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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED

10/07/2019 4:12 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend trapping regulations in Siskiyou & Siuslaw National Forests and the Oregon Dunes National Recreation Area.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/06/2019 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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Salem, OR 97302

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: 12/06/2019

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Oregon Department of Fish
and Wildlife

4034 Fairview Industrial Drive SE
Salem, OR 97302

NEED FOR THE RULE(S):

A rule amendment is needed to ban the use of traps or snares suspended in trees in the Siskiyou and Siuslaw National Forests and ban trapping in the Oregon Dunes National Recreation Area.

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, 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:

No major fiscal or economic effects are expected to result from these proposed rules.

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).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

State agencies that would be affected are the Oregon Department of Fish and Wildlife (Department) and the Oregon State Police (OSP). The Department may experience additional administrative costs from this rule making. Marten trapping restrictions in the Siskiyou and Siuslaw National Forests and the Oregon Dunes National Recreation Area also could affect OSP's enforcement efforts and associated costs.

There are no expected impacts to local governments. The National Forests and National Recreation Area locations where these restrictions would be implemented include lands in Benton, Douglas, Coos, Curry, Jackson, Josephine, Klamath, Lane, Polk, Tillamook, and Yamhill Counties.

It is unlikely that these rules would affect the general public. Based on 2018-2019 mandatory harvest reports show that zero marten was reported harvested by trapping in the Siskiyou and Siuslaw National Forests and the Oregon Dunes National Recreation Area. As the trapping of marten does not currently occur in these areas there are no impacts to those who participate in recreational trapping. If other areas and or species are restricted this could result in economic impacts.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);

Small businesses including trappers, suppliers, purchasers of furs, and livestock producers are not affected for reasons described above. These marten trapping restrictions are specific to the Siskiyou and Siuslaw National Forests and the Oregon Dunes National Recreation Area and does not result in an economic impact, but further restrictions could impact these businesses.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

None Expected

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None Expected

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

Small businesses are unlikely to be impacted at this time.

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

A Rules Advisory Committee was not consulted as public testimony was received at the August 2018 and September 2019 Commission meetings and recent discussions with stakeholders. The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

RULES PROPOSED:

AMEND: 635-050-0045

RULE SUMMARY: As amended, OAR 635-050-0045 will restrict the use of traps or snares suspended in trees in the Siskiyou and Siuslaw National Forests.

CHANGES TO RULE:

635-050-0045

General Furbearer Regulations ¶¶

The following general regulations apply to furbearer seasons: ¶¶

- (1) The appropriate furtaker's license or hunting license for furbearers must be in possession to hunt and/or trap furbearers. ¶¶
- (2) Any person possessing a valid furtaker's license or hunting license for furbearers is required to fill out and submit a completed harvest report to the Department online, by fax to (503)-947-6117, or by mail at 4034 Fairview Industrial Drive SE, Salem, OR 97302. The form shall be submitted online, received by fax, or postmarked by April 15, 2019 for the 2018-2019 seasons and April 15, 2020 for the 2019-2020 seasons. Failure to do so shall deny the license holder the opportunity to purchase a hunting license for furbearers or furtaker's license for the following furbearer season, unless the non-compliant licensee pays a fee of \$50.00 and completes and returns the harvest report form prior to the requested license being issued. ¶¶
- (3) Any person may sell or exchange the hide, carcass, or any part thereof, of any legally taken furbearing or unprotected mammal. ¶¶
- (4) All traps and snares, whether set for furbearing or other unprotected mammals, shall be legibly marked or branded with the owner's license (brand) number that has been assigned by the Department; except that unmarked traps or snares may be set for nongame mammals unprotected by law or Department regulations by any person or member of his immediate family upon land of which he is the lawful owner. A landowner is required to register the location of such land with the Department and shall possess each year a free landowner's license before hunting or trapping furbearing mammals. ¶¶
- (5) No branded trap or snare may be sold unless accompanied by a uniform bill of sale. ¶¶
- (6) Bobcat, raccoon and opossum may be hunted with the aid of an artificial light provided the light is not cast from or attached to a motor vehicle or boat. ¶¶
- (7) An artificial light may be used to provide light to aid in the dispatch of animals legally restrained in a trap or snare. ¶¶
- (8) Use of dogs is permitted to hunt or pursue bobcat, raccoon, fox, and unprotected mammals. ¶¶
- (9) It is unlawful for any person to trap for furbearers, predatory animals or unprotected mammals using: ¶¶
 - (a) A steel foothold trap with a jaw spread greater than 9 inches. ¶¶
 - (b) A No. 3 or larger foothold trap or any foothold trap with an inside jaw spread at dog greater than 6" not having a jaw spacing of at least 3/16 of one inch when the trap is sprung (measurement excludes pads on padded jaw traps) and when the trap is placed in a manner that is not capable of drowning a trapped animal. ¶¶
 - (c) The flesh of any game bird, game fish, game mammal for trap bait. ¶¶
 - (d) Any killing trap having a jaw spread of 7.5 inches or more in any land set except when authorized by the Oregon Department of Fish and Wildlife. ¶¶
 - (e) Any toothed trap, or trap with a protuberance on the facing edge of the jaws that is intended to hold the animal (except pads on padded jaw traps). ¶¶
 - (f) Or possessing the branded traps or snares of another unless in possession of written permission from the person to whom the brand is registered. ¶¶
 - (g) Sight bait within 15 feet of any foothold trap set for carnivores. ¶¶
- (10) Except for persons authorized to enforce the wildlife laws, it is unlawful to disturb or remove the traps or snares of any licensed trapper while he is trapping on public lands or on land where he has permission to trap. ¶¶

