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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
08/17/2018 9:19 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Rules Pertaining to HB 372 (2017) Permitting the Salvage of Road Struck Deer and Elk

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/12/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Roxann Borisch
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/12/2018

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Running Y Ranch
5500 Running Y Road
Klamath Falls, OR 97601

NEED FOR THE RULE(S):

These rules are needed to implement HB 372 (2017) permitting the salvage of deer and elk that are accidentally killed as a result of a vehicle collision. The purpose of the salvage is for the human consumption of the meat from the carcasses.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking are available from the Oregon Department of Fish and Wildlife, Wildlife Division, Second Floor, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

FISCAL AND ECONOMIC IMPACT:

New rules pursuant to HB 372 (2017) permitting the salvage of deer and elk that are accidentally killed as the result of a vehicle collision. The purpose of the salvage is for the human consumption of the meat from the carcasses.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the

rule(s). (2) *Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

a. State agencies that could be affected by these rules are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). Negative economic impacts to ODFW include the development and administration of a permitting program, collecting antlers from salvaged animals, and responding to public requests for information about the program. There is currently no authority to collect a fee for the proposed permits to negate these impacts. Negative economic impacts to OSP include enforcement of the new rules and investigation of incidences of non-compliance with the rules. There may also be a slight positive economic impact to the Oregon Department of Transportation (ODOT), as the public will remove some of the road struck deer and elk carcasses from state highways that would otherwise be removed by ODOT employees.

b. These rules may have a slight positive economic impact to local governments, as the public will remove some of the road struck deer and elk carcasses from county and city roadways that would have otherwise been removed by county or city employees.

c. These rules will have a positive economic effect on members of the public that will have an opportunity to salvage the carcass of road struck deer and elk for the purpose of human consumption of the meat. The State of Oregon is not liable for any loss or damage arising out of the recovery, possession, use, transport, or consumption of deer or elk pursuant to this program which does create a potential for isolated incidents of negative economic effect if a person consumes meat that is not fit for human consumption and becomes ill.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The effect on small business is expected to be minimal. There is the potential that some meat processors (butcher shops) that perform custom cut and wrap services for game meat will see a slight positive impact if permit holders pay them to process the meat of salvaged deer and elk. It is expected that few meat processing businesses will be willing to process salvaged deer and elk due to the condition the carcasses. We cannot accurately assess the total number of businesses that will be affected, since it will depend on number of road stuck animals, number of permit holders, and proportion of permit holders who use small business services to process the animal.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Meat processors would be required to record the permit number for any salvaged deer and elk carcasses they take in . This reporting will be similar to the information they record when they take in hunter harvested deer and elk.

c. Equipment, supplies, labor and increased administration required for compliance:

None expected.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Not applicable

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The draft administrative rules were developed by staff with input from Oregon State Police. At the Commission hearing, public correspondence and testimony is accepted into the record as part of the rulemaking process.

RULES PROPOSED:

635-002-0005, 635-043-0150, 635-065-0765, 635-200-0050

AMEND: 635-002-0005

RULE SUMMARY: Adoption of rules permitting the salvage of deer and elk that are accidentally killed as the result of a vehicle collision.

CHANGES TO RULE:

635-002-0005

Disposal of Edible Wildlife ¶

(1) Carcasses of edible wildlife, except black bear, shall be disposed of in the following manner:¶

(1a) Donated to public and charitable institutions such as welfare organizations, churches, and others provided the receiving agency pays all storage and handling charges and does not sell the meat.¶

(2b) Donated to persons determined to be eligible because of low income or medical reasons, provided the eligible person requests and accepts the carcass as delivered, consumes the meat at his/her place of residence, and does not offer it for sale.¶

(3c) Donated to wildlife rehabilitators licensed by the Department provided those rehabilitators use the meat to feed sick, injured, or orphaned wildlife and do not sell the meat.¶

(4d) Donated to rendering plants, pet food manufacturers or disposed of as specified by personnel of the Department.¶

(2) In addition to the disposal manners prescribed in subsection (1) the carcasses of deer and elk that have been accidentally killed as a result of a vehicle collision may be salvaged pursuant to OAR 635-043-0200.

Statutory/Other Authority: Or Laws 2017, Ch 670, § 2, ORS 183.545, 183.550, 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 183.545, 183.550, 496.012, 496.138, 496.146, 496.162

ADOPT: 635-043-0150

RULE SUMMARY: Adopt rules pursuant permitting the salvage of deer and elk that are accidentally killed as the result of a vehicle collision.

CHANGES TO RULE:

635-043-0150

Roadkill Salvage Permit

A Roadkill Salvage Permit allows a person to recover, possess, use or transport the carcass of a deer or elk that has been killed as a result of an accidental collision with a vehicle, for the purpose of salvaging the meat for human consumption.

