of the animal species are already listed as endangered, the end result of such rules is likely extinction. Is that the desired goal? Especially regarding those species that are native to Oregon?

As a child growing up in Oregon, I do have fond memories of catching and releasing many species of snakes, frogs and salamanders. It was very educational for me and led to a life-long love of herpetology and respect for these animals. As a child, I didn't know exactly what they were or whether they were considered "endangered" species, but I know they were not endangered by me. I really doubt very many field herpers or other wildlife observers in Oregon pose a threat to these animals. Although I do not currently keep any of the species on the proposed list, I do keep a number of reptile species and am active in educating the youth in my community about reptiles, promoting responsible husbandry and the keeping captive bred species as pets rather than taking from wild populations. I do have a lot of respect for people who rehabilitate and release injured wildlife, and I also see potential benefit to the captive breeding of native species, especially when they are endangered and likely to become extinct due to human expansion onto their habitat and lack of knowledge and concern in future generations if such rules are implemented. Please do not implement these rule changes without sufficient reason!

Sincerely,

Wendy S. Henderson
Bend, Oregon

ODFW WildlifeInfo

From: Peter Grimm <Peter.Grimm@oregonzoo.org>
Sent: Friday, March 04, 2016 9:10 AM
To: ODFW.WildlifeInfo@state.or.us
Subject: Amended Comments on ODFW Draft Revision of OAR Ch 635 Div 44 from Oregon Zoo
Attachments: Oregon Zoo comments on ODFW Draft Revision of OAR Ch635 Div 44
_Amended04Mar2016.pdf; AZA_Policy_on_Responsible_Population_Management_1_12_2016.pdf

Hello,

Please find attached a revised edition of Oregon Zoo's comments on the ODFW Draft Revision of OAR Ch 635 Div 44. This version includes suggested language changes to the draft rules, which we thought would be useful to the committee when reviewing our comments.

Again, thank you for the opportunity to comment,

Peter Grimm
Animal Registrar
Oregon Zoo | 4001 SW Canyon Road | Portland, OR 97221
503-220-5766
www.oregonzoo.org

A better future for wildlife

From: Peter Grimm
Sent: Wednesday, March 02, 2016 12:12 PM
To: 'ODFW.WildlifeInfo@state.or.us'
Subject: Comments on ODFW Draft Revision of OAR Ch 635 Div 44 from Oregon Zoo
Importance: High

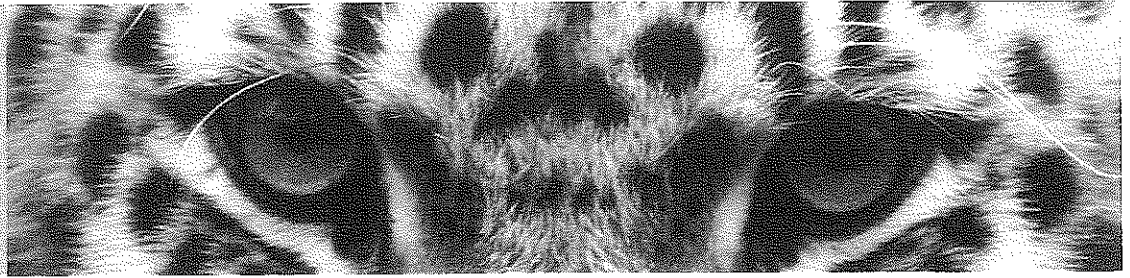
Hello,

Please find attached Oregon Zoo's comments on the ODFW Draft Revision of OAR Ch 635 Div 44.

Thank you for the opportunity to comment,

Peter Grimm
Animal Registrar
Oregon Zoo | 4001 SW Canyon Road | Portland, OR 97221
503-220-5766
www.oregonzoo.org

A better future for wildlife



4 March 2016

Division 44 Wildlife Holding Advisory Group
Oregon Department of Fish and Wildlife
7118 NE Vandenberg Ave.
Corvallis, OR 97330

Re: Comments on Oregon DFW Draft Revision of OAR Ch 635 Div 44 from Oregon Zoo

Dear Advisory Group Members:

Thank you for your consideration of the following comments on the Oregon DFW Draft Revision of OAR Ch 635 Div 44. Although the Draft Revisions are excellent and timely, we at Oregon Zoo, an accredited member of the Association of Zoos and Aquariums (AZA) feel the Draft Revision has a collaboration gap between ODFW as agency partners and Oregon Zoo because we share your wildlife conservation values. We are writing on behalf of our institution as well as AZA Species Survival Plans to recommend the incorporation of specific native species conservation management and education roles that Oregon Zoo and our nation's accredited zoos and aquariums are uniquely positioned to implement. These comments would recognize collaborative animal rescue and subsequent holding, and even breeding, plans for mentioned native species that recognize the role of AZA facilities in helping to accomplish ODFW animal welfare, conservation, and conservation education goals (e.g. the Oregon Zoo's successful collaborations with ODFW in rescuing and holding black bear, cougar and other species for conservation education purposes).

Oregon Zoo and other AZA-member institutions have a long record of accomplishment working with state agencies like ODFW, Federal agencies, conservation organizations, the private sector and the general public to conserve our wildlife heritage (e.g. native butterflies, native amphibians, California condor, and mammals including Columbia Basin pygmy rabbit). We look forward to building on this collaborative and effective record of working with ODFW as we request that you consider the following comments.

Captive breeding of native wildlife

Oregon Zoo, an accredited member of the Association of Zoos and Aquariums (AZA), holds many native wildlife species under a LOA issued by ODFW. Some of the native species held, including ringtail,

bobcat, cougar, and North American river otter, are managed under an AZA Species Survival Plan (SSP). The mission of an AZA SSP program is to cooperatively manage, in part by breeding, specific, and typically threatened or endangered, species populations within AZA-accredited Zoos and Aquariums. ODFW recognizes that the Zoo participates in native species conservation in part by breeding of native species in captivity; therefore, we would suggest adding language into (OAR) Chapter 635 Division 44 stating that:

AZA accredited facilities may breed native species for which there is a current AZA-approved Species Survival Plan (SSP) which calls for breeding in captivity at AZA facilities. If an AZA accredited facility wishes to breed a native species that does not have an AZA SSP, then the facility may request authorization for breeding from the Department by including information on justification for breeding, number of young desired, and proposed final disposition of resulting progeny. When applicable, AZA accredited facilities will also provide a copy of their federal and/or other state permits to the Department.

635-044-0025

Grandfathering the Possession of Black Bear, Cougar, Bobcat, Wolf, Raccoon, Skunk, Squirrel, Chipmunk and Other Legally Held Non-game Wildlife Species

- (1) A person who legally possessed native wildlife (black bear, cougar, bobcat, wolf, raccoon, skunk squirrel, chipmunk) or legally held species prior to the time the Commission adopts the amended rules may continue to hold said animal(s) for the remainder of the animal(s) life provided:
 - c. Grandfathered bears, cougars, bobcats, wolves, raccoons, skunks, squirrels, and chipmunks must have been acquired from a legally propagated out-of-state source or legally acquired with approved documentation that may include a valid sales receipt, Certificate of Veterinary Inspection with import permit from Department of Agriculture, valid agency transfer of ownership permit identifying the animal was propagated and born in legal captivity, or as approved by the Director. A signed and notarized affidavit stating the grandfathered animal(s) were legally acquired and held in compliance with these rules will be required of all permit holders of grandfathered animals.

Comment – Oregon Zoo currently has a LOA issued by ODFW for Possession, Holding and Public Display of its native wildlife, including black bear (4), cougar (2) and bobcat (2). As a condition of our LOA, Oregon Zoo receives and submits federal and/or state approvals to ODFW as needed to facilitate inventory changes. We suggest adding an exemption to requirement c for holders of a current wildlife holding LOA issued by ODFW prior to adoption of these amended rules.

Proposed revision:

635-044-0025

Grandfathering the Possession of Black Bear, Cougar, Bobcat, Wolf, Raccoon, Skunk, Squirrel, Chipmunk and Other Legally Held Non-game Wildlife Species

YOUR ZOO SINCE 1888

(1) A person who legally possessed native wildlife (black bear, cougar, bobcat, wolf, raccoon, skunk squirrel, chipmunk) or legally held species prior to the time the Commission adopts the amended rules may continue to hold said animal(s) for the remainder of the animal(s) life provided:

- c. Grandfathered bears, cougars, bobcats, wolves, raccoons, skunks, squirrels, and chipmunks must have been acquired from a legally propagated out-of-state source or legally acquired with approved documentation that may include a valid sales receipt, Certificate of Veterinary Inspection with import permit from Department of Agriculture, valid agency transfer of ownership permit identifying the animal was propagated and born in legal captivity, or as approved by the Director. A signed and notarized affidavit stating the grandfathered animal(s) were legally acquired and held in compliance with these rules will be required of all permit holders of grandfathered animals. A valid letter of authorization issued by the Department for Possession, Holding and Public Display of native wildlife will serve in lieu of a signed and notarized affidavit.

635-044-0050

(1) Native wildlife, or the progeny thereof, captured from the wild in Oregon remains the property of the State of Oregon.

Comment - Oregon Zoo requests a change that would authorize the Director to transfer ownership of legally acquired wildlife, or the progeny thereof, to AZA accredited facilities that are participating in an AZA managed program for the species. An AZA Species Survival Plan (SSP) or managed studbook manages the genetics and breeding recommendations for animals held in North American AZA accredited institutions, with the goal of genetic viability for the captive population.

While ownership cannot be transferred from the State to private parties, an AZA institution is not a private party. These transactions are not for profit by the institution; they are collaborative efforts to save native species when possible and to ultimately educate the public. Holding and transactions are covered by multiple State and Federal permits held by the institution. In addition, an AZA facility provides continual care by trained professional animal staff, including on staff or on call experienced veterinarians and medical facilities.

The precedent for donating ownership to AZA facilities has been set in many states. Oregon Zoo has received native wildlife from out of state institutions with documentation that it was donated to the sending institution. Oregon Zoo has also had ownership transferred to it directly by another state's wildlife agency.

These transfers of ownership remove the States from having to manage captive wildlife at AZA institutions. At this time, the paperwork for the loan transfers to other AZA facilities for Oregon native cougar, for instance, is handled by Oregon Zoo staff. For clarity and better representation of ODFW's requirements, if ODFW continues to maintain ownership in these situations, perhaps ODFW could create the agreements with each of the institutions involved and do follow-up with each out-of-state facility. This procedure would emphasize that ODFW maintains ownership and has requirements to be met.

YOUR ZOO SINCE 1888

Proposed revision:

635-044-0050

- (1) Native wildlife, or the progeny thereof, captured from the wild in Oregon remains the property of the State of Oregon. The Director may transfer ownership of native wildlife, or the progeny thereof, captured from the wild in Oregon to an AZA accredited facility.

Enclosure and Caging Standards for Holding Wildlife – Exhibit 1:

Comment - The State Minimum Specifications for holding wildlife have been greatly improved and include a lot of detail on structure of the main holding facility and the possible use of an exercise area. Based on the types of problems that do occur when holding wildlife, especially large predators such as cougar or bear, we feel it would be beneficial to add more detail to the requirements for the den box or separation area. The following is meant to be in addition to ODFW's existing descriptions and requirements for holding and separation areas, not main caging:

Bear (*Ursus americanus*) and Cougar (*Puma concolor*)

Other Specifications

Dens should be a comfortable holding area for the animal(s), allowing them to stand, sit, lie down or move around, and in which they can be fed if needed.

The separation area best serves its purpose if it is connected to the main enclosure with a sliding door or guillotine door. For maximum safety, access to the den or separation area from the main cage should be controlled by use of slide doors or guillotine doors that animal caretakers can operate without entering the exhibit. Gates should be securable and lockable in the closed position. Swing gates do not provide the same level of safety and management provided by slide doors or guillotine doors unless operated remotely. This is recommended for safety and management of movement of the species.

For your information we've included a copy of the AZA Policy on Responsible Population Management, which may help provide context for how offspring of native species such as river otters are managed within AZA institutions. Thank you for considering our comments and requests in your review process.

Sincerely,



Peter Grimm, Animal Registrar

Enclosures:

AZA Policy on Responsible Population Management

YOUR ZOO SINCE 1888



AZA Policy on Responsible Population Management
Approved by the AZA Board of Directors January 12, 2016

PREAMBLE

The stringent requirements for AZA accreditation, and high ethical standards of professional conduct, are unmatched by similar organizations and far surpass the United States Department of Agriculture's Animal and Plant Health Inspection Service's requirements for licensed animal exhibitors. Every AZA member must abide by a Code of Professional Ethics (<https://www.aza.org/Ethics/>). In order to continue these high standards, AZA-accredited institutions and certified related facilities should make it a priority, when possible, to acquire animals from and transfer them to other AZA member institutions, or members of other regional zoo associations that have professionally recognized accreditation programs.

AZA-accredited institutions and certified related facilities cannot fulfill their important missions of conservation, education, and science without live animals. Responsible management and the long-term sustainability of living animal populations necessitates that some individuals be acquired and transferred, reintroduced or even humanely euthanized at certain times. The acquisition and transfer of animals should be prioritized by the long-term sustainability needs of the species and AZA-managed populations among AZA-accredited and certified related facilities, and between AZA member institutions and non-AZA entities with animal care and welfare standards aligned with AZA. AZA member institutions that acquire animals from the wild, directly or through commercial vendors, should perform due diligence to ensure that such activities do not have a negative impact on species in the wild. Animals should only be acquired from non-AZA entities that are known to operate legally and conduct their business in a manner that reflects and/or supports the spirit and intent of the AZA Code of Professional Ethics as well as this Policy.

I. INTRODUCTION

This AZA Policy on Responsible Population Management provides guidance to AZA members to:

1. Assure that animals from AZA member institutions and certified related facilities are not transferred to individuals or organizations that lack the appropriate expertise or facilities to care for them [*see taxa specific appendices (in development)*],
2. Assure that the health and conservation of wild populations and ecosystems are carefully considered as appropriate,

3. Maintain a proper standard of conduct for AZA members during acquisition and transfer/reintroduction activities, including adherence to all applicable laws and regulations,
4. Assure that the health and welfare of individual animals is a priority during acquisition and transfer/reintroduction activities, and
5. Support the goals of AZA's cooperatively managed populations and associated Animal Programs [Species Survival Plans[®] (SSPs), Studbooks, and Taxon Advisory Groups (TAGs)].

This AZA Policy on Responsible Population Management will serve as the default policy for AZA member institutions. Institutions should develop their own AZA Policy on Responsible Population Management in order to address specific local concerns. Any institutional policy must incorporate and not conflict with the AZA acquisition and transfer/transition standards.

II. LAWS, AUTHORITY, RECORD-KEEPING, IDENTIFICATION AND DOCUMENTATION

The following must be considered with regard to the acquisition or transfer/management of all living animals and specimens (their living and non-living parts, materials, and/or products):

1. Any acquisitions, transfers, euthanasia and reintroductions must meet the requirements of all applicable local, state, federal and international laws and regulations. Humane euthanasia must be performed in accordance with the established euthanasia policy of the institution and follow the recommendations of current AVMA Guidelines for the Euthanasia of Animals (2013 Edition <https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>) or the AAZV's Guidelines on the Euthanasia of Non-Domestic Animals. Ownership and any applicable chain-of-custody must be documented. If such information does not exist, an explanation must be provided regarding such animals and specimens. Any acquisition of free-ranging animals must be done in accordance with all local, state, federal, and international laws and regulations and must not be detrimental to the long-term viability of the species in the wild.
2. The Director/Chief Executive Officer of the institution must have final authority for all acquisitions, transfers, and euthanasia.
3. Acquisitions or transfers/euthanasia/reintroductions must be documented through institutional record keeping systems. The ability to identify which animal is being transferred is very important and the method of identifying each individual animal should be documented. Any existing documentation must accompany all transfers. Institutional animal records data, records guidelines have been developed for certain species to standardize the process (<https://www.aza.org/AnimalCare/detail.aspx?id=3150>).
4. For some colonial, group-living, or prolific species, it may be impossible or highly impractical to identify individual animals when these individuals are maintained in a group. These species can be maintained, acquisitioned, transferred, and managed as a group or colony, or as part of a group or colony.

5. If the intended use of specimens from animals either living or non-living is to create live animal(s), their acquisition and transfer should follow the same guidelines. If germplasm is acquired or transferred with the intention of creating live animal(s), ownership of the offspring must be clearly defined in transaction documents (e.g., breeding loan agreements).

Institutions acquiring, transferring or otherwise managing specimens should consider current and possible future uses as new technologies become available. All specimens from which nuclear DNA could be recovered should be carefully considered for preservation as these basic DNA extraction technologies already exist.

6. AZA member institutions must maintain transaction documents (e.g., confirmation forms, breeding agreements) which provide the terms and conditions of animal acquisitions, transfers and loans, including documentation for animal parts, products and materials. These documents should require the potential recipient or provider to adhere to the AZA Policy on Responsible Population Management, and the AZA Code of Professional Ethics, and must require compliance with the applicable laws and regulations of local, state, federal, and international authorities.
7. In the case of animals (living or non-living) and their parts, materials, or products (living or non-living) held on loan, the owner's written permission should be obtained prior to any transfer and documented in the institutional records.
8. AZA SSP and TAG necropsy and sampling protocols should be accommodated.
9. Some governments maintain ownership of the species naturally found within their borders. It is therefore incumbent on institutions to determine whether animals they are acquiring or transferring are owned by a government entity, foreign or domestic, and act accordingly by reviewing the government ownership policies available on the AZA website. In the case of government owned animals, proposals for and/or notifications of transfers must be sent to the species manager for the government owned species.

III. ACQUISITION REQUIREMENTS

A. General Acquisitions

1. Acquisitions must be consistent with the mission of the institution, as reflected in its Institutional Collection Plan, by addressing its exhibition/education, conservation, and/or scientific goals regarding the individual or species.
2. Animals (wild, feral, and domestic) may be held temporarily for reasons such as assisting governmental agencies or other institutions, rescue and/or rehabilitation, research, propagation or headstarting for reintroduction, or special exhibits.

3. Any receiving institution must have the necessary expertise and resources to support and provide for the professional care and management of the species, so that the physical, psychological, and social needs of individual animals and species are met.
4. If the acquisition involves a species managed by an AZA Animal Program, the institution should communicate with the Animal Program Leader and, in the case of Green SSP Programs, must adhere to the AZA Full Participation Policy (<http://www.aza.org/full-participation-in-ssp-program-policy/>).
5. AZA member institutions should consult AZA Wildlife Conservation and Management Committee (WCMC)-approved TAG Regional Collection Plans (RCPs), Animal Program Leaders, and AZA Animal Care Manuals (ACMs) when making acquisition decisions.
6. AZA member institutions that work with commercial vendors that acquire animals from the wild, must perform due diligence to assure the vendors' collection of animals is legal and using ethical practices. Commercial vendors should have conservation and animal welfare goals similar to those of AZA institutions.
7. AZA member institutions may acquire animals through public donations and other non-AZA entities when it is in the best interest of the animal and/or species.

B. Acquisitions from the Wild

Maintaining wild animal populations for exhibition, education and wildlife conservation purposes is a core function of AZA-member institutions. AZA zoos and aquariums have saving species and conservation of wildlife and wildlands as a basic part of their public mission. As such, the AZA recognizes that there are circumstances where acquisitions from the wild are needed in order to maintain healthy, diverse animal populations. Healthy, sustainable populations support the objectives of managed species programs and the core mission of AZA members. In some cases, acquiring individuals from the wild may be a viable option in addition to, or instead of, relying on breeding programs with animals already in human care.

Acquiring animals from the wild can result in socioeconomic benefit and environmental protection and therefore the AZA supports environmentally sustainable/beneficial acquisition from the wild when conservation is a positive outcome.

1. Before acquiring animals from the wild, institutions are encouraged to examine alternative sources including other AZA institutions and other regional zoological associations or other non-AZA entities.
2. When acquiring animals from the wild, both the long-term health and welfare impacts on the wild population as well as on individual animals must be considered. In crisis situations, when the survival of a population is at risk, rescue decisions will be made on a case-by-case basis by the appropriate agency and institution.

3. AZA zoos and aquariums may assist wildlife agencies by providing homes for animals born in nature if they are incapable of surviving on their own (eg in case of orphaned or injured animals) or by euthanizing the animals because they pose a risk to humans or for humane reasons.
4. Institutions should only accept animals from the wild after a risk assessment determines the zoo/aquarium can mitigate any potential adverse impacts on the health, care and maintenance of the existing animals already being housed at the zoo or aquarium, and the new animals being acquired.

IV. TRANSFER, EUTHANASIA AND REINTRODUCTION REQUIREMENTS

A. Living Animals

Successful conservation and animal management relies on the cooperation of many entities, both AZA and non-AZA. While preference is given to placing animals with AZA-accredited institutions or certified related facilities, it is important to foster a cooperative culture among those who share AZA's mission of saving species and excellence in animal care.

1. AZA members should assure that all animals in their care are transferred, humanely euthanized and/or reintroduced in a manner that meets the standards of AZA, and that animals are not transferred to those not qualified to care for them properly. Refer to IV.12, below, for further requirements regarding euthanasia.
2. If the transfer of animals or their specimens (parts, materials, and products) involves a species managed by an AZA Animal Program, the institution should communicate with that Animal Program Leader and, in the case of Green SSP Programs must adhere to the AZA Full Participation Policy (<http://www.aza.org/full-participation-in-ssp-program-policy/>).
3. AZA member institutions should consult WCMC-approved TAG Regional Collection Plans, Animal Program Leaders, and Animal Care Manuals when making transfer decisions.
4. Animals acquired solely as a food source for animals in the institution's care are not typically accessioned. There may be occasions, however, when it is appropriate to use accessioned animals that exceed population carrying capacity as feeder animals to support other animals. In some cases, accessioned animals may have their status changed to "feeder animal" status by the institution as part of their program for long-term sustained population management of the species.
5. In transfers to non-AZA entities, AZA members must perform due diligence and should have documented validation, including one or more letters of reference, for example from an appropriate AZA Professional Fellow or other trusted source with expertise in animal care and welfare, who is familiar with the proposed recipient and their current practices, and that the recipient has the expertise and resources required to properly care for and maintain the animals. Any recipient must have the necessary expertise and resources to support and

provide for the professional care and management of the species, so that the physical, psychological, and social needs of individual animals and species are met within the parameters of modern zoological philosophy and practice. Supporting documentation must be kept at the AZA member institution (see #IV.9 below).

6. Domestic animals should be transferred in accordance with locally acceptable humane farming practices, including auctions, and must be subject to all relevant laws and regulations.
7. AZA members must not send any non-domestic animal to auction or to any organization or individual that may display or sell the animal at an animal auction. *See certain taxa-specific appendices to this Policy (in development) for information regarding exceptions.*
8. Animals must not be sent to organizations or individuals that allow the hunting of these individual animals; that is, no individual animal transferred from an AZA institution may be hunted. For purposes of maintaining genetically healthy, sustainable zoo and aquarium populations, AZA-accredited institutions and certified related facilities may send animals to non-AZA organizations or individuals (refer to #IV.5 above). These non-AZA entities (for instance, ranching operations) should follow appropriate ranch management practices and other conservation minded practices to support population sustainability.
9. Every loaning institution must annually monitor and document the conditions of any loaned specimen(s) and the ability of the recipient(s) to provide proper care (refer to #IV.5 above). If the conditions and care of animals are in violation of the loan agreement, the loaning institution must recall the animal or assure prompt correction of the situation. Furthermore, an institution's loaning policy must not be in conflict with this AZA Policy on Responsible Population Management.
10. If living animals are sent to a non-AZA entity for research purposes, it must be a registered research facility by the U.S. Department of Agriculture and accredited by the Association for the Assessment & Accreditation of Laboratory Animal Care, International (AAALAC), if eligible. For international transactions, the receiving facility must be registered by that country's equivalent body having enforcement over animal welfare. In cases where research is conducted, but governmental oversight is not required, institutions should do due diligence to assure the welfare of the animals during the research.
11. Reintroductions and release of animals into the wild must meet all applicable local, state, and international laws and regulations. Any reintroduction requires adherence to best health and veterinary practices to ensure that non-native pathogens are not released into the environment exposing naive wild animals to danger. Reintroductions may be a part of a recovery program and must be compatible with the IUCN Reintroduction Specialist Group's Reintroduction Guidelines (<http://www.iucnsscrg.org/index.php>).
12. Humane euthanasia may be employed for medical reasons to address quality of life issues for animals or to prevent the transmission of disease. AZA also recognizes that humane euthanasia may be employed for managing the demographics, genetics, and diversity of

animal populations. Humane euthanasia must be performed in accordance with the established euthanasia policy of the institution and follow the recommendations of current AVMA Guidelines for the Euthanasia of Animals (2013 Edition <https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>) or the AAZV's Guidelines on the Euthanasia of Non-Domestic Animals.

B. Non-Living Animals and Specimens

AZA members should optimize the use and recovery of animal remains. All transfers must meet the requirements of all applicable laws and regulations.

1. Optimal recovery of animal remains may include performing a complete necropsy including, if possible, histologic evaluation of tissues which should take priority over specimens' use in education/exhibits. AZA SSP and TAG necropsy and sampling protocols should be accommodated. This information should be available to SSP Programs for population management.
2. The educational use of non-living animals, parts, materials, and products should be maximized, and their use in Animal Program sponsored projects and other scientific projects that provide data for species management and/or conservation must be considered.
3. Non-living animals, if handled properly to protect the health of the recipient animals, may be utilized as feeder animals to support other animals as deemed appropriate by the institution.
4. AZA members should consult with AZA Animal Program Leaders prior to transferring or disposing of remains/samples to determine if existing projects or protocols are in place to optimize use.
5. AZA member institutions should develop agreements for the transfer or donation of non-living animals, parts, materials, products, and specimens and associated documentation, to non-AZA entities such as universities and museums. These agreements should be made with entities that have appropriate long term curation/collections capacity and research protocols, or needs for educational programs and/or exhibits.

Appendix I: DEFINITIONS

Acquisition: Acquisition of animals can occur through breeding (births, hatchings, cloning, and division of marine invertebrates = “fragging”), trade, donation, lease, loan, transfer (inter- and intra-institution), purchase, collection, confiscation, appearing on zoo property, or rescue and/or rehabilitation for release.

Annual monitoring and Due diligence: Due diligence for the health of animals on loan is important. Examples of annual monitoring and documentation include and are not limited to inventory records, health records, photos of the recipient’s facilities, and direct inspections by AZA professionals with knowledge of animal care. The level of due diligence will depend on professional relationships.

AZA member institution: In this Policy “AZA member institutions” refers to AZA-accredited institutions and certified related facilities (zoological parks and aquariums). “AZA members” may refer to either institutions or individuals.