(11) All traps or snares set or used for the taking of furbearing or unprotected mammals shall be inspected at least every 48 hours and all trapped animals removed. This regulation does not apply to the taking of predatory animals.¶

(12) Any person setting a trap for predatory animals, as defined in ORS 610.002, must check the trap as follows:¶

(a) For killing traps and snares, at least once every 30 days and remove all animals;¶

(b) For restraining traps and snares, at least once every 76 hours and remove all animals. However, restraining traps and snares set by a person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock or their agent, and set for predatory animals damaging land, livestock or agricultural or forest crops, shall be checked at least once every 7 days¶

(13) Any person(s) acting as an agent for a landowner shall have in their possession written authority from the landowner or lawful occupant of the land. Such written authority shall contain at least all of the following:¶

(a) The date of issuance of the authorization;¶

(b) The name, address, telephone number and signature of the person granting the authorization;¶

(c) The name, address and telephone number of the person to whom the authorization is granted; and¶

(d) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.¶

(14) These general furbearer regulations do not apply to the trapping of gophers, moles, ground squirrels and mountain beaver.¶

(15) When any furbearer or raw furbearer pelt is transferred to the possession of another person, a written record indicating the name and address of the person from whom the raw pelt was obtained shall accompany such transfer and remain with same so long as preserved in raw pelt form.¶

(16) It is unlawful for any person to damage or destroy any muskrat house at any time except where such muskrat house is an obstruction to a private or public ditch or watercourse.¶

(17) It is unlawful to waste the pelt of any furbearer except when authorized by the Oregon Department of Fish and Wildlife.¶

(18) It is unlawful for any person to use traps or snares suspended in trees in the Siskiyou and Siuslaw National Forests.

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

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

AMEND: 635-050-0210

RULE SUMMARY: As amended, OAR 635-050-0210 will prohibit trapping of furbearing and unprotected mammals in the Oregon Dunes National Recreation Area.

CHANGES TO RULE:

635-050-0210

Areas Closed to Hunting or Trapping ¶

It is unlawful to hunt or trap furbearing mammals or unprotected mammals on the following areas except as authorized by permit or as provided in section (24) and (25) of this section:¶

- (1) Cemeteries;¶
- (2) City and municipal watersheds declared to be refuges;¶
- (3) Enterprise Wildlife Area, south of U.P. Railroad, and Marr tract;¶
- (4) Federal refuges;¶
- (5) Denman Wildlife Area;¶
- (6) Fern Ridge Wildlife Area;¶
- (7) Irrigon Wildlife Area;¶
- (8) Jewell Meadows Wildlife Area;¶
- (9) Klamath Wildlife Area;¶
- (10) Ladd Marsh Wildlife Area;¶
- (11) McDonald Forest (Benton County);¶
- (12) Metolius Wildlife Refuge;¶
- (13) North Bank Habitat Management Area (BLM);¶
- (14) Public campgrounds;¶
- (15) National, state and public parks;¶
- (16) Rimrock Springs Wildlife Area;¶
- (17) Sauvie Island Wildlife Area;¶
- (18) School lands;¶
- (19) Summer Lake Wildlife Area;¶
- (20) E.E. Wilson Wildlife Area;¶
- (21) St. Louis Ponds¶
- (22) Within city boundaries (note, however, that ORS 498.012 allows landowners and their agents to trap for the purpose of dealing with certain types of damage, public nuisance and public health risk. This authority overrides the restriction on trapping within cities);¶
- (23) Tillicum Natural Area.¶
- (24) Notwithstanding section (22) of this rule, trapping furbearing and unprotected mammals is permitted within incorporated city limits as follows:¶
 - (a) Warrenton, except within 100 yards of any residential building or within the boundaries of Fort Stevens State Park;¶
 - (b) Klamath Falls, on a person's own property for muskrat and beaver;¶
 - (c) Bend, as approved and permitted by the Department;¶
 - (d) Cottage Grove; applicants must submit written request to the City of Cottage Grove for a trapping permit.¶

(25) Oregon Dunes National Recreation Area is open to hunting as permitted by the Department but closed to trapping furbearing and unprotected mammals.

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

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