

# Summary of Information Provided to the Commission on Predator Trap Check Requirements

October 10, 2003

## Introduction

Potential trap check requirements were discussed at the July 11, 2003 (Portland) and September 12, 2003 (Salem) Commission meetings. During the July meeting, staff was asked to initiate rule making and return with recommendations on trap check requirements for predators. Staff presented a briefing to the Commission on September 12 and will present recommendations at the October Commission meeting in Roseburg.

Trap check requirements for furbearers (48 hours) is easy to understand and enforce. However, trap check requirements for predators (on a regular basis) does not identify a specific time interval between trap checks. This has caused confusion for trappers, law enforcement personnel and others. Discussions held during legislative committee meetings indicated that some legislatures expected the Commission to define "on a regular basis".

The following information will identify statutory and administrative rule differences between furbearers and predators, provide information developed by a legislatively appointed task force, summarize trap check information from other western states and identify the Commission's authority to regulate trap check periods.

## Narrative

Historically, the Commission adopted Oregon Administrative Rules (OAR) establishing trap check times; 48 hours for furbearers and no trap check requirements for predators. During the 2001 Legislative Session House Bill (HB) 3147 was adopted that established in statute, a 48-hour trap check for traps set for furbearing mammals and a trap check of "on a regular basis" for traps set for predators. The associated statute (Oregon Revised Statute (ORS) 498.172)) affects two different groups of wildlife; furbearers and predators. The following identify relative statutes, administrative rules and authorities associated with each group.

### Predators

- Predators are defined by statute (ORS 610.002) as feral swine, coyotes, rabbits, rodents and birds that are or may be destructive to agricultural crops, excluding game birds.
- ORS 610.105 allows a landowner or his agent to take whatever means appropriate to control predators when their presence becomes known. This may include poisoning, hunting or trapping.
- Trap check requirements for predators established by HB 3147 are "on a regular basis" for both restraining and killing traps.
- Legal counsel has advised that the Commission has the authority, through the normal rule making process to define "on a regular basis".
- Separating trap check intervals between restraining and killing traps is within the Commission's authority as long as a time is established for each category.

### Furbearers

- Furbearers are defined by statute (ORS 496.004(8)) as beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox and gray fox.
- ORS 498.012 allows a landowner or lawfully occupant the ability to take wildlife causing damage to land, livestock, agricultural or forest crops, provided they acquire a permit from ODFW. Except black bear, cougar, bobcat and red fox may be taken without a permit.

- ORS 498.172 establishes trap check requirements for furbearers at 48 hours. This time interval applies to restraining and killing traps set for any furbearer listed above, except fisher, which have no open season.
- Department of Justice has advised that the Commission does not have authority to change this requirement. Nor does the Commission have the authority to separate restraining trap check requirements from killing trap check requirements for furbearers.

### Other States

In addition to information from Oregon, staff reviewed other states' regulations. Generally, eastern and mid-western states have shorter trap check periods than western states. There are several reasons why this is the case.

- 1) Eastern/mid-western states trappers harvest mostly raccoons and red fox. Both species have relative small home ranges (averaging 1 sq. mi. and 3 sq. mi. respectively).
- 2) Most western trappers capture coyotes and bobcats. Both have large home ranges (averaging 36 sq. mi. and 40 sq. mi. respectively).
- 3) Trapping techniques differ between raccoon/red fox and coyote/bobcat. Coyotes are more wary of human scent requiring greater intervals between trap visits for effective captures. Frequent visits reduce trap efficiency.
- 4) Road densities are much greater in the eastern/mid-western areas allowing trappers to quickly move between trap sites.
- 5) Population centers (towns and cities) are more frequent in the eastern/mid-western areas increasing the chance of interactions between people, pets and traps and the need for close surveillance.

Trapping regulations were challenged in Arizona, California, Colorado and Washington by initiative petition (Attachment 1). Trap checks in these states were established through a referendum process and have a more restrictive trap check period (24 hours) than any other western state except New Mexico.

Trap checks in the other western states (Alaska, Idaho, Montana, Nevada, New Mexico, Utah and Wyoming) varied from 24 hours (New Mexico) to no requirement (Alaska). The average trap check among western states, including New Mexico but excluding Alaska is 57 hours.

Generally, those states with trap checks set by initiate petitions allow only agency staff to use restraining or killing traps or require a written application be submitted by the landowner when damage has occurred and a permit issued by the state fish and wildlife agency. Staff in Washington believes the one full time position currently reviewing and issuing these permits is inadequate.

### Best Management Practices (BMPs)

The International Association of Fish and Wildlife Agencies (IAFWA), Furbearer Resources Technical Working Group continues to coordinate and act as the central clearinghouse for the BMP process. This represents the most comprehensive study of traps and trapping systems ever undertaken in North America. State wildlife agencies throughout the nation are pursuing the development of BMPs as a way to improve furbearer management programs. BMPs are intended to inform people about traps and trapping systems considered to be state-of-the-art in animal welfare and efficiency.

A BMP is a method to improve an activity or set of activities by developing recommendations based on sound scientific information, while maintaining practicability. They will be based on regional differences in trapping conditions and will describe the best traps and trapping methods for a specific target species or suite of species. Trapping BMPs are intended to be a practical tool for trappers, wildlife biologists, trapper organizations, wildlife agencies, tribal agencies and others interested in improving traps and trapping systems. BMPs consist of suggestions, guidelines and a list of traps to consider when trapping specific species in certain regions of the United States.

