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TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

DFW 3-2019

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Ceremonial Harvest of Deer, Elk, and Pronghorn by the Burns Paiute Tribe of Oregon

EFFECTIVE DATE: 01/11/2019 THROUGH 07/09/2019

AGENCY APPROVED DATE: 01/11/2019

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Filed By:
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Rules Coordinator

NEED FOR THE RULE(S):

Correct the season dates for Burns Paiute Tribe Ceremonial Harvest Permits for pronghorn antelope.

JUSTIFICATION OF TEMPORARY FILING:

A temporary rule is needed to modify 635-043-0150(3)(e) to correct the annual start date for the pronghorn season. The Department presentation to the Commission and discussions with the Burns Paiute Tribe outlined a season start date of January 1st for all authorized species. There is an error in that date in the adopted and filed OARs. There is not adequate time to go through the normal rulemaking process before the correct season start date and failure to adopt this temporary rule would result in serious prejudice to the Burns Paiute Tribe's authorization to harvest big game for ceremonial and cultural purposes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the rules and the other documents relied upon for this rulemaking are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

AMEND: 635-043-0150

RULE TITLE: Burns Paiute Ceremonial Harvest Permits

RULE SUMMARY: OAR 635-043-0150 (3)(e) establishes permits for the take of deer, elk, and pronghorn along with season dates and hunt area for ceremonial and cultural use by the Burns Paiute Tribe.

RULE TEXT:
Ceremonial harvest permits for use by the Burns Paiute Tribe (the "Tribe").

(1) The Commission authorizes the harvest of deer, elk and pronghorn antelope by members of the Tribe for ceremonial and cultural purposes in accordance with these rules.
(2) Authorization for ceremonial harvest permits will be considered only upon written request from the Tribe.
(3) Authorization for harvest shall specify the season dates, times, locations, and numbers of permits authorized for each species.
(a) Permits authorized shall be provided to the Tribe and may be used only by enrolled members of the Tribe. Each permit shall specify the season dates, times, and location where the permit is valid.
(b) Enrolled Burns Paiute Tribal members using authorized ceremonial harvest permits must carry on their person a valid ceremonial harvest permit, and shall present this document, as well as documents identifying said hunter as a member of the Burns Paiute Tribe, to Department employees or law enforcement personnel upon request.
(c) Enrolled Burns Paiute Tribal members designated to harvest animals using ceremonial harvest permits shall not be required to possess a state hunting license or big game tags in addition to the ceremonial harvest permits authorizing harvest.
(d) In recognition of accepted Tribal custom, the Commission acknowledges that Tribal authorities may designate individuals to harvest animals using these ceremonial harvest permits. The Tribe may designate the number of permits used by enrolled Burns Paiute Tribal members, so long as the total harvest does not exceed the number of ceremonial permits authorized under subsection (e) of these rules.
(e) Pursuant to a request received under subsection (2), the Department shall issue up to eight (8) deer permits with a bag limit of “one deer” up to six (6) elk permits with a bag limit of “one elk”, and up to four (4) pronghorn antelope permits with a bag limit of “one pronghorn”, for ceremonial purposes annually. Season dates are: January 1 through three days before the first day of general archery deer and elk season (inclusive) for deer and elk permits, and January 1 through three days before the first day of the Department pronghorn antelope season (inclusive) in the Silvies and Malheur River WMUs for pronghorn antelope.
(f) Each permit shall be validated immediately upon successful harvest of a designated animal by blacking out in ink, or removing in its entirety, only the month and day of the kill. The permit shall be attached securely to the game mammal in plain sight. The permit shall be kept attached to the carcass, or remain with any parts thereof, so long as the same are preserved.
(g) Ceremonial harvest permits are valid only on federal lands and Burns Paiute Tribal lands (Tribal trust and fee title) in the Silvies Wildlife Management Unit, that portion of the Malheur River Wildlife Management Unit (WMU) that is north of U.S. Highway 20, and the Burns Paiute Tribal property known as the Jonesboro property south of U.S. Highway 20 in the Malheur River WMU. Ceremonial harvest permits cannot be used on private lands and do not authorize trespass upon private lands to access federal or tribal lands where landowner permission has not been obtained. Ceremonial harvest permits do not authorize entry or use on public lands where hunting, access, or discharge of firearms is precluded by any other statute, rule or law.
(h) Methods of take, shooting hours, and other restrictions or limits on hunting methods, weapons and techniques all remain the same as those pertaining to sport harvest during other Commission authorized big game seasons.
(i) If a ceremonial need arises after the end of authorized season dates and a previously issued ceremonial harvest tag from that year was not validated for harvest, the Tribe may request a date extension in writing.
(A) Written request must include the specific ceremonial need as determined by the Tribe, the requested new dates for hunt, and the original tag.
(B) The species on the ceremonial harvest tag cannot be changed.
(C) The Department will consider the request to avoid conflicts with ongoing hunting seasons and may limit the hunt area from the description in (3)(g).
(D) If approved, the local Wildlife District staff from the Department will provide the revalidated tag to the Tribe.
(4) The Tribe shall report all harvest of deer, elk or pronghorn antelope conducted under ceremonial harvest permit to the Department on an annual basis.
(5) Animals harvested under an authorized ceremonial harvest permit may only be used by Tribal members for

ceremonial and cultural purposes. Animals and parts thereof may not be bartered or sold.
(6) Authorization of these ceremonial-hunting permits does not create, convey, modify, limit, impede or imply any tribal legal or treaty entitlement.

STATUTORY/OTHER AUTHORITY: 496.138, ORS 496.012, 496.146, 496.162

STATUTES/OTHER IMPLEMENTED: 496.138, ORS 496.012, 496.146, 496.162