Data sharing: When specimens are transferred, the transferring and receiving institutions should agree on data that must be transferred with the specimen(s). Examples of associated documentation include provenance of the animal, original permits, tags and other metadata, life history data for the animal, how and when specimens were collected and conserved, etc.

Dispose: “Dispose/Disposing of” in this document is limited to complete and permanent removal of an individual via incineration, burying or other means of permanent destruction

Documentation: Examples of documentation include ZIMS records, “Breeding Loan” agreements, chain-of-custody logs, letters of reference, transfer agreements, and transaction documents. This is documentation that maximizes data sharing.

Domestic animal: Examples of domestic animals may include certain camelids, cattle, cats, dogs, ferrets, goats, pigs, reindeer, rodents, sheep, budgerigars, chickens, doves, ducks, geese, pheasants, turkeys, and goldfish or koi.

Ethics of Acquisition/Transfer/Euthanasia: Attempts by members to circumvent AZA Animal Programs in the acquisition of animals can be detrimental to the Association and its Animal Programs. Such action may also be detrimental to the species involved and may be a violation of the Association’s Code of Professional Ethics. Attempts by members to circumvent AZA Animal Programs in the transfer, euthanasia or reintroduction of animals may be detrimental to the Association and its Animal Programs (unless the animal or animals are deemed extra in the Animal Program population by the Animal Program Coordinator). Such action may be detrimental to the species involved and may be a violation of the Association’s Code of Professional Ethics.

“Extra” or Surplus: AZA’s scientifically-managed Animal Programs, including SSPs, have successfully bred and reintroduced critically endangered species for the benefit of humankind. To accomplish these critical conservation goals, populations must be managed within “carrying capacity” limits. At times, the number of individual animals in a population exceeds carrying capacity, and while meaning no disrespect for these individual animals, we refer to these individual animals as “extra” within the managed population.

Euthanasia: Humane death. This act removes an animal from the managed population. Specimens can be maintained in museums or cryopreserved collections. Humane euthanasia must be performed in accordance with the established euthanasia policy of the institution and follow the recommendations of current AVMA Guidelines for the Euthanasia of Animals (2013 Edition <https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>) or the AAZV’s Guidelines on the Euthanasia of Non-Domestic Animals.

Feral: Feral animals are animals that have escaped from domestication or have been abandoned to the wild and have become wild, and the offspring of such animals. Feral animals may be acquired for temporary or permanent reasons.

Group: Examples of colonial, group-living, or prolific species include and are not limited to certain terrestrial and aquatic invertebrates, fish, sharks/rays, amphibians, reptiles, birds, rodents, bats, big herds, and other mammals,

Lacey act: The Lacey Act prohibits the importation, exportation, transportation, sale, receipt, acquisition or purchase of wildlife taken or possessed in violation of any law, treaty or regulation of the United States or any Indian tribal law of wildlife law. In cases when there is no documentation accompanying an acquisition, the animal(s) may not be transferred across state lines. If the animal was illegally acquired at any time then any movement across state or international borders would be a violation of the Lacey Act.

Museum: It is best practice for modern zoos and aquariums to establish relationships with nearby museums or other biorepositories, so that they can maximize the value of animals when they die (e.g., knowing who to call when they have an animal in necropsy, or specimens for cryopreservation). Natural history museums that are members of the Natural Science Collections Alliance (NSCA) and frozen biorepositories that are members of the International Society of Biological and Environmental Repositories (ISBER) are potential collaborators that could help zoos find appropriate repositories for biological specimens.

Non-AZA entity: Non – AZA entities includes facilities not accredited or certified by the AZA, facilities in other zoological regions, academic institutions, museums, research facilities, private individuals, etc.

Reintroduction: Examples of transfers outside of a living zoological population include movements of animals from zoo/aquarium populations to the wild through reintroductions or other legal means.

Specimen: Examples of specimens include animal parts, materials and products including bodily fluids, cell lines, clones, digestive content, DNA, feces, marine invertebrate (coral) fragments ("frags"), germplasm, and tissues.

Transaction documents: Transaction documents must be signed by the authorized representatives of both parties, and copies must be retained by both parties*. In the case of loans, the owner's permission for appropriate activities should be documented in the institutional records. This document(s) should be completed prior to any transfer. In the case of rescue, confiscation, and evacuation due to natural disasters, it is understood that documents may not be available until after acceptance or shipping. In this case documentation (e.g., a log) must be kept to reconcile the inventory and chain of custody after the event occurs. (*In the case of government owned animals, notification of transfers must be sent to species manager for the government owned species).

Transfer: Transfer occurs when an animal leaves the institution for any reason. Reasons for transfer or euthanasia may include cooperative population management (genetic, demographic or behavioral management), animal welfare or behavior management reasons (including sexual maturation and individual management needs). Types of transfer include withdrawal through donation, trade, lease, loan, inter- and intra-institution transfers, sale, escape, theft. Reintroduction to the wild, humane euthanasia or natural death are other possible individual animal changes in a population.

Appendix 2: RECIPIENT PROFILE EXAMPLE

Example questions for transfers to non-AZA entities (from AZA-member Recipient Profile documents):

Has your organization, or any of its officers, been indicted, convicted, or fined by a State or Federal agency for any statute or regulation involving the care or welfare of animals housed at your facility? (If yes, please explain on a separate sheet).

Recipients agree that the specimen(s) or their offspring will not be utilized, sold or traded for any purpose contrary to the Association of Zoos and Aquariums (AZA) Code of Ethics (enclosed)

References, other than (LOCAL ZOO/AQUARIUM) employees, 2 minimum (please provide additional references on separate sheet):

Reference Name		Phone	
Facility		Fax	
Address		E-mail	
City	State		Zip
Country		AZA Member?	

Reference Name		Phone	
Facility		Fax	
Address		E-mail	
City	State		Zip
Country		AZA Member?	

Veterinary Information:

Veterinarian		Phone	
Clinic/Practice		Fax	
Address		E-mail	
City	State		Zip
Country			

How are animals identified at your facility? If animals are not identified at your facility, please provide an explanation about why they are not here:

Where do you acquire and send animals? (Select all that apply)

AZA Institutions	Non-AZA Institutions	Exotic Animal Auctions	Pet Stores
Hunting Ranches	Dealers	Private Breeders	Non-hunting Game Ranches
Entertainment Industry	Hobbyists	Research Labs	Wild
Other			

What specific criteria are used to evaluate if a facility is appropriate to receive animals from you?

Please provide all of the documents listed below:

Required:

1. Please provide a brief statement of intent for the specimens requested.
2. Resumes of primary caretakers and those who will be responsible for the husbandry and management of animals.
3. Description (including photographs) of facilities and exhibits where animals will be housed.
4. Copy of your current animal inventory.

Only if Applicable:

5. Copies of your last two USDA inspection reports (if applicable).
6. Copies of current federal and state permits.
7. Copy of your institutional acquisition/disposition policy.

(in-house use only) In-Person Inspection of this facility (Staff member/Date, attach notes):

(Local institution: provide Legal language certifying that the information contained herein is true and correct)

(Validity of this: This document and all materials associated will be valid for a period of 2 years from date of signature.)

Example agreement for Receiving institution (agrees to following condition upon signing):

RECIPIENT AGREES THAT THE ANIMAL(S) AND ITS (THEIR) OFFSPRING WILL NOT BE UTILIZED, SOLD OR TRADED FOR THE PURPOSE OF COMMERCE OR SPORT HUNTING, OR FOR USE IN ANY STRESSFUL OR TERMINAL RESEARCH OR SENT TO ANY ANIMAL AUCTION. RECIPIENT FURTHER AGREES THAT IN THE EVENT THE RECIPIENT INTENDS TO DISPOSE OF AN ANIMAL DONATED BY (INSTITUTION), RECIPIENT WILL FIRST NOTIFY (INSTITUTION) OF THE IDENTITY OF THE PROPOSED TRANSFEREE AND THE TERMS AND CONDITIONS OF SUCH DISPOSITION AND WILL PROVIDE (INSTITUTION) THE OPPORTUNITY TO ACQUIRE THE ANIMAL(S) WITHOUT CHARGE. IF (INSTITUTION) ELECTS NOT TO RECLAIM THE ANIMAL WITHIN TEN (10) BUSINESS DAYS FOLLOWING SUCH NOTIFICATION, THEN, IN SUCH EVENT, (INSTITUTION) WAIVES ANY RIGHT IT MAY HAVE TO THE ANIMAL AND RECIPIENT MAY DISPOSE OF THE ANIMAL AS PROPOSED.

Institutional note: The text above is similar to the language most dog breeders use in their contracts when they sell a puppy. If people can provide that protection to the puppies they place, zoos/aquariums can provide it for animals that we place too! Some entities have been reluctant to sign it, and in that case we revert to a loan and our institution retains ownership of the animal. Either way, we are advised of the animal's eventual placement and location.

Roxann B Borisch

From: Geordie Duckler <GeordieD@AnimalLawPractice.com>
Sent: Friday, March 04, 2016 9:14 AM
To: odfw.commission@state.or.us
Subject: Public comment on proposed draft revised OARs Chapter 635- Division 044 January 2016
Attachments: Public comment on proposed ODFW regs March 2016.pdf

Dear Commission Members:

Please consider the attached letter to be my submission for public comment on the proposed draft revised OARs under Chapter 635 Division 044.

Thank you,

Geordie Duckler

Attorney at Law

9397 SW Locust

Tigard, OR 97223

www.animallawpractice.com

(503) 546-8052 Phone

(503) 241-5553 Fax

March 4, 2016

Oregon Department of Fish and Wildlife

Re: Submission of public comment on draft January 2016, Protected Wildlife, Holding, and
Propagating Rules, Chapter 635 - Division 044

Dear Commission Members:

I write to identify the violations of Section 2, Article 4 of the United States Constitution, and Section 20, Article 1, of the Oregon Constitution which your proposed legislation would create.

A. Unconstitutional Discrimination

First, in Exhibit 1, Chapter 635-Div 044, the proposed language includes the provision that animals "acquired by transfer or new holding application, and following adoption of the revised rules shall only be held at Oregon AZA accredited facilities".

Similarly, the proposed language of 635-044-0020 (2) states that "Black bears, cougars, bobcats, wolves, raccoons and skunks acquired by transfer or new holding application, and following adoption of these revised rules (March 18, 2016), shall only be held at Oregon AZA accredited facilities..." and at (3), that "Black bears, cougars, bobcats, wolves, raccoons and skunks held legally prior to the adoption of these rules may only be held at AZA accredited facilities..." as well as at subsection (d) that "Live black bears, cougars, bobcats, wolves, raccoons, and skunks shall not be removed from the wild with the exception of animals captured and placed by the Department in an AZA accredited facility...".

Similarly, at section (6) of 635-044-0051 (a), the proposed language states that "The Department will only issue new permits to hold a pure-bred wolf in captivity to AZA accredited facilities..."

Finally, in the proposed language of 635-044-0025(3), it states that "Grandfathered black bears, cougars, bobcats, wolves, raccoons, and skunks may only be transferred from the original Wildlife or Wolf Holding Permit to an AZA accredited facility..."

In each of those instances, the proposed legislation specifically creates two classes of state citizen, AZA accredited facilities and non- AZA accredited facilities, and it expressly favors the former over the latter by entitling the former to privileges and economic benefits that the latter is not provided. The proposed legislation also has the economic discriminatory effect of exempting the former from licensing and inspection fees that the latter is subject to.

That classification clearly discriminates in favor of some residents of the state of Oregon over others and in doing so is unconstitutional. Mendiola v. Graham, 10 P.2d 911, 917 (Or. 1932). It is an attempt, by the exercise of the police power of the state, to grant to the favored residents a privilege it withholds from the other residents, and thus falls within the constitutional inhibition of section 2, article 4, United States Constitution, and also of section 20, article 1, of the Oregon Constitution. Mendiola v. Graham, 10 P.2d 911, 917 (Or. 1932).

B. Unconstitutional Impairment of Contract

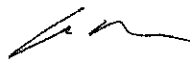
Second, in the proposed language of 635-044-0025(1), citizens who currently legally possess native wildlife or other legally held species prior to adoption of the amended rules have numerous conditions imposed on them, including under subsection (a) having to apply and pay fees for a permit, under subsection (b) being required to have their animals held in Department approved facilities, under subsection (c) being required to provide approved documentation regarding the animals, under subsection (d) not being able to breed their own animals and being required to sterilize them instead, and under subsection (3), being restricted in their transfer of their animals only to an AZA accredited facility.

Because the intended effect of that language is to impede the ability of only non- AZA accredited facilities to contract with other facilities about the specific animals identified, it therefore unlawfully violates the non- AZA accredited facilities right to contract, a property right protected by the state Constitution. Gen. Elec. Co. v. Wahle, 296 P.2d 635 (Or. 1956); McClendon v. Kenin, 385 P.2d 615 (Or. 1963) (freedom to contract and associate is constitutionally derived power). The legislature has no power to abrogate or deny a constitutional right. Tomasek v. State, 248 P.2d 703 (Or. 1952). The manner of enforcement and application of a legislative enactment may render such action unconstitutional as to the parties affected. Milwaukie Co. of Jehovah's Witnesses v. Mullen, 330 P.2d 5 (Or. 1958).

State statutes that in their application impose an unreasonable interference with the constitutional rights of contract and property are unconstitutional under the state and federal due process clauses. See, e.g., Gen. Elec. Co. v. Wahle, 296 P.2d 635 (Or. 1956). Here, enactment of the proposed legislation would comprise a violation of our state's constitutional prohibition against impairment of contract, since substantial contracts about these affected animals currently exist to which non- AZA accredited facilities are currently parties with other entities and the proposed legislation would directly impair the specific obligations under those contracts. See, Or. Const. Art. 1, Section 21. Strunk v. Pub. Employees Ret. Bd., 108 P.3d 1058 (Or. 2005).

To be constitutionally valid, the proposed legislation must have the discriminatory language removed throughout so that either all citizens – AZA accredited facilities and non- AZA accredited facilities alike – or none should be subject to the new conditions and restrictions. To be constitutionally valid, the proposed legislation as well must be reworded at 635-044-0025 to remove the restrictions and impairments of private contracts that section currently creates.

Sincerely,



Geordie Duckler, OSB #873780
9397 SW Locust St.
Tigard, OR 97223
(503) 546-8052

Roxann B Borisch

From: Geordie Duckler <GeordieD@AnimalLawPractice.com>
Sent: Friday, March 04, 2016 12:55 PM
To: odfw.commission@state.or.us
Subject: Public comment on proposed draft revised OARs Chapter 635- Division 044 January 2016 on behalf of West Coast Game Park Safari
Attachments: Public comment on proposed ODFW regs March 2016 for West Coast Game Park.pdf

Dear Commission Members:

Please consider the attached letter to be a submission on behalf of my client West Coast Game Park Safari for public comment on the proposed draft revised OARs under Chapter 635 Division 044.

Thank you,
Geordie Duckler
Attorney at Law
9397 SW Locust
Tigard, OR 97223
www.animallawpractice.com
(503) 546-8052 Phone
(503) 241-5553 Fax

March 4, 2016

Oregon Department of Fish and Wildlife

Re: Submission of public comment on draft January 2016, Protected Wildlife, Holding, and
Propagating Rules, Chapter 635 - Division 044

Dear Commission Members:

As counsel for West Coast Game Park Safari, I write to describe the substantial harms, both practical and economic, which your proposed legislation would create for my client. West Coast is a unique zoological operation in our state, having been in place as a well respected and fiercely loved southern Oregon recreational institution for the better part of three decades. It serves thousands of locals, in state visitors, and out of state tourists each year and is a healthy, thriving facility for carefully and beautifully displaying a large variety of exotic and endemic animals to the public.

A large portion of the Park is devoted to Oregon wildlife, and the Park proudly counts Oregon black bear, cougar, bobcat, and skunks among its more beloved residents. The proposed legislation would not only reduce or remove those exhibits and make the holding, breeding, and propagating of those residents absolutely invariable, but it would have such an overall deleterious effect on the Park as a comprehensive collection that the result of compliance would be to cause a massive economic hardship to the entire operation and to the animals themselves. Healthy, productive, enriching, and safe captive living conditions for these animals that currently exist would be eradicated and the proposed restrictions would not thereby have the effect of protecting Oregon wildlife at all, but instead would jeopardize and harm numerous specific animals instead.

Beyond the impracticalities inherent in the proposed conditions of the new caging requirements and the new marking and identification requirements, such conditions create a significant health risk to currently healthy animals by requiring the repeated anesthetizing of individuals for whom each additional sedation imparts an increased risk of death or systemic physiologic harm. My client asks that the Commissioners seriously consider and take into account the damage, both physical and economic, that the proposed regulations will certainly have in these circumstances and that it specifically address and alleviate those concerns in the final legislation.

Sincerely,



Geordie Duckler, OSB #873780
9397 SW Locust St.
Tigard, OR 97223
(503) 546-8052
Attorney for West Coast Game Park Safari

Roxann B Borisch

From: Molly Schaefer <jfe.farm@yahoo.com>
Sent: Friday, March 04, 2016 2:25 PM
To: odfw.commission@state.or.us
Subject: Division 44 rule proposal....public comment

To Members of ODFW Wildlife Commission

From Molly Schaefer, Salem, OR

Dear Commissioners,

I am writing to you in response to the proposed revisions to ODFW Division 44 rules. I am a USDA licensee and have maintained my license for 25 years. For 20 of those years I have kept cougar. My cougar caging has been inspected and approved by ODFW, and my caging and animals have been inspected annually by my USDA inspector. Although I fully support ODFW caging requirements and initial inspection of caging, I am disappointed that the new Division 44 rules will put an end to my ability to keep cougar in the future. I am particularly disappointed that ODFW has decided to exempt only AZA accredited facilities. As I am sure you know, only facilities open to the public are eligible for AZA accreditation. I am only aware of two AZA accredited facilities in Oregon that keep cougar, bobcat, and/or bear. They both happen to be State funded. I understand why ODFW would not want just any citizen keeping wildlife, particularly potentially dangerous wildlife, in their back yard without any oversight. But since the new Division 44 rules adopt AZA caging standards and require permitting and inspection by ODFW, I don't understand how an AZA facility has any advantage over a facility permitted and inspected by ODFW. Furthermore, all USDA facilities are inspected on a regular basis to ensure the animals are properly contained, their husbandry needs are being met and any records of animals being acquired or sold are inspected as well. ODFW has access to all USDA inspection reports and inventories on their APHIS website and can view them at any time. I feel that USDA facilities should have the same exemption as an AZA facility. I have to maintain the same license as an AZA facility. I have the same inspector they do and have to follow exact protocols and AWA standards that AZA facilities have to follow to maintain good standing with the USDA. Additional inspections by ODFW would seem redundant and a waste of State money. I have no problem maintaining a permit issued by ODFW as I believe ODFW needs to be aware of where any native species are being maintained, but banning these species for all facilities except AZA facilities is extreme. It comes across to me as more of an animal rights agenda than anything else. It is already illegal in Oregon for anyone without a USDA license to keep bear, cougar, bobcat and wolves. Banning these species (and this is a ban; just a ban with a grandfather clause for existing animals) punishes only USDA licensees. For this reason, I would request that ODFW add an additional exemption for facilities licensed by the USDA.

It is a shame that no one from the private animal industry was allowed on this review committee. I have been requesting since early 2015 when I became aware of this situation that ODFW put someone on this review panel from private industry. I was told that the person representing private owners was a guy that owned a reptile shop in Tigard. I have argued all along that a reptile owner does not represent private keepers of large carnivores and couldn't possibly know anything about the keeping of cougar, bobcats or bear. I made numerous calls to Rick Boatner requesting that I be represented on this panel, but it just fell on deaf ears. When I saw what the committee came up with I realized the reason that ODFW didn't want private industry represented was because we were the ones they were trying to eliminate. I am particularly concerned about facilities like West Coast Game Park and Wildlife Images that have been in business for many many years, yet will be banned from keeping native species for

Oregonians to enjoy and learn about. West Coast Game Park has had cougar and bear for fifty years, but under the new rules when the animals they currently maintain are deceased they will no longer be able to replace them. AZA accreditation is expensive to attain, but more importantly, more and more zoos are leaving AZA due to political reasons. AZA facilities not only pay a portion of their "door" in fees but are also subject to AZA telling them what they can and cannot do with their animals. They can even require that they send their animals to other facilities. It isn't an organization that is advantageous for most zoos or animal parks to belong to. I do not feel that the State should sanction a private club while punishing facilities that choose not to join. Personally, I really dislike bans of any kind because I feel they create unintended criminals of people unaware of the rules. Furthermore, because of a ban they cannot become compliant, they simply become a criminal and lose any rights to their animals. I feel that a permitting process and State inspection of facilities that are not already regulated is a good thing. Banning the keeping of native species for all but a couple of facilities in the State is unfair and gives a business advantage to those few AZA members.

635-044-0020 states that only one black bear, cougar or bobcat may be held on a wildlife holding permit and that no more than two raccoons, skunks or wolves per permit either. What is one supposed to do with "grandfathered" animals that exceed that limit? Does a person have to decide which animals to euthanize and which ones to let live? Most facilities, particularly those open to the public, keep animals in pairs or groups to provide companionship and stimulation. How is a person to destroy healthy animals because they exceed the number limit and not be in violation of the Animal Welfare Act? 635-044-0020 (e) states that animals held under a wildlife holding permit cannot be bred, reproduced, or propagated in Oregon even though the sale of those animals to citizens within the State is already illegal. Why would ODFW care if the animals are being sold out of State? And, isn't allowing AZA accredited facilities to partake in commerce with these animals, but not USDA facilities, discriminatory? This also renders animals currently held legally in non-AZA facilities worthless. Many of us have spent considerable money attaining our breeding stock and building caging and public displays just to be told now that they cannot be bred and therefore have lost any economic value. This new proposal has the greatest economic impact on the businesses least able to afford the loss.

I also am concerned about the requirement for lip tattoos or RFID. Anyone holding these animals will have to tranquilize their animals to comply with this regulation and in cases of older animals or compromised animals this procedure may very well kill them. The same would be true of the sterilization requirement of some species. This could cause extreme harm or death to the animal.

Although I feel that bans of any type are usually not the solution, ninety percent of my objections with the new proposed Division 44 rules would be alleviated with the addition of a USDA exemption. These new rules will damage Oregon businesses and threaten the welfare of many captive native animals.

Thank you for your consideration

Molly Schaefer
Salem, OR

Roxann B Borisch

From: Chris Shank <cockatoodowns@gmail.com>
Sent: Friday, March 04, 2016 6:57 AM
To: odfw.commission@state.or.us
Subject: Objection to proposed Division 44 rule changes

>

Dear Oregon Department of Fish and Wildlife,

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

I ask that you remove the proposed changes from your amendment to the rule. I ask you to hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page.

Thank you.

Chris Shank
Dallas, OR 97338
503-831-1314

ODFW WildlifeInfo

From: Laurella Desborough <laurella.desborough@gmail.com>
Sent: Friday, March 04, 2016 6:55 AM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us;
ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: RE: Division 44 Chapter 635 changes

Dear Sirs,

While it is admirable to seek to protect wildlife, there are several aspects to this proposed change in regulations that can actually be damaging to wildlife and provide little in terms of protection or conservation.

For instance, any herp, animal or bird that is not native to the US and has been kept and bred in the US for years should not be on this list. Placing these species on such a list will do nothing to protect them in their native country as this regulation has zero effect on another country's laws or the effective enforcement of their laws. But placing these now-captive species on the list ensures that they will become illegal, possibly destroyed, and certainly not continued to be bred and kept, thus assuring the potential loss of a species in the wild.

Basically, placing non-native species on these lists making ownership illegal will have zero effect on what happens in their country of origin. The main effect will be the loss or destruction of the species in the US. What is the point of that? What is accomplished? Basically loss of life and potential loss of species.

When it comes to native species, such as small wildlife species, which have been used by biology teachers to instruct youngsters about nature, this would become an illegal act! What is to be gained by that? Certainly educators using small species to educate kids are not going to be teaching them to harm these creatures but to gain an understanding and appreciation for them. Thus, making this activity illegal does very little to protect wildlife but actually may end up harming wildlife. We need an educated citizenry with an appreciation for nature and wildlife. As an educator, it simply makes sense to provide kids with an opportunity to learn about wildlife and to gain an appreciation for the protection and conservation of wildlife.

Sometimes what looks good on the design board may have unintended consequences and actually produce harm.

Sincerely,

Laurella Desborough
P O Box 1606
Claremore, OK 74017

Roxann B Borisch

From: Margie Adams <margiesbirds@att.net>
Sent: Saturday, March 05, 2016 6:54 AM
To: odfw.commission@state.or.us
Subject: My opinion

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Forwarded to Wildlife

Dear Oregon Department of Fish and Wildlife,
As an Oregon citizen experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered "taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely,

Margaret Kemp-Adams

Roxann B Borisch

From: ODFW Commission
Sent: Monday, March 07, 2016 4:16 PM
To: Roxann B Borisch
Subject: FW: Subject: Objection to proposed Division 44 rule change

From: Charles Hawkes [mailto:chuckhawkes@ymail.com]
Sent: Friday, March 04, 2016 4:47 PM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us; ODFW Commission <ODFW.Commission@coho2.dfw.state.or.us>; ODFW.WildlifeInfo@state.or.us
Subject: Subject: Objection to proposed Division 44 rule change

Dear Oregon Department of Fish and Wildlife,

As a Oregon citizen that has raised animals all my life and who will be affected by the proposed regulations . I oppose some of the proposed rule changes to Division 44, chapter 635 regarding wildlife. I am responsible animal keeper and find the proposed rule changes to be over reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the Endangered Species Act (ESA). The implement of this law would have a negative effect on the Endangered Species Act since the private sector has been successful in breeding these species and bringing their numbers back up from low numbers, zoos do not have the capability to hold very many species or very many numbers of these species and since their habitat is shrinking from human encroachment from expanding populations of humans so in reality these species may only exist in captivity until some habitat can be restored or introduced predators exterminated such is the case in Hawaii, if there wildlife had been able to be held in captivity by the private sector there would still be representatives of the now extinct species such as the Ou and many more species and maybe a vaccination that prevents the spread of viruses. Number brought back from the brink on native species Nene, Laysan Teal, Hawaiian Duck also various other non native birds like Spix Macaw, Blue Throated Macaw, various pheasants some which have no habitat to go back to. I could list more just like Puerto Rican Amazon what resulted with better production of population with the input of the private sector in their breeding program now there are 2 populations that fly free there now.

Since most species list on the ESA are not native and put there by recommendations of so called animal rights people that sue the federal Fish and Wildlife and receive jacked up money from court awards that is taken from the budget of the ESA that could have gone for helping species recover instead of making agencies more richer off the lives of endangered species.