### Best Management Practices Task Force (Task Force)

The 2001 Legislature created a five-member Best Management Practices Task Force. Membership was as follows: two members appointed by the Speaker of the House of Representatives (Rod Harder and Tally Patton), two members appointed by the President of the Senate (Jeff Rosenblad and Bob Gilman) and the Dean of the College of Veterinary Medicine, Oregon State University or his designee (Dr. Kelvin Koong). Dr Koong served as the chair. The Task Force was charged with reviewing the trapping practices of various states and best management practices developed by the International Association of Fish and Wildlife Agencies, and submitting specific legislative recommendations for modifying trapping regulations in Oregon. Those recommendations were presented to the 72<sup>nd</sup> Oregon Legislative Assembly on January 31, 2003.

One of the six recommendations presented to the legislature was to define "on a regular basis" to be 76-hours for predators captured in restraining trap types. In the development of this recommendation the Task Force reviewed trapping regulations from other western states, current trapping regulations in Oregon and information from the International Association of Fish and Wildlife Agencies. In addition, the Task Force held several public meetings. Citizens, federal and state agencies, wildlife control organizations, Oregon Forest Industry Council, Oregon Cattlemen's Association, Conservation Groups and timberland owners and managers all contributed to the discussion.

Of the several groups who provided written or oral testimony, trap check times that were recommended varied; 24 hours, 48 hours, 76 hours, 82 hours, 7 days, maintaining the current "on a regular basis" and remove all trap check requirements. After reviewing all information presented the Task Force determined a 76-hour trap check to be an appropriate compromise. In practical application there has never been a trap check requirement for predators in Oregon. Establishing a 76 hour trap check will place restrictions on landowners, regulated trapper, private animal control agents and federal Wildlife Service personnel not required before.

By establishing a 76-hour trap check for predators, traps can be checked three times per week (e.g., Sunday, Tuesday, and Thursday or Monday, Wednesday and Friday). This is believed to be a reasonable compromise because it reduces trap check times from an indefinite period to 76-hours. At the same time it allows landowners and their agents the flexibility to check traps three times per week. The additional four hours (i.e.  $72+4=76$ ) will allow animal control officers the opportunity to respond to (e.g. Sunday or Monday) morning emergencies without being in violation. For example: If traps are set for predators and checked at 8 a.m. Thursday and the trapper receives notification at 7 a.m. Sunday that a coyote is captured in a different set, the trapper has the ability to change the order in which traps are checked. This will allow prompt removal of the captured animal, while maintaining the maximum of 76-hour trap check interval.

### Restraining Traps

As part of the International Association of Fish and Wildlife Agencies BMP trap testing program, and in cooperation with the Oregon Furtakers Association, Oregon trappers participated in testing 13 different foothold restraining traps for capture effectiveness, trap selectivity and injury rate for coyotes and bobcats in the Western Region of the United States. Oregon is the only state testing traps from the Western Region. Traps are tested using strict scientific protocol under real trap line conditions. All animals captured are examined and injuries scored by licensed veterinarians using international humane standards. Over 1,000 coyotes have been examined and 97% were found to either have no injuries or low trauma injuries. That information along with other data on selectivity, efficiency, practicality and safety is used to evaluate each trap tested.

The first BMP developed was for trapping coyotes in the Eastern United States, defined as the area east of the Mississippi River. An *ad hoc* group of the Furbearer Resources Technical Working Group is currently drafting the Western Coyote BMP. The anticipated completion date for this document is January 2004. Suggestions contained in a BMP include practices, equipment and techniques that trappers can voluntarily incorporate into their trapline. These practices will improve the welfare of trapped animals, avoid unintended captures of other animals, improve public confidence in trappers and wildlife managers, and maintain public support for trapping and wildlife management.

### Killing Traps

The issue of the humaneness of killing traps has been discussed. Canada and the European Union entered into an agreement that binds Canada to use only traps that have met international humane trapping standards. The Fur Institute of Canada, the national coordinating body for fur related issues was charged with testing killing traps and certifying those that meet the established international standards. Over \$3 million was spent to test traps and evaluate results over the last 10 years. Of those traps tested, 44 different killing traps passed the humane standard and were approved for use by Canadian trappers. Many of these traps, including the 330, 280, 220, 160, 120 and 110 conibear style killing traps are used by Oregon trappers.

Another component of the Task Force recommendation was to not require a trap check for instant kill or drowning sets for predators. In consultation with the Department of Justice, it was determined that ORS 498.172 (Trap Check Requirements) established by HB 3147 would have to be amended by legislative action to allow no trap check requirements for killing sets. However, the Commission does have authority to define "on a regular basis" differently for restraining traps and killing traps. For example, restraining traps set for predators must be checked every 76 hours: instant kill traps or drowning set for predators must be checked every 7 days. Trap check intervals are established for humane issues. Predators captured in killing traps die quickly eliminating the need for shorter trap checks. Mountain beaver, nutria and other rodents, which are classified as predators are usually captured in killing type traps. A longer trap check period for killing traps will allow landowners greater flexibility in responding to damage caused by predators.