

DIVISION 044
HOLDING, PROPAGATING, PROTECTED WILDLIFE

635-044-0002

Taxonomy

(1) Scientific taxonomic nomenclature reflects the following:

(a) Fish - (i) 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.

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

(iii) Jelks, H.L., S.J. Walsh, N.M. Burkhead, S. Contreras-Balders, 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. Scientific and standard English names of amphibians and reptiles of North America north of Mexico, with comments regarding confidence in our understanding. 6th Edition. Society for the Study of Amphibians and Reptiles, Herpetological Circular No. 37.

(c) Chesser, R.T., R.C. Banks, F.K. Barker, C. Cicero, J.L. Dunn, A.W. Kratter, I.J. Lovette, P.C. Rasmussen, J.V. Remsen, Jr., J.D. Rising, D.F. Stotz, and K. Winker. 2009. Fiftieth 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 635-044-0130 for the purposes of implementing and enforcing 635-044-0000 through 635-044-0235.

Statutory Authority: 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: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498. 222, 498.242

635-044-0005

Permit Required to Hold Wildlife

Any person desiring to capture and hold any [N] **n**orthern flying squirrel (*Glaucomys sabrinus*), [~~pine squirrel~~] **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.

Statutory Authority: 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: 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, furbearer, **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 Tetranidae 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 [N] **n**orthern flying squirrel (*Glaucomys sabrinus*), [~~pine squirrel~~] **chickaree (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.

Statutory Authority: 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: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498. 222, 498.242

635-044-0035

Requirements for Care of Wildlife Held in Captivity

(1) 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 1, 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 1.

(c) The department may, in its discretion, approve facilities that do not meet the specifications of Exhibit 1 if the department finds that such facilities provide safeguards equivalent to those required by Exhibit 1. The burden is on the applicant to demonstrate equivalency. One seeking equivalency approval shall submit a detailed analysis of each specification required by Exhibit 1 and describe how the facility provides equivalent safeguards.

Statutory Authority: 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: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498. 222, 498.242

EXHIBIT 1

(635-044-0035)

Minimum Specifications for Holding Facility for Bear (*Ursus americanus*) and Cougar (~~[*Felis*]~~ *Puma concolor*).

Minimum Size:

Six (6) feet in height; minimum floor area for each animal held shall be three hundred (300) square feet, excluding cubs or kittens under six (6) months of age.

Construction

Floor: The floor shall be constructed in one of the following ways:

For Bear: Four (4) inch reinforced concrete, sloped for free drainage.

For Cougar:

- 1: Four (4) inch reinforced concrete, sloped for free drainage; or
- 2: Four (4) inch reinforced continuous concrete skirt four (4) feet wide around either inside or outside of pen perimeter; or
- 3: Six (6) inch concrete curb two (2) feet deep around pen perimeter. If the substrate will not permit subsurface construction, 9 gauge chain link fencing or its equivalent shall be buried and extend three (3) feet inside. This subsurface wire shall be securely anchored; or
- 4: (Only for declawed cougar. Owner must provide veterinarian proof of declawing upon request.) Natural earth with a minimum of three (3) inches concrete skirt two (2) feet wide around either inside or outside of pen perimeter.

Gate: Double gate construction consisting of welded, bolted or threaded frames. The exterior gate must be secured by a lock at all times except when entry is required. One gate must open inward and have a positive stop to prevent opening when unlocked and pressured by the caged animal. The gate must be constructed in a manner to provide strength comparable to the rest of the cage, and the hinges and fasteners must be adequate to provide strength equivalent to the rest of the construction.

Cage: The cage shall be constructed in one of the following ways:

1: Frame and mesh construction, to consist of a supportive framework, corner and gate posts to be steel pipes or beams equivalent in strength to 2-inch steel pipe, top and sides, of steel pipes or beams equivalent in strength to 1-1/2 inch steel pipe, securely welded, bolted, or threaded together, with framework members at intervals no greater than five (5) feet; gate posts, steel pipe and beam posts must be embedded in concrete to a minimum depth of two (2) feet, wire mesh covering of 9 gauge chain link fencing or its equivalent, securely bolted, welded or attached with 9 gauge fence ties to framework. Top to be constructed of 9 gauge chain link fencing or equivalent for bear, 11-1/2 gauge chain link fencing or equivalent for cougar, attached in a similar manner as sides.

