

DIVISION 110
OREGON WOLF CONSERVATION AND MANAGEMENT PLAN

635-110-0010

Harassment and Take of Wolves during Phase I (Conservation)

NOTE: As of 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 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) Livestock producers (or their agents) on 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.

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

3 (3) Non-lethal injurious harassment.

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

6 (A) Livestock producers (or their agents) on land they own or lawfully occupy;

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

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

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

12 (A) ODFW confirms wolf depredation on livestock or other wolf-livestock conflict in the
13 area. "Other wolf-livestock conflict" means loitering near, testing, chasing, or otherwise
14 disrupting livestock;

15 (B) The applicant confers with ODFW to determine the most effective harassment method;

16 (C) ODFW considers the location of known den sites;

17 (D) The harassment in fact does not result in the death of a wolf;

18 (E) No identified circumstance exists that attracts wolf/livestock conflict; and

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

20 (d) Permits for non-lethal injurious harassment remain valid for the livestock grazing season
21 in which issued, provided the livestock operator complies with all applicable laws, including
22 permit conditions. The agency shall inform harassment permit holders of non-lethal methods for
23 minimizing wolf-livestock conflict and provide assistance upon request. Receiving future lethal
24 control permits is contingent upon documentation of efforts to use non-lethal methods.

25 (4) Relocation. ODFW will authorize relocation by state personnel when a wolf (or wolves)
26 becomes inadvertently involved in a situation, or is present in an area, that could result in conflict
27 with humans or harm to the wolf, provided that ODFW has no reason to believe that the wolf
28 actually attacked or killed livestock or pets. The relocation will be designed to prevent conflict
29 with humans or reduce the possibility of harm to the wolf. The wolf (or wolves) would be
30 relocated to suitable habitat at the direction of ODFW.

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1 (5) Lethal take of wolves in the act of attacking livestock.

2 (a) Subject to the conditions specified in paragraph (c) and with a permit from ODFW, the
3 following persons may use lethal force against wolves in the act of attacking livestock:

4 (A) Livestock producers (or their agents) on land they own or lawfully occupy; or

5 (B) Grazing permittees using public land.

6 (b) A wolf is “in the act of attacking livestock” if it is biting, wounding or killing livestock.

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

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

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

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

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

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

15 (F) No identified circumstance exists that attracts wolf/livestock conflict;

16 (G) ODFW confirms that the wound was caused by a wolf (or wolves); and

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

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

24 ~~—(6) Lethal take to deal with chronic depredation.~~

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

27 ~~—(A) ODFW confirms either:~~

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

29 ~~—(ii) One confirmed depredation followed by three attempted depredations (testing or stalking)
30 in the area;~~

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

- 1 —(C) No identified circumstance exists that attracts wolf livestock conflict; and
2 —(D) The requester has complied with applicable laws and the conditions of any harassment or
3 take permit.
4 —(b) When authorized, lethal take under this paragraph will be taken only by ODFW,
5 authorized ODFW agents, or Wildlife Services personnel.
6 —(7) “Identified circumstance” means a condition which:
7 —(a) ODFW determines, based upon its investigation of the situation, attracts wolves and
8 fosters conflict between wolves and livestock; and
9 —(b) ODFW advises the landowner, livestock producer or grazing permittee to remedy; but
10 —(c) The landowner, livestock producer or grazing permittee fails to remedy.
11 —(8) “In the area” means where ODFW has determined the presence of the depredating wolves.

12 **(6) Lethal take to address chronic livestock depredation. ODFW may authorize its**
13 **personnel or authorized agents to use lethal force on a wolf or wolves it reasonably**
14 **believes are responsible for chronic depredation upon livestock where each of the**
15 **conditions in subsections (7) through (10) of this rule is satisfied. ODFW shall limit lethal**
16 **force to the wolf or wolves it deems necessary to address the chronic depredation situation**

17 **(7) Conditions for Lethal Take by ODFW. ODFW’s discretionary authority for use of**
18 **lethal force pursuant to this rule may be exercised if ODFW:**

19 **(a) Designates an Area of Known Wolf Activity, the boundary of which may be**
20 **adjusted as new data or information become available;**

21 **(b) Upon the designation of an Area of Known Wolf Activity, coordinates in a timely**
22 **manner with potentially affected livestock producers and other relevant interests to**
23 **provide information on:**

24 **(A) The provisions of the Oregon Wolf Conservation & Management Plan and**
25 **associated rules,**

26 **(B) The current state of knowledge of wolf behavior, management, and**
27 **conservation,**

