



AGENDA ITEM SUMMARY

BACKGROUND

Currently, beavers are dually classified in Oregon Revised Statute (ORS). In the wildlife section of statute, beaver are classified as a “fur-bearing mammal” (ORS 496.004) and in the agriculture section of statute, rodents, including beaver, are classified as “predatory animals” (ORS 610.002). This dual classification results in the Oregon Department of Fish and Wildlife (department) having responsibility for managing beaver populations in the state and for regulating beaver harvest through the furbearer hunting and trapping regulations. However, as a predatory animal, landowners and their agents have been able to take beaver on their property without regard to the established harvest seasons and without a permit or a requirement to report the take to the department.

ORS 498.012 addresses landowner take of wildlife that is causing damage, poses a public health risk, or is a public nuisance. ORS 498.012(1) states, in part, that “nothing in the wildlife laws is intended to prevent any person from taking any wildlife that is causing damage, is a public nuisance or poses a public health risk on land that the person owns or lawfully occupies.” This section goes on to state that a person shall not take any fur-bearing mammals at a time or circumstance when such taking is prohibited by the Commission unless the person first obtains a permit allowing the taking.

Take permits may be issued allowing landowners to take furbearers outside of established harvest seasons when the furbearer is causing damage, creating a public nuisance, or posing a public health risk on land the person owns or lawfully occupies. The department maintains records of complaints received, take permits issued, and animals killed, captured, or relocated pursuant to permits issued. There is no fee charged for these permits. Because of the dual classification status of beaver, a landowner is not required to obtain a permit to lethally take beaver as a *predatory* animal and there is no requirement to report take.

The department administers and regulates a permitting program for individuals and businesses that charge a fee to control furbearers and unprotected mammals causing damage, creating a public nuisance, or posing a public health or safety concern. These permittees are referred to as Wildlife Control Operators (WCO). Applicants for a WCO permit must successfully pass a knowledge and competency test prior to issuance of the permit. Permittees are required to submit activity reports twice per year and must either complete 12 hours of department-approved continuing education or retake the WCO test every two years in order to renew their permit. Administrative rules regulate the activities that may be conducted by a WCO including defining which species that may be lethally taken, which species may be relocated, and establishing euthanasia standards when killing wildlife. Currently, a WCO permit is not required for a person acting as agent of a landowner to take beaver as a *predatory* animal, even when a fee is charged, provided the beaver is not captured alive and held or transported off the landowner’s property.

The passage of Senate Bill 1501 (2022), commonly referred to as the Private Forest Accord, resulted in a number of changes related to the take of beaver on private forestland in Oregon. The Private Forest Accord did not change the dual classification of beaver as both a fur-bearing mammal and predatory animal but did establish a requirement that all take of beaver on private

forestlands must be reported to the department. Additionally, owners of large private forestlands, which are forestlands whose owner owns 5,000 acres or more of forestland, may only take beaver that damage or threaten infrastructure. If the threat to infrastructure is not an imminent threat, the landowner may not take a beaver unless they have first requested the department address the threat to infrastructure and 30 days have passed after making the request. The Private Forest Accord included funding and position authority for the department for two beaver biologist to assist with this work.

House Bill (HB) 3464 was passed during the 2023 Oregon Legislative Session. This bill eliminates the dual classification of beavers and establishes a process to permit take of beaver through the following requirements:

- The bill requires a landowner to first obtain a permit if they desire to take a beaver due to damage, public nuisance, or public health risk.
- The bill requires the Fish and Wildlife Commission (Commission) to pass beaver take permit rules before December 31, 2024.
- The bill removes beaver from the *predatory* animal classification upon Commission adoption of the take permit rules.
- The rules must require reporting of beaver take, address the take of beaver that occurs on private land, and address the taking of beaver outside the authorized trapping seasons.
- In adopting the rules, the Commission must consider ways to encourage coexistence with beavers, the use of tools to manage or prevent damage caused by beavers, whether to require reporting of beaver take, and under which conditions to authorize a person to take beaver without a permit if the beaver is causing damage to property or infrastructure.
- The bill establishes circumstances when take must be allowed without a permit.

PUBLIC INVOLVEMENT

The adoption of beaver take permit rules is a requirement of HB 3464, which passed during the 2023 Oregon Legislative Session. The bill was discussed extensively and public testimony was provided through multiple hearings in the House and Senate. Written testimony on the bill can be found at <https://olis.oregonlegislature.gov/liz/2023R1/Measures/Testimony/HB3464>. Following bill passage, department staff discussed draft administrative rule language with supporters of the bill on multiple occasions.

- In anticipation of the Commission consideration of the proposed rules, the department published notice of the proposed rulemaking (Attachment 2).
- Department staff presented an overview of the changes in statute and proposed rules at the May 28 meeting of the Beaver Action Plan Partnership.
- Additionally, the public has an opportunity to provide comment prior to (in writing) or (orally) during the hearing that occurs at the Commission meeting.

ISSUE

Adoption of beaver take permit rules.

ANALYSIS

Beavers fill an important ecological role in Oregon. Beaver modifications to habitats, through actions such as dam building, can improve wetland habitat and stream flows during critical times of the year, providing benefit to fish and amphibians as well as benefits to riparian vegetation and associated terrestrial wildlife species. Numerous department conservation and recovery plans, including the Oregon Conservation Strategy, recognize the importance of beaver and beaver modified habitats to the conservation of fish and wildlife species.