The federal Endangered Species Act is enough for citizens of the US and of Oregon and when you add the Wild Bird Conservation Act it is further compounded not to mention CITIES. So the addition of new laws for Oregon considering for endangered species of non native Oregon species and exotic is something we do not need we need help of breeders to boost numbers in the private sector so there will be more genetic diversity for when the time comes to introduce them into the wild these types of laws hamper the abilities to produce the numbers needed for reintroduction.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered "taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely,

Charles Hawkes

Portland Oregon

Roxann B Borisch

From: ODFW Commission
Sent: Monday, March 07, 2016 4:13 PM
To: Roxann B Borisch
Subject: FW: Opposition to 44 rule changes

From: jose palafox [mailto:josechuypalafox@live.com]
Sent: Friday, March 04, 2016 10:21 PM
To: odfw.commission@state.or.us
Subject: Opposition to 44 rule changes

Dear Oregon Department of Fish and Wildlife,

As an Oregon citizen experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make a common practice, field herping, illegal. By the Oregon definition, actively searching for and handling herps is considered "taking." By the new rule changes, it will be illegal to "take" native wildlife. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely,

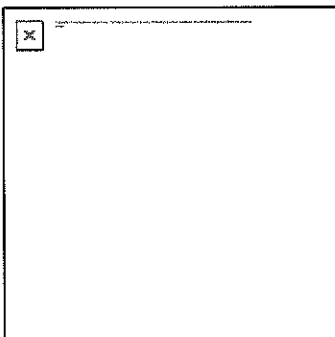
Jose Palafox
Beaverton or 97005

Sent from my iPod

Roxann B Borisch

From: Cody Hildebrand <luv4skunks@yahoo.com>
Sent: Monday, March 07, 2016 12:32 PM
To: roxann.b.borisch@state.or.us
Subject: Oregon,s proposed ban on Domestic Skunks

Although I live in the State of Ohio, I was concerned about the proposed ban on Domestic Skunks in your State. Many many people have brought this to my attention. I am seventy Two years young. I am very much active in the Ethology Study of both domestic skunks and the ones in the wild. I have worked with both Domestic Skunks, having a total of thirty seven in the past. I currently have four domestic skunks. I have been affiliated with skunks since 1977. I currently hold a Educational-Scientific Permit with Ohio Dept Of Natural Resources (Division Of Wildlife) I have written two books on skunks (How The Skunk Earned His Stripes) and (Wild Brother Of The Night, In The Footsteps Of The Skunk). We had the opportunity to film some of the (Extra Footage) for John Rubin Production, Cambrige Mass. for a segment aired on PBS (Nature) titled (Is That Skunk?) This one hour special was one of (Natures) best segments. You can view this PBS Nature special, by going to PBS Nature and selecting this segment (Is That Skunk?) This is a very, very imformative segment of how the skunk is mis represented and its importance to our natural world. It also covers the Domestic Skunks linage from, first being mousers and pets to our Native Americans. The Domestic Skunk has evolved from a 300 year linage of wild skunks that were originaly held for fur. This linage has mutated into a domestic pet. Although there are black and white domestic skunk, many others are gun metal, champagn white on white, various colors of chocolates,and even lavendor colors. I suggest you adopt a better policy to banning these incredible animas in your State. Here in Ohio Domestic Skunk owners are able to aquire a Comercial and Non Comercial Propergators liscense. on a yearly renewal basis. These Domestically raised skunks come from liscensed USDA and State Permitee breeders. This gives owners a legal liscense to hold these animals, provides revenue to your State from both owners and liscense breeders of Domestic Skunk.and also provides revenue to Pet Food Companys , Veternarians, ect. This is a WIN/Win situation for all concerned. Please fill free to reach me at 513-671-5291 and visit us online at SkunkStripes.com - Home Respectivly Cody Hildebrand (Wild Brother Animal Behavior Study)



SkunkStripes.com - Home

WILD BROTHER ANIMAL BEHAVIOR
STUDY

[View on www.skunkstripes.com](http://www.skunkstripes.com)

Preview by Yahoo

Roxann B Borisch

From: ODFW Commission
Sent: Monday, March 07, 2016 4:13 PM
To: Roxann B Borisch
Subject: FW: Opposition to Division 44 Protected Wildlife Holding and Propagating Rule Changes

From: Wendy Henderson [mailto:wendhend@gmail.com]
Sent: Friday, March 04, 2016 5:26 PM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us; ODFW Commission <ODFW.Commission@coho2.dfw.state.or.us>; ODFW.WildlifeInfo@state.or.us
Subject: Opposition to Division 44 Protected Wildlife Holding and Propagating Rule Changes

To Whom it May Concern:

As a life-long reptile enthusiast Oregonian, I am writing to voice my opposition to the ODFW Division 44 proposed rule changes regarding the holding and propagating of a number of animals. I believe this to be government overreach, likely based on groupthink and pressure by radical animal rights groups, and it is being pushed without sufficient justification. My understanding of these rule changes is that there would be limits set on citizens' rights to handle these listed animals in their habitat, keep them as pets, rehabilitate them when injured and breed them in captivity. When many of the animal species are already listed as endangered, the end result of such rules is likely extinction. Is that the desired goal? Especially regarding those species that are native to Oregon?

As a child growing up in Oregon, I do have fond memories of catching and releasing many species of snakes, frogs and salamanders. It was very educational for me and led to a life-long love of herpetology and respect for these animals. As a child, I didn't know exactly what they were or whether they were considered "endangered" species, but I know they were not endangered by me. I really doubt very many field herpers or other wildlife observers in Oregon pose a threat to these animals. Although I do not currently keep any of the species on the proposed list, I do keep a number of reptile species and am active in educating the youth in my community about reptiles, promoting responsible husbandry and the keeping captive bred species as pets rather than taking from wild populations. I do have a lot of respect for people who rehabilitate and release injured wildlife, and I also see potential benefit to the captive breeding of native species, especially when they are endangered and likely to become extinct due to human expansion onto their habitat and lack of knowledge and concern in future generations if such rules are implemented. Please do not implement these rule changes without sufficient reason!

Sincerely,

Wendy S. Henderson
Bend, Oregon

March 8, 2016

Dear ODFW Commission,

I am writing in regards to the upcoming decision that you are making about the Protected Wildlife, Holding and Propagating Rules. I am asking that you **exclude domestic skunks for your list.**

We have close family friends that own a domestic skunk. He is so much fun and very entertaining. The home is in the country and the skunk is very happy! The skunk lives in the house and is just like a cat, except much more entertaining. It loves to explore and check out everything in the house. The home has been made very "skunk safe" so that the skunk can move about is safely. It is so much fun to watch it as it scurries about looking here and there. When the skunk tires it will curl up on a lap to take a nap. This skunk is very docile and friendly. My grandchildren are able to gently pet it and it just lies there.

The owners of this skunk did their research before purchasing this domestic skunk. And they say it is the best pet they have ever had. As required by ODFW the got the permit to own a domestic skunk. I am sure this skunk will have a long and happy life in its current home. So I again ask you to please exclude domestic skunks from the upcoming decision about the Protected Wildlife, Holding and Propagating Rules.

Thank you very much,

Treesa Broughton

Treesa Broughton

Eugene, Oregon



Roxann B Borisch

From: Mike Martell <mmartell1957@gmail.com>
Sent: Thursday, March 10, 2016 7:36 PM
To: rick.j.boatner@state.or.us; thomas.l.thornton@state.or.us; odfw.commission@state.or.us;
REP Sprenger; SEN Girod
Subject: ODFW Hearing Postponement Request.

Greetings ODFW Commission, Mr. Boatner, Mr. Thornton, Representative Sprenger and Senator Girod.

Mr. Boatner, in reference to our recent meeting to discuss the Division 044 stakeholder letter, I mentioned the fact the stakeholders were overlooked in the meeting to draft changes as to how we use a live raccoon for our field trials and water races. The letter indicated there were three veterinarians along with representation from the Audubon Society, Humane Society, OHA and OSP. I raised the question why none of the stakeholders were invited to the table to discuss how this will impact our use in competitive trial events or asked for our input, given the fact we didn't have an opportunity to be involved in the process, I'm asking the Commission to postpone the meeting scheduled for March 18 in Salem given your response to me stating, "good question, I don't have an answer for that."

It has been brought to my attention the small game regulations are due up for review in June and ODFW has a new small game manager. This would be a more appropriate time to make any changes the commission feels necessary in the best interest of wildlife held in captivity that would also involve the impacted stakeholders. I made the case we have been discriminated against as a minority user group one more time where the Bond Butte pond use has been eliminated by one district biologist while allowing bird dogs and other dog breeds to continue to use the pond even though this Corvallis biologist took it upon herself to state in a letter, quote- "the Audubon Society discovered a yellow breasted chat bird frequenting this location." In our conversation, I asked you, Mr. Boatner what breed of dogs would have a greater impact on the chat bird, our hounds or bird dogs? You agreed the bird dogs would.

We have once more been targeted as a minority user group and feel the requirements for holding our raccoon should be expected to uphold the utmost respect and consideration for the humane treatment of animals, it's very clear ODFW only intends to mandate changes to our use of bond butte ponds and our holding cages while failing to implement the equivalent for propagated birds such as ducks, upland game birds etc. If we are required to place a tree in our cage for the raccoon to reduce stress and mimic a more natural habitat to the animal? It's only reasonable to assume a duck pond would be mandated and a flyway added for propagated bird pens?

I think the above explanation exemplifies reasonable expectations for postponing this hearing until June. By doing so we can all sit down collectively together and discuss plans that are equal for all user groups and fair that will also allow the sport hound hunters to discuss this matter at our upcoming Oregon State Convention in April.

Thanks for your consideration!

Sincerely

Mike Martell
Sweet Home
Oregon

Roxann B Borisch

From: melissa bishop <melissabishop@live.com>
Sent: Thursday, March 10, 2016 9:22 AM
To: odfw.info@state.or.us
Subject: Nanny State run amok

I read in the paper about a proposed new rule about raising more than two pollywogs or other common creatures becoming illegal. And this being open to public comment. Heres my comment - ABSOLUTELY NOT.

Roxann B Borisch

From: Randy Middleton <randalpink44@gmail.com>
Sent: Sunday, March 13, 2016 7:30 AM
To: odfw.commission@state.or.us
Subject: Opposition to Division 44 Rule changes

Dear Oregon Department of Fish and Wildlife,

As an Oregon citizen experienced with animals who will be affected by the proposed regulations, I oppose some of the proposed rule changes to Division 44, Chapter 635 regarding wildlife. I am a responsible animal keeper and find the proposed rule changes to be over-reaching and unjustifiable. Some of them will even defeat the purposes they intend to serve.

I am opposed to the rule change making it illegal to keep animals listed under the federal Endangered Species Act (ESA). While I can understand the good intentions for doing so, this action will do absolutely nothing to protect these species in the wild. Actually, it will harm conservation efforts. Not only does the ESA already regulate to protect these species, but many private keepers have invested years and even decades into breeding these species and ensuring their survival while wild populations are devastated from habitat loss due to human over-population.

Also, many species listed under ESA are non-native to the United States. These species are no longer imported into the U.S. and the captive populations here allows for educational opportunities, genetic diversity among breeding groups, understanding of their biology, etc.

Non-native species are continually added to the ESA list as "enviro" groups who do nothing to help these animals constantly petition USFWS and threaten lawsuits if the species are not listed. These groups profit by fundraising on the promotion of these efforts, but rarely, if ever, do any work or contribute funds to actually help the species.

Making these species illegal to keep not only unjustly punishes responsible keepers, but many animals will be negatively affected. There are already many federally-listed endangered and threatened species and their captive-produced offspring in the state. If the proposed rule is implemented it will immediately result in legally-possessed animals and their owners to be in violation of the rule. In addition, most of these species have rarely, if ever, been sterilized.

These rule changes also cast a huge blow to the education of Oregon's youth. The changes make much of a common practice, field herping, illegal. Under the proposed rules, allowing children to handle a rubber boa, for example, would be illegal. This will be a huge loss to educational efforts and the need for children to get out and experience nature. How can children learn about and truly appreciate nature if they cannot actively experience it? Even the current law should be amended to allow for responsible field herping.

I ask that you remove the proposed changes from your amendment to the rule. I implore you to at minimum hold a workshop to discuss these issues with stakeholders and experts within the state. Unfortunately, most stakeholders are unaware of what's happening and they will be blind-sided by these new regulations. It's not even listed on the ODFW "News Releases" web page. Thank you for your time and have a good day.

Sincerely
Randy Middleton
Gresham,OR

Roxann B Borisch

From: Richard F. Hoyer <charinabottae@earthlink.net>
Sent: Monday, March 14, 2016 9:34 PM
To: odfw.comments@state.or.us; Robert T. Mason; Dan Edge; Eleanor Gaines; Colin Gillin; Richard F. Hoyer
Subject: Revision of Div. 44 Regulations

To: Oregon Wildlife Commission
From: Richard F. Hoyer
Re: Revision of Division 44 regulations

Introduction:

I am a graduate of Fisheries and Wildlife, OSU, '55' and have been a field biologist in excess of 50 years. As a hobby, I have pursued herpetological research primarily involving two species of snakes, the Rubber Boa (*Charina bottae*) and Common Sharp-tailed Snake (*Contia tenuis*). I have published some of my results on both species. During my study of *C. tenuis*, in 1998 I discovered a new species of Sharp-tailed Snake (*C. longicauda*), (Citations provided upon request.)

In an effort to understand the basis for the proposed changes, I have made inquiries with ODFW and ORBIC. At his invitation, for about 2 1/2 hours on the morning of March 3rd., I also met with ODFW veterinarian Colin Gillin. There are multiple of problems throughout the proposed revisions of Division 44 regulations. I will mainly confine my comments to the problems I see with adding 5 species of snakes to the list of protected species.

I see five problems: 1) Composition of the panel that selected these species, 2) The process used in selecting species, 3) The issue of take (collecting), 4) The issue of protection, and 5) The five species selected for listing.

So the Commission has an understanding of my position with respect conservation issues, below I have copied an 'essay' I produced for the Arizona Partners in Amphibian and Reptile Conservation (PARC) web site. In separate messages, I will address the above five problem areas.

Because I learned about the revision of the Div. 44 regulation only recently, I have been pressed to prepare comments. So not having time to pass on my comments to reviewers, I will included two professionals when I submit all of my comments. If these gentlemen find errors, I would hope they inform myself and the Commission. I am also including Eleanor Gaines of ORBIC as she has been forth coming during our exchange of messages in prior years and as she will see, I will be critical of the ORBIC / NatureServe process for assessing herpetofauna. Should she find I have erred, she too should inform myself and the Commission of such errors. And I include ODFW veterinarian Colin Gillin with whom I met on 3/3/16.

Richard F. Hoyer (Corvallis, Oregon)

=====
===== 'Precautionary Principle' (Submitted on the AZ PARC web site,
1/26/05)

The underlying basis for the positions I have taken in recent threads have everything to do with credibility, integrity, professional conduct, and basic honesty as those values pertain to state wildlife agencies and their management of non-game wildlife. In this thread, I provide my thoughts on the so-called 'Precautionary Principle' (PP) and these same basic values are at the core of my remarks.

Background: My position has always been that science-based processes should be used to assess and manage wildlife resources. After all, isn't that the reason behind university programs in Wildlife Science so that graduate biologists will employ professional methods?

In mid 1997, I was visiting an acquaintance that had recently retired as a regional fisheries supervisor for the Calif. Dept. of F & G. We were discussing my proposed study of the Sharp-tailed Snake (*Contia tenuis*), a species that had never been studied in Oregon. With a complete void of factual evidence, in 1971 the ODFW placed the species in a 'Protected' status based solely on anecdotal opinion. Since no evidence existed to indicate *Contia* was having problems, from a biological and ethical perspective, I expressed my view that the species should not have been listed in the first place. My friend disagreed and mentioned something close to the following: "Since so little is known about the species, it is best to take a conservative approach and err on the side of caution". That was my initial introduction to the 'Precautionary Principle'.

In recent years when I have questioned the legitimacy of a listed species, individuals have repeated the same or very similar phraseology as a justification. It sounds so reasonable that one is inclined to accept the notion at face value. But something bothered me at the time and I began to seek answers. The following is what I have learned along with some analysis.

1) By its very name, the word 'principle' lends a measure of authenticity and legitimacy. The impression I have gotten when someone cites the PP is that they believe they are citing a basic principle of biology. Thus, the use of the word 'principle' misleads individuals into believing a basic biological principle is involved.

2) Instead of a basic principle, the PP is simply a point of view, conjecture, supposition, personal opinion, a concept, or philosophical position and thus is not factual but speculative in nature. True biological principles have support from a broad base of existing evidence. The PP lacks support from any factual evidence. Employed in a biological context (as if it were some basic principle), it is quite deceptive for those that are not aware that the PP is simply a concept or personal point of view.

3) The application of the PP concept primarily occurs in specific situations.

A) With rare exception, application of the PP is not used in connection with commercial species, fur bearers, or game species. It is almost exclusively applied to non-game species.

B) Even though little is known about the basic biology of 99.99% of all species, it is not applied across the board. The PP is applied 1) where some 'official' concerns are expressed for a species (being considered for listing) but where supporting evidence is lacking and 2) as a defensive ploy anytime questions of legitimacy arise about a listed species for which supporting evidence is lacking (as when I questioned the *Contia* listing in Oregon).

Thus, applying the PP is a convenient way of sidestepping the issue any time there is a void in factual evidence. As such, the PP could be selectively applied to nearly all species on this earth. Just pick a species, express a grave concern for its overall status, then cite the PP as a justification for listing the species. In this manner, there is no need to produce any evidence in support of your position.

4) Application of the PP does not truly mean 'proceed with caution' but entails a total prohibition of any use of a wildlife resource.

5) There are two inherent conflicts or contradictions between the underlying assumptions of the PP and basic tenets of wildlife science and population biology.

A) With mentioning 'the need to err on the side of caution' (coupled with a complete hands-off stance), implied is that the health of species are suspect (populations are 'sick'). In contrast, the basic tenets of wildlife science and population biology indicate the opposite situation. Populations are deemed to occur at normal densities in occupied habitat (are 'healthy'). This is due to the principle of population biology previously mentioned that species over produce their kind during reproduction.

B) The second contradiction occurs as follows: Because population biology indicates species exist at normal densities, factual evidence is needed to demonstrate otherwise. In contrast, application of the PP concept bypasses or ignores the need for factual evidence to determine if a species' health is suspect. By invoking the PP, one can simply declare that a species is suspect and should be placed in a protected status.

It should be noted there is no evidence that supports the PP concept but an enormous amount of evidence exists in support of the basic tenets of population biology--which species exist at normal densities in suitable habitat. It seems not to bother advocates of the PP that in many cases, the listing of species was done without any factual evidence. Yet the irony is that proponents of the PP then mention that scientific evidence is required in order to have a species removed from a 'Protected' status.

Do you think agency wildlife biologists would recommend de-listing species based solely on anecdotal opinion without supporting evidence? Yet, with a complete void of factual evidence, wildlife agencies have listed species in a 'Protected' status based solely on anecdotal opinion. I was hoping that Arizona was different. But I see that is not the case with the recent listing of the Box Turtle where no meaningful evidence was presented that would remotely indicate the species was experiencing problems in that state.

6) It is my view that most non-game species listed in some category of concern were done so based mostly or entirely on anecdotal type information lacking factual support. When a person invokes the PP for such listed species, they are employing an unscientific concept to justify a species listed by unscientific processes. In my opinion, this amounts to one form of junk science justifying the use of another form of junk science.

7) Last, I looked into the origin of the PP. I found that a number of individuals had proposed its application but that it was primarily aimed at technological advances. One source on its origin mentions that the PP became popular with G. Tyler Miller, an Environmental Scientist and economist. In one of Miller's books, 'Environmental Science, ninth edition' is the following definition: "The precautionary principle: When there is much evidence that an activity raises threats of harm to human health or the environment, we should take precautionary measures to prevent or reduce harm even if some of the cause-and-effect are not fully established scientifically." Please note where it mentions "WHEN THERE IS MUCH EVIDENCE".

As mentioned at the beginning, my concern involves basic values of integrity, credibility, professionalism, and honesty. After examining the current manner in which wildlife agencies assess and list non-game species, in the past 8 years I have progressed from merely being skeptical to being cynical. I no longer accept listed species at face value and need to be shown the factual basis that supports such listings. No longer am I gullible enough to accept a biologist's (or academic's) explanation that a listing was 'based on the best science available' or 'based on the best available information'. Invariably, I have found that no science was involved and the best information amounted to anecdotal opinion without support from meaningful evidence.

With many species having been listed without acceptable evidence, I find it hard to reconcile how any individual that critically examines this issue can have confidence in the credibility in state wildlife agency's lists

of 'Protected Species'. How does this situation reflect on the integrity of a state wildlife agency, particularly their non-game programs? Does anyone believe that such methods are professional and are taught at university Depts. of Wildlife Science? And what does it tell you about basic honesty. In official lists of protected species, state wildlife agencies are informing everyone that these species are in need of protection. Yet agency biologists are unable to produce any valid evidence in support of such listings. (Nor are they able to explain in rational terms how a protected status truly 'protects' such species.) The situation in Oregon is a typical example in which not a smidgen of data exists in support of the 4 species of snakes listed in the 'Protected' category.

As with my prior threads, I hope that I have planted some seeds for thought.

I will close with mentioning that as an independent biologist, I am not accountable to any entities be they public or private. I am a long time conservationist having contributed financial support yearly for decades to a number of conservation organizations with my favorite being Nature Conservancy. Clearly there are some species in dire straits and others where populations have been compromised. But with the current situation in which there are an incredible number of bogus listings, it is my view that the entire conservation movement has been compromised.

The questions of why and how this has all come about I will leave for others to ponder.

Richard F. Hoyer (Corvallis, Oregon 1/26/2005)

Roxann B Borisch

From: Richard F. Hoyer <charinabottae@earthlink.net>
Sent: Monday, March 14, 2016 9:45 PM
To: ODFW; Robert T. Mason; Dan Edge; Eleanor Gaines; Colin Gillin; Richard F. Hoyer
Subject: Revision of Div. 44 Regulations

To: Oregon Wildlife Commission
From: Richard F. Hoyer
Re: Revision of Division 44 regulations

Problem #1) Composition of the ODFW panel.

During my meeting with ODFW veterinarian Colin Gillin, I asked about the advisory group that had selected the five species of snakes proposed for being including in a protected status. Noticeably absent was any experienced field herpetologist, no one from the academic / herpetological research community, nor anyone from amateur field herping community.

Instead, represented on that panel were organizations likely to be anti-collecting and anti-maintenance of wildlife (Audubon, Humane Society). As I mentioned to Colin Gillin, this is tantamount to ODFW soliciting input from PETA and the Animal Liberation Front when ODFW establishes regulations dealing with the harvest of game species.

Secondly, it seems unlikely any panel member could possess experience in field herpetology. I mention this because of the irrational nature of the five species I snakes the panel selected for protection. That is, none of the panel member could have any intimate knowledge of the five species of snakes. I make the above assertion because one of the species the panel selected quite likely has the largest distribution of any snake in Oregon, occupies the greatest variety of habitats, and thus is arguably the most numerically abundant snake in Oregon numbering in the many millions.

Now my above statement is the type of anecdotal (subjective), personal opinion that should not be accepted as valid UNLESS, I can provide some legitimate support in the form of research, evidence, and the application of biological principles. And I am willing to do that very thing upon request.

Third, it also is clear that panel members could not be familiar with what constitutes legitimate research and valid scientific information. For if they did, they would not have relied on the information on species ranking produced by ORBIC as their source for selecting species. (See problem #2).

Richard F. Hoyer (Corvallis, Oregon)

Roxann B Borisch

From: Richard F. Hoyer <charinabottae@earthlink.net>
Sent: Monday, March 14, 2016 9:58 PM
To: ODFW; Robert T. Mason; Dan Edge; Eleanor Gaines; Colin Gillin; Richard F. Hoyer
Subject: Revision of Div. 44 Regulations

To: Oregon Wildlife Commission
From: Richard F. Hoyer
Re: Revision of Division 44 regulations

Problem #2) Methods:

When a state wildlife agency proposes species be included in a protected status, they are informing the public that these species are of conservation concern and potentially at risk. At the same time, they are indicating that collecting those species can potentially produce negative impacts.

Identifying species in some official category of concern should be accomplished by professional methods rather than non-professional methods. Such professional methods are an integral part of the curriculum taught at university departments of wildlife science. A prerequisite for assessing and listing species should involve science based methods that rely on reviewing the published literature, identifying valid evidence, conducting research, and applying of basic principles of wildlife science and population biology.

In contrast, non-professional methods involve the use of anecdotal information such as perceptions, conjecture, personal opinions, speculation, etc. that invariably lacks support from scientific evidence. Consequently, non-professional methods should never be used for placing species in some official category of concern. To do so constitutes a violation of the public trust.

Unfortunately in the past, the non-game section of ODFW has already made use of non-professional methods to list species. As an example are the four species of snakes currently on ODFW's protected list (Common Sharp-tailed Snake, Ground Snake, Calif. Mt. Kingsnake, and Common Kingsnake).

At the time those snakes were placed on both ODFW's Sensitive Species and Protected lists, none of those species had been the subject of research in Oregon. Consequently, there was no supporting evidence for those listings. And to the present time, there still is no evidence that would support the listing of those species in the current protected status.

It is my hope that the current Commission does not repeat that same mistake. And my reason is exactly the same, that is, there is a total void of any valid evidence that would support the listing of the 5 species of snakes being propose for placing in a protected status.

I was informed by Colin Gillin that the advisory panel (and ODFW) relied on the ranking information from ORBIC. In contacting individuals at ODFW and ORBIC, I have tried to determine if there exists any scientific evidence that would support listing the five species of snakes. To their credit, I did get responses from individuals from both organizations. But neither organization has provided any evidence in support of the five snakes being proposed for listings. I suggest that if there were such evidence, it would have been submitted by either organization.

The process used by ORBIC for ranking species is not a valid scientific process. Several years ago I reviewed of the process used by NatureServe in producing their rankings of species. Just recently, I did the same thing. What I found both times is that their process relies almost entirely on subjective judgments (opinions) without any support from scientific evidence.

The above assertion that the ORBIC ranking process does not represent a scientific process again represents an opinion. Such an assertion lacks merit unless I am able to provide input in support of such an assertion. I am prepared to do so on request by copying the volumes of information contained in NatureServe's web site that demonstrates a void of scientific evidence used in their ranking process. (see P.S.)

I first intended to provide such 'proof' but found it would require a very extensive, detailed review. So I have omitted that review but produce one piece of evidence in support of my position that the ORBIC ranking process lacks scientific credibility. At the back of all ORBIC / NatureServe Explorer species accounts, there is an extensive "Information Warranty Disclaimer". The following quote is the first sentence of that 'disclaimer'.

