

COLORADO DEPARTMENT OF AGRICULTURE

Animal Industry Division

8 CCR 1201-12

RULES PERTAINING TO THE CONTROL OF DEPREDATING ANIMALS

Part 1. DEFINITIONS

- 1.1. "Agricultural product" means any plants or animals produced in farming or ranching, including, but not limited to, horticultural, floricultural, viticultural, aquacultural, forestry and vegetable products, dairy, livestock, bees and honey.
- 1.2. "Agricultural resource" means any natural resource relevant to agriculture, including, but not limited to, land, water and the conveyances of water, soil, and growing plants.
- 1.3. "Animal" means coyotes, foxes, bobcats, bears, mountain lions, wolves, beavers, muskrats, raccoons, opossums, and striped skunks, as set forth at § 35-40-100.2(1), C.R.S.
- 1.4. "At risk" means any animal, as defined in § 35-40-100.2(1), C.R.S., that has been designated by the Parks and Wildlife Commission as endangered, threatened, or at risk, pursuant to § 35-40-100.2(1.5) (a), (b), and (c), C.R.S.
- 1.5. "Body grip device" means a mechanical device designed to kill an animal quickly upon capture.
- 1.6. "Cable device trap, aka, snare" means any powered or non-powered device made of stranded steel cable set in a manner that a loop of cable encircles the animal's body or limb to achieve capture.
- 1.7. "Carcass" means the meat and internal organs of game wildlife and domestic animals and does not include bones, hides, or other nonedible parts.
- 1.8. "Commissioner" means the Colorado Commissioner of Agriculture or an employee of the Department as designated by the Commissioner.
- 1.9. "Coursing dog" means a dog that pursues primarily by sight.
- 1.10. "CPW" means the Colorado Division of Parks and Wildlife.
- 1.11. "Decoy dog" means a dog used to distract or lure depredating animals.
- 1.12. "Department" means the Colorado Department of Agriculture.
- 1.13. "Drag" means an object attached to a trap to retard the movement of a trap and to detain an animal.
- 1.14. "Employee" means a person hired or retained by, or under a written or oral contract or cooperative agreement with, a property owner, operator, or lessee to perform services of any

kind. An employee may include, among others, the Wildlife Services, the Department, or any other government agency.

- 1.15. "Enclosed foothold trap" means any mechanical device designed to encapsulate and hold an animal's foot. These foot-encapsulating devices are highly species-selective by design.
- 1.16. "Feral swine" means any species or hybrid of species from the family Suidae (European boar, Eurasian boar, Russian boar, feral hog) or the family Tayassuidae (Javelina and peccary), which possesses one or more morphological characteristic distinguishing it from domestic swine including, but not limited to, an elongated snout, visible tusks, muscular shoulders with small hams and short loins, coarse hair, or a predominant ridge of hair along its back. For the purposes of these Rules, any swine running at large that possesses one or more of the above characteristics, may be presumed to be a feral hog, unless a person has received actual notice that the swine has escaped containment and its return is actively sought.
- 1.17. "Foothold trap, aka, leghold trap" means any mechanical device with jaws designed to catch an animal by the foot.
- 1.18. "Group of animals" means more than a singular animal but not more than a local depredating population of that species. This definition shall not be construed to include an entire species across a county, region or the state.
- 1.19. "Guard dog" means a dog utilized to protect livestock.
- 1.20. "Historically occurred" means damage that has occurred within the past five years by the same species of depredating animal to the same agricultural product or agricultural resource in a given geographic area.
- 1.21. "Identified designee" means a person as specified in Part 2, who is authorized by the property owner, operator, or lessee to control depredating animals.
- 1.22. "Lethal cable device trap" means a cable device trap designed to kill an animal upon capture.
- 1.23. "Livestock" means cattle, sheep, goats, swine, mules, poultry, horses, alternative livestock as defined in § 35-41.5-102(1), C.R.S., and such domesticated animals as fox, mink, marten, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit.
- 1.24. "Live trap (cage or box)" means a mechanical device designed in such a manner that the animal enters the trap through an opening that prevents the animal from exiting.
- 1.25. "Mechanical or spring-powered cable device trap" means a mechanically or spring-powered device that assists in tightening the loop of the cable around the body, foot, or leg of an animal.
- 1.26. "Necessary to prevent" means when, due to the proximity and known conduct or behavior of the depredating species, taking of the depredating animal is necessary to prevent damage to agricultural products that is likely to occur as a result of the depredating animal.
- 1.27. "Nonlethal cable device trap" means a cable device trap with a stopping device designed to prevent strangulation of the species for which the cable device trap is set, or a mechanical or spring-powered cable device trap designed to catch the animal by the body, foot, or leg.

