

DIVISION 110

OREGON WOLF CONSERVATION AND MANAGEMENT PLAN

635-110-0000

Wolf Conservation and Management Plan

The document entitled "Oregon Wolf Conservation and Management Plan" dated [~~December, 2005~~] **October 2010** is incorporated here by reference as administrative rule. **(This incorporation by reference includes the body of the Plan plus its Appendix A. Other appendices are excluded) Copies** may be obtained at the Salem headquarters office of the Oregon Department of Fish and Wildlife, 3406 Cherry Avenue NE, Salem, OR 97303. This document includes program direction, objectives and strategies to fulfill management, research, and habitat needs. It is also intended as an informational document to assist resource management agencies with their wildlife program. As of [~~December, 2005~~] **October 1, 2010**, those portions of the plan which authorize harassment or take of wolves are pre-empted by the endangered status of the gray wolf under the federal Endangered Species Act. Once federal protections are reduced to a level below that of Oregon law, those portions of the plan will govern harassment and take of wolves in Oregon.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.171-.496.192, 497.298, 497.308, 498.002, 498.006 & 498.012

635-110-0010

Harassment and Take of Wolves during Phase I (Conservation)

NOTE: As of [~~February 11, 2005~~] **October 1, 2010**, these rules are pre-empted by the endangered status of the gray wolf under the federal Endangered Species Act. Once federal protections are reduced to a level below that of Oregon law, these rules will govern harassment and take of wolves in Oregon.

(1) This rule describes the types of harassment and take of wolves allowed by persons outside ODFW (or ODFW or Wildlife Services acting as their agent) during Phase I — (Conservation: 0–4 breeding pairs) as called for in chapter III of the Oregon Wolf Conservation and Management Plan. Other chapters of the Plan authorize ODFW to take wolves for other specified wildlife management purposes. For OAR 635-110-0010, 635-

110-0020 and 635-110-0030, “livestock” means [~~ratites, psittacine,~~] horses, jackasses, cattle, llamas, alpacas, sheep, goats, swine, domesticated fowl, any fur-bearing animal bred and maintained (commercially or otherwise) within pens, cages and hutches, bison and working dogs. “Working dogs” means guarding dogs and herding dogs.

(2) Non-injurious harassment.

(a) Subject to the conditions specified in paragraph (c), the following persons may use non-injurious harassment against wolves without a permit:

(A) [~~Landowners~~] **Livestock producers** (or their agents) on [~~their own~~] land **they own or lawfully occupy**; or

(B) Grazing permittees legally using public land under valid livestock grazing allotments.

(b) Non-injurious harassment means scaring off a wolf (or wolves) without doing bodily harm, and includes (but is not limited to) firing shots in the air, making loud noises or otherwise confronting the wolf (or wolves).

(c) Non-injurious harassment is allowed without a permit under this rule only if:

(A) The wolf (or wolves) is in the act of testing or chasing livestock, is attempting to test or chase livestock or is in close proximity of livestock;

(B) The person encounters the wolf (or wolves) unintentionally (i.e., the person is not stalking or searching for wolves);

(C) The harassment in fact does not result in injury to the wolf (or wolves); and

(D) The harassment is reported to ODFW within 48 hours.

(d) Any non-injurious harassment that does not meet each requirement of this rule requires a permit in advance from ODFW.

(3) Non-lethal injurious harassment.

(a) Subject to the conditions specified in paragraph (c), in addition to state or state authorized agents, the following persons may use non-lethal injurious harassment against wolves by permit:

(A) [~~Landowners~~] **Livestock producers** (or their [~~designated~~] agents) on [~~their own~~] land **they own or lawfully occupy**;

(B) Grazing permittees legally using public land under valid livestock grazing allotments.

(b) Non-lethal injurious harassment means scaring off a wolf (or wolves) without killing but with some injury to the wolf. Wolves may be pursued (unintentional encounters are not required).

(c) Non-lethal injurious harassment is allowed by permit from ODFW only if:

