

LEGAL NOTICE



In accordance with Neb. Rev. Stat. 84-907, a public hearing, conducted by the Nebraska Game and Parks Commission, will be held June 22, 2018, at the Midplains Community College Conference Room, located at 512 East B Street, Ogallala, Nebraska, prior to consideration and/or enactment of the following:

Pursuant to the provisions of Neb. Rev. Stat. 37-806, a public hearing will be held at 8:30 a.m., to take public input for Commissioner District 7 regarding the proposed listing and de-listing of State Threatened and Endangered Species.

Pursuant to the provisions of Neb. Rev. Stat. 37-301, 37-308.01, 37-316, 37-412, 37-418, 37-463, 37-465, 37-471, 37-477 through 37-480, 37-483 through 37-485, 37-524, 37-524.01, 37-525, 37-548, 54-2317, a public hearing will be held at 8:45 a.m., to consider amendments to Chapter 4, Wildlife Regulations, Section 008, Keeping Wildlife in Captivity; regarding the prohibition of the importation and possession of Mouflon (*Ovis Ammon*) and Aoudad (*Ammotragus lervia*) or any of their hybrids or subspecies in the following counties after June 22, 2018: Banner, Box Butte, Cheyenne, Dawes, Kimball, Morrill, Scotts Bluff, Sheridan and Sioux counties. There is also guidance provided on grandfathering possession and escape protocol.

Pursuant to the provisions of Neb. Rev. Stat. 37-301, 37-304, 37-308, 37-308.01, 37-314, 37-228, 37-404, 37-405, 37-411, 37-426, 37-452, 37-473, 37-613, a public hearing will be held at 9:00 a.m., to consider amendments to Chapter 4, Wildlife Regulations, Section 037, Mountain Lions; regarding the setting of a season, permits authorized and areas open.

Copies of the proposed regulations and the Fiscal Impact Statement shall be available for public inspection at the Game and Parks Commission office and the Office of the Secretary of State.

James Douglas, Director

DRAFT FISCAL IMPACT STATEMENT

Agency: Nebraska Game and Parks Commission	
Title: 163	Prepared by: Sandra Paice
Chapter: 4	Date prepared: May 17, 2018
Subject: Section <u>037</u> , Mountain Lions	Telephone: 402/471-5432

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	()	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	(X)	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: \$9,600.00 in potential revenue from sale of applications at least equal to the number of permit available.

Political
Subdivision: \$0

Regulated
Public: \$0

If indeterminable, explain why:

TITLE: 163, NEBRASKA GAME AND PARKS COMMISSION

CHAPTER: 4 REGULATIONS Wildlife Regulations, Mountain Lions

ACTION: Amendments to Existing Regulations

EXPLANATORY STATEMENT

Prepared by: Alicia Hardin, Wildlife Division Administrator

The Nebraska Game and Parks Commission is amending the above-referenced regulations as provided by law, and hereby submits this explanatory statement to accompany the regulation and describe their purposes and the changes made during the rule-making process.

- I. Summary: Changes made to existing regulations.
- II. Overview of Purposes and Changes Made

Section 037. Last Date Approved changed. Part 037.01A changes the management unit and boundary description from the Keya Paha unit (no longer exists) to the Pine Ridge unit. Part 037.01B is renumbered to Sub-part 037.01A1 and the management unit and boundary description is changed from the Pine Ridge to the Pine Ridge North Sub-unit. Part 037.01C is renumbered to Sub-part 037.01A2 and the management unit and boundary description is changed from the Prairie unit to the Pine Ridge South Sub-unit. Part 037.01D is deleted.

Part 037.02A changes the management unit and open season dates from the Keya Paha unit (no longer exists) to the Pine Ridge North Sub-unit. Part 037.02B changes the management unit and open season dates from the Pine Ridge unit to the Pine Ridge South Sub-unit. Part 037.02C changes the management unit from the Prairie unit to the Pine Ridge North Sub-unit and the auxiliary season dates are provided. Part 037.02D changes the management unit from the Upper Platte unit to the Pine Ridge South Sub-unit and the auxiliary season dates are provided.

Sub-section 037.03 changes the word "quotas" to "limits" in the title. Part 037.03A changes the management unit from the Keya Paha unit (no longer exists) to the Pine Ridge North Sub-unit and the annual harvest limit is listed. Part 037.03B changes the management unit from the Pine Ridge unit to the Pine Ridge South Sub-unit and the annual harvest limit is listed. Part 037.03C is deleted. Part 037.03D is deleted.