"All documents and related graphics provided by this server and any other documents which are referenced by or linked to this server are provided "as is" without warranty as to the currentness, completeness, or accuracy of any specific data."

Such a 'disclaimer' does not occur following published scientific research in professional journals. So I emphasize again, no one at ORBIC or ODFW can provide the Commission with any valid evidence in support of the 5 species of snakes proposed for listing in a protected status.

Richard F. Hoyer (Corvallis, Oregon)

P.S. I invite the Commissioners to conduct their own review of NatureServe's ranking process. A major factor for establishing rankings is identified as Element Occurrences or EO or just 'Occurrences'. If anyone can identify, in concrete terms, exactly what constitutes an EO and how EOs are established for species, I am all ears. I have surmised that the basis for EOs likely involves the number of locality sightings for species. But that is a guess on my part as in my search of the ORBIC / NatureServe web site, I was unable to confirm that point. RFH

Roxann B Borisch

From: Richard F. Hoyer <charinabottae@earthlink.net>
Sent: Tuesday, March 15, 2016 11:15 AM
To: ODFW; Robert T. Mason; Dan Edge; Colin Gillin; Eleanor Gaines; Richard F. Hoyer
Subject: Revision of Div. 44 Regulations

To: Oregon Wildlife Commission
From: Richard F. Hoyer
Re: Revision of Division 44 regulations

Problem #3 Take (collecting)

To propose that species be placed in a hands-off, 'protected' status implies that ODFW considers random, incidental take (collecting) by the public has the potential of producing negative impacts to these species. I have encountered this same misconception not just from wildlife biologists, but from professional herpetologists, and members of the field herping community as well.

Two points come to mind. 1) None of these individuals have attempted to seriously address the issues of neither 'supply' (numerical abundance) nor 'demand' (collecting) as those factors pertain to species of amphibians and reptiles. The execution of a simple model can provide a ball park estimate of numerical abundance. Such results reveals just how misguided is the notion that recreational collecting can produce negative impacts on populations of snakes and other non-game species.

Below, I have produced the same model I demonstrated for Colin Gillin during our meeting on March 3rd that involves one of the species proposed to be listed in a 'protected' status. From my experience with the snakes in Oregon, the Striped Whipsnake likely is the least numerically abundant of the five species being proposed for listing as protected. Consider the following example in which I use information from named sources.

Striped Whipsnake (*Masticophis taeniatus*):

Range Extent / Area of Occupancy 8000 – 80,000 sq. mi. (From ORBIC, Institute of Nat. Res., PSU, Rank Date: 7/8/2010)

Densities: 0.15 – 0.33 / hectare (snake densities, Dr. Harold De Lisle, 7/20/01 -- list copied below)

I have purposely taken an ultra conservative approach by using the minimum figure of occupied habitat and lowest density.

Est. Minimum numerical abundance in Oregon: 8000 sq. mi. X 259 ha. / sq. mi. = 2,072,000 ha. X 0.15 snakes / ha. = 310,800 Striped Whipsnakes

(Comment: I could not find how ORBIC arrived at the 8000 – 80,000 sq. mi. figures. I consider the 80,000 figure is in excess of the total range of the Striped Whipsnake in Oregon. And the 8000 figure grossly unrepresents the minimum amount of area occupied by the snake in Oregon)

I will not bother to elaborate on the factor of 'demand' but could do so upon request. Suffice to mention that the Striped Whipsnake mainly occurs in central and eastern Oregon where the human population is most sparse. Secondly, demand for the Whipsnake is virtually zero as few individuals would consider collecting and maintaining this species even if they were able to catch one which is not easy. The above ball park estimate of numerical abundance should demonstrate that personal take (collecting) of snakes is a non-issue.

Historically, both vertebrate and non-vertebrate species for which demand can, or has potential of impacting populations have been regulated / managed and are identified as either game species, fur bearers, or commercial species. Both vertebrate and non-vertebrate species for which there is no demand or miniscule demand and therefore are not in need of being regulated / managed have been identified as non-game species. That would include all native amphibians and reptiles with the exception of turtles.

I pose two questions: What science-based rationale could there be for proposing regulations for species whose population's number in the hundreds of thousands to millions? And what science-based rationale could there be for proposing regulations of species for which there is no demand?

With my understanding of Oregon's amphibians and reptiles including those being proposed for listing, there is no demand for most of those species and perhaps some very slight demand for a few species. Secondly, it is likely that the populations of all species proposed for listing number in the hundreds of thousands to millions. Below I have copied another 'essay' I posted on the PARC web site that provides added perspective with respect to the numerical abundance of snakes.

And last, I believe ODFW biologists would agree that the populations of all species of wildlife, game and non-game, are governed by the same basic biological principles. And one of those principles is that barring any interference with normal reproductive efforts, species over-produce their kind during reproduction thus creating a surplus.

So with the above in mind, consider the following, ultimate irony. We have a wildlife agency whose biologists understand that humans can take (harvest) thousands of game species yearly and those species remain as sustainable populations. But then biologists with the same wildlife agency believe you need to prevent some miniscule take of non-game species by the public for fear that such collecting would harm those species.

Richard F. Hoyer (Corvallis, Oregon)

From: Richard F. Hoyer
To: PARC@LISTSERV.UGA.EDU
Sent: Sunday, September 25, 2005 10:22 PM
Subject: Concern with recreational collecting

To all PARC members:

In having hashed over the topic of recreational collecting of snakes with others the past 4+ years, I have found that many biologists and herpetologists are completely unaware that most species of herps (including snakes) have rather immense numerical populations usually numbering in the many hundreds of thousands at the low end and many millions at the upper end. That such individuals continue to express concerns over the impact of recreational collecting indicates they have not sat down and done their homework.

Here is another general way of viewing the situation. Many of the larger states harvest between 40,000 - 60,000 deer annually. Now if you believe that deer have higher relative densities (deer/hectare), greater numerical abundance, and a greater reproductive output than most species of amphibians and reptiles, further discussion would be pointless.

In the publication by Kevin Enge dealing with the commercial trade of amphibians and reptiles in Florida, there were 85,311 snakes of 40 odd species commercially harvested during the 4 year period from July 1, 1990

through June 30, 1994. Thus, the average COMMERCIAL harvest was 21,328 snakes / year. Now compare that figure with the above deer harvests. I will again ask how anyone can possibly have the slightest concern about recreational take when it is unlikely that even commercial harvests are having any serious impact on most species of snakes. Kevin mentions that commercial activity in herps has been ongoing for about 7 decades in Florida.

Here is another way of understanding just how immense are the numerical abundance of many species of snakes. On page 207 of Kevin Enge's published account, he mentions that the estimated annual loss of all snakes due to road mortality is about 1,400,000 / year in Florida. Even if his estimate were off by a few hundred thousand in either direction, that point in itself should tell you something about the numerical abundance of snakes.

Also, the annual commercial take of 21,328 represent only about 1.5% of all snakes lost to the wild in Florida. I again ask how can anyone be concerned about the recreational take of snakes? And we can only imagine how many more many thousands of snakes are killed annually by loss of habitat due to new housing tracts, commercial developments, constructing new roads, etc.

I will repeat that there is sufficient base-line data available for just about every species of herp in the U.S. that can be used to establish ball park figures on numerical abundance. I will be gone for about a week but if anyone wishes to respond to me privately as others have done, my e-mail address is charinabottae@earthlink.net

If some individuals are interested, when I return I can provide an example of producing an estimate of snake numerical abundance.

Richard F. Hoyer

Posted by Dr. Harold De Lisle on July 20, 2001 at 12:00:15

Examples of Snake Density

Carphophis amoenus (Kansas) 375-729 per hectare
Coluber constrictor (Kansas) 3-7
Diadophis punctatus (Kansas) 719-1849
Elaphe obsoleta (Maryland) <1
Elaphe vulpina (Ontario) 1-3
Heterodon nasicus (Kansas) 2-10
Heterodon platirhinos (Kansas) 1-7
Lampropeltis calligaster (Kansas) <1
Lampropeltis getula californica (California) 0.66
Lampropeltis triangulum sypila (Kansas) <1
Masticophis taeniatus 0.15-0.33
Opheodrys aestivus (Arkansas) 429
Opheodrys vernalis (Illinois) 189
Pituophis c. catenifer (California) 0.12
Pituophis c. deserticola (Utah) 1-3
Regina alleni (Florida) 1289
Storeria dekayi (Ontario) 7-24
Thamnophis butleri (Michigan) 4-9 (Ontario) 13-40

Thamnophis couchii (California) 1
Thamnophis elegans (California) 2.5
Thamnophis proximus (Texas) 16-61
Thamnophis sauritus (Michigan) 10-48
Thamnophis sirtalis (Michigan) 16-34
(Kansas) 2-8
(Illinois) 19
Virginia striatula (Texas) 229-348
Agkistrodon contortrix (Kansas) 6-9
Crotalus cerastes (California) 0.7
Crotalus viridis lutosus (Utah) 0.49
Crotalus viridis oreganus (California) 0.68

Roxann B Borisch

From: Richard F. Hoyer <charinabottae@earthlink.net>
Sent: Tuesday, March 15, 2016 11:33 AM
To: ODFW; Robert T. Mason; Dan Edge; Colin Gillin; Eleanor Gaines; Richard F. Hoyer
Subject: Revision of Div. 44 Regulations

To: Oregon Wildlife Commission
From: Richard F. Hoyer
Re: Revision of Division 44 regulations

Problem #4 Protection

1) There is zero conservation value for the vast majority of species that have been placed in a protected status.
2) Therefore, designating species as being 'protected' constitutes a fraud perpetrated by state wildlife agencies against an unsuspecting public.

Now that I have your attention, the above statements only represent personal opinion. And such personal opinions are without merit unless they can be supported by rational thought processes and valid evidence. I will start with a rational analysis then provide evidence.

A) All wildlife biologists should automatically understand the inseparable link between species and habitat. They also should know that the decline in wildlife populations invariably have occurred as a result either of outright loss (conversion) of habitat or habitat degradation. Therefore, decline of non-game populations has nothing to do with recreation take / incidental collecting by the public. That aspect is supported by processing assessments of numerical abundance (supply) and collecting pressure (demand).

B) There are considerable published accounts in the scientific literature where over harvesting of commercial and game species has produced negative impacts. The question then becomes, is there similar scientific literature documenting negative impacts of non-game species due to recreation take?

Years ago on the national PARC web site, I endeavored to determine if there was any published research that indicated negative impacts on non-game species as a result of personal take or collecting. Only one paper was cited in which the populations of a species of turtle had been negatively impacted at two ponds or small lakes in the east by personal take. (Garber, S. D. and J. Burger. 1995. A 20-yr. study documenting the relationship between turtle decline and human recreation. *Ecological Applications* 5:1151-1162.)

C) Below I have copied the lists of amphibians and reptiles currently listed, and being proposed for listing in a protected status. Anyone with a decent level of experience in field herpetology would automatically know that with the exceptions of the two species of turtles, there is zero, or miniscule demand for all other species on those lists. The few species when encountered, that may be collected on an infrequent basis in Oregon would be the two species of kingsnakes, Rubber Boa, possibly the Ringneck Snake, perhaps the two species of horned lizards, the Collared Lizard, and Leopard Lizard. But such take would be extremely limited and pose no threat to the populations of those species in relation to the magnitude of their populations.

So what is the evidence that protection is a flawed policy? As indirect evidence is the lack of published research as mentioned above. Other indirect evidence is that either researchers do not bother to undertake such studies or if a few have, negative results are usually not published.

The direct evidence I can cite is the failure of the Migratory Bird Treaty Act (MBTA) to protect species. The MBTA protected all native birds (except the Wren Tit?) was enacted about 100 years ago. Although the act had some positive features, it has been a gross failure at protected species of birds.

When I last looked at the federal web site, there were 77 bird species listed as threatened or endangered of which 40 odd species were Passerines (small perching species). I am not familiar with all of those small species but suggest few, if any, are harvested for food or collected as pets by the public. Therefore, the inescapable conclusion is that despite being in existence for about 100 years, the MBTA failed to protect those species.

Knowing that there is zero to miniscule demand for the species of herps that ODFW is proposing to be listed as 'protected', I have two questions for ODFW biologists. 1) What are such species being protected against? 2) Without simultaneously protecting each species' habitat, how are those species being protected?

On Sept. 6, 2005, I posed the same two questions on the national PARC web site. The silence was deafening! I hope it now should be clear that placing species in a 'no collecting', protected status has absolutely no conservation value whatsoever!

Last, consider the following irrational aspect of the proposed regulations. As worded, the regulations allow the public to kill as many of the 'protected' species they might encounter with no threat of penalty. But to capture said species and maintain them alive would constitute a crime.

Richard F. Hoyer (Corvallis, Oregon)

- =====
- (A) Cope's giant salamander (*Dicamptodon copei*);
 - (B) Clouded salamander (*Aneides ferreus*);
 - (C) Black salamander (*Aneides flavipunctatus*);
 - (D) California slender salamander (*Batrachoseps attenuatus*);
 - (E) Oregon slender salamander (*Batrachoseps wrightorum*);
 - (F) Del Norte salamander (*Plethodon elongatus*);
 - (G) Larch Mountain salamander (*Plethodon larselli*);
 - (H) Siskiyou Mountains salamander (*Plethodon stormi*);
 - (I) Blotched tiger salamander (*Ambystoma mavortium melanostictum*);
 - (J) Dunn's salamander (*Plethodon dunni*);
 - (K) Southern torrent salamander (*Rhyacotriton variegatus*);
 - (L) Columbia torrent salamander (*Rhyacotriton kezeri*);
 - (M) Cascade torrent salamander (*Rhyacotriton cascadae*);
 - (N) Crater lake Newt (*Taricha granulosa mazamae*);
 - (O) Rocky Mountain tailed frog (*Ascaphus montanus*);
 - (P) Coastal tailed frog (*Ascaphus truei*);
 - (Q) Northern red-legged frog (*Rana aurora*);
 - (R) Foothill yellow-legged frog (*Rana boylei*);
 - (S) Cascades frog (*Rana cascadae*);

- (T) Northern leopard frog (*Lithobates pipiens*);
- (U) Columbia spotted frog (*Rana luteiventris*)
- (V) Oregon spotted frog (*Rana pretiosa*);
- (W) Western toad (*Bufo boreas*);
- (X) Woodhouse toad (*Anaxyrus woodhousii*);

- (A) Western painted turtle (*Chrysemys picta bellii*);
- (B) Western pond turtle (*Actinemys marmorata*);
- (C) Great Basin collared lizard (*Crotaphytus bicinctores*)
- (D) Long-nosed leopard lizard (*Gambelia wislizenii*);
- (E) Pygmy short-horned lizard (*Phrynosoma douglassi*);
- (F) Desert horned lizard (*Phrynosoma platyrhinos*);
- (G) Sharp-tailed snake (*Contia tenuis*);
- (H) Common kingsnake (*Lampropeltis getula*);
- (I) California mountain kingsnake (*Lampropeltis zonata*);
- (J) Western ground snake (*Sonora semiannulata*);
- (K) Racer (*Coluber constrictor*)
- (L) Rubber boa (*Charina bottae*)
- (M) Night snake (*Hypsiglena chlorophaea*)
- (N) Striped Whip snake (*Coluber taeniatus*)
- (O) Ring-necked snake (*Diadophis punctatus*)

Roxann B Borisch

From: Richard F. Hoyer <charinabottae@earthlink.net>
Sent: Tuesday, March 15, 2016 5:02 PM
To: ODFW; Robert T. Mason; Dan Edge; Colin Gillin; Eleanor Gaines; Richard F. Hoyer
Subject: Revision of Div. 44 Regulations

To: Oregon Wildlife Commission
From: Richard F. Hoyer
Re: Revision of Division 44 regulations

Problem #5 Snakes proposed for listing as protected.

When I first viewed the five species of snakes ODFW had proposed for protection, I was stunned as the list included two species with distributions that extend over most of Oregon. Also, I automatically knew the selection process could not have been based on sound science. There is nothing in the scientific literature that would support such listings. And because all five species possess exceedingly large distributions in Oregon, they likely have large numerical populations. Yet by proposing those snake be listed as protected, ODFW is informing the public that those species are of conservation concern and potentially at risk. Nothing could be further from the truth if one understands what I have submitted in prior comments.

So how could ODFW select those five species without having any support from scientific evidence? Someone contacted me and mentioned ODFW may have relied on ORBIC rankings. During my March 3 meeting Colin Gillin, he confirmed that point. And therein lays the problem.

In reviewing the process ORBIC / NatureServe use to assess and rank species, it is clear to me that the process involves a great deal of subjective judgments, such as perceptions, conjecture and the like. So to potentially make a point, I will address the factor of 'perceptions' that I hope will demonstrate why 'perceptions,' a form of personal opinion, are often unreliable.

The common perception or opinion amongst birders is that the Red-tailed Hawk is far more abundant than the Sharp-shinned Hawk. Birders commonly observe Red-tails but seldom observe Sharp-shins. As added proof is the data acquired during the annual Audubon Christmas bird counts. Consider the following counts from the 2015 Corvallis Christmas bird count (CBC). Red-tailed H. – 186 Sharp-shinned H. - 13. That same scenario is repeated during the annual CBCs throughout Oregon and elsewhere. With few if any exceptions, counts of Red-tails greatly exceed those of Sharp-shins.

But biologically, that doesn't make sense as invariable larger, species are less numerous than smaller species in the same general class. So deer are less numerous than rabbits and rabbits are less numerous than voles. There is a biological principle involved. And in most cases, that same principle applies to other species such as birds and snakes.

The prey base for each above species of hawk is normally abundant, small mammals for the Red-tail and small birds for the Sharp-shin. So knowing something about the basic life history of both hawks and applying the above biological principle, one should expect the Sharp-shin to be more numerous than the Red-tail which is completely opposite of the perceptions held by most birders and the CBC data.

At Oregon's Bonny Butte, the fall 2015 migration count was 195 for the Red-tail and 265 for the Sharp-shin. For the eight Hawk Watch locations in Montana, the totals for the 2015 fall counts was 1917 Red-tails and 4199 Sharp-shins. There are caveats or bias that occurs in both counts yet it should be clear that the Sharp-shinned Hawk is far more abundant than what normally has been perceived. So how does that example pertain to the list of snakes that ODFW has proposed for listing as protected.

The Rubber Boa (*Charina bottae*), is one of the 5 species on ODFW's list to be protected. In past years and quite possibly at the present time, most conservationists, wildlife biologists, along with many amateur and professional herpetologists have held the opinion (perception), that the Rubber Boa is rare. In 1951 and a freshman in wildlife science at OSU, one of my professors informed the class that the Rubber Boa was "rare".

Similar to the example of the Sharp-shinned and Red-tail Hawks, the Rubber Boa is much smaller than either the W. Rattlesnake or Gopher Snake. The primary prey base of all three snakes is small mammals. So being much smaller in size, from a biological standpoint, the Rubber Boa should be far more abundant than either the Gopher Snake or W. Rattlesnake.

In addition to being much smaller than the other two species, the boa likely has the largest distribution of any snake in Oregon and certainly larger than either the Gopher Snake or W. Rattlesnake. It also occurs in a greater variety of habitats than any other snakes. Thus, the boa likely is the most numerically abundant snake in Oregon and certainly far more abundant than either the Gopher Snake or W. Rattlesnake.

Those assertions are not worth consideration unless I am willing to provide evidence, data, along with a rational analysis in support. And I am willing to do so since I have accumulated a good deal of information on the Rubber Boa starting in 1965. It wasn't until about 1967 when 33, I found my first Rubber Boa in the wild. And although I have not gone through my files, I estimate I have captured and recorded data on several thousand *Charina bottae* as well as many more thousands of recaptures, most of which have occurred in Oregon.

Both the Sharp-shinned Hawk and Rubber Boa are examples as to why it is important to have factual information / evidence in order to understand the basic biology of species. As a practicing falconer, I have some knowledge of raptors. The Sharp-shin is a very secretive species remaining hidden and not usually soaring or sitting out in the open. It hunts by stealth and thus is infrequently observed giving the perception of scarcity and low abundance.

Similarly, the Rubber Boa also is a very secretive species and its true abundance can only be revealed once a person learns when, where, and how to find the species. As an example, this year I found 3 adult male boas on Jan. 22nd. Later when releasing those boas where found, during February I found 7 more adult male boas. On March 3rd with totally overcast skies all day and the high for the day reaching 59 degrees, at one of my original study sites, I found 9 more adult male boas. And all 19 boas were recaptures having been initially captured in previous years. I doubt if north of the southern tier of states in the U.S, there are many if any professional herpetologists that conduct searches for snake during the winter or with the above stated conditions of no sunshine and low temperature.

So despite the realities that the Rubber Boa is much smaller than the Gopher Snake or W. Rattlesnake and NatureServe's own species' maps showing the Rubber Boa with a greater distribution in Oregon than the two larger species, the ORBIC / NatureServe process somehow ranked the much larger Gopher Snake and W. Rattlesnake at S5 and the Rubber Boa at S4. I submit that the individual or individuals at NatureServe that

ranked the boa S4 likely did so based on the 'perception' that the Rubber Boa is rare or very uncommon. But that is just a guess on my part and not fact.

With the Rubber Boa and Oregon Aquatic Garter Snake both ranked S4 but with the latter species' distribution in Oregon being a small fraction of the Rubber Boa, how could the advisory panel leave out the garter snake but include in the Rubber Boa as needing protections? Again, I suggest the answer likely lies with the 'perception' that all garter snakes are common and the Rubber Boa is rare or uncommon.

A second example of why perceptions / personal opinions should never be used to assess and list species involves the Sharp-tailed Snake (*Contia tenuis*) in Oregon. In the 1970s and beyond, NatureServe and ODFW had the Common Sharp-tailed Snake designated in some category of conservation concern. ODFW's had the species in their Sensitive Species list. In ODFW's 1991 account of the Sharp-tail is the following: "Rare and declining in the Willamette Valley where only relict populations remain."

Knowing the species had never been studied in Oregon, I immediately knew my state's wildlife agency had falsified information in order to justify their listing of the species. I was so disgusted, in late 1997 I made the decision to try and determine, one way or the other, what was the truth so undertook a 4+ year study of the Sharp-tailed Snake in Oregon.

Some of the results of that study were published in 2001, 2006, and 2010 (citations on request). However, most of the results have yet to appear in print. I recently sent information I gathered on the species during that study, along with a draft, to a herpetologist and his graduate student at the UN- Reno. Those individuals will treat the data and produce a professional manuscript to be submitted for publication.

Included in my data was over 1450 initial captures and over 400 recaptures of *C. tenuis* in Oregon. About 1000 or more initial captures and over 300 recaptures occurred in the Willamette Valley where ODFW had 'perceived' and stated as if fact, the species was "rare". Instead of being a one person, part time effort all on my own 'nickel', one can only imagine the results that could be achieved had a funded effort been undertaken by two or more experienced field herpetologists.

I hope the Commission realizes that ODFW leadership should require their non-game biologists abandon assessing and listing species based on personal opinions / perceptions and revert to doing so in a professional manner that involves science-based processes.

Richard F. Hoyer (Corvallis, Oregon)

Roxann B Borisch

Subject: FW: Wildlife Images - Comments on Draft Division 44 Rules
Attachments: 4400_001.pdf

From: Pagel, Martha [<mailto:MPagel@SCHWABE.com>]
Sent: Tuesday, March 15, 2016 8:54 AM
To: 'Kevin Blakely'
Subject: Wildlife Images - Comments on Draft Division 44 Rules

Hi Kevin,

I have attached a letter and mark-up version of the rules with comments on behalf of Wildlife Images. I know you have already prepared the written materials for the upcoming Commission meeting on Friday, but I at least wanted you to have the letter before the meeting. As a follow-up action, we would welcome the opportunity for a meeting to discuss the Center's concerns about the rules. In the meantime, if you have any questions about the letter or specific rule comments, please just let me know.

Dave Siddon and one or more of the Board members are also planning to attend the Commission meeting on Friday. I see that the informational report on the rules is scheduled near the end of the agenda – do you have a sense as to the timing? Will this item likely come up in the afternoon? It looks like a very busy agenda!

Thank you,
Martha

MARTHA O. PAGEL | Attorney at Law
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March 15, 2016

VIA E-MAIL

Kevin Blakely
Wildlife Division Deputy Administrator
Oregon Department of Fish & Wildlife
4034 Fairview Industrial Dr. SE
Salem, OR 97302

Re: Comments on Proposed Rules: Division 44 - Protected Wildlife, Holding and Propagating Rules

Dear Mr. Blakely:

Thank you for the opportunity to provide comments on the Oregon Department of Fish and Wildlife's ("ODFW's") proposed "Division 44" rules relating to holding and propagation of protected wildlife. Thanks also to you and Dr. Gillin for taking time to speak with me on the phone last week. The conversation was very helpful in providing background and clarifying the intent of the rules to inform these comments submitted on behalf of my client, Wildlife Images Rehabilitation and Education Center (the "Center" or "WIREC").

WIREC Background

As a preliminary matter, it may be helpful to provide some background on WIREC and its programs. The Center was founded as a non-profit corporation in 1981 by J. David Siddon to provide care and treatment of sick, injured and orphaned wildlife. WIREC has since expanded to provide education programs on wildlife, conservation, and the environment to schools, organizations and the public. The Center currently operates under the direction David A. Siddon, who continues on with his father's mission. WIREC's clinic, animal sanctuary and education center are located on 24 acres in the Grants Pass area, with a portion of the facilities located on federal land managed by the Bureau of Land Management.

Over the past 35 years, the Center has treated thousands of wildlife, with a release rate of nearly 50% -- far above the national average for similar facilities. Animals with permanently

Kevin Blakely
March 15, 2016
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disabling injuries or conditions that are candidates for captive management, as well as animals confiscated by authorities or privately owned and no longer wanted are, at times, integrated into the Center's educational programs as permanent residents, at no cost to the public.

WIREC is open to the public for tours throughout the year and has a very active educational program featuring birds of prey, mammals and reptiles. The Center conducts on-site education programs serving thousands of children each year. The Center's mission is simply stated: "Saving wildlife."

With its combined rehabilitation and educational purposes, WIREC occupies a somewhat unique role in Oregon. The Center has active on-site educational programs that directly involve approximately 25,000 people each year. The Center holds and exhibits a wide variety of animals including large predators and has held animals for Association of Zoos and Aquariums ("AZA") facilities. Executive Director Dave Siddon has been a member of AZA for more than 30 years, and a wildlife education and husbandry professional for 45 years. WIREC is now one of the top tourist destinations in Southern Oregon, holding a five-star rating from Trip Advisor. The Center also works directly with the USFW Forensic Lab in Ashland, and the Klamath Bird Observatory in supporting research projects. The Center also continues to contribute both data and support to state and federal agencies and other educational institutions as requested.