- 1.28. "Non-target" means an animal of a species not intended to be taken.
- 1.29. "Pan tension" means the amount of pressure required to activate a trap, as measured at the center of the pan.
- 1.30. "Predacide" means a state and federally registered pesticide designed to kill predators, but does not include repellents.
- 1.31. "Stake" means a device that anchors a trap in place.
- 1.32. "Trailing dog" means a dog that pursues primarily by smell.
- 1.33. "Traps specifically designed not to kill" means padded, laminated, or off-set steel jawed foothold traps, enclosed foothold, box traps, cage traps, and nonlethal cable device traps as conditioned elsewhere in these regulations.
- 1.34. "Wildlife Services" means the U. S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services.

Part 2.00 IDENTIFIED DESIGNEES

2.1. Qualifications and restrictions

2.1.1. An identified designee shall be an individual who meets the following requirements:

2.1.1.1. Such person shall possess a valid small game or furbearer license issued by the CPW; and

2.1.1.2. Any such person must have received written authorization from the property owner, operator or lessee to control depredating animals. Any such authorization shall: contain the designee's name; contain the name of the property owner, operator or lessee; identify the target depredating animal(s); and specify the time period and geographic area in which the identified designee is authorized to take control measures; and

2.1.1.3. An identified designee shall not pay, nor shall the property owner, operator, or lessee accept payment from an identified designee, for the right to act as an identified designee. Nothing herein prohibits the property owner, operator, or lessee from paying an identified designee for services.

2.1.2. Wildlife Services, the Department, or any other government agency shall not be an identified designee.

Part 3.00 CONTROL OF DEPREDATING ANIMALS EXCEPT BLACK BEARS AND MOUNTAIN LIONS

3.1. An owner or lessee of a parcel of private property, or the employees of such owner or lessee, or an identified designee may use body grip device traps, cable device traps, enclosed foothold device traps and foothold traps on the parcel of private property so long as the following conditions are met as provided by § 33-6-207 (1), C.R.S.:

- 3.1.1. The property is primarily used for commercial livestock or crop production; and
 - 3.1.2. The use of the methods otherwise prohibited by § 33-6-203, C.R.S., occurs only on the property; and
 - 3.1.3. Such use does not exceed one thirty-day period per year for each parcel of private property; and
 - 3.1.4. The owner or lessee can present on-site evidence to CPW that ongoing damage to livestock or crops has not been alleviated by the use of methods other than those prohibited by § 33-6-203, C.R.S.
- 3.2. Foothold Traps
- 3.2.1. All foothold traps set on land must be equipped with:
 - 3.2.1.1. Padded, laminated or offset jaws; and
 - 3.2.1.2. Anchor chains attached to the center of the base plate of the trap; such chain shall have a double swivel mechanism to prevent tangling of the chain; and
 - 3.2.1.3. A spring device which serves as a shock absorber; and
 - 3.2.1.4. When anchored by a stake, a chain of 30 inches or less must be utilized; or
 - 3.2.1.5. When anchored by a drag, a chain of six feet or more must be utilized.
 - 3.2.2. All enclosed foothold traps set on land must be equipped with:
 - 3.2.2.1. A center mounted anchor; and
 - 3.2.2.2. The chain or cable shall have a double swivel mechanism to prevent entanglement; and
 - 3.2.2.3. When anchored by a stake, a chain or cable of 15 inches or less must be utilized, or
 - 3.2.2.4. When anchored by a drag, a chain or cable of six feet or more must be utilized.
 - 3.2.3. All foothold traps with an inside jaw spread of 5 ½ inches or greater and set on land must be equipped with a pan-tension device set to a minimum release pressure of 3 ½ pounds as tested at the center of the pan.
 - 3.2.4. All pads on padded jaw traps must be maintained in good condition so as to effectively minimize injury to the trapped animal.
 - 3.2.5. Foothold traps, enclosed foothold traps, body grip devices, or cable device traps, may not be used within 30 feet of either side of a public trail easement across private lands.
- 3.3. Nonlethal Cable Device Traps