Part 037.04A changes the management unit from the Keya Paha unit (no longer exists) to the Pine Ridge North Sub-unit. The number of permits authorized is contained within that paragraph, as well as clarification that no person shall be issued more than one permit per calendar year and permits are issued to Nebraska residents only. Part 037.04B changes the management unit from the Pine Ridge unit to the Pine Ridge South Sub-unit. The number of permits authorized for Season 1 is contained within that paragraph, as well as clarification that no person shall be issued more than one permit

per calendar year and permits are issued to Nebraska residents only; the "Season 2" paragraph is deleted. Part 037.04C changes the management unit from the Prairie unit to the Pine Ridge North Sub-unit Auxiliary Season. Contained within that paragraph is clarification of process for anyone not harvesting a mountain lion by the specified date that unsuccessful permittees may apply to convert their permit to a permit for use during the Auxiliary Season, those permits are issued by lottery as well. Part 037.04D changes the management unit from the Upper Platte unit to the Pine Ridge South Sub-unit Auxiliary Season. Contained within that paragraph is clarification of process for anyone not harvesting a mountain lion by the specified date that unsuccessful permittees may apply to convert their permit to a permit for use during the Auxiliary Season, those permits are issued by lottery as well.

Part 037.07A deletes the Keya Paha and Upper Platte units from the list of units with only Pine Ridge remaining; the end date when lottery applications are accepted is changed from September 30 to September 28. Part 037.07B is deleted. Sub-section 037.08 changes language that the Commission may collect premolar teeth when a harvested mountain lion is checked instead of identifying "two" premolar teeth be removed.

Part 037.10B clarifies that it will be unlawful to hunt mountain lions without first confirming the harvest limit or female sub-limit has not been met instead of hunting in a unit with a limited harvest quota. Part 037.10C provides language that is it unlawful to hunt mountain lions with the aid of dogs, traps or bait with the exception that dogs may be used during the Auxiliary Season, if an auxiliary season is held. Part 037.10F is deleted. Part 037.10G is renumbered to Part 037.10E. Draft regulations for section 037 ends on page 4-037-5.

The regulations allow residents an opportunity to hunt mountain lions in the state of Nebraska with the creation of new sub-units, open seasons, and the authorization of permits by lottery for the 2018 season with harvest limits and creation of potential use of auxiliary seasons.

The proposed regulation is consistent with the legislative intent established by Section 84-907.09. The proposed regulation is not the result of any state or federal mandate, rendering a state or federal funding mechanism not applicable. The Commission will solicit public comment prior to the date of the public hearing. The Commission did not use the Negotiated Rule-Making Act in developing the proposed regulation.

Changes in Text Between Notice and Adoption:

DATED the 17th day of May, 2018.

NEBRASKA GAME AND PARKS COMMISSION

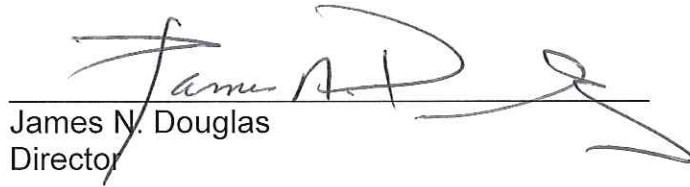


Alicia Hardin
Wildlife Division Administrator

I hereby adopt this explanation statement as the statement of the Nebraska Game and Parks Commission concerning the purposes of this rule-making action and of the changes made during the process.

DATED the 17th day of May, 2018.

NEBRASKA GAME AND PARKS COMMISSION



James N. Douglas
Director

NEBRASKA GAME AND PARKS COMMISSION

NOTICE OF RULEMAKING
COMMENT PERIOD

NOTICE is hereby given that the Nebraska Game and Parks Commission is accepting written comments on working drafts of proposed amendments, Title 163, Nebraska Administrative Code Chapter 4, entitled REGULATIONS Wildlife – Mountain Lions, regarding the setting of a season, permits authorized and areas open prior to the public hearing process.

All interested persons are invited to obtain draft copies of the proposed regulations from and submit their written comments to Sandra Paice, Division of Wildlife, Nebraska Game and Parks Commission, 2200 N. 33rd, P.O. Box 30370, Lincoln, NE 68503, or FAX 402/471-5528. The comment period will close on June 22, 2018.

