

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
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AND TRIBAL LIAISON

ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701**NOTICE OF PROPOSED RULEMAKING**
INCLUDING STATEMENT OF NEED & FISCAL IMPACTCHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE**FILED**04/22/2024 10:59 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend the Mule Deer Management Plan and Associated Management Objectives for Populations and Buck Ratios

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/14/2024 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.*CONTACT: Roxann Borisch
503-947-6314
roxann.b.borisch@odfw.oregon.gov4034 Fairview Industrial Drive SE
Salem, OR 97302Filed By:
Roxann Borisch
Rules Coordinator

HEARING(S)

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

DATE: 06/14/2024

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

IN-PERSON HEARING DETAILS

ADDRESS: goos oLgi gowa, 35601 Choke Cherry Way, Chiloquin, OR 97624

SPECIAL INSTRUCTIONS:

This hearing will be conducted as a hybrid meeting, providing an opportunity to give testimony either in person or virtually. Additional information regarding participation will be posted on our website at www.dfw.state.or.us/agency/commission/minutes/. The meeting can be viewed at www.youtube.com/user/IEODFW. Any changes to the meeting format (to virtual only if emergency arises) will be posted to our website as soon as possible.

NEED FOR THE RULE(S)

These rule amendments are needed to implement the revised Mule Deer Management Plan.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 6/14/2024.

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. Contact Roxie Borisch at 503-947-6314 or roxann.b.borisch@odfw.oregon.gov to view by appointment between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department has solicited input from representatives of underrepresented communities likely to be affected on whether the proposed rule will have a fiscal impact on the community, the extent of the fiscal impact, and whether the rules will have significant impact on underrepresented communities. <https://www.dfw.state.or.us/OARs/index.asp>

FISCAL AND ECONOMIC IMPACT:

There are expected fiscal impacts as detailed below. There is also a potential for positive long-term economic impacts as a result of the proposed Mule Deer Management Plan.

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

A. The primary state agency affected would be the Oregon Department of Fish and Wildlife (ODFW). Achieving the objectives and goals outlined in the plan will necessitate additional staff research, management activities and policy implementation efforts. Staff time will need to be dedicated to plan implementation; it is anticipated that this workload would be absorbed by existing resources. There are actions needed to meet the goal to “manage mule deer using the best practices and information within the dynamics of changing landscapes and multiple land use practices to enhance recreational opportunities and public values.” ODFW anticipates that investments will need to occur to promote data collection, research, management actions and habitat restoration. Current monitoring efforts will need to be analyzed to better transition to a new monitoring scale and the use of an Integrated Population Model (IPM) approach. Investment in data collection methods such as trail cameras and collaring efforts can better inform population monitoring. Staff time spent on assessment of the best options for population monitoring to collect accurate data in a cost-effective way is a strategy that can help identify methods that ease the transition to IPM. Due to current information constraints, we do not have an estimate of these costs. ODFW intends to leverage existing funds and where additional funding would be needed shift efforts from elsewhere within ODFW, collaborate with partners, seek alternative funding, apply for federal grants, or pursue the collection of fees.

Other state agencies that have the potential to being impacted include the Oregon Department of Transportation (ODOT), Department of Land Conservation and Development (DLCD), Oregon Department of Energy (ODOE), Oregon State Police (OSP), and Department of Justice (DOJ).

ODOT may be impacted as a strategy identified in the updated Mule Deer Management Plan proposes a focus to work collaboratively with federal and state transportation agencies to design and construct wildlife crossing structures. Wildlife crossing structure projects that are placed in priority road crossing areas where high deer-vehicle collisions occur help facilitate migration and safe movement of mule deer and other wildlife across roadways. Projects like this need to have financial and logistic resources for both installation and maintenance.

DLCD and ODOE may be affected as work in the updated Mule Deer Management Plan includes a focus on habitat function and value in land use reviews. Key strategies involve coordination between DLDC and ODFW to update County Goal 5 Programs and reestablish period reviews incorporating the best available data for local mule deer habitats. The best available data for local mule deer habitats and populations also will be factored into decisions related

to proposed energy development.