28 **(C) Procedures for documenting and reporting wolf activity to ODFW, including**
29 **depredations upon livestock, and**

30 **(D) Non-lethal measures, incentives and available assistance aimed at minimizing**
31 **conflicts between wolves and livestock or domestic animals in the area of known**
32 **wolf activity;**

1 (c) Confirms an incident of depredation of livestock by a wolf or wolves;

2 (d) Within 14 working days of ODFW's confirmation of the first incident of
3 depredation in an area:

4 (A) Designates an Area of Depredating Wolves, the boundary of which may be
5 adjusted as new data or information become available;

6 (B) Concurrent with the designation of an Area of Depredating Wolves, prepares
7 and publicly discloses an area-specific wolf-livestock conflict deterrence plan in
8 coordination with potentially affected landowners, livestock producers and other
9 relevant interests. The plan shall identify appropriate non-lethal measures
10 according to which measures are likely to be most effective in a given circumstance,
11 including the nature of the livestock operations, habitat, and landscape conditions
12 specific to the area, as well as particular times of the year or period of livestock
13 production. The plan shall be based on information compiled by ODFW before
14 and/or during the planning effort on potentially successful conflict deterrence
15 techniques, scientific research, and available financial resources and/or
16 partnerships that may aid in the successful implementation of the plan. ODFW
17 may update an area-specific conflict deterrence plan as new data become available.

18 (e) Confirms a total of at least 4 qualifying incidents of depredation of livestock within
19 the previous 6 months by the same wolf or wolves.

20 (f) Issues and makes publicly available, prior to the exercise of lethal force, a written
21 determination by the ODFW Director or director's designee to use lethal force to address
22 a specified situation of chronic depredation, along with supporting findings that:

23 (A) The conditions of Sections 7, 8, and 9 of this rule have been satisfied;

24 (B) Livestock producers in the Area of Depredating Wolves have worked to reduce
25 wolf-livestock conflict and are in compliance with wolf protection laws and the
26 conditions of any harassment or take permits.

27 (C) The situation of wolf depredation upon livestock in the Area of Depredating
28 Wolves is likely to remain chronic despite the use of additional non-lethal conflict
29 deterrence measures; and

30 (D) The wolf or wolves identified for removal are those ODFW believes to be
31 associated with the qualifying depredations, the removal of which ODFW believes
32 will decrease the risk of chronic depredation in the Area of Depredating Wolves.

1 (8) Qualifying Contingencies and Counting Incidents:

2 (a) An incident of depredation is a single event resulting in the injury or death of one
3 or more lawfully present livestock that is reported to ODFW for investigation, and upon
4 investigation by ODFW or its agent(s), ODFW confirms to have been caused by a wolf or
5 group of wolves.

6 (b) A qualifying incident of depredation is a confirmed incident of depredation for the
7 purposes of this rule if:

8 (A) The depredation is outside of an Area of Known Wolf Activity or Area of
9 Depredating Wolves. Only the first confirmed depredation by a wolf or wolves
10 may count as a qualifying depredation,

11 (B) In an Area of Known Wolf Activity, the landowner or lawful occupant of the
12 land where the depredation occurred had:

13 (i) At least seven days prior to the incident of depredation, removed, treated
14 or disposed of all intentionally placed or known and reasonably accessible
15 unnatural attractants of potential wolf-livestock conflict, such as bone or
16 carcass piles or disposal sites, and

17 (ii) Prior to and on the day of the incident of depredation, been using at least
18 one measure ODFW deems most appropriate from non-lethal deterrence
19 measures identified pursuant to section (7)(b)(D) to protect calving
20 operations, nursing cattle, sheep operations, or other reasonably protectable
21 situations, not including open range situations. Once a confirmed
22 depredation has occurred in an Area of Known Wolf Activity and while
23 ODFW is in the process of designating an Area of Depredating Wolves and
24 creating an area-specific conflict deterrence plan, only one additional
25 confirmed depredation in an area may count as a qualifying depredation
26 under this subsection.

27 (C) In an Area of Depredating Wolves, the landowner or lawful occupant of the
28 land where the depredation occurred had:

29 (i) Complied with subsection (B) of this section, and

30 (ii) Prior to and on the day of the incident of depredation was implementing
31 at least one non-lethal measure identified in the area-specific conflict
32 deterrence plan developed under subsection (7)(d)(C) that is specific to the

1 location, type of livestock operation, time of the year, and/or period of
2 livestock production associated with the depredation. The conflict
3 deterrence plan measure implemented by a landowner or lawful occupant
4 must address wolf-livestock conflict in open range situations when that
5 situation exists.