If auxiliary aids or reasonable accommodations are needed to review the drafts or participate in this process, please call the above-named person at (402) 471-5432 or, for persons with hearing impairments, (402) TDD or Nebraska Relay System, (800) 833-7352 TDD by no later than June 15, 2018.

REGULATIONS DOCKET
Check List

AGENCY: NEBRASKA GAME AND PARKS COMMISSION

AGENCY CONTACT: Sandra Paice, Division of Wildlife, NEBRASKA GAME AND PARKS COMMISSION, 2200 N. 33rd, P.O. Box 30370, Lincoln, NE 68503

PROPOSED NEBRASKA ADMINISTRATIVE CODE CITATION: Title 163, Chapter 4
Section 037

PROPOSED NAME OR TOPIC AREA OF REGULATIONS: See "Abstract of Subject Matter" below.

LEGAL AUTHORITY FOR RULES: Neb. Rev. Stat. §§ 37-301, 37-304, 37-308, 37-308.01, 37-314, 37-228, 37-404, 37-405, 37-411, 37-426, 37-452, 37-473, 37-613.

ABSTRACT OF SUBJECT MATTER: Chapter 4, Wildlife Regulations: Section 037, Mountain Lions

Timetable/Status

Stage	Action	Proposed Date	Effective Date(s)
Pre-Rule	Drafting internal reviews	_____	_____
	Advance notice comment period	_____	_____
	Negotiated Rulemaking	_____	_____
Proposed Rule	Notice of Rulemaking Hearing	<u>5/17/18</u>	_____
	Governor Waiver	_____	_____
	Rulemaking Hearing	<u>6/22/18</u>	_____
	Post-hearing Analyses and Revisions	_____	_____
Final Rule	Agency Reviews & Approval	_____	_____
	Attorney General Submission	_____	_____
	Attorney General Approval	_____	_____
	Governor Submission	_____	_____
	Governor Approval	_____	_____
Completion	Filing Date	_____	_____
	Indexing Date	_____	_____
	Publication	_____	_____
or			
Termination	Notice of Termination w/o Rulemaking	_____	_____
Operative Date	*If later than effective date prescribed in 84-906 & 84-911	_____	_____

**SUBMIT TO GOVERNOR BEFORE SUBMITTING TO EXECUTIVE BOARD AND
BEFORE PUBLIC HEARING DATE IS SET**

**PROPOSED REGULATION
GPRO GOVERPAGE
(ATTACH TO PRE-REVIEW CHECKLIST)**

Agency: Nebraska Game and Parks Commission
Title, Chapter of Rules submitted: Title 163, Chapter 4, Section 037
Subject: 037 Mountain Lions
Prepared by: Sandra Paice
Telephone: 402-471-5432
Date submitted to Governor: May 17, 2018

Projected dates for public hearings June 22, 2018

Projected deadline for final approval August 22, 2018

 A copy of the section of laws or federal regulations that triggered these changes is attached.

FOR GOVERNOR'S OFFICE RECORDS

Advisor Assigned:

Date approved to proceed:

Options for proceeding:

- a) No further contact with GPRO is necessary until final rules have been approved by the Attorney General.
- b) Contact Governor through GPRO concerning issues raised in Negotiated Rulemaking procedures.
- c) Submit Rules and Regulations Policy Review Checklist to Governor if rules are changed hereafter and a new public hearing is scheduled.
- d) Keep the Governor informed through GPRO as issues arise in negotiations, drafting sessions, advisory board meetings, and public hearings.
- e) Specific policy comments per Governor's instructions is attached.

**PROPOSED REGULATION
POLICY PRE-REVIEW CHECKLIST**

Agency: Nebraska Game and Parks Commission
Title, Chapter of Regulation: Title 163, Chapter 4, Section 037
Subject: 037 Mountain Lions
Prepared by: Sandra Paice
Telephone: 402-471-5432

A. Policy Changes and Impacts

1. What does the regulation do and whom does it impact? Provide a brief description of the proposed rule or regulation and its impact on state agencies, political subdivisions, and regulated persons or entities.

These regulations provide for an authorized mountain lion season following 37-473; management unit boundaries; open seasons; annual harvest limits; permit allocation; permit bag limit; auxiliary seasons, if needed; shooting hours; application periods; check-in procedures; and weapons allowed.