- 3.3.1. Nonlethal cable device traps set on land must be equipped with an in line swivel placed at least one (1) foot from the stake and with a stop designed to restrain furbearers, without suffocation, by preventing the cable device trap from closing to a circumference of not less than 10.5 inches; except stops may be set at a circumference of not less than 8.0 inches in areas and at times when red fox are causing damage to livestock. All cable device traps must break away at a maximum of 350 pounds of pull.
- 3.4. Lethal Cable Device Traps
 - 3.4.1. All lethal cable device traps must break away at a maximum of 350 pounds of pull.
- 3.5. Body Grip Devices
 - 3.5.1. Body grip devices with a maximum jaw spread of 8.5 X 8.5 inches or greater may not be used, except in a water set.
 - 3.5.2. Body grip devices with a maximum jaw spread between 7.0 X 7.0 and 8.5 X 8.5 inches may not be used, except in water sets, when set at least 5 feet above the ground, or when set in devices designed to exclude dogs.
 - 3.5.3. Body grip devices used to take muskrat on land must be a double-spring design and have a maximum jaw spread no greater than 4.5 X 4.5 inches. A single-spring design with a maximum jaw spread no greater than 4.5 X 4.5 inches is permitted for muskrat in submersion sets.
- 3.6. Checking frequencies
 - 3.6.1. All foothold traps, live traps (limited to cage or box traps) and non-lethal cable device traps must be visually checked on site at least three times per week; twice, two days apart and once, three days apart in any seven-day period (any combination of 2-2-3).
 - 3.6.2. All lethal cable device traps, body grip devices, and drowning sets must be visually checked on site at least once every seven days.
 - 3.6.3. Upon checking any animals found in traps specifically designed not to kill shall either be released or humanely killed and removed, as set forth in Parts 4, 5, and 6 below.
- 3.7. Control method restrictions in kit fox and river otter areas
 - 3.7.1. To avoid the taking of river otter, trapping in the areas set forth in 3.7.1.1 through 3.7.1.4 is prohibited except with: a) padded, laminated, or off-set jaw traps; b) body grip devices with a maximum jaw spread less than 7 X 7 inches in size; or c) land or water set cable device traps with a closure size of 16 inch circumference or larger. Provided further that padded, laminated, or off-set jaw traps and cable device traps may not be used in drowning sets.
 - 3.7.1.1. That portion of the Gunnison River and five miles upstream along each of its tributaries in Montrose and Delta Counties from the Black Canyon of the Gunnison National Park downstream to that point where the river meets Highway 92; and all lands within 100 yards of the high water line of this portion of the Gunnison River and all tributaries thereof.

- 3.7.1.2. That portion of the Piedra River upstream from Navajo Reservoir to the headwaters including East Fork and Middle Fork of the Piedra River in Hinsdale and Archuleta Counties and nine miles upstream on the First Fork. This restriction includes the following tributaries: Sand Creek, Weminuche Creek, Little Sand Creek, Williams Creek and all lands within 100 yards of the high water line of the above waters.
- 3.7.1.3. The Dolores River from the McPhee Reservoir downstream to Bed Rock within 100 yards of the high water line.
- 3.7.1.4. The San Juan River from Pagosa Springs downstream to the New Mexico-Colorado state line within 100 yards of the high water line.
- 3.7.2. To avoid the taking of kit fox, all foothold traps used within the area designated in this paragraph must be set with a pan tension device that requires a minimum of 3 ½ pounds of force to activate the trap. Except for water or tree sets, body grip devices are prohibited within the following areas:
 - 3.7.2.1. That portion of Delta, Mesa and Montrose Counties bounded on the north by the Mesa-Garfield County line from the Utah state line east to U.S. Interstate 70; bounded on the east by U.S. Interstate 70 from the Mesa-Garfield County line to Colorado State Highway 65;
 - 3.7.2.2. From Colorado State Highway 65 to its junction with the northern boundary of the Grand Mesa Forest and following the boundary line west, south and then east to its junction with Colorado State Highway 65;
 - 3.7.2.3. From Colorado State Highway 65 to its junction with the Gunnison River; from the Gunnison River to Colorado State Highway 347; from Colorado State Highway 347 to its junction with U.S. Highway 50; and bounded on the south by U.S.
 - 3.7.2.4. Highway 50 from its junction with Colorado State Highway 347 to the Gunnison River; from the Gunnison River to its junction with the Colorado River; from the Colorado River to the Utah state line; and bounded on the west by the Utah state line..
- 3.8. Use of Carcass
 - 3.8.1. Foot hold or lethal traps, lethal or non-lethal cable devices traps, body grip devices, and M-44 devices (a specific predacide device) may not be set within 30 feet of an exposed carcass that is plainly visible from above, except as provided in Part 7.2.2.
- 3.9. Registered Predacides
 - 3.9.1. Predacides may be used on private property by certified APHIS Wildlife Services employees or other certified persons authorized pursuant to the Pesticide Applicators' Act, §35-10-101, C.R.S. and in accordance with the product label directions so long as all of the following conditions are met:
 - 3.9.1.1. The property is primarily used for commercial livestock or crop production; and