In accordance with state and federal requirements, WIREC holds a number of permits, including: USDA Class "C" Exhibitors Permit, USFW Holding Permits, USFW Eagle Possession and Exhibition Permit, USFW Rehabilitation Permit, ODFW Rehabilitation License, ODFW Rehabilitation License, ODFW Rehabilitation Permit, ODFW Small Mammal Holding Permit, ODFW Prohibited Species Permit, CET Euthanasia Certification by Oregon Veterinary Board, and X-Ray Certification.

Comments and Concerns Relating to the Proposed Rules

As one of the state's leading facilities to receive, rehabilitate and hold wildlife permanently for education purposes, WIREC is directly and significantly affected by the proposed rule changes. We understand the Division 44 rules have been under review through a process that began in 2013 with the formation of a Wildlife Holding Advisory Group. A WIREC staff member participated in the early stages of the rule review process, but unfortunately the Center's representation was unintentionally ended when the staff person left. We regret that the Center was not involved through the entirety of the process, but we appreciate the opportunity to provide comments now about the potential impacts to WIREC programs.

We have attached a marked-up copy of the proposed rules with specific comments and recommendations for changes. In addition, we offer the following general observations about the rule and ODFW programs:

First, WIREC is concerned that the neither the new Division 62 rules relating to wildlife rehabilitation, nor the "stand alone" provisions of Division 44 relating to wildlife holding and propagation, adequately address the important and unique functions of a combined rehabilitation



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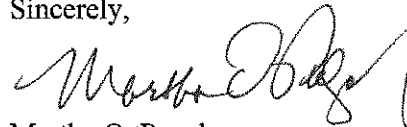
and education facility. Ideally, this major overhaul of Division 44 would have included fundamental changes to clarify and simplify the state permitting process. Instead, the proposed rules will add to the complexity and cost of operating WIREC's ongoing programs, and will make it very difficult for the Center to continue the educational experience it currently offers or plan for future educational endeavors and facility improvements. These concerns are addressed in more detail in the attached comments.

Second, WIREC is concerned that the proposed rules favor facilities licensed by the Association of Zoos and Aquariums ("AZA"), to the disadvantage of non-AZA programs. While WIREC does not question the deference granted under the rules to AZA facilities, the Center is concerned about the lack of clarity as to either the process or standards by which ODFW will make critical permitting decisions affecting non-AZA facilities. The attached comments identify numerous instances in which the rules require "approval" by the Director of ODFW for non-AZA facilities without providing any further guidance as to the criteria or process for obtaining such approval. We can appreciate the intent to provide flexibility for the Director to be able to consider different fact situations that may arise under the rules, but we think more clarity and accountability is required to guide both the regulated community and the Director. It is also unclear why such substantial deference is granted to AZA programs, with no similar recognition for the federal approvals and licenses held by WIREC. As a USDA class C permit holder, the Center is subject to an Animal and Plant Health Inspection Services (APHIS) inspection twice each year to ensure compliance with federal requirements.

Finally, WIREC is concerned about the fiscal impact of several provisions in the rules that will require significant operational changes or payment of new fees without sufficient time to budget for and achieve compliance with new requirements. As a private non-profit program, WIREC does not have the resources to implement new procedures or modify existing facilities with only one year's notice. WIREC's priority is the health and safety of both the animals in its care, and the staff, volunteers and guests, and the Center's facilities are constantly monitored to ensure that applicable standards are met or exceeded, but a more appropriate transition period is needed for the kinds of changes that would be required under the proposed rules.

Again, we thank you for the opportunity to provide these comments for ODFW staff and the Commission. WIREC would welcome the opportunity for further discussion about changes that could be made to address these concerns.

Sincerely,



Martha O. Pagel

MOP:kdo
Attachment
cc: Dave Siddon



Revisions to the following rules are indicated by deleted words and sections in brackets with strike through [word]; new words, sentences or significantly revised sections in **bold and underlined**; and original wording was left unchanged in the text. The Wildlife Rehabilitation section was removed and placed in a new Division 62 of Chapter 635 of the Oregon Administrative Rules.

DIVISION 44

NEW DIVISION TITLE:

PROTECTED WILDLIFE, HOLDING, AND PROPAGATING RULES

~~[HOLDING, PROPAGATING, REHABILITATING,
AND PROTECTED WILDLIFE]~~

DIVISION 44

PROTECTED WILDLIFE, HOLDING, AND PROPAGATING RULES

635-044-0000

Purpose

The purpose of these rules is to~~regulate the~~ **identify the species of wildlife that are protected, wildlife that may be held, conditions for holding, and regulate the** propagation of game birds and ~~other~~ native wildlife except those cervids regulated ~~[pursuant to]~~ by OAR chapter 635, division 49. ~~[to regulate the rehabilitation of wildlife and to list species determined to be protected nongame wildlife]~~

Stat. Auth.: ORS 496.004, 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, **497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242**

635-044-0002

Taxonomy

(1) Scientific taxonomic nomenclature reflects the following:

(a) Fish:

(A) Nelson, J. S., E. J. Crossman, H. Espinosa-Perez, L. T. Findley, C. R. Gilbert, R. N. Lea, and J. D. Williams. 2004. Common and scientific names of fishes from the United States, Canada, and Mexico. American Fisheries Society, Special Publication 29, Bethesda, Maryland.

(B) Moyle, P. B. 2002. Inland fishes of California. Revised and expanded. University of California Press. Berkeley, California.

(C) Jelks, H.L., S.J. Walsh, N.M. Burkhead, S. Contreras-Balderas, E. Diaz-Pardo, D.A. Hendrickson, J. Lyons, N.E. Mandrak, F. McCormick J. S. Nelson, S. P. Platania, B. A. Porter, C.B. Renaud, J.J. Schmitter-Soto, E. B. Taylor, and M. L. Warren, Jr. 2008. Conservation status of imperiled North American freshwater and diadromous fishes. Fisheries. 33(8): 372-407.

(b) Amphibians and reptiles -- Crother, B. I., editor. ~~[2008]~~ **2012**. Scientific and standard English names of amphibians and reptiles of North America north of Mexico, with comments regarding confidence in our understanding. 7th Edition. Society for the Study of Amphibians and Reptiles, Herpetological Circular No. 37.

(c) Birds -- Marshall, D.B., M.G. Hunter, A.J. Contreras, editors, 2003, Birds of Oregon: A General Reference, Oregon State University Press, Corvallis, Oregon. [Chesser, R.T., R.C. Banks, F.K. Barker, C. Cicero, J.L. Dunn, A.W. Kratter, L.J. Lovette, P.C. Rasmussen, J.V. Remsen, Jr., J.D. Rising, D.F. Stotz, and

~~K. Winker, 2009. Fish with supplement to the American Ornithologists' Union Check-List of North American~~

~~Birds. The Auk. 126:705-714]~~

(d) Mammals -- Wilson, D. E. and D. M. Reeder, editors. 2005. Mammal species of the world; a taxonomic and geographic reference. 3rd Edition. Johns Hopkins University Press.

(2) If the taxonomic status of individual species is changed through subsequent publications, scientific taxonomy shall remain as cited in 635-044-0002(1) and 635-044-0005 for the purposes of implementing and enforcing 635-044-0000 through 635-044-0085.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

635-044-0003

Definition of Terms

(1) "AZA" means the Association of Zoos and Aquariums.

(2) "AVMA" means the American Veterinary Medical Association.

(3) "Department" means Oregon Department of Fish and Wildlife.

(4) "Endangered species" means those species defined in ORS 496.004(6).

(5) "Facility" means any building, structure, cage, pen that wildlife may be kept, fed, exercised, held during any portion of its life stages.

(6) "Grandfathering" means, for the purpose of these rules, that a person who possessed legally held native wildlife prior to the date the Commission adopts these amended rules (April 24, 2015), may continue to hold the animal(s) for the life of said animal(s) within the provisions of the amended rules.

(7) "Hold" means any form of possession or control of a live animal, gamete, or hybrid thereof

(8) "Hybrid" means any animal, gamete or egg that is produced by crossing at least one wild individual of a species with any other species or subspecies.

(9) "Import/importation" means to bring or cause live wildlife to be transported into Oregon by any means.

(10) "Migratory bird" means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in U.S. 50CFR§10.13, including any part, nest, or egg of any such bird. Birds listed under OAR 635-057-0000 are not included.

(11) "Native" means indigenous to Oregon, not introduced ORS 496.171 (2).

(12) "Nongame wildlife" as defined in ORS 496.375.

(13) "Pedigree" means the record of descent of an animal identifying its ancestry and genetic lineage.

ODFW

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(14) "Permittee" means the person who holds a valid Wildlife Holding Permit or Propagation License issued by the Department.

(15) "Propagation" is the breeding, reproduction, production, incubation, or rearing of wildlife by a human for sale, release, or other uses.

(16) "Public display" means to place or locate wildlife so that it may be viewed by the public directly or electronically.

(17) "Release" is permitting any legally collected wildlife, domestically raised or imported wildlife currently or previously in possession to exist alive outside an approved holding or propagation facility.

(18) "Sensitive species" means those wildlife species, subspecies, or populations that are facing one or more threats to their populations, habitat quantity or habitat quality or that are subject to a decline in number of sufficient magnitude such that they may become eligible for listing on the state Threatened and Endangered Species List.

(19) "Species" means a unit of classification of animals which are capable of interbreeding and producing fertile offspring.

(20) "Take" means to kill or obtain possession or control of any wildlife (ORS 496.004 (16)).

(21) "Threatened species" means those species defined in ORS 496.004 (17).

(22) "USFWS" means U.S. Fish and Wildlife Service.

(23) "Wildlife" means those species defined in ORS 496.004 (19).

Stat. Auth.: ORS 496, 496.390, 498.002

Stats. Implemented: ORS 496

635-044-0005 (0130)

Protected Wildlife [Nongame Wildlife-Protected]

(1) Except as provided by ORS and OAR 635-044-0010, 635-044-0020, 635-044-0030, 635-062, 635-050, 635-056, 635-200-0040; it is unlawful for any person to [~~hunt, trap, pursue, kill~~] take, [~~feather, angle for~~] **capture, hold**, or have in possession, either dead or alive, whole or in part, any **wildlife listed in this section**:

(a) Threatened or Endangered animals as provided for in 635-100-0125 **and species listed by ORBIC as "rare, threatened or endangered" or federal threatened and endangered species; or**

(b) Non-threatened or non-endangered migratory nongame birds (unless as authorized by a Migratory Bird Depredation Order), or in compliance with all terms and conditions of a Migratory Bird Depredation Permit issued by the United States Fish and Wildlife Service under Title 50 Code of Federal Regulations Part 21, Subpart D. Nothing in this rule is intended to affect the

Comment [MOP1]: This general prohibition provides no exception/clarification as to the role of an educational program. It would be desirable and more effective to design a new and different type of permitting for facilities like WIREC that combine rehabilitation and educational programs.

Comment [MOP2]: Define – add to definitions section

provisions of ORS 610.002 to 610.990, or

~~(c) Protected wildlife listed herein except as otherwise provided by the commission by permit or with respect to.~~ Pacific Lamprey (*Entosphenus tridentatus*) only as authorized by a federally-

recognized Indian tribe to which the Commission has issued a permit authorizing that tribe to allow its members to take Pacific Lamprey at Willamette Falls for personal use, with a tribal enrollment card in possession, within seasons and subject to conditions established by the Commission;

(d) Fish: (Protected wildlife are listed by common name and scientific name if consistently applied across taxonomic references):

- (A) Alvord Lake chub (*Siphateles alvordensis*);
- (B) Oregon lakes tui chub (*Siphateles bicolor oregonensis*);
- (C) Sheldon tui chub (*Siphateles bicolor eurysomus*);
- (D) Oregon chub (*Oregonichthys crameri*);
- (E) Goose Lake tui chub (*Siphateles bicolor thalassius*);
- (F) Northern** pit roach (*Hesperoleucus symmetricus mitrulus*);
- (G) Millicoma longnose dace (*Rhinichthys cataractae ssp.*);
- (H) Lahonton redbreast **shiner** (*Richardsonius egregius*);
- (I) Goose Lake sucker (*Catostomus occidentalis lucusanserinus*);
- (J) Klamath smallscale sucker, Jenny Creek population (*Catostomus rimiculus*);
- (K) Tahoe sucker (*Catostomus tahoensis*);
- (L) Malheur sculpin (*Cottus bendirei*);
- (M) Margined** sculpin (*Cottus marginatus*);
- (N) Pit** sculpin (*Cottus pitensis*);
- (O) Pacific lamprey (*Entosphenus tridentatus*);
- (P) Western** river lamprey (*Lampetra ayresii*);
- (Q) Western brook lamprey (*Lampetra richardsoni*);
- (R) Miller Lake lamprey (*Entosphenus minimus*);
- (S) Klamath River lamprey (*Entosphenus similis*);
- (T) Pit-Klamath brook lamprey (*Entosphenus lethophagus*);
- (U) Goose Lake lamprey (*Entosphenus spp.*);

(e) Amphibians:

- (A) Cope's giant salamander (*Dicamptodon copei*);
- (B) Clouded salamander (*Aneides ferreus*);
- (C) Black salamander (*Aneides flavipunctatus*);
- (D) California slender salamander (*Batrachoseps attenuatus*);
- (E) Oregon slender salamander (*Batrachoseps wrightorum*);

- (F) Del Norte salamander (*Plethodon elongatus*);
- (G) Larch Mountain salamander (*Plethodon larselli*);
- (H) Siskiyou Mountains salamander (*Plethodon stormi*);
- (I) Blotched tiger salamander (*Ambystoma mavortium melanostictum*);
- (J) Dunn's salamander (*Plethodon dunnii*)**
- (K) Southern torrent salamander (*Rhyacotriton variegatus*);**
- (L) Columbia torrent salamander (*Rhyacotriton kezeri*);**
- (M) Cascade torrent salamander (*Rhyacotriton cascadae*);**
- (N) Crater lake Newt (*Taricha granulosa mazamae*)**
- (O) Rocky Mountain tailed frog (*Ascaphus montanus*)
- (P) Coastal tailed frog (*Ascaphus truei*);
- (Q) Northern red-legged frog (*Rana aurora*);
- (R) Foothill yellow-legged frog (*Rana boylei*);
- (S) Cascades frog (*Rana cascadae*);
- (T) Northern leopard frog (*Lithobates pipiens*);
- (U) Columbia spotted frog (*Rana luteiventris*)
- (V) Oregon spotted frog (*Rana pretiosa*);
- (W) Western toad (*Bufo boreas*);
- (X) Woodhouse toad (*Anaxyrus woodhousii*);

(f) Reptiles

- (A) Western painted turtle (*Chrysemys picta bellii*);
- (B) Western pond turtle (*Actinemys marmorata*);
- (C) Great Basin collared lizard (*Crotaphytus bicinctores*)
- (D) Long-nosed leopard lizard (*Gambelia wislizenii*);
- (E) Pygmy short-horned lizard (*Phrynosoma douglassi*);
- (F) Desert horned lizard (*Phrynosoma platyrhinos*);
- (G) Sharp-tailed snake (*Contia tenuis*);
- (H) Common kingsnake (*Lampropeltis getula*);
- (I) California mountain kingsnake (*Lampropeltis zonata*);
- (J) Western ground snake (*Sonora semiannulata*);
- (K) Racer (*Coluber constrictor*)**
- (L) Rubber boa (*Charina bottae*)**
- (M) Night snake (*Hypsiglena chlorophaea*)**
- (N) Striped Whip snake (*Coluber taeniatus*)**
- (O) Ring-necked snake (*Diadophis amabilis*)**

(g) Birds: All nongame birds except European starling (*Sturnus vulgaris*), house sparrow (*Passer domesticus*), and Eurasian collared-dove (*Streptopelia decussata*).

(h) Mammals:

(A) All bats in the Order Chiroptera;

(B) American pika (cony) (*Ochotona princeps*);

(C) Pygmy rabbit (*Brachylagus idahoensis*);

(D) White-tailed jack rabbit (*Lepus townsendii*);

(E) Chipmunk (*Tamias amoenus*, *T. minimus*, *T. senex*, *T. siskiyou* and *T. townsendii*);

(F) Golden-mantled ground squirrel (*Spermophilus lateralis*);

(G) Chickaree or red squirrel (*Tamiasciurus hudsonicus*);

(H) White-tailed antelope squirrel (*Ammospermophilus leucurus*);

(I) Northern flying squirrel (*Glaucomys sabrinus*);

(J) White-footed vole (*Arborimus albipes*);

(K) Ringtail (*Bassariscus astutus*);

(L) Fisher (*Martes pennanti*);

(M) All marine mammals.

[Columbian white-tailed deer (*Odocoileus virginianus leucurus*) in the following Wildlife Management Units: Saddle Mountain (10), Seapoose (11), Willamette (15), and Santiam (16).]

(2) Notwithstanding section (1) of this rule, it shall be lawful to purchase, sell, or exchange, or have in possession any pelt of wildlife listed therein which was lawfully taken in another state and transported into Oregon. A bill of lading or freight bill from a common carrier or other documentary proof indicating the state of origin of the pelt and the name and address of the person from whom the pelt was received shall be sufficient.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 498.012 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

635-044-0010

Protected Wildlife Capture and Holding of Wildlife

Wildlife may not be captured from the wild and/or held unless authorized by the Director or after acquiring:

(1) **Wildlife Holding Permit (635-044-0020 (1) and 635-044-0030);**

(2) **Wolf Holding Permit (635-044-0020 (6))**

Comment [MOP3]: Need clarification as to the process for getting authorization from the Director – what standards apply? How is it initiated?

Comment [MOP4]: WIREC currently holds this type of permit – but the current process requires a permit for each new wildlife acquisition subject to annual renewals. WIREC recommends a fresh look at a more effective type of regulatory structure for facilities that combine rehabilitation and long-term holding for education programs.

- (3) Wildlife Propagation License (635-044-0060(1)) including select native and game bird species as defined in 635-045-0002 (34) of the families Columbidae, Anatidae, Tetraonidae, Phasianidae and Odontophoridae or other wildlife species approved by the Director.
- (4) Falconry License (OAR 635-055-0010);
- (5) Wildlife Rehabilitation Permit (OAR 635-062-0010);
- (6) Scientific Taking Permit (OAR 635-043-0023);
- (7) Game Bird Release Permit for Hunting Dog and Raptor Training and Competitive Hunting Dog Trial Permit (applicable to common pheasant (all races of *Phasianus colchicus*); California (valley), bobwhite and Coturnix quail; Hungarian (gray), chukar, and red-legged partridge; or mallards as defined in OAR 635 Division 046.
- (8) Hunting Preserve License (pheasants, quail, and partridge) defined in 635-047-0015
- (9) Holding and Propagation Captive Cervid permits as defined in OAR 635, Division 049;
- (10) Federal Wildlife Permit (Form 3-200). A federal permit will serve in lieu of a state Wildlife Holding Permit for birds protected by the federal Migratory Bird Treaty;
- (11) Fox (*Vulpes vulpes* or *Urocyon cinereoargenteus*) or mink (*Mustela vison*) may be held by a commercial fur farm under authority of the Oregon Department of Agriculture (ORS 596.010 (3); 609.125; 596.020 (2)).
- (12) Fish Transport Permit (OAR 635-0007-0600);
- (13) Fish Propagation License (OAR 635-007-0650);
- (14) Sturgeon Propagation Permit (OAR 635-007-0725);
- (15) Scientific Taking Permit (OAR 635-007-0900);

Comment [MOP5]: Can fox be held for educational purposes?

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.002, 498.022, 498.029, 498.052, 498.222 & 498.242, 596.010, 596.020, 609.125;

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

[635-044-0040

Numbers of Wildlife to Be Captured

The number of any wildlife species for which a Wildlife Holding Permit is required that may be captured and held shall not exceed six per calendar year except as authorized by the Director.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242 Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242]

[635-044-0015

Wildlife Which Cannot Be Captured and Held

Except as provided in these rules, no game mammal, furbeaver, striped skunk (*Mephitis mephitis*), western spotted skunk (*Spilogale gracilis*), native bat, or coyote (*Canis latrans*) may be captured and held in captivity, except as authorized by the director. Fox (*Vulpes vulpes*) or Urocyon cinereoargenteus may be held by a commercial fur farm as defined in OAR 635-056-0010. No game bird may be captured and held in captivity except that members of the families Tetraonidae and Phasianidae may be captured and held as authorized by the director. No game fish may be captured and held in captivity except as authorized by the director. No species of nongame wildlife declared protected by the commission under OAR 635-044-0130 may be captured and held except not the red flying squirrel (*Glaucomys sabrinus*), the hairy woodrat (*Douglas's squirrel and red squirrel*) (*Tamiasciurus douglasii* and *T. hudsonicus*), golden-mantled ground squirrel (*Spermophilus lateralis*), and chipmunk (*Tamias amoenus*, *T. minimus*, *T. senex*, *T. siskiyou* and *T. townsendii*). No migratory bird or mammal protected by federal law may be captured and held without first securing a federal permit. A federal permit will serve in lieu of a state Wildlife Holding Permit for birds protected by the federal Migratory Bird Treaty Act and mammals protected by federal law.]

[Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242]

[635-044-0132

Nongame Wildlife-Nonprotected

- (1) Any nongame wildlife species that is not provided for in 635-044-0130, or is not otherwise protected by statute or rule, is nonprotected.
- (2) Any nonprotected wildlife taken from the wild and possessed shall be maintained in a humane manner as follows:
 - (a) Food and water of sufficient quantity and quality to allow for normal growth or maintenance of body weight, shelter sufficient to protect the animal from adverse elements, and any other requirement particular to the animal's survival shall be provided;
 - (b) Sufficient space for exercise necessary for the health of the animal shall also be provided;
 - (c) Confinement areas shall be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health;
 - (d) A level of care deemed necessary by a reasonably prudent person shall be provided to prevent distress from captivity, injury, neglect or disease;
- (3) It is unlawful for any person possessing wildlife to cause or allow such wildlife to be chased, injured, harmed, harassed, molested, worried, frightened, or neglected, except wildlife taken under a Scientific Taking Permit.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242 Stat. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242]

635-044-0015 [635-044-0005]

Permit Required to Hold Wildlife

(1) Captured and held nongame wildlife species listed in 635-044-0030 require a Wildlife Holding Permit when more than two (2) animals per species are held [except] or unless authorized under a permit listed in 635-044-0010.

(2) Wildlife Holding Permits are specific to the species held, permit holder and to the holding facility described on the permit.

(3) Wildlife legally held and defined under 635-044-0020 and 635-044-0025 requires a Wildlife Holding or Wolf Holding Permit.

(4) Certify to the Department that the Wildlife Holding permittee's species held complies with any applicable city or county ordinances and any applicable federal laws.

(5) No Wildlife Holding Permit is required to hold:

(a) game bird species legally acquired and held under a Wildlife Propagation License;

(b) captive or farmed cervids held under a Cervid Holding Permit or a Cervid Propagation License (OAR chapter 635 division 49);

(c) game birds legally acquired from a licensed propagator or with a valid import permit from the Oregon Department of Agriculture;

(d) fox or mink propagated on a commercial fur farm;

(e) game fish legally acquired and possessed with a valid Fish Transport Permit.

(6) Cancellation or non-renewal of licenses or permits and contested case procedure is defined in 635-044-0075.

[Any person desiring to capture and hold any northern flying squirrel (*Glaucomys sabrinus*), chickaree (Douglas's squirrel and red squirrel) (*Tamiasciurus douglasii* and *T. hudsonicus*), golden-mantled ground squirrel (*Spermophilus lateralis*), or chipmunk (*Tamias amoenus*, *T. minimus*, *T. senex*, *T. siskiyou* and *T. townsendii*), or to hold any raccoon (*Procyon lotor*), or bobcat (*Lynx rufus*) must first secure a Wildlife Holding Permit by applying on a form provided to the Oregon Department of Fish and Wildlife. The application shall list the species and numbers to be captured or otherwise acquired, the source or proposed area of capture, the date of application, and the name, address, and signature of applicant. Any application may be denied by the director for cause.]

[635-044-0020

When a Permit is not Required to Hold Wildlife

Comment [MOP6]: Should address/include recognition re wildlife held for educational purposes

No Wildlife Holding Permit is required to capture and hold wildlife except for those species listed in OAR 635-044-0005 and those species listed in OAR 635-044-0015 which cannot be captured and held. No Wildlife Holding Permit is required to hold game mammals and game birds, and game fish legally acquired and held under a Wildlife Propagation License, a Cervid Holding Permit or a Cervid Propagation License. Stat. Auth.: ~~ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242~~ Stats. Implemented: ~~ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242~~

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

635-044-0020

Holding of Live Black Bear (*Ursus americanus*), Cougar (*Puma concolor*), Bobcat (*Lynx rufus*), Wolf (*Canis lupus*), Raccoon (*Procyon lotor*) and Skunk (*Mephitis spp.*)

- (1) Black bear, cougar, bobcat, wolves, raccoon and skunk held in captivity require a Wildlife or Wolf Holding Permit for each species held.
- (2) Black bears, cougars, bobcats, wolves, raccoons and skunks acquired by transfer or new holding application, and following adoption of these revised rules (March 18, 2016), shall only be held at Oregon AZA accredited facilities or as approved by the Director.
- (3) Black bears, cougars, bobcats, wolves, raccoons and skunks held legally prior to the adoption of these rules may only be held at AZA accredited facilities or in Department approved facilities meeting standards defined in the Oregon Enclosure and Caging Standards for Holding Wildlife (Exhibit I). The facilities housing legally acquired black bear, cougar, bobcats, wolves, raccoons and skunks must meet the minimum facility standards defined herein within one year following the adoption of these rules.
 - (a) No more than one black bear, one cougar, and one bobcat may be held on a Wildlife Holding Permit unless approved by the Director.
 - (b) No more than two raccoons, two skunks, or two wolves may be held on a Wildlife Holding Permit without approval by the Director.
 - (c) Black bears, cougars, bobcats, wolves, raccoons and skunks must be marked permanently with either a lip tattoo and/or implanted Radio Frequency Identification Device (RFID). Holders of grandfathered animals, as defined in 635-044-0025, shall meet the

Comment [MOP7]: Same question as above – what is the process for getting approval by the Director and what standards apply?

Comment [MOP8]: A longer timeline or exemption process is needed here. This will create a significant funding issue for WIREC. This may also be impossible for WIREC to achieve because of land use/modification restrictions imposed under the Right of Way WIREC holds from the BLM. WIREC has been actively involved with BLM for the past several years to convert the Right of Way to a long term lease, which will allow WIREC to proceed with upgrades and new enclosures.