2. Describe changes being proposed to current policy and briefly provide rationale.

Regulations provide specific protocol for the hunting and checking of mountain lions.

B. Why is the rule necessary? Explain and provide an identification of authorizing statute(s) or legislative bill(s).

1. Update of regulation (repeal of obsolete statutes, reflect current policy, editing or technical language changes, etc.) - Yes
2. Annual changes -- cost of living, hunting season schedules, etc. - No
3. Law was changed -- federal or state [Cite authorizing statute(s) or legislative bill(s)] - No
4. Extension of established policy or program, new initiatives or changes in policy (within statutory authority) - Yes
5. Constituent initiated - No
6. Financial needs -- increases/decreases in fees - Fees not increased, but additional income could be realized.
7. Litigation requires changes in rules - No
8. Addresses legal or constitutional concerns of Attorney General's office - No
9. Implements federal or court mandate - No
10. Other (explain) - N/A

C. What happens if these rules are not adopted?

There will be no provisions for anyone wishing to apply for a lottery permit to hunt mountain lions in the state of Nebraska.

D. Policy Checklist

1. Is this an update or editorial change reflecting essentially no change in policy? Yes
2. Does the policy in the proposed regulation reflect legislative intent? Yes
3. Is the policy proposed in the regulation a state mandate on local government? Is it funded? No
4. Is the policy proposed in the regulation a federal mandate on local government? Is it funded? No

E. Fiscal Impact. In addition to completing the required Fiscal Impact Statement (a copy must be attached to this document), the agency must address the following:

1. Will the proposed regulation reduce, increase or have no change in resources -- funds, personnel or FTE? No change
2. Have initial contacts been made with citizens or organizations that may be impacted by the proposed regulation? Not applicable
3. Does the proposed regulation impact another agency? No
4. Will the proposed regulation reduce, increase, or have no change on reporting requirements of businesses? No change
5. What is the agency's best estimate of the additional or reduced spending? If there is none, please note. If receipt of federal funds is contingent upon approval of the proposed regulation, then indicate the amount and nature of the federal funds affected, and enclose laws or correspondence from federal officials substantiating the information. None
6. Include a description of the impact that the proposed regulation will have on the number of state employees and how the agency intends to address proposed increases or decreases in FTE. No impact

F. Unique problems or issues and recommendations.

None.

- G. Who is expected to be affected, or to oppose or support the proposed regulation? Explain what initial informal contacts been made with organizations or citizens who may be affected by the regulation prior to the public hearing.

The Commission expects support of the majority of stakeholders for the proposed regulations. The Commission gave public notice soliciting public comment on the proposed changes prior to the public meeting.

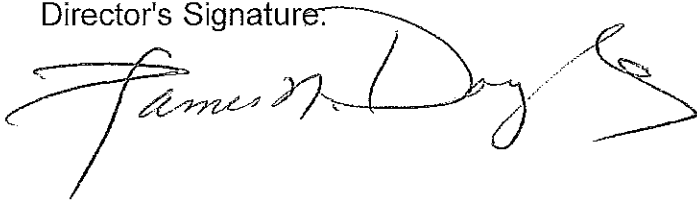
- H. Are these proposed rules a likely candidate for negotiated rule-making? Explain. Has the process been completed? If so, explain how the issues were addressed.

The proposed rule is not a likely candidate for negotiated rule-making.

Director's Verification of Review

I have reviewed these proposals and verify that, at this stage of the regulation's development, these questions have been accurately addressed.

Director's Signature.

A handwritten signature in black ink, appearing to read "James N. Day". The signature is fluid and cursive, with a large, sweeping "D" and a stylized "Y".

Date: May 17, 2018

NEBRASKA ADMINISTRATIVE CODE

Last Approved Date: August 12, 2013

Title 163 - Nebraska Game and Parks Commission

Chapter 4 - Wildlife Regulations

037 Mountain Lions

The following regulations are prescribed by the Game and Parks Commission, State of Nebraska in accordance with Neb. Rev. Stat. §§ 37-301, 37-304, 37-308, 37-308.01, 37-314, 37-228, 37-404, 37-405, 37-411, 37-426, 37-452, 37-473, 37-613. For purposes of these regulations, unless context otherwise requires, the definitions found in Chapter 37, sections 202 through 247 of the Game Law, are used. These regulations are effective following enactment by the Commission, approval by the Attorney General and Governor, and when five days have elapsed since filing with the Secretary of State.

