

**BEFORE THE OREGON DEPARTMENT OF FISH AND WILDLIFE
and
THE OREGON FISH AND WILDLIFE COMMISSION**

Petition to Promulgate Rule to Prohibit Coyote Killing Contests in Oregon

I. INTRODUCTION

Wildlife killing contests are organized events in which participants compete for prizes (typically cash or hunting equipment) for killing the most, largest, or smallest animals within a specified time period. In Oregon, these contests commonly target coyotes.

Coyote killing contests are wasteful, unethical, and damaging to the reputation of responsible hunters. Contest participants frequently use electronic calling devices to attract coyotes into rifle range with sounds that imitate the cry of their prey, a fellow coyote, or even their young in distress. In recent years, more than 1,000 coyotes have been killed in these gruesome and cruel contests in Oregon. Killing contests are unsupported by the principles of sound, science-based wildlife management. The indiscriminate killing of coyotes may reduce their populations temporarily, but the best available science demonstrates coyotes actually increase in numbers in response to killing contests. This is the case because killing contests create instability and chaos in coyote family structures, which allows more coyotes to reproduce and encourages the immigration of outside coyotes seeking the newly available space and resources. This disruption can increase conflicts with pets and livestock.

Killing contests are incompatible with Oregon's values of sportsmanship, good stewardship, and respect for wildlife. With participation motivated by financial reward, killing contests are grossly out of step with the ethics of fair chase and Oregon's conservation-centered values. Allowing a small group of individuals to engage in this wanton waste of a wildlife species violates the Oregon Department of Fish and Wildlife ("ODFW") and Oregon Fish and Wildlife Commission's (the "Commission") duty to responsibly manage the State's wildlife in trust for all Oregonians.

Eight states, including Washington and Colorado, have prohibited killing contests. But, killing contests remain legal in Oregon and have occurred throughout the State over the past several years. As detailed below, ODFW and the Commission possess clear statutory authority to prohibit coyote killing contests in Oregon through rulemaking. Therefore, pursuant to ORS 183.390 and OAR 137-001-0070, the Humane Society of the United States, Center for Responsible Science, Humane Society Veterinary Medical Association, Predator Defense, Oregon Humane Society, Northeast Oregon Ecosystems, Humane Voters Oregon, National Wolfwatcher Coalition, Animal Welfare Institute, Animal Legal Defense Fund, Oregon Wild, Cascadia Wildlands, Project Coyote, Center for Biological Diversity, and Wildlife Land Trust (collectively "Petitioners"), hereby petition ODFW and the Commission for the promulgation

of a new rule at Chapter 635, Division 61 of the Oregon Administrative Rules prohibiting coyote killing contests in Oregon, with certain limited exceptions.

II. PETITIONERS

Petitioners are a coalition of animal welfare, wildlife, and conservation organizations concerned about the cruelty, ineffectiveness, and lack of scientific support for coyote killing contests. Petitioners' names and addresses¹ are as follows:

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Petitioners are unaware of any other persons known to be interested in the proposed rule.²

III. PROPOSED RULE

Petitioners respectfully request that the Commission promulgate a new Division 61 within Chapter 635 of the Oregon Administrative Rules (the “Proposed Rule”).³ Petitioner’s proposed language, in full, is as follows:

² *Id.*

³ OAR 137-001-0070(1)(a).

Oregon Fish and Wildlife Commission

Chapter 635: Department of Fish and Wildlife

New Division 61: Coyote Killing Contests Prohibited

635-061-0001: Definitions. As used in this division:

“Person” means an individual, partnership, limited partnership, limited liability partnership, corporation, professional corporation, nonprofit corporation, cooperative, limited liability company, business trust, joint venture, incorporated or unincorporated association or other business organization or entity.

635-061-0002: Prohibition.

(1) It is unlawful to conduct or participate in a contest, competition, tournament, or derby that has the objective of taking a coyote or coyotes for cash or prizes.

(2) This rule shall not apply to a good faith effort to control coyotes on private land specifically authorized by ORS 610.105, provided that:

(a) The coyotes are or may be destructive to agricultural crops, products, and activities occurring on the land such that they constitute predatory animals under OAR 635-050-0050(8) and ORS 610.002;

(b) The land is infested with coyotes such that control methods are necessary under ORS 610.105; and

(c) Such control is carried out by the person owning, leasing, occupying, possessing, or having dominion over the land, or the person’s agent.

(d) If such control is carried out by the person’s agent, both the agent and the principal must retain written evidence of the formal agency relationship required under ORS 610.105, including, but not limited to, indication that the agent is under the principal’s control and acting on their behalf for purposes of controlling an infestation of coyotes on the land.

(3) A person that kills a coyote in violation of this section or receives the remains of a coyote in violation of this section shall forfeit the remains of the coyote to the State Department of Fish and Wildlife. The remains shall become the property of the Department.

IV. LEGAL GROUNDS FOR PROPOSED RULE

a. The Commission Can and Should Adopt the Proposed Rule Because it is Consistent with Oregon’s Stated Wildlife Management Policy.

The Proposed Rule aligns with Oregon’s codified wildlife policy and falls squarely within the Commission’s duty to implement that policy through regulation. The Oregon Legislature has declared it State policy “that wildlife shall be managed to prevent serious depletion of any indigenous species and to provide optimum recreational and aesthetic benefits for present and future generations”⁴ The Legislature has charged the Commission with representing these public interests and implementing the State’s wildlife management goals.⁵ The Commission’s powers include the authority to “permit an orderly and equitable utilization of available wildlife” and to “make decisions that affect wildlife resources of the state for the benefit of the wildlife resources and to make decisions that allow for the best social, economic, and recreational utilization of wildlife resources by all user groups.”⁶ Generally, the Legislature has given the Commission the power to “implement the policies and programs of [Oregon] for the management of wildlife,” and to “adopt such rules and standards as it considers necessary and proper to implement the policy and objectives of [the State].”⁷

Taken together, these statutes vest the Commission with “broad authority” and “discretion to determine and implement rules as it deems appropriate to allocate the state’s wildlife resources.”⁸ Coyotes are defined as “wildlife” under existing Commission regulations.⁹ As detailed in Section V below, coyote killing contests are wasteful and have been repeatedly proven to be counterproductive as a wildlife management and conflict prevention tool. Prohibiting these contests would therefore be a proper exercise of the Commission’s broad grant of authority to adopt rules that implement Oregon’s stated goals of informed, equitable, and orderly wildlife management and conservation.

b. The Commission Has Specific Statutory Authority to Prohibit Coyote Killing Contests.

