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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
04/08/2019 2:23 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Ceremonial Harvest of Deer, Elk, and Pronghorn by the Burns Paiute Tribe of Oregon

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/07/2019 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
Rules Coordinator

HEARING(S)

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

DATE: 06/07/2019

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

ADDRESS: Oregon Department of Fish
and Wildlife

4034 Fairview Industrial Drive SE
Salem, OR 97303

NEED FOR THE RULE(S):

To correct season dates for Burns Paiute Tribe Ceremonial Harvest Permits for Pronghorn Antelope.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 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:

In general, there is no impact from this rule change. These temporary rules are recommended to be made permanent, so any impacts from the temporary rules will still exist in permanent form.

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).

There are no impacts to ODFW, or any other state agency, local government, or member of the public. ODFW had some impact from the temporary rule, but they were internal and easily absorbable. Oregon State Police initially had some impacts, but they were informational in nature, and insignificant. Local governments similarly do not have any direct fiscal impact from this rule. The general public are not likely affected by this rule, as this small change to the Burns Paiute Tribe's season are not anticipated to affect Oregon seasons and tag limits for pronghorn.

There are no anticipated impacts to any small business from the season date change.

Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s): None expected

Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s): 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?

Temporary to permanent rule correcting season dates for pronghorn antelope only.

AMEND: 635-043-0150

RULE SUMMARY: Correct the season dates for Burns Paiute Tribe Ceremonial Harvest Permits for pronghorn antelope.

CHANGES TO RULE:

635-043-0150

Burns Paiute Ceremonial Harvest Permits

Ceremonial harvest permits for use by the Burns Paiute Tribe (the "Tribe").¶

(1) The Commission authorizes the harvest of deer, elk and pronghorn antelope by members of the Tribe for ceremonial and cultural purposes in accordance with these rules.¶

(2) Authorization for ceremonial harvest permits will be considered only upon written request from the Tribe.¶

(3) Authorization for harvest shall specify the season dates, times, locations, and numbers of permits authorized for each species.¶

(a) Permits authorized shall be provided to the Tribe and may be used only by enrolled members of the Tribe. Each permit shall specify the season dates, times, and location where the permit is valid.¶

(b) Enrolled Burns Paiute Tribal members using authorized ceremonial harvest permits must carry on their person a valid ceremonial harvest permit, and shall present this document, as well as documents identifying said hunter as a member of the Burns Paiute Tribe, to Department employees or law enforcement personnel upon request.¶

(c) Enrolled Burns Paiute Tribal members designated to harvest animals using ceremonial harvest permits shall not be required to possess a state hunting license or big game tags in addition to the ceremonial harvest permits authorizing harvest.¶

(d) In recognition of accepted Tribal custom, the Commission acknowledges that Tribal authorities may designate individuals to harvest animals using these ceremonial harvest permits. The Tribe may designate the number of permits used by enrolled Burns Paiute Tribal members, so long as the total harvest does not exceed the number of

ceremonial permits authorized under subsection (e) of these rules.¶¶

(e) Pursuant to a request received under subsection (2), the Department shall issue up to eight (8) deer permits with a bag limit of "one deer" up to six (6) elk permits with a bag limit of "one elk", and up to four (4) pronghorn antelope permits with a bag limit of "one pronghorn", for ceremonial purposes annually. Season dates are: January 1 through three days before the first day of general archery deer and elk season (inclusive) for deer and elk permits, and ~~August~~ January 1 through three days before the first day of the Department pronghorn antelope season ~~(inclusive)~~ in the Silvies and Malheur River WMUs ~~(inclusive)~~ for pronghorn antelope.¶¶

(f) Each permit shall be validated immediately upon successful harvest of a designated animal by blacking out in ink, or removing in its entirety, only the month and day of the kill. The permit shall be attached securely to the game mammal in plain sight. The permit shall be kept attached to the carcass, or remain with any parts thereof, so long as the same are preserved.¶¶

(g) Ceremonial harvest permits are valid only on federal lands and Burns Paiute Tribal lands (Tribal trust and fee title) in the Silvies Wildlife Management Unit, that portion of the Malheur River Wildlife Management Unit (WMU) that is north of U.S. Highway 20, and the Burns Paiute Tribal property known as the Jonesboro property south of U.S. Highway 20 in the Malheur River WMU. Ceremonial harvest permits cannot be used on private lands and do not authorize trespass upon private lands to access federal or tribal lands where landowner permission has not been obtained. Ceremonial harvest permits do not authorize entry or use on public lands where hunting, access, or discharge of firearms is precluded by any other statute, rule or law.¶¶

(h) Methods of take, shooting hours, and other restrictions or limits on hunting methods, weapons and techniques all remain the same as those pertaining to sport harvest during other Commission authorized big game seasons.¶¶

(i) If a ceremonial need arises after the end of authorized season dates and a previously issued ceremonial harvest tag from that year was not validated for harvest, the Tribe may request a date extension in writing.¶¶

(A) Written request must include the specific ceremonial need as determined by the Tribe, the requested new dates for hunt, and the original tag.¶¶

(B) The species on the ceremonial harvest tag cannot be changed.¶¶

(C) The Department will consider the request to avoid conflicts with ongoing hunting seasons and may limit the hunt area from the description in (3)(g).¶¶

(D) If approved, the local Wildlife District staff from the Department will provide the revalidated tag to the Tribe.¶¶

(4) The Tribe shall report all harvest of deer, elk or pronghorn antelope conducted under ceremonial harvest permit to the Department on an annual basis.¶¶

(5) Animals harvested under an authorized ceremonial harvest permit may only be used by Tribal members for ceremonial and cultural purposes. Animals and parts thereof may not be bartered or sold.¶¶

(6) Authorization of these ceremonial-hunting permits does not create, convey, modify, limit, impede or imply any tribal legal or treaty entitlement.

Statutory/Other Authority: ORS 496.138, ORS 496.012, 496.146, 496.162

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