037.01 Management Unit Boundaries: Federal and state sanctuaries and refuges are closed, unless otherwise authorized.

037.01A Keya Paha Pine Ridge

Keya Paha County and those parts of Boyd, Brown, Cherry, Holt, and Rock counties east of U.S. Hwy. 83, north of U.S. Hwy. 20, and west of U.S. Hwy. 281. Those parts of Box Butte, Dawes, Sheridan, and Sioux counties north of the Niobrara River and west of NE Hwy. 27.

037.01B 037.01A1 Pine Ridge North Sub-unit

Those parts of Box Butte, Dawes, Sheridan, and Sioux counties north of NE Hwy. 20 the Niobrara River and west of NE Hwy. 27. All state and federal public lands are closed.

037.01C 037.01A2 Prairie Pine Ridge South Sub-unit

Those parts of Nebraska not included in the Keya Paha, Pine Ridge, or Upper Platte units. Those parts of Box Butte, Dawes, Sheridan, and Sioux counties north of the Niobrara River, south of NE Hwy. 20, and west of NE Hwy. 27.

037.01D Upper Platte

Banner, Cheyenne, and Kimball counties and those parts of Deuel, Garden, Morrill, and Scotts Bluff counties south and west of a line commencing at the junction of U.S. Hwy. 26 with the Nebraska-Wyoming state line, thence east on U.S. Hwy. 26 to State Link 62A, thence east on State Link 62A to U.S. Hwy. 385, thence south on U.S. Hwy. 385 to U.S. Hwy. 26, thence east on U.S. Hwy. 26 to

NE Hwy. 27, thence south on NE Hwy. 27 to U.S. Hwy. 30, thence west on U.S. Hwy. 30 to U.S. Hwy. 385, thence south on U.S. Hwy. 385 to the Nebraska-Colorado state line.

037.02 Open Seasons:

037.02A Keya Paha: Closed. Pine Ridge North Sub-unit (037.01A1)

Season 1: January 1 through February 28, 2019, except the season shall immediately close if either the annual harvest limit or female sub-limit (037.03A) is reached.

037.02B Pine Ridge South Sub-unit (037.01A2):

Season 1: January 1 through February 28, 2014 2019, except the season shall immediately close if either the annual harvest quota limit or female sub-quota sub-limit (037.03B) is reached prior to February 28.

Season 2: February 15 through March 31, 2014, except the season shall immediately close if either the annual harvest quota or female sub-quota (037.03B) is reached prior to March 31.

037.02C Prairie: January 1 through December 31, 2014. Pine Ridge North Sub-unit (037.01A1)

Auxiliary Season: The auxiliary season will open March 15 through March 31, 2019, if the annual harvest limit or female sub-limit (037.03A) was not reached during Season 1 (037.02A), except the season shall immediately close if either the annual harvest limit or female sub-limit (037.03A) is reached prior to March 31.

037.02D Upper Platte: Closed. Pine Ridge South Sub-unit (037.01A2)

Auxiliary Season: The auxiliary season will open March 15 through March 31, 2019, if the annual harvest limit or female sub-limit (037.03B) was not reached during Season 1 (037.02B), except the season shall immediately close if either the annual harvest limit or female sub-limit (037.03B) is reached prior to March 31.

037.03 Annual Harvest Quotas Limits:

037.03A Keya Paha: Zero (0). Pine Ridge North Sub-unit (037.01A1):

Four (4) mountain lions, with a sub-limit of two (2) females.

037.03B Pine Ridge South Sub-unit (037.01A2):

Season 1: Two (2) Four (4) mountain lions, with a sub-quota limit of one (1) female two (2) females.

Season 2: Two (2) mountain lions, with a sub-quota of one (1) female.

037.03C Prairie: Unlimited quota.

037.03D Upper Platte: Zero (0).

037.04 Permits:

037.04A Keya Paha: Zero (0). Pine Ridge North Sub-unit (037.01A1):

Season 1: The Commission shall issue three hundred and twenty (320) permits by lottery. No person shall be issued more than one (1) permit per calendar year. Permits shall be issued to Nebraska residents only.