In addition to the broad grant of rulemaking power described above, the Commission separately has the specific, enumerated authority to regulate take of wildlife. The Legislature has directed the Commission to “[p]rescribe the times, places, and *manner* in which wildlife may be taken by . . . hunting, trapping or other methods and the amounts of each of those

⁴ ORS 496.012.

⁵ *Id.*

⁶ ORS 496.012(3), (7).

⁷ ORS 496.138(1)-(2).

⁸ *Confederated Tribes of Siletz Indians of Oregon v. Fish and Wildlife Com’n*, 244 Or. App. 535, 540-41 (Ct. App. Or. 2011); see also *Mark v. Dept. of Fish and Wildlife*, 158 Or. App. 355, 367 (Ct. App. Or. 1999) (statutes give Commission “discretion in deciding what subjects to cover and what rules to adopt”).

⁹ OAR 635-057-0000 (1).

wildlife species that may be taken and possessed.”¹⁰ The Commission is also empowered to “[p]rescribe such other restrictions or procedures regarding the . . . taking, hunting, trapping or possessing of wildlife *as the commission determines will carry out the provisions of wildlife laws*.”¹¹ In sum, the Legislature has not only vested the Commission with the authority to establish hunting seasons, areas, and bag limits, but also to regulate the manner in which wildlife may be taken and prescribe any other restrictions governing take of wildlife that the Commission determines to be consistent with State wildlife policy.

Adopting the Proposed Rule would be a valid exercise of the Commission’s authority. A prohibition on killing contests would regulate the “manner in which” coyotes “may be taken.”¹² The Commission has already exercised this authority to adopt regulations prohibiting, among other things, the use of certain traps and types of bait to capture predatory animals, including coyotes¹³; the use of artificial lights or “night vision” equipment to hunt wildlife¹⁴; and the use of drones to aid in the hunting or trapping of wildlife.¹⁵ Moreover, because coyote killing contests are contrary to the values articulated in the wildlife policy enshrined in state law (see Section V below), prohibiting these contests would also constitute a “restriction . . . regarding the . . . taking, hunting, trapping or possessing of” coyotes that “will carry out the provisions of the wildlife laws.”¹⁶ Thus, the Commission has two independent sources of specific statutory authority to adopt the Proposed Rule, in addition to the general rulemaking power addressed in subsection (a) above.

The Commission’s authority to regulate take of *predatory* animals is subject to some limitations, none of which are relevant to the Proposed Rule. For example, the Commission may not “prescribe limitations on the times, places or amounts for the taking” of predatory animals.¹⁷ Although coyotes are designated as a predatory animal,¹⁸ this restriction would not prevent the Commission from prohibiting coyote killing *contests*. This provision notably does not limit the Commission’s express statutory authority to adopt rules governing the *manner* of taking predatory animals.¹⁹ The Proposed Rule does not limit the “times, place, or amounts

¹⁰ ORS 496.162(1)(a) (emphasis added).

¹¹ ORS 496.162(1)(b) (emphasis added).

¹² ORS 496.162(1)(a).

¹³ OAR 635-050-0045 (9), (12); OAR 635-050-0050 (8), (9).

¹⁴ OAR 635-065-0745.

¹⁵ OAR 635-065-0735.

¹⁶ ORS 496.162(1)(b).

¹⁷ ORS 496.162(3).

¹⁸ “Predatory animals” is defined by statute and Commission regulation to include “coyotes . . . which are or may be destructive to agricultural crops, products, and activities.” ORS 610.002; OAR 635-050-0050(8).

¹⁹ ORS 496.162, Subsection (1)(a) authorizes the Commission to “[p]rescribe the *times, places, and manner* in which wildlife may be taken by . . . hunting, trapping or other methods and the *amounts* of each of those wildlife species that may be taken and possessed.” (emphasis added). Subsection 3, by contrast, only bars the Commission from regulating “times, places, or amounts” for the taking of predatory animals – but not manner. This omission must be read as a deliberate legislative decision to vest the Commission with authority to regulate

for the taking” of coyotes—instead, it prohibits the taking of coyotes in a contest, *i.e.*, the manner of the taking. Indeed, the Commission has already adopted rules regulating the manner of taking coyotes and other predatory animals, for instance, by prohibiting the use of particular traps and baits.²⁰ Like those existing regulations, the Proposed Rule addresses only the *manner* in which coyotes may be taken (which the Commission may regulate for predatory animals), not the “times, places, or amounts” (which the Commission may not regulate).

c. The Proposed Rule Does Not Conflict with ORS Chapter 610’s Predator Control Provisions.

The Proposed Rule does not conflict with the predator control provisions codified in ORS chapter 610 because it exempts covered predator control efforts from its prohibition. Chapter 610 provides that “[n]othing in the wildlife laws is intended to deny the right of any person to control predatory animals as provided in ORS 610.105.”²¹ In turn, ORS 610.105 states:

Any person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock which is infested with ground squirrels and other noxious rodents or predatory animals, as soon as their presence comes to the knowledge of the person, may, or the agent of the person may, proceed immediately and continue in good faith to control them by poisoning, trapping or other appropriate and effective means.²²

It is unlikely that an indiscriminate coyote killing contest for cash or prizes could ever properly constitute a “good faith,” “appropriate and effective means” of controlling an “infest[ation]” of coyotes on private property.²³ But even if it did, the Proposed Rule contains an exception for “a good faith effort to control coyotes on private land” that ensures it does not conflict with or otherwise infringe upon ORS 610.105.

