

## OFFICE OF THE SECRETARY OF STATE

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## ARCHIVES DIVISION

STEPHANIE CLARK  
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## NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635  
DEPARTMENT OF FISH AND WILDLIFE

**FILED**

08/14/2019 4:04 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amend Rules for Disposition of Elk Taken With a Kill Permit to Address Wildlife Damage

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/11/2019 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Roxann Borisch  
Rules Coordinator

### HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/11/2019

TIME: 8:00 AM - 5:00 PM

OFFICER: Oregon Department of Fish  
and Wildlife Commission

ADDRESS: Four Rivers Cultural Center  
676 SW 5th Avenue  
Ontario, OR 97914

### NEED FOR THE RULE(S):

There were several discussions and introduced bills during the 2019 Legislative Session to address constituent concerns regarding elk damage on private lands. As part of the Department's wildlife policy, one of the available tools are kill permits. District staff issue permits to landowners for lethal removal of elk causing damage under the condition that the elk are salvaged and delivered to a processor designated by the Department for use by charitable organizations. Landowners are sometimes faced with utilizing kill permits at night (outside of established shooting hours for game mammals) and during summer months when no hunting seasons occur to directly address a damage situation. The proposed rules balance distribution options for the carcasses of elk by providing the ability for the landowner or agents to retain some of the elk while still prioritizing delivery to charitable organizations.

### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Wildlife Division, Second Floor, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

## FISCAL AND ECONOMIC IMPACT:

The rules are expected to have minimal economic and fiscal impact. There are no additional compliance costs. There is the potential for an indirect impact on meat processing businesses.

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## COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

State agencies that could be affected by these rules relating to disposition of wildlife taken on damage are the Oregon Department of Fish and Wildlife (administrative costs) and the Oregon State Police (enforcement costs). Any change to costs are expected to be very minimal, as no major changes from the current levels of these agencies' operations or expenditures are expected as a result of adoption of these particular rules.

No units of local government are expected to be affected.

The members of the public that would be affected by these rules include landowners who take elk on their private land through a kill permit and/or their designees, who would now be able to salvage meat under the proposed conditions. As this would be limited to one elk per landowner, and per each of their designees, per year, the total number of impacts would be limited by these constraints. This has a potential to impact grocery stores, meat processors, and other establishments that process and or sell meat or other animal related products, if those who participate in elk meat salvage use this resource in place of products or services they would have normally purchased, effectively less meat is bought by this group. As noted, since there is a limited number of landowners who apply for permits and salvage is restricted to one elk per year for any person or immediate family, it is expected that the overall economic impact of these reduced expenditures would be minor.

There is a potential for small meat processing businesses to be impacted in a positive or negative manner by this rule. If those who choose to salvage elk decide to process the meat on their own this would result in reduced sales. However, if more elk are taken on damage permits this would result in greater overall demand for meat processing services, along with a potential that those who decide to purchase meat processing may be more likely to purchase additional value added services beyond general processing (for example fresh/smoked sausage, pepperoni, jerky, etc.). The number of processing businesses affected and whether this rule would indirectly increase or decrease their sales cannot be estimated at this time.

Salvaged elk may not be sold, bartered, or exchanged and is not considered an economic commodity in the context of these rules. That said, any costs related to compliance with these rules to directly participate in elk salvage do not reflect an increased cost of doing business, rather it only presents an additional disposal option for applicable landowners.

Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No additional costs

Equipment, supplies, labor and increased administration required for compliance: No additional costs

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

NA

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

ODFW staff developed the proposed language based on draft bills and comments from the 2019 legislative session. The commission will receive additional input and comment from stakeholders during the rulemaking process.

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RULES PROPOSED:

635-002-0005, 635-002-0008

AMEND: 635-002-0005

RULE SUMMARY: In accordance with ORS 498.012, any wildlife taken on damage is disposed of as directed by the Commission. These rules allow opportunity for landowners or agents to retain some elk taken on a kill permit during specific time periods while still prioritizing delivery to charitable organizations.

CHANGES TO RULE:

635-002-0005

Disposal of Edible Wildlife ¶¶

Except as provided in OAR ~~635-043-0200175~~ and 635-002-0008, carcasses of edible wildlife, except black bear, shall be disposed of in the following manner: ¶¶

(1) Donated to public and charitable institutions such as welfare organizations, churches, and others provided the receiving agency pays all storage and handling charges and does not sell the meat. ¶¶

(2) Donated to persons determined to be eligible because of low income or medical reasons, provided the eligible person requests and accepts the carcass as delivered, consumes the meat at his/her place of residence, and does not offer it for sale. ¶¶

(3) Donated to wildlife rehabilitators licensed by the Department provided those rehabilitators use the meat to feed sick, injured or orphaned wildlife and do not sell the meat. ¶¶

(4) Donated to rendering plants, pet food manufacturers or disposed of as specified by personnel of the Department.