2: Barred construction, to consist of steel pipes or bars equivalent in strength to 3/4 inch steel pipe, spaced at intervals not to exceed six (6) inches, and supported at intervals not to exceed thirty-six (36) inches with 3/8 by 2 inch steel bars drilled to receive the vertical bars at the intervals given above; all joints or points of meeting to be securely bolted or welded, top and sides. Top to be bar construction as described above or constructed of 9 gauge chain link fencing or equivalent for bear, 11-1/2 gauge chain link fencing or equivalent for cougar, securely attached to sides.

Other Specifications

A water trough of not less than four (4) U.S. gallons securely attached inside of the cage.

One den box for each animal kept, to be constructed on a floor level not less than three and one half (3-1/2) inches above the floor level of the main cage; providing fifteen (15) square feet of floor area per animal; being not less than thirty (30) inches high inside; with floor sloped to provide free drainage.

Shelter to protect animal from sun and rain must be provided.

Exercise or open top enclosure may not replace the minimum cage requirements for this Exhibit

1. However, if such a facility is provided, it must comply with the following minimum requirements:

Perimeter fence construction must be 9 gauge chain link type fencing or equivalent a minimum of eight (8) feet high with a double overhanging cantilever of electrified wire. Each cantilever to be not less than 18 inches in length, totally surrounding the entire enclosure and one to slope in, the other to slope out, both at a 45-degree angle, containing electrified wires not less than 16 gauge, equally spaced, not to exceed six (6) inch spacing intervals. A "New Zealand" style energizer that is appropriately sized for the amount of wire to be energized shall power the fence.

Frame and mesh construction, to consists of a supportive framework, all posts to be steel pipes or beams equivalent in strength to 1-1/2 inch steel pipe, with vertical frame members at intervals no greater than ten (10) feet. Vertical frame members must be imbedded in concrete to a depth of three (3) feet. Horizontal frame members are required at top and bottom of vertical portion of fence. Nine gauge chain link fence or equivalent securely attached to top and bottom horizontal frame members at intervals not to exceed one (1) foot.

Double gate construction to be welded, bolted or threaded frames. The exterior door must be secured by a lock at all times except when entry is required. One gate must open inward and have a positive stop to prevent opening when unlocked and pressured by the caged animal. The gate must be constructed in a manner to provide strength comparable to the rest of the cage, and the hinges and fasteners will be adequate to provide strength equivalent to the rest of the construction.

Animals may occupy the exercise enclosure only when keeper is present.

635-044-0060

License Required to Propagate Wildlife

(1) Any person desiring to propagate for sale any game mammal (excluding the family Cervidae), game bird, or tiger salamander (*Ambystoma [tigrinum] mavortium*) (excluding [B] blotched tiger salamander *A. [t.] m. melanostictum*) or desiring to sell any propagated game mammal (excluding the family Cervidae), game bird, or tiger salamander (*Ambystoma [tigrinum] mavortium*) (excluding Blotched tiger salamander *A. [t.] m. melanostictum*) 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) Any person desiring to propagate and sell any raptor must 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)

Statutory Authority: 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: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498. 222, 498.242

635-044-0130

Nongame Wildlife Protected

(1) Except as provided by 635-043-0030, 635-200-0040, 635-044-0015, 635-056-0080 and 635-044-0200, it is *unlawful* for any person to hunt, trap, pursue, kill, take, catch, angle for, or have in possession, either dead or alive, whole or in part, any:

(a) Threatened or Endangered animals as provided for in 635-100-0125; or

(b) Protected wildlife listed herein except as otherwise provided by the commission by permit, or with respect to Pacific Lamprey, 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. Nothing in this rule is intended to affect the provisions of ORS 610.002 to 610.990.