This proposed exception is narrowly tailored to exempt only those good faith predator control efforts covered by ORS 610.105, not to generally permit killing contests on private land. It would only apply where “the land is infested with coyotes such that control methods are necessary under ORS 610.105” and “[s]uch control is carried out by the person owning, leasing, occupying, possessing, or having dominion over the land, or the person’s agent.” Moreover, if “such control is carried out by the person’s agent,” there must be written

the manner of take of predatory animals. *See, e.g., State v. Fries*, 212 Or. App. 220, 224 (Ct. App. Or. 2007) (“[W]hen the legislature includes an express provision in one statute, but omits such a provision in another statute, it may be inferred that such omission was deliberate.”); *State v. Shaw*, 388 Or. 586, 603 (Or. 2005) (“In construing statutes, we . . . generally presume that use of a term in one section and not in another section of the same statute indicates a purposeful omission.”) (internal citations omitted).

²⁰ OAR 635-050-0045 (9), (12); OAR 635-050-0050 (8), (9).

²¹ ORS 610.060.

²² ORS 610.105.

²³ *Id.*

documentation of a bona fide agency relationship that meets the standard applied by Oregon courts.²⁴ These conditions come from the text of ORS 610.105 itself and do not restrict its scope. Rather, they ensure that only those predator control efforts specifically authorized by ORS 610.105 are exempted from the Proposed Rule.

V. RATIONALE FOR PROPOSED RULE

a. Coyote Killing Contests Undermine Modern, Science-Based Wildlife Management Principles and are not an Effective Wildlife Management Tool.

The indiscriminate killing that coyote killing contests promote is counterproductive to effective wildlife management. Tenet six of the North American Model of Wildlife Conservation states: “[w]ildlife management, use, and conservation shall be based on sound scientific knowledge and principles.”²⁵ The best available science shows that many wildlife populations depleted by unnatural means simply reproduce more quickly due to the sudden drop in competition for resources and changes to social structure from the loss of individuals.²⁶

This effect is well documented for coyote populations in particular.²⁷ It has been shown that the indiscriminate killing of coyotes *increases* their populations over time because it disrupts their social structure, which encourages higher levels of breeding and migration.²⁸ Unexploited coyote populations are self-regulating based on the availability of food and habitat and territorial defense by resident family groups. Typically, only the dominant pair

²⁴ Oregon applies a common law definition of agency, under which the elements of an agency relationship are (1) the agent is subject to the principal’s control; and (2) the agent must “act on behalf” of the principal. Restatement (Third) of Agency § 1.01. The Oregon Supreme Court defines agency as “the relationship which results from the manifestation of consent by one person to another that the other shall act on behalf and subject to his control, and consent by the other so to act. . . [A]n agency relationship exists only if there has been a manifestation by the principal to the agent that the agent may act on his account, and consent by the agent so to act.” *Hampton Tree Farms, Inc. v. Jewett*, 892 P.2d 683, 694 (Or. 1995); *quoting Ruddy v. Ore. Auto. Credit Corp.*, 174 P.2d 603 (Or. 1946). Merely contracting to provide services does not suffice to create an agency relationship, rather “[t]he power to give interim instructions distinguishes principals in agency relationships from those who contract to receive services provided by persons who are not agents.” *Vaughn v. First Transit, Inc.*, 206 P.3d 181, 186 (Or. 2009); *see also* Restatement (Third) of Agency at § 1, comment f (2006).

²⁵ Today’s Hunter: a guide to hunting responsibly and safely, Kalkomey Enterprises, Inc. at 82 (2015).

²⁶ F. F. Knowlton, et al., *Coyote Depredation Control: An Interface between Biology and Management*, 52 *Journal of Range Management* 398, 400-402 (1999). Available at: <https://pdfs.semanticscholar.org/43f7/3adf647447dd472db69c0b4712f1c71fab33.pdf>; Robert Crabtree and Jennifer Sheldon, *Coyotes and Canid Coexistence in Yellowstone*, in *Carnivores in Ecosystems: The Yellowstone Experience* (T. Clark et al., eds, 1999); J. M. Goodrich and S. W. Buskirk, *Control of Abundant Native Vertebrates for Conservation of Endangered Species*, 9 *Conservation Biology* (1995); Elizabeth Kierepka, et al., *Effect of Compensatory Immigration on the Genetic Structure of Coyotes*, 81 *J. Wildlife Mgmt* 1394, 1394 (2017). Available at: https://www.srs.fs.usda.gov/pubs/ja/2018/ja_2018_kilgo_002.pdf.

²⁷ *Id.*; *see also* S.D. Gehrt, *Chicago Coyotes part II*, 11 *Wildlife Control Technologies* 20-21, 38-9, 42 (2004).

²⁸ *Id.*

in a pack of coyotes reproduces, which behaviorally suppresses reproduction among subordinate members of the group. But when one or both members of the alpha pair are killed, other pairs will form and reproduce, lone coyotes move in to find mates, coyotes breed at younger ages, litters are larger, and pup survival has been documented to be higher. These factors work synergistically to increase coyote populations following exploitation events.²⁹ The science is clear: randomly killing coyotes in contests does not reduce their populations. In fact, since 1850 when mass killings of coyotes began, the range of coyotes has tripled in the United States.³⁰

State and county wildlife management agencies in Oregon and across the country have recognized that killing contests do not control coyote population size. For example, Randy Comeleo, Program Advisor for the Benton County Agriculture and Wildlife Protection Program reviewed the relevant scientific literature and concluded that “researchers found that as more predators [are] removed, more livestock[are] killed.”³¹ Commissioner Barbara Baker of the Washington State Fish and Wildlife Commission observed that under “the North American Model of Wildlife Management . . . wildlife may only be killed for a legitimate, non-frivolous purpose,”³² and “killing for a game, or killing to win money, is the definition of frivolous.” Director Kelly Susewind of the Washington Department of Fish and Wildlife echoed this sentiment, noting, “part of my job, and frankly part of my soul, is to promote hunting, to get our youth hunting, to really have this be a core piece of what our society supports. And frankly, that job is a lot harder if we’re condoning these types of contests”³³ After reviewing a large body of scientific and peer-reviewed literature, the North Carolina Wildlife Resources Commission determined: that indiscriminate, lethal methods of controlling coyotes, such as bounties and harvest incentive programs, are ineffective and counterproductive; that coyotes provide benefits to humans and ecosystems; and that non-lethal measures are the best way to address conflicts with coyotes.³⁴ Many other state wildlife management agencies—including those in Illinois, Kentucky, Louisiana, Missouri, New

²⁹ F.F. Knowlton. 1972. Preliminary interpretations of coyote population mechanics with some management implications. *J. Wildlife Management*. 36:369-382.