- 3.9.1.2. The use of the methods otherwise prohibited by § 33-6-203, C.R.S., occurs only on the owner or lessee's property; and
- 3.9.1.3. Such use does not exceed one thirty-day period per year for each parcel of private property; and
- 3.9.1.4. The owner or lessee can present on-site evidence to CPW that ongoing damage to livestock or crops has not been alleviated by the use of methods other than those prohibited by § 33-6-203, C.R.S.

3.10. Dogs

- 3.10.1. Guard dogs, decoy dogs, coursing dogs, and trailing dogs are allowed. Incidental take by these dogs is not unlawful.

3.11. Aircraft

- 3.11.1. Prior to using aircraft, the person who desires to use the aircraft must make a request in writing to the Commissioner. The Commissioner will approve or disapprove the request. In making this decision, the Commissioner shall consider such factors as, but not limited to, the person's training and expertise in taking depredating animals by aircraft, as well as the geographical location where use is to occur. Any such request shall include proof of landowner permission to fly over and discharge firearms on all property in the defined geographical area.
- 3.11.2. Aircraft may only be utilized for taking depredating coyotes, red fox, and feral swine in areas where depredation by these species has historically occurred or is occurring.
- 3.11.3. The authorization to use aircraft will expire within a specified period of time, as set by the Commissioner. Renewals are at the discretion of the Commissioner.
- 3.11.4. The take of any depredating coyote, red fox, or feral swine by aircraft shall be reported to the Commissioner within 15 days after the authorization to use aircraft expires and shall include all information requested by the Commissioner.

3.12. Artificial light

- 3.12.1. An owner or lessee of a parcel of private property, or the employees of such owner or lessee, or identified designee may use artificial light on private land where depredation has occurred or is occurring.
- 3.12.2. An owner of livestock, or the employees of such owner or lessee, or identified designee may also use artificial light on public lands when taking depredating animals where depredation has occurred or is occurring, except:
 - 3.12.2.1. During the 24-hour period prior to and during any regular deer, elk, or pronghorn rifle season and during the 24-hour period prior to and during the opening weekend of any grouse, pheasant, quail, turkey, or waterfowl season, unless prior authorization is obtained from the Commissioner with notification to CPW; or

3.12.2.2. In any areas where human safety would be jeopardized.

- 3.13. Where documented historical damage has occurred, or is occurring, Wildlife Services is authorized to take depredating animals under this Part 3 to allow effective take of the animal(s) that pose a threat. This authorization may be modified by the Commissioner through written agreements if such modification facilitates effective control measures.

