



Marten Trapping Ban Petition

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Administrative Procedures Act (APA) Rulemaking Petition

- ▶ Petition received on May 9, 2018 from Cascadia Wildlands, Center for Biological Diversity, Environmental Protection Information Center, Klamath-Siskiyou Wildlands Center, and Oregon Wild
- ▶ Petition proposes three changes to current rule:
 - No hunting, trapping, roadkill salvage of marten west of I-5
 - No trapping in the Oregon Dunes National Recreation Area (ODNRA)
 - Prohibit the use of “traps or snares suspended in trees in the Siskiyou and Siuslaw National Forests”

Current Rules

- **OAR 635-050-0100**
Marten
(1) Open season: November 1, 2018 through January 31, 2019 and November 1, 2019 through January 31, 2020
(2) Open area: Entire State

- **OAR 635-050-0210**
Areas Closed to Hunting or Trapping

- **OAR 635-050-0045**
General Furbearer Regulations

APA Petition



- ▶ OAR 137-001-0070 requires petitioners to provide:
 - Proposed rule language changes and facts or arguments in sufficient detail to show the reasons for amendment
 - And directly comment on:
 - 1) Options for achieving the current rule's substantive goals while reducing the negative economic impact on businesses;
 - 2) The continued need for the current rule;
 - 3) The complexity of the current rule;
 - 4) The extent to which the current rule overlaps other state or federal rules and local government regulations;
 - 5) The degree to which technology, economic conditions, or other factors have changed in the subject area since the agency adopted the rule.

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Petitioners comments:

1) Options for achieving the current rule's goals while reducing negative economic impact on businesses;

- ▶ *Proposed rule will have "no negative economic impact on businesses because there is little to no existing trapping for Humboldt martens"*

2) The continued need for the current rule;

- ▶ *Existing rule "needs to continue to exist" and "the amended rule builds upon the existing rule"*

3) The complexity of the current rule;

- ▶ *"The existing rule is not complex"*

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Petitioners comments continued:

4) The extent to which the current rule overlaps other state or federal rules and local government regulations;

- ▶ *“The existing rule does not overlap or duplicate existing state or federal rules”*

5) The degree to which technology, economic conditions, or other factors have changed in the subject area since the agency adopted the rule.

- ▶ *No change has occurred*

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- ▶ OAR 137-001-0070 requires ODFW to:
 - ▶ Deny petition in writing or initiate rulemaking within 90 days
 - ▶ Invite and request public comments on whether options exist for achieving the rule's goals in a way that reduces the negative economic impact on businesses
 - ▶ And ODFW shall consider:
 - 1) Need for the current rule;
 - 2) Public complaints or comments received;
 - 3) The complexity of the rule;
 - 4) The extent to which the rule overlaps other state or federal rules and local regulations;
 - 5) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule;
 - 6) The legal basis for the rule

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ODFW considerations:

- 1) The continued need for the current rule;
 - ▶ The rule continues to be necessary
- 2) Public complaints or comments received concerning the rule;
 - ▶ Current rule valid. Most comments only around first proposal. Those in favor of the proposal cite recent article; those against cite ODFW data.
- 3) The complexity of the rule;
 - ▶ The current rule is not complex

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ODFW considerations continued:

4) The extent to which the current rule overlaps other rules and local regulations;

- ▶ The current rule does not overlap other rules

5) The degree to which technology, economic conditions, or other factors have changed;

- ▶ No changes have occurred

6) The legal basis for the current rule

- ▶ Current rule is necessary and appropriate pursuant to ORS Chapter 496

Overall Evaluation

- ▶ Economic evaluation is insufficient and did not address impact of two of three proposed rule changes
- ▶ Proposed rule changes increase complexity of regulations and “traps suspended in trees” is confusing and difficult to enforce
- ▶ Unintended consequences to ban trapping in the ODNRA, inability to control potential predators of Humboldt marten and Snowy Plover
- ▶ Petition did not assess impacts of trapping
- ▶ Petition states “there is little to no existing trapping for Humboldt martens”

ODFW Data

- ▶ Humboldt Marten mortalities 1989-2017 (29 years)
- ▶ Harvest averages 0.45 Marten per year, but zero since 2014-2015 license year

	Coos			Douglas			Lane			Source Total			Total
	Harvest	Roadkill, Other	Research	Harvest	Roadkill, Other	Research	Harvest	Roadkill, Other	Research	Harvest	Roadkill, Other	Research	
2017										0	0	0	0
2016									2	0	0	2	2
2015									1	0	0	1	1
2014	3									3	0	0	3
2013	3									3	0	0	3
2012		2								0	2	0	2
2011	2							1		2	1	0	3
2008					1					0	1	0	1
2007	1									1	0	0	1
2006	1									1	0	0	1
2004		1								0	1	0	1
1996				1						1	0	0	1
1989				2						2	0	0	2
Total	10	3	0	3	1	0	0	1	3	13	5	3	21

Summary

- ▶ Due to:
 - ▶ Petition issues with incomplete economic analyses, unintended consequences, and proposed rule change complexity;
 - ▶ ODFW data and user input suggest marten harvest is and will continue to be rare;
 - ▶ Petitioners acknowledge little to no trapping of marten;

Staff recommend the ODFW Commission deny the marten APA petition