(A) Fish: **Protected fish are listed by common name and scientific name if consistently applied across taxonomic references:**

(i) Goose Lake lamprey [~~(parasitic and nonparasitic forms)~~ (*Lampetra spp.*)] (*Entosphenus sp.*) **[Jelks et al. 2008];**

(ii) Alvord chub [~~(*Gila alvordensis*)~~] **[Nelson et al. 2004];**

[~~(iii) Catlow tui chub (*Gila bicolor spp.*);~~]

[~~(iv)~~] **(iii) Oregon lakes tui chub [Jelks et al. 2008];**

[~~(v)~~] **(iv) Sheldon tui chub [~~(*Gila bicolor eurysoma*)~~]; [Jelks et al. 2008];**

(v) Pit roach (*Lavinia symmetricus mitrulus*) [Moyle 2002];

[~~(vi) Summer Basin tui chub (*Gila bicolor spp.*);~~]

[~~(vii) California roach (*Hesperoleucus symmetricus mitrulus*);~~]

[~~(viii)~~] **(vi) Oregon chub [~~(Willamette Basin)~~], (*Oregonichthys crameri*) [Nelson et al. 2004];**

[~~(ix)~~] **(vii) Millicoma longnose dace (*Rhinichthys cataractae* ssp.) [Jelks et al. 2008];**

[~~(x)~~] **(viii) Lahonton redbside (*Richardsonius egregius*) [Nelson et al. 2004];**

[~~(xi)~~] **(ix) Goose Lake sucker (*Catostomus occidentalis lacusanserinus*) [Moyle 2002];**

[~~(xii)~~] **(x) Tahoe sucker (*Catostomus tahoensis*) [Nelson et al. 2004];**

[~~(xiii)~~] **(xi) Malheur [~~mottled~~] sculpin (*Cottus [bairdi spp.] bendirei*) [Nelson et al. 2004];**

[~~(xiv)~~] **(xii) Margined sculpin (*Cottus marginatus*) [Nelson et al. 2004];**

[~~(xv)~~] **(xiii) Pit sculpin (*Cottus pitensis*) [Nelson et al. 2004];**

[~~(xvi)~~] **(xiv) Pacific lamprey [~~(*Lampetra*)~~ *Entosphenus* [~~(*tridentata*)~~] *tridentatus*) [Jelks et al. 2008];**

[~~(xvii)~~] **(xv) Goose Lake tui chub [~~(*Gila bicolor thalassina*)~~] [Jelks et al. 2008]**

(xvi) Klamath smallscale sucker, Jenny Creek population (*Catostomus rimiculus*) [Nelson et al. 2004];

~~[(xviii) Warner Basin tui chub (*Gila bicolor* spp.);]~~

~~[(xix) Jenny Creek sucker (*Catostomus rimiculus* spp.)]~~

~~[(xx)]~~ **(xvii) River lamprey (*Lampetra ayresii*) [Nelson et al. 2004];**

~~[(xxi)]~~ **(xviii) Western brook lamprey (*Lampetra richardsoni*) [Nelson et al. 2004];**

~~[(xxii)]~~ **(xix) Miller Lake lamprey [~~(*Lampetra minima*)~~] (*Entosphenus minimus*) [Nelson et al. 2004];**

~~[(xxiii)]~~ **(xx) Klamath River lamprey [~~(*Lampetra similis*)~~] (*Entosphenus similis*) [Jelks et al. 2008];**

~~[(xxiv)]~~ **(xxi) Pit-Klamath brook lamprey [~~(*Lampetra lethophaga*)~~] (*Entosphenus lethophagus*) [Jelks et al. 2008];**

~~[(xxv) Klamath Basin lamprey (parasitic form) (*Lampetra* spp.)]~~

(B) Amphibians:

(i) Cope's giant salamander (*Dicamptodon copei*);

(ii) Clouded salamander (*Aneides ferreus*);

(iii) Black salamander (*Aneides flavipunctatus*);

(iv) California slender salamander (*Batrachoseps attenuatus*);

(v) Oregon slender salamander (*Batrachoseps* [~~wrighti~~] **wrightorum**);

(vi) Del Norte salamander (*Plethodon elongatus*);

(vii) Larch Mountain salamander (*Plethodon larselli*);

(viii) Siskiyou Mountains salamander (*Plethodon stormi*);

(ix) Rocky Mountain tailed frog (*Ascaphus montanus*)

~~[(ix)]~~ **(x) Coastal [T] tailed frog (*Ascaphus truei*);**

~~[(x)]~~ **(xi) Northern [R] red-legged frog (*Rana aurora*);**

~~[(xi)]~~ **(xii) Foothill yellow-legged frog (*Rana boylei*);**

~~[(xii)]~~ **(xiii) Cascades frog (*Rana cascadae*);**

~~[(xiii)]~~ **(xiv) Northern leopard frog ([~~Rana~~] *Lithobates pipiens*);**

(xv) Columbia spotted frog (*Rana luteiventris*)