037.04B Pine Ridge South Sub-unit (037.01A2):

Season 1: The Commission shall issue one (1) three hundred twenty (320) permits by lottery, to a resident and one (1) permit by auction to a resident or nonresident. Any permittee who does not harvest a mountain lion during Season 1 may hunt during Season 2. If a permittee does not harvest a mountain lion during Season 1 or Season 2 their permit will remain valid during the open seasons of the next year in which a season is authorized in the Pine Ridge Unit. No person shall be issued more than one (1) permit per calendar year. Permits shall be issued to Nebraska residents only.

Season 2: The Commission shall issue one hundred (100) permits by lottery. No person shall be issued more than one (1) permit per calendar year. Permits shall be issued to Nebraska residents only.

037.04C Prairie: No limit. Pine Ridge North Sub-unit Auxiliary Season:

If the annual harvest limit or female sub-limit (037.03A) have not been met by the end of the Pine Ridge North Sub-unit (037.01A1) Season 1 (037.02A), unsuccessful permittees may apply to convert their permit to a Pine Ridge North Auxiliary Season (037.02C) permit. A number of auxiliary permits equal to the number of animals remaining in the harvest limit for the sub-unit will be issued by lottery. No person shall be issued more than one (1) permit per calendar year. Permits shall be issued to Nebraska residents only.

037.04D Upper Platte: Zero (0). Pine Ridge South Sub-unit Auxiliary Season:

If the annual harvest limit or female sub-limit (037.03B) have not been met by the end of the Pine Ridge North Sub-unit (037.01A2) Season 1 (037.02B), unsuccessful permittees may apply to convert their permit to a Pine Ridge South Auxiliary Season (037.02D) permit. A number of auxiliary permits equal to the number of animals remaining in the harvest limit for the sub-unit will be issued by lottery.

037.05 Permit Bag Limit: One (1) mountain lion of either sex.

037.06 Shooting Hours: 30 minutes before sunrise to 30 minutes after sunset.

037.07 Application Periods:

037.07A ~~Keya Paha, Pine Ridge and Upper Platte Units~~: Applications for lottery permits shall be accepted from 1:00 p.m. CST on the Tuesday following Labor Day through September ~~30~~ 28 prior to each open season. Mail applications must be received in the Commission's Lincoln headquarters office by 5 p.m. CST, and internet applications must be received by 11:59 p.m. CST. All valid applications accompanied by the required fee (Administration Regulations, Chapter 1, Section 006) shall be considered equally in a random drawing. It shall be unlawful to submit more than one application per calendar year for a mountain lion permit. If more than one such application is submitted by or for any person, all of that person's applications shall be excluded from the drawing and the accompanying fees shall be forfeited.

~~037.07B Prairie Unit: Applications for permits shall be accepted from 1:00 p.m. CST on December 16, 2013, through December 31, 2014.~~

037.08 Checking: Any mountain lion harvested must be reported to the Commission within eight (8) hours of recovering the animal using a phone number or website specified by the Commission or in person at a district office during normal business hours. The entire unfrozen carcass must be presented to a Commission representative within 24 hours of the time it is killed to allow for inspection and attachment of an official harvest seal, unless the Commission has been notified and arrangements are made for a later check. The permittee shall furnish the Commission with the date and location of kill prior to the attachment of the harvest seal. The harvest seal must remain attached to the mountain lion until the pelt is tanned, mounted or otherwise preserved. The Commission ~~shall~~ may collect ~~two~~ premolar teeth to allow determination of age and a tissue sample from each mountain lion harvested.

037.09 Weapons Allowed: Firearms and archery equipment as specified in 001.01B2.

037.10 It shall be unlawful to:

037.10A harvest or attempt to harvest a mountain lion with a spotted coat (kitten) or any mountain lion accompanying another mountain lion.

037.10B hunt mountain lions ~~in a unit with a limited harvest quota~~ without first confirming that ~~the harvest limit or female sub-limit has not been met, and the~~ season is open each day by checking the Commission-provided toll-free number or season status website.

037.10C hunt mountain lions with the aid of dogs, traps or bait, ~~with the exception that dogs may be used during an auxiliary season (037.02C, 037.02D), if an auxiliary season is held.~~ Season 1 in the Pine Ridge Unit and during January 1 through March 31 in the Prairie Unit.

Title 163
Chapter 4

037.10D fail to check or report any mountain lion taken as prescribed in 037.08.

037.10E falsely check or report the harvest of any mountain lion.

037.10F harvest a mountain lion within 24 hours of obtaining a mountain lion permit

037.10G 037.10F obtain more than one mountain lion permit per calendar year.