Part 4.00 CAPTURE OF NON-TARGET ANIMAL OR OTHER SPECIES

- 4.1. In the event of live capture of a non-target animal or other species that is not a state or federally identified threatened, endangered, at risk or otherwise protected species, the non-injured animal shall be immediately released. An injured animal shall be quickly and humanely killed or transported to a current CPW-licensed wildlife rehabilitator. If the animal cannot be released without human endangerment, the animal shall be quickly and humanely killed.
- 4.2. If the non-target animal is a state or federally identified threatened, endangered, at risk or otherwise protected species, the following provisions apply:
- 4.2.1. If the non-target animal is uninjured and can be released without human endangerment, the animal shall be immediately released.
- 4.2.2. If the non-target animal cannot be released without human endangerment or is injured refer to applicable state and/or federal law pertaining to other disposition, reporting requirements and penalties. For information regarding federal law, contact the Special Agent in Charge, U.S. Fish and Wildlife Service, Lakewood, CO; for information regarding state law, contact CPW.

Part 5.00 LIVE CAPTURE OF TARGET ANIMALS

- 5.1. If the target depredating animal is taken alive, the animal shall be quickly and humanely killed, or the animal may be relocated if prior approval has been granted by CPW.

Part 6.00 DISPOSITION OF ORPHANED YOUNG OF DEPREDATING ANIMALS

- 6.1. If orphaned young of depredating animals are found, they must be transported to a current CPW-licensed wildlife rehabilitator or quickly and humanely killed.
- 6.2. If orphaned black bear cubs are found before August 1st of their birth year, they shall be either transported to a current CPW-licensed wildlife rehabilitator or quickly and humanely killed; those found after August 1st of their birth year shall be left to survive on their own. Take shall be reported pursuant to Parts 7.4 and 7.5 below.
- 6.3. If orphaned mountain lions are found with obvious spotting they shall be either transported to a current CPW-licensed wildlife rehabilitator or quickly and humanely killed; those without obvious spotting shall be left to survive on their own. Take shall be reported pursuant to Parts 7.4. and 7.5 below.

Part 7.00 CONTROL OF DEPREDATING BLACK BEARS AND MOUNTAIN LIONS

- 7.1. Black bears and mountain lions may be taken by means other than those prohibited by § 33-6-203, C.R.S. by the owners of livestock and their families, employees, agents, and identified designees, and by government agencies and employees pursuant to §§ 33-3-106(3) and 33-4-101.3(4), C.R.S., when it is necessary to prevent the black bears or mountain lions from inflicting death or injury to livestock. In the case of black bears or mountain lions, the phrase “necessary to prevent” as it relates to death or injury to livestock, is limited to the specific black bear(s) or lion(s) that is (are) reasonably believed to pose a threat and is (are) in the proximity, and when damage to livestock is likely to occur or has occurred.
- 7.2. Traps
 - 7.2.1. An owner or lessee of a parcel of private property, or the employees of such owner or lessee, or identified designee may use foothold traps, mechanical or spring-powered foot cable device traps on black bears or mountain lions on his parcel of private property so long as the following conditions are met as provided by § 33-6-207(1), C.R.S.:
 - 7.2.1.1. The property is primarily used for commercial livestock or crop production; and
 - 7.2.1.2. The use of the methods otherwise prohibited by § 33-6-203, C.R.S., occurs only on the owner or lessee’s property; and
 - 7.2.1.3. Such use does not exceed one thirty-day period per year for each parcel of private property; and
 - 7.2.1.4. The owner or lessee can present on-site evidence to CPW that ongoing damage to livestock or crops has not been alleviated by the use of methods other than those prohibited by § 33-6-203, C.R.S.
 - 7.2.2. For the purpose of taking depredating black bears or mountain lions, foothold traps, or mechanical or spring-powered foot cable device traps may be utilized within 30 feet of a carcass.
- 7.3. Where documented historical damage has occurred, Wildlife Services is authorized to take depredating black bears or mountain lions to allow effective take of the animal(s) that pose a threat. This authorization may be modified by the Commissioner through written agreements if such modification facilitates effective control measures.
- 7.4. All take of black bears and mountain lions shall be reported to CPW within five days to allow CPW the opportunity to inspect the depredating animal. Said report shall include any information requested by CPW.
- 7.5. For any black bear or mountain lion taken pursuant to these rules and not taken with a valid CPW license during the applicable season, the carcass shall be left where taken, unless delivered pursuant to Part 7.6. CPW has the responsibility to recover or dispose of the carcass or to allow it to decay.
- 7.6. Owners of agricultural products or resources, their family members, employees, agents and identified designees shall not possess black bears or mountain lions, or the parts thereof, unless taken with a valid CPW license during the applicable season. The following activities shall be permitted up to five days after take:

- 7.6.1. Delivery of the carcass or parts thereof by the person taking the animal to the owner or manager of agricultural products or resources for verification of kill; after verification, the owner or manager shall make the carcass or parts that were delivered available for CPW's recovery and disposal; or
- 7.6.2. Voluntary delivery of said carcass or parts to the CPW.
- 7.7. Black bears or mountain lions may be relocated only by CPW.
- 7.8. Dogs
 - 7.8.1. Guard dogs, decoy dogs, coursing dogs, and trailing dogs are allowed. Incidental take by these dogs is not unlawful.
- 7.9 Artificial Light
 - 7.9.1. An owner or lessee of a parcel of private property, or the employees of such owner or lessee, or identified designee may use artificial light on private land where depredation has occurred or is occurring.
 - 7.9.2. An owner of livestock, or the employees of such owner or lessee, or identified designee may also use artificial light on public lands when taking depredate animals where depredation has occurred or is occurring, except:
 - 7.9.2.1. During the 24-hour period prior to and during any regular deer, elk, or pronghorn rifle season and during the 24-hour period prior to and during the opening weekend of any grouse, pheasant, quail, turkey, or waterfowl season, unless prior authorization is obtained from the Commissioner with notification to CPW; or
 - 7.9.2.2. In any areas where human safety would be jeopardized.

Part 8 TAMPERING WITH TRAPS, cable device traps, CARCASSES OR OTHER DEVICES

It shall be unlawful for any person, except CPW or the Commissioner, to move, remove, damage, or tamper with any trap, carcass or any other device of another person that is being utilized to control depredate animals pursuant to these rules.

Part 9 DISSEMINATION OF INFORMATION ABOUT LAWFUL METHODS OF CONTROL

Owners of agricultural products or resources in Colorado may request from the Department assistance in controlling depredate animals. All persons making such a request shall receive information about preventive measures and lawful non-lethal and lethal methods and devices for the control of such depredate animals. The content, form, and methods of disseminating such assistance and information shall be as directed by the Commissioner and dependent upon adequate staffing and funding.

Part 10 - 11 RESERVED

This copy of the rules is provided as a convenience to the public by the Colorado Department of Agriculture and does not constitute an official publication of these Rules. The official version of these Rules is published by the Office of the Secretary of State in the Colorado Code of Regulations and may be obtained from the following website: <https://www.sos.state.co.us/CCR/Welcome.do>

Part 12.00 STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

The statements of basis and purpose for some rule changes are no longer in the Department files and are presumably in the state archives.

12.1. Dates Unknown

STATEMENT OF BASIS, PURPOSE AND STATUTORY AUTHORITY

These amendments are adopted pursuant to the Predatory Animal Control provisions, §§ 35-40-100.2 through 115, C.R.S. (1995 and 1996 Supp.)

In 1996, the people of the state of Colorado enacted Section 13 of Article XVIII to the Colorado Constitution, commonly known as Amendment 14, which defines prohibited methods of taking wildlife. The legislature, through SB 97-052, enacted legislation to implement Section 13 of Article XVIII of the State Constitution.

The purposes of these amendments are to incorporate Colorado Constitution Article XVIII, Section 13 and SB 97-052 into the restrictions pertaining to state employees and owners of agricultural products or resources and their families, employees, agents, and identified designees for the control of depredating animals, pursuant to section 35-40-101, C.R.S. (1995 And 1996 supp.); correct errata; and renumber provisions as appropriate.

FACTUAL ISSUES ENCOUNTERED WHEN DEVELOPING THESE RULES

Pursuant to SB 97-052, Section 33-6-207(3), the Colorado Commissioner of Agriculture, Department of Agriculture, shall have the authority to adopt and enforce reasonable rules governing trapping, snaring, and poisoning, which rules may include reasonable restrictions on the devices and poisons to be used and the manner of their use.

12.2. September 16, 2013 – Effective November 14, 2013

STATEMENT OF BASIS AND PURPOSE

The amendments to these rules are proposed to the Commissioner of the Colorado Department of Agriculture ("Commissioner") for his adoption pursuant to his authority as set forth in the Predatory Animals Act, § 35-40-101(2)(a), C.R.S.

