

Agenda Item Summary

BACKGROUND

As part of a comprehensive review of administrative rules on Holding, Propagating, Rehabilitating, and Protected Wildlife (Division 44), which is scheduled to come before the commission in March 2016, minor revisions to the Wildlife Rehabilitation rules were outlined. The review was conducted by a Wildlife Holding Advisory Group (WHAG) formed at the direction of the Wildlife Division Administrator. Staff also sent proposed changes to rehabilitators who took part in a previous advisory group for major revision of this section of rules in 2012.

The most significant proposed change to the rules regulating wildlife rehabilitation is to organize the rules in a separate division from the holding and propagating of wildlife. The wildlife rehabilitation permit continues to be offered at no cost.

PUBLIC INVOLVEMENT

A 23 member Wildlife Holding Advisory Group was assembled to review all sections of the current Division 44 rules. Along with several preliminary meetings of internal staff, OSP personnel and the Department of Agriculture State Veterinarian in 2013, the WHAG met on six occasions through May 2014. WHAG members included Audubon Society of Portland, exotic pet industry, Oregon Hunters Association, Oregon Humane Society, Department of Agriculture, Oregon State Police, and department staff. This ongoing process recommended minor revisions to the wildlife rehabilitation section including moving related rules to a new division. The Wildlife Rehabilitation permit rules were recently updated in 2012 through an advisory group. The current proposed revisions were sent to 12 wildlife rehabilitators who were part of the 2012 advisory group and their comments and edits were incorporated. The Notice of Proposed Rulemaking Hearing was posted October 15, 2015 with no formal comments received to date. Members of the public will be provided the opportunity to view the proposed changes on the ODFW website and a press release issued prior to the Commission meeting to will inform the public on pending modifications to these rules. The public will also have the opportunity to review the proposed revisions as part of the Commission meeting materials and process.

ISSUE 1

WILDLIFE REHABILITATION RULES

ANALYSIS

The Wildlife Rehabilitation rules were revised in 2012 through an advisory group process. Currently, as part of a 23 member Wildlife Holding Advisory Group (WHAG) to review and update Division 44 Wildlife Holding, Propagating, Rehabilitating, and Protected Wildlife rules, the WHAG felt the rules regulating wildlife rehabilitation were different enough from the rules related to holding, propagating and defining protected wildlife to justify a separate rule division. The current Division 44 rules govern the conditions for permanently holding some wildlife species, which wildlife species are protected and those species considered not protected or non-controlled, and the propagation of wildlife. Wildlife rehabilitation regulations govern the medical rehabilitation of wildlife for release back into the wild. Since the goals of these concepts (holding and propagation versus rehabilitation and release) are

fundamentally different, the WHAG proposed to separate the Wildlife Rehabilitation rules from the Holding, Propagation, and Protected Wildlife rules, creating two separate Divisions. A new administrative rule Division, 062, will be created in Administrative Rule Chapter 635 (the ODFW rule chapter) for the Wildlife Rehabilitation rules.

Staff is proposing some minor revisions to the rules, summarized below:

635-062-0005 Definition of Terms. The WHAG proposes adding several definitions and expanding the references guiding euthanasia of wildlife.

635-062-0010 Wildlife Rehabilitation Permit Requirements and Conditions. In part (1) (f), would allow the department to deny a WH permit to an applicant who violated wildlife laws within the previous five years. This is similar to other permit conditions including Wildlife Control Operators and Wildlife Holding Permits. Part (1)(h) would now require continuing education for all licensed rehabilitators. Mandatory continuing education was the original intent of including the condition as part of the permit holders keeping up-to-date on techniques and information. Part (3) would now require that holding animals longer than 48 hours by a veterinarian require Department approval if the veterinarian is not a permittee or subpermittee. Staff felt a veterinary license is not interchangeable or equivalent to the care expertise associated with a wildlife rehabilitation permit.”

Part (11) establishes the conditions for public display of wildlife patients, by indirect electronic means as part of monitoring, advertising, brochures, websites, presentations or trainings. Non-releasable wildlife may also be publically displayed within the conditions of the permit.

635-062-0015 Federal Rehabilitation Permit –This section is intended to notify applicant of the need for federal permits for federally protected species prior to receiving and holding federally protected species.

635-062-0020 and -0025 Restricted Species –The restricted species section of these rules was updated to better define guidance on removing healthy young-of-the-year animals from the wild that are not known orphans. Neonatal or young-of-the-year wildlife with “unknown orphaned status” are lone, young animals where the adult, or maternal animal is not obviously and visually deceased. Wildlife of unknown or questionable orphaned status should be immediately returned to the site of collection if not held longer than 48 hours.

The proposed rule language provides species-specific guidance for reporting, handling, holding, and rehabilitating more common mammals including marine mammals, coyotes, cougars, black bears, ungulates, raccoons, wolves, bobcats, and other rare mammalian species or those with unique handling or release requirements such as fox, ringtail, American marten, fisher, wolverine, river otter and bats. Additionally, clearer direction on transporting injured wildlife across state lines was included by identifying only migratory birds and no other taxa may be imported across state lines for rehabilitation purposes.

An attachment associated with this section of the rules, Exhibit 1 *Caging and Enclosure Standards for the Rehabilitation of Black Bears and Ungulates*, was included and is proposed to be incorporated into the rules.

635-062-0030 Department Notification – Language was added to be consistent with federal guidelines for federally-listed threatened or endangered species and bald or golden eagles. Under these federal requirements these animals require federal approval for euthanasia unless humane considerations dictate otherwise.

635-062-0035 Wildlife Importation for Rehabilitation Purposes –Language was added to prohibit certain taxa of wildlife from importation into Oregon for rehabilitation purposes.

635-062-0040 Disposition of Wildlife – This section of rule better clarifies the age when wild ungulates may be received for rehabilitation purposes stating ungulate species may be held and rehabilitated from birth through September 30 of the birth year. In nearly all cases, wildlife will be received by rehabilitators within days of the animal’s birth in May or June and will be released to the wild within three to four months. At the request of several rehabilitators, language was included to address extenuating circumstances leading to extended care.

635-062-0045 Facility Requirements –Subsection (2) prohibits human consumption of deceased wildlife governed by these rules.

635-062-0055 Record Keeping and Reporting Requirements – A minimum period of three years was added for record retention following release or other disposition of the rehabilitated wildlife by the permit holder or a subpermittee. This condition will allow for review of past cases to discuss changes or improvements to a permittee’s facility or compliance with the rules.

635-062-0060 Cancellation or Non-Renewal of Permit –The proposed changes establish the authority of the Department to remove animals if a permit is revoked or not renewed.

OPTIONS

1. Accept staff recommendations to amend the Wildlife Rehabilitation rules and renumber the rules into a new Division 62.
2. Modify staff recommendation.
3. Leave rules as currently written.

**STAFF
RECOMMENDATION**

Option 1

DRAFT MOTION	I move to adopt staff recommendation to amend the Wildlife Rehabilitation rules, and renumber the rules as part of a new Division 62 in Chapter 635 of the Oregon Administrative Rules, as shown on Attachment 3.
EFFECTIVE DATE	Upon Filing