³⁰ Robert Crabtree and Jennifer Sheldon, “Coyotes and Canid Coexistence in Yellowstone,” in *Carnivores in Ecosystems: The Yellowstone Experience*, ed. T. Clark et al. (New Haven [Conn.]: Yale University Press, 1999)

³¹ Randy Comeleo, “Using Coyotes to Protect Livestock. Wait. What?,” Oregon State University College of Agricultural Sciences Small Farms Program (Spring 2018) (available at <https://smallfarms.oregonstate.edu/using-coyotes-protect-livestock-wait-what>).

³² See The Humane Society of the United States, “Wildlife management professionals and hunters on wildlife killing contests and predator control,” at 4 (available at https://www.humanesociety.org/sites/default/files/docs/HSUS_Statements-wildlife-killing-contests.pdf).

³³ *Id.* at 2.

³⁴ North Carolina Wildlife Resources Commission, Coyote Management Plan 11, 21-28 (2018). Available at: www.ncwildlife.org/Portals/0/Learning/documents/Species/Coyote%20Management%20Plan_FINAL_030118.pdf

Hampshire, Nevada, South Carolina, Tennessee, Washington, West Virginia, and Wyoming—have reached similar conclusions.³⁵

b. Coyote Killing Contests Undermine the Integral Role that Coyotes Play in Healthy Ecosystems.

Coyotes provide a range of free, natural ecological services to our environment and urban and rural communities.³⁶ They help to control disease transmission by keeping rodent populations in check, consume carrion, remove sick animals from the gene pool, disperse seeds, protect ground-nesting birds from smaller carnivores, increase the biological diversity of plant and wildlife communities, and protect crops and gardens.³⁷ ODFW itself states:

Coyotes play an important role in the food chain by controlling mice, rats and other rodents and scavenging on dead wildlife that otherwise could spread disease. Rodents make up the bulk of the coyote diet in both urban and rural settings. Many areas, such as cemeteries and golf courses, have reported declines in damage associated with gophers once coyotes appeared. Coyotes also help to control geese in urban areas and on agricultural lands where flocks can forage and destroy young crops.³⁸

³⁵ Illinois Dept. of Natural Resources, Coyote. Available at:

<https://www.dnr.illinois.gov/conservation/wildlife/Pages/Coyote.aspx>; Kentucky Dept. of Fish & Wildlife Resources, Coyotes in the Suburbs. Available at: <https://fw.ky.gov/Wildlife/Documents/KASpring17coyotes.pdf>; Travis Dufour, *Living with Coyotes*, Louisiana Dept. of Wildlife & Fisheries Wildlife Division - Private Lands Program. Available at: http://www.wlf.louisiana.gov/sites/default/files/pdf/publication/34726-living-coyotes-low-res/living_with_coyotes_low-res.pdf; Bill White, *The Bounty Hunter*, Missouri Dept. of Conservation (Aug. 21, 2012). Available at: <https://mdc.mo.gov/blogs/more-quail/bounty-hunter>; New Hampshire Fish and Game, Eastern Coyote. Available at: <https://wildlife.state.nh.us/wildlife/profiles/coyote.html>; Nevada Dept. of Wildlife, Coyote. Available at: <http://www.ndow.org/Species/Furbearer/Coyote/>; National Wildlife Control Training Program, Coyotes. Available at: <http://www.dnr.sc.gov/wildlife/publications/nuisance/coyotes.pdf>; Tennessee Wildlife Resources Agency, Controlling Coyotes in Tennessee (Jan. 2003). Available at: <https://www.tn.gov/content/dam/tn/twra/documents/coyotecontrol.pdf>; Washington Dept. of Fish and Wildlife, Living with Wildlife. Available at: <http://wdfw.wa.gov/living/coyotes.html>; West Virginia Dept. of Natural Resources, Eastern Coyote Impacts Of The Eastern Coyote On Wildlife Populations. Available at: <http://www.wvdnr.gov/hunting/CoyoteResearch.shtm>; Dave Rippe, *Predator Control and Wildlife*, Wyoming Game and Fish Dept., Habitat Extension Bulletin: No. 57 (July 1995). Available at: <https://wgfd.wyo.gov/WGFD/media/content/PDF/Habitat/Extension%20Bulletins/B57-Predator-Control-and-Wildlife.pdf>.

³⁶ Fox, C.H. and C.M. Papouchis, Coyotes in Our Midst: Coexisting with an Adaptable and Resilient Carnivore 9 (2005). Available at: http://www.projectcoyote.com/Coyotes_In_Our_Midst.pdf.

³⁷ S. E. Henke and F. C. Bryant, *Effects of Coyote Removal on the Faunal Community in Western Texas*, 63 *Journal of Wildlife Management* 1066 (1999); K. R. Crooks and M. E. Soule, *Mesopredator Release and Avifaunal Extinctions in a Fragmented System*, 400 *Nature* 563 (1999); E. T. Mezquida, et al., *Sage-Grouse and Indirect Interactions: Potential Implications of Coyote Control on Sage-Grouse Populations*, 108 *Condor* 747 (2006). Available at: http://repository.uwyo.edu/cgi/viewcontent.cgi?article=1003&context=zoology_facpub; N. M. Waser et al., *Coyotes, Deer, and Wildflowers: Diverse Evidence Points to a Trophic Cascade*, 101 *Naturwissenschaften* 427 (2014).