The purpose of the amendments to these rules is to effect the legislative directive to adopt rules for the control of depredating animals.

Notice has been given to local government agencies and organizations that may be affected by this rulemaking.

SPECIFIC PURPOSE OF THIS RULEMAKING

Many of the changes to this rule are aesthetic, grammatical, or syntactical. For instance, the Commissioner has provided a clarified title to these rules to remove the non-necessary word "amendment" and to conform the name of the rules to the organic, enabling statute. Additionally, the definitions have been re-numbered to account for the lack of an "A" in the previous version.

Within the definitions, this rule change modifies the definitions of “animal” and “at-risk” to comport with their statutory definitions and to remove references to SB 96-197. Because the Colorado Division of Wildlife has changed its name to the Colorado Division of Parks and Wildlife, the definitions section has been amended to provide a new definition for “CPW” and thus to remove “DOW.” Similarly, the term “ADC” for “Animal Damage Control” references an out-dated program that has been replaced by the “Wildlife Services” of the United States Department of Agriculture.

Changes grammatically to the language included an exchange of the relative pronoun “that” for “which” where the pronoun introduced restricted relative clauses. The word “section” was removed in these rules and replaced consistently with its symbol. In other locations where sentences would be more effective with fewer words or more straight-forward language, such changes were made.

The previous rules, in section 7, paragraphs F, G (the second G), and I, text that had been stricken through during the drafting process had subsequently been adopted into the final rule with the strikes-through in the text. This rule change removes all language that had been adopted into the rule with strikes through the language.

As in the definitions, all references to “Division of Wildlife” or “DOW” have been removed and replaced with “Division of Colorado Parks and Wildlife” or “CPW.”

The Commissioner received information that the term “Conibear” is a trade-marked term for a particular brand of body-grip trap. To avoid infringing on a trade mark, these rules remove all references to the word “Conibear” and replace that word with language to describe the particular type of body-grip trap.

This rule removes the paragraph regarding the records of the Department, as the Colorado Open Records Act, §§ 24-72-202 through 24-72-206, C.R.S., articulate what is and what is not a record open to public inspection.

12.3. Adopted – November 7, 2018 – Effective December 30, 2018

Statutory Authority

The amendments to these rules are proposed to the Commissioner of the Colorado Department of Agriculture (“Commissioner”) for his adoption pursuant to his authority as set forth in the Predatory Animals Act, § 35-40-101(2)(a), C.R.S.

Purpose

The purpose of this rule-making is to make the Rules easier to read and understand while updating the Rules to reflect best management practices and align with changes in Colorado Parks and Wildlife’s (“CPW”) regulations. Other changes include clarifying sentences; updating language; and renumbering to make this Rule consistent with other Department Rules.

Factual and Policy Issues in February of 2017, Colorado Parks and Wildlife (CPW) assembled a trapping workgroup consisting of individuals from different branches within the agency as well as from the Colorado Department of Agriculture (CDA), United States Department of Agriculture (USDA), and the Colorado Trappers and Predator Hunters Association (CTPHA). This group was tasked with updating CPW’s trapping regulations to incorporate new industry best management

practices (BMPs), increase animal welfare, and make CPW regulations consistent with those of CDA.

In March of 2018, CDA used the same trapping workgroup to review and update CDA's Rules Pertaining to the Control of Depredating Animals and to bring them into alignment with CPW's recently adopted trapping regulations.

Overall, CPW and CDA relied on the BMPs developed by the Association of Fish and Wildlife Agencies (AFWA) to make these recommended changes. These BMPs were developed based on sound science and research, evaluating traps and trapping methods to increase animal welfare, as well as improve efficiency, species selectivity and safety.

Specific changes

Definitions for "drag"; "lethal body grip device"; "live trap (cage or box)"; and "enclosed foothold trap" were added to provide more clarity and incorporate modern terminology on what these traps are. The terms "leghold"; "snare"; "instant kill body-gripping designed trap"; and "nonlethal snare" were also replaced with the terms "foothold"; "cable device trap"; "body grip device"; and "nonlethal cable device trap" respectively, to align with the language within AFWA's BMPs.