6 (c) Human presence, when used as a non-lethal measure under this rule, is presence
7 which could reasonably be expected to deter wolf-livestock conflict under the
8 circumstances and, regardless of the temporal requirements of sections 7(b)(B) and (C) of
9 this rule, may be considered an appropriate non-lethal measure if it:

10 (A) Occurs at a proximate time prior to and in an area proximate to a confirmed
11 depredation as determined by ODFW, and

12 (B) Indicates a timely response to wolf location information in situations of
13 potential wolf-livestock conflict.

14 (9) Transparency and Public Disclosure.

15 (a) Except as provided in section (c) below, prior to using lethal force to address chronic
16 wolf depredation, and in a timely fashion, ODFW shall document and make publicly
17 available on at least its website:

18 (A)The determinations and supporting findings referenced in section (7)(f) of this
19 rule;

20 (B) Information including but not limited to summaries of confirmed incidents of
21 depredation and associated depredation investigation reports, maps of areas of
22 known wolf activity and areas of depredating wolves, including changes and
23 amendments to those maps, and area specific conflict deterrence plans; and

24 (C) Documentation of measures implemented pursuant to Section 8 of this rule. In
25 documenting the removal of unnatural attractants and implementation of conflict
26 deterrence measures, the Department may rely upon documented personal
27 observation and/or written statements by the owner or lawful occupant of the land
28 where qualifying incidents of depredation have occurred that confirm the non-lethal
29 deterrence measures being utilized prior to and at the time of the qualifying
30 depredation.

31 (b) In any signed statements and other information publicly disclosed pursuant to this
32 section, the Department shall redact from public disclosure the personal information of

1 landowners, lawful occupants, or other relevant individuals consistent with the Oregon
2 public records law, ORS Chapter 192.

3 (c) In the case where the conditions in Section 7(f) of this rule have been met but strict
4 compliance with the public disclosure requirements of this section cannot be accomplished
5 without a delay that impedes ODFW's ability to pursue an immediately available
6 opportunity to remove the wolf or wolves it reasonably believes responsible for chronic
7 depredation prior to another depredation event on livestock, this section is deemed satisfied
8 if, prior to the use of lethal force, ODFW:

9 (A) Provides email or phone notification from the ODFW Director or designee to a
10 list of interested stakeholders communicating the findings in Section 7(f) of this rule
11 and the Department's intent to pursue immediate lethal action based on those
12 findings,

13 (B) Has previously documented and disclosed, on at least the agency's website, the
14 information referenced in subsections (a)(A)-(C) of this section with respect to all
15 but the most recent qualifying depredation that resulted in ODFW's determination
16 to pursue lethal action, and

17 (C) Provides the remaining information referenced in subsections (a)(A)-(C) of this
18 rule in a timely manner with respect to the most recent qualifying incident that
19 ODFW pursues with immediate lethal action.

20 (10) Duration of chronic depredation lethal take authority. Take authority issued
21 pursuant to subsection (7) expires:

22 (a) When the wolf or wolves identified for lethal removal have been removed by
23 ODFW or any other party.

24 (b) ODFW may reinstate its take authority if ODFW confirms one additional qualifying
25 incident of depredation within two months after the last confirmed qualifying depredation
26 by what it believes to be a member or members of the same wolf pack and non-lethal
27 efforts specified in Section 8 have continued to be implemented by the owner or lawful
28 occupant of land where the additional depredation occurs;

29 (c) 45 days after issuance of the take authority and determination referenced in Section
30 7(f), unless ODFW confirms, within that time period, another qualifying incident of
31 depredation on livestock by what it believes to be the same wolf or wolves identified for
32 lethal removal and non-lethal efforts specified in Section 8 have continued to be

1 implemented by the owner or lawful occupant of land where the additional depredation
2 occurs; or

3 (d) If ODFW determines the wolf or wolves identified for lethal removal have left the
4 Area of Depredating Wolves. To support this determination, data must show more than
5 just a short-term or seasonal movement outside the area's boundary.

6 (e) Except as allowed under subsections (b) and (c) of this Section, any subsequent
7 authorization or reinstatement of take authority by the Department must comply with
8 Sections 7 through 9 of this rule, and must be based upon at least one additional qualifying
9 depredation.

10 (11) Lethal take in the case of extreme circumstances. Notwithstanding sections (7)
11 and (8) of this rule, ODFW may authorize the use of lethal force in extreme
12 circumstances.