~~[(xiv)]~~ **(xvi) Oregon [S] spotted frog (*Rana pretiosa*);**

~~[(xv)]~~ **(xvii) Southern [seep] torrent salamander (*Rhyacotriton variegatus*);**

~~[(xvi)]~~ **(xviii) Columbia [seep] torrent salamander (*Rhyacotriton kezeri*);**

~~[(xvii)]~~ **(xix) Cascade [seep] torrent salamander (*Rhyacotriton cascadae*);**

~~[(xviii)]~~ **(xx) Western toad ([~~Bufo~~] *Anaxyrus boreas*);**

- [~~(xix)~~] **(xxi)** Woodhouse toad (~~[*Bufo*]~~ *Anaxyrus woodhousei*);
- [~~(xx)~~] **(xxii)** Blotched tiger salamander (*Ambystoma* [~~*tigrinum*]~~ *mavortium melanostictum*).
- (C) Reptiles:
- (i) Western painted turtle (*Chrysemys picta bellii*);
- (ii) Western pond turtle (~~[*Clemmys*]~~ *Actinemys marmorata*);
- (iii) [~~Desert~~] **Great Basin** [~~C~~] collared [~~(Mojave black-collared)~~] lizard (*Crotaphytus* [*insularis*] *bicinctores*);
- (iv) Long-nosed leopard lizard (*Gambelia wislizenii*);
- (v) **Pygmy** [~~S~~] short-horned lizard (*Phrynosoma douglassi*);
- [~~(iv)~~] **(vi)** Desert horned lizard (*Phrynosoma platyrhinos*);
- [~~(v)~~] **(vii)** [~~Sharp-tail~~] **Sharp-tailed** snake (*Contia tenuis*);
- [~~(vi)~~] **(viii)** Common kingsnake (*Lampropeltis* [~~*getulus*]~~ *getula*);
- [~~(vii)~~] **(ix)** California mountain kingsnake (*Lampropeltis zonata*);
- [~~(viii)~~] **(x)** Western ground snake (*Sonora semiannulata*);
- (D) Birds: All nongame birds except European starling, house sparrow and rock [~~dove~~] **pigeon**.
- (E) Mammals:
- (i) Fringed myotis (*Myotis thysanodes*);
- (ii) Townsend's big-eared bat (~~[*Plecotus*]~~ *Corynorhinus townsendii*);
- (iii) Pallid bat (*Antrozous pallidus*);
- (iv) **American** [~~P~~] **pika** (cony) (*Ochotona princeps*);
- (v) Pygmy rabbit (*Brachylagus idahoensis*);
- (vi) White-tailed jack rabbit (*Lepus townsendii*);
- (vii) Chipmunk (*Tamias amoenus*, *T. minimus*, ***T. senex***, *T. siskiyou* and *T. townsendii*);
- [~~(ix)~~] ~~Washington ground squirrel (*Spermophilus washingtoni*);~~
- [~~(x)~~] **(viii)** Golden-mantled ground squirrel (*Spermophilus lateralis*);
- [~~(xi)~~] **(ix)** Chickaree [~~(pine squirrel)]~~ **(Douglas's squirrel and red squirrel)** (*Tamiasciurus douglasii* and *T. hudsonicus*);
- [~~(viii)~~] **(x)** White-tailed antelope squirrel (*Ammospermophilus leucurus*);
- [~~(xii)~~] **(xi)** Northern flying squirrel (*Glaucomys sabrinus*);
- [~~(xiii)~~] **(xii)** White-footed vole (~~[*Phenacomys*]~~ *Arborimus albipes*);
- [~~(xiv)~~] **(xiii)** Ringtail (*Bassariscus astutus*);
- [~~(xv)~~] **(xiv)** Fisher (*Martes pennanti*).
- [~~(xvi)~~] **(xv)** All marine mammals.
- [~~(xvii)~~] **(xvi)** Silver-haired bat (*Lasionycteris noctivagans*);

~~[(xiv)]~~ **(xvii)** Western small-footed myotis (*Myotis ciliolabrum*);

~~[(xv)]~~ **(xviii)** Long-eared myotis (*Myotis evotis*);

~~[(xvi)]~~ **(xix)** Long-legged myotis (*Myotis volans*);

~~[(xvii)]~~ **(xx)** Yuma myotis (*Myotis yumanensis*);

~~[(xviii)]~~ **(xxi)** Columbian white-tailed deer (*Odocoileus virginianus leucurus*) in the following Wildlife Management Units: Saddle Mountain (10), Scappoose (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.