The department developed and is implementing ODFW's Action Plan for Beaver Modified Landscapes (Plan). The Plan outlines specific goals and actions the department is implementing over 36 months (August 2022 – 2025) to protect and restore beaver habitat and beaver-modified habitat. Achieving landscape-scale restoration of beaver-modified habitat will take many years but through the implementation of the Plan, the department seeks to gain a better understanding of beaver distribution and opportunities to uplift beaver-modified habitat, and to accelerate progress towards restoring beaver-modified landscape. Implementation of the Plan is coordinated across the department's divisions.

Despite the many ecological benefits beaver can provide, at times beaver activity can create conflict with people, including conflicts with agriculture, forestry, and infrastructure such as roads and culverts. Beaver dams may flood crops and fields or plug culverts and threaten the integrity of roads. Beavers can threaten the structural integrity of dikes, levees, and ditch banks when excavating dens. As an herbivore, beaver foraging activities can directly impact agriculture and forest crops as well as landscaping trees and shrubs.

Modifications to ORS 498.012 through the passage of HB 3464 (2023) require the Commission to pass beaver take permit rules before December 31, 2024. Upon adoption of these rules, provisions of the bill removing beaver from the definition of "predatory animals" in ORS 610.002 will be enacted resulting in beavers solely classified as a fur-bearing mammal. Enacting the requirements of HB 3464 (2023) require the adoption of new administrative rules as well as modification to existing rules regulating take of predatory animals, WCO activities, and disposition of wildlife taken on damage.

Staff is proposing administrative rule language for Commission consideration to enact the provisions of HB 3464 (2023).

Staff proposed rules include the exceptions specified in HB 3464 (2023) that allow a person to take a beaver without a permit under certain circumstances. A permit is not required prior to the taking of a beaver if the beaver damages or imminently threatens infrastructure or agricultural crops. Additionally, a permit may not be required for the owner of small forestland to take a beaver if the beaver has caused damage or has the potential to cause damage. The Private Forest Accord establishes the definition of small and large forestland owners. The permit exceptions in the staff proposed rules are consistent with both HB 3464 (2023) and the Private Forest Accord.

The Commission may adopt additional permit exceptions under which a person would be authorized to take a beaver without a permit if the beaver is causing damage to property or infrastructure. Staff is not recommending permit exceptions beyond those specifically required by the bill. Landowners experiencing damage not covered by these exceptions can contact their local department office for advice or to obtain a take permit. In situations where acute damage is discovered on weekends or outside department business hours, landowners that desire an immediate response will have the option to hire a permitted WCO. WCO contact information is posted on the department website.

The staff proposed rules include a requirement that beaver take, both pursuant to a take permit and in situations where a permit is not required, must be reported to the department, including reporting the location at the subwatershed scale. Currently, the department's damage complaint database accommodates locations to the Hydrologic Unit Code 8 (HUC 8) subwatershed scale. Location data at this scale supports the department's desire for a better understanding of beaver distribution in the state. WCO activity reports must be submitted on the form provided by the department including the name and addresses of each landowner. Staff have authority to modify the report form to ensure location can be recorded to the subwatershed scale without a change to the WCO rules.

In adoption of the take permit rules, the Commission must consider ways to encourage coexistence with beaver and the use of tools to manage or prevent damage. The requirement for landowners to obtain a take permit or to report take to the department in instances where a permit is not required provides an opportunity for department staff to directly engage with landowners experiencing conflict with beaver and to provide education regarding tools for damage prevention. Lethal take may be a necessary to resolve acute conflict situations and limit financial loss, but in many situations, the conditions that attracted a beaver to the site will likely attract beavers to the site in the future if those conditions continue to exist.

The department will advise landowners and provide a damage prevention informational handout along with any take permits issued. This handout will encourage the use of conflict deterrent tools with a link to the department's webpage for more information. Directing landowners to the department webpage will allow for information to be updated, including emerging opportunities for funding and technical assistance from partners.

Staff proposed changes to WCO rules would require WCOs to provide the landowner or land manager with a copy of the department's damage prevention informational handout when responding to beaver complaints. This will ensure landowners that may not have direct contact with department staff will have access to information and resources related to conflict deterrent tools. Additional proposed changes to WCO rules incorporate the take permit exceptions required by HB 3464 (2023) and address the removal of beaver from the predatory animal classification.

Staff proposed changes to the rules regarding the disposition of wildlife taken on damage specify that disposition of beaver taken for damage shall be disposed of as directed by the department with a priority for scientific, enforcement, or educational uses. The department would have the option of allowing a landowner to keep a carcass, including the pelt, for personal use. For beavers taken on private forestland due to threats to infrastructure, the landowner would be allowed to retain the carcass which is consistent with provisions in the Private Forest Accord.

OPTIONS

1. Adopt staff recommendations.
2. Amend staff recommendations.
3. Reject staff recommendations.

STAFF RECOMMENDATION

1. Option 1.

DRAFT MOTION:

I move to amend Oregon Administrative Rule Divisions 002, 043, 045, and 435 as proposed by staff.

Effective Date: *Upon Filing*