

## Agenda Item Summary

### BACKGROUND

Division 44 of Chapter 635 of the Oregon Administrative Rules defines protected wildlife and provides for the holding of wildlife, including the propagation of gamebirds. As stated in previous review of this division, our initial goal was to determine if the rules continue to address current issues and can be used effectively by the Department and Oregon State Police. Staff were charged to determine if:

- 1) The current rules address situations and issues occurring in Oregon, regionally, and nationally involving legal and illegal holding of wildlife; and
- 2) The rules provide clear direction for law enforcement concerning held wildlife.

The defined goal of this effort was to provide recommendations concerning potential rulemaking changes that outline clear policy and procedures for evaluating wildlife holding permit requests and gamebird propagation licenses, and to update and define protected wildlife. The holding of live wildlife by the public requires evaluation of each case by biologists, the permit coordinator, and other Division staff. Additionally, rules involving protected wildlife and wildlife holding must provide clear direction to Oregon State Police (OSP) when illegally held wildlife requires investigation, intervention, or animal confiscation.

Due to the number of species and unique circumstances involved in holding requests, regulating the legal holding of wildlife can be complex. Many of the decisions involve public safety, potential disease issues, determination of species abundance and distribution, and developing standards for holding and care. These recommendations were developed to protect and enhance Oregon's wild and free-ranging wildlife resource, while also recognizing the need for allowing limited, regulated holding of captive wildlife.

Initially in 2013, Department staff met with OSP personnel and the Department of Agriculture State Veterinarian to outline issues related to wildlife holding permits. These included circumstances under which a permit may be issued, species approved for public holding with or without a permit; species not approved for public holding; exceptions to the permit process; and ultimately, how these issues affect the investigative process which may include the seizure and disposition of illegally held wildlife.

### PUBLIC INVOLVEMENT

In December 2013, an invited 23 member advisory group made up of agency and public stakeholder representatives was convened as the Wildlife Holding Advisory Group (WHAG). The WHAG members, inclusive of the Audubon Society of Portland, exotic pet industry, Oregon Hunters Association, Oregon Humane Society, Department of Agriculture, Oregon State Police, and the Department, met on six occasions in 2014. Additionally, 124 stakeholders reviewed the proposed rule changes up to 2 months before the March 2016 commission meeting and the public comments received were integrated where appropriate and practical.

The review process of Division 44 rules by the WHAG lead to several major proposals the commission reviewed during the March and June 2016 meetings including:

- Removing the classification of Non-protected Nongame Wildlife and reclassifying species that may be collected with defined conditions.
- Increasing the scope of the Wildlife Holding Permit to include legally possessed captive wildlife and provide a “Grandfathering” provision for legally held captive black bear, cougar, bobcat, raccoon, skunk, squirrels, and chipmunks.
- Discontinuing the practice and allowance of public holding of large carnivores unless held in AZA accredited facilities or regulated under other rules or as part of the adoption of these rules.
- Using a defined system for holding nongame wildlife based on science and designed to rank and classify species according to their abundance and distribution, and classified as demonstrably widespread, abundant, and secure.
- Expanding Exhibit 1 (Minimum Enclosure and Caging Standards for Holding Bear (*Ursus americanus*) and Cougar (*Felis concolor*) to include all held wildlife species referred to in Division 44.
- Redefining the scope of species allowed under a propagation permit to only include select gamebird species, and;
- Allowing the holding of pet raccoons and skunks obtained from an out-of-state USDA licensed breeder

One proposal limited the holding of new acquisitions of captive black bear, cougar, bobcat, and wolves to facilities accredited by Association of Zoos and Aquariums (AZA). This proposal created obstacles for those holding wildlife for business purposes including some stakeholders in the animal entertainment industry, wildlife education and exhibition, and sanctuaries. During the June 2016 meeting, the commission directed staff to meet with principle stakeholders to review proposals and present another workable alternative versus the requirement that all business stakeholders advance to AZA accreditation.

After review and development of alternatives, staff met directly with stakeholders in the wildlife education/exhibition, animal entertainment, and wildlife sanctuary industries including with staff from Wildlife Images, High Desert Museum, Wildlife Safari, Oregon Zoo, Wildcat Ridge, Molly Schaffer, and Hayden Rosenaur. Other members of the animal entertainment industry and wildlife sanctuary facilities were contacted for meetings but due to non-response or scheduling issues, draft rules were mailed to known addresses for review and comment in advance of the final drafts for this meeting.

Specific section revisions, additions, deletions, justifications, and notes are included in the Summary Table of Proposed Changes to Division 044 Rules (Attachment 5).

Members of the public are presently provided the opportunity to view the final rule proposals approximately 2 weeks prior to the January Commission meeting. The public will also have the opportunity to provide written and/or verbal testimony at this Commission meeting.

The Division 44 rule recommendations are presented based on recent stakeholder and public input and direction from the commission from the June 9, 2016 commission meeting. The public and commission review of previous draft rules highlighted several key issues for revision consideration. Each of the issues and staff recommendations are discussed below.