- (A) ODFW confirms [~~persistent wolf activity or~~] wolf depredation on livestock **or other wolf-livestock conflict** in the area. [~~“Persistent wolf activity”~~] **“Other wolf-livestock conflict”** means loitering **near**, testing, [~~worrying~~] **chasing**, or otherwise disrupting livestock [~~during a 48-hour period~~];
- (B) The applicant confers with ODFW to determine the most effective harassment method;
- (C) ODFW considers the location of known den sites;
- (D) The harassment in fact does not result in the death of a wolf;
- (E) No [~~unreasonable~~] **identified** circumstance[s] exists that attracts wolf/livestock conflict; and
- (E) The harassment is reported to ODFW within 48 hours.
- (d) Permits for non-lethal injurious harassment remain valid for the livestock grazing season in which issued, provided the livestock operator complies with all applicable laws, including permit conditions. The agency shall inform harassment permit holders of non-lethal methods for minimizing wolf-livestock conflict and provide assistance upon request. Receiving future lethal control permits is contingent upon documentation of efforts to use non-lethal methods.
- (4) Relocation. ODFW will authorize relocation by state personnel when a wolf (or wolves) becomes inadvertently involved in a situation, or is present in an area, that could result in conflict with humans or harm to the wolf, **provided that ODFW has no reason to believe that the wolf actually attacked or killed livestock or pets**. The relocation will be designed to prevent conflict with humans or reduce the possibility of harm to the wolf. The wolf (or wolves) would be relocated to the [~~nearest wilderness area~~] **suitable habitat** at the direction of ODFW.
- (5) Lethal take of wolves in the act of attacking livestock.
- (a) Subject to the conditions specified in paragraph (c) and with a permit from ODFW, the following persons may use lethal force against wolves in the act of attacking livestock:
- (A) [~~Landowners~~] **Livestock producers** (or their agents) on [~~their own~~] land **they own or lawfully occupy**; or
- (B) Grazing permittees using public land.
- (b) A wolf is “in the act of attacking livestock” if it is biting, wounding or killing livestock.

(c) Lethal force is allowed by permit from ODFW only if:

(A) ODFW confirms that wolves previously have wounded or killed livestock in the area and efforts to prevent or resolve the problem have been deemed ineffective;

(B) The wolf is seen in the act of attacking, not testing or scavenging;

(C) There is fresh evidence of the attack (e.g., visible wounds, tracks demonstrating a chase occurred);

(D) The wolf carcass is not removed or disturbed;

(E) The use of lethal force is reported to ODFW or Wildlife Services within 24 hours;

(F) No [~~unreasonable~~] **identified** circumstance[s] exists that attracts wolf/livestock conflict; [~~and~~]

(G) [~~Either~~] ODFW [~~or Wildlife Services~~] confirms that the wound was caused by a wolf (or wolves)[~~;~~]; **and**

(H) Throughout the term of the permit, the permit holder implements non-lethal actions to minimize or avoid wolf-livestock conflict.

NOTE: The Oregon Wolf Conservation and Management Plan calls for allowing lethal take of wolves in this situation *without a permit on private land*. However, the Plan recognizes that because current statute requires a permit, implementing this portion of the Plan depends upon amendment of the statute by the [2005] legislature. Should the legislature make that statutory change, the Commission will amend this rule to allow for take without permit.

(6) Lethal take to deal with chronic depredation.

(a) ODFW may authorize its personnel, authorized agents, or Wildlife Services, to use lethal force on wolves at a property owner or permittee's request if:

(A) ODFW confirms either:

(i) Two confirmed depredations by wolves on livestock in the area; or

(ii) One confirmed depredation followed by [~~an~~] **three** attempted depredations (testing or stalking) in the area;

(B) The requester documents unsuccessful attempts to solve the situation through non-lethal means;

(C) No [~~unreasonable~~] **identified** [~~conditions~~] **circumstance** exists [~~to cause the~~] **that attracts** wolf-livestock conflict; and

(D) The requester has complied with applicable laws and the conditions of any harassment or take permit.

(b) When authorized, lethal take under this paragraph will be taken only by ODFW, authorized ODFW agents, or Wildlife Services personnel.

(7) “Identified circumstance” means a condition which:

(a) ODFW determines, based upon its investigation of the situation, attracts wolves and fosters conflict between wolves and livestock; and

(b) ODFW advises the landowner, livestock producer or grazing permittee to remedy; but

(c) The landowner, livestock producer or grazing permittee fails to remedy.

(8) “In the area” means where ODFW has determined the presence of the depredating wolves.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026

635-110-0020

Harassment and Take of Wolves during Phase II (Management)

NOTE: as of [~~February 11, 2005~~] **October 1, 2010**, these rules are pre-empted by the endangered status of the gray wolf under the federal Endangered Species Act. Once federal protections are reduced to a level below that of Oregon law, these rules will govern harassment and take of wolves in Oregon.

(1) This rule describes the types of harassment and take of wolves allowed by persons outside ODFW (or ODFW or Wildlife Services acting as their agent) during Phase II -- (Management: 5-7 breeding pairs) as called for in chapter III of the Oregon Wolf Conservation and Management Plan. Other chapters of the Plan authorize ODFW to take wolves for other specified wildlife management purposes.

(2) Non-injurious harassment of wolves is allowed under the same conditions as in Phase I (OAR 635-110-0010(2)).

(3) Non-lethal injurious harassment.

(a) Non-lethal injurious harassment is allowed without a permit on private land by [~~landowners~~] **livestock producers** or their [~~designated~~] agents **on land they own or lawfully occupy.** [~~Landowners~~] **Livestock producers** are encouraged to use non-injurious techniques first. There must be no [~~unreasonable~~] **identified** circumstance[s]

that attracts wolf-livestock conflict, and the harassment must be reported to ODFW within 48 hours.

