

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) – Wildlife Division	635
Agency and Division	Administrative Rules Chapter Number

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Rules Coordinator	Address	Telephone

**RULE CAPTION**

Amend rules relating to Cervid diseases and products

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

September 12 , 2008	8:00 AM	Pacific University 2043 College Way, Washburne Hall, Forest Grove, OR 97116	Oregon Fish and Wildlife Commission
Hearing Date	Time	Location	Hearings Officer

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*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:** OAR Chapter 635, Division 049

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

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

Other Auth.:

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

**RULE SUMMARY**

These amendments will put into rule a cervid disease surveillance list. The list includes diseases posing risk to cervids, cervid diseases posing risk to livestock, wildlife or humans, testing standards, test methods, prohibitions, and deadlines for required disease analysis and reporting. The list also addresses disease testing requirements and prohibitions for gamete or embryo transfer and importation.

These Amendments will also remove the requirement that cervid part sales be reported in detail to ODFW.

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

September 12, 2008

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

	Michelle Tate	July 15, 2008
Signature	Printed name	Date

\*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Fish and Wildlife (ODFW) Wildlife Division

635

Agency and Division

Administrative Rules Chapter Number

In the Matter of Amendment of Rules:	)	Statutory Authority,
OAR 635 Division 049;	)	Statutes Implemented,
Relating to the Cervid Surveillance Disease List	)	Statement of Need,
and the sale of cervid parts	)	Principal Documents Relied Upon
	)	Statement of Fiscal Impact

Amend rules relating to Cervid diseases and products

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106

Other Authority:

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

Need for the Rule(s): The purpose of this amendment is to place in to rule the Cervid Surveillance Disease List (CDSL). OAR 635 Division 049, the Private Holding Or Propagating Of Cervid Species rules have been establish to protect native wildlife while allowing flexibility for private ownership and propagation of domestic cervids. The list shall include diseases posing risk to cervids, cervid diseases posing risk to livestock, wildlife or humans, testing standards, test methods, prohibitions, and deadlines for required disease analysis and reporting. The list will also address disease testing requirements and prohibitions for gamete or embryo transfer and importation. Any person holding cervids must comply with the requirements of the cervid disease surveillance list.

The reporting of each sale of cervid products would be a prohibitively time-consuming process. The removal of the reporting requirement for cervid product sales will decrease the amount of time and money businesses must spend on meeting division 49 reporting requirements.

Documents Relied Upon, and where they are available:

Fiscal and Economic Impact, including Statement of Cost of Compliance: See attached

How were small businesses involved in the development of this rule? Public comments, including those from small business are considered when making these rule changes.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The draft administrative rules where developed by consultation with the US Department of Agriculture.

	Michelle Tate	July 15, 2008
Signature	Printed name	Date

## **Fiscal and Economic Impact Statement for the September 12, 2008 Hearing on the Cervid Disease Surveillance List**

Fiscal and economic impact: Rule changes are being proposed to develop the Cervid Disease Surveillance List (CDSL.) The rule outlines procedures for the surveillance and testing of captive Cervid populations for key diseases. The testing procedures are designed to minimize any potential harm to wild and captive Cervid and livestock populations. Secondly, changes to Division 49 are proposed that will waive reporting requirements on the sale of cervid products by cervid producers. The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

A. The only state agencies that might be affected by adoption of these rules are the Oregon Department of Fish and Wildlife (ODFW) and Oregon Department of Agriculture (ODA). The CDSL requires ODFW or ODA to conduct a necropsy on animals if rare circumstances warrant as determined by each agency's veterinarian. Costs apply for travel and transportation of animals as well as veterinarian or staff time to conduct the necropsy. It is likely that these occurrences would be relatively rare, potentially several times per year. During more accidental or unusual deaths of Cervids or harvest for personal use (presently 30-50 deaths per year), reporting of the death is required within 24 hours, and the head of the animal must be transported to an ODFW office or biologist. Each head will undergo chronic wasting disease (CWD) testing by the United States Department of Agriculture (USDA) at the National Veterinary Services Laboratory (NVSL) in Ames, Iowa or a USDA approved laboratory. The primary costs applicable to ODFW related to this CWD testing process are collection of the heads and samples and shipment to the USDA testing facility. Lymph nodes of the head will also be examined by ODFW staff for signs of tuberculosis. If the nodes are suspected of tuberculosis, ODFW staff will perform a presumptive diagnostic test for the disease. Any positive results would result in the sample being shipped to NVSL for definitive diagnosis with no further testing costs to ODFW associated with this animal. Additive costs resulting from federal (USDA), ODA, and ODFW response at the facility to test additional animals or remove diseased animals may be incurred. Staff time is necessary to conduct tuberculosis tests on the heads of animals that die of any cause and to conduct necropsies in more rare cases. Costs apply for this time as well as for transportation of head and tissue samples to the USDA and between ODFW offices.