Statutory Authority: 496.138, 496.146, 506.119

Stats Implemented: 496.162, 506.129

DIVISION 045

DEFINITIONS

635-045-0002

Definitions

- (1) "Adult hunting license" is a resident or nonresident hunter's license, resident combination angler's and hunter's license, disabled war veteran's license, pioneer's hunting license or senior citizen's hunting and fishing license.
- (2) "Agricultural lands" are lands that are not less than ten acres in extent that have been cultivated and planted or irrigated to domestic crops that are currently in use. Isolated home gardens, abandoned farmsteads, logged lands, rangelands, and tree farms, are not included in this definition.
- (3) "Antler Point" is a point at least one inch in length measured from tip of point to nearest edge of beam. This definition applies only to the three-point elk and spike only elk bag limits.
- (4) "Antlerless deer" means doe or fawn deer.
- (5) "Antlerless elk" means cow or calf elk.
- (6) "Application" means the electronic form completed and purchased to apply for a hunt where the number or distribution of hunters is limited through a public drawing or other means. Mail order applications sent to the Department along with the proper remittance are used to generate the electronic form.
- (7) "Baited Area" means an area where baiting has taken place.
- (8) "Baiting" means the placing, exposing, depositing, distributing, or scattering of corn, wheat, salt or other feed to constitute a lure or enticement to, on, or over an area where hunters are attempting to take game birds.
- (9) "Brace" is defined as an orthosis that is prescribed by a physician and fabricated by an orthotist certified by the American Board for Certification in Orthotics and Prosthetics, Inc.
- (10) "Brace Height" is the distance from the back of the bow's riser at the handgrip to the string when the bow is at rest.
- (11) "Buck Deer" means a male deer with at least one visible antler.
- (12) "Buck Pronghorn" means a male pronghorn antelope with visible horns and a dark cheek patch below the ear.

- (13) "Bull elk" for the purposes of a bag limit definition, means a male elk with at least one visible antler.
- (14) "Calendar year" means from January 1 through December 31.
- (15) "Carcass" is the skinned or unskinned body, with or without entrails, of a gamebird or game mammal.
- (16) "Cascade elk" means any live elk occurring in the Dixon, Evans Creek, Indigo, Keno, McKenzie, Metolius, Rogue, Santiam and Upper Deschutes units and those parts of Fort Rock and Sprague units west of Highway 97, and that part of Grizzly Unit west of Hwy 97 and south of Hwy 26.
- (17) "Closed season" is any time and place when it is not authorized to take a specific species, sex or size of wildlife.
- (18) "Coast elk" means any live elk occurring in the Alsea, Applegate, Chetco, Melrose, Powers, Saddle Mountain, Scappoose, Siuslaw, Sixes, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.
- (19) "Commission" means the Oregon Fish and Wildlife Commission.
- (20) "Controlled hunt" is a season where the number or distribution of hunters is limited through a public drawing or other means.
- (21) "Department" means the Oregon Department of Fish and Wildlife.
- (22) "Director" means the Oregon Fish and Wildlife Director.
- (23) "Doe or fawn pronghorn" means a female pronghorn antelope without a dark cheek patch below the ear or a pronghorn fawns (young of the year) of either sex.
- (24) "Domestic partner" as used in this rule means a person in a relationship with another person, each of whom:
- (a) Is under no legal disability to marry the other person, but for the fact that each is of the same sex;
 - (b) Desires a relationship of marriage under Oregon law and would enter into marriage with the other person, and only with the other person, if Oregon law permitted it;
 - (c) Acknowledges and accepts financial obligations to the other person and to third parties equivalent to the financial obligation that arise within a marriage recognized under Oregon state law; and
 - (d) Is not married and has no similar commitment and responsibility to any other person.
 - (e) Has continuously lived for 6 months with the other person
- (25) "Eastern Oregon" means all counties east of the summit of the Cascade Range including all of Klamath and Hood River counties.