OSP and DOJ could be affected by updates to the Mule Deer Management Plan that target illegal harvest of mule deer. ODFW plans to coordinate with OSP to improve tracking of reports to OSP on poaching or illegal activity and work to develop metrics. Another Plan strategy includes increasing coverage of the antipoaching campaign as well as the number of Troopers. For DOJ there are efforts that the Special Prosecutor work across jurisdictions with a Deputy District Attorney (DDA) to focus on Oregon poaching cases. Efforts from the Special Prosecutor to develop and offer training for law enforcement on the type of evidence collection that leads prosecutors to successful outcomes is another strategy where the DOJ's efforts are needed.

B. Units of local government have the potential to be indirectly affected by these rules. Changes in the number or distribution of recreational trips in the WMUs impacted by the Mule Deer Management Plan could mean changes in taxes and user fees collected by local government such as excise taxes, hotel/lodging taxes, park user fees, and sales taxes. There is also a potential impact where the Mule Deer Management Plan may affect land use permitting for city and county permit review processes. These types of changes cannot be estimated given limited available data. It is not expected that the adoption of these rules would result in any significant changes from the current levels of any local agencies' operations or expenditures.

C. The public could be affected by the adoption of these rules. The implementation of the Mule Deer Management Plan could affect the number of hunting and wildlife watching trips in the WMU areas with mule deer. Any dramatic changes to the mule deer population and or geographic ranges can also impact the public through changes in property damages to landowners or frequency in vehicle collisions. There are also nonuse values (e.g. existence values) that the public has for mule deer. While we cannot provide a detailed estimate of these values, it is recognized that actions taken today can have a positive impact in the conservation values obtainable for future generations.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);

There is a potential for hunting regulations change and actions related to the goals and objectives set forth in the plan that call for work to be completed in the areas of habitat restoration, research, and management actions. All of these actions could affect small businesses either at the time of adoption or in the future. Overall, the Mule Deer Plan could potentially increase or decrease the impacts to small businesses. The types of small businesses that have the potential to be impacted include recreational hunting guides, food and beverage stores, gas stations, sporting goods stores, general merchandise stores, accommodation businesses, food and drinking places, landowners, and contractors operating in eastern Oregon that depend on revenues from induced economic impacts from recreational hunting and habitat restoration related to mule deer. The number of small businesses with the potential to be affected cannot be estimated.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

No additional administrative/recordkeeping compliance costs to small businesses are anticipated at this time.

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

No additional compliance costs of this type to small businesses are anticipated at this time.

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

Active involvement of stakeholders includes small business primarily those involved in local hunting industries, and

landowners or ranchers. Testimony from hunting sectors included concerns about declining populations and associated declines in revenue for businesses.

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

The proposed rules were developed without a formal Administrative Rule Advisory Committee but did rely on a public process with active public engagement efforts. ODFW delivered a series of webinars informing the public about what is included in each chapter of the plan and giving participants opportunities to engage in live question and answer sessions. All draft chapters of the plan were posted and available for public review and comment. Public feedback on the plan was collected through an online comment submission portal. Upon completion of a combined document, three open, public meetings were held, and comment was accepted in person, via online submission, and via direct email submission. Further public correspondence and testimony is accepted into the record as part of the rulemaking process at the Commission hearing.

RULES PROPOSED:

635-190-0000, 635-190-0010, 635-190-0020

AMEND: 635-190-0000

RULE SUMMARY: These rule amendments relate to the implementation of the revised Mule Deer Management Plan. The rules establish a goal to "Manage mule deer using the best practices and information within the dynamics of changing landscapes and multiple land use practices to enhance recreational opportunities and public values" with six objectives to guide implementation toward said goal. Specific management issues and associated management strategies are adopted in furtherance of this goal and associated objectives. Additionally, revised management objectives for population performance and structure are adopted as metrics of success attaining the desired goal and objectives. The plan will provide management and conservation guidance for the entirety of the species' distribution in defined herd ranges in eastern Oregon.