³⁸ “Living with Wildlife: Coyotes,” Oregon Department of Fish and Wildlife, https://www.dfw.state.or.us/wildlife/living_with/docs/living_with_coyotes.pdf

c. **Coyote Killing Contests do not Prevent—and may even Increase—Conflicts with Humans, Pets, or Livestock.**

Killing contest proponents have argued, without evidence, that contests are needed to reduce conflicts with livestock. However, killing contests are not effective at removing individual, problem-causing animals.³⁹ Most killing contests target coyotes in woodlands and grasslands where conflicts with humans, livestock, and pets are minimal. Studies have found that indiscriminate killing of coyotes fragments their social groups and can create ecological voids, which may be filled by smaller predators with higher population numbers who in turn may prey on livestock.⁴⁰ In a signed statement, more than 70 conservation scientists made the following finding about the effect of indiscriminately killing coyotes on livestock depredation:

Some advocates of coyote killing contests (WKC's) believe they are necessary or beneficial for effective management of livestock depredation. We indicated that coyote killing contests are unlikely to have this effect. The reason why is that most individual coyotes do not participate in livestock depredations. Consequently, effective management of depredation requires (1) targeting the offending individual(s), and (2) intervening close to the site where the depredations occurred as well as responding in a timely manner. **Coyote killing contests do not represent the kind of targeted effort required for effective management of livestock depredations. Moreover, indiscriminate killing of predators is likely to exacerbate risks to livestock.** The reason is that killing social carnivores like coyotes can lead to the disruption of coyotes social and foraging ecology in ways that increase the number of transient individuals. These transient individuals that have not been acculturated (aversively conditioned) to living in areas with livestock may be more likely to kill livestock.⁴¹

³⁹ Adrian Treves et al., *Predator Control Should Not Be a Shot In the Dark*, 14 Front Ecol Environ 380, 381 (2016). Available at: http://faculty.nelson.wisc.edu/treves/pubs/Treves_Krofel_McManus.pdf.

⁴⁰ Id.

⁴¹ Statement in Opposition to Wildlife Killing Contests: Signed By More Than 70 Conservation Scientists. Project Coyote (May 23, 2019) (emphasis added). Available at <http://www.projectcoyote.org/wp-content/uploads/2019/05/SAB-Letter-Against-WKCs-2019.05.23-FINAL.pdf>. See also F.F. Knowlton, et al., *Coyote depredation control: An interface between biology and management*, 52 J. Range Mgmt. 398 (1999); J.D.C. Linnell et al., *Large carnivores that kill livestock: do problem individuals really exist?*, 27 Wildlife Society Bulletin 698 (1999); P. Stahl and J.M. Vandel, *Factors influencing lynx depredation on sheep in France: Problem individuals and habitat*, 4 Carnivore Damage Prevention News 6 (2001); K.M. Blejwas et al., *The effectiveness of selective removal of breeding coyotes in reducing sheep predation*, 66 J. Wildlife Mgmt. 451 (2002); A. Treves et al., *Wolf depredation on domestic animals: control and compensation in Wisconsin, 1976-2000*, 30 Wildlife Society Bulletin 231 (2002); A. Treves and L. Naughton-Treves, *Evaluating lethal control in the management of human-wildlife conflict*, in *People and Wildlife, Conflict or Coexistence* 86 (R. Woodroffe et al., eds., 2005); E. Bangs and J.A. Shivik, *Managing wolf conflict with livestock in the northwestern United States*, USDA National Wildlife Research Center-Staff Publications 550 (2001); A. Treves et al., *American black bear nuisance*

Additionally, exploited coyote packs are more likely to have increased numbers of pups and feeding young is a significant motivation for coyotes to switch from killing small and medium-sized prey to killing sheep.⁴²

In 2018 the Oregon State University Extension Program in *Oregon Small Farm News* published an article titled, “Using Coyotes to Protect Livestock. Wait. What?” The article underscored that lethal control of coyotes only increased livestock losses. The article also explained that coyotes with no record of livestock depredation, and who have established themselves in a territory that overlaps with sheep pastures, can *prevent* livestock losses by excluding coyotes from neighboring packs which may have learned to kill sheep.⁴³

As ODFW itself has explained:

Prevention is always the best medicine when it comes to avoiding, minimizing or correcting problems with coyotes. By far the greatest number of conflicts between humans and coyotes are those in which the animal has become habituated to a residential area by the behavior of human beings. Nine times out of ten, these problems arise because people have attracted the coyote by giving it access to food or shelter. Giving a wild animal food is never a good idea. Fortunately, most of these situations are easily prevented or corrected by removing food sources and access to shelter.⁴⁴

Furthermore, common arguments about the impacts of predator-livestock conflict are widely exaggerated. According to the U.S. Department of Agriculture (“USDA”), only 0.39% of cattle and sheep losses were attributable to any species of carnivores (including coyotes, wolves, unknown predators, and dogs).⁴⁵ The North Carolina Wildlife Resources Commission has noted that based on USDA data dogs pose an equal or greater risk to sheep, goats, and

complaints and hunter take, 21 *Ursus* 30 (2010); K.A. Peebles et al., *Effects of remedial sport hunting on cougar complaints and livestock depredations*, 8 *PloS ONE* e79713 (2013). Available at:

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0079713>; R.B. Wielgus and K. A. Peebles, *Effects of Wolf Mortality on Livestock Depredations*, 9 *PLoS ONE* e113505 (2014).

⁴² F. F. Knowlton, et al., *Coyote Depredation Control: An Interface between Biology and Management*, 52 *J. of Range Mgmt.* 398, 403 (1999). Available at:

<https://pdfs.semanticscholar.org/43f7/3adf647447dd472db69c0b4712f1c71fab33.pdf>; B. R. Mitchell et al., *Coyote Depredation Management: Current Methods and Research Needs*, 32 *Wildlife Society Bulletin* 1209 (2004).