When animals are slaughtered for commercial use at USDA certified slaughter and processing facilities (presently about 145 animals per year), the CDSL rule requires heads collected at the facilities by ODFW personnel following notification by Cervid permit holders of the Cervid's death within 24 hours. CDSL specified tissues will be examined by ODFW district biologists or Wildlife Health Lab personnel.

The removal of the requirement that cervid part sales be reported in detail to ODFW will reduce the amount of staff time necessary to complete division 49 requirements. Such time would likely have been absorbed within existing resources, but reviewing the reporting of each sale of cervid products would be a prohibitively time-consuming process.

B. No units of local government are expected to be affected by these rules. No significant changes from the current levels of any local agencies' operations or expenditures are expected as a result of the adoption of these rules.

C. The public could be affected by the adoption of these rules: Costs to Cervid-holding businesses will apply to remove the head of any animals that die from causes other than routine commercial slaughter. The cost would then apply to transport the heads to ODFW offices or biologists. If ODFW or ODA elects to perform a necropsy, the Cervid license holder would not be responsible for these costs. The removal of the reporting requirement for cervid product sales will decrease the amount of time and money businesses must spend on meeting division 49 reporting requirements. Information is not available on the volume of cervid product sales or the magnitude of this time savings.

Rules pertaining to the CDSL are intended to protect wild populations of deer and elk as well as livestock operations from a potential disease outbreak. Wild populations have economic benefits to the public and to Oregon's economy. The total (direct, indirect and induced) effects on personal income in the areas surrounding the associated hunting areas and statewide are the result of the direct expenditures on goods and services made by sport participants during their hunting trips. Through the "multiplier process", there is a resulting increase in economic activity and personal income in the general economy of the area and the entire state. A similar process applies to wildlife watching expenditures. Both large and small businesses that provide goods and services related to hunting and wildlife watching benefit financially from healthy wild populations in Oregon. Information is not available on the number of small businesses affected by wildlife populations.

Survey data from 1989 - 1991 Starkey Experimental Forest hunts in Eastern Oregon indicate average overall trip expenditure by elk and deer hunters of about \$285, with nearly \$150 of the total made in Eastern Oregon. This is equivalent to an average expenditure of \$52.36 per hunter day, of which an average of \$27.52 per hunter day was made in Eastern Oregon. In inflation adjusted 2006 dollars, the average expenditure per hunter day would amount to \$72 per hunter day, of which an average of \$38 would be spent in Eastern Oregon.

The relationship between direct, indirect and induced personal income from the direct trip expenditures per hunter day can be estimated based on response coefficients developed from an economic input-output model. Using the 1989 - 1991 Starkey Experimental Forest data and information on the relationship between expenditures and the personal income associated with the spending, the state-level personal income impact per hunter day for Eastern Oregon deer and elk was about \$39; the personal income impact in Eastern Oregon was about \$13 per hunter activity day. Adjusting for inflation since 1991, the personal income impacts in 2006 dollars would be about \$54 per hunter day at the state level, and about \$18 per hunter day in Eastern Oregon.

No specific estimates are available for Western Oregon big game hunting. According to data from the 2006 National Survey of Fishing, Hunting and Wildlife-Associated Recreation (2008), total hunter expenditures in Oregon were about \$373.6 million in 2006. The impact on state level personal income was slightly over \$259 million, and the effect on gross output was \$827.5

million in 2006. Of the \$373.6 million in expenditures, \$220.8 million was for big game hunting. In 2006, wildlife watchers spent \$776.4 million on wildlife watching in Oregon. A portion of these expenditures can be attributed to big game watching.

A portion of the value of the wildlife populations of the state is reflected by these expenditure and corresponding economic outputs. Another group that has an interest in the prevention of tuberculosis is the livestock business. These may be large or small businesses, specific information is not available on the proportion of livestock operations that are large or small, so it is difficult to determine how many small businesses are affected by this rule change. Those businesses which hold livestock will benefit from the prevention of diseases in the wild that could cross the fence into captive herds and cause economic harm.

Most businesses affected by these rules are believed to be "small business." USDA certified slaughter and processing facility employees may be involved in collection and short-term storage of slaughter animal heads that will be sampled for CDSL tissues on site or transported by ODFW personnel to the lab. These activities are not believed to be beyond the scope of their typical activities.

The rules are believed to be fully compatible with legislative direction on the goals of wildlife management in Oregon.

We do not believe that a less intrusive or less costly alternative adaptation to only small business is consistent with the purpose of the rule.

#### References

Southwick Associates. *Hunting in America: An Economic Engine and Conservation Powerhouse*. Produced for the Association of Fish and Wildlife Agencies with funding from Multistate Conservation Grant Program, 2007.

U.S. Department of the Interior, Fish and Wildlife Service, and U.S. Department of Commerce, U.S. Census Bureau. *2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, 2008.