(1) The person that takes possession of the carcass at the site of the collision must acquire a Roadkill Salvage Permit no more than 24 hours after the carcass is taken into possession.

(2) To acquire a Roadkill Salvage Permit the person taking possession of carcass must provide the Department with:

(a) Name, address of physical residence, and phone number;

(b) The date and time the carcass was removed from the site of the collision;

(c) The location, including road name and mile marker or valid coordinate, where the collision with the motor vehicle occurred;

(d) A statement indicating whether or not they were the driver of the vehicle that collided with the deer or elk;

(e) The species and sex of the carcass being salvaged; and

(f) An acknowledgement that the carcass is being salvaged at their own risk and the State of Oregon is not liable for any loss or damage arising out of the recovery, possession, use, transport or consumption of the deer or elk salvaged pursuant to the Roadkill Salvage Permit.

(3) Within five (5) business days of taking the carcass into possession the entire head of the deer or elk, including the antlers of antlered animals, must be delivered to a location determined by the Department and surrendered to the Department.

(4) A Roadkill Salvage Permit may not be issued for the recovery, possession, use or transport of any deer or elk that was rendered crippled or helpless as a result of a vehicle collision and then killed pursuant to ORS 498.016, unless the person seeking the Roadkill Salvage Permit accidentally rendered the deer or elk crippled or helpless as the driver of the motor vehicle involved in the collision. The carcass of any deer or elk that was crippled or made helpless as a result of an accidental vehicle collision and then killed pursuant to ORS 498.016 shall not be recovered, possessed, used, or transported prior to the killing being reported to a person authorized to enforce the wildlife laws.

(5) Salvage of white-tailed deer is prohibited west of the crest of the Cascade Mountains except within Douglas County.

(6) The entire carcass, including entrails, of any salvaged animal must be completely removed from the road and road right of way.

(7) No portion of any deer or elk salvaged pursuant to this rule may be sold, bartered, or exchanged.

(8) When any part of a deer or elk salvaged pursuant to this rule is transferred to the possession of another person, a written record describing the animal or part being transferred indicating the name and address of the person who obtained the Roadkill Salvage Permit for the animal and the number or confirmation number of the Roadkill Salvage Permit shall accompany such transfer and shall remain with such animal or part so long as the same is preserved.

(9) This rule shall not be construed as allowing the salvage of deer and elk from the reservation lands of any sovereign tribe.

Statutory/Other Authority: ORS 183.545, 183.550, 496.012, 496.138, 496.146, 496.162, Or Laws 2017, Ch 670,

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Statutes/Other Implemented: ORS 183.545, 183.550, 496.012, 496.138, 496.146, 496.162, Or Laws 2017, Ch 670, 22

AMEND: 635-065-0765

RULE SUMMARY: Adopt rules permitting the salvage of deer and elk that were accidentally killed as a result of a vehicle collision.

CHANGES TO RULE:

635-065-0765

Tagging, Possession, Transportation and Evidence of Sex ¶

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to such carcass or remain with any parts thereof so long as the same are preserved.¶

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.¶

(3) It is unlawful to possess the meat or carcass of any deer, elk, pronghorn antelope, bighorn sheep, or Rocky Mountain goat without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer, elk, pronghorn antelope, bighorn sheep, or Rocky Mountain goat is:¶

(a) The animal's scalp which shall include the attached eyes and ears, if animal is female; or ears, antlers or horns, and eyes if the animal is male, or;¶

(b) Reproductive organs (testicles, scrotum, or penis if male; vulva or udder (mammary) if female) naturally attached to one quarter of the carcass or to another major portion of meat.¶

(iA) For hunts with antler or horn restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers or horns naturally attached shall accompany the carcass or major portions of meat.¶

(iiB) For hunts where only white-tailed deer and for hunts where only mule deer are legal: in addition to evidence of sex, (testicles, scrotum, penis, vulva, udder, mammary), either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken.¶

(4) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag or permit was originally attached to the carcass and the number of that tag, permit, or permit confirmation shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the Department.¶

(5) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the Department or by the Oregon State Police. Except when salvaging deer or elk that were accidentally killed as a result of a vehicle collision pursuant to OAR 635-043-0200.¶

(6) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the Department or by the Oregon State Police.¶

(7) It is unlawful to receive or have in possession any game mammal or part thereof which:¶

(a) Is not properly tagged; except when salvaging deer or elk that were accidentally killed as a result of a vehicle collision pursuant to OAR 635-43-0200.¶

(b) Was taken in violation of any wildlife laws or regulations; or¶

(c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.¶

(8) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers or when salvaging deer or elk that were accidentally killed as a result of a vehicle collision pursuant to OAR 635-043-0200, unless he/she has notified and received permission from the Department or personnel of the Oregon State Police prior to transporting.¶