⁴³ At <https://extension.oregonstate.edu/animals-livestock/sheep-goats/using-coyotes-protect-livestock-wait-what>

⁴⁴ “Living with Wildlife: Coyotes,” Oregon Department of Fish and Wildlife, https://www.dfw.state.or.us/wildlife/living_with/docs/living_with_coyotes.pdf

⁴⁵ See U.S. Dept. Agriculture, *Cattle and Calves Death Loss in the United States Due to Predator and Nonpredator Causes*, 2015 (2015). Available at:

https://www.aphis.usda.gov/animal_health/nahms/general/downloads/cattle_calves_deathloss_2015.pdf; U.S. Dept. Agriculture, *Sheep and Lamb Predator and Nonpredator Death Loss in the United States*, 2015 (2015). Available at:

https://www.aphis.usda.gov/animal_health/nahms/sheep/downloads/sheepdeath/SheepDeathLoss2015.pdf

cattle when compared to coyotes.⁴⁶ Disease, illness, birthing problems, and weather constitute the overwhelming cause of livestock mortality.⁴⁷

Prevention—not lethal control—is the best method for minimizing conflicts with coyotes.⁴⁸ Eliminating access to easy food sources, such as bird seed and garbage, supervising dogs while outside, and keeping cats indoors reduces conflicts with pets and humans. Practicing good animal husbandry and using strategic nonlethal predator control methods to protect livestock (such as electric fences, guard animals, and removing dead livestock) are more effective than lethal control in addressing coyote-human conflicts.⁴⁹

d. Coyote Killing Contests Do Not Increase Populations of Game Animals

The best available science indicates that indiscriminately killing coyotes is not an effective method for increasing game species abundance.⁵⁰ Rather, the most important management tools to increase game species are to decrease harvest of female ungulates⁵¹ and protection of habitat.⁵² In light of that science, many state commissions and agencies, including those in Illinois, Louisiana, Missouri, New York, North Carolina, Pennsylvania, South Carolina,

⁴⁶ North Carolina Wildlife Resources Commission, Coyote Management Plan 10 (2018).

⁴⁷ Id.

⁴⁸ Fox, C.H. and C.M. Papouchis. 2005. Coyotes in Our Midst: Coexisting with an Adaptable and Resilient Carnivore. Animal Protection Institute, Sacramento, California.

⁴⁹ Adrian Treves et al., Forecasting Environmental Hazards and the Application of Risk Maps to Predator Attacks on Livestock, *BioScience* 61, no. 6 (2011); Philip J. Baker et al., Terrestrial Carnivores and Human Food Production: Impact and Management, *Mammal Review* 38, (2008); A. Treves and K. U. Karanth, Human-Carnivore Conflict and Perspectives on Carnivore Management Worldwide, *Conservation Biology* 17, no. 6 (2003); J. A. Shivik, A. Treves, and P. Callahan, Nonlethal Techniques for Managing Predation: Primary and Secondary Repellents, *Conservation Biology* 17, no. 6 (2003); N. J. Lance et al., Biological, Technical, and Social Aspects of Applying Electrified Fladry for Livestock Protection from Wolves (*Canis Lupus*), *Wildlife Research* 37, no. 8 (2010); Andrea Morehouse and Mark Boyce, From Venison to Beef: Seasonal Changes in Wolf Diet Composition in a Livestock Grazing Environment, *Frontiers in Ecology and the Environment* 9, no. 8 (2011).

⁵⁰ Melodie Edwards: “Killing Coyotes Is Not As Effective As Once Thought, Researchers Say.” Wyoming Public Radio, June 14, 2019. <https://www.npr.org/2019/06/14/730056855/killing-coyotes-is-not-as-effective-as-once-thought-researchers-say>

⁵¹ C.A. DeYoung, *Population dynamics*, in *Biology and Management of Whitetailed Deer* 147 (D. G. Hewitt, ed. 2011); J.C. Kilgo, et al, *Coyote removal, understory cover, and survival of white-tailed deer neonates*, 78 J. Wildlife Mgmt. 1261 (2014); North Carolina Wildlife Resources Commission, *Evaluation of Deer Hunting Seasons and Structures and Deer Management Units in North Carolina* (2015). Available at: <http://www.ncwildlife.org/Portals/0/Regs/Documents/Evaluation-of-Deer-Hunting-Seasons-and-Mgt-Units.pdf>.

⁵² C.J. Bishop, et al., *Effect of Enhanced Nutrition on Mule Deer Population Rate of Change*, 172 Wildlife Monographs 1 (2009). Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=27710&inline=true>; Hurley, M. A., et al., *Demographic Response of Mule Deer to Experimental Reduction of Coyotes and Mountain Lions in Southeastern Idaho*, 178 Wildlife Monographs 1 (2011).; T.D. Forrester and H. U. Wittmer, *A review of the population dynamics of mule deer and black-tailed deer *Odocoileus hemionus* in North America*, 43 Mammal Review 292 (2013); K.L. Monteith, et al., *Life-history characteristics of mule deer: Effects of nutrition in a variable environment*, 186 Wildlife Monographs 1 (2014).

Vermont, West Virginia, and Wyoming, have concluded that reducing predator numbers will not enhance populations of ungulates, small game animals, and game birds.⁵³ For example, the Pennsylvania Game Commission found: “the agency finally accepted the reality that predator control does not work. . . . To pretend that predator control can return small game hunting to the state is a false prophecy . . . [Predators] don’t compete with our hunters for game.”⁵⁴ In addressing wildlife killing contests, the Vermont Fish & Wildlife Department similarly stated: “we do not believe such short-term hunts will . . . bolster populations of deer or other game species.”⁵⁵ Regarding the effect of coyote control on deer and game bird populations specifically, the New York State Department of Environmental Conservation found that “random removal of coyotes resulting from a year-round hunting season will not . . . result in an increase in deer densities.”⁵⁶

In a 2014 deer harvest report, the South Carolina Department of Natural Resources concluded that trying to control coyotes to manage deer predation was ineffective.⁵⁷ North Carolina researchers evaluated deer harvest numbers in South Carolina, North Carolina, Ohio, Florida, New Jersey, and New York and found that coyotes are not limiting deer numbers in those states, and that coyote removal programs do little to increase regional deer numbers.⁵⁸ The West Virginia Department of Natural Resources has found: “[p]redator control of coyotes because of wildlife predation is unwarranted and unnecessary.”⁵⁹ Regarding game birds, the North Carolina Wildlife Resources Commission found that coyotes actually benefit game bird species because they suppress populations of smaller predators and because

⁵³ See, e.g., Illinois Dept. of Natural Resources, Illinois Digest of Hunting and Trapping Regulations: 2018-2019. Available at: <https://www.dnr.illinois.gov/hunting/documents/huntrapdigest.pdf>; Travis Dufour, Living with Coyotes, Louisiana Dept. of Wildlife & Fisheries Wildlife. Available at: http://www.wlf.louisiana.gov/sites/default/files/pdf/publication/34726-living-coyotes-low-res/living_with_coyotes_low-res.pdf; Missouri Dept. of Conservation, Coyote. Available at: <https://nature.mdc.mo.gov/discover-nature/field-guide/coyote>; West Virginia Dept. of Natural Resources, Eastern Coyote Impacts Of The Eastern Coyote On Wildlife Populations. Available at: <http://www.wvdnr.gov/hunting/CoyoteResearch.shtm>; Dave Rippe, Predator Control and Wildlife, Wyoming Game and Fish Dept., Habitat Extension Bulletin: No. 57 (July 1995). Available at: <https://wgfd.wyo.gov/WGFD/media/content/PDF/Habitat/Extension%20Bulletins/B57-Predator-Control-and-Wildlife.pdf>.