Comment [MOP9]: Same questions and concerns relating to the lack of clarity as to the process and standards for obtaining approval from the Director.

documentation requirements within one year from the adoption of these revised rules (March 18, 2016).

Comment [MOP10]: This will be a significant cost for WIREC, very difficult to implement within one year; should be more flexibility -- longer time period for existing facilities.

(d) Live black bears, cougars, bobcats, wolves, raccoons, and skunks shall not be removed from the wild with the exception of animals captured and placed by the Department in an AZA accredited facility, or in an approved licensed Wildlife Rehabilitation facility, or under a Scientific Taking Permit (OAR 635-043-0023) or as nuisance wildlife captured by permit (OAR 635 Div. 435) or as approved by the Director.

Comment [MOP11]: Should be revised/clarified to allow for permanent placement of cougars and bears.

(e) Black bears, cougars, bobcats, wolves, raccoons, and skunks held on a Wildlife Holding Permit cannot be bred, reproduced, or propagated in Oregon, including grandfathered animals.

Comment [MOP12]: Same concerns as above regarding lack of process or standards.

(f) Black bears, cougars, bobcats, wolves, raccoons and skunks may only be transferred between valid Wildlife Holding or Wolf Holding permittees with prior approval by the Director.

(g) Black bears, cougars, bobcats, wolves, raccoons and skunks must be held within facilities approved by the Department, except when:

Comment [MOP13]: Unclear as to what type of approval is required here -- should be clarified, and should include process and standards for obtaining approval.

(A) transported to or from licensed Oregon veterinary clinics or other ODFW-approved facilities;

(B) or on public display by a USDA class A, B or C license holder.

(h) Application renewals must include a description of permanent animal identification mark and mark location, and veterinary documentation of reproductive sterilization if required.

(A) No access or contact shall occur between wild animals and captive black bear, cougar, bobcats, wolves, raccoons and skunks or other wildlife held on a Wildlife Holding Permit.

(4) The burden of proof of the hybridity of a bobcat-cross or wolf-cross animal is the responsibility of the animal owner. A wolf is considered "pure-bred" when the animal's genetic and phenotypic makeup does not include any genetic material or characteristics of a domestic dog or other canine, resulting in a hybrid. Documentation in the form of breeding evidence by pedigree and record, records of acquisition and disposition, transactions, and sworn statements, will be required of all bobcats and wolves claimed to be hybrids and genetic testing may be conducted by the Department. Lack of sufficient proof of hybridity as determined by the Department will genetically classify the animal as a bobcat or wolf requiring a Wildlife Holding Permit or Wolf Holding Permit and regulation under the conditions of these rules. (3) For the purpose of this rule, a wolf is considered "pure-bred" so long as it does not include any hybrid cross with a domestic dog or other canine. The Department will determine pure-bred status based on written documentation that may include breeding records, records of acquisition and disposition transactions.

and sworn statements.]

(5) Raccoons and Skunks

(a) Two or more held raccoons or skunks of different sexes requires sterilization of either sex to prevent propagation prior to sexual maturity and within (30) days of permit issuance for adult animals with documented certification by a licensed veterinarian.

(b) Held raccoons and skunks must be caged or restrained when transported beyond the permitted facility.

Comment [MOP14]: Define/clarify "restrained"

(6) [Holding Pure-Bred] Gray Wolf or Wolves in Captivity [635-044-0051]

~~[This rule governs the holding in captivity of pure-bred wolves in Oregon, with the objective of protecting the public's native wildlife.]~~

(a) The Department will only issue new permits to hold a pure-bred wolf in captivity to AZA accredited facilities and no new animals may be added to grandfathered collections without approval by the Director.

(b) To maintain the authority to hold one or more pure-bred gray wolves in captivity, a person described in 635-044-0025 (2) must:

Comment [MOP15]: Clarification needed -Does this mean WIREC cannot hold a wolf under its current permits? Will only AZA facilities be authorized to hold wolves in the future?

(A) No later than 30 days before the expiration date printed on the permit issued by the Department ~~[or the Department of Agriculture which authorized the person to keep one or more wolves in captivity]:~~

(I) Apply to the Department for an annual ~~[captive]~~ Wolf Holding Permit ~~[using a form provided by the Department. Such permits will have a term of two years and may]~~ that may include ~~[, but are not limited to,]~~ conditions designed to protect native wildlife and human safety;

(II) Remit to [Pay] the Department a fee of \$100 (plus a \$2.00 license agent fee) for the permit or permit renewal; and

(III) Demonstrate [certify] to the Department that the person's wolf handling facility complies with any applicable city or county ordinances and any applicable federal laws.

(c) Current holders of captive wolves must:

(A) Not import, export, purchase, sell or exchange any pure-bred gray wolf ~~except with written authorization from the Department prior to transferring a pure-bred gray wolf to another facility~~~~[or releasing any pure-bred gray wolf into the wild]~~; and

(B) Comply with the terms of any permit issued by the Department.

(d) The permit holder must provide a copy of their current federal permits to the department with their Wildlife Holding Permit application or renewal.

~~[(5) Notwithstanding subparagraph (4)(a) above, a person who qualifies to hold a pure-bred gray wolf under paragraph (1) through possessing an exhibitor permit from the U.S. Department of Agriculture does not need~~
ODFW

~~to obtain a wolf holding permit from the Department so long as the person maintains the person's federal~~

~~permit. However, the person must still comply with the requirements of subparagraphs (4)(b) and (e). (6)~~

~~The Department may revoke a wolf holding permit if the Department determines that the person has violated these rules or the terms of the permit. If the Department proposes to revoke a person's wolf holding permit, the person may request a contested case hearing within 14 days of notice of the proposal.]~~

Stat. Auth.: ORS 498.002, 497.228, 496.171 - 182

Stats. Implemented: ORS 498.002, 497.228, 496.171 - 182

635-044-0025

Grandfathering the Possession of Black Bear, Cougar, Bobcat, Wolf, Raccoon, Skunk, Squirrel, Chipmunk and Other Legally Held Non-game Wildlife Species

(1) A person who legally possessed native wildlife (black bear, cougar, bobcat, wolf, raccoon, skunk, squirrel, chipmunk) or other legally held species prior to the time the Commission adopts the amended rules may continue to hold said animal(s) for the remainder of the animal(s) life provided:

(a) The holder submits an application for an annual Holding Permit (Wildlife or Wolf), pays the associated fees, and secures a Holding Permit within a one year of the adoption of these amended rules.

(b) Grandfathered animals are held in Department approved facilities meeting standards defined in the Oregon Enclosure and Caging Standards for Holding Wildlife (Exhibit 1). The facilities housing legally acquired Grandfathered Black Bear, Cougar, Bobcat, Wolves, Raccoon, Skunk, Squirrel, Chipmunk and Other Legally Held Non-game Species, must meet the minimum facility standards defined herein within one year following the adoption of these rules.

(c) Grandfathered bears, cougars, bobcats, wolves, raccoons, skunks, squirrels, and chipmunks must have been acquired from a legally propagated out-of-state source or legally acquired with approved documentation that may include a valid sales receipt, Certificate of Veterinary Inspection with import permit from Department of Agriculture, valid agency transfer of ownership permit identifying the animal was propagated and born in legal captivity, or as approved by the Director. A signed and notarized affidavit stating the grandfathered animal(s) were legally acquired and held in compliance with these rules will be required of all permit holders of grandfathered animals.

(d) Grandfathered animals may not be bred. Two or more held grandfathered animals of the same species of different sexes requires sterilization of either sex to prevent propagation prior to sexual maturity and within (30) days of permit issuance with documented certification by a licensed veterinarian.

Comment [MOP16]: It is not clear how "grandfathering" applies to an existing facility such as WIREC.

Comment [MOP17]: A longer time period or exception process is needed. This will be a significant burden for WIREC – cost estimated at \$150,000 to meet current standards because WIREC has not been able to make improvements due to limitations under the BLM right-of-way (as described above.)

Comment [MOP18]: Why is this necessary for animals that are held/"grandfathered" under existing permits?

(2) The only person(s) who may hold pure-bred wolves in captivity are those who, as of December 31, 2009, held a gray wolf or wolves in captivity under previous Oregon Department of Agriculture, Class I Exotic Canine, Exotic Animal Division 603 Rules or held a valid license or registration from the U.S. Department of Agriculture, under the federal Animal Welfare Act of 1970. These persons may hold only gray wolves, and only if they obtain authority under the requirements of ~~635-044-0020(6)~~ [paragraphs (4) or (5)] of this rule.

(3) Grandfathered black bears, cougars, bobcats, wolves, raccoons, and skunks may only be transferred from the original Wildlife or Wolf Holding Permit to an AZA accredited facility or as approved by the Director.

~~[(2) Beyond the persons described in paragraph (1), the Department will not issue any new permits to hold a pure-bred wolf in captivity.]~~

Stat. Auth.: ORS 498.002, 496.171 - 182

Stats. Implemented: ORS 498.002, 496.171 - 182

635-044-0030

Holding of Nongame Wildlife

1) Native nongame wildlife or their parts or products may not be sold or live animals propagated. Only nongame species from the following list are permitted to be held. A Wildlife Holding Permit is required to hold more than two animals per species for each facility or household. The following list of species is determined to be demonstrably widespread, abundant, and secure through the Oregon Biodiversity Information Center (ORBIC) 2013 -- Rare, Threatened and Endangered Vertebrate Species of Oregon, Updated September 2013:

(a) Amphibians

- (A) Northwestern Salamander (*Ambystoma gracile*)
- (B) Long-toed Salamander (*Ambystoma macrodactylum*)
- (C) Coastal Giant Salamander (*Dicamptodon tenebrosus*)
- (D) Ensatina (*Ensatina eschscholtzii*)
- (E) Western Red-Backed Salamander (*Plethodon vehiculum*)
- (F) Rough-Skinned Newt (*Taricha granulosa*)
- (G) Pacific Treefrog or Pacific Chorus Frog (*Pseudacris regilla*)
- (H) Great Basin Spadefoot (*Spea intermontana*)

(b) Reptiles

- (A) Great Basin Whiptail (*Aspidoscelis tigris tigris*)
- (B) Northern Alligator Lizard (*Elgaria caerulea*)
- (C) Southern Alligator Lizard (*Elgaria multicaarinata*)
- (D) Western Skink (*Plestiodon skiltonianus*)

Comment [MOP19]: Same concern as above regarding the lack of process/standards for Director's approval

- (E) Northern Sagebrush Lizard (*Sceloporus graciosus graciosus*)
- (F) Western Fence Lizard (*Sceloporus occidentalis*)
- (G) Common Side-Blotched Lizard (*Uta stansburiana*)
- (H) Western Rattlesnake (*Crotalus oregonus*): excluding Willamette Valley populations
- (I) Pacific Gopher Snake (*Pituophis catenifer*)
- (J) Western Terrestrial Garter Snake (*Thamnophis elegans*)
- (K) Northwestern Garter Snake (*Thamnophis sirtalis*)

(c) Mammals

- (A) North American Porcupine (*Erethizon dorsatum*)
- (B) Long-Tailed Vole (*Microtus longicaudus*)
- (C) Montane Vole (*Microtus montanus*)
- (D) Ermine (*Mastela erminea*)
- (E) Long-Tailed Weasel (*Mustela frenata*)
- (F) Bushy-Tailed Woodrat (*Neotoma cinerea*)
- (G) Deer Mouse (*Peromyscus maniculatus*)
- (H) Coast Mole (*Scapanus Orarius*)
- (I) California Ground Squirrel (*Spermophilus beecheyi*)
- (J) Belding's Ground Squirrel (*Spermophilus beldingi*)
- (K) Brush Rabbit (*Sylvilagus bachmani*)
- (L) Douglas's Squirrel (*Tamiasciurus douglasii*)

2) Additional species may be petitioned for proposed inclusion to or removal from the list of species permitted and held under a Wildlife Holding Permit with a written request and justification submitted to the Director.

3) Wildlife listed in this section and captured from the wild and held for more than 48 hours in captivity or held on a Wildlife Holding Permit must remain in captivity for the life of the animal and may not be returned to the wild without prior approval by the Director. This rule does not apply to wildlife held under 635-062-0000 (Wildlife Rehabilitation).

Stat. Auth.: ORS 498.002, 496.171 - 182

Stats. Implemented: ORS 498.002, 496.171 - 182

635-044-0035 [635-044-0030]

Cost and Expiration Date, and Changes to a Wildlife Holding Permit

- (1) Any person desiring to obtain a Wildlife Holding Permit must be an Oregon resident with a legal Oregon address and submit a complete application and a non-refundable application fee of \$25 and license agent fee listed on the permit application [plus a \$2.00 license agent fee]. A separate application and

associated fees are required for each species requested for holding. Upon approval of application, a permit will be issued for approved species.

Comment [MOP20]: Another example of multiple fees for individual permits. Would be desirable to have different type of permit structure for facilities like WIREC.

- (2) The Wildlife Holding Permit expires on December 31 of the year issued.
- (3) All permit renewals and payment of associated fees must occur before the expiration date of the current permit. Verification of annual permit requirements (if applicable to the permit) must accompany the renewal application.
- (4) A new application is required for any change of address by the permittee.
- (5) The addition of animals of the species approved on the original permit requires prior approval by the local department biologist.
- (6) Except as directed in 635-044-0025 (3), wildlife held on a Wildlife Holding Permit may only be transferred to another Wildlife Holding Permittee and requires:
 - (a) the species transferred is listed on the receiving permittee's Wildlife Holding Permit, and;
 - (b) a new application and updated Wildlife Holding Permit and payment of associated fees for the addition of animals of the species transferred, and;
 - (c) approval by the Director.
- (7) Failure to renew a Wildlife Holding Permit by December 31 of the year issued may result in a penalty or confiscation of held species, fines, and denial of a future permit.
- (8) The Department may revoke or decline to renew a Wildlife Holding Permit if the permittee is convicted of, or admits to a violation of any wildlife law or any rule, order or permit issued under the wildlife laws within the previous 5 years of the date of application. Upon revocation or non-renewal of a permit, the Department will confiscate any birds, mammals, amphibians and reptiles held.
- (9) Cancellation or non-renewal of application, licenses, or permits and contested case procedure is defined in 635-044-0075.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

635-044-0040 [635-044-035]

Requirements for Care of Wildlife Held in Captivity

Wildlife held in captivity under any permit, license, or condition listed in 635-044-0020 and 635-044-0030 or under a Wildlife Propagation license must be:

(1) Provided minimum care sufficient to preserve the health and well-being of the held animal (except for emergencies or circumstances beyond the reasonable control of the holder), includes, but is not limited to, the following requirements:

(a) Appropriate food for each held species of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity and quality to satisfy the animal's needs.

(c) Shelter sufficient to protect from adverse elements, protect from predators, to prevent escape, and injury. Any other requirement particular to the survival of the animal shall also be provided.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

(e) Continuous access to an area:

(A) With adequate space for exercise necessary for the health of the animal;

(B) With air temperature suitable for the species of animal; and

(C) Shall be cleaned and kept free from excess food or fecal waste or other contaminants which could affect the health of the animal

(f) Captive wildlife may not be restrained with a chain or rope or hobbles or similar restraint method.

(2) It is unlawful for any person possessing wildlife in their care and possession to cause or allow such wildlife to be chased, injured, harmed, harassed, or neglected.

(a) Wildlife held on a Wildlife Holding Permit may not be harvested as a game species, used in hunting, fur trapping, or pursuit seasons, or for competitive hunting dog trials or training of hunting dogs and raptors.

(3) Facilities housing wildlife must meet ODFW minimum standards as defined in the ODFW Enclosure and Caging Standards for Holding Wildlife for Wildlife Held in Captivity (Exhibit 1); and

(a) Enclosed within suitable structures to prevent escape or prevent other wildlife from entry;

(b) Applicants of Wildlife Holding Permits and holders of wildlife in captivity must demonstrate equivalency of facility construction with Department approval of all proposed facility construction design, materials, and specifications equivalent or exceeding the ODFW Enclosure and Caging Standards for Holding Wildlife.

(4) Inspection of facilities by Department personnel may be conducted prior to approval of the permit.

(4) Any wildlife held in captivity, whether a permit is required or not, must be treated in a humane manner and cannot be restrained with a chain, rope, or other holding device. Facilities for care of captive wildlife must be maintained in a sanitary condition and be large enough to provide room for exercise and sturdy

~~enough to prevent escape and protect the public. Food, water, and cover must be provided in sufficient quantity and quality to maintain the wildlife in a healthy condition.~~

~~(2)(a) Individual bear or cougar six months of age and older must be held within special facilities approved by the Department of Fish and Wildlife according to the specifications of Exhibit I, except when:~~

~~(A) transported to or from veterinarian clinics or other ODFW-approved facilities; or~~

~~(B) on public display by a USDA class A, B or C license holder.~~

~~(b) Facilities approved by the Department by December 18, 1997, are deemed to comply with the new requirements of Exhibit I.~~

~~(c) The department may, in its discretion, approve facilities that do not meet the specifications of Exhibit I if the department finds that such facilities provide safeguards equivalent to those required by Exhibit I. The burden is on the applicant to demonstrate equivalency. One seeking equivalency approval shall submit a detailed analysis of each specification required by Exhibit I and describe how the facility provides equivalent safeguards.~~

~~[ED NOTE: Attachment referenced is not included in rule text. Click here for PDF of attachment.]~~

Stat. Auth.: ORS 167.305, 167.310, 167.312, 167.315, 167.320, 167.322, 167.333, 167.334, 167.335, 167.340, 167.343, 167.345, 167.347, 167.349, 167.355, 167.390 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242, 167.310

635-044-0045 [635-044-0040]

Inspection of Facilities

~~(1) Facilities [for care of] **holding captive wildlife** are subject to inspection by any State Police officer or Department [of Fish and Wildlife] **representative**. Inspection of the facilities may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of a permit holder's residence.~~

(2) Any inspection(s) of facilities by Department personnel for all permits issued under this Division involving approval of new or modified facilities may require a \$150 inspection fee as determined by the Department.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Comment [MOP22]: Rule should be clarified as to when a fee will be required ("may require.") WIREC holds numerous permits and has an on-going program of modifications/upgrades of facilities which could result in a significant amount of fees.

~~635-044-0050 [635-044-0025]~~

Ownership of Captured Wildlife Held in Captivity

(1) Native wildlife, or the progeny thereof, captured from the wild in Oregon remains the property of the State of Oregon.

(2) Wildlife native to Oregon and acquired legally from an out-of-state propagator and held in captivity requires a Wildlife Holding Permit. They are not considered property of the state of Oregon but are subject to the same wildlife rules as legally acquired native wildlife collected in Oregon and held in captivity and cannot be sold, exchanged, bartered, transferred or released in Oregon except as authorized by the Director.

~~[Any wildlife or the progeny thereof which has been captured and is being held under a Wildlife Holding Permit remains the property of the State of Oregon and cannot be sold except as authorized by the Director.]~~

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, **497.308**, 497.312, **497.318**, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, **497.298**, **497.308**, 497.312, **497.318**, 498.022, 498.029, 498.052, 498.222 & 498.242

Comment [MOP23]: Does this include a breeding program?
Same concern as above regarding lack of process or standards for Director's authorization.

~~635-044-0055 [635-04-0050]~~

Possession of Coyote Prohibited Without Permit

(1) It is unlawful to keep coyotes (*Canis latrans*) in captivity except in [in public parks or zoos or] compliance with the terms and conditions of a permit issued pursuant ORS 497.298 **and ORS 497.312.**

Stat. Auth.: ORS 496.012, 496.138, 496.146, **497.298**, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

~~[635-044-0045~~

~~Cancellation of Permit~~

~~Failure to comply with the requirements for holding wildlife is cause to cancel the permit and confiscate the wildlife being held.~~

~~Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242 Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242]~~

Wildlife Propagation License Regulations

635-044-0060

ODFW

DRAFT Revised Rules Chapter 635 - Division 44

January 2016 page 20 of 24

License Required to Propagate Wildlife

(1) Any person, institution or business desiring to propagate select bird species of the families Columbidae, Anatidae, Tetraonidae, Phasianidae and Odontophoridae (OAR 635-046-0050 (f) and 635-046-0055 (6)) must obtain a Wildlife Propagation License. The applicant must submit a complete application and a non-refundable application fee.

~~[Any person desiring to propagate for sale any game mammal (excluding the family Cervidae) or game bird, or desiring to sell any propagated game mammal (excluding the family Cervidae) or game bird must first secure a Wildlife Propagation License by applying on a form provided to the Oregon Department of Fish and Wildlife. The application shall list the wildlife species and numbers being held for propagation purposes, or the species being held for sale. The application shall also include the date of application, and the name, address, and signature of applicant.]~~

(2) The cost of an annual Wildlife Propagation Licenses will be listed in the License Fee Schedule and include a \$5.00 Application fee and a \$2.00 License Agent fee. [Wildlife Propagation License shall cost \$25.00 (plus a \$2.00 license agent fee) and shall expire on December 31 of the year issued.]

(3) Wildlife Propagation Licenses expire on December 31 of the year issued.

(4) Any person desiring to propagate and sell or barter any raptor as defined in OAR 635-055-0002 (3) protected by federal law must first adhere to all permit requirements and regulations pertaining to the propagation and selling of raptors, as adopted by the U.S. Department of the Interior on July 8, 1983. (Federal Register, Vol. 48, No. 132, Part 21). The license holder must provide a copy of their current federal permits to the department with their application or renewal.

(5) Licensed propagators with a 2015 license may petition to retain the species not listed in 635-044-0060 (1) for inclusion on their propagation license with a written request and justification submitted for approval by the Director.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

~~[635-044-0075~~

~~Requirements for Care of Wildlife Held for Sale~~

~~Any wildlife held for sale under a Wildlife Propagation License must be:~~

- ~~(1) Treated humanely;~~
- ~~(2) Maintained under sanitary and disease free conditions;~~
- ~~(3) Provided ample food, water, and cover;~~
- ~~(4) Provided ample room to exercise;~~
- ~~(5) Enclosed within suitable facilities to prevent escape.~~

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242 Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242]

635-044-0065 [635-044-0080]

Shipping Requirements

(1) Any Wildlife shipped within or outside the state by the holder of a Wildlife Propagation License must have affixed to the shipping container a record showing:

- (a) Name, address, and Wildlife Propagation License number of shipper;
- (b) Name and address of consignee;
- (c) Species name (common and scientific) and numbers of wildlife contained; and,**
- (d) Import of wildlife to Oregon or export from the state requires a Certificate of Veterinary Inspection from a federally accredited veterinarian. Imported wildlife must be accompanied by an Oregon Department of Agriculture import permit with exceptions listed in OAR 603-011-0255.**

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

635-044-0070 [635-044-0075]

Record Keeping and Reporting Requirements **for Wildlife Holding and Propagation**

(1) A record of all business transactions involving sale or purchase of eggs, [or] game birds, **and all other wildlife native to Oregon** must be **current to date and available at the facility as listed on the permit.**

Records **for the current calendar year** must be **made** available for inspection by Oregon State Police or Oregon Department of Fish and Wildlife personnel.

(2) An annual report of operations must be [submitted with each license renewal application or by] **received** by January 15 [of the next year if the licensee does not submit a renewal application]. The annual report shall include the total **number of animals by species purchased or acquired and all sales or transfers by species, including eggs, births and deaths within the previous calendar year** [of all purchases and sales by species of mammals, birds, or bird eggs].

(3) **Wildlife held under a Wildlife Holding or Propagation Permit must have prior Department authorization before transfer, transport or export from Oregon under a permit issued by the**

Department and must have a certificate of veterinary inspection and any import permit or license required by the receiving state.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

635-044-0075 [635-044-0125]

Cancellation and Non-Renewal of Wildlife Propagation License or Wildlife Holding or Wolf Holding Permit

(1) Failure to comply with any [shipping] requirements [reporting requirements, or requirements for care of wildlife held for sale] within these rules or conditions of authorization is cause to cancel or deny renewal of the Wildlife Propagation License, Wildlife Holding Permit, or Wolf Holding Permit and confiscate or require disposal of the wildlife being held. A person may appeal cancellation or denial of a license or permit through a contested case hearing. The request for a contested case hearing on a proposed cancellation must be received by the Department within 21 days after service of notice (or 90 days for emergency revocations). The request for hearing on a proposed non-renewal must be received by the Department within 60 days of notice. Final Orders in contested case hearings will be issued by the Director.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242, 183.430, 183.470, 183.484, 183.700

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

635-044-0080

Disposition of wildlife upon license suspension, revocation, nonrenewal or denial

(1) Within 90 days after any of the following events, any person holding wildlife with a Wildlife Holding Permit, Wolf Holding Permit, or Wildlife Propagation License must dispose of the animals:

- (a) Suspension, revocation or expiration of the Wildlife Holding Permit, Wolf Holding Permit, or Wildlife Propagation License;**
- (b) Denial of an application for license; or**
- (c) Receipt of a notice from the Department informing the holder that the wildlife held is/are not authorized by license.**

(2) "Dispose" means to do the following in compliance with these rules:

- (a) Humanely euthanize;**

(b) Transfer to another licensed Wildlife Holding or Propagation facility; or

(c) Export from Oregon.

(3) If the holder fails to dispose of any wildlife held by the deadline specified in paragraph (1), and if the Department determines that the wildlife held pose an imminent threat to wildlife, livestock, or public health requiring prompt action, the Department may humanely kill, confine, transfer, or otherwise dispose of the animals as it determines necessary. In all other circumstances, the Department may humanely kill, transfer, confine or otherwise dispose of the wildlife held only after providing the holder with notice and an opportunity for hearing. The Department may choose to keep the wildlife held on the holder's property until an appropriate means of disposal is found or pending a hearing. The Department bears no liability for such actions. Any wildlife held for disposal must be treated humanely in compliance with these rules.

(4) The holders of any wildlife of which the Department disposes pursuant to paragraph (3) must compensate the State of Oregon for any and all expenses incurred by the State during disposition. Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106 Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106

635-044-0085

Control of Disease Outbreaks in Captive Wildlife

(1) Diseased captive wildlife may be considered an imminent danger to public, wildlife, domestic animals, or livestock health.

(2) An outbreak of communicable disease among captive wildlife determined to be an imminent danger to public, wildlife, domestic animals, or livestock health may require the Department to order the holder to euthanize, confine or transfer, by a specified deadline, any or all wildlife they hold.

(3) Failure by the holder to take action ordered by the Department pursuant to paragraph (2), may result in the Department or its agents entering the holder's facility to confine, euthanize, or transfer diseased wildlife. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of a permit holder's residence. The holder is liable for any costs the State of Oregon so incurs. The Department bears no liability for such actions.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106 Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052, 174.106

Roxann B Borisch

Subject: FW: FW: ORBIC / NatureServe ranking of non-game species
Attachments: Oregon Biodiversity Information Center State Ranking System.docx

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Eleanor Gaines <egaines@pdx.edu>
Date: 3/15/2016 15:20 (GMT-05:00)
To: Colin Gillin <colin.m.gillin@state.or.us>
Subject: Re: FW: ORBIC / NatureServe ranking of non-game species

Hi Colin

Thanks for the details on the commission meeting. I will plan to be there.