(9) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the Department may be made available to scientific and educational institutions and for ceremonial purposes.¶¶

(10) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:¶¶

(a) Meat that is cut and wrapped commercially or privately;¶¶

(b) Meat that has been boned out;¶¶

(c) Quarters or other portions of meat with no part of the spinal column or head attached;¶¶

(d) Hides and/or capes with no head attached;¶¶

(e) Skull plates with antlers attached that have been cleaned of all meat and brain tissue;¶¶

(f) Antlers with no tissue attached;¶¶

(g) Upper canine teeth (buglers, whistlers, ivories);¶¶

(h) Finished taxidermy heads.¶¶

(11) For the purposes of the parts and carcass import ban in subsection 10, the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Arkansas, Colorado, Illinois, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, Virginia, West Virginia, Wisconsin, Wyoming, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.¶¶

(12) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.¶¶

(13) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection 10 shall be disposed of in a manner as follows:¶¶

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.¶¶

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection 10 shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162, Or Laws 2017, Ch 670, § 2

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, Or Laws 2017, Ch 670, § 2

AMEND: 635-200-0050

RULE SUMMARY: Adopt rules permitting the salvage of deer and elk that were accidentally killed as a result of a vehicle collision.

CHANGES TO RULE:

635-200-0050

Deer, Elk, and Antelope (Pronghorn) ¶

(1) The provisions of this rule do not apply to carcasses or parts thereof from deer or elk salvaged pursuant to OAR 635-43-0200. No portion of deer or elk salvaged pursuant to OAR 635-43-0200 may be purchased, sold, or exchanged. ¶

(2) Any person may purchase, sell, or exchange processed hides, hooves, dewclaws, sinews, or capes of deer (Odocoileus hemionus or O. virginianus), elk (Cervus canadensis) or antelope (pronghorn) (Antilocapra americana). ¶

(23) Any person may sell or exchange the unprocessed hides, hooves, dewclaws, sinews, or capes of a deer, elk, or antelope legally taken during an authorized hunting season. ¶

(34) Any person may sell, purchase, or exchange any bone, elk ivory "buglers" or other part of the skeletal structure of a deer or elk, except the skull. ¶

(45) Any person may sell or exchange lawfully taken antlers which are detached from the skull, skull is split apart between the antlers or naturally shed antlers to a licensed antler dealer for use only in manufacturing handcrafted items from parts of these antlers. Handcrafted items do not include complete sets of antlers or whole heads and antlers which are mounted for display or other purposes. Any person may purchase such lawfully manufactured handcrafted items. ¶

(56) Except as provided in subsection ~~6(7)~~, any person desiring to purchase or exchange unprocessed deer, elk, and antelope hides, hooves, dewclaws, or sinews must first secure a Hide Dealer Permit. Clients of a taxidermist do not need this permit when a taxidermist provides the hide for mounting a client's legally taken antler or horn. ¶

(a) Any person desiring to purchase or exchange antlers for use in the manufacture of handcrafted items must first secure an Antler Dealers Permit. Antlers may not be purchased unless antlers are detached from the skull, the skull is split apart between antlers, or the antlers are naturally shed; ¶

(b) Hide and Antler Dealer Permits may be obtained by applying to the Oregon Department of Fish and Wildlife. ¶

(67) Any person may purchase the following for their personal use (not resale): ¶

(a) Unprocessed deer, elk and antelope hides; and ¶

(b) Deer and elk antlers (if detached from the skull, if skull is split apart between the antlers, or if naturally shed). ¶

(78) Hide Dealer and Antler Dealer Permit shall cost \$33.50 (plus a \$2.00 license agent fee) and shall expire on December 31 of the year issued. ¶

(89) At the time of purchase or exchange for unprocessed deer and elk hides and antlers, and for antelope hides, every dealer shall maintain a record. Such record shall: ¶

(a) Include the date of the transaction, numbers and kinds of hides or antlers purchased or exchanged, and the name and address of the person from whom acquired; ¶

(b) Be maintained at the business address of the hide dealer or antler dealer for a three-year period. ¶

(910) Hide and antler dealer records are subject to inspection at any time by any State Police officer or Department of Fish and Wildlife representative. ¶

(101) Any person may sell, purchase or exchange any bone or other part of the skeletal structure of pronghorn antelope, except the skull and horn sheaths.

Statutory/Other Authority: Or Laws 2017, Ch 670, § 2, SB 247 (2015), ORS 496.012, 496.138, 496.146, 498.019, 498.022, 498.042

Statutes/Other Implemented: Or Laws 2017, Ch 670, § 2, ORS 496.012, 496.138, 496.146, 498.019, 498.022, 498.042