- (26) "Eastern Oregon deer" means any live deer occurring east of the east boundaries of the Santiam, McKenzie, Dixon, Indigo and Rogue units.
- (27) "Eligible Hunter" means someone who will be 12 years of age by the time they hunt.
- (28) "Entry permit" means a permit issued by the Department to be in an area where entry is restricted by regulation.
- (29) "Established airport" is one that the Aeronautics Division has licensed as a public-use airport, registered as a personal-use airport, or specifically exempted from either licensing or registration.
- (30) "Feral Swine" means animals of the genus *Sus* as defined by the Oregon Department of Agriculture in OAR 603-010-0055.
- (31) "Fiscal year" means from July 1 through June 30.
- (32) "Furbearers" are beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.
- (33) "Game Birds" are any waterfowl, snipe, band-tailed pigeon, dove, pheasant, quail, partridge, grouse, or wild turkey.
- (34) "Game mammals" are pronghorn antelope, black bear, cougar, deer, elk, moose, Rocky Mountain goat, bighorn sheep, and western gray squirrel.
- (35) "General season" is any season open to the holder of a valid hunting license and appropriate game mammal tag without restriction as to the number of participants.
- (36) "Hunter certification" means to have met educational, safety or other requirements designated by administrative rule for participation in a hunt.
- (37) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.
- (38) "Husbandry" means the care given animals directly by their owners and managers, including but not limited to:
- (a) Nutrition;
 - (b) Breeding program;
 - (c) Veterinary medical care;
 - (d) Environmental cleanliness; and
 - (e) Humane handling.
- (39) "Immediate family" for the purpose of Landowner Preference, means a landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.; for all other purposes, it means spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

- (40) "Inedible" means unfit for human consumption.
- (41) "Landowner", as used in OAR Chapter 635, Division 075, means:
- (a) A person who holds title in trust or in fee simple to 40 or more contiguous acres of land; provided however that a recorded deed or contract of ownership shall be on file in the county in which the land is located; and/or
 - (b) A corporation holding title in fee simple to 40 or more contiguous acres of land; provided however that the corporation shall be registered with the State of Oregon; and/or
 - (c) A partnership holding title in fee simple to 40 or more contiguous acres of land; and/or
 - (d) Persons who hold title as part of a time share are not eligible for landowner preference.
- (42) "Low Income" means a person who is "economically disadvantaged" as defined in Section 4(8) of the Federal Job Training Partnership Act of 1982.
- (43) "Mounted Wildlife" means any hide, head or whole body of wildlife prepared by a licensed taxidermist for display.
- (44) "Muzzleloader" is any single-barreled (shotguns may be double barreled) long gun meant to be fired from the shoulder and loaded from the muzzle with an open ignition system and open or peep sights.
- (45) "On or within" means a straight line distance measured on a map.
- (46) "One deer" means a buck, doe, or fawn deer.
- (47) "One elk" means a bull, cow, or calf elk.
- (48) "Open Ignition" is an ignition system where the percussion cap, or frizzen, or flint is visible and exposed to the weather at all times and is not capable of being closed or covered by any permanent piece of the weapon.
- (49) "Partner" means a person in an association of two or more persons formed to carry on as co-owners for
- (50) "Point-of-Sale" (POS) is a computerized licensing system available at locations that sell Oregon's hunting and angling licenses. Licenses and tags are generated and issued directly to customers from a POS machine at the time of sale.
- (51) "Possession" means to have physical possession or to otherwise exercise dominion or control over any wildlife or parts thereof, and any person who counsels, aids or assists another person holding such wildlife is deemed equally in possession.
- (52) "Postmark" means the date of mailing as stated in a mark applied by the U.S. Postal Service to a piece of mail. Office postal machine meter marks are not valid application deadline postmarks.

