

Agenda Item Summary

BACKGROUND

The review of Division 44 administrative rules, specifically as they relate to wildlife holding and propagation, was undertaken to determine if the rules maintain relevance to current issues addressed by the Department and Oregon State Police. Specifically, staff was directed to determine if:

- 1) The current rules address situations and issues within the state, regionally, and nationally involving legal and illegal holding of wildlife; and
- 2) Whether they provide clear direction for law enforcement in cases that might lead to seizure of illegally held wildlife.

The defined goal of this effort was to provide recommendations concerning potential rulemaking changes that outline clear policy and procedures for evaluating wildlife holding permit requests and propagation licenses, and to update and define protected wildlife. The holding of live wildlife by the public requires evaluation of each case by biologists, the permit coordinator, and other Division staff. Additionally, rules involving protected wildlife and wildlife holding must provide clear direction to Oregon State Police (OSP) when illegally held wildlife requires investigation, intervention, or animal confiscation.

Due to the number of species and unique circumstances involved in holding requests, regulating the legal holding of wildlife can be complex. Many of the decisions involve public safety, potential disease issues, determination of species abundance and distribution, and developing standards for holding and care. These recommendations were developed to protect and enhance Oregon's wild and free-ranging wildlife resource while also recognizing the need for allowing limited, regulated holding of captive wildlife.

In 2013, Department staff met with OSP personnel and the Department of Agriculture State Veterinarian multiple times to discuss general issues, questions, and goals related to wildlife holding permits and the circumstances under which a permit may be issued. The group also reviewed the species approved for public holding with or without a permit; species not approved for public holding; exceptions to the permit process; and ultimately, how these issues affect the investigative process which may include the seizure and disposition of illegally held wildlife. Other important issues discussed were quarantine, disease testing, animal placement, and policy as it relates to OARs in other Divisions or Chapters.

PUBLIC INVOLVEMENT

Beginning in December 2013, an invited 23 member advisory group of agency and public stakeholder representatives was convened as the Wildlife Holding Advisory Group (WHAG). The WHAG members, inclusive of the Audubon Society of Portland, exotic pet industry, Oregon Hunters Association, Oregon Humane Society, Department of Agriculture, Oregon State Police, and the Department, met on six occasions in 2014.

A critical review of Division 44 rules by the WHAG led to several major proposals directing wildlife holding including:

- Removing the classification of Non-protected Nongame Wildlife and reclassifying species that may be collected with defined conditions. Under the proposed rules, all free-ranging wildlife is either protected or may be held through regulated conditions. The holding of live wildlife addressed in these rules would only be allowed by permit including grandfathered animals, species under a propagation permit, and for more than two of a limited list of nongame species classified as distributed widely, abundant and secure through scientific monitoring of their populations.
- Increasing the scope of the Wildlife Holding Permit to include legally possessed captive wildlife prior to adoption of these revised rules and provide a “Grandfathering” provision for animals including captive black bear, cougar, bobcat, raccoon, skunk, squirrels, and chipmunks.
- Requiring the holding of new acquisitions of captive black bear, cougar, bobcat, wolves, raccoon, and skunk to be in facilities accredited by Association of Zoos and Aquariums (AZA) or those that are grandfathered to be held in facilities meeting the requirements of the ODFW Enclosure and Caging Standards for Holding Wildlife.
- Discontinuing the practice and allowance of public holding of large carnivores, other mammals and animals that are not considered non-game or species not listed as not widely distributed, abundant and secure unless held in AZA accredited facilities or regulated under other rules or as part of the adoption of these rules or under circumstances approved by the Director.
- Using a defined system for holding nongame wildlife based on science and designed to rank and classify species according to their abundance and distribution, and classified as demonstrably widespread, abundant, and secure.
- Expanding Exhibit 1 (Minimum Enclosure and Caging Standards for Holding Bear *Ursus americanus* and Cougar *Felis concolor*) to

include all species allowed to be held with a Wildlife Holding Permit;

- Redefining the scope of species allowed under a propagation permit to only include select game bird species.

A Stakeholder Letter (Attachment 2), DRAFT of the proposed rules and Exhibit 1, caging standards (Attachments 3 and 4) were sent on January 22, 2016 to 124 stakeholders, including wildlife holding permit holders, propagation license holders, zoos, wolf permit holders, interested publics and non-game wildlife collectors, and known holders of non-permitted wildlife (bears, cougars). This preliminary review by stakeholders was to provide ample time for review and comments to the Department for development of March Commission packet. The Department has received numerous comments regarding clarification as well as changes to the DRAFT rules. Department chose to bring current discussion items to the Commission for an informational presentation. The final proposal of Division 44 rule recommendations will be presented at the June 2016 Commission meeting in Salem. Members of the public are presently provided the opportunity to view the DRAFT changes on the ODFW website and final rule proposals will be made available via a press release issued prior to the June Commission meeting. The public will also have the opportunity to review the packet as part of each of the Commission meetings and provide written and/or verbal testimony.

ISSUE 1

PUBLIC REVIEW OF DRAFT RULES HIGHLIGHTED KEY ISSUES

ANALYSIS

Public correspondence represented in Attachment 5, as well as phone calls to Department staff indicated the following issue categories for consideration in development of final rule proposals:

- Clarification for the definition of the term “Hold” as related to Division 44 rules to exclude the physical handling of live wildlife in the field
- Impacts to citizen science projects
- Scientific Take Permit activities
- Ability for school teachers to legally and efficiently continue to provide meaningful learning experiences for students
- Prohibition on holding federal ESA species will inhibit conservation
- Prohibit release back into the wild
- Background for the designation of the nongame species permitted for holding under a Wildlife Holding Permit
- Five species of snakes being added to protected wildlife list
- Holding of pet skunks
- Hybridity of wolves and bobcats
- Impacts to the tradition of hound hunting to use raccoons for training and trials

OPTIONS

**STAFF
RECOMMENDATION**

N/A – Informational only

DRAFT MOTION

N/A

EFFECTIVE DATE