I have put together the attached defense of our ranking system that I would submit to the commission. My spoken comments will be largely similar, but briefer (leaving out some of the details on how we come up with ranks). I welcome any suggestions you may have that will make my input more useful. I wanted to make sure you were aware of a few things:

I focused the attached document on assigning state ranks to terrestrial vertebrates, but we use the same system to assign state and global ranks to plants, fungi, invertebrates, and fish. In my mind, this is one of the benefits of our system – we can use the same scale to describe the rarity or security of a variety of taxa.

My only concern with ODFW using the state ranks to identify species that are secure, revolves around the fact that we have traditionally spent more time assigning and documenting ranks for rare species. There may be some S4 species that should be S5, and vice versa. However, we are currently in the process of reviewing ranks for our 2016 *Rare, Threatened, and Endangered Species of Oregon* booklet, and I would be happy to include S4 and S5 species as part of the review. I do not think it will result in many changes, but I cannot be certain until I systematically review all the ranks. If the list of species used in the proposed rule will be ‘hard wired’ from this point forward, you may want to include some mechanism for updating that list if and when ranks change.

Please let me know if I can provide other information.

Best,

Eleanor

Oregon Biodiversity Information Center State Ranking System

The Institute for Natural Resources (INR) was established by the Oregon legislature to help integrate environmental data from an array of state and federal agencies, watershed councils, counties, universities, and soil and water conservation districts that collect natural resource information. INR uses this information to provide scientifically-based information to the public in order to improve natural resource decision making. Biodiversity information management at INR is coordinated by the Oregon Biodiversity Information Center (ORBIC). ORBIC's key function is to maintain, develop and distribute biodiversity information in Oregon. The center works with partners, both statewide and nationally, to provide the most comprehensive information on plants, wildlife, invertebrates, fish, fungi, and vegetation communities throughout Oregon. ORBIC is part of a national biodiversity partnership with NatureServe and other similar state programs across North America.

An important part of ORBIC's mission is to identify which species are thriving, and which are in need of conservation action. ORBIC uses a rigorous, transparent, and consistent methodology, originally developed by The Nature Conservancy and now maintained by NatureServe, to assign global and state conservation status ranks to all terrestrial vertebrates in Oregon based on the best available information. This system has been in use in Oregon for over 30 years. On a global basis, these ranks provide an objective estimation of extinction risk, while state ranks identify relative security of species statewide. Because the [NatureServe ranking system](#) is standardized, state ranks can be compared across state boundaries and can inform global ranks. In recent years, NatureServe has worked with IUCN to standardize rankings across both organizations, allowing for ranking information to be used by both IUCN and NatureServe. The purpose of the conservation status ranks is to assess the relative risk facing a species, and does not imply that any specific action or legal status is needed to assure its survival.

Other conservation agencies (including US Forest Service, Bureau of Land Management, US Fish and Wildlife Service, Oregon Department of Forestry, Oregon Parks and Recreation Department) recognize and use our ranking system. In fact, ORBIC ranks are part of ODFW's Conservation Strategy. Other state agencies throughout the west, including California Department of Fish and Wildlife, Idaho Department of Fish and Game, and Arizona Department of Fish and Game use and support the same ranking system, facilitating cross-border wildlife conservation and management.

Following NatureServe's methodology, ORBIC assigns state ranks to terrestrial vertebrates on a five-point scale, from critically imperiled (S1) to secure (S5). State ranks can be summarized as follows:

- S1: Critically imperiled because of extreme rarity or because it is especially vulnerable to extirpation in the state. Typically, S1 species occur at five or fewer sites in Oregon.
- S2: Imperiled because of rarity or because other factors make it vulnerable to extirpation in the state. Typically, S2 species occur at 6 – 20 sites in Oregon.
- S3: Rare, uncommon, or threatened, but not immediately imperiled. Often with 21 – 100 sites in Oregon.
- S4: Not rare, apparently secure, but with cause for long term conservation concern. Typically with more than 100 sites in Oregon. Cause for concern may be due to threats or recent population declines.
- S5: Demonstrably widespread, abundant, and secure in Oregon.
- SH: Species occurred historically in Oregon, and may be rediscovered.

- SX: Species is extirpated from Oregon
- SU: Species is unrankable due to lack of information or due to substantially conflicting information about status or trends
- SNA: Species has not been ranked – we do not rank accidental or exotic species occurring in Oregon, and we do not rank most birds that only visit Oregon in winter.

Although my comments here focus on assigning state ranks to vertebrate species, one of the strengths of this method is that the same scale is used to describe the rarity or security of a variety of taxa, including plants, fungi and invertebrates. Ranks are only as good as the information informing them. ORBIC relies on input from cooperators and expert review to make sure our ranks are accurate. Status assessments are based on available information, and some species have more information available than others. When very little information is available (an uncommon situation for vertebrates), a species may remain unranked until baseline information can be made available or a range rank (e.g., S2S3) can be assigned. In all cases, species ranks are reviewed as new information becomes available. ORBIC's state ranks are based on assessment of status factors grouped by rarity, threats, and trends:

- **Rarity**
 - Range extent – area of the polygon that encompasses all known sites occupied by the species. Range extent may include unsuitable habitat that is interspersed with occupied habitat
 - Area of occupancy – area of habitat occupied by the species; a subset of the range extent
 - Number of occurrences (or local populations) – the number of local populations is only relevant when ranking rare species. Occurrences are typically not recorded for common species (though we do maintain point observations for common species).
 - Number of occurrences with good estimated viability – only applicable for rare species; addresses likelihood of species to persist in the near future.
 - Population size – Estimated current total mature population of the species within the state. Large populations are more secure than small ones.
 - Environmental specificity – a species with very narrow habitat requirements will likely be more rare than a similarly distributed species that is a habitat generalist.
- **Trends**
 - Long term trends – over past 100 years
 - Short term trends – over 10 years or three generations
- **Threats** – specific threats are assessed based on the following factors and one combined threat level is assigned for the species. Assigned threat levels range from low to very high.
 - Threat scope – proportion of the species that can be expected to be affected by the threat
 - Threat severity – level of damage that can be expected with continuation of current threats; percent reduction in population affected by threat
 - Intrinsic vulnerability – only used when information on threats is not available. Reflects the degree to which the species is vulnerable or resilient to natural or anthropogenic stresses.
 - Threats assessed include:
 - Residential and commercial development

- Agriculture and aquaculture
- Energy production and mining
- Transportation and service corridors
- Biological resource use
- Human intrusions and disturbance
- Natural system modifications
- Invasive species
- Pollution
- Geologic events
- Climate change

NatureServe has developed a ranking calculator spreadsheet to make the process of assigning ranks unbiased, repeatable and transparent. The calculator assigns ranks based on weightings assigned to each of the above rarity, threats and trend factors. The calculator ensures that the same ranking methodology is used in the calculation of all ranks. It also increases the likelihood that different biologists ranking a given species with the calculator will arrive at the same rank. In cases where there is disagreement over ranks, the rank calculator documents the process behind a rank and provides a starting place for discussion. Conditional rules in the calculator ensure that adequate information is informing each rank, and information input is supported by explanatory comments and citations. The calculator computes a numeric score, based on weightings assigned to each factor, which is translated to a calculated status rank. This calculated rank is reviewed and adjusted if deemed appropriate (with documentation of the reasons for adjustment) before it is recorded as the final assigned conservation status rank. The ranking calculator is available for [download](#) from NatureServe.

Summary output and documentation for species that have been ranked using NatureServe's ranking calculator are available at [ORBIC's website](#). If agencies or individuals disagree with assigned ranks, we welcome input that provides information to support re-ranking. At this time, most species that have been ranked using the calculator are those of some conservation concern (typically S1 to S3), though more common species are added as they are reviewed. All species have been assigned state ranks, but at this time, not all ranks have been assigned via the rank calculator.

State ranks are an excellent tool for conservation decision making as they can be used to identify species in need of conservation attention as well as those that are secure. Traditionally, because of funding limitations, most of ORBIC's effort has been focused on accurately ranking S1 to S3 species. However, we support ODFW's use of state ranks to identify species that are not in need of conservation action at this time. If ODFW decides to use ORBIC state ranks to identify species that are not in need of management at this time, we will commit to reassessing all S4 and S5 species with NatureServe's rank calculator to ensure that those species are ranked correctly.

Supporting Documentation

Faber-Langendoen, D., J. Nichols, L. Master, K. Snow, A. Tomaino, R. Bittman, G. Hammerson, B. Heidel, L. Ramsay, A. Teucher, and B. Young. 2012. NatureServe Conservation Status Assessments: Methodology for Assigning Ranks. NatureServe, Arlington, VA. Available [online](#) .

Master, L. L., D. Faber-Langendoen, R. Bittman, G. A. Hammerson, B. Heidel, L. Ramsay, K. Snow, A. Teucher, and A. Tomaino. 2012. NatureServe Conservation Status Assessments: Factors for Evaluating Species and Ecosystem Risk. NatureServe, Arlington, VA. Available [online](#) .

Roxann B Borisch

From: Joshua Jones <josh@pijac.org>
Sent: Tuesday, March 15, 2016 7:28 AM
To: michelle.l.tate@state.or.us; curt.melcher@state.or.us
Cc: odfw.commission@state.or.us; ODFW Commission; odfw.comments@state.or.us
Subject: PIJAC comments on proposed changes to OAR Division 44 rule on protected wildlife
Attachments: OregonProtectedWildlifeRuleChangesFINAL.pdf

Dear Mr. Melcher and Ms. Tate,

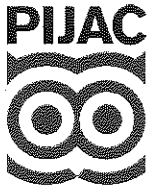
Please find PIJAC's comments on potential amendments to rules for protected wildlife, holding, and propagating under Division 44, Chapter 635 of Oregon Administrative Rules attached to this email in advance of the March 18, 2016 discussion on the matter. Please confirm that you've received our comments and thank you for your time.

Respectfully,

Joshua Jones

Director of Legislative & Regulatory Engagement
Pet Industry Joint Advisory Council (PIJAC)
1615 Duke Street, Suite 100
Alexandria, VA 22314
Tel. 202-452-1525 x. 1040

***pijac.org | facebook.com/PIJAC | twitter.com/PIJAC4pets
linkedin.com/company/pet-industry-joint-advisory-council***



March 15, 2016

Michelle Tate
Oregon Department of Fish and Wildlife
4034 Fairview Industrial Dr SE
Salem, OR 97302

Re: Proposed changes to OAR Division 44 rule on protected wildlife

Ms. Tate:

As the nation's largest organization that routinely supports legislative efforts to advance the welfare of animals, the Pet Industry Joint Advisory Council (PIJAC) appreciates the opportunity to offer the Oregon Department of Fish and Wildlife our views regarding potential changes to rules pertaining to protected wildlife in the state under Division 44, Chapter 635 of the Oregon Administrative Rules.

PIJAC is focused on legislative and regulatory activities that impact responsible pet businesses, responsible pet ownership, and the availability of pets. We represent the interests of all segments of the pet industry in the United States, including the responsible companion animal owners and in Oregon and across the country. Our members include pet-related businesses and responsible hobbyists who represent the 63% of U.S. households that enjoy caring for pets, including a large portion of consumers dedicated to responsibly caring for and studying reptiles and amphibians—the same types of animals addressed in the proposed changes to Division 44, Chapter 635.

We also work with many governmental entities on legislative and regulatory activity that may impact a specific pet-related hobby and the ownership of companion animals in general by responsible hobbyists and enthusiasts, including the US Fish and Wildlife Service (USFWS), the National Park Service, the Centers for Disease Control and Prevention (CDC), and the National Oceanic and Atmospheric Administration. We believe the products of these public-private collaborations point to our commitment to ensure the pet trade and hobbyists do not cause environmental damage or human health issues. Examples of these partnerships include the *Habitattitude*™ campaign and a Memorandum of Understanding (MOU) with the USFWS and the Association of Fish and Wildlife Agencies to utilize rapid screening methods to prevent the introduction of invasive species not yet in the United States. We also work with the CDC to educate breeders, retailers and the general public in methods to minimize exposure to zoonotic diseases.

We have concerns with portions of the proposed changes to Chapter 635, Division 44 and ask our concerns be addressed by the Oregon Department of Fish and Wildlife before these rules are finalized. For example, we seek clarification on where migratory birds, and certain mammals fall within the proposed changes.

**PET INDUSTRY JOINT
ADVISORY COUNCIL**
1615 Duke Street, Suite 100
Alexandria, VA 22314
Tel: 202-452-1525

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In the rule change, the amended definition of "migratory bird" states that birds listed under OAR 635-057-0000 are not to be included under this rule. However, this significant detail is not referenced or noted in any of the proposed changes to language under 635-044-0005 which would make it unlawful for someone to take, capture, hold, or possess any species listed as threatened or endangered under the federal Endangered Species Act (ESA). As currently written, we feel this will cause significant confusion with enforcement and interpretation of the rule, leading to unintentional consequences for responsible animal enthusiasts and hobbyists who believe they are following the rule. Therefore, we request that the state add language under changes to 635-044-0005 specifying that the species of birds listed under OAR 635-057-0000—in addition to any other exceptions for animals—are not addressed in this rule.

PIJAC requests clarification on the definition of "Take" in the proposed rule change to protect the popular activity known as "field herping". Field herping—the practice of searching the wild for reptiles and amphibians to study and photograph—is a pastime for many reptile and amphibian enthusiasts in Oregon and throughout the U.S. and offers educational opportunities for youngsters to learn directly about these animals in addition to the importance of responsible pet keeping and wildlife conservation. The current definition of "Take" as listed under changes to definitions in 635-044-0003 " includes "...obtaining control of any wildlife" in its definition. Such language would make it illegal to handle animals listed under the amended 635-044-0005 for study or photography in their natural environment—thus damaging the practice of field herping.

PIJAC would also like to learn more about the process used by the Oregon Department of Fish and Wildlife to determine which species are added as protected or require certain permits to hold, capture, take, or interact with these animals in the wild. We believe Oregon may benefit from a long-term, efficient process for determining whether certain species are to be listed as protected species and/or prohibited as pets, such as the process outlined in the white paper *From Bottom to Top: Proposing a Framework for Developing Regulations for Captive Wildlife*.

The white paper included with this comment letter is more than an academic endeavor. The process described in the white paper was used by the Florida Fish and Wildlife Conservation Commission (FWC) in 2005 when FWC initiated a comprehensive review of its captive wildlife regulations and helps illustrate a process that can be used to address concerns about responsible pet ownership on all sides of the issue and better understand the animals in the trade without becoming inhibited by political solutions without objective analysis.

As stated previously, PIJAC requests these items outlined above are addressed and clarified by the Oregon Department of Fish and Wildlife before this rule making is finalized and we welcome the opportunity to discuss these items with you at greater length. We have a long history of collaborating to ensure that regulations and legislation are both workable and meet the intent of the jurisdiction, and we would be happy to offer our expertise to the Department to address these concerns.

Please do not hesitate to contact us at 202-452-1525 x 1040 or via email at josh@pijac.org for further information.

Thank you,

Joshua Jones
Director of Legislative & Regulatory Engagement, Pet Industry Joint Advisory Council

Enclosures

FROM BOTTOM TO TOP
Proposing a Framework for Developing Regulations for Captive Wildlife

Scott Hardin, PIJAC Science Advisor

Eugene Bessette, Ophiological Services, Inc.

Ken Johnson

Captain John West, Florida Fish and Wildlife Conservation Commission (retired)

Exotic wildlife¹ is the subject of intense public interest, enveloping a suite of personal pets held by millions of Americans as well as captive wild specimens held almost exclusively by public exhibitors. Nearly 18.5 million U.S. households owned over 79 million exotic pets in 2012, primarily fish but also a variety of small animals (ferrets, hamsters, guinea pigs, etc.), birds and reptiles². The fascination with exotic animals is further exemplified by the popularity of public zoos and aquaria. The Association of Zoos and Aquariums (AZA) estimates 175 million people annually visit exhibits of captive wildlife. The 224 AZA-accredited facilities (213 in the U.S.) house over 750,000 animals representing roughly 6000 species, including a thousand imperiled species³.

Serious incidents involving certain types of captive wildlife are uncommon but invariably such occasions command a great deal of media attention, perhaps because of the mystique surrounding large or dangerous animals from far-away places. Incidents such as the tragic release of animals from a private zoo in Ohio continue to fuel public policy discussion, which has spawned legislative proposals to prohibit possession of a broad array of captive animals posing very disparate risks to human health and safety. Safe and responsible possession of non-domestic species is a legitimate subject for public debate. Unfortunately, the pursuit of “top down” political solutions, in the emotional aftermath of death or injury to humans or animals, is often a polarized and hurried process rather than a collaborative effort involving pet, wildlife and zoo professionals whose experience can lend valuable insight.

We have found that a “bottom up” approach to the development of captive wildlife regulations can be effective in protecting the public and the animals. The approach is not independent of political concerns, but rather a practical route to a balanced solution following the general direction of policy makers. Although the framework described below will not necessarily produce unanimity among its participants, the process is likely to result in a greater acceptance of regulatory solutions and avoid the unintended consequences of eleventh hour amendments that characterize heated political battles.

¹ Exotic wildlife is used here to describe pets other than domesticated companion animals (e.g., dogs, cats) and livestock (e.g., horses, chicks, ducks); the majority of exotic wildlife are species not native to the United States.

² Data compiled from a survey conducted by the American Veterinary Medical Association. see <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx>

³ <https://www.aza.org/zoo-aquarium-statistics/>

Regulation as an element of risk management

Regulations to govern the acquisition, possession, and transportation of certain classes of animals are often regarded as the primary solution to concerns over public safety, animal welfare and environmental impacts. In the larger picture, government regulation is one of several risk management options to reduce danger to humans and ensure humane treatment of the animals. For some classes of wildlife (e.g., large carnivores, non-human primates, venomous reptiles), regulations dictating standards of containment and husbandry are essential. However, there are many animals that pose little danger to humans for which education, outreach, industry codes of conduct and best-management practices may be more appropriate. Where regulatory solutions are necessary, these avenues can play a complementary role in further mitigating risk.

Risk analysis, the determination of specific factors that contribute to the likelihood of adverse incidents, is a pre-requisite to the ultimate goal of risk mitigation. For example, are the current physical barriers sufficiently robust to deterioration? Are there secondary and tertiary containment barriers? Are existing deterrent strategies widely known and practiced? Do particular facility locations present concerns, i.e. is the facility near a school or densely populated neighborhood? Are specialized and unique animal husbandry practices necessary to ensure humane treatment and safeguard other animals, caretakers and the public?

Sensationalized incidents in our 24-hour news cycle often foster immediate calls for political solutions without objective analysis. Despite their public appeal, proposals to prohibit the possession of “dangerous” or “invasive” species do not eliminate the possibility of adverse incidents and, in fact, may be counterproductive. A collaborative process outside the political arena to fully characterize risks and analyze vulnerabilities can produce more desirable results.

Risk-based regulations

The risk of serious human injury varies considerably among captive wildlife species, e.g., a large mobile carnivore compared to an ambush predator such as an exotic constrictor. In lieu of a “one size fits all” approach, risk-based regulations consider the biology, anatomy and behavior of a species (or group of similar species) to develop rules and practices governing containment and humane treatment. Inclusion of industry representatives with knowledge of the husbandry and habits of the various classes of captive wildlife is essential to craft appropriate standards commensurate with the risk to public safety while protecting the welfare of the animals.

Another important consideration in developing regulations is the practicality of their implementation. Although laws, rules and ordinances are enacted by legislative bodies, executive agencies and departments are responsible for their enforcement. In some instances, these agencies are tasked with promulgating operational rules that reflect the general direction of legislative decisions. In either case, staff charged with compliance can benefit from learning the subtleties of propagation and care of exotic wildlife, while those in the pet industry will profit from understanding the challenges faced by enforcement officers.

Ultimately, regulations must make sense to those who enforce them and those who will be governed by them, as well as to stakeholders who may not be directly affected. Excessively complicated rules are subject to misinterpretation, leading to compromised security and adversarial relationships between the regulated community and compliance agencies. A

conversation between these parties throughout regulation development is a cornerstone for a successful outcome.

A bottom-up process

Our model for developing and evaluating effective, enforceable regulations calls for an extended collaboration of subject matter experts. The product of this cooperative effort will provide guidance to legislative bodies or to the agencies charged with implementing statutes or ordinances. Engaging representative experts during regulation development will improve understanding among stakeholder communities and reduce the likelihood of protracted political debate and last-minute amendments with unintended consequences.

The process has three key elements: (1) a standing team of stakeholders from all sides of the issue; (2) a timeline long enough to allow the participants to develop legitimate working relationships and foster honest dialogue; and (3) a pro-active process not driven by the influence of sensationalized incidents or media-driven controversy.

Stakeholders: Several groups with a stake in the management and regulation of captive wildlife must be represented including pet breeders, distributors and retailers; state or local enforcement agencies; wildlife rehabilitators; sanctuaries; wildlife veterinarians; exhibitors, e.g., zoo, circus, attraction, aquarium; animal control agencies; animal welfare advocates; and private wildlife preserves. Representatives could be chosen by a legislative body or by the agency responsible for the administration and enforcement of captive wildlife regulations.

Timeline: Depending on the breadth of the issue, the process may take a year and as many as six meetings. It is crucial that the meeting atmosphere is conducive to overcoming inherent stakeholder barriers and personal biases and to encourage appreciation for a variety of perspectives. Meetings should span two days and allow for networking opportunities in the evening.

Pro-active: The process of regulation development should not mainly focus on circumstances associated with an unusual or highly publicized incident where political pressure and public demand for immediate action can abbreviate the necessary deliberation. Such an event, however, may create an opportunity for a review of captive wildlife regulations to become a priority. A standing stakeholder team with background knowledge, historical perspective and working relationships will be able to provide reasoned advice to policy makers and legislators in the aftermath of such an incident.

We emphasize that this is a process, not an outcome. Lawmakers or agency management are not obligated to adopt the recommendations resulting from the stakeholder panel, in whole or in part. Furthermore, it is likely that some stakeholder representatives will not endorse every recommendation. However, subsequent public debate over proposed regulations will be more narrowly focused and amendments offered should not come as a surprise to the participants. Regardless of the ultimate outcome, the process holds value in promoting dialogue and understanding in a transparent manner, and in establishing relationships that will be of value in future discussions.

A real world example

The Florida Fish and Wildlife Conservation Commission (FWC) administers and enforces captive wildlife regulations⁴ for non-domestic animals. The State of Florida has a long history of animal exhibits associated with the tourist industry along with many breeders, importers and distributors of exotic wildlife for the pet industry. FWC first enacted captive wildlife regulations in 1970. Its current regulations are extensive and detailed, reflecting the diversity of the pet industry in Florida.

In 2005, FWC initiated a comprehensive review of its captive wildlife regulations⁵. Stakeholders were invited to attend a series of meetings to review, and revise if appropriate, the requirements for caging, identification, transportation and general husbandry of all classes of captive wildlife⁶. The stakeholder group represented several interest groups including government, industry, animal welfare and non-profits (see appendix for the complete list of participants). Participants from prior FWC captive wildlife regulation reviews were invited to provide a historical perspective. Two of the authors of this document, Eugene Bessette and Ken Johnson, were stakeholder representatives during this review, and author John West was one of the FWC staff who organized and held the meetings.

Meetings were held throughout the state to encourage public attendance and participation. Typically meetings lasted a full day and half the next. Stakeholders in travel status stayed at one hotel, with accommodations arranged by FWC. Participants dined together and attended evening networking functions, which encouraged camaraderie and collaboration during and outside the meetings. Stakeholders sat in a round-table format to encourage dialog and eye contact. Topics were introduced by members with relevant expertise and group discussion followed. Members of the public were often recognized for comments on and feedback to the stakeholder discussion.

After the first two meetings, participants became comfortable with one another and began to understand other perspectives and interests. Although suspicion of individual agendas lingered throughout the review, stakeholders collectively were able to reach consensus on most issues. By the nature of their organization, some participants had a narrow focus while others were generally interested in the overall project goal. However, the extended timetable and meeting atmosphere fostered a process that was educational for all and one that broadened the participants' appreciation for the spectrum of captive wildlife issues.

The review resulted in several recommended regulation changes including significant additional requirements for the possession of certain large constrictors. Many of these regulations were approved in subsequent meetings of the FWC. As expected, some stakeholders did not endorse all of the recommended rules and stakeholder groups provided substantial comments at FWC Commission meetings when regulations were considered, both in support of and dissenting from

⁴ Unlike most state fish and wildlife agencies, FWC is a constitutional agency with the authority to create wildlife-related regulations other than for penalties and fees for violations, fees and permits.

⁵ This was the third regulation review involving stakeholders; Eugene Bessette participated in all the reviews.

⁶ FWC classifies captive wildlife in four categories, primarily based on potential danger to humans, with different permit requirements and fees. See <http://myfwc.com/license/captive-wildlife/>

the proposals. However, the extended review smoothed over many issues that would have otherwise been contentious, ultimately leading to greater understanding and acceptance.

APPENDIX – Stakeholders participating in Florida Fish and Wildlife Conservation Commission Captive Wildlife regulation review.

Ms. Julie Alexa Strauss - Corporate Counsel for FELD Entertainment, Inc. (Ringling Bros. and Barnum & Bailey Circus)

Dr. Terri Parrot-Nenezian - Veterinarian specializing in wildlife and exotics; Wildlife Rehabilitator; Exhibition/Sale Licensee with authorizations for most Class I and II families

Mr. Dan Martinelli - Treasure Coast Wildlife Hospital, Executive Director; Wildlife Rehabilitator; Exhibition/Sale Licensee with authorizations for most Class I and II families; Venomous Reptile Licensee

Mr. Eugene Bessette - Ophiological Services, Founder and Director; Venomous Reptile Licensee; Exhibit/Sale Licensee for Class III reptiles

Mr. Joe Christman - Curator of Mammals for Disney's Animal Kingdom

Dr. Leroy Coffman - Veterinarian; Former State Veterinarian and Director of Animal Industry with the Florida Department of Agriculture and Consumer Services

Mr. Ken Johnson - Humane Society of the United States

Dr. Susan Clubb - Veterinarian; Co-owner of Hurricane Aviaries; Staff Veterinarian for Parrot Jungle Island

Mr. Bill Armstrong - Hillsborough County Animal Control, Director; Florida Animal Control Association, President; County Emergency Response Coordinator for Emergency Support Function (ESF) 17 (Animal Issues)

Mr. R. Donovan Smith - Close Up Creatures, Inc., Founder and Director; NGALA Private Reserve, Founder; Exhibit/Sale licensee with authorizations for elephants, hippos, felids, crocodilians, and ratites

Ms. Gloria Noble Johnson - Cougar Ridge Education Center, Inc., Founder; Exhibit/Sale Licensee with authorizations for Class I and Class II cats

Mrs. Kathy Stearns - Stearns Zoological Rescue and Rehab, Founder; Wildlife Rehabilitator; Exhibit/Sale Licensee with authorizations for Class I bears and cats, Class II primates and cats, and Class III

Roxann B Borisch

From: azurita2011@yahoo.com
Sent: Tuesday, March 15, 2016 6:53 PM
To: odfw.comments@state.or.us
Subject: Re. Proposed ban of domestic pet skunks

Caging restrictions for domestic pet skunks

As a very concerned owner of a domestically bred, legally obtained pet skunk I implore you to remove these captive-bred and raised animals, our loving house pets of choice, from your proposed ban.