- (53) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities.
- (54) "Protected wildlife" means "game mammals" as defined in OAR 635-045-0002 (34) "game birds" as defined in OAR 635-045-0002 (33), "furbearers" as defined in OAR 635-045-0002 (32), "threatened and endangered species" as defined in OAR 635-100-0125, and "nongame wildlife protected" as defined in OAR 635-044-0130.
- (55) "Pursue" means the act of trailing, tracking, or chasing wildlife in an attempt to locate, capture, catch, tree, or kill any game mammal or furbearer.
- (56) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.
- (57) "Resident" is any person who has resided in Oregon for a period of at least six months immediately prior to the date of making application for a license or tag. Members of the armed forces assigned to permanent duty status in Oregon including spouses and dependent children, and foreign exchange students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.
- (58) "Resident juvenile" is any "Resident" of Oregon 14 through 17 years of age.
- (59) "River" is that portion of a natural water body lying below the level of bankfull stage. Bankfull stage is the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.
- (60) "Rocky Mountain elk" is any live elk occurring east of the following described line: Beginning at the California line on Highway 97; north on Highway 97 to State Highway 26 at Madras; northwest on Highway 26 to east boundary of Santiam Unit; north along east boundary of Santiam Unit to the Columbia River.
- (61) "Sabot" A carrier, bushing or device in which a projectile of a smaller caliber is centered so as to permit firing the projectile within a larger caliber weapon. Cloth, paper or felt patches used with round balls are not considered a sabot.
- (62) "Shotgun" is a smoothbore firearm, designed for firing birdshot, and intended to be fired from the shoulder, with a barrel length of 18 inches or more, and with an overall length of 26 inches or more. Exception: Shotguns equipped with rifled slug barrels are considered shotguns when used for hunting pronghorn antelope, black bear, cougar, deer, or elk when centerfire rifles or shotguns are legal weapons.
- (63) "Sight bait" is exposed flesh bait within 15 feet of any leghold trap set for carnivores.
- (64) "Spike deer" is a deer with spike (unbranched) antlers.

- (65) "Spike-only bull elk" means a bull elk with at least one visible unbranched antler (brow tines are not considered an antler branch under spike-only regulations).
- (66) "Stockholder" is a person who owns stock within a corporation as defined in OAR 635-045-0002 (41) (b).
- (67) "Tag" is a document authorizing the taking of a designated kind of mammal at a specified time and place.
- (68) "Take" means to kill or obtain possession or control of any wildlife.
- (69) "Three point plus elk" for the purposes of a bag limit definition, means a bull elk having 3 points or more on one antler including the brow tine.
- (70) "Unbarbed broadhead" is a fixed position arrowhead where the rear edge of the blade(s) forms an angle with the arrow shaft to which it is attached of 90° or greater.
- (71) "Unprotected Mammals and Birds" are European starling, house sparrow, rock pigeon and any mammal species for which there are no closed seasons or bag limits.
- (72) "Valid certification permit" is a permit for the current season that has not become invalid after taking a season limit or illegal game bird.
- (73) "Visible Antler" means a velvet or hardened antler that is visible above the hairline on the skullcap and is capable of being shed.
- (74) "Wait period" means the length of time a successful controlled hunt applicant must wait before reapplying for the species for which he was successful in drawing.
- (75) "Waste" means to allow any edible portion of any game mammal (except cougar) or game bird to be rendered unfit for human consumption, or, to fail to retrieve edible portions, except internal organs, of such game mammals or game birds from the field. Entrails, including the heart and liver, are not considered edible.
- (76) "Waterfowl" means ducks, geese, mergansers and coots.
- (77) "Weapon" is any device used to take or attempt to take wildlife.
- (78) "Western Oregon" means all counties west of the summit of the Cascade Range except Klamath and Hood River counties.
- (79) "Western Oregon deer" is any live deer except the Columbian white-tailed deer occurring west of the east boundaries of the Santiam, McKenzie, Dixon, Indigo, and Rogue units.
- (80) "Wildlife" means fish, wild birds, amphibians, reptiles, wild mammals, and feral swine.
- (81) "Wildlife" means for the purposes of harassment to relieve damage described in OAR 635-043-0096 through 635-043-0115, game mammals, game birds except migratory birds protected by Federal law, furbearing mammals and wildlife declared protected by the commission.

(82) "Wildlife" means for the purposes of scientific taking described in OAR 635-043-0023 through 635-043-0045, wild birds, wild mammals, amphibians and reptiles, including nests, eggs, or young of same.