CHANGES TO RULE:

635-190-0000

Mule Deer Management Plan Content and Purpose ¶

The document entitled "Oregon M(1) The goal for mule deer management in Oregon is to Manage mule Deer Management Plan" dated February 2003 is incorporated by reference into these rules. Copies of the plan are available through the Department. The plan provides program direction, identifies objectives, and outline strategies to fulfill using the best practices and information within the dynamics of changing landscapes and multiple land use practices to enhance recreational opportunities and public values.¶

(2) Objectives to accomplish this goal are to:¶

(a) Define and implement herd ranges as the basis for mule deer management across their range in eastern Oregon.¶

(b) Inform management decisions for mule deer using rigorous methods for monitoring populations while accounting for changing habitat conditions and other impacts to populations at the herd management, research, and habitat needs. Together with the rules establishing deer seasons, this plan establishes the framework and the implementation of the Department's mule deer program. The Commission will review the scale.¶

(c) Maintain and enhance mule deer habitats in partnership with landowners and land managers such that overall conditions for mule deer are maintained or improved on summer use areas and winter ranges.¶

(d) Manage mule deer populations such that overall numbers are consistent with available habitat conditions while accounting for social tolerance and public attitudes towards mule deer.¶

(e) Manage harvest of mule deer at biologically sound levels.¶

(f) Provide for optimum consumptive and non-consumptive recreational uses of the resource.¶

(3) Chapter 13 (Issues and Strategies) of the 2024 Oregon Mule Deer Management Plan when the Commission deems it necessary identifies issues facing mule deer and strategies to address these issues is incorporated here by

reference into administrative rule.

Statutory/Other Authority: ORS ~~183, 496~~496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS ~~183, 496~~496.012, 496.138, 496.146, 496.162

AMEND: 635-190-0010

RULE SUMMARY: These rule amendments relate to the implementation of the revised Mule Deer Management Plan. The rules establish a goal to "Manage mule deer using the best practices and information within the dynamics of changing landscapes and multiple land use practices to enhance recreational opportunities and public values" with six objectives to guide implementation toward said goal. Specific management issues and associated management strategies are adopted in furtherance of this goal and associated objectives. Additionally, revised management objectives for population performance and structure are adopted as metrics of success attaining the desired goal and objectives. The plan will provide management and conservation guidance for the entirety of the species' distribution in defined herd ranges in eastern Oregon.

CHANGES TO RULE:

635-190-0010

Plan Objectives for Mule Deer Management ¶

~~The table entitled 1, "2016-24 Mule Deer Winter Population and Management Objectives" and Table 2, "2024 Buck Ratio Management Objectives (MO)" is incorporated by reference as part of Appendix 1 of the 2024 Oregon Mule Deer Management Plan is incorporated here by reference into administrative rule.~~

Statutory/Other Authority: ~~ORS 183, 496~~496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ~~ORS 183, 496~~496.012, 496.138, 496.146, 496.162

AMEND: 635-190-0020

RULE SUMMARY: These rule amendments relate to the implementation of the revised Mule Deer Management Plan. The rules establish a goal to "Manage mule deer using the best practices and information within the dynamics of changing landscapes and multiple land use practices to enhance recreational opportunities and public values" with six objectives to guide implementation toward said goal. Specific management issues and associated management strategies are adopted in furtherance of this goal and associated objectives. Additionally, revised management objectives for population performance and structure are adopted as metrics of success attaining the desired goal and objectives. The plan will provide management and conservation guidance for the entirety of the species' distribution in defined herd ranges in eastern Oregon.

CHANGES TO RULE:

635-190-0020

Plan Implementation ¶

~~Text available via filing PDF that is stored in ORMS~~ Reserve number

Statutory/Other Authority: ORS 183, ORS 496

Statutes/Other Implemented: ORS 183, ORS 496