

**Staff Summary Excerpt on Trap
Check Regulations for June 2012
Commission**

Attachment 3

2012–2013 and 2013–2014

**Oregon Furbearer
Regulation Proposals**

June 7, 2012

Petition Requesting Specific Regulatory Changes:

On March 8, 2012, the Oregon Fish and Wildlife Commission (Commission) received a petition from the Humane Society of the United States, Predator Defense, Oregon Chapter of the Sierra Club, Audubon Society of Portland, and Cascadia Wildlands (collectively, "Petitioners") requesting amendment of existing regulations (OAR 635-050-0045) and adoption of new regulations regarding the use of traps and snares to take wildlife. Specifically, the Petitioners seek implementation of the following four summarized proposals to revise the trapping regulations:

1. Require all trappers to check their traps and snares every 24 hours;
2. Require trappers to attach tags to their traps and snares with their name and telephone numbers;
3. Prohibit traps and snares on public lands within 100 feet of trails and other premises used by the public; and
4. Require trappers to post clearly visible warning signs within a five-foot radius of their traps and snares on public lands, stating that their devices pose a danger to the safety of humans and animals.

The Commission accepted the Department's recommendation to deny this petition and to direct staff to address the points outlined in the Commission during the June 2012 Commission meeting. This decision was made because the furbearer regulations are amended on a 2-year cycle (each June in even-numbered years) and the Commission was already scheduled to enter into furbearer regulation rulemaking in June, 2012. If the Commission had granted the petition and proceeded with the regularly scheduled rulemaking it would have created a duplicate parallel process with a different timeline. Additionally, OARs adopted by the Commission in June become effective July 1; immediately after the June Commission meeting the Oregon Furbearer Trapping and Hunting Regulations are printed and distributed statewide. The deadline for filing notices for the June Commission meeting was April 12; therefore, there was not a process by which the regularly scheduled rulemaking could be combined with rulemaking related to the petition. These processes would have needed to proceed independently of each other which would result in any regulation changes related to the petition occurring after July 1, potentially during ongoing seasons.

Proposed Revision to Trap-Check Interval

The petitioners requested a change from a 48-hour (or more for predatory animals) trap-check interval to read:

"All traps or snares set or used for the taking of any animal shall be inspected within no more than 24 hours of being set and at least every 24 hours thereafter, and all trapped animals removed. This section shall not apply to the taking of mice, rats, gophers, mountain beavers and moles, upon property owned by the person operating the traps."

The Legislative Assembly passed ORS 498.172 in 2001:

498.172 Trap check requirements.

(1) A person holding a license issued under ORS 497.142 may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hour period.

(2) A person may not set a trap for a predatory animal, as defined in ORS 610.002, without checking the trap on a regular basis.

Also during the 2001 legislative session, HB 3147 was adopted by the Oregon Legislature, and in accordance with the provisions of the bill, a Trapping Best Management Practices Task Force was formed. This Task Force was responsible for reviewing trapping management practices of various states, reviewing the Best Management Practices for Trapping program developed by the U.S. Furbearer Conservation Technical Work Group of the Association of Fish and Wildlife Agencies, and submitting a report to the Oregon Legislature that contains specific legislative recommendations for modifications to trapping regulations in Oregon. Among the recommendations were to maintain the 48-hour trap-check interval for furbearers, but include an exception of a 72-hour interval for killing and drowning sets for furbearers. For “predatory animals” a trap-check interval of at least once during each 76-hour period was recommended except that for instant kill traps or drowning sets, no trap-check time be required.

Under ORS 610.002, the legislature defines predatory animals to include “feral swine, ... coyotes, rabbits, rodents, and birds that are or may be destructive to agricultural crops, products and activities, but excluding game birds and other birds determined by the State Fish and Wildlife Commission to be in need of protection.” During August 2008, the Department of Justice issued an opinion on how the predatory animal statute and the wildlife laws govern beaver (and presumable other predatory animals):

- When a landowner (or lessee, etc. on land upon which they hold a lease or other legal authority) or agent is taking beaver on the landowner’s land, then the predatory animal statutes would govern; but
- In all other situations, the statutes and rules for furbearers would govern.

During 2003, the Department of Justice issued an opinion that defining “on a regular basis” was a responsibility delegated by the legislature to the Commission. The Commission requested formation of a Predator Trap Check Working Group to further address the trap-check period requirement for trapping predatory animals. Members were charged with review of existing and new information, and development of recommendations for staff regarding trap-check requirements. The Department used those recommendations to develop options for Commission consideration, which were presented to the Commission in February 2004. The Commission adopted the current trap-check interval rule at that time.

Prior to the June 2012 Commission meeting, staff collected and received information from 40 states regarding trap-check interval requirements. Of these, 16 (40%) required a trap-check interval of once per 24-hour period (or some variation, such as once per calendar day) without exception. Fourteen (35%) generally had a 24-hour check interval for certain traps or sets (primarily restraining traps), but exceptions for other types of traps, sets, or areas (e.g., lethal traps or sets, remote areas, USDA-Wildlife Services). The remaining 10 (25%) states had trap-

check intervals of 36 hours (2), 72 hours (2), 2–3 days (1), 4 days (1), and no required trap-check interval (2). Neighboring states have diverse regulations related to trap-check requirements. Idaho has a trap-check requirement of once every 72 hours and Nevada has a requirement of once every 4 days; both states exempt USDA-Wildlife Services from trap-check requirements. Montana has a requirement of at least once every 48 hours, Washington has 24 hours for restraining traps and 72 hours for “non-body gripping lethal traps,” and California has daily inspection for all traps.

In summary:

Increasing trap-check requirements would result in significant impacts to trappers, including wildlife control operators, and USDA-Wildlife Services, by limiting the number and distribution of traps that could be maintained because traps may be distributed in such a fashion that they cannot all be checked on the same day. The increased travel cost associated with checking traps every day would also be prohibitive in many situations.

The trap-check exception in the petition for “the taking of mice, rats, gophers, mountain beavers and moles, upon property owned by the person operating the traps” would require all non-landowners (such as landowner agents, wildlife control operators, USDA-Wildlife Services) to adhere to a 24-hour trap-check period for these species.

One outcome of increased trap-check frequency would likely be reduced ability to respond to damage caused by furbearers, predatory animals, and unprotected mammals, resulting in increased property loss in the future. Alternatively, to maintain levels of damage management services near the current level would require increased costs of services.

Major recent legislative and Commission efforts utilized a Task Force and a Working Group to address the topic of trap-check requirements for furbearers, predatory animals, and unprotected mammals. Current trap check periods are based on recommendations from the Task Force and Work Group.

Based on the preceding review, staff proposes no changes to the current trap-check interval requirements.