## **ISSUE 1**

### **Develop an alternative to requiring AZA accreditation for existing businesses and new acquisitions of specific species of held wildlife.**

#### **ANALYSIS**

After review of adjacent and other states rules, staff created 2 new permits (Exhibitor/Animal Entertainment Industry Permit and the Wildlife Sanctuary Permit). These permits cost the holder \$100 per year and require the permittee to submit documentation such as animal inventory, statement of purpose for each animals use, federal licenses (including incorporation of USDA permit requirements), emergency action plan, business license/tax ID/EIN, and employee/permittee qualifications. There are expected to be 11 businesses holding wildlife under these new permits. The development of specific permit categories and regulatory framework for professional entities versus pet wildlife and wildlife collectors on a wildlife holding permit allows for specific rule language for each permit type. It also allows for the acquisition and holding of new captive bred large and medium-sized carnivore animals for the professional/ business –type permit while restricting future acquisition of these animals by the general public.

Three Oregon facilities are currently accredited by the American Zoo Association (AZA). One additional facility has indicated it would be pursuing AZA accreditation (presently 232 institutions nationally) in the near future and another Oregon facility would pursue Zoological Association of America (ZAA) accreditation (73 institutions). Accredited zoos are required to follow rigorous criteria for animal care, husbandry, and caging, nutrition, record keeping and veterinary care.

We also included additional definitions for Animal Entertainment Industry, Educational facilities, Exhibitor, Sanctuaries, Wildlife held as Pets, and Zoos.

## **ISSUE 2**

### **Update species list of demonstrably abundant, widely distributed and secure non-game wildlife to the 2016 ORBIC list.**

#### **ANALYSIS**

Staff worked with the Oregon Biodiversity Information Center Zoology Projects Manager to update (since the June 2016 commission presentation) the list of non-game species permitted for holding under 635-044-0480. This list currently includes 7 amphibians, 11 reptiles, and 16 mammals, an increase of 2 species from the previous list. Language was included to allow holders of species that may become protected following future updates to hold those individual animals as grandfathered species for the life of the animals.

## **ISSUE 3**

### **Update existing wolf holding permit and allow new wolves to be held for exhibition purposes in AZA accredited facilities.**

#### **ANALYSIS**

Presently, genetically purebred wolves may only be held on a wolf holding permit if proven to be legally held prior to December 31, 2009. No new permits can be issued for purebred wolves under the current language. Staff proposes to move the one existing wolf holding permit to a Wildlife Sanctuary permit. Legally held wolves may only be transferred from the existing permittee to an accredited AZA facility. Staff additionally proposes that AZA accredited facilities may hold legally acquired wolves on their Wildlife Exhibitor permit. Captive wolves may not be bred, propagated or reproduced.

**ISSUE 4**

**Clarify permit requirements for the holding of pet skunks**

**ANALYSIS**

Skunks are considered an endemic wildlife species in the state of Oregon. The impetus for regulating pet skunks is that ODFW is charged with protecting all native wildlife equally and without prejudice. Oregon is one of the few western states and one of 17 nationally that allows for the holding of pet skunks. Through public comment and commission direction, staff has included additional alternatives in the proposed rules for Oregonians to possess and hold skunks as pets. By statute, skunks may not be offered for sale, trade, barter, or exchange as a household pet in Oregon (ORS 498.029). Staff proposes to continue to allow skunks to be held as pets, with a valid wildlife holding permit, as long as they are captive bred and purchased or acquired out of state from a USDA licensed breeder. No wild skunks may be captured and held. In the wild, striped skunks are classified as demonstrably abundant, widely distributed and secure in Oregon (ORBIC classification).

The holding of pet skunks in Oregon is presently allowed if they are legally acquired from an out-of-state breeder and imported, however the holding of this wildlife species has not been regulated or monitored as with other held native wildlife. All pet skunks presently held will be grandfathered as part of the proposed permit process if they were previously legally acquired.

As with other held wildlife, skunk owners will be required to possess a Wildlife Holding Permit with annual renewal including listing of the number of held skunks and associated permanent identification marks. Additional animals may be added to the permit but must be reported on an updated permit. No skunks held in Oregon may be bred or propagated and all animals imported into the state require an import permit number and certificate of veterinary inspection as designated by the Oregon Department of Agriculture. Also, caging requirements for pet skunks include the permit holder's home as a legal holding enclosure. Travel, transport and leash walking outside the permittee's home are not restricted.

**OPTIONS**

- Option 1. Adopt rule amendments as proposed by staff
- Option 2. Modify proposed rule amendments
- Option 3. Reject proposed rule amendments (current rules remain in effect)

**STAFF RECOMMENDATION**

Option 1. Adopt staff proposed amendments to the Division 44 Protected Wildlife, Holding, and Propagating Rules

**DRAFT MOTION**

I move to amend OAR chapter 635, division 44 as proposed by staff.

**EFFECTIVE DATE**