

Agenda Item Summary

BACKGROUND

The Oregon Department of Fish and Wildlife (ODFW) received a petition for rulemaking on May 9, 2018, following edits to an original petition received April 4, 2019, from Cascadia Wildlands, Center for Biological Diversity, Environmental Protection Information Center, Klamath-Siskiyou Wildlands Center, and Oregon Wild (collectively, “Petitioners”) that requested amendments to existing regulations (OAR Ch 635 Div 050) and adoption of new regulations regarding the use of traps and snares to take wildlife. In particular, the petition requested:

1. Marten trapping be closed west of Interstate 5;
2. All furbearer and unprotected mammal trapping be closed in the Oregon Dunes National Recreation Area; and
3. Suspending traps and snares in trees be prohibited in the Siskiyou and Siuslaw National Forests.

This request is a “petition for rulemaking” under Administrative Procedures Act. Such a petition is used to put a rulemaking concept (a proposed new rule, some amendment, or repeal of an existing rule) in front of the Commission, to determine whether the Commission is interested in putting that concept out for public review through a rulemaking process. At this point the Commission is merely being asked whether it is interested in beginning a rulemaking process; the Commission is not being asked to act on a proposed rule amendment.

The public is also invited to provide comment whether options exist for achieving the rule’s substantive goals in a way that reduces the negative economic impact on businesses (ORS 183.390(2)).

The Commission may choose to begin rulemaking to consider the Petitioners request or not to begin rulemaking at all.

PUBLIC INVOLVEMENT

- Communication with local sporting groups, state and federal agencies, Oregon Trappers Association, Oregon State Police, and other interested parties.
- Questions from interested persons were answered
- Correspondence

ISSUE 1

Consider Petition to Amend OAR Chapter 635 Division 050, General Furbearer Regulations.

ANALYSIS

In accordance with ORS 183.390(3), the following points were considered during agency review of the petition:

- The continued need for the rule;
- The nature of complaints or comments received concerning the rule from the public;
- The complexity of the rule;
- The extent to which the rule overlaps, duplicates or conflicts with other state or federal regulations and, to the extent feasible, with local government regulations;

- The degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule; and
- The statutory citation or legal basis for the rule.

Agency review of these points determined:

- There is continued need for the existing rules;
- Public comments agree there is continued need for current rules, but only address one of the three proposed rule changes. Comments vary in regards to their view of the need for changes to trapping marten rule, with the conflicting opinions typically citing either a recent paper to support and the other citing agency data to oppose;
- Current rule is not complex;
- Current rule does not overlap or duplicate existing state or federal rules;
- No changes to technology, economic conditions or other factors have occurred in the subject area affected by the rule; and
- The legal basis for the rule is still relevant.

In their opinion, Petitioners agree that there is continued need for the current rule, it is not complex, it does not overlap, duplicate or conflict with other rules, and no changes in technology, economic conditions, or other factors have occurred.

OPTIONS

1. Accept the petition and direct staff to initiate rulemaking on concepts contained in the Petitioners proposal.
2. Deny the petition.

STAFF RECOMMENDATION

Option 2.

DRAFT MOTION

I move to deny the petition submitted by the petitioners (Cascadia Wildlands, Center for Biological Diversity, Environmental Protection Information Center, Klamath-Siskiyou Wildlands Center, and Oregon Wild).