My pet skunk is a full-fledged member of my family. They provide love and affection just as a cat or dog provides for the family that opts to have a dog or cat as their pet of choice. Skunk owners just happen to prefer a pet that is a little more unusual than most people might choose, but that does not make them any less a member of the family.

Skunk owners do not cage their pets. They roam free in our homes and interact with us and are other pets. They crave affection. They are smart. They are clean. They sleep in our beds at night and climb into our laps and snuggle up to watch TV. They are intuitive of the needs of their owner. They know when we need them to just cuddle up with us.

I am a responsible skunk owner. I take it to the vet for health checks. I leash my skunk when I take it on outings. I am protective of my skunk so it will receive no harm from strangers. I only adopt pet skunks from licensed breeders and would not ever take a skunk from the wild. I know my skunk is 100% free of rabies because it is from a licensed breeder whose breeding stock has never been exposed to the rabies virus.

For the Wildlife Division and Commission, which has allowed captive-bred skunks to be kept as pets for many years to now think they should be included on the list of animals to be banned is a miscarriage of justice to an animal that wants nothing more than to be loved for the beautiful house pet that it is.

PLEASE... REMOVE DOMESTICALLY BRED, LEGALLY OBTAINED SKUNKS FROM THE PROPOSED BAN! Please I beg for you these are our family members you are trying to ban. They are treated just like I do my children I love them with all my heart. They are very loving animals. If you have never had one as a pet you really should try to get to know someone that does so you can see how much they mean to their family.

Thank you for your consideration. God bless you.

Amanda

Roxann B Borisch

From: Nicole Danubio <ndanubio@yahoo.com>
Sent: Tuesday, March 15, 2016 7:06 PM
To: odfw.commission@state.or.us; odfw.info@state.or.us; odfw.comments@state.or.us
Subject: RE: Proposed ban of domestic pet skunks - Caging restrictions for domestic pet skunks

To: Oregon Department of Fish and Wildlife Division [odfw.commission@state.or.us, odfw.info@state.or.us]

Oregon Department of Fish and Wildlife Commission [odfw.comments@state.or.us]

From: Nicole Danubio

RE: Proposed ban of domestic pet skunks

Caging restrictions for domestic pet skunks

As a very concerned owner of a domestically bred, legally obtained pet skunk I implore you to remove these captive-bred and raised animals, our loving house pets of choice, from your proposed ban.

My pet skunk[s] is/are a full-fledged member[s] of my family. They provide love and affection just as a cat or dog provides for the family that opts to have a dog or cat as their pet of choice. Skunk owners just happen to prefer a pet that is a little more unusual than most people might choose, but that does not make them any less a member of the family.

Skunk owners do not cage their pets. They roam free in our homes and interact with us (and other animals we may have.) They crave affection. They are smart. They are clean. They sleep in our beds at night and climb into our laps and snuggle up to watch TV. They are intuitive of the needs of their owner. They know when we need them to just cuddle up with us.

I am a responsible skunk owner. I take it to the vet for health checks. I leash my skunk when I take it on outings. I am protective of my skunk so it will receive no harm from strangers. I only adopt pet skunks from licensed breeders and would not ever take a skunk from the wild. I know my skunk is 100% free of rabies because it is from a licensed breeder whose breeding stock has never been exposed to the rabies virus.

For the Wildlife Division and Commission, which has allowed captive-bred skunks to be kept as pets for many years to now think they should be included on the list of animals to banned is a miscarriage of justice to an animal that wants nothing more than to be loved for the beautiful house pet that it is.

PLEASE... REMOVE DOMESTICALLY BRED, LEGALLY OBTAINED SKUNKS FROM THE PROPOSED BAN!

Thank you for your consideration.
Sincerely,

Nicole Danubio

Roxann B Borisch

From: jo M <ajodi77@gmail.com>
Sent: Tuesday, March 15, 2016 7:36 PM
To: odfw.commission@state.or.us; odfw.info@state.or.us; odfw.comments@state.or.us
Subject: Pet skunk ARTICLE PLEASE READ
Attachments: 20150924_171307.jpg; C360_2015-07-30-20-00-46-957.jpg

<http://www.readingeagle.com/life/article/jody-amerman-is-the-proud-owner-of-not-one-but-two-skunks&template=mobileart>

From: A household with two pet skunks

Proposed ban of domestic pet skunks

Caging restrictions for domestic pet skunks

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For the Wildlife Division and Commission, which has allowed captive-bred skunks to be kept as pets for many years to now think they should be included on the list of animals to be banned is a miscarriage of justice to an animal that wants nothing more than to be loved for the beautiful house pet that it is.

PLEASE... REMOVE DOMESTICALLY BRED, LEGALLY OBTAINED SKUNKS FROM THE PROPOSED BAN!

Thank you for your consideration.

These are beloved family members, they roam around the house as does our cat. Please reconsidering banning them.

Jodi Amerman



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WEDNESDAY, MAR. 16



Reading Eagle: Natalie Kolb | Jodi Amerman, 38, of Boyertown gives a kiss to Bodhi, one of her two pet skunks.

Like Share 109 people like this. Be the first of your friends.

Friday February 5, 2016 12:01 AM

Boyertown woman the proud owner of two skunks

By Courtney H. Diener-Stokes - Reading Eagle correspondent

BOYERTOWN, PA — When you think of a warm and cuddly pet, a skunk probably isn't the first thing that comes to mind. Try telling that to Jodi Amerman of Boyertown.

When Amerman had the opportunity to work with Alison Ueland of Perkiomenville, Montgomery County, a certified skunk breeder, a couple of years ago, she didn't go into it thinking she'd become the owner of a pet skunk.

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"I helped her with her litters one year, and that is how this all started," Amerman said.

The breeder that year had 21 baby skunks on her hands.

Now Amerman, 38, is the owner of not one, but two skunks.

"I've had Bodhi since he was approximately 2 weeks old; his eyes were just opening up," she said.

"I've had Bindhi since she was about 3 weeks old. I wasn't planning on getting another, but when I saw her, I just fell in love with her markings."

You're probably thinking, but what about the smell?

Skunks that are bred to be pets are descended at an early age, Amerman said.

She said that during the winter, like all skunks, hers spend a majority of the day sleeping.

"In winter they are sleeping about 20 hours a day," she said. "You can look behind my leather sofa anytime of day in the winter and see two skunks belly up sleeping."

Roam freely in house

Amerman, who allows her pet skunks to roam freely on the first floor of her home, said skunks are known to form strong bonds with their owners.

"They are very cuddly," she said. "They are both very snuggly with me. If they do just wake up, they want to be held. I think that's because I've had them since they were babies."

Amerman's husband, Dan, 37; son, Casey, 15; and daughter, Cally, 10, each have a different relationship with the skunks depending on how much they have held them since they were born.

"Owners and anyone else who he has one-on-one time with him he will bond with," she said of Bodhi.

Aside from the skunks, the family has two dogs and two parrots in their home, in addition to a horse kept down the road.

"Bodhi ignores the dogs, and Bindhi is still trying to figure out what they are, just because she is still young and a baby," Amerman said.

Research breeders

Amerman began working with animals after her children were old enough to go to school for a full day.

"That's how I ended up at Diane's (Pet Center) working with the rescue dogs," she said.

She met Jelard through Diane's

"She has been breeding skunks for 15 years," Amerman said.

WEDNESDAY, MAR. 16

Since most pet stores in Pennsylvania, including Diane's, don't carry skunks despite them being legal to own in the state, Amerman said fewer people know about having them as pets. Diane's, however, does offer services to skunks through the Affordable Spay Neuter Clinic on its premises

"If you are interested in it, you research it, and you do find out there are several breeders in Pennsylvania that I know of, and one or two more that we aren't familiar with," Ammerman said.

Skunk owners typically receive their new pets when they are around 8 weeks. Amerman was able to take hers home earlier because she had experience bottle-feeding skunks.

"They have to be bottle fed around the clock until you wean them," she said, adding that is typically an eight-week process.

Grooming and litter-training

Despite Amerman's positive experience with her skunks, she tries not to promote them as pets when she's out with them and people see them and say they want to get one.

"They are not low-maintenance," she said. "Yes, they sleep 20 hours out of the day, but they are prone to obesity, their diet requires a lot of research, and it may never be a cuddly skunk and one that wants to be held."

Amerman, who said she lucked out in having two skunks that like to cuddle and be held, mentioned some positive aspects of owning skunks.

"I don't have to take them out for walks," she said. "You don't have to worry about training them (obedience). They are not like ferrets; they don't smell. Even though ferrets are descended, they have that musty smell."

In addition, she said, skunks aren't big chewers like bunnies or guinea pigs.

"It's more of getting into things like a potted plant, digging in them," she said. "I lucked out; they (my skunks) don't dig and don't make a mess anywhere."

Amerman said skunks are much like cats in terms of the care they need.

"They are litter-box trained, they drink out of their water bowls, they sleep a lot, like cats," she said. "They are very playful when they're young."

"There is no grooming needed. I think Bodhi's had two baths in his life. They stay pretty clean. My daughter brushes them once a month."

However, there is one thing you have to do on a regular basis.

"You do have to trim their nails," she said. "I trim their nails at least once a month, if not more."

Bonding with owner and diet

Amerman shared the one thing that surprised her most about being a skunk owner.

"They have a bond with you I never experienced before, and I never expected that from a skunk," she said. "They do get much more cuddly than the dogs. When they wake up, they follow me wherever I go."

When it comes to feeding skunks, Amerman summed up a typical diet.

"You try to keep it no junk food or snack type of foods," she said. "They can do variations of different things. meal and wax worms and crickets, a lot of people supplement with certain vitamins. Mine get a handful (daily) of high quality, grain-free dog food."

She said you can also feed them certain vegetables and a small amount of fruit.

"They love peppers," Amerman said, adding their favorite fruit is a banana. "They will eat until they explode, so that is why you can only offer a little bit. Bodhi is on the 'plus' side so we are watching his figure."

When the weather is nice, Amerman enjoys taking Bodhi and Bindhi outside for walks on a leash.

"During the spring, I'll take them outside in the evenings, and that is when I'll let them eat crickets and mealworms," she said.

She recalled dressing Bodhi up in costume as a pumpkin to take him out trick-or-treating.

"It was pretty comical," she said, adding that he learned that night that he doesn't enjoy being dressed up.

Reactions and Facebook following

The first reaction Amerman gets from other people when taking Bodhi and Bindhi out is people wanting to verify that they are actually seeing a skunk.

"The first thing they ask me is, 'Can it spray?' " she said. "Then everyone is all just questions: 'Where did you get it from?' They ask to pet them. Usually I tell everybody, unless I know them, not to, because with skunks you don't ever want to take the chance of them getting scared and nipping at somebody."

Amerman meets other skunk owners through various social media platforms.

"There is a skunk forum I had joined for information you want to learn, and that is when I learned how many skunk owners there are," she said. "From joining that Facebook page, people want to see what kind of baby you got. They come in all different colors and patterns. There are several people close by with pet skunks."

Amerman said that when she started posting pictures of Bodhi in his first year, the response was overwhelmingly positive.

"Everyone started to fall in love with him," she said. "I didn't want to overflow that page with my pictures so he got his own account."

Bodhi, who will be 2 in May, now has his own Facebook page with over 1,000 friends.

"Everybody knows Bodhi," Amerman said. "He has fans over in England."

Contact Courtney H. Diener-Stokes: life@readingeagle.com.

FYI

Skunk Haven, recommended by Jodi Amerman as a good educational resource, centers its mission on skunk adoption, www.skunkhaven.com

Skunks are not good pets for everyone. They require lots of attention, time, patience

and love. They must be held often as babies so that they will have a good temperament as adults.



Skunks are not legal in all states. Contact your state wildlife department and/or local wildlife officer regarding the laws on skunk possession and the license that is required in your area.

In Pennsylvania, permits are required. The law enforcement division of the Pennsylvania Game Commission requests that in-state residents buy from a licensed dealer/breeder within the state for pet purposes. No importing pet skunks.

Licensed Pennsylvania skunk breeder: Alison Ueland, 484-366-5922

Source: www.skunkhaven.com.

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What do you think?

Do you think jailhouse informants are generally trustworthy?

Yes

No

Not sure/no opinion

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Roxann B Borisch

From: Lauren Miles <lauren.miles@gmail.com>
Sent: Wednesday, March 16, 2016 1:25 PM
To: odfw.commission@state.or.us; odfw.info@state.or.us
Subject: RE: Proposed ban of domestic pet skunks

FAO: Oregon Department of Fish and Wildlife Commission

RE: Proposed ban of domestic pet skunks

To Whom It May Concern,

As a very concerned owner of a domestically bred, legally obtained pet skunk I implore you to remove these captive-bred and raised animals, our loving house pets of choice, from your proposed ban.

My pet skunks are a full-fledged members of my family. They provide love and affection just as a cat or dog provides for the family that opts to have a dog or cat as their pet of choice. Skunk owners just happen to prefer a pet that is a little more unusual than most people might choose, but that does not make them any less a member of the family.

Skunk owners do not cage their pets. They roam freely in our homes and interact with us (and other animals we may have.) They can be affectionate, they are playful and full of character. They are smart. They are clean. They climb into our laps and snuggle up to watch TV. They are intuitive of the needs of their owner. They know when we need them to just cuddle up with us.

I am a responsible skunk owner; my skunks are vaccinated and treated for fleas, ticks and worms regularly. They are also insured just like a cat, dog or other pet. I take my skunks to the vet for regular health checks and have them appropriately treated for any medical problem. I only adopt pet skunks from licensed breeders and would not ever take a skunk from the wild. I know my skunk is 100% free of rabies because it is from a licensed breeder whose breeding stock has never been exposed to the rabies virus.

For the Wildlife Division and Commission, which has allowed captive-bred skunks to be kept as pets for many years to now think they should be included on the list of animals to banned is a miscarriage of justice to an animal that wants nothing more than to be loved for the beautiful house pet that it is.

PLEASE... REMOVE DOMESTICALLY BRED, LEGALLY OBTAINED SKUNKS FROM THE PROPOSED BAN!

Thank you for your consideration.

Lauren Arthy-Miles

South Yorkshire
United Kingdom

ODFW WildlifeInfo

From: Brian Jordan <brian.jordan@springfield.k12.or.us>
Sent: Wednesday, March 16, 2016 8:37 PM
To: odfw.wildlifeinfo@state.or.us
Subject: FW: skunk

From: Brian Jordan
Sent: Sunday, March 13, 2016 6:28 PM
To: Brian Jordan
Subject: skunk

I am writing to ask that you not put domestic skunks on the list of animals that need special accreditation. My daughter went through the permit process with your agency to obtain our skunk. He is an amazing pet. We have owned many pets over the years and the skunk is by far the easiest to take care of. He does not scratch the furniture like our cat or track in dirt like our dog. He does not shed nor make noise. He walks on a leash. He is not aggressive and he loves to play. I can understand not allowing people to own wild skunks or taking skunks from the wild and trying to turn them into domestic skunks. I can also understand not wanting people to have animals like raccoons that are not domesticated. Skunks have a long history of domestication and domestic skunks live much longer than wild skunks. My daughter would be so heart broken if she had to lose her skunk or if in the future she could not own another skunk. And as her dad who is not a fan of pets. I could see myself owning a skunk someday. Listed below are friends and colleagues who wanted their names attached to this letter in support of excluding domestic skunks from your list of animals that need stricter rules.

Sincerely,
Brian Jordan and
Marylee Culp, Erin Eisele, Bonita Brown, Molly Spain, Roseann Coe, Katie Stiles, Jennifer Trujillo, Sarah Johnson, Apryl Smith, Helen Federico, Jocelyn Mendelsohn, Curtis Crosswhite, Kathryn Anderson, Kari Isham, Sandra Nelson, Kira Fee, Brooke Wagner, Lorene Corgain, Leslie Wasson, Kurt Bonar, Nicki Essman, Tonya Reichenberger

Please consider this email as confidential...



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Thank you.
Springfield Public Schools

Roxann B Borisch

From: Leppin, Mark Vaughn <leppinm@oregonstate.edu>
Sent: Wednesday, March 16, 2016 10:54 PM
To: odfw.commission@state.or.us; curt.melcher@state.or.us; odfw.comments@state.or.us
Subject: Revision of Division 044

ODFW officials,

I am opposed to some of the rules in the revision and there is at least one error in the document. Sadly, I was not able to fully read the document but did cover some areas that were of greatest interest to me (e.g. non-avian reptiles and amphibians).

First, there is an error on page 16 of the document where it states, "(k) Northwestern Garter Snake (*Thamnophis sirtalis*)." The scientific name for Northwestern Garter Snakes is *Thamnophis ordinoides* whereas the common name for *Thamnophis sirtalis* is Common Garter Snake. I assume this area of the document was supposed to include both species.

Second, I am opposed to the listing of Rubber Boas (*Charina bottae*) and Racer (*Coluber constrictor*) as protected species without evidence supporting such status. In searching of the 2013 ORBIC document mentioned in revision, neither of these species were listed. It has been in my experience and from understanding of others, that these are both widespread and common species within their habitats. Since both of the species' habitats are widespread through Oregon and are not significantly reduced, that there is not a good reason for listing unless there is information about the species that is being withheld. I would suggest consulting the expert in Rubber Boas (*Charina bottae*), Richard F. Hoyer, for information on their status as Mr. Hoyer keeps detailed records on his sites. Alan St. John would also be a person to consider consulting on these and other species. For some of the other species listed like Ring-necked Snakes (*Diadophis punctatus*) and Dunn's Salamanders (*Plethodon dunni*), although I do have experience with these species, I cannot comment as much on how common they are through their range in Oregon. From what I observed, both species are locally common at several of my sites but sometimes sites with these species appear to be spotty within their range. Due to the species being somewhat secretive, they may be frequently overlooked.

I do not oppose the listing of Rhyacotriton species as when talking to experts, like Dr. Gwen Bury, and from the literature, these species are sensitive to small environmental changes.

Third, the number one is allowed to hold without permit for amphibians should be altered for life stages such as eggs and larvae. I believe for many households, it is beneficial for people, particularly children, to raise certain amphibians from eggs until metamorphosis and it may be hard for inexperienced people to divide eggs. Not only that, but it is best for the individual to raise at least 10 individuals as some might experience developmental problems or accidental predation (it is not uncommon for carnivorous insect eggs to be in a sample of pond/lake debris). Anyways, I believe the limit of two should be for adults, not juvenile amphibians.

Fourth, non-formal educators should be able to have similar access to native amphibian and reptiles as teachers. The reason I say this is because I formally used to teach school and camp children about reptiles and amphibians, including many natives, as a volunteer. This allows for some hobbyists and enthusiasts that volunteer in informal education in one way or another to continue educating the public.

I apologize for my poorly written statement but it will have to do considering the time frame.

Sincerely,
Mark V. Leppin
Zoology Major, Oregon State University

Roxann B Borisch

From: Phil Goss <President@USARK.org>
Sent: Thursday, March 17, 2016 10:26 AM
To: odfw.commission@state.or.us; odfw.comments@state.or.us; curt.melcher@state.or.us;
ODFW Commission; ODFW.WildlifeInfo@state.or.us
Subject: Regarding Proposed Rule Changes Concerning Wildlife
Attachments: USARK Oregon Division 44 Comments 2016.docx.pdf

Oregon Department of Fish and Wildlife Officials,

Please see the attachment for the United States Association of Reptile Keeper's comments regarding your proposed rule changes to Division 44, Chapter 635 of your wildlife code. Thank you and have a good day.

Phil Goss
President of USARK
United States Association of Reptile Keepers Protecting Your Freedom to Responsibly Keep Reptiles
and Amphibians as Pets www.USARK.org
www.facebook.com/UnitedStatesAssociationOfReptileKeepers
President@USARK.org



March 16, 2016

Oregon Department of Fish and Wildlife

4034 Fairview Industrial Dr.

SE Salem, OR 97302

Re: Proposed changes to OAR Division 44 rule on protected wildlife

Oregon Department of Fish and Wildlife Officials,

USARK is a non-profit membership organization representing responsible breeders, hobbyists, conservationists, pet owners, academics, and scientists who work with or in the reptile industry. We are the largest national advocacy representing specifically the interests of herpetoculture, or the keeping of reptiles and amphibians in captivity. We have been asked by dozens of Oregon citizens who are our members to comment on your proposed rule changes to OAR Division 44, Chapter 635 regarding herps, wildlife and exotic animals. We appreciate the opportunity to comment on these proposed changes.

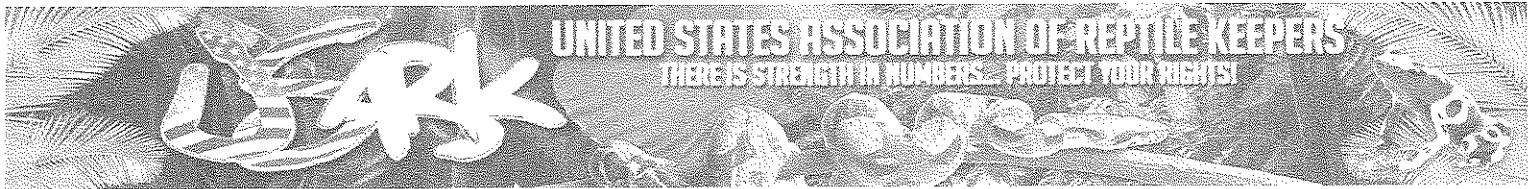
If you are not aware of the size of the reptile and amphibian pet community, it is estimated that over 60,000 Oregon residents responsibly keep herps as pets (via a national study from the American Pet Products Association: APPA). The herp segment of the pet industry yields annual revenue of over \$17,000,000 in Oregon (via an economic study done by Georgetown Economic Services).

One proposed rule change of serious concern is the inclusion of federally-listed non-native threatened and endangered species. This will actually harm conservation and will have a negative impact on captive breeding programs for these species. Many Oregon residents have spent tens of thousands of dollars to ensure captive breeding populations of species struggling or nearly extinct in the wild.

Many species are facing threats of extinction due to human encroachment, pollution, use as traditional foods, and loss of habitat while hobbyists maintain captive breeding populations kept viable through selling offspring. Overreach from an unjust rule will indeed harm conservation efforts. As habitat continues to be eliminated for many species, the captive populations of these animals will be all that remain, with the only other option being extinction.

It is fact that many species listed under ESA reproduce readily in captivity and are bred by hobbyists in the U.S. These species are no longer imported and most have not been for many years, or even decades. ESA and CITES provide protection for these animals and the domestic populations of these animals do nothing to harm the wild populations under threat. Actually, captive populations help raise awareness and lead to conservation programs for the wild populations of these species.

Unfortunately, species are continually added to the ESA list. Environmental groups, many of which do little if nothing to actually help animals, constantly petition the United States Fish and Wildlife Service to add both native and non-native species. Sadly, many of these groups use this process only for fundraising and then fail to support the conservation efforts they claim to be pursuing. What happens then is that U.S. hobbyists working with these species and likely contributing to in situ conservation efforts, as well, are penalized by regulations such as this proposal, and sometimes prohibition to transport animals across



state lines, depending on the listing under ESA. For example, we are currently waiting on rulings for multiple non-native tortoise species which are small and make great pets. These species have been kept by serious hobbyists who even have studbooks to ensure genetic diversity. These are dedicated herpetoculturists who would be devastated by such unjust rules. More importantly, the animals would suffer dire consequences.

It should be obvious that any action prohibiting propagation of federally listed threatened and endangered species would also harm conservation. This may occur if the Commission adds federally listed threatened and endangered species to their list of "Protected Wildlife" and amends the rule to also end breeding activity by requiring sterilization of animals. Even if the Wildlife Holding Permit regards only native species, the same effect is had. Without captive bred offspring, there is no source for Oregon residents, especially children, to personally interact with species and gain appreciation for their native wildlife.

There are concerns with other proposed rule changes that have been pointed out by concerned citizens, including the further negative impacts upon responsible field herpers, or those who go out to find native reptiles and amphibians in their natural habitats. While irresponsible people and poachers should certainly be punished, criminalizing people simply out enjoying nature and teaching their children about wildlife should not be punished in attempts to stop the criminals. Criminals will continue to break the law and likely it is the responsible individuals who will be punished instead, as they'll be easier targets who are simply out enjoying all the Oregon has to offer. Keep the penalties for the criminals harsh and work to enforce those laws rather than ending a popular activity for hard-working Oregon citizens.

Oregon has a very active herp community. We are aware that many would like to address both current and proposed field herping laws. Hopefully the Department can set a meeting or workshop to allow for responsible field herping without the fear of being punished for merely enjoying nature.

Similar proposed changes have been seen recently but were dropped after hearing the many repercussions. Arizona proposed similar, nearly identical in many instances, changes in 2014 but removed the proposed rules after being educated from stakeholders and professionals. The state of Virginia removed their regulations over non-native ESA-listed species in 2014 through Senate Bill 50, making listed species legal to keep, breed, buy and sell. While regulating ESA species at the state level may sound beneficial to conservation efforts, that truly is not the case. Both Arizona and Virginia legislators saw this after researching and educating themselves on the matter.

Please consider the negative impacts your proposed changes will have on animals and Oregon citizens who responsibly own these animals. We hope you will do what is best for Oregon residents and listen to the responsible pet owners, hobbyists, field herpers, businesses, stakeholders and truly concerned organizations that are offering information. USARK will gladly assist however possible. We're always here to work with government agencies and represent the voices of our members and herpetoculture. Thank you for your time and have a good day.





Sincerely,

/s/ Phil Goss

Phil Goss

President of USARK

United States Association of Reptile Keepers

Protecting Your Freedom to Responsibly Keep Reptiles and Amphibians as Pets

www.USARK.org

www.facebook.com/UnitedStatesAssociationOfReptileKeepers

President@USARK.org