Part 2, B was removed, requiring that identified designees receive prior authorization from the Commissioner before being allowed to take bears or mountain lions. This was impractical to require designees to receive prior authorization in addition to the other requirements including possession restrictions and notification of CPW after any take of bears and lions.

"Identified designees" has been incorporated into the revised Part 3 and new language was added to mirror CPW's updated trapping language, including standards, methods, and BMPs for foothold traps, non-lethal cable devices, lethal cable devices, and body-grip devices. The outdated, redundant, and duplicative language in the former Part 3 was removed.

Part 3.7 is changed to correlate new BMPs, types of traps, and areas of restricted trapping. These changes provide greater clarity as to types of traps, when those traps may be used, and exceptions for prohibited areas.

Part 3.9.1 regarding the use of predacides now references the Pesticide Applicators' Act, § 35-10-101, et seq., the controlling law with regard to pesticide use in Colorado.

Part 3.11.1 now includes that the Commissioner may take into consideration the training of the person who is going to take from aircraft. Knowing what the intended person's training is becomes important to prevent unintentional take and to protect the public.

Rule 3.12 is now broken into two Parts to distinguish the different requirements for use of artificial light on private land versus the use of artificial light on public land.

Part 3.13 was added to clarify that APHIS Wildlife Services is also authorized to take depredating animals pursuant to Part 3. This brings Part 3 into conformity with Part 7.3, which permits APHIS Wildlife Services to take black bears and mountain lions.

The old Part 7.00 H is removed because of its redundancy to 7.00 I, which now becomes the new Part 7.6.

In Part 8 Wildlife Services was removed as an authorized agency that is allowed to move, remove, damage or tamper with any trap that is being used to control depredating animals pursuant to these rules. Wildlife Services does not possess the statutory authority to tamper with traps that are not owned by them.

12.4. Adopted – June 10, 2020 – Effective July 30, 2020

Statutory Authority

The amendments to these rules are proposed to the Commissioner of the Colorado Department of Agriculture (“Commissioner”) for adoption pursuant to authority as set forth in the Predatory Animals Act, § 35-40-101(2)(a) and (c), C.R.S.

Purpose

The purpose of this rule-making is to clarify that dogs may be used as a non-lethal depredation deterrent and that artificial light may be used with all depredating animals, including bears and mountain lions. Other changes include adding additional details to the definition of “Group of animals” and specifying which US Fish and Wildlife Service office should be contacted if a federally protected species is inadvertently captured in a trap specifically designed not to kill.

Factual and Policy Issues

In February of 2017, Colorado Parks and Wildlife (CPW) assembled a trapping workgroup consisting of individuals from different branches within the agency as well as from the Colorado Department of Agriculture (CDA), United States Department of Agriculture (USDA), and the Colorado Trappers and Predator Hunters Association (CTPHA). This group was tasked with updating CPW’s trapping regulations to incorporate new industry best management practices (BMPs), increase animal welfare, and make CPW regulations consistent with those of CDA.

In March of 2018, CDA used the same trapping workgroup to review and update CDA’s Rules Pertaining to the Control of Depredating Animals and to bring them into alignment with CPW’s recently adopted trapping regulations.

In late 2019 CPW changed the name of this working group to the Furharvester Working Group and added additional tasks. CDA used members of this Furharvester Group to review these proposed changes.

Specific changes

The proposed rules re-order the definitions of “enclosed foothold trap” and “employee” to alphabetize them; add “across a county, region or the state” to clarify the definition of “group of animals”; and add “nonlethal cable device traps” into the definition of “traps specifically designed not to kill” because nonlethal cable device traps are by design traps specifically designed not to kill.

A change to Part 3.7.1 removes a grammatically incorrect “a.”

The changes to Part 4.2.2 re-order the words “federal” and “state” for consistency with the rest of the rule; update the title of the US Fish and Wildlife Service employee to be contacted if a federally protected species is captured; and further specify that inquiries regarding federal law

related to the capture of federally protected species be made specifically with the Lakewood, Colorado, office.

The changes to Part 7 add the use of guard dogs, decoy dogs, coursing dogs and trailing dogs as a non-lethal means of hazing potential predatory bears and mountain lions away from livestock. As well, the changes add the use of artificial light as a tool for livestock owners to protect their livestock from depredation by bears and lions.