Statutory/Other Authority: Or Laws 2017, Ch 670, ~~2~~ 2, ORS 183.545, 183.550, 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 183.545, 183.550, 496.012, 496.138, 496.146, 496.162

AMEND: 635-002-0008

RULE SUMMARY: In accordance with ORS 498.012, any wildlife taken on damage is disposed of as directed by the Commission. These rules allow opportunity for landowners or agents to retain some elk taken on a kill permit during specific time periods while still prioritizing delivery to charitable organizations.

CHANGES TO RULE:

635-002-0008

#### Disposition of Wildlife Taken on Damage ¶

In accordance with ORS 498.012, any wildlife taken on damage shall be disposed of in the following manner:¶

(1) ~~Except as provided in section (2) of this rule, any deer, elk, antelope, bighorn sheep or gamebird shall be salvaged and delivered to a location determined by the Department. Carcasses shall be disposed of as directed by OAR 635-002-0005.¶~~

(2) Any elk taken on a kill permit outside of established shooting hours for game mammals from August 1 to March 31 and at any time from April 1 to July 31, shall be salvaged and disposed of in the following manner as directed by the Department:¶

(a) Donated to public and charitable institutions such as welfare organizations, churches, and others provided the receiving institution pays all storage and handling charges and does not sell the meat; or¶

(b) Donated to the landowner or landowner's designee(s) (including landowner agents) with the following provisions:¶

(A) The landowner or landowner's immediate family may receive only one elk of the total number of permits provided to the landowner in the 12-month period from July 1 to June 30;¶

(B) Any designee or designee's immediate family may receive only one elk in the 12-month period from July 1 to June 30; ¶

(C) Name, date and address of physical residence for each recipient shall be documented with Department;¶

(D) The heads, including antlers, of all elk must be submitted to the Department unless otherwise specified by the local District Wildlife Biologist;¶

(E) No portion of any elk received pursuant to this rule may be sold, bartered, or exchanged; and¶

(F) When an elk taken on a kill permit or part thereof is transferred to the possession of another person, a written record shall accompany such transfer and include: ¶

(i) A description of the elk part or portion transferred; ¶

(ii) The name and physical residence address of the person who was the original recipient of the elk; ¶

(iii) The kill permit number; ¶

(iv) The date and time of transfer; and¶

(v) The written record shall remain with the elk or part so long as the same is preserved.¶

(3) Black bear taken on damage shall be disposed of in the following manner:¶

(a) The carcass and hide, including gall bladder and female reproductive tract, shall be delivered to a location determined by the Department;¶

(b) The department may permit the landowner to retain the carcass including hide, skull, paws, claws, and meat (but not the gall bladder) for personal use. The hide, head, paws, claws, and meat may not be sold or bartered.¶

(A) If the landowner chooses to retain the carcass he/she must sign a written release provided by the department acknowledging the proper methods of preparation for human consumption, accepting the carcass as is, and that the meat will not be offered for sale;¶

(B) If the carcass, including hide, skull, paws and claws or meat, is transferred to another person, written documentation must be provided as outlined in OAR 635-065-0765(5).¶

(c) If the landowner chooses not to retain the carcass, including the hide, skull, paws, claws, and meat, the carcass shall be disposed of as directed in OAR 635-002-0007.¶

(d) The hide, skull, paws, claws, and gall bladder shall be salvaged and disposed of in a manner determined by the department. Options for disposition include but are not limited to scientific, enforcement, or educational

purposes.¶

(34) Any cougar taken when damaging livestock shall be disposed of in the following manner:¶

(a) The carcass and hide, including viscera, shall be delivered to a location determined by the Department;¶

(b) The Department may permit the landowner to retain the legally marked hide and carcass, including the skull of such cougar for personal use. Such skull, hide, and carcass, including feet and claws, may not be sold or bartered;¶

(c) Such hide shall be marked with a possession tag which shall remain with the hide.¶

(45) Any red fox or bobcat shall be disposed of in a manner determined by the Department. Priority for disposition shall be for scientific, enforcement, or educational purposes.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162