(83) "Wildlife" means, for the purposes of the Wildlife Diversity Plan described in OAR 635-100-0001 through 635-100-0194, fish, shellfish, amphibians, reptiles, feral swine, wild mammals, wild birds, and animals living intertidally on the bottom as defined by ORS 506.011.

~~[(83)]~~ **(84)** "Wildlife unit" is a geographic area described in OAR 635-080-0000 through OAR 635-080-0077.

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162

Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162

DIVISION 100

WILDLIFE DIVERSITY PLAN

635-100-0001

Definition of Terms

As used in the *Wildlife Diversity Plan*:¹

- (1) "Self-sustaining" means wildlife species that are naturally reproducing throughout their ranges with no dependency on artificial propagation to sustain natural production over time.
- (2) "Endangered" means an animal threatened with extinction within all or a significant portion of its range.
- (3) "Threatened" means an animal that could become endangered within the foreseeable future within all or a portion of its range.
- (4) "Sensitive" refers to 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 ~~[to qualify their]~~ **such that they may become eligible for listing [as] on the state Threatened and Endangered Species List** ~~[due to loss in quantity or quality of habitat or other factors.]~~
- (5) "Wildlife" ~~[refers to both fish and wildlife species, subspecies, and populations]~~ **means fish, shellfish, amphibians, reptiles, feral swine, wild mammals, wild birds, and animals living intertidally on the bottom as defined by ORS 506.011.**

¹The *Nongame Wildlife Management Plan* was reviewed and updated as the *Wildlife Diversity Plan* and adopted by the commission on November 17, 1993. The *Wildlife Diversity Plan* was reviewed, updated, and adopted by the commission on January 22, 1999. As noted below in OAR 635-100-0005, only the policy portions of the *Wildlife Diversity Plan* are incorporated here as an administrative rule. Copies of the *Wildlife Diversity Plan* are available through the agency.

Statutory Authority: 496.004, 496.012, 496.171, 496.172, 496.182, 496.192, 496.380, 496.385, 497.298, 497.308, 497.318, 498.026

Stats Implemented: 496.004, 496.012, 496.171, 496.172, 496.182, 496.192, 496.380, 496.385, 497.298, 497.308, 497.318, 498.026

635-100-0040

Sensitive Species List

(1) For the purpose of ~~[maintaining a watch list of species potentially]~~ **prioritizing conservation actions to prevent species from becoming** eligible for listing as threatened or endangered species, the category of sensitive species is established. ~~[in the Nongame Wildlife Management Plan].~~ **"Sensitive" refers to 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.** The sensitive species list shall be updated by the department ~~[biannually]~~ **every 5 years**, distributed to state and federal resource agencies, and made available to any member of the public upon request.

(2) ~~[Any person may request that a species be included on or deleted from the sensitive species list.]~~ A wildlife species shall qualify for inclusion on the sensitive species list if:

(a) Its numbers are declining at a rate such that it may become eligible for listing as a threatened species; or

(b) Its habitat is threatened or declining in quantity or quality such that it may become eligible for listing as a threatened species.

~~(3)~~ A wildlife species shall qualify for ~~[deletion]~~ **removal** from the sensitive species list if:

~~[(A)]~~ **(a)** Its numbers are not or are no longer declining at a rate such that it may become eligible for listing as a threatened species; and

~~(B)]~~ **(b)** Its habitat is not or is no longer threatened or declining in quantity or quality such that it may become eligible for listing as a threatened species.

(4) In making a determination under subsections (2) and (3) of this rule, the Department will consider the factors described in 635-100-0105 subsections (5) and (6).

(5) In addition to the 5-year review, the Department may add a species to or remove a species from the sensitive species list at any time based on new or additional information on species population status, habitat or threats.

~~[(3)]~~ **(6) Any person may request that a species be included on or removed from the sensitive species list.** Any request must be in writing, stating the reasons for the requested action and briefly outlining the status of the species and how its condition meets the criteria enumerated in this rule for inclusion or ~~[deletion]~~ **removal**. The department shall review any such request, determine if the species qualifies for the requested action, and shall notify the person making the request of its decision within 90 days of receipt of the request.

Statutory Authority: 496.004, 496.171, 496.172, 496.182, 496.192, 498.026

Stats Implemented: 496.004, 496.171, 496.172, 496.182, 496.192, 498.026