⁵⁴ Jeff Mulhollem, *Pennsylvania Game Commissioners Reply to Unified Sportsmen of Pennsylvania on Predator Questions*, Outdoor News (July 33, 2016). Available at: <https://www.outdoornews.com/2016/07/22/pennsylvania-game-commissioners-reply-to-unified-sportsmen-of-pennsylvania-on-predators-questions/>.

⁵⁵ Vermont Fish & Wildlife, Eastern Coyote Issues – A Closer Look (Jan. 2017). Available at: <https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Hunt/trapping/Eastern-Coyote-Position-Statement.pdf>.

⁵⁶ New York State Dept. of Environmental Conservation, The Status and Impact of Eastern Coyotes in Northern New York (June 1991). Available at: <http://www.nysenvirothon.org/Referencesandother/coyotes.pdf>.

⁵⁷ Charles Ruth, 2014 South Carolina Deer Harvest Report, South Carolina Dept. of Natural Resources. Available at: <http://www.dnr.sc.gov/wildlife/deer/2014DeerHarvest.pdf>.

⁵⁸ Eugenia V. Bragina et al., *Effects on white-tailed deer following eastern coyote colonization*, 83 J. of Wildlife Mgmt. 916 (2019).

⁵⁹ West Virginia Dept. of Natural Resources, Impacts of the Eastern Coyote on Wildlife Populations. Available at: <http://wvdnr.gov/hunting/CoyoteResearch.shtm>.

“most coyote diet studies document low to no prevalence of wild turkey or other gamebirds in diets.”⁶⁰ These findings demonstrate that this common rationale for holding coyote killing contests is scientifically unfounded.

e. Coyote Killing Contests Contravene Hunting Principles and Damage the Reputation of Oregon Sportsmen and Sportswomen.

Coyote killing contests also harm the hunting community because they violate fundamental hunting principles. The concept of fair chase is frequently disregarded in these events, and the carcasses of the animals killed are often wasted.⁶¹ Permitting these cruel and wasteful contests could gravely taint the image of Oregon sportsmen and sportswomen and of hunting in general.

State agencies, officials, and professionals in the field of wildlife management have acknowledged the damage that killing contests inflict on the tradition of hunting. Some recent examples include:

- Mike Finley, former chair of the **Oregon Fish and Wildlife Commission**, stated: “Killing large numbers of predators as part of an organized contest or competition is inconsistent with sound, science-based wildlife management and antithetical to the concepts of sportsmanship and fair chase.”⁶² He also called the contests “slaughter fests” and “stomach-turning examples of wanton waste.”⁶³
- In support of a ban on killing contests, Kelly Susewind, director of **Washington State Department of Fish and Wildlife**, said: “part of my job, and frankly part of my soul, is to promote hunting, to get our youth hunting, to really have this be a core piece of what our society supports. And frankly, that job is a lot harder if we’re condoning these types of contests, and for that reason, I personally support this language.”⁶⁴
- Also in support of Washington’s ban on killing contests, **Washington Fish and Wildlife Commission** member Brad Smith said: “I am a hunter, I’ll clarify that, and

⁶⁰ North Carolina Wildlife Resources Commission, Coyote Management Plan 16 (2018).

⁶¹ See KOAT: “Dozens of dead coyotes were left on dirt road in Valencia County.” March 22, 2019 <https://www.koat.com/article/coyote-dumping-ground-found-in-valencia-county/26912997#>; WBTV: “Man charged days after Charlotte neighbors find pile of dozens of dead coyotes behind subdivision.” Feb. 22, 2019 <https://www.wbvtv.com/2019/02/22/charlotte-neighbors-find-pile-dozens-dead-coyotes-behind-subdivision/>; Kitty Block: “Undercover investigation exposes senseless rush to kill coyotes at New York wildlife killing contest.” March 3, 2020 <https://blog.humanesociety.org/2020/03/undercover-investigation-exposes-senseless-rush-to-kill-coyotes-at-new-york-wildlife-killing-contest.html>

⁶² Testimony by Mike Finley to the Oregon Senate Judiciary Committee, March 18, 2019. Available at: <https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/200547>.

⁶³ Todd Wilkinson, *A Death of Ethics: is hunting destroying itself?*, Mountain Journal, Dec. 12, 2018. Available at: <https://mountainjournal.org/hunting-in-america-faces-an-ethical-reckoning>.

⁶⁴ Washington State Fish and Wildlife Commission Meeting, August 1, 2020 <https://www.tvw.org/watch/?eventID=2020081003>

I've never perceived hunting as a contest. I think these are not hunting contests, they're killing contests.”⁶⁵

- Dan Gibbs, hunter and executive director of **Colorado Department of Natural Resources**, stated: “For me, hunting contests don’t sit well. As a sportsman I’d never participate in one personally. Hunting is an important reverent tradition in Colorado and powerful management tool but I also think wildlife killing contests give sportsmen and sportswomen a bad name and damage our reputation.”⁶⁶
- Tony Wasley, hunter, director of the **Nevada Department of Wildlife**, and president of the **Association of Fish and Wildlife Agencies**, said: “Killing contests are ethically upsetting by virtue for most members of society. Hunting should not be a competition as such behavior ultimately degrades the value of life and undermines respect for the animals being hunted ... In my ethics as a hunter I hope to defend a deeper and more profound sense of hunting than what I fear coyote contests say to the general public about hunters and our ethics.”⁶⁷
- In its position statement on wildlife killing contests, **The Wildlife Society**, which promotes science-based management and conservation, urges professionals and managers in the field to “[r]ecognize that while species killed in contests can be legally killed in most states, making a contest of it may undermine the public’s view of ethical hunting.”⁶⁸
- The **Arizona Game and Fish Commission** similarly advised that “[t]o the extent these contests reflect on the overall hunting community, public outrage with these events has the potential to threaten hunting as a legitimate wildlife management function.”⁶⁹
- **Vermont Fish and Wildlife** has stated that “[c]oyote hunting contests are not only ineffective at controlling coyote populations, but these kinds of competitive coyote