(b) Non-lethal injurious harassment is allowed by permit on public land by grazing permittees who are legally using public land under valid livestock grazing allotments and upon the following conditions:

(A) ODFW confirms [~~persistent wolf activity or~~] wolf depredation on livestock **or other wolf-livestock conflict in the area.** [~~"Persistent wolf activity"~~] **"Other wolf-livestock conflict"** means loitering **near**, testing, [~~worrying~~] **chasing**, or otherwise disrupting livestock [~~during a 48-hour period~~];

(B) ODFW considers the location of known wolf sites;

(C) There [~~are~~] **is** no [~~unreasonable~~] **identified** circumstance[s] at the site which [~~generate~~] **attracts** wolf/livestock conflict; and

(D) The harassment is reported to ODFW within 48 hours.

(c) As to non-lethal injurious harassment on either private or public land, pursuing wolves is allowed.

(4) Relocation of wolves will be considered under the same circumstances as in Phase I (OAR 635-110-0010(4)).

(5) Lethal take of wolves in the act of attacking livestock is allowed under the same conditions as in Phase I (OAR 635-110-0010(5)).

NOTE: the Oregon Wolf Conservation and Management Plan calls for allowing lethal take of wolves in this situation *without a permit on private or public land*. However, the Plan recognizes that because current statute requires a permit, implementing this portion of the Plan depends upon amendment of the statute by the [2005] legislature. Should the legislature make that statutory change, the Commission will amend this rule to allow for take without permit.

(6) Lethal take of wolves to deal with chronic depredation.

(a) State employees or agents are authorized to use lethal force under the same conditions as in Phase I (635-110-0010(6)).

(b) Subject to the conditions specified in paragraph (c) and with a limited duration permit from ODFW, the following persons may use lethal force to deal with chronic depredation:

(A) [~~Landowners~~] **Livestock producers** (or their agents) on [~~their own~~] land **they own or lawfully occupy**; or

- (B) Grazing permittees legally using public land.
- (c) ODFW will issue a permit to use lethal force to deal with chronic depredation only if:
 - (A) ODFW [~~(or its agent)~~] confirms that the [~~property, an adjacent private parcel or the grazing allotment~~] **area** has had at least two depredations by wolves on livestock;
 - (B) ODFW determines that wolves are routinely present on that property and present a significant risk to livestock;
 - (C) There [~~are~~] **is** no [~~unreasonable~~] **identified** circumstance[s] at the site which [~~generate~~] **attracts** wolf/livestock conflict;
 - (D) The applicant is in compliance with applicable laws and the terms of any previous wolf permit;
 - (E) The applicant documents use of non-lethal methods; and
 - (F) Any wolf taken is considered property of the state and reported to ODFW within 48 hours.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026

635-110-0030

Harassment and Take of Wolves during Phase III

NOTE: as of [~~February 11, 2005~~] **October 1, 2010**, these rules are pre-empted by the endangered status of the gray wolf under the federal Endangered Species Act. Once federal protections are reduced to a level below that of Oregon law, these rules will govern harassment and take of wolves in Oregon.

- (1) This rule describes the types of harassment and take of wolves allowed by persons outside ODFW (or ODFW or Wildlife Services acting as their agent) during Phase III (more than 7 packs) as called for in chapter III of the Oregon Wolf Conservation and Management Plan. Other chapters of the Plan authorize ODFW to take wolves for other specified wildlife management purposes.
- (2) Non-injurious harassment of wolves is allowed under the same conditions as in Phase I (OAR 635-110-0010(2)).
- (3) Non-lethal injurious harassment is allowed under the same conditions as in Phase II (OAR 635-110-0020(3)), **except that wolf depredation on livestock or other wolf-livestock conflict may be confirmed by either ODFW or Wildlife Services.**

(4) Relocation of wolves will be considered under the same circumstances as in Phase I (OAR 635-110-0010(4)).

(5) Lethal take of wolves in the act of attacking livestock is allowed under the same conditions as for Phase II (OAR 635-110-0020(5)), **except that wolf depredation on livestock may be confirmed by either ODFW or Wildlife Services.**

NOTE: the Oregon Wolf Conservation and Management Plan calls for allowing lethal take of wolves in this situation *without a permit on private or public land*. However, the Plan recognizes that because current statute requires a permit, implementing this portion of the Plan depends upon amendment of the statute by the [2005] legislature. Should the legislature make that statutory change, the Commission will amend this rule to allow for take without permit.

(6) Lethal take of wolves to deal with chronic depredation is allowed under the same conditions as for Phase II (OAR 635-110-0020(6)), **except that wolf depredation on livestock may be confirmed by either ODFW or Wildlife Services.**

(7) The Commission will authorize controlled take of wolves by special permit in specific areas where necessary to address chronic wolf-livestock conflicts or ungulate population declines. "Chronic" means two livestock depredations have been confirmed by ODFW or Wildlife Services, or one depredation followed by [~~up to~~] three attempted depredations (testing or stalking). The Commission may also choose to authorize such controlled take on private lands where the landowner is willing to provide access.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 & 498.026