13 (a) Extreme circumstances means:

14 (A) Four or more confirmed incidents of depredation of livestock by what ODFW
15 reasonably believes to be the same wolf or wolves within seven days;

16 (B) ODFW determines, based on evidence it makes publicly available, that there
17 were no intentionally placed or known and reasonably accessible unnatural
18 attractants such as bone or carcass piles or disposal sites that contributed to the
19 incidents of depredation, and that non-lethal measures are and will likely remain
20 ineffective; and

21 (C) ODFW finds that depredation has rapidly escalated beyond the reasonable,
22 available means of ODFW and affected livestock owners to stop additional livestock
23 losses from occurring.

24 (b) A decision to utilize lethal force authority due to extreme circumstances shall be
25 made by the ODFW director or director's designee, accompanied by the findings and
26 determinations required in section 11(a) made publically available on ODFW's website,
27 and exercised within 14 days of the determination to exercise lethal force authority under
28 this section, or of the last confirmed depredation, whichever comes later.

29
30 Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

31 Stats. Implemented: ORS 496.171 - 496.192, 497.298, 497.308, 498.002, 498.006, 498.012 &
32 498.026

1 **635-110-0020**

2 **Harassment and Take of Wolves During Phase II (Management)**

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

6 (1) This rule describes the types of harassment and take of wolves allowed by persons outside
7 ODFW (or ODFW or Wildlife Services acting as their agent) during Phase II — (Management:
8 5-7 breeding pairs) as called for in chapter III of the Oregon Wolf Conservation and
9 Management Plan. Other chapters of the Plan authorize ODFW to take wolves for other specified
10 wildlife management purposes.

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

13 (3) Non-lethal injurious harassment.

14 (a) Non-lethal injurious harassment is allowed without a permit on private land by livestock
15 producers or their agents on land they own or lawfully occupy. Livestock producers are
16 encouraged to use non-injurious techniques first. There must be no identified circumstance that
17 attracts wolf-livestock conflict, and the harassment must be reported to ODFW within 48 hours.

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

21 (A) ODFW confirms wolf depredation on livestock or other wolf-livestock conflict in the
22 area. "Other wolf-livestock conflict" means loitering near, testing, chasing, or otherwise
23 disrupting livestock;

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

25 (C) There is no identified circumstance at the site which attracts wolf/livestock conflict; and

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

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

29 (4) Relocation of wolves will be considered under the same circumstances as in Phase I (OAR
30 635-110-0010(4)).

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

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

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

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

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

11 ~~—(A) Livestock producers (or their agents) on land they own or lawfully occupy; or~~

12 ~~—(B) Grazing permittees legally using public land.~~

13 ~~—(c) ODFW will issue a permit to use lethal force to deal with chronic depredation only if:~~

14 ~~—(A) ODFW confirms that the area has had at least two depredations by wolves on livestock;~~

15 ~~—(B) ODFW determines that wolves are routinely present on that property and present a~~
16 ~~significant risk to livestock;~~

17 ~~—(C) There is no identified circumstance at the site which attracts wolf/livestock conflict;~~

18 ~~—(D) The applicant is in compliance with applicable laws and the terms of any previous wolf~~
19 ~~permit;~~

20 ~~—(E) The applicant documents use of non-lethal methods; and~~

21 ~~—(F) Any wolf taken is considered property of the state and reported to ODFW within 48 hours.~~

22 **(6) Lethal take to deal with chronic depredation.**

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

25 **(A) ODFW confirms either:**

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

27 **(ii) One confirmed depredation followed by three attempted depredations (testing or**
28 **stalking) in the area;**

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

31 **(C) No identified circumstance exists that attracts wolf-livestock conflict; and**

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

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

6 (A) Livestock producers (or their agents) on land they own or lawfully occupy; or

7 (B) Grazing permittees legally using public land.

8 (c) ODFW will issue a permit to use lethal force to deal with chronic depredation only if:

9 (A) ODFW confirms that the area has had at least two depredations by wolves on
10 livestock;

11 (B) ODFW determines that wolves are routinely present on that property and present a
12 significant risk to livestock;

13 (C) There is no identified circumstance at the site which attracts wolf/livestock conflict;

14 (D) The applicant is in compliance with applicable laws and the terms of any previous
15 wolf permit;

16 (E) The applicant documents use of non-lethal methods; and

17 (F) Any wolf taken is considered property of the state and reported to ODFW within 48
18 hours.

19 (7) "Identified circumstance" means a condition which:

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

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

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

25 (8) "In the area" means where ODFW has determined the presence of the depredating
26 wolves.

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

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

29 498.026

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