⁶⁵ Washington State Fish and Wildlife Commission Meeting, August 1, 2020
<https://www.tvw.org/watch/?eventID=2020081003>

⁶⁶ Colorado Parks and Wildlife Commission Meeting, April 30, 2020
https://www.youtube.com/watch?v=5Vk7x_gx5PY

⁶⁷ 2021 Nevada Department of Wildlife November Wildlife Commission Meeting, Nov. 5, 2021,
https://www.youtube.com/watch?v=ELXWyYLR_f8

⁶⁸ The Wildlife Society: “Issue Statement: Wildlife Killing Contests.” Approved March 7, 2019
https://wildlife.org/wp-content/uploads/2018/05/TWS_IS_WildlifeKillingContest_ApprovedMarch2019.pdf

⁶⁹ Arizona Game and Fish Commission, Notice of Proposed Rulemaking, Title 12. Natural Resources Chapter 4. Available at: <https://s3.amazonaws.com/azgfd-portal-wordpress/azgfd.wp/wp-content/uploads/2019/03/25093742/R12-4-303-NPRM.pdf>.

hunts are raising concerns on the part of the public and could possibly jeopardize the future of hunting and affect access to private lands for all hunters.”⁷⁰

- The **Massachusetts Division of Fisheries and Wildlife** has also concluded that “public controversy over this issue has the potential to threaten predator hunting and undermine public support for hunting in general[.]”⁷¹

Other professionals have similarly acknowledged the lack of sportsmanship and science-based wildlife management principles behind these contests:

- Dr. Robert Wielgus, Bend resident and retired professor of Wildlife Ecology and director of the **Large Carnivore Conservation Lab at Washington State University**: “The use of coyote killing contests for predator control in Oregon is inhumane and ineffective for reducing predation on livestock and game species. The science is unequivocal.”⁷²
- Jim Zieler, hunter and chair of the **Arizona Game & Fish Commission**, said: “There has been a lot of social outcry against this, and you can kind of understand why. It’s difficult to stand up and defend a practice like this. It’s just not enough to say, ‘Science will tell us it doesn’t have a significant impact on the predator population.’”⁷³
- Mike Sutton, hunter and former president of the **California Fish and Game Commission**, states: “Awarding prizes for wildlife killing contests is both unethical and inconsistent with our current understanding of natural systems. Such contests are an anachronism and have no place in modern wildlife management.”⁷⁴
- Ted Chu, former wildlife manager with **Idaho Fish and Game**, has stated: “Hunting is not a contest and it should never be a competitive activity about who can kill the most or the biggest animals.”⁷⁵

⁷⁰ Vermont Fish & Wildlife, Eastern Coyote Issues – A Closer Look (Jan. 2017). Available at: <https://vtfishandwildlife.com/sites/fishandwildlife/files/documents/Hunt/trapping/Eastern-Coyote-Position-Statement.pdf>.

⁷¹ Massachusetts Division of Fisheries and Wildlife, “Proposed Regulations to Ban Predator Contests and Prohibit Wanton Waste,” July 25, 2019 <https://www.mass.gov/news/masswildlife-proposes-regulations-to-ban-predator-contests-and-prohibit-wanton-waste>

⁷² Testimony by Dr. Robert Wielgus to the Oregon Senate Judiciary Committee, May 17, 2019 <https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/205765>.

⁷³ “Coyote-killing contests face growing outrage, state bans,” *Washington Post*, May 17, 2019, <https://www.washingtonpost.com/science/2019/05/17/predator-hunting-contests-face-bans-amid-backlash-several-states/>

⁷⁴ Ted Williams, “Coyote Carnage: The Gruesome Truth about Wildlife Killing Contests,” *Yale Environment* 360, May 22, 2018 <https://e360.yale.edu/features/coyote-carnage-the-gruesome-truth-about-wildlife-killing-contests>.

⁷⁵ Todd Wilkinson, *Shoot biggest wolf, win trophy and cash*, *Jackson Hole News & Guide*, Dec. 18, 2013. Available at: https://www.jhnewsandguide.com/opinion/columnists/the_new_west_todd_wilkinson/article_260cbc66-0bf6-544b-bcf2-b5e9220247bb.html.

- Ray Powell, the former **New Mexico Commissioner of State Lands**, has said: “The non-specific, indiscriminate killing methods used in this commercial and unrestricted coyote killing contest are not about hunting or sound land management. These contests are about personal profit, animal cruelty...It is time to outlaw this highly destructive activity.”⁷⁶
- The late Jim Posewitz, biologist with the **Montana Department of Fish, Wildlife & Parks** and author of *Beyond Fair Chase: The Ethic and Tradition of Hunting* and *Inherit the Hunt: A Journey into American Hunting*: “Competitive killing seems to lack the appreciation of and the respect for wildlife fundamental to any current definition of an ethical hunter.”⁷⁷

These important voices from this field have made clear that coyote killing contests do not only contravene the best available science, but ultimately harm reputation of the State and its hunting community.

VI. CONCLUSION

For the reasons stated above, Petitioners respectfully request that ODFW and the Commission adopt the Proposed Rule as a new regulation at OAR 635-061-0001 *et seq.* We look forward to receiving your response and the initiation of rulemaking proceedings within 90 days of the receipt of this petition.⁷⁸

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⁷⁶ Ray Powell, Letter to Mark Chavez, owner of Gunhawk Firearms, Nov. 15, 2012.

⁷⁷ Karen E. Lange, “Better off alive” All Animals (Sept. 1, 2018) (*available at* <https://www.humanesociety.org/news/better-alive>)

⁷⁸ ORS 183.190(1); OAR 137-001-0070(4)(c).

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